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# EUROPEAN INVOLVEMENT IN THE ARAB-ISRAELI CONFLICT

Edited by Esra Bulut Aymat

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124

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# EUROPEAN INVOLVEMENT IN THE ARAB-ISRAELI CONFLICT

*Muriel Asseburg, Michael Bauer, Agnès Bertrand-Sanz, Esra Bulut Aymat,  
Jeroen Gunning, Christian-Peter Hanelt, Rosemary Hollis, Daniel Möckli,  
Michelle Pace, Nathalie Tocci  
Edited by Esra Bulut Aymat*

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Paris**

Director: Álvaro de Vasconcelos

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# Preface

## Álvaro de Vasconcelos

In the last few weeks we have witnessed, yet again, the failure of US-mediated negotiations between Palestinians and Israelis. This means that it is necessary, once again, to discuss the course of action that the European Union should follow, in the present strained regional and international circumstances, to attain its long-sought but elusive goal of peace in the Middle East. This *Chaillot Paper* suggests a shift in emphasis and priorities from a determined but not always consistently pursued effort to create a Palestinian state to deliberate and sustained insistence on Israeli and Palestinian respect for international and European law.

Helping bring about a Palestinian state living in peace and security alongside Israel has been the common unifying goal underpinning European efforts at resolving the Middle East conflict since 1980. The inescapable conclusion is, however, that those efforts, however well meaning, have largely failed, and that the chances for success are at present perhaps slimmer than ever before. The authors of the chapters that make up this volume are almost unanimous in pointing out that it is pointless to embark on fresh attempts without analysing what exactly made previous attempts abortive in the first place. Why have those most closely involved in attempting to make good on the promise of helping create a Palestinian state inherent in the Oslo-Madrid process – the European Union, the United States and the Arab states – accumulated nothing but an enormous amount of frustration and the sense that they have so little to show for years and years of commitment? And the question must furthermore be asked: for how many more years will diplomatic engagement along the same lines continue to be deployed in vain?

The essays in this volume inevitably point to the conclusion that the goal sought by European diplomacy, for the time being at least, is not within reach. The situation that has developed over recent years, as Esra Bulut Aymat writes, ‘increasingly fuel doubts about the very possibility of a two-state solution.’ This is obviously not merely a failure of EU policy, but rather one in which all those who have been involved in the search for a solution share some responsibility, to say nothing of course of

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Israeli and Palestinian politicians. But persisting along paths that have led straight to dead ends will merely spell increased frustration, and make the end goal even more elusive.

The lack of meaningful progress on the Israeli-Palestinian conflict through the two-state solution, which has been a primary goal of the EU, is a huge challenge to the credibility of the EU's international policy. It has an obvious negative security impact in that there is a constant and impending risk of war in the Middle East, with a source of acute tensions and radicalisation festering at the southern rim of the Union. The EU's Mediterranean policy has remained, in spite of intense efforts to the contrary, largely hostage to the conflict, and its objective of creating a multilateral framework for cooperation in the Mediterranean including Israel as well as Arab states cannot be met. The 2003 European Security Strategy states categorically that the 'Arab-Israeli conflict is a strategic priority for Europe'. Furthermore, as long as it remains unresolved, 'there will be little chance of dealing with other problems in the Middle East. The European Union must remain engaged and ready to commit resources to the problem until it is solved.' There is indeed no single topic in the international agenda that has mobilised greater and more continued European engagement, including an inordinate amount of shuttle diplomacy on the part of all its main leaders, and an active presence in the Middle East Quartet since it was set up in 2002. Neither the commitment to the Quartet nor the scrupulous support of US initiatives have brought any significant strides towards the long-sought goal, however, nor prevented the collapse of President Obama's efforts to instigate direct talks in 2010.

The question today, inevitably, is what next? Could there be a way out that has not been tried yet? Is there a policy line out there waiting to be put to the test that could give a fresh chance to the two-state solution? In the minds of those who contributed to this volume, some of the very best European experts on the Middle East among them, there certainly is, and its first steps involve fostering Palestinian reconciliation.

Bringing about Palestinian reconciliation cannot be achieved without engaging with Hamas. This is a matter on which most authors concur, and a point that Jeroen Gunning emphasises: as he puts it: 'the international community must find a way of working with Hamas – or give up on the goal of achieving a two-state solution.' With Hamas's differences with Fatah managed or mediated, a unified, representative and democratically accountable Palestinian negotiating partner would be empowered to draw on attractive bargaining chips, make crucial concessions and credible commitments to their Israeli counterparts, significantly enhancing peace prospects. There is no guarantee however against renewed failure if an insistence on a gradual process systematically sidestepping the

main issues, and thus subject to the kind of indefinite procrastination that has led all peace initiatives from Oslo to Obama to fall apart, is maintained.

The second question on which a strong consensus emerges from this volume is that the EU should place its own norms and rules, as well as international law, at the heart of its policy as part of a multilateral strategy. Agnès Bertrand-Sanz writes that the EU should adopt a comprehensive strategy predicated on international law and human rights. Nathalie Tocci notes that ‘the application of the law is not incompatible with cooperation with Israel’ and that the EU should not view ‘the application of the law as an undue “punishment”’ and contends that by putting respect for the law at the heart of its relations with Israel the EU would contribute to establish the conditions essential to achieve the two-state solution. The EU should not only identify and denounce those aspects of both Israeli and Palestinian behaviour that run counter to international law, but Rosemary Hollis suggests it should go one step further and ‘impose penalties accordingly’.

In more than one respect, Palestine is a key test of the EU’s credibility as a supporter of democratic reform. The refusal to recognise the victory of Hamas in the 2006 Palestinian elections in spite of the fact they were indisputably declared as ‘free and fair’ by EU observers, has doubtless eroded that credibility and contributed to the notion that the EU would rather back authoritarian regimes than face the risk that free elections return Islamist parties as those favoured by the people. The fact that new elections in Palestine have been taken off the agenda altogether has only contributed to spread this view. Michelle Pace puts it forcefully: ‘Only a truly political reform agenda in the Middle East can prevent the further de-democratisation of the region’ and, with specific regard to Israel and Palestine, ‘the emergence of a single-state outcome to the conflict accompanied by endemic violence.’ This is all the more important since, in the very likely event that there will be no Dayton-like arrangement for the Middle East, the two-state solution will fade away at least for the time being and the EU will need ‘to consider the other option on the table – a one-state solution.’

In his Cairo speech in June 2009, US President Obama extolled the virtues of peaceful resistance, and its potential to prevail over violence. ‘Palestinians must abandon violence. Resistance through violence and killing is wrong and does not succeed. For centuries, black people in America suffered the lash of the whip as slaves and the humiliation of segregation. But it was not violence that won full and equal rights. It was a peaceful and determined insistence upon the ideals at the centre of America’s founding.’ The centrality of civic movements will become more evident if the situation moves from one dominated by movements

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who fight for a national state to one where the focus shifts to fundamental rights and their protection under international law. The emergence of civic movements which reject any form of violent resistance and various kinds of grass-roots organisations with mixed Israeli and Palestinian membership seems to be a step in this direction.

Whether a one- or a two-state solution looms on the horizon, the question of civil rights will not evaporate, nor will the need for all parties to the conflict to comply with international law. Whatever the circumstances, adherence to a law, norms and fundamental rights approach seems to be the best option for the EU and one that is vindicated by the arguments put forward by this *Chaillot Paper*.

Paris, December 2010

# Executive Summary

The *Chaillot Paper* examines European involvement in the Arab-Israeli conflict. It focuses on European Union involvement in the conflict, with special, but not exclusive, attention to EU involvement in the Israeli-Palestinian dimension of the conflict. Three decades on from the landmark 1980 Venice Declaration of the then nine Member States of the European Community, 2010 has seen new setbacks in efforts to resolve the conflict, and negative trends that increasingly fuel doubts about the very possibility of a two-state solution. This contrasts sharply against the optimistic objectives of the latest US peace initiative and Palestinian Authority Prime Minister Salam Fayyad's plan for a Palestinian state, both of which envisage 2011 as a key year for moving towards a two-state solution. These contrasts invite far-reaching, honest and critical reflection on where European involvement in the conflict has left the EU and its Member States, and how it has impacted on peace prospects. Drawing on the expertise and distinct approaches of researchers from across Europe, the volume combines discussion of past and present EU policies, basic challenges for the EU, European interests and lessons learned, with elaboration of policy implications and recommendations.

## Chapter summaries

Chapter One (*Esra Bulut Aymat*) introduces the overall contributions and findings of the chapters, and provides chapter summaries. Overall, the findings confirm the EU's crucial relevance to the conflict, invite fresh scrutiny of the key relationships between the EU and other parties involved in the conflict, and caution against bending to multiple pressures that result in the EU becoming more embedded in the conflict in a way that does not serve basic European interests. Chapter Two (*Rosemary Hollis*) outlines the basic stakes for the EU and Member States regarding the conflict, and provides a historical overview of the EU's formal position on the matter and its evolving role since the 1990s. The author argues that EU policy has been more about issuing declarations and

maintaining consensus within the transatlantic alliance than effective conflict resolution. Chapter Three (*Agnès Bertrand-Sanz*) examines the conflict and the EU's assistance to the Palestinians. The author argues that without a basic reorientation in EU aid strategies and a rethink of the failed boycott of the Hamas administration in Gaza, current EU policy can only further erode the prospects of a viable Palestinian state-building enterprise. Chapter Four (*Nathalie Tocci*) examines the conflict and EU-Israeli bilateral relations. The author argues that the EU's prioritisation of cooperation with Israel has worked against prospects of a two-state solution, and led the EU to compromise its adherence to its own norms and laws. Chapter Five (*Daniel Möckli*) explores the interplay between transatlantic ties, the Quartet and EU policies towards the conflict. While transatlantic convergence over the conflict has reached an all-time high since 2009, this has failed to translate into substantial progress on the ground, prompting the need to address a number of issues on the transatlantic agenda through more strategic and effective means.

Chapter Six (*Muriel Asseburg*) focuses on EU involvement in crisis management and mediation in the Arab-Israeli arena. The author argues that European presence on the ground has at best served to freeze rather than settle the conflict, and that efforts should focus on tackling trends that heighten the risk of renewed violence and destroy prospects of a viable Palestinian state. Chapter Seven (*Michelle Pace*) examines the interplay between the stalled state of democratisation efforts in the region and a feared eclipse of a two-state solution. The author argues that the EU is left with limited policy choices in both domains in the absence of a clear strategy on the linkage between democracy-building in the region and peaceful resolution of the conflict. Chapter Eight (*Jeroen Gunning*) tackles the question of engaging Hamas. The author argues that the realities of power balances and political trends across the OPT and within the Hamas movement, coupled with tested alternatives to the current non-engagement policy, make some form of EU engagement, potentially with a Palestinian national unity government, imperative. Chapter Nine (*Michael Bauer and Christian-Peter Hanelt*) explores regional approaches to the Arab-Israeli conflict and the role of the European Union. The authors propose that the EU should aim to help link regional ownership to international support for promising initiatives, most notably the Arab Peace Initiative.

## Policy recommendations

As a multi-author volume, the *Chaillot Paper* does not have one set of recommendations shared by all the authors, nor does it propose a single route for future EU policy. Nevertheless, the vast majority of chapters

converge in their assessment that the current priority lies in encouraging and enabling intra-Palestinian reconciliation. The current EU and US policy towards Hamas is unsustainable and counter-productive in this respect, and some form of engagement with Hamas will be required if progress is to be attained. The chapters offer a variety of concrete proposals on how this might be achieved. The EU could work with the US and Quartet partners to foster coordinated and creative thinking on Palestinian reconciliation. Treating the Quartet principles as crucial goals rather than preconditions, the EU could lead the way on encouraging the formation of a Palestinian National Unity government committed to maintaining a ceasefire, dealing with Israel on the basis of the 1967 borders and respecting previous agreements. The EU could help dismantle the current incentive structure that makes a National Unity government unattractive to the Palestinian factions, for example by spelling out the rewards on offer to a potential new Palestinian unity government, or by clarifying how it would deal with such an entity. While one author advises the EU should leave mediation to others, another suggests the EU could consider the option of acting as a mediator in Hamas-Fatah unity talks, building on its long-standing direct and indirect interaction with Palestinian factions.

Another theme that emerges from a number of chapters is the recommendation that the EU place respect for international and European law, and diligence in ensuring appropriate reactions and remedies to violations of both, at the heart of its relations with Palestinians and Israelis. This would include adapting current policy and practice regarding Israeli settlements goods to comply with EU declarations and legal obligations; and seeking reimbursement for additional costs to EU-funded humanitarian relief incurred as a result of illegal practices in the OPT. Other practical measures to deal with the particularly problematic issue of settlement growth might include issuing a code of conduct to discourage European investment in and cooperation with settlement-based companies. In East Jerusalem, the EU and Member States could tighten policies and practice to avoid *de facto* recognition of the Israeli annexation.

At least twenty further suggestions for improving policy are presented in the following chapters. These include recommendations for the EU to:

- Prioritise bringing about an end to the Gaza blockade, working on durable border arrangements and on ensuring that any further changes to the current closure policies do not entrench a collective punishment logic and isolation of the Gaza Strip from the West Bank.

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- Renew emphasis on conflict resolution efforts, and on removing obstacles to the emergence of a Palestinian state, in order to improve the effectiveness of EU assistance to the OPT and its CSDP missions on the ground.
- Seek to clarify its role in Middle East diplomacy in coordination with the US and other Quartet members, including the scope for European unilateral measures on certain issues, such as settlements and relations with Syria.
- Engage in more timely and consistent confidence-building, early warning, monitoring and crisis mediation, in particular in the most sensitive areas, including on the Lebanon-Israel border and in Jerusalem.
- Prepare carefully for the different scenarios surrounding the PA government's August 2011 deadline for creating a Palestinian state.
- Assess the sustainability and impact of its current aid policies in the OPT.
- Develop a more comprehensive policy towards human rights and democracy in its approach to the conflict, revising its democracy support programmes to maximise impact on the ground.
- Explore playing a more proactive role *vis-à-vis* constructive regional initiatives towards the conflict, helping link initiatives with regional ownership to effective international support, most notably in the case of the Arab Peace Initiative.

Overall, these recommendations address both those searching for bold conflict resolution steps and those seeking to minimise the harm done to peace prospects by current trends. This *Chaillot Paper* thus invites both sceptics and enthusiasts to further explore the full array of policy options and policy constraints that the EU faces with a more grounded and ambitious, and perhaps more 'European', vision and purpose.



## CHAPTER 1

# Examining European involvement in the Arab-Israeli conflict

Esra Bulut Aymat

## Introduction

This *Chaillot Paper* examines European involvement in the Arab-Israeli conflict through an array of approaches. It focuses on European Union (EU) involvement in the conflict, with special, but not exclusive, attention on EU involvement in the Israeli-Palestinian dimension of the conflict. The volume aspires to make a timely contribution to policy thinking by focusing attention on a number of cross-cutting issues, challenges and opportunities for the EU.

2010 marks the passing of three decades since the 1980 Venice Declaration of the then nine Member States of the European Community, considered a milestone in the history of European involvement in the conflict. Thirty years on, the perceived capacity of PLO leaders to represent and deliver Palestinians in peace-making is undermined by sharp intra-Palestinian political and physical divisions, while the viability of a potential negotiated two state-centred solution, the stated preferred outcome of the EU, is increasingly called into question by its foremost advocates either in despair, tactical desperation or strategic reassessment. While there have been more violent phases in the conflict, as well as more chaotic and more polarised periods, an unprecedented combination of Israeli and Palestinian political inertia, societal polarisation and physical fragmentation has prompted serious discussion in unlikely quarters about a one-state solution, and other alternatives.<sup>1</sup>

This stands out in stark contrast to the optimistic objectives of the latest US peace initiative backed by the Quartet, as well as Palestinian Authority Prime Minister Salam Fayyad's plan for a Palestinian state, both of which envisage 2011 as a key year for moving towards a two-state solution. Indeed, a wider range of contrasts have punctured and defined the last two years of the conflict, from war and dire post-war conditions in the Gaza Strip to the intensification of PA-Israeli security

1. For further discussion, see the chapter by Michelle Pace in this volume. On alternatives to both a two-state and one-state solution, see for example the 'Parallel States Project' at Lund University.

cooperation in the West Bank, from diplomacy at the highest levels over Israeli settlements to international civil society attempts to break the embargo on the Gaza Strip, and from fears of an imminent regional conflagration to uncertainty over the shifting, potentially irreversible and volatile situation in Jerusalem.

These developments invite far-reaching reflection on where EU policies towards the conflict have met or fallen short of objectives and expectations, the actual effects of policy paths taken, and what might be usefully attempted additionally or alternatively. The current volume stems from the belief that sound policy thinking for the future must be grounded in detailed, honest and critical examination of past and present policy outcomes. With varying emphasis, the chapters combine discussion of past and present EU policies, basic challenges, European interests, and lessons learned, with elaboration of policy implications and recommendations. Between them they address basic stakes, key relationships, the transatlantic context, cross-cutting questions and regional approaches. The annexes support these chapters with a list of useful relevant documents. The volume does not constitute an exhaustive account of EU policy towards the conflict as a number of topics have been addressed at the expense of others given length limitations.<sup>2</sup>

This *Challiot Paper* aspires to focus minds on distinct and shared European interests, concerns and stakes regarding the conflict and its non-resolution. The contributing authors hail from several European countries and are drawn from across the realm of research, spanning universities, think tanks and non-governmental organisations. Convening European analysts to examine European policies carries several objectives. It serves to expose policy-relevant insight and advice from broader research projects being carried out by the authors' think tanks, universities and research networks. It seeks to further intra-European discussion of EU policies, and draws on papers and draft chapters discussed at three meetings held at the EU Institute for Security Studies in Paris in 2009-2010.<sup>3</sup> The volume thus speaks first and foremost to Europeans, but also to the conflicting parties and to other third parties, including the US. Its primary target audience comprises policy-makers, as well as the research and civil society communities that scrutinise, influence and sometimes transcend, policy. It is also aimed at anyone seeking to learn more about EU involvement in the conflict and efforts to resolve it. It constitutes an invitation to further and broaden analysis, discussion and policy adaptation.

2. For example, while a number of chapters touch on the topic, there is not a specific chapter specifically devoted to the conflict and Euro-Mediterranean relations; readers are instead invited to consult a series of papers published this year on this topic by the Institute: the *Ten Papers for 2010* report series published jointly by the EUISS, Paris and IEMED, Barcelona.
3. 'Lessons Learned and Strategic Thinking after the Gaza Crisis', EUISS EU-MEPP Task Force Meeting, 30 March 2009, EUISS, Paris; 'Between Pessimism and Optimism: EU Policy Options across Scenarios' EUISS EU-MEPP Task Force Meeting, 2 July 2010, EUISS, Paris and an authors' meeting, 1 July 2010, EUISS, Paris.

## Does Europe matter?

Perhaps the most puzzling aspect of the policy debates over European roles in the Arab-Israeli conflict is the discrepancy that characterises different actors' and institutions' assessment of the basic relevance of the EU and its Member States to the conflict. While many in outside policy circles tend to think Europeans are largely irrelevant to the contemporary course of the conflict, many policy-makers point to the unique contributions the EU has made, while still others allege that European policies are harming the chances of a sustainable negotiated settlement. Awareness of the scope and precise nature of EU involvement is generally vague beyond the doors of EU and Member State institutions and missions. Navigating between such praise, criticism, derision and unfamiliarity, we inevitably and frequently return to two basic questions. Do European policies matter to the conflict and efforts to end it? And does it matter *how* European policies matter?

The first major contribution of this volume is its focus on European involvement first and foremost in terms of previous and existing policies, and the various forms of impact (or lack thereof) these have had to date. The overriding message that emerges from the chapters that follow is that European involvement in the conflict *does* matter, and that more attention to *how* it matters is essential. A multifaceted profile of a complex player, not just payer, emerges from the analysis of various dimensions of EU involvement. This complexity stems not only from the distinctive workings and institutions of the EU and its Member States, particularly baffling for outsiders, but also from the varied and diffuse effects that European policies and action have had on the conflict.

Understanding European involvement in the conflict requires transcending a conceptualisation of it as the sum of EU and Member State policies. European policymakers have a tendency to evaluate and defend the EU's record in terms of a list of achievements administered by different parts of the EU machinery rather than in terms of overall impact as a distinct and unified actor. There are many reasons for this. Yet inventories of EU policy instruments, projects and council conclusions can only go so far when trying to better understand the relationship between policies, strategies, tactics and interests. While numerous policies might be assessed to have had limited impact in meeting stated objectives, it is in the far-reaching, sometimes blatant, sometimes more convoluted, and often unintended, consequences of EU involvement that a serious assessment of impact must be traced.

Herein lies one possible explanation for the puzzling diversity in assessments of the EU role: the different objectives and priorities of those making them. Those more focused on identifying conflict resolution

opportunities tend to see the EU as a relatively inconsequential actor with nevertheless useful funds and technical expertise. In contrast, those who are more concerned with whether and how current trends diminish peace prospects, appear to see a consequential role for the EU as a prominent fund-provider, Quartet member, and self-proclaimed partner of the PA and Israel. While policy-makers and analysts of the former ilk encounter little EU-related material while sifting through the peace-making debris for breakthrough-inducing or game-changing material, the latter regularly encounter the imprint of EU bodies and Member States when tracing apparent violations of the 'do no harm' principle of intervention.<sup>4</sup> This discrepancy may also reflect a progressive erosion of favourable conditions for a sustainable negotiated settlement since the mid-1990s. Furthermore, the tendency to downplay European involvement, apart from sometimes being ascribable to unawareness of the scope and specificities of EU involvement, may be reinforced by thinking of impact primarily in terms of quasi-hegemonic capacities.

Yet something with more far-reaching implications for our understanding of the conflict may be at stake. If, as Rosemary Hollis suggests in her chapter, 'European investment in containing the conflict and funding the basic needs of the Palestinians is vital to the continuance of the *status quo*', then downplaying the EU role helps us overlook the immense amount of economic, political, diplomatic and societal work and resources that underpin the current configuration of the conflict, provided, deliberately or not, by almost all actors involved. Most EU policies are firmly at the heart, often median, of these dynamics, be it in terms of EU direct aid to the PA in the West Bank, assistance to the population of Gaza, vital support to the UNRWA serving 4.7 million registered Palestinian refugees in the region, membership of the International Quartet, associational relationships with the Palestinians and Israelis, support to the Palestinian Civil Police, measured and mixed positions in the UN, or extensive but cautious monitoring of the situation in Jerusalem. Europeans may not define the current conflict landscape and architecture, but for better or worse they constitute a key feature and cornerstone.

And yet discussion of the impact of EU policies on Israeli, Palestinian, US and regional actors' behaviour appears to be muffled and abbreviated by the assessment that this role does not empower, but simply corners, the EU, and that ultimately the decisions that count are made elsewhere. In particular, existing internal discussion on whether current policies are contributing to diminishing prospects of a negotiated two-state solution seems undercut by ambivalence, or as Rosemary Hollis puts it in her chapter, 'a sense of powerlessness and fatalism', regarding European agency and impact. Some Israelis and Palestinians suggest that the EU and/or Europeans could play a substantially altered role if they wanted to. While some element of wishful thinking might be at

4. See for example Michael Keating, Anne Le More and Robert Lowe (eds.), *Aid, Diplomacy and 'Facts' on the Ground: The Case of Palestine* (London: Chatham House, 2005); Anne Le More, *International Assistance to the Palestinians After Oslo: Political Guilt, Wasted Money* (London: Routledge, 2008).

play, as well as some underestimation of intra-European constraints, this pattern suggests that the conflicting parties are more aware of the specific policy choices Europeans have made in the recent history of the conflict than many Europeans are. Viewing the history of European involvement as involving specific choices, decisions, calculations and adjustments – both willing and unwilling; well-thought out and muddled – rather than simply a gradual, almost natural, evolution, constitutes an important first step towards rediscovering EU agency. Indeed while EU council conclusions and declarations largely tell a story of steady refinement, the story of how the EU has attempted to implement its shared positions reveals more U-turns, inconsistencies, and internal tension and disagreement.

Avoiding permanent or systemic policy drift requires greater awareness of what position, both complex and contingent, the EU currently finds itself in. The following chapters devote substantial space to the historical decisions and dynamics that have resulted in the EU's current positions. Chapter two includes a broad historical overview of European involvement in the conflict and the changing stakes for the EU and Member States. Chapter three provides an introduction to the evolution of EU assistance to the OPT, while chapter four situates its arguments and recommendations in the context of the historical and legal record of EU-Israeli relations. Chapter five outlines the historical development of the transatlantic dimensions of EU involvement in the conflict, while chapter six contextualises more recent EU crisis management initiatives within a longer history of mediation efforts and support for Palestinian institution building. Chapter seven places recent dilemmas in the EU's policies regarding democracy and the conflict in the wider context of EU democracy promotion efforts. Chapter eight, beyond a brief history of EU non-engagement with Hamas, unpacks the various ways in which past and present policies have influenced the movement. Finally, chapter nine includes a summary of both recent and more long-standing regional initiatives, and their mixed results, towards the conflict.

## **Between diplomatic dichotomies**

The second broad contribution of the volume is its scrutiny of the key relationships that the EU has with the conflicting parties and other third parties to the conflict. Overall, the EU's ability to use its policy instruments to help the conflicting parties move closer to peace has been hindered by an increasingly dichotomous view of the landscape as comprising only partners and foes. While the objective should remain to nurture cooperative approaches to peace, an over-reliance on the metaphor of partnership has had at least two distorting and

counter-productive sets of results. The chapters point to policy paths that transcend this dichotomy.

The first set of counter-productive results relate to the EU's relationships with its declared partners. Nathalie Tocci argues in her chapter that the EU's prioritisation of cooperation with Israel has not only trumped, but also worked against, EU pursuit of a two-state solution. She outlines how the EU has foregone using the potentially most effective means of influence on Israel in its contractual and political relations. The EU has risked distorting its own law and practice to accommodate illegal Israeli policies because it has considered the pursuit of measures to ensure respect for law as 'punishments' harmful to EU-Israeli cooperation. Furthermore, the predominant framing of the EU's transatlantic partnership role as a supporting actor to the US is strained by limitations in the US position and approach. The recent call for reflection on the fact that 'three of the most significant Arab-Israeli breakthroughs occurred with the US nowhere in sight', and on why the US has been 'so unfailingly inept at launching successful initiatives' has important implications for European policy thinking.<sup>5</sup> In his chapter, Daniel Möckli explores the mixed record of EU efforts to influence US policy as an indirect way of bringing European thinking into the management and resolution of the conflict. He recommends shared strategising on urgent matters, further thinking on the roles of the EU and Quartet in Middle East diplomacy and renewed attention to the scope for certain unilateral EU measures.

This is not to say that we should abandon efforts to build meaningful partnerships with the conflicting parties and third parties, nor that Europeans should not devote more attention and resources to direct and effective public diplomacy outlining the existing forms and foundations of, and further potential for, partnership in a number of areas. In fact more bold proposals regarding how the states of a two-state solution might be integrated into the European Union as close partners require further reflection. Ongoing thinking over potential European 'deposits' in areas such as security, refugees, Jerusalem and natural resources in support of implementation of a negotiated two-state solution, might be usefully supplemented by a more ambitious vision of how the two states would be connected to the EU. The recent suggestion of a model of 'Euro-Israeli Partnership' should be explored,<sup>6</sup> as should suggestions that the most meaningful 'guarantee' within the context of implementation of a peace deal would be the option of full EU membership for one or both states. Yet the objective of meaningful partnerships should not obscure the full array of choices the EU faces in interacting with all the relevant actors in the conflict.

This brings us to a second set of drawbacks, related to EU non-engagement of parties to the conflict. By integrating the heavily charged notion of

5. Robert Malley and Hussein Agha, 'How Not to Make Peace in the Middle East', *The New York Review of Books*, 15 January 2009.

6. Sharon Pardo and Joel Peters, *Uneasy Neighbours: Israel and the European Union* (Plymouth: Lexington Books, 2010), pp. 93-109.

partnership into our basic interaction with the parties, the stakes have been raised too high. Almost all the authors converge in stressing that the current EU and US policy towards Hamas is unsustainable and counter-productive. The chapter by Jeroen Gunning lays out six reasons why engagement with Hamas has become imperative, and points to the Swiss experience as demonstrating the overall benefits of lessening the stakes of engagement by engaging with all. Other authors point to the far-reaching consequences of the current deadlocked policy. Agnès Bertrand-Sanz points to the implications for the EU's strategy of supporting Palestinian state-building, while Muriel Asseburg points to the impossibility of building an independent Palestinian judiciary and a non-partisan security apparatus with democratic oversight amidst the current divisions in the OPT. Michelle Pace reminds us of the far-reaching consequences for the EU's democracy-building agenda in the region and beyond, while Daniel Möckli points to the limiting impact on Quartet peace-making aspirations. Most of the chapters recommend urgent prioritisation of encouraging and enabling policies towards intra-Palestinian reconciliation, and in this context urge engagement with the movement.

This would almost certainly require coordinating a more nuanced and proactive approach with other third parties, most notably the US and governments in the region. The final chapter in the volume draws our attention to the largely untapped potential of greater linkage with regional approaches in trying to resolve different aspects of the conflict. Michael Bauer and Christian Hanelt elaborate on the importance of regional ownership and international support for peace initiatives, and the still largely unfulfilled potential of the Arab Peace Initiative.

The bottom line is that the EU does not share identical objectives with any of the chief conflicting parties, but nor as a third party should it expect or strive to. While there may be considerable overlap – most notably within the context of the current Fayyad plan – between some objectives of some Palestinians and Israelis and the EU, ultimately the parties have conflicting objectives that require reconciliation, partly through outside mediation, pressure and guarantees. The idea of propping up at any expense a Palestinian partner with Euro-Atlantic objectives is as problematic in itself as the idea of excluding Palestinians not sharing these objectives from the peace dividend. Similarly, the EU is right to engage with settler ministers in the current Israeli government. Without a sufficiently inclusive approach to conflict resolution, the path of negotiations and the end objective of a fair negotiated sustainable settlement lose legitimacy and local ownership.

## An ever-involved EU?

The third broad contribution of the volume is that it challenges the temptation to think that the key to success, or the most acceptable fall-back option, lies in simply doing and saying more. Several pressures push policy thinking towards falling back on the dictum that more, if not better, is at least a reasonable compromise – from EU assistance to ministerial visits to the region. On the one hand, the current focus on the establishment of the European External Action Service reminds us of the ongoing construction work around the EU's international role and representation. As the EU attempts to establish itself as a 'global player', concerns about respecting 'do no harm principles' of international intervention interact with countervailing logics of budget maximisation, inter-institutional competition, national rivalries and an eagerness to project or represent 'Europe' on the international stage. On the other hand, as laid out in Rosemary Hollis' discussion of internal constraints upon EU effectiveness, important differences (as well as noteworthy convergence) persist among Member States and institutions regarding the conflict. As another recent study details, while EU Middle East policy shows 'clear signs of convergence', as a result of a certain degree of compatibility between Member State preferences, the consolidation of this convergence into a 'truly collective policy' has been hampered by persistent differences.<sup>7</sup>

The twin logics of global power building and preservation of national prerogatives, however defined, provide the fuel for policy but also lead to many voices, multiple initiatives, parallel policies and at times incoherent and contradictory responses to key developments. The chapter by Muriel Asseburg, for example, charts the mixed impact on EU crisis mediation efforts, which have been hampered by the rather incoherent picture presented by the contradictory statements of EU Member States, and on EU aspirations to play an active third-party role in crisis management and security matters. This also bears out in what is not covered in the chapters below. For example, while the volume does not aspire to present an exhaustive account of EU involvement, it is still striking that in the eight following chapters there is scarce mention of the EU Special Representative for the Middle East Peace Process. Wider feedback on the role and record of the Special Representative suggests that the EU is unready for a unified high-profile messenger on the conflict.<sup>8</sup>

Further pressures emanating from the dynamics of the conflict present a further basic and recurrent dilemma for the EU in its approach to, and priorities regarding, the conflict. Israeli Defence Forces testing of EU equipment donated to the Palestinian Civil Police serves as a pointed reminder that almost everything the EU provides to the parties and

7. Constanza Musu, *European Union Policy Towards the Arab-Israeli Peace Process: The Quicksands of Politics* (Palgrave Macmillan: Basingstoke, 2010), pp. 101;173.

8. Interviews with European, Palestinian and Israeli officials, Jerusalem, Ramallah, November 2008 and May 2010.



peace efforts, from technical assistance to diplomatic interventions, has potential dual use. While on the one hand, and at least in theory, EU involvement helps prepare the path to peace, on the other hand it helps contain the conflict at ‘tolerable’ levels. The EU’s existing role and further potential in conflict containment has not been lost on the parties who have invited or acquiesced to increasing European involvement in specific dimensions of the conflict, most notably in the areas of aid and security. The chapter by Agnès Bertrand-Sanz details the distorting effects on EU aid policy, while Rosemary Hollis suggests that ‘it would seem appropriate that the EU begin asking how long European taxpayers will be prepared to shoulder the costs of continued occupation and “containment” of violence in the absence of conflict resolution.’

But does current conflict containment come at the expense of conflict resolution? In practice the EU’s interaction with the conflicting parties may have had this effect. The desire, largely unmatched in capacity, to influence the conflicting parties’ behaviour by initially complying with and then (unsuccessfully) challenging their conflict strategies has led the EU into strategic impasse – from dealing with Hamas’s pre-election and post-election strategies to coping with former Israeli PM Ariel Sharon’s 2005 unilateral disengagement from the Gaza Strip. The admirable objective of pulling the parties towards crucial concessions by going along with their plans in good faith, when not met with the capacity to unleash pulling power, has left the EU in a position of participating in polarising processes that appear to weaken prospects of a negotiated settlement. Overall, focus on conflict resolution opportunities at the expense of attention to the actual conflict dynamics and the role the EU plays, appears to have increased disconnect between EU policy outcomes and European interests. In the 1990s we learnt elsewhere of the dangers of deploying peacekeepers in war zones where there was no peace to keep; might the last decade have revealed the dangers of investing post-peace deal levels of financial and technical assistance into a conflict zone in the absence of a peace deal?

The area where the EU is most embedded is perhaps where the stakes are the highest. Many of the chapters point to Palestinian reconciliation as an urgent priority. The current situation in which the very involvement of the EU in propping up the Palestinian Authority may greatly complicate the pressing need for Palestinian reconciliation should encourage us to think more openly about the assumed correlation between greater European involvement and greater positive impact. At present it appears that the kind of power-sharing or transitional arrangement that Palestinians require in order to constitute a credible interlocutor for peace overall requires a further rethink of how the EU supports the PA. It is worth clarifying whether the choice is between generous European funding of a Palestinian leadership that is unable to represent its people technically, electorally or symbolically, or restructured, perhaps restricted, funding

to a Palestinian Authority which offers better hope of constituting a credible and legitimate partner to the Israeli government in conflict resolution. If so, more serious policy thinking should go in to exploring the pros and cons of turning to the latter. Such a step would also require renewed thinking regarding the potential role of other third parties in this respect.

## Summary of chapters

The chapter by Rosemary Hollis addresses the basic stakes and strategy of the EU and Member States regarding the conflict. The EU has as much to gain from conflict resolution as to fear if hostilities persist or escalate. The author outlines the conflicting pressures, priorities and difficulties Europeans face concerning the conflict, including a commitment to good relations with both Israel and Arab states, the investment of substantial European tax-derived funds in the OPT, membership of the Quartet, involvement in security arrangements, contractual relations with all the official parties to the conflict, concerns over wider European standing and credibility, energy security considerations, and mounting divisions among European citizens over the conflict. Pointing to the December 2009 Council Conclusions on the Middle East Peace Process as a culmination of a series of European statements over three decades, the chapter outlines the EU's formal position on the conflict before turning to the EU's evolving role since the 1990s. While leading on declaratory policy, the EU has essentially deferred to the US when it comes to policy implementation and been reduced to keeping the PA afloat in case a peace process might be resumed, a strategy dealt a major blow by Hamas's electoral victory of 2006. The EU has been constrained by a lack of leverage, the role of the US, and by divisions between Member States, each influenced by various economic, transatlantic and history-related calculations. The EU is left with an enduring set of convictions regarding what a two-state solution would require without 'a strategy for making it happen', particularly problematic as a solution would likely have to be imposed. The chapter concludes that Europeans cannot walk away from responsibilities, abandon international law or impose a solution alone. The chapter suggests three paths out of paralysis. Individual Member States could build on the joint EU position on the conflict by taking the lead on certain issues. Member States could adopt policies which better identify, and adhere to, EU rules that penalise both Israeli and Palestinian violations of international law. Finally, in a bid to encourage Palestinian unity, Member States could spell out the rewards that would be forthcoming to a new Palestinian unity government.

The chapter by Agnès Bertrand-Sanz examines the conflict and the EU's assistance to the Palestinians. The author outlines European lead donor

status *vis-à-vis* the OPT, and how this aid intervention has migrated over the last decade towards direct budgetary support for the PA and further relief and humanitarian assistance. The author reminds us that ground-level involvement and contractual relations with Israelis and Palestinians place the EU in a position of full shareholder, and charts the implications from the perspective of international law. The chapter examines EU support for PA Prime Minister Fayyad's two-year *de facto* state-building plan, the results of which are so far varied, not least given the persistent division of the OPT between Fatah and Hamas *de facto* governments. The divergence of the West Bank and Gaza Strip, difficult economic trends, and differing Israeli control across the OPT have implications for donors. The EU has adapted its assistance to the population of Gaza to the constraints of the blockade and its policy of non-contact with Hamas. While this might have stabilised the situation, it has downgraded EU capacity to promote Palestinian development and self-determination, and pushed it towards a position of accommodating collective punishment. The author argues that without a reorientation of EU strategies and a rethink of the failed boycott of the Hamas administration in Gaza, the EU's current policy can only further erode the prospects for any viable and contiguous state-building enterprise. The chapter offers four sets of policy recommendations. Any initiative towards Gaza and Hamas should be carefully calibrated to avoid entrenching the current collectively punitive approach, ensure proper economic recovery and advance Palestinian reconciliation. The EU should prepare for different scenarios surrounding Fayyad's August 2011 deadline for creating a Palestinian state, prioritising intra-Palestinian reconciliation. With mounting concerns over sustainability, the EU should reassess its aid, directing it to conflict-ending purposes, conditioning it on the removal of obstacles to a viable Palestinian state, and addressing the needs of a fragmented trans-territorial young population. Finally, the EU should exercise diligence in implementation of its policies and react appropriately when violations of international law interfere with or disrupt its own policy implementation.

In her chapter on the conflict and EU-Israeli relations, Nathalie Tocci argues that the deepening of bilateral cooperation between the EU and Israel, and the two-state solution, instead of being mutually reinforcing, have seen the former working against the prospects of the latter. European history-related, political and economic interests shape a goal of deepening ties, but have seen the latter compartmentalised away from a solution to the conflict, also held to be an integral element of security interests. The chapter examines bilateral contractual relations, progressively upgraded since the 1960s, as the most important source of potential EU influence on Israel, in terms of political dialogue, conditionality and the law. In practice, there has been an 'inverse correlation' between the political effectiveness of, and EU reliance on, each method. Political dialogue, the EU's preferred means of influence, has been rather ineffective. The EU

has been reluctant to use positive *ex ante* conditionality by withholding promised benefits in the context of the European Neighbourhood Policy. While there has been temporary and understated engagement in such conditionality since the formal suspension of the EU-Israeli ‘upgrade’ process since 2009, the overall ‘business as usual’ nature of relations has lessened its impact. While application of EU and international law could see withdrawal of bilateral benefits due to Israeli violations, in practice the EU has preferred constructive engagement with Israel, as with other southern Mediterranean countries. In fact EU legal obligations and the duty of non-recognition of violations of international law may be undermined by certain aspects of current EU policy and practice, the most well-known being treatment of settlement products. The chapter recommends a basic rethink. The EU has tended to see application of EU and international law as incompatible with its pursuit of cooperation with Israel, leading to legal problems and a culture of impunity. Instead the EU needs to recognise that rules and laws are what make cooperation possible and that they should be seen as such rather than as ‘punishment’, and as necessary, although not sufficient, conditions for a two-state solution.

The chapter by Daniel Möckli examines the Middle East conflict, transatlantic ties and the Quartet. The author explores how EU policy towards the conflict has been affected by the fact that for many Member States sound ties with Washington DC have been just as important, or much more so, than Middle East peace. Charting three stages in Euro-US relations regarding the conflict – divergent, complementary and coordinated – the chapter examines the impact of the founding of the Middle East Quartet, comprising the US, EU, UN and Russia, in 2002. While the Bush years saw the US subscribe to both a two-state solution and institutionalised consultations with the EU and other external actors, they were mostly lost years in terms of advancing peace. Since the Obama administration took office in 2009, transatlantic convergence over the conflict has reached an all-time high, but this has failed to translate into substantial progress in concrete terms, not least because of unfavourable trends on the ground. Furthermore, Möckli points out, ‘if Obama has in many ways played a European tune in his approach to the Arab-Israel conflict, he has largely done so without or regardless of the EU orchestra.’ The author identifies six urgent issues for the transatlantic agenda. More robust international mediation is required today, although it is unclear what the US administration is capable of, and what role the EU should seek in this respect given the need for EU-wide approval of measures to punish non-compliance if the EU is to play a robust monitoring role. If the context is not right for peace talks, the focus should instead lie at this stage on intra-Palestinian reconciliation, which requires a more pragmatic approach towards Hamas. The EU and US should also clarify a strategy on Palestinian statehood, a more credible stance on settlements in the West Bank

and East Jerusalem, and explore options for engaging Syria. All these issues require further clarification of the role of the EU and Quartet in Middle East diplomacy: while the time does not seem ripe for a major unilateral EU diplomatic initiative it may be ripe for unilateral measures on certain issues.

The chapter by Muriel Asseburg examines EU involvement in crisis management and mediation in the Arab-Israeli arena. The chapter first contextualises crisis management and mediation in the broad approach of the EU to the Arab-Israeli conflict and the wider diplomatic context, charting the increased profile of the EU in these domains after the failure of the US-mediated talks and the start of the second Intifada in 2000. The chapter examines four dimensions of European involvement. First, European mediation efforts at the height of the second Intifada achieved success (albeit to a limited degree) as did EU efforts to present a political path out of the conflict that culminated in the 2003 Quartet Roadmap. The EU proved to be more incoherent and ineffective during the 2006 Israel-Lebanon war and the December 2008-January 2009 Gaza War. Second, the launch of the EU Police Mission for the Palestinian Territories (EUPOL COPPS) in January 2006 marked a new form of EU involvement, although as a consequence of Hamas's electoral victory the same month substantial work only began in mid-2007, and then only in the West Bank. The chapter overviews both the mission's contributions and the dangers inherent in its current approach. Third, the EU Border Assistance Mission for the Rafah Crossing Point (EUBAM Rafah) has been on standby, with operations suspended, since Hamas's Gaza takeover in 2007. Its deployment and short-lived activities contain lessons for EU aspirations to play an effective third party role. Finally, European participation in a reinforced UN peacekeeping mission, UNIFIL II, in Southern Lebanon has seen the mission become an 'important stabilising factor in a fragile environment'. The chapter dwells on the innovations of the mission, its record so far, and inherent limitations to its role in maintaining stability and achieving peace. The chapter concludes with six sets of policy recommendations concerning the effectiveness of CSDP deployments, confidence-building, early warning, mediation and crisis prevention. To avoid the renewed outbreak of violence and consolidation of impediments to peace, particular attention should be devoted to helping bring an end to the Gaza blockade, the need for Palestinian unity, Israeli settlements and settlement infrastructure, and the situation in East Jerusalem.

Michelle Pace examines the interplay between the stalled state of democratisation efforts in the region and a feared eclipse of a two-state solution. The author provides an overview of how democratic principles and human rights feature in the EU's relationships and strategic outlook towards its Mediterranean neighbourhood. These are situated within wider EU democracy promotion objectives that

are based on an overall optimism towards liberal peace that is not sufficiently flexible in the face of conflict, state-building and frustrated national identities. They thus sit uneasily with the EU's Middle East conflict resolution objectives. The author illustrates the dilemmas and resulting perceived double standards of this approach through focus on Palestinian democratisation, in particular the EU's behaviour before and after the January 2006 legislative elections. The author argues that the EU is caught up in the 'politics of empty gestures' where positions are not backed up with real resistance to rollback of its objectives and legal obligations. The EU's relations with governments in the region have complicated democratisation and peace-making efforts, as has an approach that excludes key stakeholders. Last but not least, the EU lacks an overall strategy towards the Middle East that satisfactorily incorporates democracy. EU decision-makers themselves appear to have extracted a number of lessons from their experience so far, from reflection on the handling of the 2006 elections, to current policies towards Hamas, to support for Palestinian and Israeli civil society. The chapter concludes that in the absence of a clear strategy on the linkage between democracy-building in the region and peaceful resolution of the Arab-Israeli conflict, the EU is left with very few policy choices in both domains. The author recommends that the EU pursue a policy of convincing Israelis of the importance of a unified Palestinian interlocutor, act as a reliable mediator in Hamas-Fatah talks, and revise its democratic assistance and aid programmes.

The chapter by Jeroen Gunning examines the question of engaging Hamas. After presenting a brief history of EU non-engagement since Hamas' 2006 electoral victory, the author outlines and critiques the main arguments – legal, military, diplomatic and strategic – against engagement of Hamas. He highlights problems with these arguments and erroneous assumptions underpinning the current 'West Bank-First' policy. There are at least six reasons why engagement has become imperative. Hamas is here to stay and is unlikely to fade away given what it has so far survived. Well beyond a core constituency, it represents the concerns of a substantial number of Palestinians. Current trends in power balances suggest non-engagement is likely to further entrench Hamas and empower its hardliners. The current situation looks likely to deepen institutional divisions and autocratic trends across the OPT, further damaging two-state solution prospects. Finally, the current situation risks violent radicalisation within the Gaza Strip. Gunning turns to the Swiss policy of maintaining contact with Hamas, and explores the implications of such a stance for the EU. The Swiss experience illustrates the option of lessening the stakes of engagement by engaging with all, indicates Hamas's willingness to explore compromise, suggests routes to strengthening pragmatists within Hamas, and draws our attention to the importance of ownership and internal power balances. The 'model' also suggests the limits and long-term nature of such a policy.

Hamas is determined not to follow the perceived tactical errors of Fatah regarding compromise, and its pragmatists are wary of risks. The author concludes that while engagement will raise many difficulties, it is clearly a risk worth taking. Treating the Quartet principles as goals rather than preconditions, the EU should encourage the formation of a national unity government committed to maintaining a ceasefire, a prisoner exchange including Gilad Shalit, dealing with Israel on the basis on the 1967 borders and respecting previous agreements, engaging Hamas members *qua* government officials. The EU should focus on Hamas' behaviour rather than its rhetoric in the light of the internal power balances within the movement.

The chapter by Michael Bauer and Christian-Peter Hanelt explores regional approaches to the Arab-Israeli conflict and the role of the European Union. They argue that mutual responsiveness between regional and US diplomacy should be a core objective of European policy. The chapter examines the role of regional actors in the 'conglomerate of conflicts' of the Middle East. To this end, it elaborates on the importance of ownership and commitment considerations when coordinating international and regional peace efforts, and explores implications in terms of opportunities and challenges for EU diplomacy. The chapter lays out various initiatives from the region, both those that have shaped existing peace agreements between Israel, Egypt and Jordan, and more recent initiatives with a mixed balance sheet in terms of sustainability and success. Regional ownership and international support appear key. The Arab Peace Initiative (API) stands out in both respects and in terms of its scope. The chapter outlines its emergence, evolution and continued relevance, its links to EU objectives and the mostly indirect role the EU has played to date on the matter. We are reminded that the API was reaffirmed by the Arab League in 2007 and sustained even after the 2008-9 Gaza War, demonstrating a prevailing general consensus that the concept of land for peace and a two-state solution is still valid. The chapter recommends setting a primary objective of raising mutual awareness among both the US and regional actors of their diplomatic initiatives, with the API constituting a major point of reference in this respect. It also suggests ways in which the EU would need to think regionally about its potential role in facilitating implementation of any comprehensive agreement and its different tracks.

## Conclusion

The greatest challenge European policy-makers face when approaching the conflict is the sheer quantity of unknowns. We do not know the precise thinking that lies behind the current behaviour and rhetoric of key individuals. We do not know when and where the next outbreak

of violence will be, nor its potential scope or scale. We do not know whether current US efforts will produce an unexpected breakthrough any time soon. We do not know how differing expectations and objectives regarding the Fayyad plan will play out in 2011. It is unclear whether and how a 'West Bank First' Strategy will be further consolidated, unravel or be abandoned in the coming years. Uncertainty surrounds the question of Palestinian power-sharing, elections and reconciliation, and the life-span of the current Israeli government.

We do however have information on how the EU's past and present policies have fared. Greater attention to what has worked and what has not worked may provide the EU with firmer foundations for renewed thinking and action with regard to the conflict. This volume does not specify a single route for future EU policy. Instead it examines the foundations and debris, constructive contributions and false starts that mark European involvement in the conflict, developing a diverse set of recommendations. These recommendations are addressed to both those searching for bold conflict resolution steps and those seeking to minimise the harm done to peace prospects by current trends. In doing so, the *Chaillot Paper* invites both sceptics and enthusiasts to further explore the full array of policy options and constraints that the EU faces with a more grounded and ambitious, and perhaps more 'European', vision and purpose.



## CHAPTER 2

# The basic stakes and strategy of the EU and Member States

Rosemary Hollis

## Introduction

The purpose of this chapter is to examine what is at stake for Europe in the Arab-Israeli conflict, analyse the strategies so far adopted by the European Union, draw lessons and review the options for future action. A brief summary of European economic and security interests in the Middle East will demonstrate that Europe has much to gain from conflict resolution and much to fear if hostilities persist or escalate. As discussed below, the EU became directly involved, in parallel with the United States, in the Middle East Peace Process (MEPP) during the 1990s. However, that process collapsed in 2000 and subsequently the attacks of 11 September 2001 (9/11) gave rise to the so-called 'war on terror' that overtook other policy priorities. Since then, and with the added complication of the Iraq crisis and invasion of 2003, the conflict has become more intractable. In this context EU policy has been more about issuing declarations and maintaining consensus within the transatlantic alliance than effective conflict resolution. The chapter concludes with an assessment of the unpalatable choices now facing the Europeans in the face of a deteriorating situation on the ground for which EU policies to date must bear some responsibility, but which appears beyond the capacity of the EU to redress, with or without a lead from Washington.

## European interests and stakes

Israel and the Arab states are close neighbours of Europe, with whom mutual recognition and cooperative relations have been established and developed over decades. Latterly successive initiatives for closer cooperation around the Mediterranean – the Euro-Mediterranean Partnership (EMP), the European Neighbourhood Policy (ENP) and the Union for the Mediterranean (UfM) – have signalled EU commitment to an inclusive approach to regional relations that is not biased in favour of either Israel or the Arabs.

However, if the Israeli-Palestinian conflict persists and Israel continues and further consolidates its occupation of the Palestinian territories (the West Bank and Gaza Strip), Arab governments will likely face increased domestic pressure to make a stronger stand against Israel and, by extension, its defenders and supporters in the West. For Europe, such developments could mean facing conflicting demands to choose sides.<sup>1</sup> Arab strategies to resist 'normalisation' with Israel, pending Israeli withdrawal from the Occupied Territories, have already spilled over onto the agenda of the UfM and caused the postponement of the summit scheduled for June this year.

The EU has also invested considerable sums of taxpayers' money in Palestinian institution-building and economic development in the West Bank and Gaza Strip. According to European Commission figures, between 2000-09 the EU disbursed over €3.3 billion in aid to the Palestinians.<sup>2</sup> However, whereas in the 1990s most of that aid took the form of development assistance, latterly the bulk of the funds has gone to paying salaries and the running costs of the Palestinian Authority (PA) in the West Bank.<sup>3</sup>

Since the mid-1990s European engagement in pursuit of a negotiated solution to the conflict has grown to the extent that the EU could not now walk away without significant costs to the fate of the Palestinians and European relations with Israel.

As a full member of the Quartet (that links the US, UN, EU and Russia) the EU is bound into the most high-profile body coordinating international efforts to achieve peace. Under the Quartet umbrella, the EU played a leading role in developing the so-called Roadmap, launched in 2003 and largely accepted by Israel and the Palestinians, but which has remained unimplemented. Consequently, the EU is a player, not a bystander, in the quest for peace.

Perhaps more crucially, the EU is the single largest donor (and lifeline) to the PA, providing the funds required to pay salaries and run the education, health and other services in the West Bank. Donations from the EU and Member States to the UN Relief and Works Agency (UNRWA) are essential to ensure that Palestinian refugees do not starve, have shelter and get an education. UNRWA services between 1.6 and 2 million refugees living in Lebanon, Syria and Jordan; and at least half a million in the West Bank. In the Gaza Strip, since the imposition of the Israeli blockade (2007), UNRWA has been providing essential humanitarian aid to 1 million Palestinians living there.

Europe, in conjunction with the United States, is also directly engaged in transforming Palestinian security arrangements in the West Bank. The EU Police Mission for the Palestinian Territories (EUPOL COPPS)<sup>4</sup> helps train,

1. See for example, House of Lords, European Union Committee, 'The EU and the Middle East Peace Process', 26<sup>th</sup> Report of Session 2006-07, HL Paper 132-I, paragraph 86.

2. See: [http://eeas.europa.eu/occupied\\_palestinian\\_territory/ec\\_assistance/eu\\_support\\_pa\\_2000\\_2009\\_en.pdf](http://eeas.europa.eu/occupied_palestinian_territory/ec_assistance/eu_support_pa_2000_2009_en.pdf).

3. See chapter by Agnès Bertrand-Sanz in this volume, pp. 43-53

4. Muriel Asseburg, 'The ESDP Missions in the Palestinian Territories (EUPOL COPPS, EU BAM Rafah): Peace through Security?', in *The EU as a Strategic Actor in the Realm of Security and Defence*, SWP Berlin, December 2009.

equip and advise Palestinian police to keep law and order in Palestinian population centres, and prevent breaches of the peace that might threaten the PA or its policies toward Israel. The security situation has improved as a result, but the sustainability of contemporary arrangements will depend on whether these can deliver a more fundamental transformation in Palestinian prospects. Meanwhile, even though the EU provides the monitoring mission (EUBAM Rafah) to facilitate access and egress on the Gaza-Egypt border crossing at Rafah, its operations have been suspended since June 2007.

At the regional level, the EU has Partnership Agreements with all the parties to the Arab-Israeli conflict: namely Israel, the PA, Lebanon and Syria, as well as Egypt and Jordan. Under the rubric of the ENP, so-called Action Plans have been agreed and implemented with Israel, the PA, Jordan, Egypt and Lebanon and while these are designed to help harmonise the economies of the partner states with the EU internal market, progress is slow and rewards are limited, except in the case of Israel, which is sufficiently technically advanced to benefit more substantially from harmonisation. In terms of diplomacy, the EU and Member States have long-standing and in many respects close relations with Israel, Jordan, Egypt, Lebanon and Syria, although tensions are not uncommon and European political leverage is relatively limited. Meanwhile, because European service personnel participate in key peacekeeping operations in the Middle East, including UNIFIL (South Lebanon) and UNDOF (Golan Heights), they have a stake in the success of these missions.

In sum, European investment in containing the conflict and funding the basic needs of the Palestinians is vital to the continuance of the *status quo*. If the EU and Member States withdrew their personnel and economic support there would most likely be a humanitarian crisis, increased instability, lawlessness, disillusionment and generalised conflict. Yet, while the *status quo* prevails, the occupation has also continued along with settlement expansion in the West Bank and East Jerusalem, notwithstanding a temporary and partial freeze in 2009-10, and Israel's willingness to pursue negotiations is based on conditions that the Palestinians are reluctant to meet.

It would therefore seem appropriate that the EU begin asking how long European taxpayers will be prepared to shoulder the costs of continued occupation and 'containment' of violence in the absence of conflict resolution.

Europe's standing and credibility depend upon adherence to the principles of international law and defence of human rights. Yet Israel's occupation of the West Bank and Gaza Strip and annexation of East Jerusalem and the Golan Heights are contrary to international law. Notwithstanding

successive pronouncements by the EU on the legal position, EU actions do not make clear distinctions between dealings with Israel *per se* and with Israeli enterprises and settlers in the Occupied Territories.<sup>5</sup>

At the broader regional level, Europeans depend on the Arabs, Iran and Russia for the vast majority of their energy security. The Arab world represents a lucrative market for European consumer goods, services, produce and arms. By extension, European economic interests require peace and stability in the Mediterranean, the Persian Gulf region and Central Asia. Yet that peace and stability is undermined by the continuance of the Israeli-Palestinian conflict.

Europe's interests in and ties to the Middle East are so extensive and significant that it does not have the option of turning a blind eye to what happens there. In particular, the Arab-Israeli conflict is a source of personal and passionate concern for many EU citizens and it is becoming an increasingly divisive and disruptive *cause célèbre* within European society.

European Jews cannot forget the lessons of the Holocaust and still fear the potential for anti-Semitism to grow in Europe, especially in the face of economic crisis and large-scale unemployment, when ethnocentrism and xenophobia gain ground.<sup>6</sup> The danger is that fear and prejudice in Europe complicate European relations with the Middle East,<sup>7</sup> where Israel is still battling with Arabs and Muslims generally to achieve acceptance as a Jewish state in the region. In the twenty-first century the EU has become a mosaic of large and small Member States with contrasting traditions and cultures. New migrants from all over the world have enriched the cultural, religious and ethnic diversity of the whole union. Yet many are struggling to adjust and find their place in the mix. Religion as a source of conflict as well as solace is a factor. Thus conflict in 'the Holy Land' can have repercussions in Europe and vice versa.<sup>8</sup>

The Palestinians are the solution as well as the problem. They represent the frontline of Arab and Muslim opposition to Israel. Their cause has also generated anti-Israeli boycott campaigns among trade unions, student groups and others keen to champion the rights of a people under occupation.<sup>9</sup> The outcry and consternation that followed the Israeli raid on the flotilla seeking to break the blockade of the Gaza Strip in May 2010 demonstrated the potential for the conflict to divide and inflame opinion in Europe. Yet there is no easy way to satisfy Palestinian demands without exacerbating the fears of Israeli Jews and their friends and supporters elsewhere.

5. See Natalie Tocci, 'The Conflict and EU-Israeli Relations', pp. 55-63 in this volume. See also Shadi Hamid and Amanda Kadlec, 'Strategies for Engaging Political Islam', FES-Middle East Democracy Project, January 2010.

6. As US State Department official Dennis Ross noted in 2002: 'The Israeli perception of a re-emergence of anti-Semitism in Europe is playing very very negatively.' BBC Current Affairs, BBC Radio 4 Documentary, 'Analysis: The Expired Mandate', broadcast 1 August 2002.

7. As Olivier Roy discusses in his book *Globalized Islam: The Search for a New Umma* (London: Hurst, 2002): see for example p. 45.

8. Omar Barghouti, 'Besieging Israel's Siege', *The Guardian*, 12 August 2010.

9. See: [http://www.zionism-israel.com/Israel\\_boycott.htm](http://www.zionism-israel.com/Israel_boycott.htm); and <http://desertpeace.wordpress.com/2010/06/12/extending-the-boycott-against-israel/>

## Formal EU position on the conflict

The clearest statement of EU thinking on the requirements for a comprehensive resolution of the Arab-Israeli conflict were laid out in the ‘Conclusions of the Council of Ministers on the MEPP’ released on 8 December 2009.<sup>10</sup> The core element in this statement (as in others before it) is the call for ‘a two-state solution’ to the Israeli-Palestinian conflict, with ‘the State of Israel and an independent, democratic, contiguous and viable State of Palestine, living side by side in peace and security’.

Beyond articulating these goals, the Council stated that the EU ‘will not recognise any changes to the pre-1967 borders including with regard to Jerusalem, other than those agreed by the parties’ and that, in the interests of ‘genuine peace, a way must be found through negotiations to resolve the status of Jerusalem as the future capital of two states’. More broadly, the Council noted that: ‘A comprehensive peace must include a settlement between Israel and Syria and Lebanon.’

The Council document represents the culmination of a series of European statements over several decades, commencing with the 1980 Venice Declaration, in which the European Community broke new ground by calling for the involvement of the Palestine Liberation Organisation (PLO) in peace negotiations and recognised the right of Palestinians to self-determination. When it was issued in 1980, the Venice Declaration was dismissed by Israel and essentially ignored by the United States, yet its core principles would later be adopted in the Oslo Accords signed in Washington by the Israeli Government and the PLO in 1993.

Seventeen years on, in March 2010 a Joint Statement by the Quartet<sup>11</sup> incorporated much of the essence of the EU Council’s December 2009 Conclusions. Thus the Europeans have effectively blazed a trail for all the major international stakeholders in the MEPP. Yet herein lies the rub, because while leading on declaratory policy, the EU has essentially deferred to the United States when it comes to policy implementation. The reasons for this date back several decades. It was the United States which brokered the Egypt-Israel Peace Treaty in the 1970s. Washington also took the lead in convening the Madrid Peace Conference in 1991 that, for the first time, brought all the conflicting parties to the table and initiated multilateral as well as bilateral peace talks.

In the 1990s, the Americans took the principal role in mediating between the Israelis and Palestinians for the duration of the so-called Oslo Process, at the behest of the Norwegians who brokered the original deal. Europe was expected to inject funds and technical support into Palestinian state-building, while high diplomacy was managed by Washington.

10. Council of the European Union, ‘Council Conclusions on the Middle East Peace Process’, 2985<sup>th</sup> Foreign Affairs Council meeting, Brussels, 8 December 2009. See: [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/111829.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/111829.pdf).

11. Middle East Quarter Statement, Moscow, 14 March 2010. See: <http://www.consilium.europa.eu/uedocs/cmsUpload/113436.pdf>.

After the Oslo Process collapsed in the second Intifada, the EU did act to help realise US President George Bush's 'vision' of a two-state solution through formulation of the Roadmap. However, when that languished the EU lapsed into inertia, waiting for Washington to find a new formula. This it eventually did, with the Annapolis initiative, with limited results. Thus, when Obama came to power in 2009 promising to make the peace process a priority, the Europeans were enthusiastic, but preferred a supporting role to an independent one.

## Europe's evolving role: a salutary tale

In the 1990s the EU was able to pursue economic development of the Palestinian entity in the West Bank and Gaza, under the Oslo process, in tandem with US leadership on negotiations. However, not only did the process collapse, but Palestinian suicide bombings profoundly undermined Israeli belief in the viability of a negotiated solution. When the shock of 9/11 then transformed US policy priorities and the 'war on terror' took centre stage, attention turned first to Afghanistan and then Iraq. Europe split over the legality and wisdom of the Iraq invasion, losing internal cohesion and traction in Washington as a result. Meanwhile, Israeli Prime Minister Ariel Sharon argued that the Palestinian leadership was part of the terrorist threat to the region and beyond, and adopted a strategy to re-impose control on the Occupied Territories that Washington proved unwilling or unable to alter.

Meanwhile, from 2002 to 2006 Iraq took centre stage and tensions blighted relations between Washington and those Europeans who opposed the Iraq invasion. In retrospect, the European quest for a common foreign and security policy was fundamentally undermined by differences over Iraq. On the Arab-Israeli front all the EU felt able to do was try to keep the PA from total collapse, through injections of cash, so that there would still be a Palestinian negotiating partner once some sort of peace process could be resumed.

However, bomb plots and attacks inside Europe, attributable to al-Qaeda sympathisers purporting to support the Palestinian cause among others against 'the West', influenced the public mood. Since then some have argued that resolution of the Arab-Israeli conflict would help to combat the phenomenon of Islamist radicalisation, while others maintain that the plight of the Palestinians is only an excuse for anti-Western violence and 'home grown' terrorism.<sup>12</sup>

Within this broader context, when the Islamist movement Hamas won a resounding victory over its Fatah rivals in the Palestinian legislative elections of 2006, this dealt a major blow to the EU strategy of keeping

12. See for example: José María Aznar, 'Support Israel: if it goes down, we all go down', *The Times*, 17 June 2010; Allegra Stratton, 'West outmanoeuvred by extremists – Blair', *The Guardian*, 7 October 2010; and Slavoj Žižek, 'Liberal multiculturalism masks an old barbarism with a human face', *The Guardian*, 4 October 2010.

the PA in business. Having labelled Hamas a terrorist organisation, the EU leadership balked at the prospect of funding a Hamas-run PA and refused to have anything to do with Hamas officials. In retrospect, it is clear that the EU missed an opportunity to push for Palestinian unity.

In spring 2006 the EU joined the rest of the Quartet in enjoining Hamas to adhere to a set of principles that included recognising Israel's right to exist, as well as renouncing violence and accepting all agreements previously signed by the PLO and PA. In 2007 Hamas took over control of the Gaza Strip by force, leaving Fatah to regroup behind an emergency administration on the West Bank, with Salam Fayyad appointed Prime Minister.

Meanwhile, war broke out between Israel and the Lebanese movement Hezbollah, resulting in serious loss of life and damage to the infrastructure in Lebanon and a hail of rocket fire into Israel that the armed forces proved unable to staunch. The European response was divided, with some calling urgently for a ceasefire, while others, notably British Prime Minister Tony Blair, held out for a Hezbollah defeat that did not materialise.

For over two years, Arab and tentative, isolated European attempts to broker reconciliation between the Palestinian factions have been stymied by Washington's insistence that Hamas be isolated and eliminated from the political stage through the blockade of Gaza instituted by the Israelis and tacitly supported by Egypt and Fatah. In so far as the Europeans believed this to be counterproductive, they failed to act accordingly.

Israel's assault on Gaza in 2008-2009 resulted in the deaths of 1,300 Palestinians, many of them children, while the Israelis lost thirteen soldiers in the operation they called 'Cast Lead'. These chilling statistics and the extent of the destruction in Gaza once more shocked public and government opinion in Europe. Yet the blockade has persisted and rebuilding has been prevented. The war did cause the EU to put plans to upgrade Israel's relations with the Union on hold, but did not derail other aspects of Israel's Partnership Agreement with the EU.

Since Barack Obama became US President in early 2009, the EU has volunteered no new initiatives on conflict resolution. Obama's commitment to restart the peace process enabled the EU to defer to Washington's lead once more. When Obama's administration ran up against intransigence from the Israeli government of Binyamin Netanyahu, the EU had no suggestions for overcoming the problems.

## Policy constraints and limitations

EU lack of leverage and Washington's willingness to take command are not the only explanations for EU ineffectiveness. Europe is also constrained by the fact that the Union is not a unified actor. Achieving a common policy on any issue requires the harmonisation of twenty-seven different positions, with the result that agreement is based on the 'lowest common denominator'. Each Member State is influenced by various calculations to do with local and regional economic interests, transatlantic relations, and history.

Germany faces particularly sensitive issues in addressing the Arab-Israeli conflict, which relate back to the Holocaust. As a consequence, the Germans have fought shy of openly criticising Israel. Since falling out with Washington over Iraq, under the leadership of Angela Merkel Berlin has also sought to repair relations. As a result, adherence to US leadership on the Middle East defines contemporary German policy on the Arab-Israeli conflict.

Britain and France were responsible for the carve-up of the Arab world into separate states after the collapse of the Ottoman Empire. France had the League of Nations Mandate for Syria and made Lebanon a separate state. This historical connection has left France with enduring ties to both states, as manifest in periodic French interventions and initiatives in relations between the two. The fêting of Syrian President Assad's participation in the launch of the UfM, the brainchild of President Nicolas Sarkozy, was a case in point.

Britain held the League of Nations Mandate for Palestine from 1922 to 1948, wherein it facilitated the implementation of the Balfour Declaration that endorsed the idea of a national homeland for the Jews in Palestine.

While that may be ancient history as far as contemporary Britons are concerned, in the Arab world the British are still held responsible for presiding over the birth of the Arab-Israeli conflict. In addition, the lessons learned then still have relevance today. When Britain referred the problem of Palestine to the United Nations in 1947, that body voted for partition of the area into two states, one Jewish and one Arab.

Failing to reconcile the conflicting interests of the Jewish community or *Yishuv* and the Arabs in and around Palestine, while also coming under conflicting pressures from within Europe, at the United Nations and in Washington, the British could not implement the UN call for partition by force. So they withdrew and the outcome was determined by war.



Now Britain, like other European countries, is calling for a two-state solution based on the 1948 armistice lines between Israel and the Arabs, with statehood for the Palestinians in the West Bank and Gaza Strip. Yet even though Israel and the PLO have accepted this formula in principle, both know that the Palestinian refugee problem relates back to the earlier war of 1948 and its resolution requires revisiting that era.

In other respects the facts on the ground do not augur well for a two-state solution by agreement. Israel's formal commitment to this goal is undermined by its settlement policy, including in and around East Jerusalem. The capacity of the Palestinians to deliver on a peace deal lacks credibility because of the divisions between Hamas and Fatah, the West Bank and Gaza.

In the circumstances the Europeans have resorted to placing their hopes in the state-building enterprise of Prime Minister Salam Fayyad. Yet his is a top-down enterprise, funded by external aid and lacking grassroots engagement and private sector economic development.<sup>13</sup> The remit of the PA only extends to so-called areas A and B in the West Bank, with the remaining Area C (sixty percent) still under Israeli control and home to Israeli settlers.

EU pronouncements on the illegality of the Jewish settlements are not backed up by penalties for their continuance. The experience of the Obama administration with its attempts to impose a settlement freeze has no doubt tempered EU thinking about how to remedy this problem. The Europeans appear loath to be more hardline than Washington.

Meanwhile, whereas in the 1990s the EU placed confidence in a series of 'soft-power' initiatives for transforming relations around the Mediterranean, as of 9/11 the agenda has changed. In the face of threats posed to Western governments and society by terrorist groups associated with extremist Islamist ideology, the EU has retrenched on support for democratisation and economic integration around the Mediterranean. Instead, closer security cooperation between European and Arab governments has come at the expense of democratisation in the south, and the more modest vision of the UfM has not only supplanted the EMP, but has itself been crippled by spill-over from the Arab-Israeli conflict.

Overall, it is clear that Europeans face conflicting pressures and priorities as well as difficulties in pursuing a more active collective approach to conflict resolution. Meanwhile, the optimism that accompanied the peace-building endeavour in the 1990s has given way to a sense of powerlessness and fatalism. What endures is a set of convictions about what a two-state solution would require, without a strategy for making it happen.

13. See: Nathan J. Brown, 'Are Palestinians Building a State?', Carnegie Endowment For International Peace, 1 July 2010. Available at: <http://carnegieendowment.org/publications/index.cfm?fa=view&id=41093>.

## Unpalatable options

Reviewing the policy pronouncements of the EU outlined above, it becomes apparent that EU proposals seek to reconcile the national aspirations of the Israelis and Palestinians through territorial compromise. What is envisaged is logical in purely material terms but assumes that the protagonists can be persuaded to give precedence to peace for its own sake over commitment to their respective security requirements, ideological or ideational positions and identities.

The religious nationalists in the forefront of those Israelis committed to remaining in Jewish settlements in the West Bank will resist evacuation to make way for a Palestinian state. For those Israelis who see the long-term security benefits of a two-state solution to the conflict, the prospect of removing tens of thousands of settlers by force also poses problems. Fearful that some members of the Israel Defence Force would revolt rather than implement settlement evacuation, some Israelis would even contemplate accepting the involvement of external forces.

Whether government and public support for such intervention would be forthcoming in Europe or the United States is questionable. In any case, what is contemplated, in terms of clearing out key settlements from the West Bank, may portend increased conflict as opposed to peace.

On the Palestinian side, acceptance of a mini state on the West Bank without the removal of at least some of the Jewish settlements would be political suicide and would not make for a 'viable' state. Hamas would then be in a position to rally to its cause all those who would lose out in a territorial compromise, including the hundreds of thousands of Palestinian refugees around the region.

In short, the formula for conflict resolution embodied in the EU's official pronouncements would satisfy some but not all Israelis and Palestinians. It would have to be imposed, and the would-be compromisers in Israel and Palestine could not do it by themselves. Yet neither the United States nor the EU would welcome the prospect of fighting for peace on their behalf.

Meanwhile, European investment in containing the conflict and funding the basic needs of the Palestinians is vital to the continuance of the *status quo*. If Europe withdrew its personnel and economic support there would be a humanitarian crisis, increased instability, lawlessness, disillusionment and generalised conflict.

Consequently, for the EU the costs of withdrawing this assistance would be greater than the potential benefits.

## Conclusion and policy implications

Europe cannot walk away from its existing responsibilities nor can the EU abandon its adherence to international law and all that this implies. Equally, Europe cannot alone impose a solution on the warring parties. Here are three suggestions for ways to move beyond the present paralysis.

First, while still adhering to the joint European position on the conflict, individual EU Member States could go beyond this and take a lead that others could be encouraged to follow. Thus, second, Member States could adopt policies which more clearly identify those aspects of *both* Israeli and Palestinian actions which run counter to international law and impose penalties accordingly. Stricter adherence to the rules-of-origin requirements for imports, for example, could serve as the basis for taxing or rejecting goods made by companies operating in Israeli settlements. Third, in recognition that attempts to eliminate Hamas from the picture have failed, EU Member States could do more to encourage Palestinian unity. They could, for example, spell out the rewards that would be forthcoming for a new unity government that would share responsibility for delivering basic services and the rule of law in both the West Bank and Gaza.

There is no guarantee that these steps would produce peace – but nor will standing on the sidelines lamenting. The only alternative is to enter the fray in a manner designed to give more credibility and substance to Europe's declared position.



## CHAPTER 3

# The conflict and the EU's assistance to the Palestinians

Agnès Bertrand-Sanz

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## Introduction

The EU has always been a strong supporter of Palestinian self-determination. Reflecting this, its financial involvement in the Peace Process since the Oslo Agreement has been concentrated on advancing the creation of a Palestinian state. At present, European assistance supports the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the provision of humanitarian aid, as well as the State-building project embodied by the Fayyad plan. However, this aid has not been sufficient to overcome substantial impediments to the realisation of a viable Palestinian state. While European aid has clearly had positive effects on Palestinian living conditions, a paucity of appropriate responses to illegal policies has resulted in a *de facto* pattern of accommodation to them. This has been accentuated when the EU's own interests have been directly undermined. Moreover, the division between Gaza and the West Bank continues to pose a challenge to effective Palestinian self-determination upheld by the EU since the early 1980s. The two territories are governed by mutually antagonistic Palestinian factions and subject to different Israeli regimes of control. European interventions have indirectly strengthened this territorial separation. Without a reorientation of EU strategies and a rethink of the failed boycott of the Hamas administration in Gaza, the EU's current policy can only further erode the prospects for the creation of a viable and contiguous Palestinian state.

## Historical background

Thirty years ago, with the signing of the Venice Declaration, the European Community (EC) became the first third party to the Israeli-Palestinian conflict to acknowledge that the Palestinian people were entitled to exercise their right to self-determination and that the Palestinian problem was 'not simply one of refugees'.<sup>1</sup> In 1986, the EU went further, enacting a regulation that allowed products originating in the Occupied Territories to be exported to the EC under the label 'Made in the West Bank and Gaza'. This measure concretely dissociated the Occupied Territories from the State of Israel. After the signing of the Declaration of Principles in September 1993, the EU increased its economic involvement in the Peace Process by financially supporting the nascent Palestinian Authority. EU assistance to the Palestinians has continued unabated since then.

By providing an average €500 million per year, the EU and its Member States became by far the biggest donors to the Palestinian Occupied Territories. This remained the case even when the EU suspended its direct aid to the Palestinian Authority in April 2006, three months after Hamas's victory in Legislative Council elections. However, especially since the onset of the Second Intifada, the EU has gradually transformed its aid intervention. Where it was once directed principally at the construction of infrastructure and natural resources management sector, EU aid migrated towards direct budgetary support for the PA and more relief-oriented and humanitarian assistance, in response to the worsening economic situation.<sup>2</sup> Along with support for Palestinian refugees through UNRWA, humanitarian aid and budgetary support now comprise the three main tracks of the EU's intervention.

In 2009, the EU's financial commitment amounted to €590.5 million, €272.1 million of which transited through the EU's financial mechanism, PEGASE,<sup>3</sup> to reach an account controlled by the Palestinian Prime Minister Salaam Fayyad, thereby bypassing Hamas in the Gaza Strip. €178.97 million out of this €272.1 million were dedicated to paying the salaries and pensions of PA civil servants and allowances to vulnerable families in Gaza and the West Bank. The rest of the amount transiting through PEGASE was ring-fenced for direct support to the private sector (€22 million) and for buying the fuel necessary to run the Gaza power plant (€39.63 million) and institution-building (€12 million) and infrastructure development (€19.5 million). The bill for financial assistance to UNRWA came in at €169.57 million, while humanitarian aid projects through the ECHO (European Commission Humanitarian Office) amounted to some €72 million, which covers food security and cash for work projects, health-related projects, programmes in the domain of civilian protection and mental health programmes for children especially in Gaza. The EU's overall financial contribution also

1. 'Declaration on the Middle-East', European Council, Venice, 12-13 June 1980.

2. Anne le More, *International Assistance to the Palestinians after Oslo: Political Guilt, Wasted Money* (London, Routledge, 2008), pp. 88-9.

3. PEGASE (*Mécanisme palestino-européen de gestion de l'aide socio-économique*), is a financial mechanism which channels funds directed at the Palestinian Authority to an account controlled by the Palestinian Prime Minister and which bypasses Hamas in the Gaza Strip. It was created in December 2007 at the Paris conference in order to replace the Temporary International Mechanism which was established in June 2006 after the victory of Hamas at Palestinian Legislative Council elections in January 2006.

covers support for projects in East Jerusalem aimed at maintaining a Palestinian presence in the city, CFSP missions (EUPOL COPPS and EU BAM Rafah) and support for civil society. If one takes the contribution to UNRWA out of the overall budget, in 2009, approximately 56 percent of European aid went to Gaza, and the remainder to the West Bank including Jerusalem. But this may change following an EU decision in November 2009 to cease directly financing the electricity supply to Gaza's only power station.

## State-building in an emergency: the Fayyad plan

In 2007, when the EU resumed its direct aid to the PA following the Fayyad government's rise to power in the West Bank, the state-building components of EU financial assistance were reactivated following an 18-month pause following the election of Hamas. Prime Minister Salaam Fayyad's plan, 'Ending the Occupation, Establishing the State', unveiled in August 2009, gave the EU an opportunity to advance this process.<sup>4</sup> The plan quickly gained concrete EU support as evidenced by financial assistance across a whole range of sectors, including water, environment and energy projects, the judiciary, civilian defence and modernisation of prisons. The EU's direct assistance to the PA also allowed the Authority to dip into its own revenues to pay for the implementation of Fayyad's vision.

The Fayyad plan is a two-year programme aimed at paving the way for the *de facto* creation of a Palestinian state in the West Bank and Gaza within this time period. The plan interweaves ambitious national objectives, such as achieving economic independence and bringing equality and social justice to all citizens, with a detailed strategy for institutional development. In practice, the plan is about creating a series of 'positive accomplished facts', including infrastructure, conducive to the establishment of a Palestinian state. Fayyad's rationale is that by showing goodwill towards international demands – in particular regarding security – a non-violent national project for self-determination can garner concrete international support.

The results of this strategy are so far varied and barely intelligible to large sections of the Palestinian population. On the one hand, Fayyad advocates the boycott of settlement products and support for non-violent resistance. On the other hand, he promotes security cooperation with Israel – currently at unprecedented levels. Moreover, although his plan refers to the creation of a Palestinian state 'with full sovereignty over its territory in the West Bank and Gaza [...] [and] with East Jerusalem as

4. Palestinian National Authority, 'Ending the Occupation, Establishing the State', Programme of the Thirteenth Government, August 2009.

its capital'<sup>5</sup>, a question mark hangs over the eventual legitimacy of the PA's efforts if the issue of the reconciliation between Hamas and Fatah has not been resolved by August 2011. This has led to serious criticisms that the plan is aimed at eviscerating Hamas and providing a practical buttress for Israeli Prime Minister Netanyahu's 'economic peace' agenda and 'West Bank first' policy promoted by the international donors, who are key stakeholders in the political peace process. The Fayyad administration's lack of democratic legitimacy and the reluctance of the present Israeli government to accept unilateral Palestinian decisions also pose serious obstacles to the plan's success.

Nonetheless, Fayyad supporters would argue that the plan represents an important card which Palestinians can play in achieving their national objectives. For them, it is an overt call to the major third parties to this conflict, the US and Europeans, to tackle impediments to peace on the ground and the imbalance of power between Israelis and Palestinians. If the current talks fail, the realisation of a *de facto* Palestinian state represents an alternative strategic offer that the international community might find difficult to refuse. Thus in parallel with his actions on the ground, Fayyad is seeking to develop a consensus around recognition and support for a Security Council resolution that would amount to an international endorsement for the creation of a Palestinian state.<sup>6</sup>

## Necessary EU responses to roadblocks in the way of Palestinian Statehood

For the EU, supporting the Fayyad Plan is an opportunity to demand political progress from both sides, but it is unclear whether current EU financial support for the Fayyad plan departs from the traditional aid rationale, building institutions that could be useful when the time comes. Apart from its financial support for institution building, the EU's backing for the Fayyad plan is not so very different to its support for previous Palestinian reform plans. In other words, if the EU is unequivocally supporting the 'establishing a Palestinian state' side of the plan, questions can be raised about its attitude to the plan's other aspect: 'ending the occupation'. Consistent support for the state-building route would necessarily entail a strategy for surmounting obstacles to its realisation. The EU regularly condemns violations of international law that prevent the emergence of a viable Palestinian state, but experts ask why the EU's challenges to these have been so tepid. A dissonance between EU statements and actions in the region has been created.<sup>7</sup>

Besides its declared commitment to human rights and international law, the EU's ground-level involvement and contractual relationships with

5. Ibid., p. 6.

6. International Crisis Group, 'Tipping point – Palestinians and the search for a new strategy', *Middle East Report* no. 95, 26 April 2010.

7. Nathalie Tocci, *The EU and Conflict Resolution: Promoting Peace in the Backyard* (New York: Routledge, 2007), pp. 100-25.



Israel and the Palestinians place it in the position of a full stakeholder. As such it has an interest in the successful implementation of its regional policies, with all that this implies about how it should proceed if faced with unlawful impediments to it. According to H.E. Judge Rosalyn Higgins, under international law, one would expect claims for exceptionality or violations of international law to be followed by a reaction.<sup>8</sup> Higgins sees international law not just as a set of rules but also as a process of ongoing interactions between different actors. International law relates to competing claims formulated by these actors, be they assertions of rights, promises, or the invocation of exceptional circumstances, i.e., claims which depart from international law. Unless actions that breach international law are greeted with strong protest, a claim for exceptionality can be perpetuated and become entrenched. This is not to say that a violation of international law can become legal over time, but it does mean that the passage of time can help create a legitimate claim when the effects of the violation are irreversible on the ground. The necessity for third parties to assert their claim becomes more important when violations of international law impede the implementation of policy instruments. It increases the importance of delivering a reaction.

## **Building matchstick houses in a storm: EU aid and state-building efforts during occupation and blockade**

Since the split between Hamas and Fatah in June 2007, the West Bank and Gaza have become subject to two different Israeli regimes of control. Consequently, their economic situations have diverged and the implementation of EU assistance has been affected accordingly.

### **Aid, economic restrictions and destruction**

In order to advance its officially declared policy of ‘economic peace’, in 2009, Israel undertook several measures to ease movement restrictions in the West Bank and to allow Palestinians living in Israel greater access to the region’s markets. These steps, combined with a dramatic acceleration in security cooperation between Israelis and the PA, improved the West Bank’s economic outlook. Real GDP growth in the West Bank is projected to have risen to 7 percent in 2009 from 5 percent in 2008. However, this economic trend is unsustainable and strictly limited by continued settlement construction.<sup>9</sup> At present, Israel controls nearly 60 percent of the West Bank’s land through settlement buildings, and associated infrastructure such as roads and the barrier wall. The PA’s limited control over the West Bank obstructs the donor community –

8. Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford: Clarendon Press, 1994), p. 1.

9. World Bank, ‘A Palestinian State in Two Years: Institutions for Economic Revival’, Economic Monitoring Report to the Ad Hoc Liaison Committee, 22 September 2009, p. 8.

including the EU – from intervening in many socio-economic sectors. Israel's overall control also facilitates settlement activity, particularly in East Jerusalem, creating a situation on the ground that diminishes prospects for a compromise on the city's status and threatens the chances of creating a viable Palestinian state.

Moreover, West Bank Palestinian access to outside markets in Gaza, Israel and elsewhere is still severely curtailed. Improved internal movement and GDP growth cannot compensate for the consequent economic loss. This situation is not new. The EC-PLO Interim Association Agreement which came into force in 1997 had been intended to enhance trade and economic cooperation but, soon after its conclusion, the European Commission reported that Israeli-imposed restrictions on the Palestinian economy and non-recognition of the EC-PLO Agreement were preventing its implementation.<sup>10</sup> More than thirteen years later, the agreement has still not been implemented. In 2009, EU goods imported from the PA amounted to €7 million. With total trade amounting to €71 million in 2008, the Palestinian Occupied Territories are by far the EU's smallest trading partner in the Mediterranean region.

The most substantial measures taken to facilitate Palestinian trade have themselves been obliterated by military destruction or else severely limited by restrictions. After Israel's disengagement from Gaza, the EU Border Assistance Mission (EU BAM) was sent to monitor and build PA customs capacity at the Rafah border checkpoint between Egypt and the Gaza Strip. The mission has been unable to operate since Rafah was closed in June 2006, following the seizure of an Israeli soldier, Gilad Shalit, by Palestinian militants aligned with Hamas. Equally, Gaza's EU-funded airport and seaport, which had been supposed to offer independent access points to external trade, were both destroyed by the Israeli army at the start of the second Intifada.

Infrastructure financed by the European Union and its Member States that has also been destroyed by Israel since 2000 amounts to €56.35 million according to an estimate by EUNIDA, an association of cooperation and development agencies. The damage suffered during Operation Cast Lead (27 December 2008 – 18 January 18 2009) has been estimated at around €12.35 million of this.<sup>11</sup> The UN recently reached an agreement with Israel on a compensation package of €10.5 million for UN buildings destroyed by Israel during the Gaza war. But so far, the EU and its Member States have declared no intention to claim damages for the destruction of their infrastructure. They usually claim that these facilities were given to the Palestinian Authority and so only the PA has an interest in taking action.

10. European Commission, 'Commission Communication on the Implementation of the Interim Agreement on Trade and Trade-Related Matters between the European Community and Israel', Communication of the Commission to the Council and the European Parliament, SEC (98) 695, 12 May 1998, pp. 12-4.

11. EuropAid, 'Final report. Damage assessment and needs identification in the Gaza Strip', submitted by EUNIDA, March 2009, p. 13.

## Gaza: a bone too big to chew?

The Gaza Strip has experienced much harsher economic restrictions than the West Bank, as a result of what recently-leaked Israeli government documents suggest is a policy of ‘economic warfare’ aimed against the ruling Hamas movement.<sup>12</sup> Soon after Hamas took over the Gaza Strip in June 2007, Israel enforced a blockade on all the Strip’s land and sea borders. Until recently, imports from Israel stood at approximately 20 percent of pre-blockade figures, and a small range of food and hygiene products constituted up to 90 percent of these. Exports from the Strip are almost non-existent. In the short term, the situation suits both Hamas, which has been consolidating its presence in Gaza, and Israel, which has temporarily secured its borders with the Strip. The blockade has effectively taken its 1.5 million inhabitants hostage and led to a serious deterioration in the humanitarian situation since Operation Cast Lead. All economic sectors have experienced a process of ‘de-development’. Unemployment and aid dependency are increasing. Nearly 80 percent of Gaza’s inhabitants now live on less than a dollar a day and depend on international assistance. A black market economy has developed around hundreds of tunnels dug under the Rafah border with Egypt. These supply the Strip with agricultural and industrial goods upon which Hamas imposes taxes.

On 31 May 2010, Israeli forces raided a Turkish vessel carrying activists, in international waters, which was on its way to Gaza to deliver humanitarian goods. Nine civilians were killed and numerous others injured. This event propelled the unsustainable nature of the blockade back to the top of the international agenda. Facing international pressure, the Israeli government adopted some measures aimed at ‘easing’ the blockade by changing its mechanism for restricting the entry of items into Gaza. Instead of issuing a list of permissible items, it was announced that the entry of consumer goods would now be generally allowed, except for items prohibited for security reasons, such as cement and spare machine parts. Dual-use construction materials for approved PA-authorized projects under international supervision should however be enabled, and operations at the existing land crossings – notably Kerem Shalom – should be expanded. Nevertheless, a ban on the import of construction material for the private sector, a ban on exports, and severe restrictions on sea access and movement of people remain in place.<sup>13</sup> The measures do not represent a policy shift so much as a fine-tuning of Israel’s policy of isolating Hamas and by extension the Gazan population.

In line with their December 2009 declaration, on 14 June 2010 EU Foreign Ministers restated that ‘the continued policy of closure is unacceptable and politically counterproductive’ and called for ‘an immediate, sustained and unconditional opening of crossings for the flow of humanitarian aid, commercial goods and persons to and from

12. Sheera Frenkel, ‘Israeli document: Gaza blockade isn’t about security’, *McClatchey Newspapers*, 9 June 2010.

13. Prime Minister’s Office statement following the Israeli Security Cabinet meeting, 20 July 2010. Available at: [http://www.mfa.gov.il/MFA/Government/Communiques/2010/Prime\\_Minister\\_Office\\_statement\\_20-Jun-2010.htm](http://www.mfa.gov.il/MFA/Government/Communiques/2010/Prime_Minister_Office_statement_20-Jun-2010.htm).

Gaza'. They urged the EU High Representative to contribute concrete and realistic options for the implementation of a mechanism based on the 2005 Agreement on Movement and Access 'that would permit the reconstruction of Gaza and the revival of its economy' at the next Foreign Affairs Council.<sup>14</sup> This took place on 27 July but no concrete measures came out of the meeting because of the difficulties involved in agreeing measures that could offer 'added-value'. For the moment, the *status quo ante* remains.

So far, the EU has adapted its humanitarian and financial assistance to the people of Gaza to align with the heavy constraints imposed by the blockade and its own policy of no contact with Hamas. Although the EU's contribution might have certainly helped stabilise the humanitarian situation, both these constraints have adversely affected the EU's capacity to promote Palestinian development and self-determination, and have placed the EU in a position of accommodation to what amounts to collective punishment.

In Gaza, the EU contributes to the salaries of Palestinian teachers, doctors, and nurses and PA officials who have not been working since June 2007. In 2009, €22 million was allocated to the 'Direct support to private sector' scheme which transits through PEGASE. These funds were aimed at helping small businesses affected by Operation Cast Lead to continue their activities, and thus reactivate some small economic activity in Gaza. The European Commission is providing humanitarian food supplies and related projects through ECHO. Even if the current measures implemented by Israel help the EU to diversify its humanitarian projects on the ground, these moves will not advance long-term solutions.

Yet, the limited number of actions so far undertaken by the EU in relation to Gaza illustrate the profound unease among Member States about taking any measure that might be interpreted as giving credit or recognition to the Hamas regime and thus undermine their relationship with the United States and Israel, whose positions on the recognition of Hamas remain strict. This approach has proven to be counterproductive.<sup>15</sup> It has left Hamas in control of a society which has been progressively drained of alternative sources of economic and political power. It has also deadlocked any possible negotiations over a long-term ceasefire, the release of Gilad Shalit, and an end to the blockade.<sup>16</sup> If the Israeli measures do not amount to a lifting of the blockade and if (official) international no-contact policy towards Hamas is to be maintained, then the EU can only hope to ameliorate the worst humanitarian symptoms of the Gazan imbroglio. It can do nothing to revive Gaza's economy or unpick the present gridlock in the peace process.

14. Conclusions on Gaza, Foreign Affairs Council, Luxembourg, 14 June 2010.

15. See chapter by Jeroen Gunning in this volume, pp. 97-108.

16. Esra Bulut and Carolin Goerzing, 'The EU and the Gaza Blockade: Dismantling collective punishment; reviving representative peacemaking', EUISS, Paris, June 2010, p. 3. Available at: [www.iss.europa.eu](http://www.iss.europa.eu).

## Conclusion and policy implications

### Policy towards Gaza and Hamas

An initiative to help lift the blockade should be carefully thought-through and implemented to avoid entrenching the logic of collective punishment and ensure that a proper economic recovery can begin. This will necessarily involve diplomatic persuasion and incentives to allow exports out of Gaza, imports of construction materials for the private sector into Gaza and the free movement of people, including between Gaza and the West Bank. Equally, the EU should redefine its engagement strategy with Hamas and pro-actively advance efforts for Palestinian reconciliation. As Bulut and Goerzig argue, at the very least, the EU could hint at how its relevant programmes might be revised in the event of an intra-Palestinian sharing arrangement.<sup>17</sup>

### Preparing for life after the Fayyad plan

Salaam Fayyad is sticking strongly to his August 2011 deadline for creating a Palestinian state and the EU and its Member States must prepare for the different potential scenarios that could follow. At present, support for a UNSC resolution is not on the agenda and the general consensus among EU Member States remains that a Palestinian State should emerge from a negotiated process between Israel and the Palestinians. However, this position may not be sustainable and the EU should prepare a 'Plan B'. By next year, the success or otherwise of Fayyad's strategy may be precipitating historic decisions in the PA, and the wider Palestinian community. In the absence of reconciliation within the Palestinian camp, a failure for Fayyad is likely to trigger a crisis within the secular and nationalist Palestinian movements. A success may well do the same for religious and resistance-based Palestinian forces. Either way the EU has a stake in the outcome, because it will directly impact on its relationships with the PA and aid efforts on the ground. Efforts promoting Palestinian intra-reconciliation should therefore be prioritised in order to reduce the risk of furthering divisions among Palestinians, and further weakening the EU's influence and credibility in the region.

### Aid reassessment

At the start of 2010, the head of the EC Technical Office in Jerusalem, Christian Berger, declared that: 'Support can only be sustained if there is a clear indication that a Palestinian state will be established in the foreseeable future ... Sustaining such a high level of support for a long period of time without reaching the goal will lead to questions, particularly from our tax payers.'<sup>18</sup> Indeed the situation is not sustainable and the

17. *Ibid.*, p. 4.

18. 'EU official to PA: Financial support won't continue forever', *Haaretz*, 19 January 2010.

EU cannot justify these expenditures indefinitely. The outcomes of, and outlooks for, the EU's aid efforts must therefore be assessed. Palestinian dependence on European assistance is now so all-encompassing that it is unrealistic for the EU to disengage from the Palestinian territories. Aid should be used in a way to end the conflict rather than simply accompany a process whereby the conflict is simply managed.<sup>19</sup> If EU support for Palestinian state-building is to continue, it should be conditioned on the elimination of the obstacles to constructing a viable a Palestinian state by all parties and stakeholders. This is the only way to disengage from a power dynamic that renders the objectives of a policy tool unattainable.

The EU is already financing several projects in East Jerusalem aimed at maintaining a Palestinian presence there by reinforcing Palestinian schools, hospitals and the legal resources available to individuals and families facing expulsion. These projects are tailor-made to the situation facing Palestinians in Jerusalem, but programmes following a similar rationale could be developed in the West Bank. The EU could, for instance, step up its efforts in the area of civilian protection and by pushing for development projects in area C, which could for example enable Palestinian farmers to work on their lands on the other side of the wall by modifying the produce on these lands and thus sustain the ability of the local population to keep their lands.

Finally, it should be noted that Palestinian self-determination is also threatened by the fact that Palestinian communities are geographically scattered and by the emergence of a new generation schooled in war that is alienated from traditional Palestinian forms of political action. The EU could work on building trans-territorial bridges between the fragments of Palestinian society and developing programmes aimed at enhancing human development in order to address the cultural, psycho-social and educational needs of this generation.

### **Towards a rights-based approach**

The EU alone cannot establish peace between Israel and the Palestinians. Nonetheless, third parties have a responsibility to bring conflicting parties to an attitude of compliance with international law. It is not too late for the EU to adopt a comprehensive strategy based on international law and human rights. The EU's deep involvement with Israel and the Palestinians necessarily requires that it exercises due diligence in the implementation of its policy towards Israel and the Palestinians and reacts appropriately when violations of international law interfere with or disrupt the implementation of its policy. Where such an approach is lacking, the EU accommodates itself to the violations of international law and indirectly facilitates their perpetuation. At the very least, such an approach should entail for instance demands for compensation for

19. Anne Le More, 'Between pessimism and optimism: EU policy options across scenarios', paper presented at the EUISS Middle-East Task Force, Paris, 2 July 2010. (Provided by the courtesy of the author).

the destroyed infrastructure which was initially financed by the EU and the demand for the reimbursement of all the additional cost relating to the provision of humanitarian relief incurred as a result of the illegal restrictions in the Occupied Territories. It should also be coupled with efforts to maintain the principle that respect for international law, human rights and humanitarian law is a central aspect of the Israeli-Palestinian issue.





## CHAPTER 4

# The conflict and EU-Israeli relations

Nathalie Tocci

## Introduction

Since the failure of the ill-fated Oslo peace process in 2000, the European Union has conducted its bilateral relationship with Israel in pursuit of two goals: a two-state solution in Israel and Palestine and the deepening of cooperation between the EU and Israel. In theory, these two goals could be mutually reinforcing. In practice however, not only the EU's prioritisation of cooperation with Israel has trumped its pursuit of a two-state solution, but, more seriously, the pursuit of cooperation has actively worked against the accomplishment of a two-state solution. By pursuing this policy, the EU has compromised on its adherence to its own norms and laws.

## The political context: EU goals, interests and policies regarding Israel

One of the EU's main objectives *vis-à-vis* Israel is the deepening of bilateral cooperation. The EU has expressly stated its commitment to establishing a partnership with Israel which provides for close political and mutually beneficial trade and investment relations, together with economic, social, financial, scientific, technological and cultural cooperation.<sup>1</sup> The EU's ambition in this regard is motivated by historical, political and economic interests. Most importantly, European actors value the development of cooperative ties with Israel in order to shed memories of a past that represents the antithesis of the identity to which Europe has aspired in the post-war period. The EU and specific Member States, for evident historical reasons, are highly sensitive to Israel's accusations that some European countries are guilty of anti-Israeli bias, especially given that such alleged bias is ascribed to deeply entrenched European anti-Semitism. Israel's diplomacy has been skilful in leveraging European sensitivities to garner EU support for and soften EU criticism of Israel. Beyond history, political interests also underpin Europe's commitment

1. European Union, External Relations, 'Israel'. Available at: [http://ec.europa.eu/external\\_relations/israel/index\\_en.htm](http://ec.europa.eu/external_relations/israel/index_en.htm).

to cooperation with Israel. EU actors see in Israel a fellow member of ‘the West’. This was the case in the Cold War era, in which political ideologies separated the capitalist West from the Soviet or pro-Soviet East. It is all the more so today, at a time in which civilisational prisms pitch the Judeo-Christian ‘self’ against the Muslim ‘other.’ Lastly, the EU’s trade surplus with Israel means that there are also important commercial reasons for the development of deep and cooperative ties with Israel. As such, the EU has been receptive to Israeli suggestions to separate ‘politics’ from ‘economics’, by compartmentalising the Arab-Israeli conflict from the development of EU-Israel relations.<sup>2</sup> Israel’s established, albeit partial, democracy,<sup>3</sup> its pro-Western outlook and its level of development have further bolstered the case for compartmentalisation.

A second EU goal, which has been articulated in ever-greater detail since the 1980 Venice Declaration, is that of a two-state solution, with the State of Israel and an independent, democratic and viable State of Palestine living side by side in peace and security.<sup>4</sup> According to the EU, the State of Palestine should comprise the West Bank, including East Jerusalem, and the Gaza Strip, on the basis of the 1967 borders. Such a solution would include Jerusalem as the shared capital of Israel and Palestine and a ‘just solution’ of the refugee issue. Part and parcel of the two-state solution is the importance of respecting human rights and international humanitarian law (IHL). Hence, the EU’s repeated condemnations of Palestinian suicide bombings and indiscriminate launch of rockets into Israel, as well as of Israeli settlements, military incursions, extra-judicial killings, restrictions on movement, house demolitions and evictions in the Occupied Palestinian Territory (OPT), the construction of a separation barrier in the West Bank, and the closure of the Gaza Strip. The Union has repeatedly affirmed that Israeli security and Palestinian self-determination should be pursued exclusively within the confines of international law. As EU High Representative Catherine Ashton has declared: the EU supports ‘peace based on international law’.<sup>5</sup> Beyond vision, a two-state solution based on the respect for international law is viewed by the EU as an integral element of its security interests. The 2003 EU Security Strategy defined a two-state solution as a ‘strategic priority for Europe’.<sup>6</sup> This is because the conflict is viewed as the mother of many (albeit not all) ills in the Middle East, ranging from economic stagnation and social unrest, which have unwanted spill-over effects into Europe.

In order to contribute to the fulfilment of these two goals, the Union has deployed policy instruments under two main headings. The first heading is diplomatic, directly linked to the goal of a two-state solution and primarily conducted in the context of the Common Foreign and Security Policy. The Union’s diplomatic role includes multilateral, bilateral and transatlantic dimensions, such as the activities of the EU Special Representative for the Middle East Peace Process since 1996, the EU’s

2. Mark Heller, ‘Israel-EU Relations: The political dimension’, *Israeli-European Policy Network*, Meeting, Berlin, 14 October 2004.

3. Partial democracy to the extent that full democratic rights and freedoms are granted to Jewish Israeli citizens and not to Palestinian Israeli citizens (not to mention Palestinians living in the Occupied Palestinian Territory).

4. Council of the EU, ‘Conclusions on the Middle East Peace Process’, 2985th Foreign Affairs Council meeting, Brussels, 8 December 2009, para 1.

5. H R Catherine Ashton, ‘A Commitment to Peace – the European Union and the Middle East’, Speech at the League of Arab States, Cairo, 15 March 2010. See: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/113352.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/113352.pdf).

6. European Council, ‘A Secure Europe in a Better World’, *The European Security Strategy*, Brussels, 12 December 2003.

participation in the Middle East Quartet since 2002, individual Member State initiatives on behalf of the EU,<sup>7</sup> and transatlantic dialogue. The second heading includes bilateral contractual ties with Israel and is articulated mainly through what, up until the Lisbon Treaty, was known as the Community pillar. EU-Israel contractual ties are primarily aimed at fostering bilateral cooperation and are only indirectly related to the conflict. Yet bilateral relations are in fact also highly pertinent to the goal of pursuing a two-state solution in so far as they represent the most important source of potential EU influence on Israel. It is to this aspect of EU policy towards Israel that the rest of this chapter is devoted.

## **EU policies towards Israel and implications for the conflict**

In pursuit of the goal of deepening cooperation with Israel, the Union's contractual ties with Israel have been progressively upgraded since the 1960s. The EU-Israel Association Agreement, which entered into force in 2000, is the main legal instrument of the bilateral relationship. The Agreement is extensive and covers free trade in industrial and select agricultural products, freedom of establishment, free movement of capital, the harmonisation of regulatory frameworks as well as social and cultural cooperation. The Agreement also establishes several institutionalised forums for political dialogue: the Association Council, the Association Committee and the Sub-Committee on Political Dialogue. More recently, Israel has also signed additional EU agreements on procurement, agriculture, scientific and technical cooperation, civil aviation and the European Global Navigation Satellite System (Galileo). It is currently negotiating participation in the European Police Office (Europol). Finally, Israel is included in the European Neighbourhood Policy (ENP), with its first Action Plan agreed in 2005. The Action Plan for Israel is implemented and monitored under the framework of the Association Agreement. Implementation of the EU-Israel Action Plan has accelerated over the years, and the Plan has been awaiting an 'upgrade' since 2009.

EU-Israel contractual relations also hold the potential of influencing Israeli conduct in the conflict, thus indirectly contributing to the EU goal of a two-state solution based on respect for international law. In principle, the EU can influence Israeli policies through political dialogue, conditionality and law in the context of its bilateral relations. Paradoxically, there has been an inverse correlation between the potential effectiveness of these three methods of influence and the EU's reliance upon them.

7. A key case of a Member State initiative conducted on behalf of the EU was France's role during Israel's military offensive in the Gaza Strip in December 2008-January 2009. President Nicolas Sarkozy's activism began during the French EU Presidency in 2008, but lasted up until and after the Israel's unilateral ceasefire in January 2009, working alongside the Czech EU Presidency and EU High Representative Javier Solana, as well as Egypt and Turkey's mediation efforts.

## EU-Israel political dialogue

As in the case of other key neighbours, the European Union has privileged political dialogue as a means to influence Israel. The institutional forums for dialogue used by the EU to attempt to persuade Israel to alter its conduct in the conflict include the Association Council, the Sub-Committee on Political Dialogue, and, within it, the informal working group on human rights. While being the EU's preferred and most frequently used means of influence, political dialogue has been rather ineffective in swaying Israeli policies in the conflict. Moreover, despite the Council's proposal to replace the EU-Israel informal working group on human rights with a subcommittee and the existence of equivalent subcommittees with other EU neighbours, no such development has taken place to date.<sup>8</sup>

8. The EU-Israel 'upgrade' does foresee the establishment of a human rights subcommittee, alongside a series of other upgrades of political dialogue.
9. The ICJ's Advisory Opinion in July 2004 also stated that: 'all States are under an obligation not to recognise the illegal situation resulting from the construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction' (para. 159).
10. EU-Israel Action Plan, 9 December 2004, pp. 3-4, See: [http://ec.europa.eu/world/enp/pdf/action\\_plans/israel\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/israel_enp_ap_final_en.pdf).
11. General Affairs and External Relations Council (GAERC), 'Strengthening of the EU's bilateral relations with its Mediterranean partners', Annex: 'Guidelines for strengthening the political dialogue structures with Israel', draft conclusions, Brussels, 5 December 2008, .
12. GAERC Press Release, 2915th meeting, Brussels, 8-9 December 2009, pp. 15-16. Palestinian Authority (PA) Prime Minister Salam Fayyad sent a letter in May 2008 complaining about the proposed upgrade in EU-Israel relations in view of Israel's conduct. Israel retaliated by withholding tax and duty payments to the PA. Yet the French Presidency, having secured Israel's participation in its project – the Union for the Mediterranean – decided to proceed with the upgrade.

## EU-Israel cooperation under the ENP and conditionality

The EU can also influence Israel through the use of positive *ex ante* conditionality, by withholding promised benefits in the context of the ENP. On the whole, the EU has been reluctant to engage in such conditionality. Testimony to this reluctance is the fact that in December 2004 the Commission approved the Action Plan with Israel, rich with benefits to which other neighbours could not aspire, only a few months after the International Court of Justice (ICJ) condemned Israel's construction of the barrier in the West Bank.<sup>9</sup> Within the Action Plan, the two-state solution, human rights and international law featured only in the context of political dialogue, in which the EU and Israel committed to 'facilitating efforts to resolve the Middle East conflict' and 'work[ing] together to promote [...] the respect for human rights and international humanitarian law'.<sup>10</sup> Moreover, despite Israel's tightening grip on the Gaza Strip and accelerating colonisation of the West Bank, the June 2008 EU-Israel Association Council declared its intention to upgrade bilateral relations. The upgrade would entail strengthened political dialogue and Israel's participation in EU programmes and agencies, integration into the single market, alignment with CFSP declarations and *démarches* on an *ad hoc* basis, and participation in Common Security and Defence Policy missions, as well as efforts by the EU to normalise Israel's role in UN bodies. Thereafter, the Council in December 2008 set out guidelines for strengthened political dialogue<sup>11</sup> and declared its intention to define the modalities of the upgrade by the spring of 2009.<sup>12</sup> The strengthened political dialogue would include meetings at head of state (i.e. summits), foreign minister and sectoral ministerial levels, as well as *ad hoc* Israeli participation in the Political and Security Committee, hearings of Israeli experts by Council working parties and committees, strengthened inter-parliamentary dialogue, and informal exchanges on strategic as well as human rights and anti-Semitism issues.

However, in response to the dramatic deterioration of the conflict as a result of Israel's military offensive on the Gaza Strip in December 2008-January 2009 and the Netanyahu government's policies on settlements and East Jerusalem in particular, the EU has temporarily engaged in *ex ante* conditionality. Since 2009, the EU-Israel 'upgrade' process has been formally suspended. In 2008 in fact, the Council had committed the Union to strengthening bilateral relations with Israel upon an understanding of the parties' 'shared values' of democracy, human rights, the rule of law and IHL, and their 'common interests and objectives' regarding the two-state solution. In December 2009, the Council deemed 'the situation on the ground' as 'not conducive to the resumption of the upgrading process'.<sup>13</sup> The formal freezing of the upgrade process is temporary. Moreover, the EU has gone to great lengths not to present the freeze as an act of conditionality, but rather as a decision taken by mutual consent dictated by existing political conditions.<sup>14</sup> In fact, cooperation between the EU and Israel deepened in 2009, as attested by the fact that the two signed a new agricultural agreement in November 2009 and negotiated an agreement foreseeing Israel's participation in Europol. This 'business as usual' nature of EU-Israel relations since 2009 has meant that the postponement of the upgrade has not entirely restored the EU's credibility, particularly tarnished in the eyes of the Palestinian and the international human rights community following the restoration of EU-Israel relations in 2003-2004 despite the aggravation of the conflict. Nonetheless, the postponement of the upgrade has indicated that the Union has refrained from entirely 'compartmentalising' the conflict from the development of EU-Israel cooperation. By doing so the EU has not necessarily had an impact on the conflict. But it has at least marginally restored the self-inflicted reputational blow caused by its reaction to Operation Cast Lead in Gaza.<sup>15</sup>

## EU-Israel cooperation and the respect for European and international law

A third channel of EU influence on Israel relies on the application of European and international law. In principle, the EU could withdraw benefits that have been granted to Israel in the context of bilateral agreements in the event of a material breach thereof (*ex post* conditionality). In practice, however, the Union has expressly stated its preference for 'constructive engagement' with Israel, as with other southern Mediterranean countries. The EU has never contemplated the partial or total suspension of the Association Agreement (or any other agreement) despite the grave human rights and international law violations perpetrated by Israel. More so than in the case of *ex ante* conditionality, the EU has persistently shied away using this channel of influence, turning a blind eye to Israel's behaviour or seeking politically

13. European Commission, Staff Working Document, Accompanying the Communication from the Commission to the European Parliament and the Council, 'Taking stock of the European Neighbourhood Policy (ENP)', *Implementation of the European Neighbourhood Policy in 2009: Progress Report Israel*, COM(2010) 207, 12 May 2010, p. 2.
14. Tovah Lazaroff, 'Israel's EU upgrade to be put off again', *Jerusalem Post*, 13 May 2010.
15. Euro-Mediterranean Human Rights Network, *Active but Acquiescent: The EU's Response to the Israeli Military Offensive in the Gaza Strip*, May 2009. Available at: <http://www.emhrn.net>.

non-confrontational deals to manage legal problems between itself and Israel.

The legal basis to exert *ex post* conditionality is twofold. First and most frequently cited, is Article 2, better known as the ‘human rights clause’, which, alongside Article 79 (the ‘non-execution’ clause), entitles the EU to partially or totally suspend the Association Agreement in the event of a serious breach of human rights and democratic principles. The human rights clause grants the EU a *right*, but not an *obligation*, to suspend the agreement in the event of a breach of Article 2. Consequently, EU actors have consistently refused to invoke ‘non-execution’ clauses to deal with human rights non-compliance in the Mediterranean, including in Israel and the OPT. The human rights clauses have been used rather as a basis to engage in human rights political dialogues with the southern neighbours.

Second and most important, are the EU’s legal *obligations* stemming from European and international law. As far as EU law is concerned, Article 83 and Protocol 4 of the EU-Israel Association Agreement define the territory lawfully covered by the Agreement: the State of Israel. Unlike Israel and based on international law, the EU considers this territory to exclude the land occupied in 1967. As far as international law is concerned, the EU and its Member States have the duty of ‘non-recognition’: they cannot recognise, aid or assist Israel’s violations of IHL.<sup>16</sup> Hence, they must refrain from granting benefits to and cooperating with Israeli actors and actions in violation of IHL in the context of contractual relations. The different understandings between the EU and Israel on the territorial scope of EU-Israel cooperation and the EU’s legal obligations in the framework of European and international law have led to a series of legal problems across different policy areas, all of which can be traced back to the same root: the EU’s tendency to accommodate Israeli policies that contravene IHL, to the extent of risking breaching its own law. Three examples illustrate this point.

The most well-known example is the dispute over the preferential export of Israeli goods produced in settlements.<sup>17</sup> As mentioned above, the territorial scope of EU-Israel agreements is limited to the ‘territory of the State of Israel’. As such and as reaffirmed by the European Court of Justice in 2010, the EU cannot grant preferential treatment to products wholly produced or substantially processed in Israeli settlements.<sup>18</sup> Israel however determines the origin of its exports in a manner that does not distinguish between production carried out within its borders and in the Occupied Territories, in accordance with its domestic legislation and its differing interpretation of public international law. This has resulted in the EU’s inability to prevent the preferential treatment of settlement products exported by Israel under the Agreement. The EU has recognised the need to rectify the situation. In February 2005 the

16. Article 1 of the 4<sup>th</sup> Geneva Convention prevents any state or their nationals from participating in, or facilitating, any violation of the Convention. Regarding the implications for Israel, see footnote 9.

17. Euro-Mediterranean Human Rights Network, *A Human Rights Review on the EU and Israel, Mainstreaming or Selectively Extinguishing Human Rights?*, December 2005; Euro-Mediterranean Human Rights Network, *Third Annual Review on Human Rights in EU-Israel Relations, Accommodating to the ‘special’ case of Israel*, June 2007. Available at [http://en.euromedrights.org/index.php/publications/emhrn\\_publications/index.1.html](http://en.euromedrights.org/index.php/publications/emhrn_publications/index.1.html).

18. *Official Journal of the European Union*, Judgment of the Court (Fourth Chamber) of 25 February 2010 (reference for a preliminary ruling from the Finanzgericht Hamburg – Germany) – Brita GmbH v Hauptzollamt Hamburg-Hafen, 17 April 2010. Available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:100:0004:0005:EN:PDF>

EU and Israel agreed on a 'technical arrangement', whereby Israel would name the locality of production on the origin certificates of its products and EU customs officers could reject unilaterally Israeli certificates of origin. The EU acknowledges that the technical arrangement does not represent a solution, but only a way to manage the problem. Practically, the technical arrangement has enabled EU customs to refuse preferential treatment to detected settlement exports. However, detected settlement exports represent only a fraction of exports from settlements. The technical arrangement also places the onus on Member State customs services to detect such products and refuse to grant them preferential treatment. Moreover, under the technical arrangement Israel continues to apply the Agreement to the Occupied Territories and issue proofs of origin accordingly. Israel has not been required by the EU to acknowledge officially that products produced in settlements do not originate in Israel. Until the EU considers it appropriate to launch an arbitration procedure, its customs services will thus have to bear the burden of preventing the preferential importation of settlement products without relying on Israel's correct issuance of proofs of origin and verification replies. In order to ensure that the technical arrangement functions properly, this entails inspecting each and every proof of origin, a highly burdensome and costly practice particularly for large importing Member States. To say nothing of the disrepute, this is the tangible price that the EU must pay to rectify the deficiencies in the implementation of European law that result from the accommodation of Israel's policies in the context of the Agreement.

Another example concerns the irregularities within EU-Israel cooperation in the area of research and development. Israel has been associated to the EU's Framework Programmes for Research and Development since 1996. As in the case of trade, only legal entities within the State of Israel are entitled to benefit from EU research funds. Yet Israeli entities within the Occupied Territories, in accordance with Israel's legislation, consider themselves as eligible to participate in the Framework Programme. Under the 5<sup>th</sup> and 6<sup>th</sup> Framework Programmes, several settlement companies benefited from EU funds.<sup>19</sup> Under the 7<sup>th</sup> Framework Programme the Commission did attempt to rectify the situation, but it did not consider and act upon the fact that entities that are legally established in the territory of the State of Israel but are physically based in settlements are also not eligible for EU funds.<sup>20</sup> By November 2009, over 700 Israeli research entities had been selected for funding under FP7.<sup>21</sup> The EU is unable to ascertain whether all are actually located within the territory of the State of Israel.

A final example concerns Europol. The EU and Israel have drafted an agreement foreseeing Israel's cooperation with Europol, aimed at combating international crime through the exchange of information and contacts. A set of problems, echoing those of trade and research, affects

19. Euro-Mediterranean Human Rights Network, *A Human Rights Review on the EU and Israel*, op. cit. in note 18; *Ibid.*, *Third Annual Review on Human Rights in EU-Israel Relations*, op. cit. in note 17.

20. 'Suggested Amendments by Aprovev to the "Regulation of the European Parliament and of the Council laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013)", August 2006.

21. European Commission, 'Staff Working Document', op. cit. in note 13, p. 16.

the territorial scope of the agreement. The Israel National Police would act as the ‘contact point’ for Europol. Yet the Police is headquartered in East Jerusalem, placing Europol in contravention of its duty not to recognise an act deriving from Israel’s unilateral annexation of East Jerusalem. Likewise, Europol could not lawfully store information obtained either by Israeli authorities operating in the territories that it has illegally annexed (East Jerusalem and the Golan Heights) or from non-Israeli nationals transferred from the Occupied Territories to detention centres in Israel. However, in all the agreements between the EU and third states, the EU often explicitly relies on the third state to implement the provisions of the agreement ‘in accordance with the provisions of [its] domestic law’.<sup>22</sup> If this agreement were to do likewise, Europol would be unable to prevent itself from storing information obtained by Israeli authorities operating in the Occupied Territories, given that Israel itself does not distinguish between the Occupied Territories and its internationally recognised territory.

## Conclusion and policy implications

In conducting bilateral relations with Israel, the EU has pursued two goals: cooperation with Israel and a two-state solution based on international law. These two goals need not be incompatible. Yet an analysis of EU policies reveals that EU actors themselves have implicitly considered them as such, in turn prioritising cooperation over a two-state solution. The EU has privileged political dialogue as a means to influence Israel’s actions in the conflict. Despite its ineffectiveness, this is primarily because dialogue is itself a form of cooperation. Indeed, one of the most valued aspects of the ‘upgrade’ of bilateral relations for Israel is precisely a deepening of political dialogue between the EU and Israel.

Within the ENP, *ex ante* conditionality has rarely been used, leading at times to the deepening of EU-Israel cooperation precisely as and when the conflict deteriorated. Notwithstanding, the postponement of the ‘upgrade’ with Israel could be viewed as a form of *ex ante* conditionality, which has restored some credibility to EU policies in the region following *Operation Cast Lead*. However, the EU has emphasised the consensual dimension of the postponement, repeatedly stating that it was not intended as a ‘punishment’ on Israel. Despite the formal postponement, EU-Israel cooperation in practice has proceeded and deepened unhindered.

Most seriously, the EU has tended to view the application of European and international law that seeks to uphold its goal of a two-state solution as incompatible with its pursuit of cooperation with Israel. In other words, it has chosen to consider measures to ensure the respect for law as ‘punishments’, which detract from EU-Israel cooperation.

22. See for example Article 18, Protocol 4 of the EU-Israel Association Agreement.



The examples discussed above in the domains of trade, research and police cooperation all exemplify how this has led to legal problems in which the EU has risked the distortion of its own law and practice to accommodate illegal Israeli policies. In doing so, the EU has also signalled to Israel that the law is up for political bargaining, fostering a culture of impunity in the context of the conflict.

Yet in fact, the application of the law is not incompatible with cooperation with Israel. On the contrary, rules and laws are what make cooperation between the EU and any third state, including Israel, possible. It is by recognising and acting upon this reality – by rectifying the aforementioned legal problems and inserting safeguard mechanisms to ensure that no further irregularities arise in future spheres of EU-Israel cooperation – rather than viewing the application of the law as an undue ‘punishment’, that the EU could reconcile the two goals driving its bilateral ties to Israel. By doing so the EU would not, alone, achieve the fulfilment of a two-state solution. But it would contribute to establishing the rights and law-based international conditions which are imperative for such a solution to be accomplished.



## CHAPTER 5

# The Middle East conflict, transatlantic ties and the Quartet

Daniel Möckli

### Introduction

The transatlantic relationship has traditionally represented a key dimension of the EU approach towards the Arab-Israeli conflict. Although the EU regards Middle East peace as a strategic priority, many Member States consider sound ties to Washington just as important – or even much more so. One major lesson the Europeans have learnt since the 1970s is that the pursuit of alternative policies that overtly challenge US positions has proved counterproductive and undermined their own cohesion. Together with the continuing difficulty of gaining recognition as a relevant actor in Middle East diplomacy, this has prompted the EU to seek to influence US policy as an indirect way of bringing European thinking into the management and resolution of the conflict.

For the EU, becoming a member of the Middle East Quartet in 2002 alongside the US, Russia, and the UN was important in this regard, as it has provided for institutionalised coordination with Washington on the conflict. Yet, during the Bush presidency the balance sheet of the Quartet was mixed at best. There was a common Quartet approach in the form of the Roadmap that comprised important European positions. However, the US also prompted the EU to take up policies that deviate from previous European principles and that have done little to advance peace. Moreover, during the Bush years, the EU was caught up in US inaction or was asked to provide cover for what essentially constituted US unilateral actions more than once.

The impact of the EU on Middle East diplomacy has not significantly increased since the coming to power of US President Obama in 2009. Nevertheless, there has been a period of unprecedented transatlantic convergence concerning the Arab-Israeli conflict recently, as Obama's approach has actually been substantially in line with European thinking. In the absence of sustainable progress towards a two-state solution,

difficult questions will however have to be addressed by the EU and the US that potentially could both weaken European cohesion and cause transatlantic strains. These questions comprise substantive issues as well as the future roles of the EU and the Quartet.

## From conflict to limited cooperation

European-US relations *vis-à-vis* the Arab-Israeli conflict have evolved in three stages. During the Cold War, there were predominantly *divergent* approaches, and a great deal of transatlantic tension. The 1990s were marked by *complementary* approaches, with significantly less strain on relations. Finally, since the launch of the Quartet in 2002, the idea has been to pursue *coordinated* approaches, based on institutionalised transatlantic cooperation, with varying degrees of success.<sup>1</sup>

Having consulted on the Arab-Israeli conflict ever since European Political Cooperation was set up in 1970, the Europeans issued their first substantive joint declaration in the context of the October War in 1973. Greatly concerned about the US piecemeal (country-by-country and issue-by-issue) approach to the search for peace, the then EC members called for a comprehensive solution to be worked out under the auspices of the UN and for Israel to ‘end the territorial occupation’.<sup>2</sup> This resulted in the biggest transatlantic clash over the Middle East conflict to this day, with neither the US nor Israel approving of a European role in Middle East diplomacy.

With the exception of a brief moment of transatlantic convergence in 1977, when President Carter embraced European positions on the Arab-Israeli conflict, the period between 1974 and 1989 remained marked by European-US disagreements as to how to advance peace. These disagreements came to be epitomised by the two approaches of ‘Camp David’ and ‘Venice’. The US-sponsored bilateral peace deal of 1978/79 between Israel and Egypt reflected an incrementalist approach that, in hindsight and despite rhetoric to the contrary, resulted in the Palestinian issue being sidelined in US policy during much of the 1980s. Conversely, the EC Venice Declaration of 1980 stressed the Palestinian right of self-determination and made the case for associating the PLO with the search for a comprehensive peace, calling Israeli settlements in the Occupied Territories ‘a serious obstacle to the peace process’ and ‘illegal under international law’.<sup>3</sup> Eager to avoid another transatlantic clash, the Europeans took US concerns into account this time, watering down their early Venice drafts significantly.

Transatlantic relations improved once efforts towards a peace process were underway in the 1990s. US peace efforts that resulted in the Madrid

1. See Daniel Möckli and Victor Mauer, (eds.), *European-American Relations and the Middle East: From Suez to Iraq* (London: Routledge, 2010). On transatlantic relations and the Middle East conflict, see also Costanza Musu, *European Union Policy Towards the Arab-Israeli Peace Process* (Basingstoke: Palgrave Macmillan, 2010).
2. Christopher Hill and Karen E. Smith (eds.), *European Foreign Policy: Key Documents* (London: Routledge, 2000), pp. 300ff.
3. *Ibid.*, pp. 303ff.

Conference of 1991 were strongly supported by the Europeans, despite the fact that the EC did not have a seat at the table. Both the EU and the US also came to support the Oslo Accords of 1993, which had been secretly worked out without their involvement. At this stage Europeans came to subscribe to an implicit division of labour with the US. Leaving diplomacy to Washington, they focused instead on regional cooperation, economic peacebuilding, and Palestinian institution-building, with a view to providing the structural conditions for sustainable peace.

Still, as the Oslo process gradually broke down towards the end of the 1990s, transatlantic disenchantment resurfaced. Considering the US to be too lenient on Israel and too focused on facilitation rather than robust mediation, many Europeans called once more for an EU seat at the diplomatic table. Their claim seemed all the more justified given that the EU had become the main donor of the peace process and since the EU's Common Foreign and Security Policy (CFSP) allowed it to expand its capacity as a diplomatic actor in the Middle East.

## The Quartet and US post-9/11 priorities

With the founding of the Middle East Quartet in Madrid in 2002, the US acknowledged that the EU had a role to play in Middle East diplomacy. Bringing together the US Secretary of State, the Russian foreign minister, the UN Secretary-General, and the EU (then represented by the High Representative, the External Relations Commissioner and the rotating presidency), the creation of this forum provided for institutionalised EU-US consultations on the Israeli-Palestinian conflict, albeit in a broader international framework. However, as the Europeans soon came to realise, the relevance of this platform for Washington has varied greatly according to specific US needs. Overall, the Quartet has represented much less of a shift in the EU role from 'payer' to 'player' than many initially hoped.<sup>4</sup>

A major success for the EU during the Bush presidency was the Roadmap that the Quartet officially presented to Palestinian and Israeli leaders in April 2003. The Roadmap endorsed many European positions, with the EU and some of its Member States playing an important role in drafting it. Procedurally, it gave the EU a major stake in Middle Eastern diplomacy in that it tasked the Quartet with evaluating the performance of the parties in terms of implementation.<sup>5</sup>

Yet, the Roadmap also reflected a major weakness of the Quartet. Linking the EU with the State Department rather than the White House, this forum provides no direct access to what has traditionally been the most important US policymaking body concerning the Arab-Israeli conflict. With Bush supporting Israel's robust policy against the Palestinian militants as part of his own global 'war against terror',

4. On the Quartet during the Bush period, see Costanza Musu, 'The Middle East Quartet: A New Role for Europe?', in Möckli and Mauer, op. cit. in note 1.

5. Muriel Asseburg, 'The EU and the Middle East Conflict: Tackling the Main Obstacle to Euro-Mediterranean Partnership', *Mediterranean Politics* vol. 8, no. 2, 2003, pp. 174-93.

there was little presidential commitment to the Roadmap. Although the Quartet 'expressed concern' in numerous declarations about the lack of progress in implementing the Roadmap, the EU once more ended up with a declaratory policy that had little impact on the ground.

As Bush was preoccupied with Iraq, there was little meaningful Quartet activity for several years after 2003. In those cases where the Bush administration did deal with the Palestinian issue, it often acted unilaterally, using the Quartet selectively and primarily with a view to getting multilateral backing for its own policies. Such was the case with the appointment of Tony Blair as Quartet Representative in June 2007. Another example was the Annapolis process, launched a few months later, with the US rather than the Quartet being tasked with monitoring progress.

Moreover, during the Bush years, the US arguably managed to influence EU policy more than see its own policies influenced by the Europeans. The prime example in this regard concerns the Western response to the surprise election victory of Hamas in 2006. As Washington and Brussels turned the three Quartet 'principles'<sup>6</sup> for engagement into 'conditions', the Europeans came to subscribe to a policy of isolating Hamas that undermined their democracy-promotion agenda and marked a shift away from their previous inclusive approach to the Arab-Israeli conflict. On the comparable question of how to deal with the PLO in the 1980s, the Europeans had opted for informal pragmatic contacts so as to try and moderate the positions and behaviour of this organisation, whereas the US had made dialogue conditional on the PLO's transformation.

The EU shift on this matter in 2006 reflected a change in the character of the Quartet, which was now promoting sanctions as much as negotiations. Such change led to the resignation of the UN envoy of the Quartet, who argued that the Quartet had become a 'group of friends of the US' and that the format was more about managing transatlantic relations than resolving the Arab-Israeli conflict.<sup>7</sup> It also prompted Russia to go its own way and talk to Hamas, which raised questions as to the cohesion of the Quartet.

Although many European policy-makers may have been uneasy about US policy on the Middle East conflict during the Bush presidency, they largely refrained from challenging it. This was above all because the Europeans were careful not to provoke another crisis with Washington over the Middle East after the fall-out over Iraq in 2002/03 that had done so much damage to intra-European cohesion as well as to EU-US relations. Although the Bush administration nominally came to subscribe to a two-state solution as well as institutionalised consultations with the EU and other external actors, these were overall lost years in terms of advancing peace, with transatlantic cooperation remaining limited.

6. The three principles concern Hamas commitment to non-violence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap. See also the chapter by Jeroen Gunning in this volume, pp. 97-108.

7. Alvaro de Soto, 'End of Mission Report', May 2007, published by the *Guardian* at: [image.guardian.co.uk/sys-files/Guardian/documents/2007/06/12/DeSotoReport.pdf](http://image.guardian.co.uk/sys-files/Guardian/documents/2007/06/12/DeSotoReport.pdf).

## Obama playing an EU tune

Since the coming into office of the Obama administration in early 2009, the degree of transatlantic convergence over the Israeli-Palestinian conflict has reached an all-time high point.<sup>8</sup> Obama has come to embrace positions long held dear by the EU. The strong sense of transatlantic consensus has failed to translate into sustainable progress on the ground, however. Although the US is currently attributing higher priority to the Arab-Israeli issue than often before, the local capacity for resolving the conflict is distinctly limited, with the peace camp in Israel marginalised and the Palestinians deeply divided. This raises difficult questions for Washington as well as Brussels.

Not since Jimmy Carter has a US president invested so much in advancing peace in the Middle East so early in his term. Declaring a resolution of the Arab-Israeli conflict a vital national security interest for the US, Obama has subscribed to the view held by many of his advisers and some of his generals that this conflict foments anti-American sentiment, weakens moderate regimes in the Arab world and makes it more difficult for the US to advance its interests in the wider Middle East.<sup>9</sup> This is very much in line with the EU, which regards the resolution of the Arab-Israeli conflict as a precondition for solving other problems in the Middle East.<sup>10</sup>

Obama's efforts to shift US mediation to a less pro-Israel bias and a more impartial position also correspond with European thinking. Rarely has a US president expressed so much empathy for the plight of the Palestinians as Obama did during his Cairo speech in June 2009. Furthermore, not since the days of former Secretary of State James Baker has the US made such far-reaching public demands of Israel, with Obama's repeated and insistent calls for a comprehensive settlement freeze causing severe strains in the US-Israeli relationship.<sup>11</sup>

While critics accuse Obama of having wasted much time wrestling with the government of Israeli Prime Minister Netanyahu over settlements, the EU fully supported the Obama approach. In her own Cairo speech in March 2010, EU High Representative Ashton called the settlements illegal and argued that they constitute an obstacle to peace and make a two-state solution impossible.<sup>12</sup> Although Obama has declared the settlements 'illegitimate' rather than 'illegal' and only managed to talk Israel into a partial and temporary freeze, the EU was pleased to see that he showed some persistence on the issue. There was a strong US reaction to the Israeli housing announcement concerning East Jerusalem during the visit of Vice President Biden in March 2010. Once the Obama administration had succeeded in launching direct peace talks in early September 2010, it also tried hard to talk Israel into a new temporary

8. Rosemary Hollis, 'European Responses to Obama's Middle East Policy', *FRIDE Policy Brief* no.38, February 2010.
9. See, for example, the statement of General Petraeus before the Senate Armed Services Committee, 16 March 2010. Available at: <http://armed-services.senate.gov/statemnt/2010/03%20March/Petraeus%2003-16-10.pdf>.
10. European Council, 'A Secure Europe in a Better World', *The European Security Strategy*, Brussels, 12 December 2003.
11. Daniel Möckli, 'US Foreign Policy: New Approaches and Old Problems in Afghanistan and the Middle East', in *Strategic Trends 2010: Key Developments in Global Affairs* (Zurich: CSS, 2010). Available at: [www.sta.ethz.ch](http://www.sta.ethz.ch).
12. 'A Commitment to Peace – the European Union and the Middle East', 15 March 2010. Available at: [www.eeas.europa.eu](http://www.eeas.europa.eu).

settlement freeze to get these talks going, although it seemed to refrain from applying pressure when Prime Minister Netanyahu refused to comply. With regard to Jerusalem, the EU again goes further than the US in explicitly declaring that Jerusalem should be the capital of both states.<sup>13</sup> Still, the EU could note that Obama has at least urged a halt of any Israeli activity that may predetermine the issue of Palestine's future capital.

If Obama has in many ways played a European tune in his approach to the Arab-Israeli conflict so far, it is worth noting that he has largely done so without the EU orchestra. This is reflective of his larger foreign policy, where Europe plays a very limited role. Indeed, Obama's 'EU-type' positions on the conflict may not even have been influenced by the Europeans. Be that as it may, the EU has still been right to support his approach. In contrast to the Bush period, Quartet partners are now regularly being informed by the US about its next steps. Moreover, the EU is well aware that if anyone can achieve progress at this stage, it is the US. Still, in view of the early breakdown of the direct peace talks in the autumn of 2010 and the dire situation on the ground, there is a need for deeper EU-US dialogue on how to proceed in the Arab-Israeli conflict.

## The transatlantic agenda: difficult decisions ahead

There are six major issues concerning Middle East diplomacy that the US and the EU will have to address with some urgency: (i) the scope for more robust mediation; (ii) Palestinian reconciliation and relations with Hamas; (iii) the EU-US position on a potential Palestinian declaration of statehood; (iv) the credibility of their policies on the settlement issue; (v) relations with Syria, and (vi) the future roles of the EU and the Quartet. Given the sensitivity of these issues, close EU-US consultation and coordination is vital here, although this does not preclude some unilateral European measures.

### More robust mediation?

There is little doubt that the peace process can only be translated into meaningful results today if there is more robust international mediation. This may include an external peace plan identifying the major parameters of compromise, as long advocated by some of Obama's advisers. And it certainly would entail close monitoring of how any deal is implemented, coupled with the willingness to impose costs if agreed measures are not undertaken. After admitting that he had overestimated the US capacity

13. Council Conclusions on the Middle East Peace Process, 8 December 2009.



to persuade Israel and the Palestinians to pursue reconciliatory policies, Obama will now have to balance domestic and strategic considerations carefully in deciding how to proceed. Should he choose to go for more pressure and conditionality, he is bound to face further tensions with Israel – as well as growing criticism from within the US Congress. Should he decide against such a strategy, progress towards peace will become ever more unlikely, with more instability looming. Although the pendulum has swung in direction of the latter scenario in the course of 2010, Obama's stance in 2011 remains to be seen.

As for the EU, High Representative Ashton has suggested that European involvement in the search for peace could be stepped up by supporting the parties in their negotiations, extending the package of assistance, considering further political, financial and security guarantees, and developing a closer partnership with the US and a reinvigorated Quartet. With regard to this last point, Ashton has called for regular Quartet meetings that ought to be 'designed to support and monitor the peace process' and to 'give impetus to frame strong terms of reference for the negotiations to set benchmarks for progress, and assess Roadmap compliance'.<sup>14</sup>

Significant though this offer of support may be, the EU will have to be careful what it wishes for. For one thing, it is far from clear that pushing parties into an agreement would bring peace any closer. Furthermore, even if Obama chose to go down that road, there is no consensus within the EU that a tougher line towards Israel would be the right way forward. Robust mediation most likely would have to be a unilateral US endeavour, supported perhaps by some EU Member States. Alternatively, the price attached to non-compliance would have to be so low to gain EU-wide approval that the approach might not be robust enough to bring about sustainable results.

## **Palestinian reconciliation: rethinking Hamas policy**

Domestic political constellations in the region and in the US provide difficult ground for peace talks to succeed at this stage. While there is a possibility that such talks may yet translate into a two-state solution precisely because expectations are so low on all sides, the chances of disruption and failure are high. In this case, Washington and Brussels should think about focusing on Palestinian reconciliation before pushing peace negotiations again. Doing both simultaneously may not be feasible. A shift of priorities may become urgent as intra-Palestinian divisions deepen. There is of course a risk that any unity government would be dominated by Hamas. Still, with PA President Abbas and Fatah weakened, and Palestinian institutions suffering from a legitimacy deficit in the absence of elections, the potential of the current approach of 'negotiations first and reconciliation later' appears limited.

14. 'A Commitment to Peace', op. cit. in note 12.

Advocating reconciliation makes little sense without a more pragmatic Western approach towards Hamas, however. The policy of isolating Hamas has not only contributed to the Palestinian split, but it has also strengthened the radical elements within the Islamist movement and provided the basis for the Israeli-Egyptian blockade of Gaza. Although the EU and the US asked Israel to ease its closure as early as 2008 and have pushed the Netanyahu government to change its policy following the deadly flotilla incident in May 2010,<sup>15</sup> they have shied away from rethinking their own Hamas approach so far. Expectations at the onset of the Obama presidency that the US might move towards dialogue with Hamas analogous to its policy change on Iran proved premature.

The fact is that without some sort of engagement with Hamas, neither a sustained opening of border crossings in Gaza nor Palestinian reconciliation nor durable progress towards a two-state solution seems possible. Merely wishing that Hamas would disappear and calling for the PA to be reinstated in Gaza will not suffice as a strategy. By contrast, involving Hamas in dialogue may actually foster the group's moderation and eventually help to make it part of the solution.<sup>16</sup> The EU and the US should think about softening their conditions and making Hamas's recognition of Israel and of previous agreements a condition for the successful completion of negotiations rather than for starting talks. Although modifying the conditions does entail risks, it also provides new opportunities – which is a major difference to the policy pursued so far.<sup>17</sup>

## A transatlantic position on Palestinian statehood

The third item on the transatlantic agenda concerns the two-year plan of Palestinian Prime Minister Fayyad of building the apparatus of a Palestinian state by summer 2011, which has gained much support from both the EU and the US. There has indeed been some improvement in the services provided by the PA, especially as far as fiscal practices and security in the West Bank are concerned. Yet, it would be misleading to view the Fayyad Plan as merely a technical exercise. In the absence of a political agreement on a two-state solution, it is conceivable that Fayyad may unilaterally declare Palestinian statehood in 2011.

Such a move, which would likely be opposed by Israel and some elements of the Palestinian polity, could split the EU and arouse transatlantic controversy. While some Eastern European countries had already recognised the Palestinian state prior to entering the EU, others are pushing to do so now, with a third group sticking with the Oslo paradigm of a negotiated settlement as the only way forward. If the transatlantic and European disunity witnessed over the recent question of the independence of Kosovo is to be avoided, the EU and the US would be well advised to prepare for such a scenario before it materialises.

15. For the EU, see Council Conclusions on Gaza, 14 June 2010; Bernard Kouchner, Franco Frattini, and Miguel Angel Moratinos, 'Averting Another Gaza', *New York Times*, 10 June 2010.

16. For a more detailed discussion, see the chapter by Jeroen Gunning in this volume, pp. XXX. See also Daniel Möckli, 'Switzerland's Controversial Middle East Policy', *CSS Analysis in Security Policy* no. 35, June 2008.

17. Carolin Goerzig, 'Engaging Hamas: Rethinking the Quartet Principles', *ISS Opinion*, March 2010. Available at: [www.iss.europa.eu](http://www.iss.europa.eu)

## ***Settlements: backing up statements with practice***

Preserving and enhancing the capacity to influence local dynamics should remain an EU-US priority. The credibility of the EU and the US as peacemakers will depend to no little extent on their ability and willingness both to defend their views on final status issues and to make sure these issues remain resolvable. A prime test in this regard concerns the settlement issue. The EU and the US will have to find an adequate response if their calls for continuing the freeze have been ignored. In addition, the EU should become stricter in practice in denying preferential treatment to settlement products.<sup>18</sup> Some have also made the case for the EU to enhance its visibility in East Jerusalem. In the case of the US, there have been suggestions that the Treasury ought to rethink its policy of exempting donations to settlements from tax.

## ***Engaging Syria***

Beyond the issue of Palestine, Syria is the most pressing issue concerning the Arab-Israeli conflict for the EU and the US to address. As a result of Syria's continuing involvement in Lebanese affairs and its close ties to Iran, Brussels and Washington have pursued a policy of distance *vis-à-vis* Damascus. The EU still has no Association Agreement with Syria. And while Obama has intensified US diplomatic contacts with the Syrian leadership, he has also decided to continue the US sanctions approach. Yet, with other players such as Turkey, Qatar and Russia moving into the vacuum, there is evidence of a new 'axis of influence' emerging around Syria that is based on pragmatic commercial cooperation and a political agenda that challenges key Western policies.<sup>19</sup> If the US and the EU are not to lose further geopolitical ground in the region, they will have to consider ways of providing Syria with an alternative alignment option, which would also have to include the prospect of peace with Israel.

## ***The roles of the EU and the Quartet***

With so many pressing substantive issues on the table, the question arises which future roles the EU and the Quartet will have in Middle East diplomacy. To start with the former, the time does not seem ripe for any unilateral EU diplomatic initiatives. As long as Obama stays engaged in the Arab-Israeli conflict, the EU should focus on consulting and coordinating with Washington and backing up US diplomacy. There is certainly scope for unilateral EU measures in fields such as its policy on settlements or its approach towards Syria. The EU should also continue its efforts to strengthen Palestinian institutions and the economy. But when it comes to diplomacy, the priority should be on orchestrating common transatlantic positions, particularly on the issues outlined above.

18. See the chapter by Nathalie Tocci in this volume, pp. 55-63.

19. Alastair Crook, 'The Shifting Sands of State Power in the Middle East', *The Washington Quarterly*, vol. 33, no. 3, 2010, pp. 7-20.

As for the Quartet, where the EU has moved from triple to single representation post-Lisbon, its relevance is unlikely to increase significantly due to its heterogeneous membership. Still, not least because of the legitimacy provided by the UN, it continues to have its purpose, if mainly to place US initiatives on a multilateral foundation. It cannot however make up for the lack of an EU-US coordination scheme that would provide for regular and structured, rather than just institutionalised, consultations.

Regarding the operational dimension of the Quartet, the performance of Quartet Representative Tony Blair and his small team in facilitating Palestinian economic development is subject to controversy. Critics argue that Blair has achieved little and is overemphasising his own share in the recent growth of the Palestinian economy. Those more favourable towards Blair insist that he has done important work behind the scenes, both in terms of improved movement and access and relating to Israel's easing the Gaza blockade. The fact is that there is a lack of transparency concerning the work of the Quartet Representative, with the website of Blair's office being the only public source of information.<sup>20</sup> If the Quartet is serious about an operational role, a less personalised approach may strengthen its credibility.

## Conclusion and policy implications

In the evolution of the EU as an actor in Middle East diplomacy, relations with the US have been fundamental. They have constituted a red line in the sense that the EU has come to acknowledge the infeasibility of pursuing alternative strategies if these are seen in Washington as undermining US interests. But transatlantic relations have also proven to be a means for the EU to acquire a seat at the diplomatic table and bring in its own ideas of how to advance peace.

Although there has been remarkably little transatlantic friction on the Arab-Israeli conflict since Obama moved into the White House, there is need for a regular EU-US dialogue to complement present Quartet activities. With the US stuck and new players rising in the region, it will be vital for the EU and US to come up with a coordinated position and creative thinking on delicate issues such as Palestinian reconciliation or the scenario of a unilateral declaration on Palestinian statehood. Convincing Washington of its usefulness may be a major challenge for the EU, requiring above all significant progress in ensuring internal cohesion. But, as Henry Kissinger already noted in the aftermath of the October War, mediation in the Middle East is a 'heart-breaking, miserable, dirty business'<sup>21</sup> – which is why Obama may well appreciate more EU input in helping to find a viable path to peace.

20. <http://www.tonyblairoffice.org/quartet/>.

21. Quoted in Daniel Möckli, *European Foreign Policy during the Cold War* (London: I.B. Tauris, 2009), p. 233.

## CHAPTER 6

# EU crisis management in the Arab-Israeli conflict

Muriel Asseburg

### Introduction

In recent years, the EU and its Member States have become involved in crisis mediation and management in the Arab-Israeli arena. Above all, they have deployed two CSDP missions to the Palestinian territories and have strongly participated in an upgraded United Nations Interim Force in Lebanon (UNIFIL). They have also engaged in attempts at conflict resolution, in particular as part of the Middle East Quartet. In doing so, Europeans have accepted the US lead and toed its policy line. While their mediation activities in the Arab-Israeli conflict have at times helped to avert violent escalation, they have not assumed a role of consistent early warning and crisis mediation to prevent the repeated outbreak of violence and war. European presence on the ground has, in the end, served to freeze – at most – rather than to settle the Arab-Israeli conflict. Europeans should aim to make their CSDP engagements more effective and utilise existing channels for confidence building and communication. Crisis prevention efforts should focus on addressing developments that carry the danger of renewed violence or jeopardise prospects of a viable Palestinian State, and therefore render a peaceful settlement of the conflict impossible.

### EU approaches and interests

The EU and its Member States support a comprehensive settlement of the Arab-Israeli conflict, and in particular a two-state solution to its Israeli-Palestinian dimension based on relevant UNSC resolutions, the 1991 Madrid Conference principles and the 2003 Quartet Roadmap. Consequently, after Madrid Europeans started to actively support the peace process, quickly becoming its main financial sponsor. With this support they have aimed to build the nucleus of a Palestinian state and provide the environment for a regional settlement. Europeans have viewed their role as complementary to US-facilitated political negotiations. After

the early collapse of the multilateral track of the Madrid process, the EU focused almost exclusively on the Israeli-Palestinian track.

It was only after the failure of the US-mediated Camp David talks and the outbreak of the Second Intifada in September 2000 that the EU and its Member States became more involved in conflict management.<sup>1</sup> Two CSDP missions in the Palestinian territories, European involvement in the security sector in Lebanon and the OPT, and strong European participation in the upgraded United Nations Interim Force in Lebanon (UNIFIL) testify to this change. Europeans have also been involved in crisis mediation efforts between Israel and the Palestinians, and among Lebanese factions. In addition, the EU and its Member States have engaged in conflict resolution attempts, above all, as part of the Middle East Quartet. However, rather than trying to substantially influence and alter the US approach to the region, Europeans have largely accepted a subsidiary role.

European involvement in crisis management was prompted by a deteriorating regional situation coupled with US President George W Bush's reluctance to engage in the peace process in his first term. It must also be understood against the backdrop of EU ambitions to become a global player and test new foreign policy and defence instruments. In addition, there was broad consensus among Member States that they wanted to raise the EU's profile in the Middle East as an active player with a presence on the ground. Last but not least, Europeans sought to demonstrate to Israel that the EU was not biased towards Arab positions, but willing and able to fulfil a constructive role in the peace process. Europeans thus also aimed to overcome deep mistrust among Israeli decision-makers and the Israeli public regarding European motivations and perceived one-sidedness.

## Fields and instruments of EU crisis management

### Mediation efforts and the search for a political perspective

Over the last decade, and mainly triggered by the confrontations of the Second Intifada, the EU and its Member States have engaged repeatedly in crisis mediation efforts. Often, individual Member State representatives have taken the lead rather than the EU Special Envoy for the Middle East Peace Process or the High Representative for the CFSP (now High Representative of the Union for Foreign Affairs and Security Policy). Out of the international limelight, Europeans successfully de-escalated

1. For a detailed analysis see Muriel Asseburg, 'European Conflict Management in the Middle East: Toward a More Effective Approach', *SWP Research Paper 4/2009*, Stiftung Wissenschaft und Politik/Carnegie Endowment for International Peace, Berlin, February 2009.

tensions in a number of instances. For example, European observers secured local ceasefires between Gilo and Beit Jalla early in the Intifada; German shuttle diplomacy between President Yasser Arafat and Prime Minister Ariel Sharon after the June 2001 Dolphinarium bombing was able to temporarily prevent further escalation; European mediators facilitated a solution to the crisis of the Church of the Nativity in Spring 2002 involving the deportation of some Palestinian fighters to EU countries and Cyprus; and Europeans engaged Palestinian groups in a dialogue aiming at persuading them to cease violent attacks against Israeli civilians.<sup>2</sup> EU Member States also engaged in mediation and conflict management activities on the Israel-Lebanon front.

The EU also got involved in the search for a political solution to the conflict, driven by the European assessment that effective and durable ceasefires required a political perspective rather than the Israeli-American 'security first-approach'. In view of operationalising US President Bush's June 2002 vision for Middle East peace, EU foreign ministers agreed on a three-phase plan for ending the conflict at their Helsingør meeting in August 2002. This plan became the basis for the Quartet Roadmap presented to the parties in spring 2003. Europeans thereby succeeded in reengaging the US administration and in transforming their approach into an international initiative – even if it lost some teeth in the process. The EU was not successful, however, in securing sustained US engagement after the early demise of the Roadmap.

In a sense, such efforts saw a re-run after the 2006 Israel-Lebanon war when Europeans pressed the US to engage in peace making and tried to rally support among Arab states – pressure that saw the US President initiate the (ultimately unsuccessful) Annapolis process. As during the summer 2006 war, the EU did not cut a good figure either before or during the Gaza War in December 2008-January 2009. Even though the Israel-Hamas ceasefire had slowly eroded by November 2008, the EU did not engage in crisis prevention efforts. Attempts by individual EU Member State, in particular French, representatives and the High Representative to mediate during the war were at times undermined by statements from other Member State representatives and were ultimately unsuccessful. In the end, it was Egypt that mediated a ceasefire. The EU presented a rather disunited front<sup>3</sup> and revealed itself to be incapable of acting jointly to fill the diplomatic vacuum during the handover period between US administrations. After the war and buoyed up by great expectations, Europeans waited for new US President Barack Obama to actively engage in the Middle East Peace Process and have since waited for a green light to complement US efforts rather than pursue their own political approaches.

Overall, while Europeans occasionally succeeded in their mediation, they were only able to temporarily avert further escalations or resolve

2. For European mediation efforts see Muriel Asseburg, 'From Declarations to Implementation? The Three Dimensions of European Policy towards the Conflict', in: Martin Ortega (ed.), 'The European Union and the Crisis in the Middle East', *Chaillot Paper* no. 62, EUISS, Paris, July 2003, pp. 11-26.
3. To give but one example: while the French Presidency on 27 December 2008 condemned the disproportionate use of force, the Israeli shelling as well as rocket attacks emanating from the Gaza Strip, the German Chancellor maintained that responsibility lay clearly and exclusively with Hamas; Israel had the legitimate right to protect its population and territory. The Czech Foreign Minister, after taking over the EU's rotating presidency, issued statements depicting the Israeli ground offensive as a legitimate act of self-defence just after the French condemnation.

relatively minor – though not insignificant – problems. They were not in a position to prevent the recurrence of violence, the demise of the Oslo Process and the dramatic deterioration of the regional situation.

### CSDP engagement 1: EUPOL COPPS

Since the 1993 Oslo Agreement the EU has provided considerable technical and financial assistance to support the peace process and to implement a two-state solution. Establishing Palestinian governance structures has been one of Europe's priorities. In recent years the EU has increasingly turned its attention to the Palestinian security sector, pursuing a twin-track approach of, first, rebuilding institutions and capacities largely destroyed during the Second Intifada, and second, enhancing the effectiveness of the security organs by reforming the highly fragmented, opaque and unaccountable structures inherited from the Arafat era. It is in this context that the EU decided in late 2005 to deploy a CSDP mission, the European Union Police Mission for the Palestinian Territories (EUPOL COPPS), to support the civil police with training measures, advice and equipment. Europeans – cooperating closely with their American counterparts who engage in training and equipping the more robust security forces – were (and remain) especially concerned with enabling the Palestinian Authority (PA) to fulfil its obligations under the 2003 Roadmap of restoring order and fighting terrorism effectively.<sup>4</sup>

EUPOL COPPS was deployed in January 2006. However, it very quickly found itself struggling with a radical change in circumstances following the victory of Hamas in the January 2006 parliamentary elections and its formation of a government in March. The European stance on Hamas implied that the European police mission was unable to cooperate with the subsequently Hamas-led interior ministry. Although it implemented a number of smaller-scale activities with other partners (such as the president's office), EUPOL COPPS was unable to begin substantial work until President Mahmud Abbas appointed a transitional government in the West Bank in mid-June 2007 in reaction to Hamas's seizure of power in the Gaza Strip. The mission's work has since been restricted to the West Bank, thus excluding some two thirds of the civil police.<sup>5</sup> To date, the mission has concentrated above all on training activities and improvement of police and prosecution infrastructure.

On the one hand, EUPOL COPPS has undoubtedly made a contribution to regenerating the PA security forces after the setbacks of the Second Intifada and helped to make the PA security apparatus a more powerful and efficient institution. In turn the security forces have succeeded in re-establishing order in the cities of the West Bank, thus improving the security of the Palestinian population. Progress has also been made towards putting the PA in a position to meet its Roadmap obligations in

4. For more details on the mandates, budget and personnel of the missions, challenges of implementation, etc., see Muriel Asseburg, 'The ESDP Missions in the Palestinian Territories (EUPOL COPPS, EUBAM Rafah): Peace through Security?', in Muriel Asseburg and Ronja Kempin (eds.), 'The EU as a Strategic Actor in the Realm of Security and Defence? A Systematic Assessment of ESDP Missions and Operations', *SWP Research Paper 14/2009*, Stiftung Wissenschaft und Politik, December 2009, pp. 84-99.

5. Of almost nineteen thousand police employed by the PA at the beginning of 2006 more than twelve thousand were based in Gaza. After the Hamas takeover in mid-2007 Ramallah ordered PA police in Gaza to stop reporting for work if they wished to continue receiving their salaries. The EU has continued to fund the salaries of inactive police officers in Gaza.



the field of security. Israel has increasingly come to appreciate the benefits of building the PA's capacities in the field of security. As a consequence security cooperation between the PA and Israel resumed in 2008. Since then Israel has gradually increased the freedom of movement of Palestinian security forces, permitted deliveries of equipment, handed over West Bank cities to PA control and reduced the presence of the Israeli army there. In 2009 Israel also began dismantling select checkpoints in the West Bank.<sup>6</sup>

On the other hand, the mission generated only minor progress in the field of long-term structural reform both in relation to the civil police and the legal and justice system. A comprehensive legal framework for the security services, a police law and clear guidelines for police work are all still lacking. Reform to make the security services and criminal justice institutions not only more effective but also unified, legitimate, democratically controlled and nonpartisan has not yet been initiated. There is thus a real danger that the EU will contribute to establishing an authoritarian and repressive security apparatus. In May 2008, the EU decided to expand the mission's rule-of-law activities. Concrete measures have started only from mid-2009, so far concentrating on equipment and infrastructure projects with little prospect of bringing about tangible improvements regarding rule of law.

The security sector is also still a long way from having the Palestinian 'ownership' proclaimed by Europeans and Americans.<sup>7</sup> Legitimacy is undermined by a widespread perception in the Palestinian population that the Palestinian security forces first and foremost serve Israeli security interests. This impression is fed by the lack of progress in the peace process and by ongoing Israeli army operations in the West Bank, sometimes run jointly or concurrently with PA security operations. Security forces have also come to be perceived as biased towards Fatah in the intra-Palestinian conflict. This harms their reputation, especially as an absolute majority of Palestinians want reconciliation between Hamas and Fatah and see unification of the West Bank and the Gaza Strip as a top priority.<sup>8</sup> In this regard, the US and EU have adversely influenced the conflict environment through their 'West Bank first' approach that has deepened the divisions among Palestinians rather than seeking to overcome them. In a situation where two illegitimate governments face off, parliament is defunct, two different legal systems are being consolidated and the security forces are perceived to be taking sides in the power struggle, it is simply impossible to progress towards an independent judiciary and to build a security apparatus that meets international standards and is under democratic control, and is nonpartisan, citizen-oriented and unified.<sup>9</sup>

6. Report of the Government of Israel to the Ad Hoc Liaison Committee, 'Supporting Palestinian Capacity Building: Israel's Efforts in Supporting the Palestinian Economy, Security Reforms and Civil Affairs', Oslo, 7-8 June 2009, p. 17ff.
7. For details see Roland Friedrich and Arnold Luethold, 'And They Came In and Took Possession of Reforms: Ownership and Palestinian SSR', in Timothy Donais (ed.), *Local Ownership and Security Sector Reform* (Geneva, Geneva Center for the Democratic Control of Armed Forces, 2008), pp. 191-213.
8. Palestinian Center for Policy and Survey Research, 'Poll Nr. 35 Conducted between 4-6 March 2010', press release, 8 March 2010. Available at <http://www.pcpsr.org/survey/polls/2010/p35epressrelease.html>.
9. European officials tend to ignore this problem and instead emphasise the importance of an effective police force for a future Palestinian state. See for example the article by then Head of Mission Colin Smith, 'High Noon for PA Civil Police', *Haaretz*, 20 June 2008. Available at <http://www.haaretz.com/print-edition/opinion/high-noon-for-pa-civil-police-1.248167>.

## CSDP engagement 2: EUBAM Rafah

The 2005 unilateral Israeli withdrawal from the Gaza Strip presented the international community with enormous challenges. The Quartet tried to ward off negative repercussions for the territorial integrity of the OPT and turn the withdrawal into a first step towards ending the occupation altogether. In this vein, its Special Envoy prepared the November 2005 Israeli-Palestinian Agreement on Movement and Access (AMA) including the Agreed Principles for Rafah Crossing. The latter provided for regular opening of the Rafah border crossing between Gaza and Egypt under the control of the PA, primarily for passage of people. The EU's role as a third party was to contribute to ensuring that the border crossing functioned properly and regularly and to assist confidence-building between Israel and the PA. To these ends the EU Council decided in November 2005 to deploy the European Union Border Assistance Mission for the Rafah Crossing Point.

The EU monitors were quickly deployed in November and initially able to ensure regular opening of the border crossing. EUBAM helped to speed up Palestinian controls through training; also, the crossing's opening hours were quickly extended. Cooperation initially proceeded smoothly without major incidents. Even after the Hamas-led government took office in March 2006 the crossing remained open with a Fatah-dominated Presidential Guard presence. But Israel ordered the border closed after the June 2006 kidnapping of Israeli soldier Gilad Shalit by Gaza-based militias. Intensive military reprisal operations followed and an almost complete blockade was imposed on Gaza. Although the EU tried in the following months to restore regular opening, the crossing opened only briefly for humanitarian and religious travel. After Hamas's June 2007 seizure of power in the Gaza Strip, the entity was placed under an even stricter blockade by Israel and EUBAM suspended operations.

Hopes after the 2008-09 Gaza War of a speedy resumption of 2005 arrangements and EU monitoring were quickly dashed. Hamas and Israel could not agree on an exchange of prisoners to free Gilad Shalit, Israel's key precondition for lifting the blockade. Fatah and Hamas could not consent on the return of the Presidential Guard to the crossing, nor were Israel, Egypt, the PA and EU willing to open the crossing as long as Hamas manned it. Consequently, notwithstanding exceptional openings by Egypt, the border has remained closed since mid-June 2007. Thus no significant post-war reconstruction has been possible – with dramatic repercussions on economic, social and political conditions. In the wake of the May 2010 flotilla affair and under international pressure, the Israeli government decided to relax but ultimately maintain the blockade.

In principle, sending a border mission to actively assist Israel in withdrawing not only from Gaza but also from the Philadelphi Corridor and Rafah border crossing made sense. This was the first time a border crossing had been placed under Palestinian control, representing a step towards statehood. However, it soon transpired that the decision to open or close the crossing lay not with the PA or EU but with Israel (and Egypt). This set-up put strict limits on the Palestinians' control of the crossing and on EUBAM Rafah's ability to meet its prime objective. In fact, it would only have been possible to override an Israeli order to close the crossing if the PA (plus later the *de facto* government of Gaza), the EU and Egypt all agreed to open it anyway.

Assuming a third party role corresponded with the EU's interest to be, and to be seen as, an active player, not just paymaster, in the Middle East. But success has proved elusive as long as the EU is unwilling to wield real political influence and self-imposed political constraints leave it unable to communicate with all the local actors. Thus, the mission functioned only as long as regional partners were prepared to cooperate. It was also unable to exercise any conflict-preventing influence. Concentrating solely on the border crossing at the expense of effective border security left it unable to prevent the rearming of Hamas and other militants. Moreover, failure to exert consistent international pressure for implementation of other AMA provisions has harmed the territorial integrity of the OPT, Gaza's integration into the global economy and Palestinians' freedom of movement.

## **European participation in UNIFIL and efforts at stabilising Lebanon**

Europeans missed a chance to pacify the region when they did not intensively engage in stabilisation and conflict resolution after the Israeli (2000) and Syrian (2005) withdrawals from Lebanon. In a sense, the 2006 summer war served as a wake-up call, reminding Europeans of the unsettled conflicts in the region and their violent potential. Only then did Europeans assume responsibility, participating in a reinforced UNIFIL. As a consequence, Member States also developed greater interest in a political and security engagement that would shore up – and protect – their military presence. Europeans have sought to support Lebanese sovereignty, including the central government's control over the state's territory and borders, and to strengthen governing institutions.

Europeans took the lead in an upgraded UNIFIL mission and provided its 'European backbone.' Since then, the international presence in Southern Lebanon has been commanded by European generals, and between some fifty and sixty percent of the international troops in southern Lebanon have been Europeans – led by Italy, France and Spain. The mission is based on Security Council resolution 1701, which stipulated

a ceasefire and mandated a significantly reinforced and more robust international presence to supervise the cessation of violence, Israeli troop withdrawal, and compliance with other ceasefire obligations, such as an arms embargo against Lebanese non-state forces, chiefly Hezbollah. However, an active, comprehensive disarmament of Hezbollah militias was not foreseen.

For the first time in UN history, a maritime component has been deployed: the so-called Maritime Task Force (MTF UNIFIL), staffed by EU-Europeans (and Turkey) and tasked with monitoring Lebanon's territorial waters, securing the Lebanese coastline and preventing arms smuggling. However, while MTF patrols the waters and hails and queries ships, the rules of engagement leave boarding of suspicious ships, confiscation of goods and arrests to the Lebanese navy and customs. According to the July 2010 UNSG report, from the beginning of the mission in October 2006 until late June 2010, some 30,500 vessels were hailed and queried, over 700 vessels were identified as suspicious, but subsequently all of them were cleared by Lebanese naval or customs officials. European countries, Germany in particular, have also engaged in capacity building for the Lebanese navy and coast guards.

MTF UNIFIL can be considered successful insofar as its presence was essential to ending the Israeli naval siege after the 2006 war and in re-establishing free trade over Lebanese seaways. But it has also been rightly criticised as an ineffective tool in the wrong place as far as the prevention of arms smuggling is concerned – as such activities typically take place over land borders outside UNIFIL's area of operations. Nevertheless, the European naval presence has served as an important buffer, significantly reducing the danger of renewed armed conflict in a tense region. However, as troop contributions have declined, the MTF is now working below required strength.<sup>10</sup>

Overall, UNIFIL has become an important stabilising factor in a fragile environment. The implementation of the 2006 ceasefire resolution has, however, remained partial. On the one hand, the areas evacuated by Israeli troops were secured by UNIFIL and turned over to the Lebanese Armed Forces (LAF) – with the latter returning to the southern part of the country for the first time in almost 30 years. Hezbollah militias have abandoned their positions along the Blue Line and stopped attacks on Israeli territory. The massive international presence as well as communication structures established by UNIFIL with the parties' militaries (regular tripartite meetings) have contributed to generally upholding the calm, despite numerous ceasefire violations.

On the other hand, the international presence has helped to freeze rather than resolve the Israeli-Lebanese conflict. Except for the prisoner issue, none of the underlying causes of the 2006 confrontation have

10. A comprehensive 2009 evaluation of UNIFIL pointed out that MTF troop levels and assets must not be further reduced so as not to endanger implementation of the MTF's mandate. Cf. United Nations, 'Letter dated 12 February 2010 from the Secretary-General to the President of the Security Council', S/2010/86, 16 February 2010.

been effectively addressed. The issues of the Israeli-occupied Shebaa Farms and Ghajar village remain unresolved.<sup>11</sup> The state of Lebanese border security has remained insufficient to prevent arms smuggling and a rearmament of Hezbollah. The weapons embargo has thus not been effectively enforced. Indeed, the danger of a renewed military confrontation looms large, and an unintended violent escalation is always on the cards, as was exemplified by the tree-cutting incident on the Israeli-Lebanese border in August 2010 that left five dead. The episode also illustrated, however, that UNIFIL was able to help prevent further escalation.

## Conclusion and policy implications

EU crisis management interventions in the Arab-Israeli conflict have at times helped to avert the escalation of violence or to exit difficult situations. CSDP missions have contributed to temporarily ensuring a regular opening of the Rafah border crossing and to supporting the Palestinian civil police in the West Bank with positive security-related and socio-economic effects. A strong European participation in UNIFIL and its maritime component have helped maintain calm between Israel and Lebanon after the 2006 war. However, despite their presence on the ground, Europeans have not assumed a role of consistent early warning and crisis mediation to prevent the repeated deterioration into violence and war. Furthermore, Europeans have been reluctant to engage more strongly in the peace process and tackle questions of Palestinian unity. Thus, ultimately, their interventions have served to freeze rather than settle the Arab-Israeli conflict and have barely served the aim of Palestinian state and institution-building. To make their engagement more effective and efficient, Europeans should focus on the following:

***Improving the effectiveness of CSDP deployments:*** Missions cannot achieve their objectives unless they are accompanied by measures designed to overcome the geographical and political division of the OPT, restart the peace process and open up a credible perspective for realising Palestinian independence. European conflict management measures therefore need to be backed up much more strongly by conflict resolution efforts.

Europeans should also ensure that their support of the civil police and justice system are integrated into a legal framework – yet to be created – and place greater emphasis on promoting Palestinian ownership of security sector reform to strengthen its legitimacy.

11. In November 2010 Israel signalled readiness to withdraw from the Northern part of Ghajar under certain conditions and engaged in talks with the UN on concrete arrangements.

**Confidence building, presence on the ground and peace talks:** Given the extremely tense situation in the region, Europeans should urgently and much more consistently engage in confidence building, early warning and crisis mediation through existing channels. For instance, communication through the trilateral mechanism established by UNIFIL will be key to averting renewed violence between Israel and Hezbollah, which could easily escalate into a regional confrontation. EU Member States should also abstain from further reducing their presence in UNIFIL and UNIFIL MTF.

At the same time, a return to substantial peace talks on all tracks will be essential to achieve long-term stabilisation of the region. Europeans could offer to help resume the talks between Israel and Syria where they left off in late 2008.

Last but not least, peace cannot be built as long as stark injustice, massive human rights violations and breaches of international law prevail. The EU should therefore see efforts to uphold international law and end impunity for violations as conducive to peace building rather than as a distraction.

**Preventing renewed Israeli-Palestinian crisis and further fragmentation:** Europeans should focus urgently on addressing some of the current trouble spots in the Israeli-Palestinian theatre in order to prevent the renewed outbreak of violence and the consolidation of obstacles to a peaceful settlement. Such efforts should, first and foremost, aim to prevent a further fragmentation of the OPT that would, in the end, render a viable Palestinian State with contiguous territory impossible. In this vein, the EU and its Member States should focus on the Gaza blockade, Palestinian unity, Israeli settlements in the Occupied Territories and East Jerusalem.

**Ending the Gaza blockade:** The mere easing of the blockade will suffice neither for economic activity to pick up nor to end the collective punishment and isolation of the Gazan population. The EU has already offered to resume its monitoring activities at Rafah. In addition, it should offer to take on a role at the commodities' crossings. However, progress cannot be achieved without coordination with the Gaza government. Therefore, Europeans, as the third party according to the 2005 AMA, should be in contact not only with Israel and Egypt, but also with both the Ramallah and the Gaza government to agree on durable border arrangements. Only then will it also be possible to find ways and means to put a permanent stop to arms smuggling through the tunnels underneath the border.

**Palestinian unity:** Europeans should leave mediation efforts to others. However, in order to prepare the ground, they should eliminate

European hurdles and try to convince the US to no longer block Palestinian reconciliation – which would be in accordance with respective Quartet statements. For Europeans that would imply figuring out (and communicating to both the Ramallah and Gaza governments) how to deal with a Palestinian government of national unity or an interim body that would be supported by (and possibly include members of) all relevant Palestinian factions.

***Israeli settlements and settlement infrastructure in the occupied territories:*** It is high time that Europeans align their handling of the settlement question with their declared positions. This should include coming up with a mechanism that would effectively prevent exports emanating from Israeli settlements in occupied territories, including East Jerusalem, from benefiting from preferential treatment under the EU-Israel Association Agreement. In addition, a code of conduct for European companies should be devised, requesting them not to invest or operate in settlements or engage in joint ventures with settlement-based companies.

***East Jerusalem:*** Given the potential of claims in and over East Jerusalem to spark violence and block a peace deal, Europeans should closely monitor all activities aimed at changing the *status quo* in East Jerusalem and regularly inform the European Council, EU Member States and the European Parliament. They should consistently abstain from meeting Israeli officials in East Jerusalem and not cooperate with Israeli institutions in East Jerusalem. They should instead systematically support Palestinian state- and institution-building in East Jerusalem.





## CHAPTER 7

# The end of EU democracy promotion and of the two-state solution?

Michelle Pace

### Introduction

Current EU reflection on the Israeli-Palestinian conflict comes at a time when Brussels is also preoccupied by the stalled state of the democratisation process in the Middle East. Since the 1960s the EU has been deploying a range of instruments, particularly economic levers, for influencing the Arab-Israeli conflict and democratisation in the region. However, both the Israeli-Palestinian conflict and the wider democratisation issue continue to pose dilemmas for, and prompt contradictions in, EU policy. This chapter argues that the EU should abandon the politics of empty gestures, address the adverse effects that undemocratic regimes in the region have on the conflict, revisit the overly narrow policy parameters of its conflict-resolution efforts and develop an overall strategy towards the region that actively promotes democracy through its own example. The chapter then outlines areas where the EU can reassess policy in the light of lessons learned, in particular regarding Palestinian democratisation and civil society. The EU should urgently heed these lessons as the region currently appears to be headed towards further 'de-democratisation' and a single state outcome to the conflict.

In her recent book, Palestinian writer Ghada Karmi sheds light on the demise of the two-state solution and argues for a single state for the two peoples, Israelis and Palestinians.<sup>1</sup> This solution, she insists, brings more hope for a peaceful resolution to the Middle East conflict than a state based on Jewish exclusivity next to an unviable Palestinian state under Israel's sole control. British journalist Jonathan Freedland claimed this year that this one-state solution is no longer the preserve of idealists and wishful thinkers, but has rather become the key argument of the Israeli right, and that Palestinian President Mahmoud Abbas is also giving up on the two-state solution.<sup>2</sup> Chris Patten, former European Commissioner for External Relations, recently agreed that given the

1. Ghada Karmi, *Married to Another Man: Israel's Dilemma in Palestine* (London: Pluto Press, 2007).
2. Jonathan Freedland, 'The Israeli Right has a new vision – Jews and Arabs sharing one country', *The Guardian*, 27 July 2010. Available at: <http://www.guardian.co.uk/commentisfree/2010/jul/27/israeli-right-vision-jews-arabs-share>.

‘facts on the ground today’, there is no alternative left but the one-state solution.<sup>3</sup>

Consideration of alternative options to the two-state solution comes, therefore, at a time when the EU is acutely concerned about the fragile state of democratisation in the Middle East. Following the Swedish Presidency of the European Union in 2009, the EU no longer talks about democracy promotion across the globe, and in particular in the Middle East, but of ‘democracy building’. This shift in the EU’s language is mainly due to the fact that there is an ever increasing gap between the EU’s positive intentions in this region on the one hand, among which the resolution to the Middle East conflict is a priority, and diverse Arab and Israeli perceptions of the EU’s ambitions in the Middle East, on the other hand.<sup>4</sup> With the persistence of authoritarian rule in the Arab world, Israel’s continued occupation of Palestinian territory, and conflicting European interests in the region, both conflict resolution and democratisation appear at a standstill. Can the EU continue to be involved in two policy areas where there appears to be no hope of any positive development? Moreover, why is it that two seemingly benign policy objectives, EU resolution of the Arab-Israeli conflict and democracy promotion, pose such dilemmas and challenges, and often seem to be in contradiction to one another?<sup>5</sup> Are these two key EU policy areas doomed to remain on a life-support machine?

This chapter seeks to address these key questions by, first, briefly sketching through the EU’s past and present policies in these domains and, second, analysing the basic challenges the EU faces. It then critically extracts lessons learnt from the EU’s experience in the region thus far, concluding with policy implications.

## Past and present policies

Since the early 1960s, when the European Community initialled bilateral relations with its southern partners, preserving political, social and economic security and stability in and around Europe have been the key markers in European policy towards the Middle East. Bilateral relations between the EU and its southern partners are, in the main, managed through association agreements.<sup>6</sup> Article 2 of each of these agreements includes a clause in respect of ‘the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights’ which ‘inspire the domestic and international policies of the Parties (the EU and the respective Mediterranean partner) and shall constitute an essential element of (each) Agreement’.<sup>7</sup> As Nathalie Tocci argues in this volume, bilateral relations with the southern partners are very relevant to the EU’s stated objective of pursuing a two-state

3. Chris Patten, ‘To avert disaster, stop isolating Hamas’, *The Financial Times*, 28 July 2010. Available at: <http://www.ft.com/cms/s/0/2bb24988-9a7a-11d1-87fd-00144feab49a.html>.

4. Amor Boubakri and Susanne Lindahl, ‘The European Union and Challenges to Democracy Building in the Arab World’. Extract from *Democracy in Development. Global Consultations on the EU’s role in Democracy Building* (Stockholm: International Institute for Democracy and Electoral Assistance, 2009). Available at: [http://www.idea.int/resources/analysis/eu\\_and\\_arab\\_world.cfm](http://www.idea.int/resources/analysis/eu_and_arab_world.cfm).

5. Michelle Pace, ‘Paradoxes and Contradictions in EU democracy promotion in the Mediterranean: the limits on EU normative power’, *Democratization*, vol. 16, no. 1, (Special Issue), February 2009, pp. 39-58.

6. These are bilateral agreements between the European Community (and its Member States) and Mediterranean partner countries aiming to establish political, economic and social cooperation. All parties agree to adhere to democratic principles and fundamental rights.

7. See, for example, the Council Decision on the signing of a Euro-Mediterranean Association Agreement with Algeria, Brussels, 6786/02, AL 1, 12 April 2002. All Euro-Mediterranean Association Agreements can be found at: [http://europa.eu/legislation\\_summaries/external\\_relations/relations\\_with\\_third\\_countries/mediterranean\\_partner\\_countries/r14104\\_en.htm](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/mediterranean_partner_countries/r14104_en.htm).

solution for the Middle East conflict since they represent the most valid leverage for the EU *vis-à-vis* conflict parties. The EU has however, to date, never evoked the suspension of any agreement with any Mediterranean partner in the case of violations of human rights.

In 1995 the Euro-Mediterranean Conference was held in Barcelona, during which the Barcelona Declaration was approved and the Euro-Mediterranean Partnership (EMP) established. This regional initiative foresaw a political role for the EU and its partners in promoting political values including good governance and democracy. The stalling of the Middle East Peace Process has had a major impact on the EMP, hindering progress in the political basket. Since its launch in 2008, the revamped Barcelona Process: Union for the Mediterranean has also been hampered by the ongoing conflict. The lack of progress on the Middle East Peace Process front has also been a major concern for the Mediterranean Arab partners who perceive the EU as an ineffective, unconvincing and inconsistent external actor. Mediterranean Arab partners insist that the EU cannot push and preach for democratisation in the Arab Mediterranean without simultaneously criticising Israel for its continuing violation of human rights in the Occupied Palestinian Territory. Furthermore, Euro-Middle Eastern cooperation in the field of anti-terrorism legislation has, since 9/11, intensified at the expense of civic liberties.<sup>8</sup> In effect, this new policy put all past EU efforts at democratisation of the Middle East region on the back burner.

In its 2003 European Security Strategy, the EU reiterated its interest in a peaceful resolution of the Middle East conflict and a democratised Mediterranean neighbourhood, stating that ‘it is in the Union's interest that countries on our borders are well governed. Our task is to promote a ring of well-governed countries to the east of the European Union and on the shores of the Mediterranean with whom we can enjoy close and cooperative relations. Resolution of the Arab-Israeli conflict is a strategic priority. Without this, there will be little chance of dealing with other problems in the Middle East’.<sup>9</sup>

In 2004, the EU developed the European Neighbourhood Policy (ENP), based on deepening its bilateral relations with neighbouring states including the Mediterranean Partners of the Barcelona Process. With its Action Plans,<sup>10</sup> the ENP is designed as a soft power instrument to support partners in conflict resolution efforts as well as furthering democratisation of their polities through ‘a privileged relationship, building upon a mutual commitment to common values (democracy and human rights, rule of law, good governance, market economy principles and sustainable development)... [that] goes beyond existing relationships to offer political association and deeper economic integration, increased mobility and more people-to-people contacts. The level of ambition

8. See Tobias Schumacher, ‘From Paris with Love? – Euro-Mediterranean Dynamics in the Light of French Ambitions’, *The GCC-EU Research Bulletin*, Gulf Research Center, Issue no. 10, Dubai, May 2008.
9. Council of the European Union, ‘A Secure Europe in a Better World’, *European Security Strategy*, Brussels, 12 December 2003.
10. These are tailor-made documents negotiated between the EU and each ENP partner, based on each partner's capacities and needs as well as EU and partner interests. Each Action Plan outlines a broad jointly-defined reform agenda to be achieved in 3-5 years, and comprises political dialogue, economic and social cooperation and development, trade issues, justice and home affairs and a people-to-people dimension.

of the relationship depends on the extent to which these values are shared'.<sup>11</sup>

The deepening in the EU's bilateral relations with Mediterranean Partners has however been challenged by the EU's involvement in a broad range of policy areas. For example, in the case of EU-Israeli relations, the ENP created, on the one hand, further opportunities for the deepening of economic, scientific and research links while, on the other hand, the ENP has led to further tensions in this relationship due to the EU's involvement in the MEPP.<sup>12</sup> While the EU works on building closer bilateral relations with Israel, the two are increasingly being separated over peacemaking matters. More generally, although the EU has on some occasions considered the use of conditionality *vis-à-vis* Israel, Israel has never responded to EU pressures.<sup>13</sup> The mainstream European position remains that: 'The EU's policy is based on partnership and cooperation, and not exclusion. It is the EU's view that maintaining relations with Israel is an important contribution to the Middle East Peace Process and that suspending the Association Agreement, which is the basis for EU-Israeli trade relations but also the basis for the EU-Israel political dialogue, would not make the Israeli authorities more responsive to EU concerns at this time. It is also a well-known fact that economic sanctions achieve rather little in this respect. Keeping the lines of communication open and trying to convince our interlocutors is hopefully the better way forward.'<sup>14</sup>

How do these policies fit into the EU's wider democracy promotion objectives? In the 1990s, EU Member States found an opportunity to project the European Community's role as a global actor. In the context of the collapse of communist rule in Europe, the EU opted for the promotion of democracy as another key foreign policy instrument in its external relations. EU officials are fully aware that there is no working definition of democracy in EU documents<sup>15</sup>: rather, the meaning of democracy can be inferred from some policy documents where one can find a mix of policy areas ranging from human rights to development to democracy promotion to security to trade. There is thus no coherent strategy or well-articulated policy in practice, bringing together the various instruments at hand.

In 2001, the European Commission set out the strategic and funding priorities of the EU in the area of democracy and human rights assistance in *The EU's Role in Promoting Human Rights and Democratisation in Third Countries*.<sup>16</sup> The EU's approach to democracy promotion is marked not by a military posture, but by a predisposition to promoting its values through its interaction with and the socialisation of other actors – or, in other words, through a partnership-based approach. The document indirectly sent a message to the targets of the EU's democracy promotion efforts that the EU was somewhat different from the United States in

11. See: [http://ec.europa.eu/world/enp/policy\\_en.htm](http://ec.europa.eu/world/enp/policy_en.htm).

12. See the chapter by Nathalie Tocci in this volume, pp. 55-63.

13. Author's interviews with various officials from the Council of the European Union, Brussels, March 2009.

14. Author's interview with an official from the Council of the European Union, Brussels, 23 March 2009.

15. The EU documentation on democracy promotion analysed by this author from the 1990s to date include European Parliament debates, Council conclusions and Commission reports. For more information see: [www.eumena.bham.ac.uk](http://www.eumena.bham.ac.uk)

16. Council of the European Union, Communication from the Commission to the Council and the European Parliament, 'The European Union's role in promoting human rights and democratisation in third countries', COM/2001/0252 final, Brussels 2001.

the manner in which it was proposing to encourage political reform in other regions. In 2006, prompted by a US request to discuss democracy promotion with the EU, an internal discussion ensued about the need to define a more general strategy on democracy promotion. In the Council Conclusions of November 2009 the objective of reaching a European consensus on democracy by 2010 was highlighted as a key element.

The EU bases its democracy promotion agenda on an overall optimism with regard to the liberal peace paradigm<sup>17</sup> without creating the necessary flexibility to make strategic adjustments in cases of pending statebuilding projects, persisting conflict and frustrated national identities, all of which are characteristics of the Middle East conflict.<sup>18</sup> Moreover, the EU's other tracks for its involvement in the MEPP, such as its role within the Quartet, have proven very weak.<sup>19</sup> Furthermore, moving away from its rhetoric and in practice, the EU seems to prioritise its trade and economic interests with its southern neighbours over its claims for a peaceful settlement of the Middle East conflict and for democratisation of the region. The EU's preference for bilateral benchmarking appears to be based on the assumption that improvement in each country will produce improvement in the region.

## The EU and Palestinian democratisation in practice

The Quartet's 2003 Roadmap called for Palestinian democratisation among other criteria but did not include any similar conditions for the Israelis, such as in relation to Israel's treatment of its Arab minority.<sup>20</sup> In the eyes of Arab Mediterranean partners this matters because the EU is perceived as applying double standards in relation to Israel when it attempts to mediate between the conflict parties. The EU is perceived as not putting enough pressure on Israel to change its policy in this regard.

The Palestinian legislative elections of January 2006 severely tested the Quartet's commitment to Palestinian democratisation. In the run-up to the elections, Gaza experienced inter-factional violence while splits mounted within Fatah.<sup>21</sup> This was mainly due to the vacuum created by the death in November 2004 of Yasser Arafat, who had hitherto managed to enforce a degree of unity between the different factions. There were disagreements with Israel over voting rights of Palestinians in East Jerusalem.<sup>22</sup> Eventually, 6,000 Palestinians were allowed to vote in East Jerusalem while the remaining 100,000 had to travel outside the city's boundaries to cast their vote.<sup>23</sup> It soon became apparent that Hamas, running under the name 'Change and Reform', had won 74 seats in the 132-seat chamber (56 percent of the seats), while Fatah came second place with 36 percent of the seats. Palestinian polling expert Khalil Shikaki concluded that Hamas's extensive welfare networks and reputation for discipline and integrity gained it support from voters frustrated at the

17. This paradigm, predicated on a number of normative assumptions regarding the economic, political and institutional prerequisites necessary to achieve peace in situations of conflict, has been influential in post-conflict state-building operations since the early 1990s. It assumes that the transformation required to peace, democracy and a market economy is a self-strengthening process leading to sustainable development.

18. Natalia Mirimanova, 'Civil Society Building Peace in the European Neighbourhood: Towards a New Framework for Joining Forces with the EU.' MICROCON Policy Working Paper 10, March 2010. Available at: [http://www.microconflict.eu/publications/PWP10\\_NM.pdf](http://www.microconflict.eu/publications/PWP10_NM.pdf).

19. Michelle Pace, 'The Construction of EU Normative Power', *Journal of Common Market Studies*, vol. 45, no. 5, December 2007, pp. 1039-62.

20. As one Hamas official from the movement's political wing stated: 'Our model for democracy is our closest neighbour – Israel! If this is how the international community wants us to behave, then we do not want to become part of this international community'. Author's interview, Gaza, September 2007.

21. Author's interview with a PLO official, Ramallah, September 2007..

22. The international community views this area as occupied territory. Israel claims East Jerusalem as part of its united capital.

23. Tim Youngs, 'The Palestinian Parliamentary Election and the rise of Hamas'. *Research Paper 06/17*, 15 March 2006, London, House of Commons Library, International Affairs and Defence Section.

corruption and inefficiency of the Fatah-controlled Palestinian Authority and the slow progress towards Palestinian statehood.<sup>24</sup>

The EU had strongly supported the holding of democratic elections. During a visit to the region before the elections, Dr. Benita Ferrero-Waldner, European Commissioner for External Relations and the European Neighbourhood Policy, declared that there were three objectives for her trip: (i) to lend support to democracy building in the run-up to the Palestinian legislative elections; (ii) to underline the importance of EU financial support; (iii) and to raise the visibility of a number of EU projects, notably in Gaza.<sup>25</sup> The EU sent a mission to observe these elections, which declared the elections fair, free and transparent.<sup>26</sup> However, following the US and Israel's requests, and in light of the EU's earlier listing of Hamas as a terrorist organisation, the EU suspended aid to the democratically elected Hamas government. As Daniel Möckli argues in this volume, (see pages 65-74) the EU's stance of isolating Hamas further weakens the EU's democracy promotion rhetoric and backfires on its position of inclusivity of all parties to the conflict. It also raises questions of double standards when compared to the EU's position *vis-à-vis* the PLO in the 1980s. Across Middle Eastern societies, this EU move against an elected party and the events that have followed since, ushered in a complete loss of credibility in EU discourse. Furthermore, the hostilities created on the ground with a divided Palestinian Authority, an internationally supported but very weak President Abbas of Fatah and an increasingly ostracised but strong Hamas, overshadowed the proceedings of the international peace conference held in Annapolis, Maryland, in November 2007.<sup>27</sup>

24. Although polling data indicated the peace process was the least important issue for voters. Author's interview with Khalil Shikaki, Palestinian Center for Policy and Survey Research, Ramallah, September 2007.

25. European Commission, 'Middle East Peace Process', Speech by Dr Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighbourhood Policy, European Parliament, Strasbourg, 19 January 2006. Available at: [http://europa-eu-un.org/articles/en/article\\_5579\\_en.htm](http://europa-eu-un.org/articles/en/article_5579_en.htm).

26. EU Election Observation Mission West Bank and Gaza 2006, Statement of Preliminary Conclusions and Findings, 26 January 2006. See: [http://europa.eu.int/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/westbank/legislative/statement\\_260106.pdf](http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/westbank/legislative/statement_260106.pdf).

27. Costanza Musu, *European Union Policy Towards The Arab-Israeli Peace Process: The Quicksands of Politics* (Basingstoke: Palgrave MacMillan, February 2010).

28. In 2005 for example, EU governments allocated €10 million to the European Commission-managed European Initiative on Democracy and Human Rights (EIDHR) for democracy-promotion projects in the region. See Richard Youngs, 'Survey of European democracy promotion policies 2000-2006', *Fundación para las Relaciones Internacionales y el Diálogo Exterior*, 2006.

29. Steven Everts, 'How Europe can help the Middle East Peace Process', *Center for European Reform Bulletin*, no. 28, February/March 2003. Available at: [http://www.cer.org.uk/articles/28\\_everts.html](http://www.cer.org.uk/articles/28_everts.html).

## Basic challenges and European interests

As this brief overview illustrates, the EU disposes of a range of instruments, particularly economic levers, for influencing the Arab-Israeli conflict and democratisation in the Middle East. So why is it that two seemingly benign policy objectives, EU resolution of the Arab-Israeli conflict and democracy promotion, pose dilemmas and have prompted contradictory policies?

Firstly and most basically, the EU is now lost in its own politics of empty gestures. The EU remains the key paymaster of the Palestinian Authority and of various projects aimed at democracy building in the Middle East,<sup>28</sup> yet shows little resistance to rollback involving physical destruction of its investments in this regard (e.g. the extensive destruction of EU-funded infrastructure during the December 2008-January 2009 Gaza War). Some analysts have argued that if the EU took a more forceful stance in such matters, it could pave the way for improved conditions in the region.<sup>29</sup> A key policy step in this context, to which other contributors

in this volume allude, would be stricter practice in denying preferential treatment to settlement products imported into the EU.

Secondly, the EU's lobbying of friendly Arab governments has not yielded any dividends either in the MEPP or in terms of bringing about the democratic change the EU wishes for in the region. It is quite clear that Egypt is very cautious when it comes to the implications of dealing with Hamas for its regime's relations with the Muslim Brotherhood, a key opposition force on the Egyptian political landscape, and for further political reform. The EU should therefore not interpret Cairo's mediation efforts uncritically. Europeans should seek to engage with other mediators, such as Turkey, who have experiences to share when it comes to dealing with the conflict parties in the Middle East conflict.

Thirdly, past EU policies have not been successful because the basic policy parameters, in particular regarding the stakeholders to be included in peace efforts, have not been seriously addressed. There are now many calls for the EU to include Hamas in its mediation efforts for a just resolution of the Middle East conflict. For the emergence of a truly viable and democratic Palestinian state, the details of such a state have to be thrashed out with all parties to the conflict.<sup>30</sup>

Fourthly and finally, the EU currently lacks an overall strategy towards the Middle East which incorporates the active promotion of democracy through its own example.<sup>31</sup> Addressing this requires a clear strategy of how to convince the US that the EU can play a constructive role in mediation efforts and to reassure Arab partners that the EU is serious about its role. One way for the EU to show it is serious is to have a robust policy of criticising Arab governments for failing to live up to their reform commitments. The EU should also create more opportunities for democratic reformers from eastern and southern neighbouring countries to come together and share experiences, including Islamists where appropriate. The EU should also support civil society organisations on the basis of projects focused on real reform and change rather than organisations endorsed by Arab regimes.

## Lessons learned

Has the EU drawn any lessons from its experience thus far in the Middle East region? Following the January 2006 elections in Palestine, EU officials acknowledge having learnt a number of lessons.<sup>32</sup> One Member of the European Parliament insisted that the EU should ask what it has achieved by not engaging with Hamas while at the same time continuing with its aid to the Palestinians.<sup>33</sup> There is in fact informal acknowledgement across EU institutions that a mistake was made in

30. See Ilan Greilsammer and Joseph Weiler, *Europe's Middle East Dilemma: The Quest for a Unified Stance*, (Boulder, CO: Westview Press, 1987).

31. Various interviews conducted by the author in Brussels in the European Parliament, Council and Commission. February-March 2009.

32. Author's interviews with various officials from the EP, Commission and Council, Brussels, February-March 2009.

33. Author's interview with an MEP, Brussels, February 2009.

not recognising the results of the Palestinian elections in 2006, with severe repercussions on the stalled Middle East Peace Process. As one official put it: ‘We failed ... We’ve always put our cards on Abbas but he is not one who enjoys popular support ... and we have locked ourselves in a no man’s land *vis-à-vis* the Middle East conflict’.<sup>34</sup>

There is agreement across the main EU institutions that the EU needs to become more pragmatic and flexible if it is to have any effective role in the resolution of the Middle East conflict and any potential for reinvigorating the democratisation process in Palestine. ‘There is a recognition trickling in slowly that we cannot circumvent Hamas indefinitely. Sooner or later we will have to talk with them ... There have been lots of informal contacts with Hamas ... So in regard to this specific situation, thinking is gradually changing ... Today we understand more than before how crucial Palestinian reconciliation is to both the democratisation process in Palestine as well as for the resolution of the Palestinian-Israeli conflict. Usually, we are very adaptable to new situations’.<sup>35</sup> EU officials acknowledge the lack of democratic legitimacy of the Fatah administration in the West Bank.

In order to readdress its vision for a democratic and viable Palestinian state, the EU has to face the challenges which impede a peaceful resolution to the conflict by recognising the imbalance between not only the Israelis and the Palestinians but also the different contexts in the West Bank, Jerusalem and Gaza. The EU should take a closer look at Hamas’s reform plans as well as those incorporated in the Fayyad plan. In this context it is important for EU officials to recognise continuous talks between Fatah and Hamas officials on these issues.<sup>36</sup> It is high time that EU officials make use of indirect talks with Hamas officials conducted by diverse Member States’ representatives which have facilitated a better understanding of the movement and its views on Palestinian reforms and the Middle East Peace Process.<sup>37</sup> Any short-term fixes such as the isolation of Hamas have not worked, which points to the need for a long-term and sustainable EU policy plan in the MEPP and democracy policy areas.

More broadly, most officials interviewed agree that they have not sufficiently reflected on the implications of the EU’s efforts at promoting liberal democracy in the Middle East primarily through encouraging periodic elections – procedural democracy – as well as the consequences of such a focus for the conflict.

Substantial EU support to Palestinian and Israeli civil society arguably fosters a more grounded approach to democracy. Yet the EU’s focus on a selective core of civil society groups has not shown much progress in terms of political reforms on the ground, and demonstrated that there is nothing inherent in civil society that attaches it to a democratising project. Representatives of civil society in Israel and the Palestinian

34. Author’s interview with a representative from the Permanent Representation Office of a Member State, Brussels, April 2009.

35. Author’s interview with an official from the Council of the European Union, Brussels, February 2009.

36. As both Fatah and Hamas officials admitted to this author during interviews conducted in Jerusalem, November 2009.

37. Author’s interviews with various EU Member States’ officials, Brussels, March 2009.



Territories admit that once they learnt how to speak the EU's language and prepare funding applications accordingly, they have had no problem in getting funding for 'civil society projects' from the EU. Thus, the EU needs to reach out to grass-roots reformers by changing its funding rules and regulations.<sup>38</sup> EU officials, on the other hand, also admitted that the funding procedure for democracy-related civil society projects is very technical and bureaucratic and does not leave enough time for EU officials to monitor exactly what EU funds are achieving through the projects that are being financed.<sup>39</sup>

## Conclusion and implications for current and future policy

Without a clear strategy on the linkage between democracy building in the Middle East and the peaceful resolution of the Israeli-Arab conflict, the EU has very few choices left for future policies in these domains. On the Palestinian reform front, EU actors have already acknowledged that they missed a golden opportunity to encourage Palestinian unity and should therefore prepare themselves for the eventual resuscitation of such unity and should actively encourage it. The EU should also convince Israel that a unified Palestinian body politic is the only way forward for a just resolution to the conflict and for Israel's security to be guaranteed. This may require the EU to make some hard choices in its enhanced relations with Israel, including with regard to the 'golden carrot' of upgrading relations.

In order to further the capacity of Palestinians in delivering on the peace front, the EU can act as a reliable mediator in Hamas-Fatah unity talks by building on the lessons learnt via indirect talks between EU Member States' officials and representatives from both main political factions. Its democracy assistance and aid programmes should also be monitored and revised carefully to ensure that money goes to grass-roots reformers who can make a real difference on the ground in the Palestinian territories. Dealing with the usual suspects is no longer a policy the EU can afford to follow in this regard. Unless the EU has a clear strategy on how a two-state solution can come about, given the realities on the ground, it may be hard pushed to consider the other option on the table – a one-state solution. Only a truly political reform agenda in the Middle East can prevent the further de-democratisation of the region and the emergence of a single state outcome to the conflict accompanied by endemic violence.

38. Richard Youngs, 'Europe's flawed approach to Arab democracy.' London: Centre for European Reform, October 2006.

39. Author's interviews with civil society representatives in Jerusalem, September 2007 and November 2009 and with EU official from EuropeAid section (EIDHR instruments and implementation) of the Commission, March 2009.



## CHAPTER 8

# The conflict and the question of engaging with Hamas

Jeroen Gunning

### Introduction

Ever since Hamas won the Palestinian legislative election of January 2006, the question of engagement has haunted the EU. Those in favour argued that the EU had an obligation to honour the electoral process. Those opposed held that Hamas was a proscribed ‘terrorist organisation’ and that engagement should be conditional on Hamas agreeing to the three principles set by the Quartet (the US, the EU, Russia and the UN): (i) renunciation of violence; (ii) recognition of Israel; and (iii) acceptance of previous agreements between Israel and the PLO.

In this chapter, the arguments for and against engagement are reviewed, the effects of non-engagement highlighted, and the potential of engagement examined by studying the case of Swiss interactions with Hamas. It is argued here that, although engagement is fraught with difficulties, non-engagement has not only failed to break the current impasse but helped to make Hamas more entrenched and intransigent, while inflicting suffering on thousands of ordinary Gazans and creating two increasingly separate mini-states. The chapter concludes with some reflections on what this means for EU policy, arguing that the international community must find a way of working with Hamas – or give up on the goal of achieving a two-state solution.

### Brief history of (non-)engagement

When Hamas won the 2006 election, the EU responded, along with the US and Israel, by boycotting the Hamas-led government. It refused to recognise the new government, froze all its financial dealings with the Palestinian Authority (PA) and suspended operational partnerships such as EUPOL COPPS, its police reform mission, until Hamas agreed to the Quartet’s three principles. It continued to provide humanitarian assistance through third parties, such as the United Nations Works and Relief Agency (UNRWA), and the Temporary International Mechanism

(TIM), established to bypass the PA. Member States also stepped up support for Fatah, most dramatically, in the case of the UK, by following the US in funding and arming President Mahmud Abbas's Presidential Guard.<sup>1</sup>

The establishment of a National Unity government in March 2007 did not see a policy change, despite Hamas moving closer to the Quartet's principles. The EU, echoing the US, continued to demand full compliance as a condition for aid resumption. However, it softened its position by signalling that a change in behaviour, rather than rhetoric, might be sufficient to resume aid.<sup>2</sup> Hamas's 2007 takeover of Gaza hardened the EU's position and, together with the US and Israel, it adopted what became known as the 'West Bank First' approach: full resumption of aid and cooperation *vis-à-vis* the pro-Fatah Fayyad government in the West Bank, coupled with an intensified boycott of the Haniyyeh government, leading to a *de facto* blockade of the Gaza Strip.

The EU's non-engagement policy has not been without its critics. A number of non-EU European countries, most prominently Norway, Russia, Switzerland and Turkey, have experimented with engagement. Senior EU officials have privately questioned non-engagement; the UK's foreign affairs committee and the Italian government publicly called for engagement in 2007.<sup>3</sup> In September 2009, Hamas claimed to have regularly met with high-ranking officials from numerous EU countries, and German mediators have assisted with indirect negotiations between Hamas and Israel over the release of Corporal Gilad Shalit, taken hostage by Hamas's paramilitary wing, the Qassam Brigades, in 2006.<sup>4</sup> Israel's and Egypt's siege of Gaza, meanwhile, has been increasingly condemned by the EU and its Member States following Israel's devastating incursion into Gaza in December 2008, and particularly in the wake of Israel's confrontation with a flotilla seeking to break Gaza's blockade in May 2010.<sup>5</sup>

## A critique of the case against engagement

A number of arguments have been employed by EU officials and supporters of non-engagement. One argument has been that Hamas is on the list of proscribed 'terrorist organisations' and that it rules itself out by engaging in terrorism, which is incompatible with European values.<sup>6</sup> Within the framework of the War on Terror, Hamas is proscribed in EU countries. Engagement would thus be illegal. This argument is often accompanied by the claim that Hamas is not a partner for peace because of its ideological beliefs. In its more extreme forms, it is held

1. 'Israel allows guns across border to support Fatah leader against rivals', *The Times*, 29 December 2006.
2. Paul Morro, 'International Reaction to the Palestinian Unity Government', *CRS Report for Congress*, 9 May 2007, p. 4.
3. Clara O'Donnell, 'The EU, Israel and Hamas', CER Working Paper, Centre for European Reform (CER), London, April 2008, p. 18.
4. 'EU countries practice "secret" diplomacy, Hamas says', *EUObserver.com*, 14 September 2009. Available at: <http://euobserver.com/9/28660>.
5. 'Gaza flotilla deaths: the world reacts', *Times Online*, 31 May 2010. Available at: [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article7141083.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article7141083.ece).
6. 'Louis Michel s'en prend au Hamas dans son fief de Gaza', AFP, 26 January 2009; Maxime Verhagen, 'Speech at the Annual Meeting of the American Jewish Committee', Washington D.C., 29 April 2010. Available at: [http://www.minbuza.nl/en/News/Speeches\\_and\\_Articles/2010/04/Speech\\_at\\_the\\_Annual\\_Meeting\\_of\\_the\\_American\\_Jewish\\_Committee](http://www.minbuza.nl/en/News/Speeches_and_Articles/2010/04/Speech_at_the_Annual_Meeting_of_the_American_Jewish_Committee).

that Hamas is incapable of change, and that the more anti-Semitic and intransigent statements and violence, rather than the more pragmatic statements and ceasefires, reflect Hamas's true intentions. This position, which is more prevalent in the US and Israel than in the EU (with its tradition of engaging 'difficult partners'), is reinforced by the belief that religiously-motivated groups engaged in terrorism are absolutist and less likely to compromise and accept the international community's norms than a secular party.<sup>7</sup>

These are political arguments, rather than insurmountable obstacles. Persuading Hamas to refrain from violence is crucial. But the decision to proscribe it is a political one. Hamas is not alone in having targeted or killed civilians and for significant periods it has refrained from violence against Israel. Condemning violence without addressing its causes is, moreover, counterproductive. There are numerous precedents of governments engaging those formerly labelled 'terrorist', often before violence has completely ceased.<sup>8</sup> It is, furthermore, not illegal to meet with members of proscribed organisations. Neither Hamas's religious orientation nor its resort to terrorist tactics has prevented it from being pragmatic. It has demonstrated its ability to enforce ceasefires, has not engaged in suicide tactics since 2005 and has moved towards the Quartet's principles. Its opposition to the peace process has increasingly come to be expressed in secular nationalist, rather than religious terms, and the Haniyyeh government has largely respected the secular basis of the Palestinian system – notwithstanding constituencies pushing for Islamisation.<sup>9</sup>

A second argument has been that engagement facilitates Hamas's re-arming, particularly if it involves relaxing border controls. Israel justified its continuing blockade on these grounds but, while the EU agrees that Hamas should be prevented from re-arming, it has been critical of the extent of the blockade, repeatedly calling an end to it (to which Israel responded by easing the blockade).<sup>10</sup> However, not only has the blockade not prevented Hamas from re-arming itself,<sup>11</sup> but there are other ways to prevent re-arming. The Swiss government worked with Hamas and Fatah to develop alternative mechanisms but progress did not materialise in the absence of international support (although the widespread criticism of the blockade following the Flotilla incident has renewed interest in such a mechanism).<sup>12</sup> The blockade has furthermore been criticised for amounting to a policy of collective punishment in the way it prevented entry of basic goods, such as medicine or the cement needed for rebuilding buildings destroyed in *Operation Cast Lead*.<sup>13</sup>

A third argument has been that the promise of engagement is an important lever to force Hamas to comply with the Quartet's principles.<sup>14</sup> Because political validation and financial cooperation are goods that Hamas desires, withholding them can be a means to pressure Hamas – as well

7. For a scholarly version of this argument, see Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 2006), pp. 88-89.
8. Robert Ricigliano, *Choosing to Engage: Armed groups and peace processes* (London: Conciliation Resources, 2005).
9. Jeroen Gunning, *Hamas in Politics* (London: Hurst, 2007); Yezid Sayigh, 'Hamas Rule in Gaza', *Middle East Brief*, no. 41 (Waltham, MA: Crown Center for Middle East Studies, Brandeis University, March 2010).
10. 'EU leaders commit to deterring Hamas rearmament in Gaza', *Haaretz*, 19 January 2009; Catherine Ashton, 'Gaza's misery does not make Israel safer', *The Times*, 14 June 2010.
11. 'Yadlin: Hamas has many 60-km range missiles', *The Jerusalem Post*, 4 November 2009.
12. Interview with Swiss official, June 2010.
13. 'Israel's Gaza blockade breaks law, says International Red Cross', *Haaretz*, 14 June 2010.
14. 'EU to send Solana to Mideast to try to revive peace effort', *Haaretz*, 1 September 2006; 'Blair firm on boycott of Hamas', *The Guardian*, 6 June 2008.

as the general population (this latter argument is more prevalent in the US and Israel). If the EU ends the boycott without Hamas changing its position, particularly now, four years after instigating it, a key lever will have been lost.

This is closely linked to a fourth argument: that engagement, far from softening Hamas's position, will further entrench it in its opposition to Israel and the two-state solution. Engagement, on this reading, will be interpreted as a reward for Hamas's intransigence and its methods, a sign of the international community's lack of resolve, particularly if offered with nothing in return (with potentially serious regional implications).<sup>15</sup>

These arguments raise serious issues. Official meetings may well raise Hamas's international profile and, if instigated without reciprocity, are likely to be interpreted as a sign of weakness. But this argument supposes that Hamas is a monolith and that all types of engagement necessarily legitimise Hamas and its methods. Engagement and legitimisation do not always coincide. When warring factions decide to meet, they neither necessarily approve of each other's behaviour nor inevitably confer legitimacy. Engagement can be a means of conveying one's disapproval more forcefully – and at times more persuasively – and can help to clarify why the other side behaves as it does.

Engagement, furthermore, does not straightforwardly enhance Hamas's legitimacy. Because of the West's controversial legacy in the Middle East, engagement is contentious for a significant section of Hamas's constituency, particularly when regarded as a sign of caving in to Western pressure. In addition, Hamas already enjoys legitimacy, whether through its electoral victory, its resistance record, or its charitable work. The international boycott, meanwhile, has served to increase Hamas's legitimacy among many of these audiences. Engagement may, ironically, reverse this process. Hamas, furthermore, is not a monolithic entity, and engagement can be a means to strengthen the pragmatists and increase incentives for non-violent cooperation.<sup>16</sup> Non-engagement, conversely, has served to strengthen Hamas's hardliners and made Hamas, on balance, more intransigent.

Finally, the 'West Bank First' policy is based on two erroneous assumptions. First, Fatah is not self-evidently the best partner for peace. It does not currently have sufficient coherence, strength or legitimacy to implement a settlement. Its leadership is divided between internationally fêted technocrats without grassroots support and local cadres, and it is uncertain whether Fatah is able to translate its opinion poll lead into an electoral victory, given its dismal performance in the last election. Crucially, it lacks the legitimacy to implement an inevitably controversial settlement. In polls, the Fayyad government's

15. Verhagen, 'Speech at the Annual Meeting of the American Jewish Committee', op. cit. in note 6; 'SWC to European Union and Council of Europe: "Bar Hamas from Your Parliamentary Assemblies"', Letter (Paris: Simon Wiesenthal Centre, 20 March 2006). Available at: <http://www.wiesenthal.com/site/apps/nlnet/content2.aspx?c=lsKWLbPJLnF&b=4442247&ct=5850589&printmode=1>.

16. The author uses the terms 'pragmatist'/'hardliner' as shorthand for shifting graduations between fluid factions.

legitimacy ratings hover between 25-35 percent, often scoring less than the Haniyyeh government (chart 1). Under Palestinian law, the Fayyad government is illegal, since the Legislative Assembly did not approve it. Only a legal government with a comfortable electoral majority will be able to implement a settlement – and in the current constellation, this means some form of National Unity government. A ‘Fatah-only’ policy is thus risky.

Second, the ‘West Bank First’ approach is based on the notion that popular support for Hamas can be eroded through what amounts to collective sanctions. However, three years into the boycott, the Haniyyeh government’s satisfaction ratings are still over 40 percent within Gaza – despite Gazans being acutely aware of the West Bank’s relative prosperity (see chart 2). The Fayyad government, with all its funds, enjoys the same satisfaction ratings.

## The case for engagement

There are six reasons why engagement has become imperative. Some of these are the direct result of non-engagement. First, Hamas is here to stay. Having survived years of opposition, two Intifadas and an extended international boycott, it is unlikely to fade away. It has a core constituency of some 20 percent of the Palestinian electorate, won over 40 percent of the 2006 vote and continues to score around 30 percent in opinion polls (see chart 1). It may have been pushed underground in the West Bank but it still has a solid support base.

Second, Hamas represents the concerns of a significant part of the Palestinian population, well beyond its core constituency. In 2009-2010, some 70 percent supported Hamas’s opposition to indirect talks in the absence of an Israeli settlement freeze (including East Jerusalem).<sup>17</sup> Until recently, 50 percent supported Hamas’s position that elections be postponed until Hamas and Fatah had resolved their differences, while in August 2009, 44 percent agreed that Hamas should not concede to Fatah’s demand to accept previous PLO agreements with Israel.<sup>18</sup> Fatah at times represents these concerns, for example, when (briefly) insisting on a settlement freeze in East Jerusalem. But too often it does not. Exclusion of Hamas on the ground that it is ideologically opposed to Israel risks ignoring these concerns, with serious repercussions for not just the democratic process but any future political settlement.

17. Significantly, Hamas’s criticism of the PLO’s decision to start such talks focused on Israeli settlement building, not the principle of talks itself. See ‘PLO approves indirect Israel talks’, *Al-Jazeera.net*, 9 May 2010.

18. Palestinian Center for Survey and Policy Research (PSR), Poll no. 33 (Ramallah, August 2009). Available at: <http://www.pcpsr.org>.

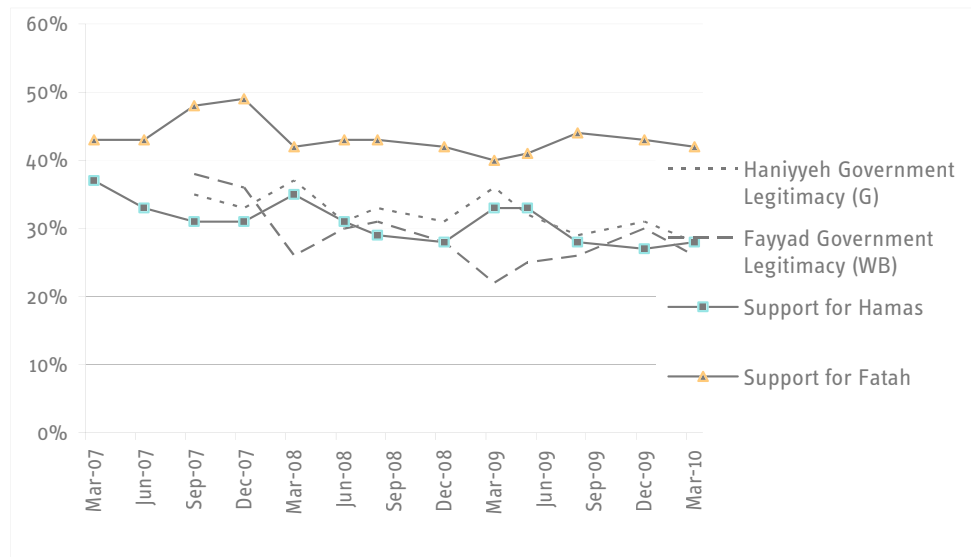


Chart 1. Government legitimacy ratings (within their own areas) and support for Hamas and Fatah in case new elections are held (Source: PSR, Ramallah)

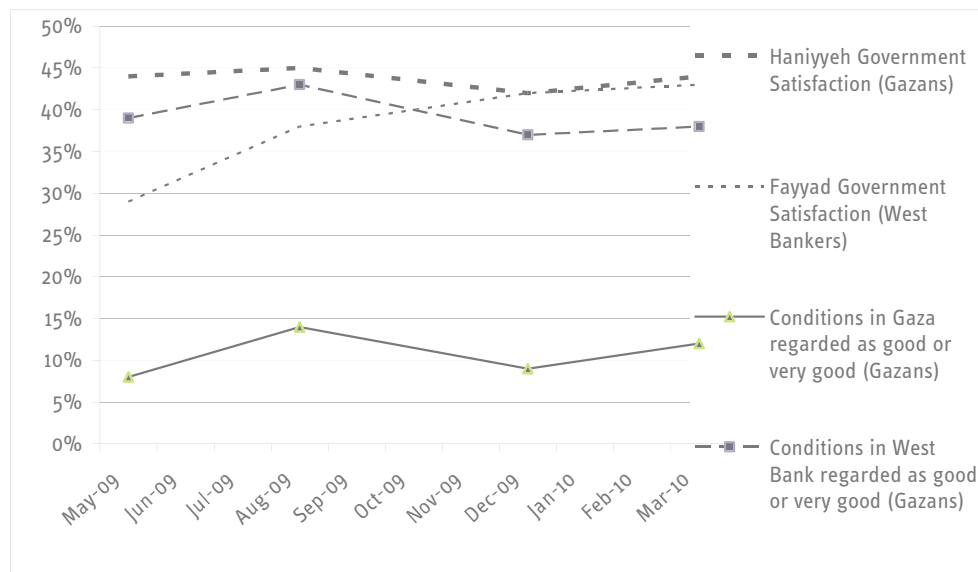


Chart 2. Haniyyeh and Fayyad government ratings and Gazan perceptions of conditions in Gaza and the West Bank (Source: PSR, Ramallah)

Third, continuation of non-engagement is likely to further entrench Hamas and strengthen its hardliners.<sup>19</sup> The blockade did not directly weaken Hamas in Gaza, thanks to the extensive underground tunnel network it commands and its success in streamlining local services, despite the blockade.<sup>20</sup> Instead, it enabled Hamas to rally people behind an external threat and act in the role of (victimised) ‘saviour’, while providing a ready excuse for any shortcomings. Fatah’s decision to boycott all government sectors in the wake of the 2007 takeover

19. The author’s focus here is primarily on Gaza.

20. Sayigh, op. cit. in note 9.



created a vacuum which Hamas has duly filled with loyalists.<sup>21</sup> Hamas's military wing was strengthened by the arms race triggered by EU and US support for Abbas's Presidential Guard, which in turn triggered Hamas's 'preventative coup' of June 2007, further strengthening Hamas's military wing<sup>22</sup> – a process which was facilitated by Iran, towards which Hamas increasingly turned as a direct result of the boycott (despite historical and continuing misgivings about Iranian support).<sup>23</sup> The dire economic situation, meanwhile, has meant that more Gazans are now dependent on Hamas, through aid or salaries paid to civil servants, than ever before.<sup>24</sup>

This changed internal power balance has made Hamas, in general, more intransigent. On the one hand, the boycott has forced the pragmatists (in Gaza and, eventually, in Damascus) to consider increasingly far-reaching compromises in a bid to ease sanctions. From refusing to recognise the PLO's previous agreements, they came to promise to 'respect' them by early 2007<sup>25</sup> – a formulation similar to that used by Ariel Sharon *vis-à-vis* previous peace agreements.<sup>26</sup> From allowing, even aiding, other groups to attack Israel, they began to arrest those launching rockets (although other factors played a part).<sup>27</sup> From refusing to publicly discuss a two-state solution,<sup>28</sup> they publicly, if grudgingly, endorsed such a solution.<sup>29</sup> These shifts, while contested, were already underway before the boycott. But the boycott arguably hastened this process.

On the other hand, the boycott undermined the argument with which the pragmatists had persuaded the hardliners to enter the electoral process: that downgrading the resistance was worth the increase in political power offered by electoral participation. The contempt displayed by Fatah and the international community towards the electoral outcome, combined with the subsequent strengthening of Hamas's military wing, tipped the balance in favour of the hardliners who won significant gains in Hamas's 2008 internal elections.<sup>30</sup> The international community's failure to respond to the formation of the National Unity government in 2007 was a further blow to the pragmatists.

A fourth reason to re-engage is that continued non-engagement will deepen the institutional divide between Gaza and the West Bank, making a two-state solution even more intractable, and encouraging autocratic trends in both territories. Hamas's 2007 takeover severely ruptured the unity of the two territories. But the boycott has exacerbated this division. There are now effectively two judiciaries, two security systems and two separate governments, with Hamas and Fatah virtually unopposed in their respective domains. Both have committed human rights abuses against rival activists and clamped down on each others' institutional structures, shutting down dissenting media, and closing down opponents' charities.<sup>31</sup> This rivalry has deep historical roots. But the boycott has given both parties freer rein.

21. Ibid.
22. International Crisis Group (ICG), 'After Gaza', *Middle East Report* no. 68, 2 August 2007.
23. House of Commons Foreign Affairs Committee (HCFAC), 'Global Security: The Middle East', *Eighth Report of Session 2006-07* (London: The Stationery Office, 2007), p. 77.
24. International Crisis Group, 'Gaza's Unfinished Business', *Middle East Report* no. 85, 23 April 2009, pp. 8-9; UNRWA, 'Emergency Operations in Gaza', *Interim Progress Report* (Gaza, January-March 2009), p. 3.
25. International Crisis Group (ICG), 'After Mecca', *Middle East Report* no. 62, 28 February 2007, p. 18.
26. Nathalie Tocci, 'What Went Wrong? The Impact of Western Policies towards Hamas and Hizbollah', *CEPS Policy Brief* no. 135, July 2007, p. 3.
27. 'Hamas arrests militants after rocket fire', *Reuters*, 10 July 2008; 'Gaza militant: Hamas stopping rocket fire into Israel', *Haaretz*, 12 April 2010.
28. 'Haniyeh Denies Two-State Offer', *Arab News*, 8 April 2008. See: <http://archive.arabnews.com/?page=4&section=0&article=80429&d=8&m=4&y=2006>.
29. 'Hamas renews offer to end fight if Israel withdraws', *Reuters*, 30 May 2010. See: <http://www.reuters.com/article/idUSTRE64T2AM20100530>.
30. For discussion of hardliners' gains (but ignoring boycott's impact), Matthew Levitt, 'Hamas's Ideological Crisis', *Current Trends in Islamist Ideology*, vol. 9, November 2009, pp. 86-88.
31. Sayigh, *op. cit.* in note 9; Emanuel Schäublin, 'The West Bank Zakat Committees (1977-2009) in the Local Context', *CCDP Working Paper* no. 5, Graduate Institute, November 2009, p. 19.

Finally, the boycott has increased the possibility of violent radicalisation within the Gaza Strip. The relationship between structural conditions and violent radicalisation is complex and by no means deterministic. Nevertheless, rising unemployment combined with a high youth ratio, a sharp decrease in income and rising perceptions of inequality, particularly if they overlap with ethnic divisions, can all be contributory factors, especially if they combine with political factors, such as occupation, repression and (a perceived) lack of non-violent political opportunities.<sup>32</sup> The rise of Salafi-Jihadi groups challenging Hamas must be seen against this context. While the blockade is the major culprit, non-engagement has contributed to the situation, weakening the economy even before the blockade began<sup>33</sup> and rendering political options less credible.

## A model for engagement?

The Swiss provide an interesting example of the possibilities of engagement. Switzerland has been among the few European states to maintain contact with Hamas, as part of its policy of engaging all parties to a conflict. Through engagement it sought to develop a framework for dialogue between Hamas and the West, to better understand Hamas's positions, and to provide a space for discussing practical issues.<sup>34</sup> Of particular interest is what Switzerland calls 'dialogue through practice', engaging Hamas at a practical level to both probe what 'threatening terms' mean in practice (examples could include 'implementation of Sharia or *jihad* until the Day of Judgement') and to explore issues which might have short-term practical solutions.<sup>35</sup>

The Swiss government has engaged Hamas on a number of practical issues. It has worked with Hamas, and others, to further develop the concept of '*hudna*', or long-term ceasefire – which leaders such as Ahmad Yassin and Ismail Abu Shannab had mooted as early as the 1990s – to see whether this could constitute a basis for restarting the peace process. It led numerous discussions on Gaza's border management to develop an alternative to the siege policy, to which all parties, Hamas, Fatah and Israel, could agree. It has provided Hamas with copies of previous agreements between Israel and the PLO as well as documents relating to the Geneva Accord. Finally, it has made direct interventions on particular policies, such as Hamas's appropriation of UNRWA goods in the wake of *Operation Cast Lead*, or the Chief Justice's decree that all female lawyers wear a *hijab* in court – in both instances contributing to the policy being reversed.<sup>36</sup> Switzerland has also regularly denounced human rights violations, regarding for instance the death penalty, political arrests, and the intimidations of NGOs.<sup>37</sup>

32. Brynjar Lia, 'Causes of Terrorism: An Expanded and Updated Review of the Literature', *FFI-Report 2004/04307* (Kjeller, Norway: Norwegian Defence Research Establishment, 2004).

33. 'Poverty in Palestine: the human cost of the financial boycott', *Oxfam Briefing Note*, Oxfam International, Oxford, April 2007.

34. Interview with Swiss official, June 2010.

35. Address by Ambassador Thomas Greminger, Policy Briefing, Brussels, 28 May 2008.

36. Other factors, such as a legal challenge by Gaza's female lawyers, played a part (See 'Hamas patrols beaches in Gaza to enforce conservative dress code', *The Guardian*, 18 October 2009).

37. Interviews with Swiss officials (March 2009, August 2009, June 2010).

What can be learned from these examples? First, Switzerland deals with the question of legitimisation by, on the one hand, lessening the status of engagement by engaging all parties, rather than using it as a reward, and on the other, by keeping their engagement out of the limelight, something which Hamas has honoured for its own reasons.

Second, these examples show that Hamas is interested in cooperating with Western governments to find a way out. It may be unwilling to go as far as the EU or Israel would like. But it has shown willingness to explore compromise – even while knowing that Israel and Fatah would be briefed on any progress made. This interest was not limited to a few, marginalised pragmatists but included a number of Hamas's top political leadership.<sup>38</sup> Hamas, moreover, has heeded criticisms and alternative suggestions. It returned the goods to UNRWA, revoked the *hijab* decree, and removed links to the notorious forgery *The Protocols of the Elders of Zion* from an affiliated website, when prompted.<sup>39</sup> Engagement therefore does not equal uncritical acceptance but offers an opportunity to expose Hamas to alternative viewpoints – particularly important for Hamas's Gazan leadership, many of whom have not been outside Gaza.<sup>40</sup>

Third, engagement with the Swiss arguably strengthened the pragmatists within Hamas by keeping the political option on the table, rewarding pragmatism and, crucially, allowing Hamas leaders to be heard on their own terms. However, the fact that those involved denied having contributed to the process suggests that engagement was considered problematic in the eyes of Hamas's constituency.<sup>41</sup>

Finally, these examples underline the importance of ownership and power. The *hudna* document and the various border discussions were sidelined because they did not have the support of the US and various key EU states. The *hudna* document's value was further undermined by Fatah exposing the talks prematurely. The Swiss acknowledge that more Track 2 diplomacy should have been carried out to enable the document to become jointly 'owned' by Fatah and Hamas (like the prisoners' document in May 2006). A third factor was Hamas's paramilitary wing. Although Switzerland was careful to talk to Hamas leaders in both Gaza and Damascus, it did not engage the military leadership, believing this to be an internal issue for Hamas.<sup>42</sup> Given the changed internal power balance, this may have been a crucial oversight as without the paramilitary wing's consent, any compromise will be short-lived.

However, the Swiss emphasise this is a long-term process.<sup>43</sup> Some of the principles developed in the *hudna* document have been echoed in subsequent statements by Hamas's Damascus leadership. The Gaza border discussions may yet bear fruit when the siege is lifted. Engagement is also about building long-term relationships.<sup>44</sup> Hamas heeded Swiss critiques of its *hijab* policy arguably precisely because it had come to

38. Interview with Swiss official (March 2009); 'Palestinian sources say UK involved in drafting of Hamas document', *BBC Monitoring Middle East – Political*, 25 December 2006.

39. Interviews with Swiss officials (March 2009).

40. *Ibid.*

41. 'Palestinian official says unity government to meet some Quartet conditions', *BBC Monitoring Middle East – Political*, 14 March 2007.

42. Interview with Swiss official (June 2010).

43. *Ibid.*

44. Interview with Swiss official (March 2009, June 2010).

value its Swiss interlocutors' perspectives. Swiss interlocutors, meanwhile, gained a deeper insight into the intentions of Hamas leaders through prolonged contact.

## Situating engagement

The Swiss model suggests that engagement could be a more constructive way to persuade Hamas to alter its position than non-engagement which locks Hamas into an echo chamber of like-mindedness. However, even if the EU opts for engagement (which, as with the Swiss, is likely to increase tensions with Israel, although there is a constituency for engagement within Israel),<sup>45</sup> there are limits to how far Hamas can be moved – with serious implications for the EU's conditions.

First, Hamas is determined not to become 'Fatah II'. According to Hamas's reading, Fatah made the tactical error of renouncing violence and recognising Israel before securing statehood. There are additional ideological reasons for Hamas's refusal to recognise Israel and renounce violence. But there are indications that for the pragmatists these issues may have become more tactical than ideological.<sup>46</sup> In addition, Hamas leaders do not want to be accused of having given up Palestinian rights in return for power. Already, supporters have started to accuse them of selling out, with some defecting to the Salafi-Jihadi camp. Hamas's pragmatists are therefore unlikely to agree to the Quartet's principles without solid guarantees of a state with East Jerusalem as its capital.

Second, the pragmatists have to keep on the right side of the hardliners. When 'radical organisations' become tactically more pragmatic, they usually go through a stage of reaffirming their radical goals in order to confirm their hardline credentials (resulting in mixed messages). If they move too far, too fast, they risk being sidelined or worse. Commenting on the demand to recognise Israel's right to exist, a leading pragmatist remarked: 'If I did, I would end up like Michael Collins' (*referring to the Irish Republican leader's assassination following his acceptance of the partition of Ireland in 1921*).<sup>47</sup> Judged by where Hamas started, the pragmatists have come a considerable way. If they go further, they risk cutting themselves off, and becoming like Fatah's internationally fêted technocrats.

Third, the last four years have raised the prize of compromise. Having held out for so long, Hamas has less incentive to make further compromises without significant returns. The fact that previous dialogue, such as that pioneered by the Swiss, has not resulted in change on the ground because of obstructions elsewhere has made people warier, further raising the bar. Moreover, not only have hardliners become stronger, but the number of people who benefit from a continuation of the boycott (such as the

45. See 'Why can we talk to Hamas about Shalit, but not peace?', *Haaretz*, 26 November 2009.

46. Interview with Swiss official (June 2010).

47. 'Hamas touts 10-year ceasefire to break deadlock over Israel', *The Guardian*, 1 November 2006.

new class of tunnel entrepreneurs or Hamas's paramilitary leadership who would have to share power with Fatah) has increased.

Whether those who benefit from the conflict remain more powerful than the pragmatists is dependent on the political opportunity structure. The period when Hamas displayed most restraint and underwent the most significant policy transformations coincided with the lead-up to the 2006 legislative election, when the prospect of electoral gains (coupled with relative military fatigue and a weakening of support from Syria and Iran) gave pragmatists the upper hand, which in turn led to Hamas actively wooing moderate voters and seeking international recognition.<sup>48</sup>

## Conclusion and policy implications

Engagement will raise many difficulties. But given that non-engagement has failed to break the current impasse, has further entrenched Hamas while strengthening its hardliners, and made thousands of ordinary Gazans suffer, engagement is a risk worth taking. Hamas is here to stay and needs to be included for any political settlement to work. Fatah is too weak to implement a peace deal. A continued boycott will only serve to deepen the divide between Gaza and the West Bank and further weaken the pragmatists. Some form of engagement is thus imperative if the goal of a two-state solution is to be kept alive.

The Swiss experience suggests that engagement can play a part in persuading Hamas to heed international norms, while ensuring that Hamas's concerns are taken into account as well as Israel's and Fatah's. But, while single states such as Switzerland can play important bridging functions, they cannot change the incentive structure sufficiently to make compromise pay.

The Quartet's principles, while crucial as goals, are counterproductive as preconditions. Hamas's pragmatists are not in a position to accept them, without risking ostracisation and losing the grassroots support that is essential to make any political settlement work. In their current formulation they are regarded as one-sided demands for surrender, as opposed to principles demanded of both sides (i.e. Israeli recognition of a Palestinian state, renunciation of violence and full adherence to previous agreements). Rather than insisting on full, one-sided compliance and creating an incentive structure which makes a National Unity government unattractive, the EU should lead the way by encouraging the formation of a National Unity government which is committed to maintaining a ceasefire (and the release of Shalit in return for a prisoner exchange), dealing with Israel on the basis of the 1967 borders, respecting

48. Gunning, *op. cit.* in note 9, pp. 220-40.

previous agreements, and, through this, engaging Hamas members *qua* government officials. This will increase opportunities for mutual learning while rewarding pragmatism, without necessarily rewarding intransigence. Given the power balance within Hamas, it is crucial that the EU focus on Hamas's behaviour, rather than its rhetoric, which will continue to oscillate between pragmatism and rejection.<sup>49</sup>

The cost of engagement may be to confer international legitimacy on Hamas. But as the Swiss put it: the choice is either an internationally stronger Hamas with the pragmatists in control, or an internationally isolated but locally strong Hamas with the hardliners at the helm.<sup>50</sup>

49. House of Commons Foreign Affairs Committee, *op. cit.* in note 23, pp. 30-31.

50. Interview with Swiss official (March 2009).

## CHAPTER 9

# Regional approaches to the Arab-Israeli conflict and the role of the European Union

Michael Bauer and Christian-Peter Hanelt

### Introduction

Any progress on the Israeli-Arab conflict will depend on both regional ownership and full US commitment. Accordingly, ensuring the mutual responsiveness of US and regional diplomacy must be a core objective of European policy. Moreover, Europe's role is unlikely to be to change the strategic calculation of the regional actors; instead, it is more likely to play a key role as a facilitator of the negotiations and supporter of the implementation. With the Arab Peace Initiative (API) there is a proposal on the table that enjoys regional ownership, offers avenues to addressing one of the most pressing regional security concerns within a multilateral framework, and outlines the parameters of a comprehensive resolution of the Arab-Israeli conflict. However, intensive negotiations between the conflicting parties and political efforts on all sides will be necessary to establish the conditions for the API to materialise. This will also require sophisticated and decisive diplomatic leadership from the US with the support of the EU and the Quartet.

The failure of recent US and EU efforts to get the Arab states to underscore their commitment to the API by making additional gestures towards Israel does not belie the importance of this document. However, before the API vision of a comprehensive resolution of the Arab-Israeli conflict can be implemented, progress must be achieved on the different tracks of the conflict. European diplomatic efforts should build on proposals that already exist in this context: they should support ongoing US efforts to ensure that the Israeli-Palestinian negotiations yield a positive outcome. Palestinian Prime Minister Salam Fayyad's proposal to establish a viable Palestinian state in the West Bank and Gaza by the summer of 2011 might be another avenue to promote progress on the Israeli-Palestinian track. A revival of the Israeli-Syrian negotiations and reconsideration of the proposals to resolve the dispute over the Golan Heights formulated

in Track Two negotiations might be a point of departure for the Israeli-Syrian track.

## The role of regional actors: dimensions and developments

For over half a century the Arab-Israeli conflict has been a prominent feature of international affairs, destabilising the Middle East and at times having a direct impact on politics beyond the region. In fact, the Middle East faces a conglomerate of conflicts, not only the Arab-Israeli one with its three tracks – Israeli-Palestinian, Israeli-Lebanese and Israeli-Syrian – but also intra-Palestinian and intra-Lebanese conflict. There are rivalries between the Arab regional powers Egypt and Saudi Arabia on the one hand and Iran with its regional ambitions on the other hand. Iraq's stability must still be consolidated and its future regional role defined. Closely related is the still unanswered Kurdish question in the region. Moreover, the US and the EU share concerns in the region over Iran's disputed nuclear and missile programmes.

Most Europeans tend to agree that the US is the only actor powerful enough to change the strategic calculation of the regional actors and push them towards resolving their disputes. Indeed, major achievements in conflict resolution that have occurred historically must be ascribed to the US: the Israeli-Egyptian disengagement after the Yom-Kippur War, the Egyptian-Israeli Peace in 1979, the fact that the Madrid peace conference took off in 1991 and prepared the ground for the Oslo accords and the peace treaty between Israel and Jordan. These achievements underscore the importance of US engagement for progress in the Israeli-Arab conflict.<sup>1</sup> The US's crucial role was additionally highlighted by the destabilising impact on the region that resulted from the diplomatic absence of the US in the escalating Israeli-Palestinian conflict or the American refusal to diplomatically engage with Iran during the presidency of George W. Bush, whereby it sought a military solution to regional problems, most notably with the 2003 invasion of Iraq.

Yet, during all these periods regional actors played a decisive yet underestimated role, too. Israeli-Egyptian peace would never have been possible without Egyptian President Anwar al-Sadat's historic visit to Jerusalem in 1977, which not only helped give the negotiations under US guidance new momentum, but was also an act of public diplomacy to build the minimum of trust that was needed for the peace accord eventually reached at Camp David in 1979. Moreover, the Israel-Jordan Peace Treaty was also eventually achieved, concluded and reaffirmed because the parties used the positive environment that was created

1. On the US role, see in particular Aaron Miller, *The Much Too Promised Land: America's Elusive Search for Arab-Israeli Peace* (New York: Bantam Books, 2008) and: Daniel Kurtzer and Scott Lasensky, *Negotiating Arab-Israeli Peace. American Leadership in the Middle East* (Washington: US Institute for Peace Press, 2008).



with the Madrid Conference and Oslo Accords to engage in direct negotiations, complemented by important public diplomacy gestures by Jordan's King Hussein in 1997. Last but not least, in the case of the Oslo Accords it was direct negotiations between Palestinians and Israelis, with Norway as a facilitating mediator, that produced the results. More recently, during the presidency of George W. Bush and the years of US diplomatic absence in the Middle East, regional actors displayed a great willingness to take diplomatic initiatives.<sup>2</sup>

At the peak of the violence during the second Intifada in 2002, following an initiative of Saudi Arabia, the **Arab League (AL)** proposed the Arab Peace Initiative (API), offering a comprehensive resolution of the Arab-Israeli conflict. In 2007 the AL reaffirmed its offer.

**Turkey** has sought a regional role in the Middle East and therefore taken a very proactive stance towards its Southern and Eastern neighbourhood.<sup>3</sup> Ankara invested a lot of political and diplomatic effort in its mediation between Israel and Syria that was, however, brought to a sudden end with the start of the Gaza War between Hamas and Israel in December 2008. In addition, Turkey has also been involved in initiatives to address other regional challenges like the dispute between Lebanon and Syria and concerning the stability of Iraq as well as of Lebanon. Moreover, after the election of President Barack Obama, Turkey also proposed to mediate between Iran and the US and in cooperation with Brazil tried to broker a partial compromise on the Iranian nuclear programme.

**Saudi Arabia** and **Egypt** took the regional lead to mediate in the conflict between Hamas and Fatah in order to overcome the political and territorial rift in the Palestinian camp and because they assume that reconciliation between the two factions is a precondition for the sustainability of any agreement between Israel and the Palestinians.<sup>4</sup> Moreover, both countries are also concerned that the international isolation of Hamas has offered their regional rival Iran an avenue to increase its influence on the Arab-Israeli conflict through support to Hamas.

A mediation effort by Saudi Arabia in 2007 resulted in the Mecca Agreement and the establishment of a national unity government. However, the agreement lacked US backing and subsequently broke down, following which the conflict between Hamas and Fatah escalated, ultimately resulting in Hamas taking power in the Gaza Strip by force.

The growing Iranian influence in the Levant and fear of a spill-over from Gaza to Egypt – as vividly demonstrated by the breach of the Gaza-Egyptian border in January 2008 – prompted Egypt to proactively seek to mediate Fatah-Hamas reconciliation and broker a truce between

2. For a more detailed discussion of these regional mediation efforts see: Michael Bauer and Julia-Kristina Ismar, 'Regional problems – regional solutions? Taking stock of recent mediation efforts in the Middle East', *Policy Analysis* no. 5, Center for Applied Policy Research (C.A.P), Munich, November 2008.
3. For the strategic rationale of Turkey's regional policy see: Ahmet Davutoglu, 'Turkey's Foreign Policy Vision. An Assessment of 2007', *Insight Turkey*, vol. 10, no. 10, pp. 77-96.
4. For a discussion of Egyptian and Saudi mediation efforts see: Joseph Kostiner and Chelsi Mueller, 'Egyptian and Saudi Intervention in the Israeli-Palestinian Peace Process (2006-09): Local Powers Mediation Compared', in Uzi Rabi (ed.), *International Intervention in Local Conflicts: Crisis Management and Conflict Resolution since the Cold War* (London: Tauris Academic Studies, November 2010), pp. 201-221.

Hamas and Israel to end Israel's blockade of Gaza. Neither initiative, however, yielded sustainable results.

**Qatar** not only negotiated a ceasefire between the warring factions in Lebanon, resulting in the Doha Agreement of May 2008, but also played an important role in the reconciliation of Lebanon and Syria that led to the establishment of diplomatic relations between the two countries the same year. Both initiatives also received substantial support from within the region and from Europe.

Moreover, Qatar has made a sustained effort to mediate in Sudan's civil wars as it hosts talks between the Sudanese government and rebel groups, and has tried to broker a ceasefire in Yemen's Saada province, between the government and the Houthi rebels.

The **Gulf Cooperation Council (GCC)** countries made an important public diplomacy effort to reduce the tensions in the Arab-Iranian rivalry when they invited Iran's president Ahmadinejad to attend the GCC summit in 2007; in a similar vein, Saudi Arabia invited Ahmadinejad to visit Mecca for the *hajj* pilgrimage in the same year.

This array of initiatives emanating from the region shows that it is not only the well-established regional powers Saudi Arabia and Egypt that exercise soft power in regional affairs, but also increasingly new actors such as Turkey and Qatar.

Compared to the high expectations the initiatives mentioned above have often raised, they show only mixed results in terms of sustainability and success. This is partly due to the fact that the initiators often lacked the resources to actually follow through with their initiative and insist on agreements that had been reached. For instance, this has become apparent in the cases of Saudi Arabia and Qatar which are in a position to bring the conflict parties to the negotiating table – not least because of their vast financial resources – yet do not have the diplomatic manpower and political capacities to supervise and enforce an agreement.<sup>5</sup>

The failure of such initiatives, however, should not be unfairly ascribed to their initiators alone, but also to the lack of international support that they garnered. Given the complexity and interdependence of the conflicts in the Middle East, a combination of regional ownership and international support is needed to address them effectively. The successful cases of regional conflict resolution such as the Israeli-Egyptian Camp David accord, the Israel-Jordan Peace Treaty or the Doha Agreement confirm this point.

5. See Kostiner and Mueller, *op. cit.* in note 4. On Qatar see also: Katja Niethammer and Guido Steinberg, *Katars Nahostpolitik*, SWP Aktuell 18, SWP, Berlin, 2009.

## Ownership and commitment: coordinating regional and international efforts

Three aspects are of particular importance when discussing the role of regional actors and initiatives for a resolution of the Arab-Israeli conflict and its three tracks. First, in the long run only regional actors can offer Israel a compact for peace and security that goes beyond a ‘cold peace’ and offers it the prospects to become an accepted actor and neighbour in the region, with avenues for regional cooperation and integration. Second, regional actors are often perceived as legitimate mediators who seem to be genuinely interested in resolving the conflicts that have a direct impact on them; this is of course not to forget that their involvement in conflict resolution efforts is not an end itself, but must always be seen within the context of their broader domestic, regional and international interests.<sup>6</sup> Third, regional actors are usually very well aware of the cultural, historical and by extension also political complexities of the conflicts and possess unique access to the relevant actors, which is often not the case for Western diplomats.

### The Arab Peace Initiative

As a regional proposal to resolve the Arab-Israeli conflict with all its implications the Arab Peace Initiative (API) stands out. The API was proposed by the Arab League (AL) in its 2002 Beirut Declaration, which was based on an initiative by the then Saudi Crown-Prince Abdullah. On the basis of the relevant UN resolutions, the API essentially offers Israel a peace agreement with all Arab countries and normal relations in exchange for a ‘full Israeli withdrawal from all territories occupied since 1967’ including the Golan Heights and Shebaa Farms; a ‘just solution to the Palestinian refugee problem in accordance with UN GA Resolution 194’; and Israeli ‘acceptance of the establishment of a sovereign independent Palestinian state (...) in the West Bank and the Gaza Strip with East Jerusalem as its capital.’<sup>7</sup>

Initially, the Saudi Crown Prince and other moderate Arab leaders like the King of Jordan envisaged the API as offering Israel a ‘normalisation’ of its relations with the Arab states. Moreover, they had also proposed to address the Palestinian refugee problem without a specific reference to UNGA resolution 194 in order not to overload the document with a debate about the ‘right of return’. However, Syria in particular and also Lebanon had insisted on a wording that would be less forthcoming for Israel and more explicit about the refugee problem, and Saudi Arabia gave in to their demands in order to ensure the widest possible Arab backing for the API.<sup>8</sup>

6. For a brief overview on resources, interests and strategies of regional actors, see for instance Bauer and Ismar, op. cit. in note 2, pp. 10-9; on Qatar see Niethammer and Steinberg, op. cit. in note 5; and for a rather critical assessment of the interests of Egypt and Saudi Arabia see Martin Indyk, *Innocent Abroad. An intimate account of American Peace Diplomacy in the Middle East* (New York: Simon & Schuster, 2009) pp. 50-9.
7. The Arab League’s Beirut Declaration on the Saudi Peace Initiative, 28 March 2002. Available at: <http://www.al-bab.com/arab/docs/league/peace02.htm>.
8. See Bruce Maddy-Weitzman, ‘Arabs vs. the Abdullah Plan’, *Middle East Quarterly*, Summer 2010, pp. 3-12.

Even though these intra-Arab disputes over concrete wording and the absence of a number of heads of state at the adoption of the API diminished the document's eminence, the API nonetheless underscored a shift in Arab states' attitudes towards Israel.<sup>9</sup> The Six Day War of 1967 was famously followed by the 'three No's' – no peace with Israel, no recognition of Israel and no negotiations with Israel – as stated in the AL's Khartoum Resolution the same year. In contrast, the API is the first document to offer Israel a comprehensive solution of the Arab-Israeli conflict, based on the concept of Land for Peace and with the backing of all Arab countries and not just individual actors. Moreover, in June 2002, even the members of the Organisation of the Islamic Conference (OIC), including Iran and Turkey, endorsed the API. Hence, what was put on the table was nothing less than a comprehensive deal to end the Arab-Israeli conflict. The fact that the API was reaffirmed by the AL in 2007 and sustained by the Arab states even after the 2008-2009 Gaza War demonstrates that among Arab states there is still a general consensus that considers the concept of Land for Peace and a two-state solution valid, with the API as the vehicle to reach this objective.

Given that the API seemed to offer Israel exactly what it had wanted for the last fifty years, namely peace with its Arab neighbours and a place in the region, the Israeli side did not react as many would have expected. In fact, between 2002 and 2007 there was no indication from the Israeli government that it was seriously considering the API a valuable offer to resolve the Arab-Israeli conflict.<sup>10</sup> Several factors played a role here: in 2002, against the background of the second Intifada, the Israeli government regarded regional involvement as contrary to its interests. Moreover, from the Israeli point of view the API's political credibility was weakened, as it neither received wide public backing in many Arab countries, nor was it accompanied by major public diplomacy efforts on the Arab side. Instead, it was suspected in Israel that the AL expected the EU and US to exercise pressure on Israel to accept the proposal.<sup>11</sup> The repeated reaffirmation of the API from the Arab League has actually increased its credibility for Israel, but, as became clear in the run-up to the 2007 re-offering of the API, there is still a lot of scepticism as to the actual meaning of the API, especially with regard to the future of the Palestinian refugees and the question of their right to return to Israel. The foreign ministers of Egypt and Jordan visiting Israel as delegates of the AL to present the API publicly in 2007 could not overcome Israeli qualms. There is still a need for additional gestures to reassure Israel that the Arab side will actually deliver on its promises and encourage Israel to make concessions, too.<sup>12</sup> Moreover, in particular on the question of Palestinian refugees, Israel expects the Arab countries to contribute to a regional solution.

For the European Union and its Member States the API fits very well with their conception of how to address conflicts through multilateral

9. See Michaela Birk and Ahmed Badawi, 'Bedeutung und Wandel der Arabischen Friedensinitiative', *Aus Politik und Zeitgeschichte* 9/2010, pp. 36-7.

10. Yossi Alpher, 'Israel-Arab Peace: Israel and the Regional Approach', in: Christian-Peter Hanelt and Almut Möller (eds.), *Bound to Cooperate – Europe and the Middle East II* (Gütersloh: Bertelsmann Stiftung, 2008) pp. 152-3.

11. *Ibid.*, p. 153.

12. *Ibid.*, pp. 162-3; see also Kostiner and Mueller, *op. cit.* in note 4.

and regionally embedded approaches.<sup>13</sup> Hence, the EU welcomed the proposal of the API and has made the document a major point of reference for its statements on the Middle East and the Arab-Israeli conflict.<sup>14</sup> The API has also been embraced within the framework of the Barcelona Process and the Union for the Mediterranean.<sup>15</sup> Moreover, the API has also become a point of reference for international efforts to address the Arab-Israeli conflict as can be seen from its incorporation into the so-called ‘Roadmap’ of the Middle East Quartet.

## Prospects and challenges for diplomacy by a multilateral actor

Apart from political declarations, the Europeans have mostly played an indirect role in Middle Eastern conflicts. Concerning the Israeli-Palestinian track, they have engaged in humanitarian aid and institution-building for the Palestinian National Authority (PA), financed people-to-people contacts between Israel and Palestine, and strengthened bilateral relations with Israel. On the back of the Oslo Process, the EU sought to develop a regional framework in which it could cooperate with Israelis, Arabs and Turks. Therefore it launched the Barcelona Process and the Euro-Mediterranean Partnership (EMP) in November 1995. When Israeli-Palestinian relations deteriorated consequently, joint projects in the EMP were put on hold, too, and the EU as a multilateral external actor exercised little leverage to overcome this deadlock.

Acknowledging the shortcomings of its past endeavours as well as the importance of the US, the EU sought to get the administration of George W. Bush re-engaged in the Arab-Israeli conflict through the Quartet. The EU was involved in the initiation of the Roadmap and European pressure was one of the factors that eventually caused the US to launch the Annapolis process. In particular the German EU presidency successfully used the Quartet as a forum to coordinate international efforts towards the Middle East. As the EU was more forthcoming with regard to regional initiatives in general, this also influenced the Quartet’s position. Moreover, the inauguration of the Union for the Mediterranean (UfM) on 13 July 2008, which was explicitly presented as a peace project too, offered Israel and Palestine as well as Syria and Lebanon a forum to engage in public diplomacy. In particular France played a very active role supporting the *rapprochement* between Syria and Lebanon that followed.

The Europeans also became more active in other Middle Eastern conflicts: since the US had refused to directly negotiate with Iran, an informal coalition consisting of the UK, France and Germany exercised diplomatic

13. ‘A Secure Europe in a Better World’, *European Security Strategy*, Brussels, 12 December 2003, p. 8.

14. Council of the European Union, Brussels, 12 and 13 December 2003, Presidency Conclusions, Brussels, 5 February 2004 (5381/04), p. 17; Council Conclusions on the Middle East Peace Process, Brussels, 8 December 2009, p. 1.

15. See, for instance, Euro-Mediterranean Partnership, Euro-Mediterranean Conference of Foreign Ministers (Valencia, 22 and 23 April 2002), Conclusions, Brussels, 24 April, 2002, (EURO-MED 2/02), p. 4; Barcelona Process: Union for the Mediterranean Ministerial Conference, Marseilles, 3-4 November 2008 (15187/08 [Press 314]), p. 3.

leadership in the negotiations with Tehran about the disputed Iranian nuclear programme. The EU took common responsibility towards Iraq by upgrading the Trade and Cooperation Agreement (TCA) under negotiations into a Partnership and Cooperation Agreement (PCA). The EU states showed their strongest military commitment *vis-à-vis* the region, however, as the main provider of troops for the UNIFIL II mission in Lebanon.<sup>16</sup>

Hence, Europe's Middle East involvement has clearly gained a higher profile over the last decade. On the other hand, however, on many of the occasions Europe's limitations have come to the fore again. UNIFIL II notwithstanding, the EU's lack of hard security is limiting its attractiveness and credibility for Israel as a partner to substantially contribute to Israeli security. Moreover, the EU's internal structure has limited its political impact on the Middle East. Europe's treaties and negotiations with the regional actors would actually lead to faster and more credible results if the EU did not appear to be disunited. The 27 are united with regard to grand strategy, but divided when it comes to practical politics. The most glaring example is the conflict within the EU that became apparent when the EU tried to find a position on the Gaza War in 2008. Moreover, also on the question of how to deal with Hamas after its victory in the Palestinian elections, the EU was initially not able to find a unified approach and as a result had to accept in the Quartet the US position of isolating Hamas.<sup>17</sup> And even though Europeans welcomed<sup>18</sup> Saudi mediation between Hamas and Fatah they failed to support the Mecca Agreement, representing a 'missed opportunity'<sup>19</sup> for the reconciliation of the Palestinian camp. Moreover, in the actual negotiation process in Annapolis, Europeans were diplomatically sidelined and although European negotiations with Iran ensured that the situation did not deteriorate altogether by keeping channels of communication open, they nonetheless failed to achieve substantial results. And even with the upgraded framework of the UfM, a summit meeting scheduled for June 2010 was postponed because of lack of progress on the Israeli-Palestinian track.

No doubt, some of the EU's shortcomings can be overcome and the Treaty of Lisbon will – once it is successfully implemented – strengthen the EU's foreign policy institutions. Moreover, international circumstances have improved as the US administration under President Barack Obama is clearly more willing to get diplomatically engaged in the region. However, the EU's foreign policy is a product of a multilateral process and hence, the EU will always face some limitations in terms of its 'actorness'.

Nonetheless, if the Europeans coordinate their activities with their partners in the region<sup>20</sup> and the proactive regional policy of US president Obama, they can offer important diplomatic backing for a resolution

16. See chapter by Muriel Asseburg in this volume, pp. 75-85.

17. Patrick Müller, 'Die EU, die Hamas und die Krise im israelisch-palästinensischen Friedensprozess', SWP Studie S 8, SWP, Berlin, March 2009, pp. 7-8.

18. Council of the European Union, Council Conclusions (6039/07), February 2007, p. 15.

19. See Edward Burke, Ana Echagüe and Richard Youngs, 'Why the European Union needs a "broader Middle East" policy', Working Paper 93, FRIDE, Madrid, February 2010, p. 8.

20. See for instance the broader discussion on EU-GCC cooperation with regard to regional security challenges in: Michael Bauer and Christian-Peter Hanelt, 'Europe and the Gulf Region – Towards a New Horizon', Discussion Paper of the 12<sup>th</sup> Kronberg Middle East Talks, Riyadh/Gütersloh, May 2009, pp. 14-21.

of the Arab-Israeli conflict and in particular provide support for the implementation phase of an agreement.

## Conclusions and policy implications

As has become clear in the analysis above, a major objective for European involvement should be raising the mutual awareness of US and regional actors about their respective diplomatic initiatives: any progress on the Arab-Israeli conflict will depend on both regional ownership and sincerity as well as full US commitment. As a long-standing, internationally and – albeit to varying degrees – also regionally recognised proposal for a comprehensive resolution of the Arab-Israeli conflict, the API represents a major point of reference for this challenging diplomatic endeavour.

The API outlines a resolution for one of the central conflicts in the Middle East; however, intensive negotiations on the different tracks of the Arab-Israeli conflict will be necessary to establish the conditions for this regional vision to be realised. Looking at Europe's foreign policy record in the region and taking into account its limitations as a multilateral actor, the EU's main contribution will be as a facilitating mediator as well as in the implementation phase of an agreement. As the US made great efforts to initiate negotiations between Israelis and Palestinians, the EU should aim to expand its role in these negotiations in order to increase their prospects of success. In addition, the state-building plan of Palestinian Prime Minister Salam Fayyad is another promising approach as it seeks to demonstrate that Palestinian political and institutional development can be reconciled with Israeli security needs. And last but not least, past negotiations have provided for a remarkable diplomatic foundation on which a revival of the Syrian-Israeli track could be built.

Only through substantial progress on these different tracks can the conditions for a comprehensive approach be put in place. This would then have to be an inclusive approach, open for all stakeholders to participate, and at the same time requiring them to display the kind of commitment to the peace process that is actually needed to reassure all stakeholders.

Moreover, it is a *conditio sine qua non* for the results of negotiations on the individual tracks and any comprehensive agreement to be sustainable that they include clear definitions of the obligations of the Israelis, Arabs and the international community, specific timeframes, clear benchmarks and appropriate monitoring mechanisms. Europeans can play an important role in the implementation process to support the parties to fulfil their obligations, support regional confidence-

building, monitor the whole process and act as a facilitator when the implementation of the agreement encounters unintended obstacles. Since the territorial re-arrangements of an Arab-Israeli peace treaty will also require international contribution to a consolidation of the security relations between Israelis, Palestinians, Lebanese and Syrians, the Europeans should also be willing to play a role here through a contribution within the framework of the EU's Common Security and Defence Policy (CSDP) or through contributions of EU Member States. EU missions such as EUBAM at the Egyptian-Gaza border or the police-training mission EUPOL COPPS in the West Bank might serve as examples here as well as EU Member States' contributions to UN forces in the region, such as on the Golan Heights or in south Lebanon. Last but not least, projects such as the European Neighbourhood Policy or the Union for the Mediterranean can develop their full potential as frameworks for regional cooperation and development in the context of a resolution of the Arab-Israeli conflict.



# Annexes

## List of Supporting documents<sup>1</sup>

*This list contains a number of documents referred to in the Chailiot Paper. A wider selection of relevant EU documents can be accessed via the EUISS EU Security and Defence: Core Documents Series, published annually and available on the EUISS website at [www.iss.europa.eu](http://www.iss.europa.eu)*

Joint statement by the Governments of the EEC (6 November 1973)  
Declaration of the Nine Foreign Ministers on the Situation in the Middle East  
[http://www.ena.lu/joint\\_statement\\_governments\\_eec\\_november\\_1973-020002394.html](http://www.ena.lu/joint_statement_governments_eec_november_1973-020002394.html)

Venice European Council Declaration (13 June 1980)  
[http://eeas.europa.eu/mepp/docs/venice\\_declaration\\_1980\\_en.pdf](http://eeas.europa.eu/mepp/docs/venice_declaration_1980_en.pdf)

Barcelona Declaration adopted at the Euro-Mediterranean Conference (27-28 November 1995)  
[http://trade.ec.europa.eu/doclib/docs/2005/july/tradoc\\_124236.pdf](http://trade.ec.europa.eu/doclib/docs/2005/july/tradoc_124236.pdf)

Euro-Mediterranean Interim Association Agreement between the European Community and Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip (July 1997)  
[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21997A0716\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21997A0716(01):EN:HTML)

Euro-Mediterranean Association Agreement between the European Communities and their Member States, and the State of Israel (June 2000)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:147:0003:0156:EN:PDF>

Official translation of the Arab Peace Initiative, Arab League Beirut Summit (28 March 2002)  
<http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/5a7229b652beb9c5c1256b8a0054b62e>

A Performance-based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict by the Quartet (30 April 2003)  
[http://www.europa-eu-un.org/articles/en/article\\_2283\\_en.htm](http://www.europa-eu-un.org/articles/en/article_2283_en.htm)

A Secure Europe in a Better World, European Security Strategy (December 2003)  
[www.iss.europa.eu/uploads/media/solanae.pdf](http://www.iss.europa.eu/uploads/media/solanae.pdf)

1. This Annex was compiled by Suzanne Lavender, Assistant to the Fellows, EUISS

## **A** **Annex: List of Supporting documents**

European Neighbourhood Policy EU/Israel Action Plan (April 2005)  
[http://ec.europa.eu/world/enp/pdf/action\\_plans/israel\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/israel_enp_ap_final_en.pdf)

European Neighbourhood Policy EU/Palestinian Authority Action Plan (May 2005)  
[http://ec.europa.eu/world/enp/pdf/action\\_plans/pa\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/pa_enp_ap_final_en.pdf)

Council Joint Action on the European Union Police Mission for the Palestinian Territories, Council of the European Union (14 November 2005)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:300:0065:0069:EN:PDF>

Israel-Palestinian Authority Agreement on Movement and Access and Agreed Principles for Rafah Crossing (15 November 2005)  
<http://www.state.gov/s/l/2005/87237.htm>

Council Joint Action on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah), Council of the European Union (12 December 2005)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:327:0028:0032:EN:PDF>

Quartet Statement, London (30 January 2006)  
[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/declarations/88201.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/declarations/88201.pdf)

United Nations Security Council Resolution 1701 (11 August 2006)  
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/465/03/PDF/N0646503.pdf?OpenElement>

Joint Declaration of the Paris Summit for the Mediterranean (13 July 2008)  
[http://www.eu2008.fr/webdav/site/PFUE/shared/import/07/0713\\_declaration\\_de\\_paris/Joint\\_declaration\\_of\\_the\\_Paris\\_summit\\_for\\_the\\_Mediterranean-EN.pdf](http://www.eu2008.fr/webdav/site/PFUE/shared/import/07/0713_declaration_de_paris/Joint_declaration_of_the_Paris_summit_for_the_Mediterranean-EN.pdf)

'Ending the Occupation, Establishing the State', Programme of the Thirteenth Government, Palestinian National Authority, (August 2009)  
[http://www.mop-gov.ps/web\\_files/issues\\_file/090825%20Ending%20Occupation,%20Establishing%20the%20State%20-%20Program%20of%20the%2013%20government.pdf](http://www.mop-gov.ps/web_files/issues_file/090825%20Ending%20Occupation,%20Establishing%20the%20State%20-%20Program%20of%20the%2013%20government.pdf)

Council conclusions on the Middle East Peace Process, 2985th Foreign Affairs Council meeting, Council of the European Union, Brussels (8 December 2009)  
[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/foraff/111829.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/111829.pdf)

Quartet Statement, Moscow (19 March 2010)  
[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/113436.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/113436.pdf)

Council conclusions on Gaza, 3023rd Foreign Affairs Council meeting, Council of the European Union, Luxembourg (14 June 2010) [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/115158.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/115158.pdf)

Middle East Quartet Statement (21 September 2010) [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/116664.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/116664.pdf)

Council conclusions on the Middle East Peace Process, 3058th Foreign Affairs Council meeting, Council of the European Union, Brussels (13 December 2010) [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/EN/foraff/118396.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/EN/foraff/118396.pdf)



## About the authors

**Muriel Asseburg** is the head of the Middle East and Africa division of the Stiftung Wissenschaft und Politik (SWP), the German Institute for International and Security Affairs in Berlin. She studied political science, international law and economics at Ludwig Maximilians University in Munich where she obtained a Ph. D with a thesis on ‘Palestinian State and Nation Building in the Interim Period’ in 2000. Previously, she worked as a research associate at SWP from 1995-2000 and, in 2000-2001 she served as a programme coordinator and deputy head of the Friedrich Ebert Foundation’s office in Jerusalem. She has published extensively on the Middle East conflict, German, European and US Middle East policies, European civil and military deployments as well as questions of state building, political reform and political Islam in the Arab world.

**Michael Bauer** is Research Fellow at the Research Group on European Affairs of the Center for Applied Policy Research (CAP). The regional focus of his research is on Middle East Politics with a special emphasis on the Gulf region. He heads the CAP project on Europe and the Middle East. In addition, he works on various aspects of international security policy and risk studies, in particular on the issues of counterterrorism and nuclear security. Michael Bauer studied international politics in Munich and Aberystwyth (UK) and holds a degree in educational science from the Munich School of Philosophy.

**Agnès Bertrand-Sanz** completed her Ph.D at the School of Oriental and African Studies (University of London) in 2010. She wrote her dissertation within the ‘Sir Joseph Hotung Program on Law, Human Rights and Peace Building in the Middle-East’ on ‘The Role of the European Union in the Resolution of the Israeli-Palestinian Issue: Towards an Engagement Based on Respect for International Law and Human Rights.’ Since January 2009, she is the Middle East policy officer for APRODEV, the association of Protestant, Anglican and Orthodox European development organisations (including Christian Aid UK, Diakonia, ICCO, Broet fur die Welt). She also teaches at the Lille Institute of Political Studies for its joint Science Po Lille-Aston University MA programme.

**Esra Bulut Aymat** is a Research Fellow at the EUISS, where she works on politics and conflict in, and EU policy towards, the Eastern Mediterranean. Her research interests include conflict resolution, the politics of religion and nationalism, trans-state politics, and Turkish foreign policy and politics. Prior to joining the Institute, she worked for International Crisis Group in Brussels (2005-2008) and carried out research for the UNDP Bureau for Crisis Prevention and Recovery in Cyprus (2007). She held part-time research and teaching positions at LSE (2000-2005) and was Assistant Editor of *Nations and Nationalism* Journal (2001-2004). She holds an interdisciplinary Ph.D from the LSE Department of Government, an M.Sc from LSE, and a BA from the University of Oxford.

**Jeroen Gunning** is Reader in Middle East Politics and Conflict Studies at the School of Government and International Affairs, Durham University. His research focuses on the interplay between Islamist social movements, democratisation, religion and violence in

the Middle East, with a particular emphasis on Hamas and Hezbollah, and has included extensive fieldwork in the area. Dr. Gunning is one of the founders of the new field of critical terrorism studies, co-editor of *Critical Studies on Terrorism*, and has acted as expert consultant for numerous governmental and non-governmental organisations. His recent publications include *Hamas in Politics: Democracy, Religion, Violence* (Hurst/Columbia University Press, 2007/8) and *Critical Terrorism Studies: A New Research Agenda* (Routledge, 2009; co-edited with Richard Jackson and Marie Breen Smyth).

**Christian-Peter Hanelt** is Senior Expert on 'Europe and the Middle East' in the 'Europe's Future' Programme at Bertelsmann Stiftung in Gütersloh, Germany. For more than a decade he has managed the Stiftung's Kronberg Middle East Talks. Christian-Peter Hanelt studied political science, history and Arabic sciences in Kiel and Damascus. He holds an MA in Political Science from Christian-Albrechts-Universität, Kiel, Germany. He worked as an editor and reported for SAT.1 on developments after the Kuwait war and the beginning of the Middle East Peace Process. Until 2004 he was also engaged in activities promoting reading literacy in Egypt and in the education of journalists in Israel and the Palestinian Territories. His areas of expertise are: The Israeli-Arab Conflict, EU-Gulf Relations (GCC), Iraq and Iran, socio-political and economic development in the Arab world.

**Rosemary Hollis** is Professor of Middle East Policy Studies and Director of the Olive Tree Scholarship Programme at City University London. Her research and publications focus on international political and security issues in the Middle East, particularly European, EU, UK and US relations with the region and the international dimensions of regional conflicts. Prior to joining City University in 2008 Professor Hollis was Head of the Middle East Programme (1995-2005), then Director of Research at Chatham House (the Royal Institute of International Affairs). She has a Ph.D in Political Science from George Washington University in Washington, DC, where she also taught for a number of years; an MA in War Studies and a BA in History from the University of London, King's College. Her new book is: *Britain and the Middle East in the 9/11 Era* (London: Wiley-Blackwell, 2010).

**Daniel Möckli** is a Senior Research Fellow at the Center of Security Studies, ETH Zurich. He specialises in Western strategies towards the Arab-Israeli conflict, CFSP/CSDP, and Swiss foreign and security policy. Recent publications include *European-American Relations and the Middle East: From Suez to Iraq* (Routledge, 2010, with Victor Mauer), 'US Foreign Policy: New Approaches and Old Problems in Afghanistan and the Middle East' (in *Strategic Trends*, CSS 2010); *European Foreign Policy during the Cold War* (I.B. Tauris, 2009), and 'Switzerland's Controversial Middle East Policy', *CSS Analysis in Security Policy* no. 35 (2008).

**Michelle Pace** is Senior Lecturer at the Department of Political Science and International Studies, University of Birmingham, UK. From April 2007 until March 2009, she was Principal Investigator (PI) on a two-year British Academy large research project on Arab Mediterranean perceptions on democratisation and since February 2008 she has been PI on a three-year ESRC First Grant Scheme large research project on Paradoxes and Contradictions in EU Democracy Promotion Efforts in the Middle East ([www.eumena.bham.ac.uk](http://www.eumena.bham.ac.uk)). She is the founder and convenor of the BISA working group on International Mediterranean Studies as well as the research group on EU democracy promotion efforts

in the Middle East. Recent publications include (as editor) *Europe, the USA and Political Islam: Strategies for Engagement* (Palgrave MacMillan, 2010).

**Nathalie Tocci** is Director of the Area the EU and the Neighbourhood of the Istituto Affari Internazionali, Rome and Associate Editor of *The International Spectator*. She received her Ph.D in International Relations at the LSE in 2003 and has held previous research posts at the Transatlantic Academy, Washington; the Centre for European Policy Studies, Brussels; and the European University Institute, Florence. Her research interests include European foreign policy, conflict resolution, the European neighbourhood, with a particular focus on Turkey, Cyprus, the Mediterranean and the Middle East and the South Caucasus. Dr Tocci was the winner of the 2008 Anna Lindh award for the study of European foreign policy.





## Abbreviations

AL	Arab League
AMA	Agreement on Movement and Access
API	Arab Peace Initiative
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
EC	European Community
ECHO	European Community Humanitarian Office
EIDHR	European Initiative on Democracy and Human Rights
EMP	Euro-Mediterranean Partnership
ENP	European Neighbourhood Policy
ESDP	European Security and Defence Policy
EUBAM Rafah	European Union Border Assistance Mission in Rafah
EUPOL COPPS	European Union Police Co-ordinating Office for Palestinian Police Support
GAERC	General Affairs and External Relations Council
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
ICJ	International Court of Justice
IHL	International Humanitarian Law
LAF	Lebanese Armed Forces
MEPP	Middle East Peace Process
MTF	Maritime Task Force
NGO	Non-governmental Organisation
OPT	Occupied Palestinian Territories
PA	Palestinian Authority
PLO	Palestinian Liberation Organisation
UfM	Union for the Mediterranean
UNGA	United Nations General Assembly
UNIFIL	United Nations Interim Force in Lebanon
UNRWA	UN Relief and Works Agency for Palestine Refugees in the Near East
UNSC	United Nations Security Council
UNSG	United Nations Secretary General



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This *Chaillot Paper* examines European involvement in the Arab-Israeli conflict. It focuses on the European Union's involvement in the conflict, with special, but not exclusive, attention to EU involvement in the Israeli-Palestinian dimension of the conflict. Three decades on from the landmark 1980 Venice Declaration of the then nine Member States of the European Community, 2010 has seen new setbacks in efforts to resolve the conflict, and negative trends that increasingly fuel doubts about the very possibility of a two-state solution. This contrasts sharply with the optimistic objectives of the latest US peace initiative and Palestinian Authority Prime Minister Salam Fayyad's plan for a Palestinian state, both of which envisage 2011 as a key year for moving towards a two-state solution. These contrasts invite far-reaching, honest and critical reflection on where European involvement in the conflict has left the EU and its Member States, and how it has impacted on peace prospects.

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Institute for Security Studies  
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75775 Paris cedex 16 - France

phone: + 33 (0) 1 56 89 19 30  
fax: + 33 (0) 1 56 89 19 31  
e-mail: [info@iss.europa.eu](mailto:info@iss.europa.eu)  
[www.iss.europa.eu](http://www.iss.europa.eu)