

The Israel-PLO Agreement and Self-Determination

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I. Introductory Remarks

It is well known that the question of how to realize the right of Palestinians to self-determination has become one of the most crucial and tricky issues in international relations. The UN General Assembly proclaimed this right, in general terms, on 10 December 1969 (Resolution 2535 B XXIV) and then, more clearly, on 8 December 1970 (Resolution 2672 C XXV). In subsequent years it reiterated this proclamation. Since then all member States of the world community have acknowledged that the Palestinians have a right to self-determination (although without specifying how this right should be realized). By contrast, Israel initially held the view that the right at issue had already been achieved by the Palestinian Arabs through the formation of their own State, namely Jordan.¹ Subsequently, however, Israel has taken a more flexible attitude.²

On 13 September 1993 Israel and the PLO signed a 'Declaration of Principles on Interim Self-Government Arrangements'.³ A peaceful process was thus initiated that could (or should) lead to a final settlement of this age-old question. It will be opportune to briefly appraise the Declaration from the viewpoint of self-determination of Palestinians. In this respect, a few points can be made.

II. General Remarks on Some Striking Features of the Agreement

The Declaration shows some unique legal traits. It essentially includes very few *immediately operative obligations*; it chiefly lays down a set of *political goals*, and *general guidelines* for

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1 See the statement in the UN General Assembly by the Israeli delegate Prof. Blum: GAOR XXXVth Session, Plenary meetings, 77th Meet., at 1318 (paras. 108-109 and 112-113).

2 In 1988, the Israeli delegate to the Third Committee of the General Assembly stated that: 'Israel believed that true negotiated peace with all its neighbours was feasible, and that within the framework a solution could be found to the problems and aspirations of the Palestinians. Israel had committed itself, as a signatory to the Camp David Accords, to seek and obtain a resolution to the Palestinian problem in all its aspects and had recognized the legitimate rights of the Palestinians.' UN Doc. A/C.3/43/SR.23, 23. See also Peres, 'A Strategy for Peace in the Middle East', 58 *Foreign Affairs* (1980) 892 et seq.

3 Text published by the Government of Israel, Ministry of Education and Culture, Central Office of Information, and Ministry of Foreign Affairs, September 1993. The text of the Agreement is reprinted below at 572.

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further negotiations, and a *fairly specific time-table*. The Declaration is in substance a sort of overall framework or 'accord-quadre', which establishes a few general reference points, and postpones the settlement of the major bones of contention for future negotiation. These last issues include, apart from the question of external self-determination just mentioned, the problems of Jerusalem, of Palestinians displaced after the 1967 war, the issue of the Israeli settlements in the occupied territories, security arrangements, the interim and final control over public lands and water resources, the question of defining a border, and others. On close scrutiny, the Declaration can be regarded as a mixture of various types of legal undertakings. This is an interesting point, on which it is fitting to dwell, if only briefly.

The Declaration contains *three classes of legal commitments*:

- (1) some obligations become operative upon the entry into force of the Declaration (one month after the signature). These concern:
 - (i) the establishment of the Joint Israeli-Palestinian Liaison Committee (Article X), and
 - (ii) the establishment of the Israeli-Palestinian Economic Cooperation Committee (Article XI and Annex III);
 - (iii) the obligation to 'redeploy' Israeli military forces in the West Bank and the Gaza Strip 'outside populated areas' (Article XIII(1) and (2)); and
 - (iv) the obligation to commence transferring 'powers and responsibilities' 'from the Israeli military government and its Civil Administration to the authorized Palestinians for this task' (Article VI).
- (2) a set of *pacta de contrahendo*, namely obligations to conclude agreements. These include:
 - (i) an undertaking to enter – within two months of the entry into force of the Declaration – into an agreement concerning the withdrawal of Israeli forces from the Gaza Strip and the Jericho Area (Annex II; see also Article XIV);
 - (ii) an obligation to make an agreement 'on the exact mode and conditions of the [political] elections' in the West Bank and Gaza Strip (Article III and Annex I);
 - (iii) an obligation to conclude the 'interim Agreement' establishing, among other things the '[Palestinian] Council' (Articles VII, VIII and IX⁴);
 - (iv) a duty to conclude an agreement setting up a 'mechanism for conciliation' in case of failure of negotiations for the settling of disputes concerning the interpretation or the application of the Declaration (Article XV(2)).
- (3) a set of *pacta de negotiando*, that is obligations to negotiate future agreements:
 - (i) a duty to negotiate on the 'permanent status' of the territories (Article V(2), (3) and (4));
 - (ii) an undertaking to negotiate, as between the two contracting parties and with Jordan and Egypt, with a view to promoting cooperation and in particular establishing a 'Continuing Committee' 'that will decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza Strip in 1967' (Article XII);

4 Although Art.VII(1) states that the parties 'will negotiate' an agreement, the wording of paras. 2-4 of the same Article as well as VIII and IX make it clear that we are here faced with a duty proper to enter into an agreement. This is further indicated by the fact that the basic points of the content of the agreement are clearly set out.

- (iii) a duty to negotiate with a view to settling possible disputes about the interpretation or application of the Declaration.

It is important to note that the Declaration includes a host of *pacta de contrahendo* and also *pacta de negotiando*.⁵ Although the text of the Declaration features some hasty drafting, the contention can be made that it is by no means a mere set of political commitments. No one could entertain any doubt about the first class of undertakings mentioned above; but the same holds true for the other two classes as well. Indeed, these two categories of international obligations are indicative both of the intent of the contracting parties – long at loggerheads with each other – to gradually come to a final settlement, and of the host of political, military, economic and social hurdles that stand in the way of this settlement.⁶

What distinguishes the two classes of obligations? In the case of *pacta de contrahendo* the contracting parties (1) clearly lay down an obligation to conclude an agreement, and in addition (2) outline the basic content of the future agreement. These *pacta* do not impose obligations *si voluero* that are subject to the persisting will of all contracting parties to enter into the future agreement. They go much further than that: they make it incumbent upon the parties to agree upon a specific legal regulation of the matter outlined in generic terms in the *pactum*. Since the parties must act in good faith, it follows that if one of them refuses to make the agreement or finds pretexts for delaying its conclusion, it is in breach of international law. Consequently, the other party can use all the legal means made available by the law of international responsibility for the purpose of demanding the implementation of the *pactum*.

5 On these various notions, see G. Morelli, *La sentenza internazionale* (1931) 14-16, 132-135, 140-143, 154-155; H. Kelsen, *Principles of International Law* (1952) 342-343; L. Oppenheim and H. Lauterpacht, *International Law I* (8th ed., 1955) 890-891; A.D. McNair, *The Law of Treaties* (1961) 27-29; Dischler, 'Pactum de contrahendo', in K. Strupp and H.J. Schlochauer, (eds) *Wörterbuch des Völkerrechts*, Vol. 2 (1961) 716-717; A.P. Sereni, *Diritto internazionale* Vol. III, (1962) 1389 et seq.; Kass, 'Obligatory Negotiations in International Organizations', 3 *CYIL* (1965) 38 et seq.; R. Quadri, *Diritto internazionale pubblico* (5th ed., 1968) 160, 360; Miaja de la Muela, 'Pacta de contrahendo en derecho internacional publico', 21 *REDI* (1968) 392; E. Kron, *Pactum de contrahendo im Völkerrecht*, (Diss.) (1971); Hahn, 'Das pactum de negotiando als völkerrechtliche Entscheidungsnorm', 18 *Aussenwirtschaftsdienst des Betriebsberaters – Rechts der Internationalen Wirtschaft*, (1972) 489; A. Verdross, *Die Quellen des universellen Völkerrechts - Eine Einführung* (1973) 43; Marion, 'La notion de 'pactum de contrahendo' dans la jurisprudence internationale', 78 *RGDIP* (1974) 351; P. Fois, *L'accordo preliminare nel diritto internazionale* (1974) 11 et seq.; Beyerlin, 'Pactum de contrahendo und pactum de negotiando im Völkerrecht?', 36 *ZaöRV* (1976) 407; A. Verdross and B. Simma, *Universelles Völkerrecht* (3rd ed., 1984) 344-345, 478, 735; Beyerlin, 'Pactum de contrahendo, pactum de negotiando', 7 *EPIL* (1989) 371; P. Reuter, *Droit international public* (7th ed., 1993) 48, 128.

Probably the most watertight and concise definition of the two categories is given by A. Verdross at 43: the *pactum de contrahendo* 'verpflichtet die Vertragsteile, einen Vertrag über einen bestimmten Gegenstand abzuschließen', whilst the *pactum de negotiando* 'ihnen [i.e. den Vertragsteilen] nur auferlegt, loyale und ernsthafte Verhandlungen mit dem Ziele zu führen, eine für beide Teile annehmbare Einigung zu erreichen'. The distinguished author goes on to say the following: 'In beiden Fällen müssen die Verhandlungen im Geiste der Grundsätze geführt werden, die in jenen Verträgen enthalten sind oder ihnen zugrunde liegen'. The same definition is employed by A. Verdross and B. Simma, at 344.

6 As was rightly pointed out by Beyerlin, *ibid.* at 374, '*Pactum de contrahendo* and *pactum de negotiando* are of growing political importance in those areas where States on unfriendly or even hostile terms with each other, or belonging to antagonistic bloc systems, are willing to relieve tensions by entering into certain contractual relations with each other, however rudimentary such relations may be. In such a situation States will do everything possible to avoid any premature substantive agreement and, therefore, will only start with an understanding on certain common rules of procedure, eventually combined with some mutually agreed basic principles regarding the substance of a treaty to be concluded later. A *pactum* shaped in this way operates as a procedural instrument for reaching, as a starting point, a minimal consensus between the parties concerned'.

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So much for *pacta de contrahendo*. Do *pacta de negotiando* also impose any binding obligation? The answer is in the affirmative, although here the content of the obligation is more tenuous: the Parties are simply duty bound to enter into negotiations. However, both Parties are not allowed to (1) advance excuses for not engaging into or pursuing negotiations or (2) to accomplish acts which would defeat the object and the purpose of the future treaty. On this point international case-law is very clear and always demands full observance of good faith. To mention just one case, in the arbitral award of 24 March 1982 in *Aminoil*, it is apparent that, when embarking upon negotiations, the Parties are bound to comply with the 'general principles that ought to be observed in carrying out an obligation to negotiate', namely 'good faith as properly to be understood; sustained upkeep of the negotiations over a period appropriate to the circumstances; awareness of the interests of the other party; and a persevering quest for an acceptable compromise'.⁷ It should be added that emphasis on good faith is also laid down by the international legal literature.⁸

7 See the text of the award by the Arbitration Tribunal (presided over by P. Reuter) in *Arbitration between Kuwait and the American Independent Oil Company (AMINOIL)*, 21 ILM 1982, 976 et seq. (the passage cited above is at 1014).

In the case of *Railway Traffic between Lithuania and Poland*, PCIJ, Series A/B, No. 42, at 116, the PCIJ, faced with a *pactum de negotiando*, held in its Advisory Opinion of 15 October 1931 that it was 'justified in considering that the engagement incumbent on the two Governments in conformity with the [League of Nations] Council's Resolution [of 10 December 1927] is not only to enter into negotiations, but also to pursue them as far as possible, with a view to concluding agreements [...] But an obligation to negotiate does not imply an obligation to reach an agreement, nor in particular does it imply that Lithuania, by undertaking to negotiate, has assumed an engagement, and is in consequence obliged to conclude the administrative and technical agreements indispensable for the re-establishment of traffic on the Landwarow-Kaisiadorys railway sector'. See also the *Tacna-Arica Question* case, II *Reports of International Arbitral Awards*, 929-930, the *North Sea Continental Shelf* case (1969), ICJ Reports 1969, at 48 (para. 85); as well as the *Lac de Lanoux* case *Reports of International Arbitral Awards*, XII, 281 at 315. See also the award delivered on 26 January 1972 by the Arbitral Tribunal for the Agreement on German External Debts in *Greece v. Germany* 47 ILR (1974) 453-454. On account of its importance, it is worth quoting the relevant passage of this award: 'A *pactum de negotiando* is also not without legal consequences. It means that both sides would make an effort, in good faith, to bring about a mutually satisfactory solution by way of a compromise, even if that meant the relinquishment of strongly held positions earlier taken. It implies a willingness for the purpose of negotiation to abandon earlier positions and to meet the other side part way. The language of the Agreement [London Agreement on German External Debts, of 27 February 1953] cannot be construed to mean that either side intends to adhere to its previous stand and to insist upon the complete capitulation of the other side. Such a concept would be inconsistent with the term 'negotiation'. It would be the very opposite of what was intended. An undertaking to negotiate involves an understanding to deal with the other side with a view to coming to terms. Though the Tribunal does not conclude that Article 19 [of the London Agreement] in connection with para. 11 of Annex I absolutely obligates either side to reach an agreement, it is of the opinion that the terms of these provisions require the parties to negotiate, bargain, and in good faith attempt to reach a result acceptable to both parties and thus bring an end to this long drawn controversy. The desirability of such a positive result is necessarily much greater in relationships between States than between individuals if for no other reason that the stakes are infinitely higher. When States have solemnly undertaken to resolve their differences and then fail to do so, incalculable harm can follow. The need for the peaceful solution of differences between States is so great and so essential to the well-being of the community of nations that, when disputants have reached a point of signifying their agreement to negotiate an outstanding dispute, the subsequent negotiations normally ought to lead to a satisfactory and equitable result' at 453.

8 See, e.g., E. Kron *supra* note 5, at 131; Beyerlin, *supra* note 5, at 427; Marion *supra* note 5, at 385-386. Fois *supra* note 5, at 124. At 120-126 this author rightly stresses, in addition, that the parties to a *pactum de negotiando* must refrain from acts which would defeat the object and purpose of a treaty.

In short, even as regards the various obligations *de negotiando* mentioned above, the Declaration cannot be considered as an agreement whose implementation *exclusively* depends on the continuing political will of the Parties to peacefully settle their disagreements through negotiations.

Having said so, one should however add that it would be wrong to be blind to an important *fact*: remarkably, the Declaration in providing for the entering into of negotiations, does not take the consequential and obvious step of setting up international mechanisms for inducing a recalcitrant Party to negotiate, or to endeavour to reach agreement.⁹ Much is therefore left to the goodwill of the two Parties concerned. To put it differently, the *legal and institutional* settlement of the various questions is to a large extent made contingent upon the future *political* attitude of the Parties and their continuing desire to come to terms and strike substantive deals on this intricate web of problems.

III. The Agreement and Self-determination

It is striking that the Declaration does not mention self-determination, either directly and explicitly, or indirectly (the only two UN texts to which it adverts are the famous Security Council Resolutions 242 (of 22 November 1967) and 338 (of 22 October 1973), and none of them mention self-determination). A vague and non-committal reference to the Palestinian right to self-determination might be distilled from Article III(3), where reference is made to 'the realization of the legitimate rights of the Palestinian people and their just requirements'. However, by itself this clause does not spell out in unambiguous terms the right to self-determination, as is borne out by the fact that the same clause was already in the Camp David agreement of 17 September 1977 (Section A(c)), and it is well known that at that time the attitude of Israel was enigmatic and indeed baffling – to say the least – with regard to the final granting of self-determination to Palestinians.

Nevertheless, the Declaration has clearly been agreed upon in the perspective of self-determination, as can be easily inferred from both the text and the context (and that is, the statements made by the contracting parties before, or upon, or after the signature of the Declaration). The Declaration provides first of all for *internal* self-determination. Article III (1 and 2) stipulates that:

In order that the Palestinian people in the West Bank and Gaza Strip may govern themselves according to democratic principles, direct, free and general political elections will be held for the Council [the Palestinian Interim Self-Government Authority] under agreed supervision and international observation, while the Palestinian police will ensure public order. These elections will constitute a significant interim preparatory step toward the realization of the legitimate rights of the Palestinian people and their just requirements.

The Council, once established, will exercise the powers and responsibilities transferred to it both by the Israeli Military Government and its Civil Administration. These powers will encompass the three branches of government, that is, legislation, executive authority and judicial functions (Article VII(2)). After the setting up of the Palestinian Council the Israeli

⁹ Notably, Art. XV(1) provides that any dispute arising out of the application or interpretation of the Declaration or the subsequent agreements 'shall be resolved by *negotiations* through the Joint Liaison Committee' provided for in Art. X, while Art. XV(2) stipulates that disputes which cannot be settled by negotiations '*may* be resolved by a mechanism of conciliation *to be agreed upon by the parties*' (emphasis added).

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'Civil Administration will be dissolved' and 'the Israeli military government will be withdrawn' from the West Bank and the Gaza Strip (Article VII (5)); it is therefore clear that in this lapse of time, that should not exceed five years as from 13 April 1994, Palestinians will exercise *full self-government*.

What about *external self-determination*? The Declaration is silent on this point, in particular on whether it is envisaged that the Palestinians will attain independent statehood, or some form of association with one of the existing States (e.g., Jordan or even Israel), or both. However, various provisions stipulate that the primary goal of the Declaration is to lead to the attainment of a 'permanent status' for the West Bank and the Gaza Strip and that this 'permanent status' should be consonant with the aforementioned Security Council resolutions. It is well known that those resolutions, and particularly the first, which is more sweeping, hinge upon the following fundamental objectives: (i) the 'establishment of a just and lasting peace in the Middle East'; (ii) the 'withdrawal of Israel armed forces' from occupied territories as a consequence of the 'inadmissibility of the acquisition of territory by war'; (iii) 'respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area', (iv) 'a just settlement of the refugee problem'. The attainment of all these objectives logically presupposes not only the establishment of an autonomous Palestinian authority in the occupied territories, but also the acquisition, by this authority and the territories which it shall control, of some sort of independent international status. Hence, it can be safely asserted that, although in an oblique and roundabout way, the Declaration is grounded upon, and logically presupposes, the idea of the final attainment by Palestinians of external self-determination. Unsurprisingly, this view is shared by the President of the PLO, Mr Yasser Arafat, who declared upon the signing of the Declaration that the final status of the Arab territories occupied by Israel should be the achievement of independent statehood, and the setting up of a confederation with Jordan.¹⁰

How will the right to external self-determination be exercised? The Declaration simply states that the 'permanent status' of the West Bank and the Gaza Strip shall be the subject of negotiations between Israel and the 'Palestinian people representatives' (Articles I and V(2)), and that these negotiations must start as soon as possible, at any rate 'not later than the beginning of the third year of the [five year] interim period' (Article V(2)), namely 13 April 1997). This means that the determination of the *international status* of the Palestinian territories currently occupied by Israel will be the subject of negotiations between the democratically elected Palestinians and the Israeli authorities. Thus, the process of exercising external self-determination will constitute the natural outcome of both internal Palestinian self-determination, and of negotiations with the other Party concerned. Everything is left to the agreement of these two Parties. In particular, the Declaration does not spell out the possible final options: independent statehood free from any military or territorial servitudes; independent statehood subject to a set of servitudes or disabilities in favour of Israel (e.g. right of passage for Israeli troops or nationals, Israeli jurisdiction over Israeli settlements, the maintenance of Israeli military bases, the obligation for the Palestinians not to militarize certain areas, etc.); free integration into another State; or free association with another State. Nor does the Declaration specify whether the Palestinians will have to hold a referendum or plebiscite on the matter.

10 See *The International Herald Tribune*, 16 September 1993, at 4.

IV. The Agreement and the Camp David Accord

This feature of the Declaration should not, however, lead us to underestimate the momentous importance of this agreement. To appraise how significant the Declaration is and to what extent it marks a real turning-point in the Middle East negotiations, it may suffice to compare some of its clauses to those of the 1978 Camp David agreements (apart from the obvious but exceedingly important – indeed *crucial* – difference that the former were concluded by two States, Israel and Egypt, while the latter has been made by Israel with the PLO; the internationally recognized and representative organization of the Palestinians).

The 1978 Agreements were rightly termed a 'misty penumbra of formulational ambiguity'.¹¹ Actually, they included a host of loose clauses or expressions that lent themselves to conflicting interpretations. Thus, for instance, they provided for 'full autonomy to the inhabitants' of the West Bank and the Gaza Strip, to be achieved by means of the free election of a 'self-governing authority'. They also provided for the withdrawal of the 'Israeli military government and its civilian administration' (Section A(1)). However, the vague character of these expressions soon gave rise to radically differing interpretations by Israel and Egypt. Thus, for instance, 'full autonomy for the inhabitants' was interpreted by Israel as meaning 'personal autonomy', whereas for Egypt it meant 'territorial autonomy'; that is the autonomy of the West Bank, the Gaza District and East Jerusalem.¹² Plainly, the difference between these two interpretations is broad indeed. Similarly, the expression 'self-governing authority' was taken by Israel to denote an authority exercising powers and providing services 'normally associated with the administration of the services and facilities of a particular group of people',¹³ whereas Egypt argued that the 'authority' in question should exercise legislative, executive and judicial powers. Opinions between the two Contracting States differed widely on a third crucial point: what was meant by 'withdrawal' of the Israeli military government and civil administration? For Israel it did not imply the total evacuation of the occupied territories, because the Israeli army and military administration were entitled to remain in certain specific areas in the West Bank and the Gaza Strip. For Egypt the contrary interpretation was valid.¹⁴ Another major bone of contention concerned the 'source' of the powers devolving upon the 'self-governing authority'. According to Egypt, by transferring the various powers to the 'authority', Israel would relinquish them for good. By contrast, Israel contended that it would not divest itself of those powers, for its military administration would continue to be the source of authority for the self-governing bodies in the territories in issue.¹⁵ The truth of the matter is that the Camp David agreements loosely amalgamated two different 'models' that in actual fact were poles apart. They were aptly summarized as follows by a distinguished commentator:

The Israeli concept regards the autonomy regime as a means for preserving the essence of the existing political-strategic state of affairs in the West Bank and Gaza. It tends toward the consolidation, and possible strengthening, of certain elements of self-rule which now already exist in the West Bank and Gaza, while striving to ensure Israeli control over central and sensitive matters of government. The Egyptian concept is completely different, aspiring

- 11 Shapira, 'Reflections on the Autonomy: The Camp David Accords and the Obligation to Negotiate in Good Faith', in Y. Dinstein (ed.), *Models of Autonomy* (1981) 285.
- 12 See Gabay, 'Legal Aspects of the Camp David Framework for Peace in Relation to the Autonomy Proposal', *ibid.* at 256. See also Rabinovich, 'The Autonomy Plan and Negotiations for the West Bank and the Gaza Strip in their Political Context', *ibid.*, at 270.
- 13 Gabay, *ibid.* at 256.
- 14 *Ibid.* at 257; Rabinovich *supra* note 12, at 270.
- 15 Gabay *supra* note 12, at 257-258; Rabinovich *supra* note 12, at 270.

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to bring about the establishment of a comprehensive governmental administration which harbours elements of independent – political-territorial – Palestinian sovereignty.¹⁶

While it would be fallacious to believe that the Israel-PLO Agreement is free from ambiguity – indeed, this Agreement is also marred by quite a few excessively loose formulas, and numerous loopholes and lacunae – nevertheless it does not lend itself to the conflicting interpretations to which I have just referred.¹⁷

V. Concluding Remarks

To appraise the prospects for the implementation of the PLO-Israel Agreement one should of course take into account various factors: the unique features and content of the Agreement; the fact that – whatever the legal purport and impact of its clauses – the application of the Agreement is *ultimately* contingent upon the persistence of the will of both parties to settle the matter; the looming presence of a host of 'external' elements (psychological, political, economic, military). All this makes it difficult to predict whether or not a settlement will eventually be reached in actual fact. By the same token, it is difficult to forecast the way in which *external* self-determination will be implemented. For the time being, international lawyers must be content with emphasizing two things: firstly, that at long last, the path suggested by international norms, i.e. a peaceful process of negotiation between the parties concerned, has been taken; secondly, that as an initial measure, provision has been made for the exercise of *internal* self-determination by the Palestinians, as a stepping-stone to external self-determination. No one could underestimate the importance of these two elements. Whenever one is confronted with such complicated and intractable situations as that of Palestine, it proves exceedingly difficult to suggest an easy path to solutions that are both rapid and satisfactory to all those concerned. A good start has been made: a long overdue settlement, that for so many years was even unthinkable, may now be in the offing.

16 Shapira *supra* note 11, at 284.

17 Thus, for instance, Art. V(2) provides for the principal issues that the negotiations for the 'permanent status' should cover. Art. VI(2) specifies the subjects with regard to which the Palestinians will exercise powers following the withdrawal of Israel from the Gaza Strip and the Jericho Area. Art. VII(2) provides in a fairly detailed way for the powers and responsibilities to be transferred to the 'Council', and in any case specifies that the future agreement on the matter should grant the Council legislative and executive functions, and in addition envisages 'independent Palestinian judicial organs'. Furthermore, Art. XIII is not as vague as the Camp David Accords as regards the 'redeployment of Israeli military forces in the West Bank and Gaza Strip'. Annex II, containing the Protocol on withdrawal of Israeli forces from the Gaza Strip and Jericho Area provides in para. 3 a detailed list of the issues that the future agreement on the matter should cover. Annex III, containing the Protocol on Israeli-Palestinian cooperation in economic and development programs, touches upon the extremely delicate and important issue of water resources, and provides for, *inter alia*, 'the equitable utilization of joint water resources for implementation in and beyond the interim period'.

Annex:
Declaration of Principles on Interim Self-Government Arrangements

The Government of the State of Israel and the PLO team (in the Jordanian-Palestinian delegation to the Middle East Peace Conference) (the 'Palestinian Delegation'), representing the Palestinian people, agree that it is time to put an end to decades of confrontation and conflict, recognize their mutual legitimate and political rights, and strive to live in peaceful coexistence and mutual dignity and security and achieve a just, lasting and comprehensive peace settlement and historic reconciliation through the agreed political process. Accordingly, the two sides agree to the following principles:

Article I

Aim of the Negotiations

The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority, the elected Council (the 'Council'), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolutions 242 and 338.

It is understood that the interim arrangements are an integral part of the whole peace process and that the negotiations on the permanent status will lead to the implementation of Security Council Resolutions 242 and 338.

Article II

Framework for the Interim Period

The agreed framework for the interim period is set forth in this Declaration of Principles.

Article III

Elections

1. In order that the Palestinian people in the West Bank and Gaza Strip may govern themselves according to democratic principles, direct, free and general political elections will be held for the Council under agreed supervision and international observation, while the Palestinian police will ensure public order.
2. An agreement will be concluded on the exact mode and conditions of the elections in accordance with the protocol attached as Annex 1, with the goal of holding the elections not later than nine months after the entry into force of this Declaration of Principles.
3. These elections will constitute a significant interim preparatory step toward the realization of the legitimate rights of the Palestinian people and their just requirements.

Article IV

Jurisdiction

Jurisdiction of the Council will cover West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent status negotiations. The two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period.

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Article V

Transitional Period and Permanent Status Negotiations

1. The five-year transitional period will begin upon the withdrawal from the Gaza Strip and Jericho area.
2. Permanent status negotiations will commence as soon as possible, but not later than the beginning of the third year of the interim period, between the Government of Israel and the Palestinian people representatives.
3. It is understood that these negotiations shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbours, and other issues of common interest.
4. The two parties agree that the outcome of the permanent status negotiations should not be prejudiced or preempted by agreements reached for the interim period.

Article VI

Preparatory Transfer of Powers and Responsibilities

1. Upon the entry into force of this Declaration of Principles and the withdrawal from the Gaza Strip and the Jericho area, a transfer of authority from the Israeli military government and its Civil Administration to the authorised Palestinians for this task, as detailed herein, will commence. This transfer of authority will be of a preparatory nature until the inauguration of the Council.
2. Immediately after the entry into force of this Declaration of Principles and the withdrawal from the Gaza Strip and Jericho area, with the view to promoting economic development in the West Bank and Gaza Strip, authority will be transferred to the Palestinians on the following spheres: education and culture, health, social welfare, direct taxation, and tourism. The Palestinian side will commence in building the Palestinian police force, as agreed upon. Pending the inauguration of the Council, the two parties may negotiate the transfer of additional powers and responsibilities, as agreed upon.

Article VII

Interim Agreement

1. The Israeli and Palestinian delegations will negotiate an agreement on the interim period (the 'Interim Agreement').
2. The Interim Agreement shall specify, among other things, the structure of the Council, the number of its members, and the transfer of powers and responsibilities from the Israeli military government and its Civil Administration to the Council. The Interim Agreement shall also specify the Council's executive authority, legislative authority in accordance with Article IX below, and the independent Palestinian judicial organs.
3. The Interim Agreement shall include arrangements, to be implemented upon the inauguration of the Council, for the assumption by the Council of all of the powers and responsibilities transferred previously in accordance with Article VI above.
4. In order to enable the Council to promote economic growth, upon its inauguration, the Council will establish, among other things, a Palestinian Electricity Authority, a Gaza Sea Port Authority, a Palestinian Development Bank, a Palestinian Export Promotion Board, a Palestinian Environmental Authority, a Palestinian Land Authority and a Palestinian Water Administration Authority, and any other Authorities agreed upon, in accordance with the Interim Agreement that will specify their powers and responsibilities.

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5. After the inauguration of the Council, the Civil Administration will be dissolved, and the Israeli military government will be withdrawn.

Article VIII

Public Order and Security

In order to guarantee public order and internal security for the Palestinians of the West Bank and the Gaza Strip, the Council will establish a strong police force, while Israel will continue to carry the responsibility for defending against external threats, as well as the responsibility for overall security of Israelis for the purpose of safeguarding their internal security and public order.

Article IX

Laws and Military Orders

1. The Council will be empowered to legislate, in accordance with the Interim Agreement, within all authorities transferred to it.
2. Both parties will review jointly laws and military orders presently in force in remaining spheres.

Article X

Joint Israeli-Palestinian Liaison Committee

In order to provide for a smooth implementation of this Declaration of Principles and any subsequent agreements pertaining to the interim period, upon the entry into force of this Declaration of Principles, a Joint Israeli-Palestinian Liaison Committee will be established in order to deal with issues requiring coordination, other issues of common interest, and disputes.

Article XI

Israeli-Palestinian Cooperation in Economic Fields

Recognizing the mutual benefit of cooperation in promoting the development of the West Bank, the Gaza Strip and Israel, upon the entry into force of this Declaration of Principles, an Israeli-Palestinian Economic Cooperation Committee will be established in order to develop and implement in a cooperative manner the programs identified in the protocols attached as Annex III and Annex IV.

Article XII

Liaison and Cooperation with Jordan and Egypt

The two parties will invite the Governments of Jordan and Egypt to participate in establishing further liaison and cooperation arrangements between the Government of Israel and the Palestinian representatives, on the one hand, and the Governments of Jordan and Egypt, on the other hand, to promote cooperation between them. These arrangements will include the constitution of a Continuing Committee that will decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza Strip in 1967, together with necessary measures to prevent disruption and disorder. Other matters of common concern will be dealt with by this Committee.

Declaration of Principles

Article XIII

Redeployment of Israeli Forces

1. After the entry into force of this Declaration of Principles, and not later than the eve of elections for the Council, a redeployment of Israeli military forces in the West Bank and the Gaza Strip will take place, in addition to withdrawal of Israeli forces carried out in accordance with Article XIV.
2. In redeploying its military forces, Israel will be guided by the principle that its military forces should be redeployed outside populated areas.
3. Further redeployments to specified locations will be gradually implemented commensurate with the assumption of responsibility for public order and internal security by the Palestinian police force pursuant to Article VIII above.

Article XIV

Israeli Withdrawal from the Gaza Strip and Jericho Area

Israel will withdraw from the Gaza Strip and Jericho area, as detailed in the protocol attached as Annex II.

Article XV

Resolution of Disputes

1. Disputes arising out of the application or interpretation of this Declaration of Principles, or any subsequent agreements pertaining to the interim period, shall be resolved by negotiations through the Joint Liaison Committee to be established pursuant to Article X above.
2. Disputes which cannot be settled by negotiations may be resolved by a mechanism of conciliation to be agreed upon by the parties.
3. The parties may agree to submit to arbitration disputes relating to the interim period, which cannot be settled through conciliation. To this end, upon the agreement of both parties, the parties will establish an Arbitration Committee.

Article XVI

Israeli-Palestinian Cooperation Concerning Regional Programs

Both parties view the multilateral working groups as an appropriate instrument for promoting a 'Marshall Plan', the regional programs and other programs, including special programs for the West Bank and Gaza Strip, as indicated in the protocol attached as Annex IV.

Article XVII

Miscellaneous Provisions

1. This Declaration of Principles will enter into force one month after its signing.
2. All protocols annexed to this Declaration of Principles and Agreed Minutes pertaining thereto shall be regarded as an integral part hereof.

Done at Washington, D.C., this thirteenth day of September, 1993.

For the Government of Israel

For the PLO

Witnessed By:

The United States of America

The Russian Federation

Declaration of Principles

Annex I

Protocol on the Mode and Conditions of Elections

1. Palestinians of Jerusalem who live there will have the right to participate in the election process, according to an agreement between the two sides.
2. In addition, the election agreement should cover, among other things, the following issues:
 - a. the system of elections;
 - b. the mode of the agreed supervision and international observation and their personal composition; and
 - c. rules and regulations regarding election campaign, including agreed arrangements for the organizing of mass media, and the possibility of licensing a broadcasting and TV station.
3. The future status of displaced Palestinians who were registered on 4th June 1967 will not be prejudiced because they are unable to participate in the election process due to practical reasons.

Annex II

Protocol on Withdrawal of Israeli Forces from the Gaza Strip and Jericho Area

1. The two sides will conclude and sign within two months from the date of entry into force of this Declaration of Principles, an agreement on the withdrawal of Israeli military forces from the Gaza Strip and Jericho area. This agreement will include comprehensive arrangements to apply in the Gaza Strip and the Jericho area subsequent to the Israeli withdrawal.
2. Israel will implement an accelerated and scheduled withdrawal of Israeli military forces from the Gaza Strip and Jericho area, beginning immediately with the signing of the agreement on the Gaza Strip and Jericho area and to be completed within a period not exceeding four months after the signing of this agreement.
3. The above agreement will include, among other things:
 - a. Arrangements for a smooth and peaceful transfer of authority from the Israeli military government and its Civil Administration to the Palestinian representatives.
 - b. Structure, powers and responsibilities of the Palestinian authority in these areas, except: external security, settlements, Israelis, foreign relations, and other mutually agreed matters.
 - c. Arrangements for the assumption of internal security and public order by the Palestinian police force consisting of police officers recruited locally and from abroad (holding Jordanian passports and Palestinian documents issued by Egypt). Those who will participate in the Palestinian police force coming from abroad should be trained as police and police officers.
 - d. A temporary international or foreign presence, as agreed upon.
 - e. Establishment of a joint Palestinian-Israeli Coordination and Cooperation Committee for mutual security purposes.
 - f. An economic development and stabilization program, including the establishment of an Emergency Fund, to encourage foreign investment, and financial and economic support. Both sides will coordinate and cooperate jointly and unilaterally with regional and international parties to support these aims.
 - g. Arrangements for a safe passage for persons and transportation between the Gaza Strip and Jericho area.

Declaration of Principles

4. The above agreement will include arrangements for coordination between both parties regarding passages:
 - a. Gaza – Egypt; and
 - b. Jericho – Jordan.
5. The offices responsible for carrying out the powers and responsibilities of the Palestinian authority under this Annex II and Article VI of the Declaration of Principles will be located in the Gaza Strip and in the Jericho area pending the inauguration of the Council.
6. Other than these agreed arrangements, the status of the Gaza Strip and Jericho area will continue to be an integral part of the West Bank and Gaza Strip, and will not be changed in the interim period.

Annex III

Protocol on Israeli-Palestinian Cooperation in Economic and Development Programs

The two sides agree to establish an Israeli-Palestinian Continuing Committee for Economic Cooperation, focusing, among other things, on the following:

1. Cooperation in the field of water, including a Water Development Program prepared by experts from both sides, which will also specify the mode of cooperation in the management of water resources in the West Bank and Gaza Strip, and will include proposals for studies and plans on water rights of each party, as well as on the equitable utilization of joint water resources for implementation in and beyond the interim period.
2. Cooperation in the field of electricity, including an Electricity Development Program, which will also specify the mode of cooperation for the production, maintenance, purchase and sale of electricity resources.
3. Cooperation in the field of energy, including an Energy Development Program, which will provide for the exploitation of oil and gas for industrial purposes, particularly in the Gaza Strip and in the Negev, and will encourage further joint exploitation of other energy resources. This Program may also provide for the construction of a Petrochemical industrial complex in the Gaza Strip and the construction of oil and gas pipelines.
4. Cooperation in the field of finance, including a Financial Development and Action Program for the encouragement of international investment in the West Bank and the Gaza Strip, and in Israel, as well as the establishment of a Palestinian Development Bank.
5. Cooperation in the field of transport and communications, including a Program, which will define guidelines for the establishment of a Gaza Sea Port Area, and will provide for the establishing of transport and communications lines to and from the West Bank and the Gaza Strip to Israel and to other countries. In addition, this Program will provide for carrying out the necessary construction of roads, railways, communications lines, etc.
6. Cooperation in the field of trade, including studies, and Trade Promotion Programs, which will encourage local, regional and inter-regional trade, as well as a feasibility study of creating free trade zones in the Gaza Strip and in Israel, mutual access to these zones, and cooperation in other areas related to trade and commerce.
7. Cooperation in the field of industry, including Industrial Development Programs, which will provide for the establishment of joint Israeli-Palestinian Industrial Research and Development Centres, will promote Palestinian-Israeli joint ventures, and provide guidelines for cooperation in the textile, food, pharmaceutical, electronics, diamonds, computer and science-based industries.
8. A program for cooperation in, and regulation of, labour relations and cooperation in social welfare issues.

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9. A Human Resources Development and Cooperation Plan, providing for joint Israeli-Palestinian workshops and seminars, and for the establishment of joint vocational training centres, research institutes and data banks.
10. An Environmental Protection Plan, providing for joint and/or coordinated measures in this sphere.
11. A program for developing coordination and cooperation in the field of communication and media.
12. Any other programs of mutual interest.

Annex IV

Protocol on Israeli-Palestinian Cooperation Concerning Regional Development Programs

1. The two sides will cooperate in the context of the multilateral peace efforts in promoting a Development Program for the region, including the West Bank and the Gaza Strip, to be initiated by the G-7. The parties will request the G-7 to seek the participation in this program of other interested states, such as members of the Organisation for Economic Cooperation and Development, regional Arab states and institutions, as well as members of the private sector.
2. The Development Program will consist of two elements:
 - a) An Economic Development Program for the West Bank and the Gaza Strip.
 - b) A Regional Economic Development Program.
- A. The Economic Development Program for the West Bank and the Gaza strip will consist of the following elements:
 - (1) A Social Rehabilitation Program, including a Housing and Construction Program.
 - (2) A Small and Medium Business Development Plan.
 - (3) An Infrastructure Development Program (water, electricity, transportation and communications, etc.)
 - (4) A Human Resources Plan.
 - (5) Other programs.
- B. The Regional Economic Development Program may consist of the following elements:
 - (1) The establishment of a Middle East Development Fund, as a first step, and a Middle East Development Bank, as a second step.
 - (2) The development of a joint Israeli-Palestinian-Jordanian Plan for coordinated exploitation of the Dead Sea area.
 - (3) The Mediterranean Sea (Gaza) – Dead Sea Canal.
 - (4) Regional Desalinization and other water development projects.
 - (5) A regional plan for agricultural development, including a coordinated regional effort for the prevention of desertification.
 - (6) Interconnection of electricity grids.
 - (7) Regional cooperation for the transfer, distribution and industrial exploitation of gas, oil and other energy resources.
 - (8) A Regional Tourism, Transportation and Telecommunications Development Plan.
 - (9) Regional cooperation in other spheres.
3. The two sides will encourage the multilateral working groups, and will coordinate towards their success. The two parties will encourage intersessional activities, as well as pre-feasibility and feasibility studies, within the various multilateral working groups.

Declaration of Principles

Agreed Minutes to the Declaration of Principles on Interim Self-Government Arrangements

Any powers and responsibilities transferred to the Palestinians pursuant to the Declaration of Principles prior to the inauguration of the Council will be subject to the same principles pertaining to Article IV, as set out in these Agreed Minutes below.

B. Specific Understandings and Agreements

Article IV

It is understood that:

1. Jurisdiction of the Council will cover West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent status negotiations: Jerusalem, settlements military locations, and Israelis.
2. The Council's jurisdiction will apply with regard to the agreed powers, responsibilities, spheres and authorities transferred to it.

Article VI (2)

It is agreed that the transfer of authority will be as follows:

- (1) The Palestinian side will inform the Israeli side of the names of the authorised Palestinians who will assume the powers, authorities and responsibilities that will be transferred to the Palestinians according to the Declaration of Principles in the following fields: education and culture, health, social welfare, direct taxation, tourism, and any other authorities agreed upon.
- (2) It is understood that the rights and obligations of these offices will not be affected.
- (3) Each of the spheres described above will continue to enjoy existing budgetary allocations in accordance with arrangements to be mutually agreed upon. These arrangements also will provide for the necessary adjustments required in order to take into account the taxes collected by the direct taxation office.
- (4) Upon the execution of the Declaration of Principles, the Israeli and Palestinian delegations will immediately commence negotiations on a detailed plan for the transfer of authority on the above offices in accordance with the above understandings.

Article VII (2)

The Interim Agreement will also include arrangements for coordination and cooperation.

Article VII (5)

The withdrawal of the military government will not prevent Israel from exercising the powers and responsibilities not transferred to the Council.

Article VIII

It is understood that the Interim Agreement will include arrangements for cooperation and coordination between the two parties in this regard. It is also agreed that the transfer of powers and responsibilities to the Palestinian police will be accomplished in a phased manner, as agreed in the Interim Agreement.

Declaration of Principles

Article X

It is agreed that, upon the entry into force of the Declaration of Principles, the Israeli and Palestinian delegations will exchange the names of the individuals designated by them as members of the Joint Israeli-Palestinian Liaison Committee.

It is further agreed that each side will have an equal number of members in the Joint Committee. The Joint Committee will reach decisions by agreement. The Joint Committee may add other technicians and experts, as necessary. The Joint Committee will decide on the frequency and place or places of its meetings.

Annex II

It is understood that, subsequent to the Israeli withdrawal, Israel will continue to be responsible for external security, and for internal security and public order of settlements and Israelis. Israeli military forces and civilians may continue to use roads freely within the Gaza Strip and the Jericho area.

Done at Washington, D.C., this thirteenth day of September, 1993.

For the Government of Israel

For the PLO

Witnessed by:

The United States of America

The Russian Federation

September 9, 1993

Mr. Prime Minister,

The signing of the Declaration of Principles marks a new era in the history of the Middle East. In firm conviction thereof, I would like to confirm the following PLO commitments:

The PLO recognizes the right of the State of Israel to exist in peace and security.

The PLO accepts United Nations Security Council Resolutions 242 and 338.

The PLO commits itself to the Middle East peace process, and to a peaceful resolution of the conflict between the two sides and declares that all outstanding issues relating to permanent status will be resolved through negotiations.

The PLO considers that the signing of the Declaration of Principles constitutes a historic event, inaugurating a new epoch of peaceful coexistence, free from violence and all other acts which endanger peace and stability. Accordingly, the PLO renounces the use of terrorism and other acts of violence and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators.

In view of the promise of a new era and the signing of the Declaration of Principles and based on Palestinian acceptance of Security Council Resolutions 242 and 338, the PLO affirms that those articles of the Palestinian Covenant which deny Israel's right to exist, and the provisions of the Covenant which are inconsistent with the commitments of this letter are now inoperative and no longer valid. Consequently, the PLO undertakes to submit to the Palestinian National Council for formal approval the necessary changes in regard to the Palestinian Covenant.

Sincerely,

Yasser Arafat Chairman

The Palestine Liberation Organization

Declaration of Principles

September 9, 1993

Mr. Chairman,

In response to your letter of September 9, 1993, I wish to confirm to you that, in light of the PLO commitments included in your letter, the Government of Israel has decided to recognize the PLO as the representative of the Palestinian people and commence negotiations with the PLO within the Middle East peace process.

Sincerely,

Yitzhak Rabin

Prime Minister of Israel

September 9, 1993

Dear Minister Holst,

I would like to confirm to you that, upon the signing of the Declaration of Principles, I will include the following positions in my public statements:

In light of the new era marked by the signing of the Declaration of Principles, the PLO encourages and calls upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, contributing to peace and stability and participating actively in shaping reconstruction, economic development and cooperation.

Sincerely,

Yasser Arafat Chairman

The Palestine Liberation Organization