

## Memorandum

To: Mr. Mahmoud Abbas  
From: Maher Masri  
Date: 27/01/00  
Re: Framework Agreement Options

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The Ministry of Economy and Trade undertook studies aided by both local and international consultants in order to determine the most suitable phraseology on Economic Relations between Palestine and Israel to be included in the Framework Agreement. Although the extensive studies and consultations found that the phraseology may take three different shapes (in terms of scope and detail), it is our recommendation that the second option (the paragraph option) presented below is the most suitable for our purposes. Nonetheless, we found it necessary to present to you the three options.

The following is a listing of the alternatives and the possible ramifications of each of these choices, coupled with the reasoning behind each of these options:

The reasoning underlying the texts is based on several considerations:

- not wanting to box in the negotiators or limit our eventual options;
- Even if Free Trade Agreement (FTA) is what we intend to eventually negotiate, we need not at this early stage reveal it in so many words. Better to use wording that could allow for FTA but does not yet exclude other options;
- Furthermore, by not revealing any final commitment to FTA on our part just now, we retain a greater degree for eventual maneuvering with the other side, and with other points of view / interests in the process of building a Palestinian consensus. However, we should not try to exclude any alternative to the formal FTA arrangement at this early stage in the discussions;
- We have to try to get them to say what they would prefer, rather than taking their bait of: "it is fine with us if you choose any of the three alternatives that you wish – its up to you but don't forget, each has its costs and benefits";

## Option one: Single Line

The strategic, mutual economic interests of the States of Israel and Palestine will best be safeguarded through economic cooperation based on reciprocal and equitable treatment, free trade arrangements governed by the rules and disciplines of international trade, the unfettered movement of goods, persons and capital, the open exchange and pooling of knowledge and skills, and the shared exploitation of common resources

### **Ramifications of the Single Line Option:**

*Taking into consideration the importance of including the future economic relationship between Palestine and Israel in the Framework Agreement, the following would be expected outcome of including the single line option in the agreement:*

#### **Positive outcome:**

1. *The utilization of the single line option mentioned above would result in guaranteeing that any final status agreement will include within it the economic agreement*
2. *Relationship is to be between two independent states, each possessing full authority and responsibility in the conduct of its own internal and external market controls, as well as the capacity to enter into economic agreements (treaties) with full capacity for the execution of these agreements.*
3. *Meeting the Palestinian interest of maintaining a positive economic relationship between Palestine and Israel, as well as guaranteeing independence for the conduct of external relationships.*
4. *The principles of free trade etc which will govern relations between the two economies will maintain Palestine's ability to export its products to Israel, being the largest export market for Palestinian products. Negotiations on other economic issues that will eventually be necessary could also be covered pursuant to this text (investment, technology, labor, natural resources, financial resource allocation between the parties)*



### **Negative outcome:**

*Vague formulations, or omissions in important fields, or contradictions in the Framework Agreement will render the subsequent work exceedingly difficult and entail the risk that no valid economic regime can be decided upon within the timetable foreseen. Under these circumstances, a Palestinian State might then be announced next September but the old economic order would persist because the details of the new economic regime are not yet in place.*

## **Recommended Option**

### **Option two: Paragraph Option**

**Recognizing the emergence of the newly independent State of Palestine as a separate customs territory possessing full autonomy in the conduct of its economic relations, and in order to realize the full potential of its economic relations with the State of Israel the parties have decided that their future relations should entail free trade of goods and gradual liberalization of trade in services of Palestinian and Israeli origin as well as understandings on issues of mutual recognition of standards and specifications, agreement on rules of origin, dispute resolution mechanisms, goods in transit agreement, processes for institutional cooperation, mechanisms for the movement of labor, as well as the application of internationally recognized norms on trade in accordance with WTO rules and regulations.**

#### **Ramifications of the Paragraph Option:**

*If a single paragraph on economic relations is to be entered into the Framework Agreement, then the following are the ramifications of such entry:*

### **Positive Outcomes**

1. *The statement newly independent State of Palestine as a separate customs territory possessing full autonomy in the conduct of its economic relations "The State of Palestine as an independent customs territory with full authority for the conduct of its internal and external economic affairs" is fully compatible with the concept of an independent state of Palestine, as well as with the requirements for accession into the World Trade Organization (WTO).*
2. *Recognizing the emergence of the new separate customs territory (as a separate but parallel fact from recognizing the Independent State) paves the way for some in-built special and preferential treatment in whatever form of trade relation is adopted.*
3. *Relationship can be further developed in the direction of a Free Trade Area, meeting the Palestinian interest of maintaining a positive economic relationship between Palestine and Israel, as well as guaranteeing*

*independence for the conduct of external relationships. The mention of goods and services is to emphasize the need for free trade in these fields in order to maintain the Israeli market as a major market for Palestinian Goods and Services.*

- 4. Mutual recognition of Standards and Specifications by the two sides in order to avoid non-tariff barriers to trade and the use of standards and specifications by the Israeli side as a form of protection for Israeli industry against Palestinian competition.*
- 5. Rules of origin are an extremely necessary part of any Free Trade Agreement because they dictate what products are to enter duty free (being either Palestinian or Israeli) as well as guaranteeing that products imported from third parties enter Palestine in accordance with Palestinian market regulations and customs regulations.*
- 6. The application of internationally recognized norms on trade in accordance with WTO rules and regulations places this agreement under the rule of international trade law, taking into consideration Palestine's intent on becoming a member of the WTO, thus allowing Palestine to utilize the dispute settlement mechanisms of the WTO as well as guaranteeing Israeli adherence to international trade laws.*
- 7. An agreement on labor is not currently perceived as a part of a FTA, however, a FTA can facilitate an agreement on labor as is customary in many international examples.*
- 8. The institutionalization of an agreement on transit in order to facilitate the movement of goods from Israeli and Palestinian entry points of destinations in the other side.*

### ***Negative Outcomes***

*It is important that such provisions only relate to fully implementing the permanent status, preferably in a self-executing manner, and do not open the possibility that relevant parts of the economic regime would only be negotiated later on, as this would put into question the existence of a viable economic regime at the end of the negotiations*

### **Option three: Extended Option**

*The strategic, mutual economic interests of the States of Israel and Palestine will best be safeguarded through economic cooperation based on reciprocal and equitable treatment, free trade arrangements governed by the rules and disciplines of international trade, the unfettered movement of goods, persons and capital, the open exchange and pooling of knowledge and skills, and the shared*



exploitation of common resources. Recognizing the emergence of the newly independent State of Palestine as a separate customs territory possessing full autonomy in the conduct of its economic relations, and in order to realize the full potential of its economic relations with the State of Israel the parties have decided that their future relations should entail free trade of goods and the gradual liberalization of trade in services of Palestinian and Israeli origin as well as understandings on issues of mutual recognition of standards and specifications, agreement on rules of origin, dispute resolution mechanisms, goods in transit agreement, processes for institutional cooperation, mechanisms for the movement of labor, as well as the application of internationally recognized norms on trade in accordance with WTO rules and regulations.

This agreement shall entail the following principles:

1. Free movement (free from customs duties and other similar charges) of Palestinian and Israeli goods across borders between the parties
2. Trade in services based on internationally recognized norms as specified in the GATS agreement, with commitments to future liberalization on trade in services between the two sides.
3. The creation of a dispute settlement mechanism, which is self executing, and based on internationally recognized models such as the one set out in the WTO.
4. An agreement on the movement of labor based on predictability of numbers and mechanisms.
5. The utilization of internationally accepted norms on trade as specified in the WTO agreements.
6. The elimination of all tariff and non-tariff barriers and the minimization of Technical Barriers to trade in accordance with the WTO's TBT agreement.
7. Mutual recognition of each other's standards and specifications institutes
8. The encouragement of investment through the signing of a double taxation agreement
9. Cooperation on the minimization of delays at the borders resulting from customs check points, in order to guarantee the smooth movement of goods between the two states.
10. The possibility of utilization of safeguard measures by either side in accordance with internationally recognized practices.
11. The determination of rules of origin for Palestinian and Israeli products, in accordance with internationally recognized practices, with the an exception for utilizing asymmetrical rules of origin, in order to grant Palestinian

products preferential entry into the Israeli market. Such rules may be instituted for a specified period, to allow for the more efficient development of the Palestinian economy, after which, symmetrical rules of origin will be adopted by the sides.

12. Reaching a transit agreement, which would allow for the use of each side's entry points (ports, airports etc...) by the other side whereby the goods shall be transported under transit rules in accordance with internationally accepted TIR agreements.
13. The adoption of rules on capital movement as part of the encouragement of investment procedures, rules and regulations.

#### **Ramifications of the Extended Option:**

*The extended option provides for the listing of specific issues, which will be discussed in the final status economic agreement. The outcome of having the extended option in the Framework agreement is as follows:*

#### **Positive Outcome**

1. *The extended option provides for the following issues to be discussed and included in the final status agreement on economic relations:*
2. *The independence of the future Palestinian State in the conduct of its economic policy as part of its sovereignty.*

*The parameters of an economic arrangement between Israel and the future Palestinian State. Trade in goods, Trade in services, Labor issues, International norms in trade, Elimination of tariff and non-tariff barriers, Encouragement of investment, Institutional cooperation on customs clearance on Palestinian – Israeli borders, Rules of origin, Transit agreement, Capital movement.*

3. *The outlines of an institutional mechanism and a dispute settlement procedure governing the relations between Israel and the future Palestinian State, to the degree that special rules are needed for the economic field.*

#### **Negative Outcomes**

*Even though the breakdown of the issues will minimize the possibility of missing out or leaving vague certain issues of the economic agreement. This breakdown, however, also increases the danger of utilizing these issues as trade-offs for political or other economic issues. The detail this includes at this point requires a much greater degree of technical examination than might be possible right now – also locks us into a negotiating track that might become difficult to sustain over the long run to September.*

**Recommendations:**

*Depending on the solutions found for the settlements, the status of Jerusalem, water and security arrangements, additions might need to be made to also take into consideration their economic consequences. Further work needs to be done on the political issues, and their implications on the economic final status relations.*