Meeting Minutes Dr Saeb Erekat – Sen George Mitchell October 21 2009

Attendance:

Palestinian: Dr Saeb Erekat (SE)

Rami Dajani (RD) Khaled El-Gindy (KE)

US: Sen. George Mitchell (GM)

Amb. David Hale (DH) Jonathan Schwartz (JS) Mara Rudman (MR)

GM: Good meeting with HC yesterday. Can I discuss what we talked about in private?

SE: Go ahead.

GM: I will talk again to HC, to firm it up, and then we will go to the White House.

SE: I spoke to him. I told him the message was delivered. I did not tell him the reaction, other than surprise and shock. I said you will hear from the US. He said not to put it to them like that.

GM: I appreciate the spirit he authorized you to tell us, but he must have anticipated our reaction. This morning, however, we want to have a specific discussion on the ToRs and side letters. We are making efforts to find language that is satisfactory to you. Then we will make an effort to get Israeli agreement. I had said we would have preferred if you came before the Israelis but your schedule did not permit. So our discussion with them earlier was general and did not get into the precise language as we intend to do with you today. From our prior discussion the key issue for you is the territory issue. We've listened to the concerns of both sides, and we appreciate your concerns – that negotiations are not about dividing the West Bank. We understand your preference for the 67 and swaps language. Because you told us you accept there will be adjustments – with the so called blocs – that will be offset by benefits to you. We need as straightforward a formulation of that concept as possible:

An independent and viable state encompassing all of the territory that was occupied in 1967 or its equivalent in value.

SE: What is this? What is it part of?

GM: ToR or side letters. This is better than swaps for you, and I will ask JS to comment on the language.

JS: Your ToR language didn't say equal.

SE: We said agreed.

JS: We did not want a mathematical formula, so we used "equivalent". I know you have a specific area ...

SE: 6258 squared kilometers.

JS: But you had a more complicated position ...

GM: Note we do not have Israeli approval of this.

SE: So do you plan to give me something in writing.

GM: I will read it all out loud and RD can write it down. I recall our discussion on territory and your concern on the previous language, that it would preclude swaps from their territory. I raised it with them – that it meant they would get the blocs and you would get nothing – and they said that was not the intent and it did not occur to them. Now we need to think of the context in which this language can occur. Only way is to set the US belief – I emphasize this is not a done deal –

[Missing text and minutes because GM insisted at a later point in the meeting to get back all language dictated on the ToR text from RD and KE. It was later read to RD on the phone by GM's staff, as follows:

The issue of territory has figured prominently in our discussions.

The US believes that through good faith negotiations the parties can mutually agree on an outcome that achieves both the Palestinian goal of an independent and viable state encompassing all the territory occupied in 1967 or its equivalent in value, and the Israeli goal of secure and recognized borders that reflect subsequent developments and meets Israeli security requirements.]

GM: Obviously "subsequent developments" refers to the settlement blocs. We would also stress "mutually agreed." This is as direct and straightforward as we can get. Just so you're clear.

JS: There will still be language on goals other than this.

SE: So no Road Map?

GM: We have the paper you submitted on ToRs.

SE: We only read it, we didn't submit anything.

GM: Instead of "treaty" we have "outcome"; "within 24 months" will be somewhere in the document; "with an active American role" is in; all core issues, we prefer the language used by President Obama in his speech – he named four issues: Jerusalem, borders, security and refugees. Water and prisoners is not essential. If you want to add settlements, that's fine.

SE: Release of prisoners is essential – it is essential to 11,000 families.

GM: You liked Obama's speech ...

SE: We liked parts.

GM: We also have "other issues of common interest" which should cover the rest of the issues; "based on the agreed ToR ... including the Road Map" this will be referenced in another part of the document ...

SE: Is this one paper, or will there be many papers?

GM: One.

JS: We need to keep options open, and don't want to rule out the possibility of separate side letters.

GM: So on Jerusalem we will make an independent statement – they will not agree to it in the ToR.

SE: You tell me what will be in the joint ToR.

[GM reads draft text, having requested that no notes are taken. Text is based on what DH read out on Oct 2 with notable additions and subtractions].

GM: The steps may be in the document or a different document. Side letters are possible. And a US statement on its position on Israeli policy on settlements.

SE: When can you give me something – a document or a package, so I can take it to AM, so we can study it in good faith? Now I can give AM the minutes, but it's better if you can submit the whole thing to AM.

GM: Much of what I read is not controversial...

SE: I disagree for example on the PA steps and not going to international bodies.

GM: This is only during negotiations.

SE: They won't refrain from doing the illegal things that they do. If they refrain OK but they wont. This is my only weapon. We have actions by settlers, attacks, provocations, Al Aqsa, home demolitions, families thrown out of their homes. Either we retaliate in a civilized

manner or through violence. Which one should we choose? On going to the UN we always coordinate with you. It's our only weapon. Don't take it away from us.

GM: But if you have good faith negotiations ...

SE: They have a different interpretation of good faith, if you ever dealt with the Israelis.

GM: I would agree with Israel if you were negotiating and bringing actions against them it would be in bad faith.

SE: If they don't take illegal measures, I would have no complaint. You think I complain for nothing! You know even rabbits have defence mechanisms. Let say they throw more families out of their homes. They defied you on this, and the UN.

GM: You can go for a public statement. The ICC is a different thing.

SE: I might go to the General Assembly.

GM: You would go to the GA if two families are thrown out?

SE: Maybe if it's 50 families.

GM: Let's not get diverted. You said 67 is a key issue... [GM has to leave to see HC] Why don't you discuss?

SE: We will talk. It's OK for DH to stay. We will talk with them. [To DH] Are you clear on the settlement freeze? Do you understand the message?

DH: It's clear: regardless of the ToR language?

SE: Yes. Just get me 4 or 5 months of a full moratorium so we can talk. BN needs to budge.

JS: Does your position include 'proximity' talks?

SE: We cannot have resumption of negotiations with this government. We will punish Netanyahu. He can't survive without a process with us. We won't give him leverage of taking us for a ride and continuing settlements while we negotiate. Am I clear, David? This is the decision of the leadership – the PLO executive committee and the Fatah central committee. They won't allow it. Period. Finito.

DH: Your staying in this position means no direct negotiations.

SE: No direct negotiations if there is no freeze and an exclusion of Jerusalem.

DH: So what do you propose?

SE: I know what I'm talking about and I see where things are heading. I am bothered by my message to Sec. Clinton yesterday. Netanyahu will celebrate with a 100 champagne bottles, and the Arabs will celebrate. Number one, On the 25th – next Sunday or the 26th AM will make the request. That's it. He won't bargain. I can see the collapse unless something happens, unless someone convinces him. Number two, you have the decision of the PLO executive committee and the Fatah central committee. Then you have what AM and Mubarak discussed: on the dialogue; next time they have a paper it should be reviewed by the US legal experts; and that Egypt cannot support negotiations that exclude Jerusalem from the freeze. This was echoed by Nasser Joudeh, after he presented his credentials to you in NY. Then he went to Amman and the Moslem Brotherhood. [SE reiterates the actions of Saudi Arabia, Qatar, Syria]. So no Palestinian decision-making body will change this position on the freeze. Not after Goldstone.

DH: You're establishing a standard, as we said yesterday, that you yourself did not follow.

SE: I know. You don't have to tell me. We had Baker who said the US will stand shoulder to shoulder with us, that we shouldn't miss the bus. Then we had Clinton – Camp David did not fail – it was the petty politics – it made Clinton look like a chapter in a Greek tragedy. Then with the Bush administration we had promises to be the judge of phase I of the Road Map. We got Frasier and Selva who did nothing. They lied to us. I know we can't say it but this has been the behaviour of previous administrations. You expect to fool us like the others?

DH: So if no direct negotiations, then what?

SE: We are on the record. I am personally on the record that GM should use the approach he took in Northern Ireland. It was brilliant. He did not bring the parties together until asking all the right questions. So he should ask: 67? Swaps? what will be percentage? You have the different offers. Can your experts define a number? The same applies to Jerusalem. Even Lieberman and Yishai don't want to keep the 300,000 Palestinians of Jerusalem. Even the Old City can be worked out [discusses breakdown of sovereignty over Old City] except for the Haram and what they call Temple Mount. There you need the creativity of people like me

[GM rejoins the meeting]

SE: I want to point out I am answering in my personal capacity on these questions. 19 years after the start of the process, it is time for decisions. Negotiations have been exhausted. We have thousands of pages of minutes on each issue. The Palestinians know they will be a country with limitations. They won't be like Egypt or Jordan. They won't have an army, air force or navy, and will have a third party to monitor ... Palestinian will need to know that 5 million refugees will not go back. The number will be agreed as one of the options. Also the number returning to their own state will depend on annual absorption capacity. There will be an international mechanism for resettling in other countries or in host states, and international mechanism for compensation. All these issues I've negotiated. They need decisions. The

same applies to the percentage. A decision on what percentage. We offered 2%. They said no. So what's the percentage. You can go back to the document we gave president Obama in May.

GM: You're saying no direct negotiations at all?

SE: Once you've established parameters of the end game, with a timeframe with incremental steps, every single thing will have to be negotiated for implementation. So either you put me in a position to eat the apple from the start – and BN tells me we have a new era and takes me on a ride – or the other way I just described – I already ate the apple. Once you have one or two pages, once you accomplish this, you will be in a position of peacemaking, not a peace process. This will be your hallmark. It has been 19 years and I've been in all the meetings.

GM: Are you suggesting, then, no direct meetings until the borders are determined?

SE: No. I was answering DH's question when you came in.

MR: But how do you get discussions started?

GM: How would the process begin?

SE: It's been happening. Netanyahu tested you – what can be done. He's getting the message. You should tell him you're not going to have the cake and it too, if you want Lieberman and the settlements. And you're not going to get me to sit with him under these circumstances. We know Bibi. He's nervous. That's why he is making a campaign now 'asking' AM to be a leader.

GM: So no talks with him while settlement activity continues.

SE: Yes. You asked me yesterday and I said that.

GM: So why are we having a discussion over the language?

SE: That's a good question.

GM: So even if we give you the your ToR language, there will be no negotiations without the freeze?

SE: Yes.

GM: Then please rip out and the text I read out. [RD and KE hand GM papers] So you want us to give you the outcome. You're saying there won't even be negotiations. That's your position.

SE: As long as BN continues as I said. They can send YD and AG to talk to us.

GM: So we reconsider the whole approach – why talk to both sides?

SE: It's important. To get them to make decisions.

GM: But they need to make decisions with you, not us. And you're not taking the same position as before. You negotiated without a freeze all the time.

SE: I told DH while you were out: don't fool us. All the promises over the years – not delivered. The last time it was Bush, with Frasier and Selva. They did not deliver Before that Clinton and before that Baker.

GM: It was never promised. They said they would make an effort.

SE: They promised us last time they will be the judge.

JS: Yes: judge.

GM: What will you gain by not having negotiations. You think the US will just give you ...

SE: It's a moment of truth in the Middle East. Ahmadinejad is in Gaza and Lebanon. Pakistan is going failed. And you have Sudan and Somalia. The Arab states are doing nothing. You know AM had to convince a businessman to pay for Moussawi to have a radio station.

GM: AM does not represent all Arabs. He represents Palestinians.

SE: But they will ride on the Palestinians, and use them.

GM: Even if I were to accept that, he has to do what's best for Palestinians.

SE: Yes. They turned us down. We need to have weight with our own people, our constituency. Netanyahu has to implement what you (not us) wrote in the Road Map. And remember he needs us.

GM: In all candour, your assessment of the political situation in Israel is totally wrong.

SE: I know the Israelis. If someone sneezes in Tel Aviv, I get the flu in Jericho. We know what it take, after 19 years. They cannot decide if they want two states. They want to keep settling in the areas of my state.

GM: But they will settle more if you continue this way.

SE: Then we announce the one state and the struggle for equality in the state of Israel. If our state will not be viable and will have the wall we will fight against apartheid. You either have a decision for peace or a decision for settlements. You cannot have both. Maybe as

people keep saying that we never miss an opportunity to miss an opportunity, but we were never given an opportunity, not my grandparents or my parents, like I am not being given an opportunity.

GM: You've expressed your frustration over the last 19 years. But I tell you there has never been a president on this issue like this one. You are denying him the opportunity to create the state that you want. By saying one state you are telling him to get out, even though you negotiated with every Israeli government before under different administrations.

SE: We're beat. We're like a horse without rations who can't walk.

GM: So then summon all your energy.

SE: To focus on ...

GM: Apartheid?

SE: I am a founder of the peace camp. Do you think it's easy for me to tell my own daughters I made this mistake.

GM: So give Obama the chance to help.

SE: How can I convince anyone if he could not even deliver a temporary settlement freeze? It's not up to me to decide your credibility in the Middle East. He has lost it throughout the region. When he got the Nobel peace prize I was asked about it in the media and publicly congratulated him. I was attacked for it in the Arab media – just for congratulating, like I would congratulate anyone who wins a prize.. Believe me there is no president in the Middle East who wants to help Obama as much as AM...

GM: I have a 6 inch folder on my desk containing all your statements on the settlement freeze, and despite that you negotiated. Now with the first president who wants to make an effort – he's being penalized by you.

SE: Not me. He has Netanyahu. He came to Cairo and said full freeze. We will not convert to Judaism, so if Netanyahu charade of two state is followed, it's going to be one state.

GM: So another 60 years like the previous ...

SE: It will be with what you are proposing.

GM: Does the language we read to you not mean anything?

SE: Distinguish between me and the message and instructions I am carrying. Maybe you won't have to worry about this because you may not have this president by the end of the month. You may have to deal with Aziz Dweik.

GM: We are trying very hard, desperately, to satisfy on 67 language. You're saying not enough ...

SE: Settlement freeze is Israel's obligation. The ToRs are for all parties.

GM: So how do you justify that you had all previous negotiations without the freeze?

SE: AM will tell you it was a mistake. Now it's a moment of truth. It's about our future. Watch what's happening around us. We don't want to be finished. AM cannot go back to negotiations with settlements and business as usual.

GM: Then there will never be negotiations. You are the party of negotiations and Hamas is the party of armed resistance.

SE: The way it's going with you and your Arab allies, Iran is winning. No wonder with Qatar ... and with Petraeus there in Central Command. What is the strategy? Where do we fit? What about Turkey? Saudi? Why does it take the US to get them to pay us? What's going on? Did you ever sit with us and discuss strategy – like you do with Israel and with Qatar?

GM: There are a lot of unpleasant facts in the Middle East but they did not begin last month.

SE: I know. I told you before. You are what's in it for us. We have nobody but Mitchell and Obama. So my personal conclusion is to shoot for the end game. This is your ladder. Salam Fayyad spoke to me last night for 27 minutes. He never did that before. He wanted to make sure I was honest with you on settlements and Jerusalem. This decent man, he knows the heat and he knows the risks, You should sit with SF next time and tell him what you tell me. Tell him SE said no, and ask him why.

GM: I will. So what's the way forward?

SE: The decision-making approach. On borders, once you define the borders and percentage of swaps then I can negotiate the rest. You are going to have to talk between us. You have to go the extra mile. I say this in my personal capacity – even though not mandated – so I am not saying any of this.

GM: I am willing to go ten extra miles. If we start with separate proximity talks, can they be accompanied by private discussions?

SE: At this stage AM cannot touch them. After Lieberman came up with the tapes smear... We have channels: YD and AG.

GM: That's AM. But how about you and Molcho?

SE: Now it is difficult, but in the days to come I may be able to find a way.

GM: Days, what does that mean?

SE: Not months, not weeks. We need you to succeed. We want to help you.

GM: Our objective is a comprehensive peace. A Palestinian state. Peace between Israelis and Palestinians. We don't have ulterior motives.

SE: Regarding Molcho – is he willing to sit? Not permanent status negotiations – just to sit.

GM: Yes. But what approach do we take? What do I tell President Obama? Talk separately – what would that lead to?

SE: Borders. Percentage ...

GM: I can't get an agreement on that from them. You need to talk ...

SE: About what?

GM: Talk about the issues and maps ...

SE: Do they have a map? Can you get a map from them? I showed you our maps.

GM: I will ask – but they will want to couple that discussion with security discussion.

SE: I said security talks will always continue and you have our word on that.

GM: I have to go. I will tell Jones that there will be no negotiations without a complete freeze that includes Jerusalem.

SE: Yes, and I will tell him the other thing.

GM: I will tell him you are suggesting an alternative – separate meetings.

SE: My personal opinion – not an official position. That is what I would do if I were in your shoes.

GM: The best way is to have direct meetings. I've been through proximity talks and they take 10 times as long.

SE: Did ask them about the end game? Ask them. And ask them: do you have a map?

GM: I will ask. They will also want to discuss security.

SE: Let them talk to the security commanders. General Hazem Atallah is mandated to talk also about permanent status. They can talk on all security issues.

[GM leaves the meeting]

DH: Let's continue the discussion on proximity talks.

SE: People in the Middle East are not taking Barack Obama seriously. They feared Bush, despite everything. This is important. BO has lost it with the decision-makers, although not the street. Look at what's happening in the Arab world. Did you see the cartoon in the Jordanian papers – you know Jordan, David – so tell me what's going on? In Al-Dustoor! Why is Joudeh saying this?

DH: They have political needs – the king's position within the country. They anticipated the criticism ... I'm not justifying what they did. Let's get back to the discussion. So two tracks ...

SE: First, on redeployment, incursions: don't politicize. Leave it with security commanders. They know how to deal with it. Life goes on. I want to reiterate on that that we are committed to working with USSC and EU COPPS, to rule of law, one authority, one gun. We give you our word on this.

Second, the channel of communication with the Israelis will continue through YD and AG. They can convey what the Israeli government is doing. Our trust with the government is zero. AG spoke to Lieberman – told them about the claim that AM was colluding with them in the Gaza war. He went to AM before the attack and asked him. AM replied that he will not go to Gaza on an Israeli tank. AG testified about that. He was honest. So we can maintain the channel.

Third, if the PM people want to deal with the day to day issues, we may find a way. That's why I asked you to speak to Molcho. I'm not excluding the possibility but have to speak to my boss.

Fourth, your role: The Arab scene with your allies is bad. You need to revisit Egypt. They should not submit a paper without you [to JS] seeing it. Can we get guarantees from you? Because otherwise we will be punished. The same with Nasser Joudeh. He is your friend in NY – Why did he go to the Parliament? Is he copying Abul-Gheit? Tomorrow when I need to make decisions on refugees – it's the survival of your nations…

DH: Did you speak to him?

SE: No. My counterpart from the Royal Court is Naser Jozi. He is honest and said the right thing – that mistakes were made. There was no statement from the Royal Court, but he almost apologized and said the King was with him.

DH: So you're saying we need to shore up our position with the Arabs.

SE: And the Saudis... to say they had no knowledge! Throwing us in the fire. And Qatar, their emir personally calling intellectuals telling them to attack AM. I saw him in NY and he told he had an excellent meeting with HC and everything is OK. And the Syrians – Meshal's speech under Asad's picture. Distasteful. The Israelis: we're also in touch with Israelis and Jewish groups – not J street or just the Labour party. We don't see Netanyahu as the end of the world – the Lieberman – Netanyahu cabinet. If we go for negotiations with them we will kill the others. We're not going to do that. He has not taken a single step ... and his PR abilities: he can blue to red and red to yellow. It's fantastic. He is the one who attacked us – we did not hit him below the belt - yet. He did that to us. Statement by Netanyahu that AM is not a partner – OK if he wants to destroy the 2 state solution. Ask your people at the embassy and the consulate what it means if Bibi has no partner...

DH: The senator covered this ground ... you are abandoning a long-held Palestinian position.

SE: I'm not. Bibi is canceling phase I and phase III. Just a state with provisional borders. Why deal with our obligations, he is saying, or make the stupid concessions of Olmert and Livni sell outs. So he will not get this. I am planning to appear on Israeli TV, the main channels, but delaying it.

DH: But you're giving him what he wants. First thing he will say is "no partner". He's set you up. You're in a trap.

SE: No, I will tell them [Israeli public]

DH: They won't listen to you.

SE: If AM abdicates – you get Dweik. Netanyahu is great. He defeated Barack Obama and brought you Ahmedinejad and Hamas.

DH: Why are you playing along with this?

SE: I'm not. They're the ones saying "no partner". They wouldn't even meet with me. You know what this will do in Israel, if I reveal my meetings to the Israeli public. What we've said – on security and zero tolerance for terror – but your PM's choice is Ahmedinejad. He twisted Obama's arm and has ended up with Aziz Dweik as his partner.

DH: But the context they will use is that you rejected the US effort.

DE: No. There's an easy answer to that. We didn't say matrix of responsibilities. We argued to shoot for the end game. Who cares about settlement freeze if you have an end game? You chose the matrix, and the freeze, and the words of Cairo. Then Bibi didn't comply. Now I'm the one who's cost free. My word is nothing compared to his in the congress. But I can explain to the Israelis – I can get more support in the Israeli Knesset than in the Jordanian Parliament!

DH: You work that out.

SE: I am going on the Kirschenbaum show on Monday.

JS: While you're pursuing the IDF at the ICC ...

SE: It's not going to happen. Ocampo is using it against Bashir and Darfur. In any case it will take years. Did you see the piece by Yossi Sarid congratulating Netanyahu for killing AM?

JS: Israel is really concerned about the prosecution of its officers.

SE: Look at the Israeli reaction after the postponement of Goldstone. There was more sympathy for the PA's action because they saw what happened. The Israeli public is not Netanyahu.

DH: The senator had a question. It seems you don't have an answer.

SE: I do. You go to each side. You have a map. Close the deal on borders with swaps.

JS: Would this be a known or private process?

SE: Dead private. If it becomes public it will be killed.

JS: If it succeeds ...

SE: For borders it is 67 with a percentage for swaps. 24 months while the parties negotiate.

JS: So it's the border itself that is decided, not just the percentage.

SE: The percentage. Then the parties negotiate the exact border.

JS: So it's like the Clinton Parameters but with a specific percentage, not a range.

JS: What if Israel says territorial link.

SE: 0.07%. It is part of the swap if we get sovereignty. Otherwise no.

JS: So your suggestion on private talks would have to solve this.

SE: Yes.

JS: So swaps, percentage does not preclude different numbers ...

RD: No. Equal on each side.

SE: 1 to 1.

JS: And value?

RD: Value can be negotiated in the bilateral.

KE: It is not an exact determination of value, so it can be negotiated.

JS: So the transfer is part of implementation. With timelines – many "provisional borders" ...

SE: Until completion of withdrawal according to the timeline, incremental steps – until all that is completed we do not declare a state. Until then it is only a transfer of jurisdiction. No state until we reach 67. This way I accommodate Israeli security and settlement concerns. And I get functional jurisdiction in these areas pending full withdrawal.

JS: How do you see the steps?

SE: Phased withdrawal by area. For example, in three months withdrawal for a given city or area etc. Same as in Sinai.

JS: What if the Israeli position is the percentage depends on security positions?

SE: The security commanders can discuss security. We also have Jones' paper on the day after.

JS: Security commanders can discuss PS?

SE: Yes. Hazem Atallah is there, and he is authorized by the president.

JS: Discuss Jerusalem with the borders or separate?

SE: It's solved. You have the Clinton Parameters formula. For the Old City sovereignty for Palestine, except the Jewish quarter and part of the Armenian quarter ... the Haram can be left to be discussed – there are creative ways, having a body or a committee, having undertakings for example not to dig. The only thing I cannot do is convert to Zionism.

JS: To confirm to Sen. Mitchell, your private idea ...

SE: This conversation is in my private capacity.

JS: We've heard the idea from others. So you're not the first to raise it.

SE: Others are not the chief negotiator of the PLO.

JS: I meant this gives you cover – that it's not you who raised it. So you would separate Jerusalem from the border?

SE: No. But we use Clinton Parameters – except for the Haram [separate from border]

DH: So you're not talking about the border only. You're talking about Jerusalem, security

. . .

SE: Yes. Once we define these, we can move to bilaterals.

DH: So this is a way of moving from proximity talks to bilaterals ...

SE: I repeat my message: no bilateral negotiations without a settlement freeze.

DH: You succeeded in making the point.

JS: Do you have a timeline?

SE: I can give you 36 months for negotiation and implementation.

JS: I mean how does this fit in with other events – reconciliation, elections ...

[Repeat discussion on the Egyptian role in reconciliation and Egyptian paper]

SE: In two months, we'll have another Egyptian effort. They don't want to appear like they failed where Qatar succeeded in Lebanon. This time you should tell Egypt about your congress and laws and tell them to make sure they don't cause sanctions to be imposed on these poor people.

DH: We told them. Senator Mitchell told them.

SE: We are transparent with you and tell you everything. Sometimes this is not appreciated in this town.

DH: We value that.

SE: So if you have anything to share with us we'd appreciate that.

END