

EU AND MIDDLE EAST PEACE PROCESS TASK FORCE MEETING, 'LESSONS LEARNED AND STRATEGIC THINKING AFTER THE GAZA CRISIS'

Paris, 30 March 2009

by **Esra Bulut**

1. Summary & outline of key issues

The EUISS organised a one-day Task Force meeting in Paris on the EU and Middle East Peace Process entitled 'Lessons Learned and Strategic Thinking after the Gaza Crisis' on 30 March 2009. The meeting brought together experts from around Europe and the region to survey European involvement in the Arab-Israeli conflict, extract lessons from this lengthy experience, and evaluate recent shifts in the situation, with a special focus on the Israeli-Palestinian conflict. The meeting was comprised of four sessions. The first session focused on the situation on the ground after the Gaza crisis; the second on European actors; the third on European policy instruments; and the fourth on perspectives from different EU institutions.

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East Jebaliya, northern Gaza, 2 March 2009.

The meeting was held under Chatham House Rules. The variety of papers and perspectives presented during the meeting prompted rich and varied discussion throughout the sessions. A number of focal points and recurring themes emerged during the day, variously eliciting broad consensus or sparking lively debate:

- The situation in Israel and the Occupied Palestinian Territory make any diplomatic breakthrough or notable progress on the ground unlikely in the short-term.

- Intra-Palestinian reconciliation is unlikely under the current conditions; however some form of reconciliation or agreement is essential and must be a priority for all concerned parties.

- It is unclear whether the two-state solution is still a viable objective.

- There are a number of problems and ambiguities in current EU policy towards the conflict. Perceived European interests, and

transitional costs make radical changes in EU policy very unlikely.

- It is unclear how the objective of a two-state solution relates to other EU and Member State aims in relation to the region.

- The EU and Member States' relations with the US have been crucial to the evolution of policy.

- The Swiss experience of communicating with Hamas suggests that such channels may have the potential to alter the behaviour of the parties, but have limited impact in the absence of wider support.

- The resilience of Hamas' structure and popularity suggest that the only choice is between a hardline Hamas and a more moderate Hamas. It is thus important to find ways to change the incentive structure of the movement and engagement seems vital in this respect.

- The EU, despite its long-standing and overall consistent involvement in efforts to resolve the conflict, still remains on the sidelines of regional diplomacy. There may be potential for the EU to use the international quartet to render transatlantic policy towards the parties more inclusive and effective.
- It is unclear whether the ESDP missions further or hinder long-term EU policy objectives and interests vis-à-vis the conflict.
- There is a need for a shift in donor policy focus from immediate humanitarian needs to rights, human security, and longer-term statebuilding objectives.

The EUISS plans a number of further meetings within the EU-MEPP Task Force framework.

2. Session I: On the Ground after the Gaza Crisis

This session examined the situation on the ground following the December 2008-January 2009 Israeli operation in the Gaza Strip and February 2009 Israeli legislative elections. The session began with a paper on the Israeli domestic scene. Both the manoeuvring of the parties before the elections, and the actual election results, were interpreted as marking a sharp swing to the right and the demise of the dovish peace camp in Israeli politics. Four implications for Israeli foreign policy were identified: a shift to prioritising conflict management instead of peacemaking vis-à-vis Palestinians; no likely significant diplomatic progress or dealings with Palestinians; a slim possibility of a surprise peace deal in the event of a change in Netanyahu's coalition partners; and unity across the government in viewing the Iranian nuclear programme as an existential threat. Amidst uncertainty as to what the Israel-Syria track might yield, it was suggested that the most constructive point of departure might thus be to build on the Arab Peace Initiative. Other participants expressed more optimism that the government would be pragmatic on all fronts, and in particular that it might resolutely pursue the Syrian track.

A grim assessment of the situation in the Gaza Strip was presented, citing the enormous damage from the December 2008-January 2009 war. Hamas' internal control of the Strip was not threatened, and while Hamas' popularity amidst the Gaza population was undermined, further afield Hamas was seen as the victor of the war. The decreased flow of humanitarian aid into and around the Strip had opened up further political space for Hamas'

consolidation of its control over the population.

In the West Bank, it was suggested that the success of the security forces in managing unrest and protests during the war might in the long-run serve as the Palestinian Authority's (PA) biggest political liability. One speaker painted a cautionary picture of a national security state emerging behind a façade of democracy, transparency and accountability, alongside the emergence of a shadow government as a result of a schism between the PA leadership and Fatah. While Hamas' growing popularity in the West Bank has not resulted in greater power for the movement, PA President Abbas has been fatally undermined. It was suggested that EU policies in support of the President had undermined him in the long run by not addressing the "real issues" of governance and occupation. These policies had also fuelled the demise of the two-state solution, necessitating an urgent examination of how the EU will deal with the ramifications of this demise.

Both presentations on the Occupied Palestinian Territory (OPT) deemed intra-Palestinian reconciliation unlikely under current conditions, either as a result of each faction seeking reconciliation only on its own terms, or due to a basic irreconcilability between the positions of Abbas and Hamas – although it was suggested that public pressure from within the Palestinian community might help push the parties to an agreement. Some participants were more optimistic, stressing that popular pressure would mount in Gaza for an arrangement that would ease conditions in the Strip. Others were uncertain as to which incentives might prompt changes in the behaviour of the factions in the continuing Egyptian-brokered negotiations. One speaker concluded that while there could be no Abbas-Hamas reconciliation, there could be reconciliation between Fatah and Hamas.

After three detailed papers presenting the situation in Israel and the OPT, the discussion opened up for analysis of the interplay between changes on the ground and regional and international dynamics. Various linkages between the situation in Israel and the OPT, the regional situation – in particular Iran – and US policies were discussed. One participant suggested that the Israeli government might be willing to halt settlement activity in return for Western support in confronting Iran, asking what the EU would do in this situation? Another described Gaza as a "very regional war" in terms of the support for Palestinians it had fed in the region, and predicted a lengthy and intense "battle of reconstruction" in its aftermath.

3. Session II: European Actors and Lessons Learned

This session focused on the policies, behaviour and experience of the EU, EU Member States, and non-EU European states with regard to the Arab-Israeli conflict, with a particular emphasis on the Israeli-Palestinian conflict. The first paper presented in this session emphasised three strands in EU policies since the 2006 Palestinian elections: a 'West Bank First' policy hoping to reverse the situation and reward moderates through the provision of aid and security; a boycott of the Hamas authorities and the isolation of Gaza; and deepening EU-Israeli relations.

Against this backdrop and in the aftermath of the Gaza offensive, three sets of old dilemmas/problems and two new sets of ambiguities were identified. First, the gap between words and deeds has typically meant that EU declarations are rarely followed through with actions. The speaker pointed to initial signs that the EU is unlikely to follow up comprehensively on the matter of investigations into alleged war crimes and destruction of EU-funded infrastructure in the aftermath of the Gaza war. Second, it was suggested that when the EU does not have a well-defined position on the political situation, it pumps in more money without demanding that all parties act within parameters or meet certain conditions, and without clear messages regarding the EU's own position. Third, despite a mutually agreed "time out" on the technical upgrade process in EU-Israeli relations, there are signs that the process is likely to progress: the example of the EU Commission Vice President's January visit to Israel to discuss the potential integration of Israeli companies and agencies in the European Space Agency was cited in this regard.

The paper argued that in addition, two new ambiguities had recently emerged reflecting the "different shades of emphasis" between EU Member States. First, in relation to intra-Palestinian reconciliation, there is little consensus within the EU about what kind of Palestinian government the EU would be prepared to work with. Second, a renewed willingness to assist on border assistance raises all types of questions about the EU's position vis-à-vis the closure of the Gaza Strip. Furthermore, it was argued that the potential for the extension of the misapplication of agreements between EU and Israel together with a political context inhibiting business as usual should be considered as major impediments for an upgrade in EU-Israeli relations.

A second paper focusing on EU Member States and their policies, suggested the time was ripe for a strategic reflection. The paper attempted to answer a number of questions: if the two-state solution is no longer available, what does this mean strategically speaking? What do the EU Member States want their policy to achieve? Is the two-state solution a priority for them? The paper examined the implications of a changed situation for an EU consensus around the belief that Palestinian self-determination could be realised through a two-state solution, and that the EU should pick up the tab of US-led negotiations. Three key developments were identified as having impacted on European commitment to the two-state solution: (i) EU enlargement had served as a distraction from other strategic initiatives; (ii) the collapse of the Oslo process meant there was no longer a peace process for the Europeans to support; (iii) 9/11 and the US-led invasion of Iraq had prompted the EU to emphasise counter-terrorism in their policies towards the region and look for areas where they could demonstrate allegiance to the Western alliance. In sum, EU policy moves and statements should be understood as responding to many more things than just the aim of a two-state solution.

The result has been that since 2002, the EU has essentially been reduced to adopting and repeating mantras in its policies towards the conflict: first the roadmap, and more recently insistence on the two-state solution as a starting point in negotiations. In their policies towards the OPT, Europeans have focused more on countering terrorism than on creating a Palestinian state. In addition, the EU has been caught up in the minutiae of the conflict, from the labelling of settlement products to checkpoints to travel permission for Palestinian students – with European diplomats coming to define their jobs through these issues rather than more strategic matters. In the meantime, a shift in European public opinion has led to a divergence between public opinion and government policies, with the public much less sympathetic to Israel. While predicting that the EU will wait for Egyptian progress on intra-Palestinian matters and US leadership more generally, the paper called for EU ownership of the two-state solution which, it argued, is in the Europeans' interest. It also called for a more frank assessment of where current policies are in fact taking the situation and subsequent readjustment of strategy.

A third paper focused on Switzerland's involvement in the conflict, and in particular the Swiss experience as one of the few states to maintain contact with Hamas.

The fate of the ‘Swiss document’ attempt to encourage Hamas to spell out the terms of a hudna was relayed and lessons extracted for current policy thinking. The Swiss, unconstrained by any national terrorist list, attempted to engage with Hamas leaders in the hope of exposing them to new ideas and contacts, and strengthening moderates by keeping communication channels open. Senior Hamas leaders appear to have been open to these channels, and listened to criticism and suggestions. However, the attempt backfired when Fatah, feeling threatened after being excluded from the process, exposed the backchannel negotiations and other European states dismissed the initiative. Overall the episode showed that while countries like Switzerland and Turkey can play bridging roles, ultimately they cannot change the incentive structure for Hamas.

It was suggested that in attempts to influence Hamas’ behaviour, it might help if the EU provided more information on what it would expect or accept from a Palestinian power-sharing arrangement. It was argued that setting unrealistic conditions for engagement would only continue the deadlock. Hamas refuses to accept the quartet principles because it is determined not to be seen as a “Fatah 2”, cooperating with Israel and the US while gaining little in return. Internal dynamics within Hamas also make it unlikely that the movement will meet quartet conditions, with pragmatists needing to appear steadfast after their electoral strategy did not lead to international acceptance of the movement. The paper concluded that in the face of two options – a hardline Hamas or a more moderate Hamas – the only viable policy option is to engage with the movement despite the legitimacy this might confer on it.

There was a lively discussion around the question of changing the incentive structure for Hamas. It was suggested that the incentive structure might be different for Hamas members based in the West Bank, the Gaza Strip and outside the OPT. It was argued that in the face of an apparent rising sense of realism across all parts of Hamas, it might not be useful to talk about moderates and hardliners within the movement. It was suggested that while Swiss engagement had been facilitated by the lack of a terrorist list and a tradition of recognising states not governments, it was worth recalling that its engagement had prompted strong Israeli reaction, and Swiss-Israeli relations had suffered as a result. It was suggested that the only workable approach to Hamas had been that of Egypt, based on the objective of ensuring that Hamas re-

mained Israel’s problem and not Egypt’s.

It was noted that there had been a loss of faith on the ground in a number of previously undertaken dialogue initiatives because they appeared to be leading nowhere, and the EU was urged to explore ways of throwing its weight behind such initiatives to lend them credibility. It was proposed that the EU should aim to include all parties in peace-making efforts to increase their “maturity”, call proactively for a Palestinian unity government, and abandon any attempt at divide and rule among Palestinians. In response to a question about what incentives might actually have an impact on Hamas, given the ineffectiveness of the quartet conditions, it was argued that the “devil was in the detail” and would involve compromise, especially on the question of unconditional recognition of Israel. It was noted that while Israel and the EU consider Hamas to be a spoiler, Hamas considers Israel to be the spoiler. It was concluded that the EU might learn through more flexibility and engagement, and that it was worth exploring whether bringing all actors into the peace process would alter their behaviour.

On the question of the overall thinking and approaches informing EU policy, a number of different perspectives were offered by participants. In response to the suggestion that EU policy has been shaped by a greater emphasis on counter-terrorism, one participant proposed that the EU should reassess its strategy regarding the two-state solution so as to situate it better within wider strategies on regional stability and counter-terrorism. One participant challenged the view that the EU was merely declaratory in its approach, while another emphasised that EU-Israeli relations were based on mutual benefits and reciprocity. It was suggested that the EU operated on the basis of a lowest common denominator position, and had difficulties relating this position to both US unilateralism and multilateralism. Another participant countered that there was in fact broad consensus within the EU on the current approach, and that ultimately the EU and its Member States were not committed to a two-state solution, with higher-order issues determining relations with the parties. Finally another participant questioned why the human rights clause had not been invoked in application of the Association Agreement with Israel, and suggested that those matters characterised as minutiae by one of the speakers all shared an important legal dimension. If legal issues carry traction where high politics cannot, the EU may have turned to legal issues in the absence of wider political will or an overarching policy.

4. Session III: European Policy Instruments and Lessons Learned

The third session examined different European policy instruments that had been used by the EU in its approach to the conflict. Three papers focused on aid; diplomacy and the international quartet; and ESDP missions respectively.

The first paper focused on past and present provision of aid to the OPT. Despite the OPT being one of the world's highest recipients of per capita foreign aid in the last 15 years, this period has witnessed its territorial fragmentation and a consistent deterioration in conditions in terms of the economy, development, human security and human rights. The PA has not evolved from its nascent form into a structure that could constitute the government of a future Palestinian state. Aid was initially based on an assumption of linear progress towards peace and development, but instead it has been diverted to emergency assistance, and performed a regime stabilisation rather than state-building function. There is an opportunity to learn from the past and re-engage with the Middle East Peace Process in a more strategic way. This requires a new approach to both peacemaking and financial support with the security and the well-being of the Palestinian people at the centre of international preoccupation alongside the security and well-being of the Israeli population. This necessitates a shift in focus from immediate humanitarian needs to rights, human security, and longer-term state-building objectives.

There has been broad continuity in donor policy over the last 15 years even if there have been some changes in modalities and policies; this policy has not worked according to its own yardstick. Evidence from this period suggests that occupation, human security and development are fundamentally incompatible. Adopting a new approach to aid means engaging Israel as the 'occupying power' rather than largely unsuccessfully trying to extract incremental improvements in terms of access and movement without challenging the occupation itself. Diplomacy must address the root causes of the conflict. It is also essential to apply a conscious human security approach and base the provision of aid to the Palestinians on rights rather than primarily on needs, and within a longer-term state-building strategy that goes beyond incorporating early recovery elements into humanitarian activities. This entails building legitimate and accountable governance structures capable of securing their own financial resources and

monopoly of the use of force, as well as strengthening Palestinian capacity, including the capacity to cope with and resist the occupation. The importance of overcoming the fragmentation of the Palestinian population and mending the West Bank-Gaza divide and building bridges between Palestinians in the OPT and in the broader Middle East cannot be overstated.

A second paper examined European diplomacy, noting a remarkably consistent evolution of policy since 1973, with no substantial ruptures. The objective of Palestinian statehood has been at the core of this approach from the outset, and in this sense the EU has played a pioneering role in advancing the two-state solution. The evolution of the conflict has vindicated the EU position. Nevertheless, the EU is still at the sidelines of diplomacy in the region. The question was raised as to what extent the EU can go beyond its efforts so far and finalise its position on final status issues. While the EU has traditionally been explicit regarding the need for Israel to withdraw from occupied territory and frequently criticises settlements, it has been vaguer on Jerusalem and the refugee question. The EU should aspire to clarifying its position on final status issues in a transatlantic context so as to provide clear parameters for negotiations. The EU's inclusion in the quartet is the logical consequence of the role it has played. While the quartet offers an opportunity for a transatlantic position on the Middle East, US policy and EU reluctance to use the quartet to modify transatlantic policy has rendered it problematic. The new US administration might reinforce the quartet and bring inclusiveness back to the agenda.

The EU has used soft power in its conditionality towards the parties, in particular the Palestinians, but the stance it will take towards the new Netanyahu government will be a test of this approach. Conditionality in aid and sanctions against Hamas can be considered robust, but with no similar steps towards Israel, this might be considered unbalanced robustness. The EU must take the opportunity that any new Palestinian unity government represents, with the renunciation of violence by Hamas as the core requirement. Recognition of Israel need not come at the start of the negotiation process but be considered by the EU as a condition for their success.

A third paper outlined the record of the two ESDP missions, EUPOL COPPS and EUBAM Rafah. The former has tried to carry out its limited mandate amidst fundamentally different visions of the purpose of Security Sector Reform among Palestinians, Israelis and vari-

ous international actors. The mission's performance cannot be separated from the wider legitimacy crisis of the PA given the current factional and geographical split in the OPT. It now seems the mission has acquiesced to being part of the more "restructurist" agenda of the US and Israel than the earlier "reformist" aims. The mission has been subject to criticism that it has focused on quick-impact short-term operational support at the expense of long-term transformational support, and appears to be responding to some of this criticism, notwithstanding the limitations of only being operational in the West Bank.

EUBAM Rafah's border assistance role has been eclipsed by developments on the ground. While setting a precedent in terms of EU involvement in a sensitive area, and deploying rapidly, after an initial period of monitoring, the mission has been relatively powerless in the face of the closure of the border crossing point from June 2006. The mission has been on standby since the Hamas takeover of the Gaza Strip. It is worth examining the limited fulfilment of the mission's mandate in order to better evaluate proposals for other EU third party roles in the region. Both missions, through their very deployment, were embedded in processes and arrangements that have in practice fractured the OPT and Palestinian body politic. If their symbolic importance outweighs operational impact, do their benefits outweigh the possible reinforcing and normalising effect they may have on the overall dynamics of the conflict?

The debate surveyed a number of questions relating to the effectiveness of these policy instruments, and how they relate to overall policy objectives. Two basic sets of questions were raised by participants. First, if we acknowledge the limited impact of EU policy, despite a general willingness to be there, should the EU be there at all? Second, can we measure success without clarifying the underlying objective of policy? Is the overriding aim to achieve a two-state solution, maintain a role for the EU and counterbalance other actors, or simply to provide a cover for other EU and Member State policies in the region? If the latter, has the European Commission been "duped" given its ongoing efforts towards establishing a viable Palestinian state? One participant argued that neither ESDP mission has anything to do with the two-state solution, but in fact that the two missions constitute conflict management at its worst, with EUBAM Rafah a complete failure and EUPOL COPPS having lost out

in the debate over SSR to the US. A counter-argument came in the assertion that both missions are fully integrated into an EU vision of how to solve the conflict, and that while they might not be very effective, the EU was leading in terms of working consistently for the establishment of a Palestinian state.

The issue of inclusiveness resurfaced in this discussion, with the suggestion that EU support to Security Sector Reform should follow a more inclusive line, and offer incentives to the Palestinian factions to work together rather than separately. On the question of the quartet conditions to Hamas, a number of participants suggested it was time for a re-evaluation, in particular regarding the recognition of Israel. It was argued that Israel would also need to change its stance in order to better meet the challenges Hamas poses. However, one participant cautioned against any reworking or rewording of the conditions, arguing that this could seriously undermine the current PA government and Fatah. More generally in relation to the record, utility and potential of the international quartet, participants expressed a variety of opinions, ranging from very positive to very negative. In this context, one discussant asked what the role of the EU would be if the US attempted to impose a solution on the parties.

5. Session IV: Appraisal of Discussions & Perspectives from EU Institutions

The last session of the day prompted both pessimism and further clarification of views regarding prospects and policies discussed throughout the day. It also provided an opportunity for EU officials to respond to many of the ideas, suggestions and criticism voiced earlier in the day. While there was acknowledgement that the EU had failed if the yardstick for success was regarded as substantial progress in solving the conflict, this was contextualised against the backdrop of a collective failure to resolve the conflict involving the US, despite its political clout, as well as Arab countries, Russia and Israel. It was acknowledged that the EU required a clearer strategy on Gaza. It was suggested that the 2005 Agreement on Movement and Access should be enhanced and made a central pillar of EU diplomatic strategy. The opening of Gaza's crossing points is very important, especially as their continued closure only appears to benefit smugglers working through the tunnels between Egypt and the Gaza Strip.

In response to a number of explicit or implicit proposals put forward throughout the day to radically alter EU policy, from suspending the Association Agreement with Israel to recognising Hamas, it was countered that such ideas did not take into account the immediate impact and transitional costs of such changes. One participant responded that of a long list of proposed changes in policy, only a halt to humanitarian assistance to the Palestinians would have legal implications, thus allowing the EU to consider all other policy options. Another participant also countered that current alleged EU complicity in legal and human rights violations could in fact inhibit the EU's projection of its values elsewhere in the region and world.

There appeared to be broad agreement that intra-Palestinian reconciliation was an essential prerequisite for any progress. It was noted that this priority should be framed correctly, and that rather than speaking of Palestinian unity, it was more appropriate to talk of the need for a political framework that would accommodate pluralism. There was not as much consensus regarding the relative significance of the Arab Peace Initiative. One participant suggested that this might offer an alternative to the current impasse over the quartet conditions. Another suggested Arab unity was

indispensable to progress on all fronts. EU officials noted the support the EU had given to the Arab Peace Initiative. At the same time, a participant from the region cautioned against too much hope being invested in the Initiative as a way of surmounting the current deadlock given the dismal prospects for intra-Palestinian agreement, the fact that a two-state solution may no longer be possible, and shifts in the Arab League following the Gaza War. One participant remarked that a breakthrough might be possible if an equal amount of emphasis was put on a durable end to the Israeli occupation as has been put on building durable Palestinian institutions, obtaining a durable ceasefire or achieving a durable opening of borders.

Finally, several participants offered contrasting assessments of the EU's commitment to the two-state solution. While one speaker described it the "only rational solution we have", another deemed unflinching commitment to it as the EU burying its "head in the sand". While yet another speaker concluded that any desertion of the commitment would be the "ultimate form of pessimism" and that such a solution should be imposed from the outside, another argued that there were in fact alternatives that needed to be explored.

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