

# THE KERRY INITIATIVE: COMETH THE HOUR, COMETH THE MAN?

For the first time in three years, Israel and the Palestinians are negotiating directly and officially towards a Final Status Agreement. The obstacles are enormous. Initiated by US Secretary of State John Kerry, the talks can only be successful if US President Barack Obama commits himself to them; if expectations of what an agreement could deliver are moderated; and if Israeli Prime Minister Binyamin Netanyahu decides to use his historically good negotiating position.



Israeli Prime Minister Binyamin Netanyahu (R) meets with U.S. Secretary of State John Kerry in Jerusalem May 23, 2013. *Jim Young / Reuters*

This year marks the 20<sup>th</sup> anniversary of the historic handshake between Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yassir Arafat in front of the White House that sealed the Declaration of Principles Agreement. In July 2013, in the shadow of dramatic regional developments – the civil war in Syria and the conflict over Iran’s nuclear programme – Israel and the Palestinian Authority (PA) began to negotiate again. Within six to nine months, the parties hope to reach the Final Status Agreement sought in vain since 1993. The region has a rich history of deadlines rushing by without result, and “no one has ever lost

money betting against Middle East peace,” as the saying goes. Nevertheless, there are reasons for very cautious optimism.

Both sides know each other very well, and both sides have a good picture of what would be necessary to conclude an agreement within the two-state framework. While it is true that there are viable and practical solutions for every contested aspect of the negotiations, it is also true that the devil lies in the details, and here the differences are still enormous and difficult to bridge, as they touch the very core of both societies’ narratives.

What, then, are the reasons for qualified optimism? Broadly speaking, the constellation of factors underpinning the Kerry talks is probably the most conducive to an agreement since before the fateful day Yitzhak Rabin was shot. Middle East negotiations have tended to be successful when three factors are aligned: First, the regional situation allows for progress; second, the US is committed and engaged; third, and most importantly, the parties themselves are able to conclude a deal and credibly deliver on commitments. Currently, these factors are once again aligned favourably. What is needed now is historic leadership by US President Obama, PA President Mahmoud Abbas, and, first and foremost, Israeli Prime Minister Binyamin Netanyahu.

## The regional situation

As Martin Indyk, an insider of Middle East negotiations for 20 years and currently US Envoy to the Israeli-Palestinian peace talks, memorably put it in his account of the peace process: “In the Middle East [...] everything is connected.”

There are two fundamentally different ways to analyse the current regional situation and its effect on the negotiations. On the one hand, the civil-war-turned-proxy-war in Syria and the political crisis in Egypt dramatically increase Israel’s strategic insecurity. Therefore, there could be no worse regional environment for historic, long-term decisions with potentially significant short-term risks. From this perspective, Israel has every reason to prefer the contested, yet controllable and rela-

### Five core issues of a Final Status Agreement

Traditionally, it is assumed that a Final Status Agreement would have to solve four core issues of the conflict: First, the question of where the borders of the new Palestinian state and Israel should lie; second, the status of Jerusalem and the holy places; third, the question of a return of the refugees of 1948; and, fourth, which arrangements could ensure the continuing security of Israel. Since 2010, a fifth issue must be added to these: The Israeli demand, recently reiterated by Netanyahu, that the Palestinians recognize Israel as the nation-state of the Jewish people. All these core issues are interdependent. Any sequencing, often proposed for the issues of “borders” and “security”, faces enormous practical hurdles on the ground.

With regard to what an agreement could achieve, many Europeans are misguided in their expectations. The negotiations will not result in a “Two-State-Solution” and a comprehensive peace deal. Not least because the Palestinians themselves are divided, this is not achievable for the time being. A Final Status Agreement, including an official end of all further claims, could constitute the basis for lasting peace, but it would not immediately end the conflict and the violence it entails.

tively calm status quo in the West Bank, compared to the risk entailed in any potential agreement.

On the other hand, the regional crisis arguably reduces the real short-term threats to Israel. A disintegrating Syria poses no existential threat in the near term, particularly since the Lebanese Hezbollah, which constituted the most potent military threat in recent years, is reportedly tied up in the conflict with a large part of its forces. In addition, the increased pressure of the military administration in Egypt after the fall of President Mohamed Morsi, coupled with the demise of its former backer and benefactor Syria, has seriously weakened the Palestinian Hamas in Gaza. Furthermore, in April 2013, the Arab states signalled their general support for Kerry’s initiative by renewing and expanding their Arab Peace Initiative of 2002. Taken together, those developments arguably constitute a positive constellation for Israel.

The conflict with Iran over its nuclear program has special significance with regard to the negotiations. Since Netanyahu returned to office in 2009, Iran has been at the very top of Israel’s agenda. However, in

most of the military scenarios that would aim to seriously set back Tehran’s nuclear activities, Israel is dependent on the US – ideally as an active partner, but at least as a tacit supporter. Since the relationship between Netanyahu and Obama, cold from the beginning, has suffered seriously with the failure of the last negotiations in 2010, the Israeli prime minister now has a strong incentive to court Obama. While the recent open discord between Israel and the US with regard to the P5+1 talks in Geneva highlights the challenge of finding common ground, Netanyahu is under considerable pressure to maintain a constructive relationship with the current US administration.

Overall, the regional situation does not stand in the way of an Israeli-Palestinian agreement. If the talks were only tactical manoeuvres of the parties in response to short-term developments in the volatile regional arena, however, they would be doomed to failure from the outset. From Netanyahu’s point of view, the fundamental, strategic, and long-term rationale behind the talks must be to secure Israel’s future as a Jewish and democratic state solidly integrated into the international

community. This can only be achieved, as Netanyahu himself has repeatedly made clear, if Israelis and Palestinians in their respective majorities live in separate states. If this really is his conviction and driving strategic interest, then the regional developments can favour a successful outcome of the talks.

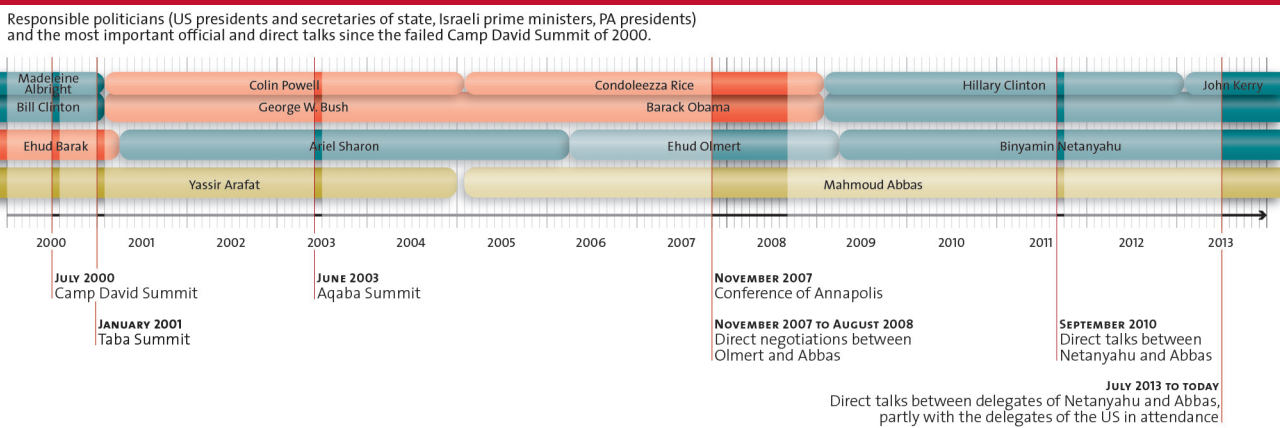
### Where does Barack Obama stand?

All diplomatic breakthroughs in the Middle East over the last 30 years have been preceded by secret diplomacy between the negotiating partners. Nevertheless, at some point down the line, every party saw a vital need to involve the US – either as moderator or as a sponsor and guarantor of the agreement. Against this background, the Kerry Initiative constitutes the first serious, coherent, and regionally coordinated effort of a US administration to reach a Final Status Agreement since the end of the Clinton administration.

What lies in between are 13 years of radically changing US policy towards the conflict. After the failure of the Camp David Summit and the beginning of the Second Intifada in 2000, the new US administration under President George W. Bush refused to negotiate with Yassir Arafat. For seven years, the diplomatic process was practically non-existent. Efforts of the US State Department under Secretary of State Colin Powell, in concert with some European states, to revive the process with the “Road Map for Peace” in 2003 failed due to the parties on the ground, but also because the White House did not unequivocally support the initiative.

Only after the death of Arafat in 2004 were some elements of the US administration willing to support new negotiations. In 2007, under pressure from US Secretary

### Middle East negotiations and responsible politicians since 2000



of State Condoleezza Rice, the Conference of Annapolis started a series of intense bilateral negotiations between President Mahmoud Abbas and Prime Minister Ehud Olmert. Hampered from the beginning by a lack of official support from the White House, the talks were impressive in their intensity, but nevertheless ended without concrete result in August 2008.

Immediately after taking office in January 2009, President Obama tried to relaunch the process, but his first efforts failed in September 2010, when Abbas and Netanyahu broke off their direct talks over disagreement regarding a prolonged settlement moratorium and Netanyahu's demand that the Palestinians acknowledge Israel as the "nation-state of the Jewish people." The failure of the talks also put strains on the Israeli-US relationship that were less than conducive to breakthroughs. In the following years of Obama's first term, no major new developments occurred, not least because Secretary of State Hillary Clinton assigned priority to the US "pivot" to Asia.

It was only when Secretary of State John Kerry took office in February 2013 that the diplomatic process regained momentum. Kerry, like few of his predecessors, made the Middle East conflict his priority. He has directed a considerable part of the diplomatic energy of the US State Department toward the negotiations. On a series of visits to the region, he has managed to bring both sides to the table without fulfilment of their respective pre-conditions. Abbas had demanded "agreed terms of reference", meaning an understanding that the pre-1967 lines would form the basis of an agreement, and a settlement freeze; Netanyahu had made the recognition of Israel as a Jewish nation-state a pre-condition to attend. From a US perspective, the timing of the initiative is favourable: Launched at the beginning of Obama's second term, it leaves enough time for negotiations without having Obama and Kerry appearing as "lame ducks", with Palestinians and Israelis already preparing for their respective successors.

The fundamental question of whether President Obama unreservedly supports Kerry's enormous efforts remains unanswered. In his speech to the UN General Assembly in September 2013, Obama stat-

### Netanyahu: Combining strength and flexibility

Binyamin Netanyahu dominates Israeli politics. He faces no credible challenger, neither among his own base nor in the opposition. In addition, the disappointing election of January 2013 has had the paradoxical effect of diminishing his power base while increasing his political flexibility. Netanyahu leads a centre-right coalition that would crumble should he sign an agreement, as the radical Ha-Bayit ha-Yehudi party of Naftali Bennett would surely leave the government. Even Netanyahu's own party, the Likud, could split. Furthermore, it is uncertain whether the Yisrael Beiteinu of Avigdor Liberman could possibly support him.

However, Netanyahu could be supported by other parties in the coalition: Yair Lapid's Yesh Atid conditionally supports the talks – even as it rejects a partition of Jerusalem – and Tzipi Livni of the Ha-Tnua is the most outspoken proponent for an agreement. In addition, the Knesset offers further options for a "Final Status Coalition": The social democratic Meretz has expressed a conditional willingness to enter government in support of an agreement; other parties like Ha-Avoda and even the ultra-orthodox Shas could also potentially support a deal. Polls indicate that Netanyahu would not necessarily have to fear a referendum over an agreement.

During the electoral campaign, peace talks were a marginal issue; and within the parties, debates are only just beginning. Yet, within the notoriously volatile political landscape of Israel, Netanyahu does have the political options to enforce a deal even against considerable resistance – if he so wishes.

ed that the Iranian nuclear crisis as well as the Israeli-Palestinian conflict constituted his two priorities in the region. Regardless of these statements, however, with regard to the actual talks, he seems reluctant to commit himself publicly. That may be due to both strategic considerations and domestic politics. In terms of strategy, he may be trying to avoid the role of former US president Bill Clinton, whose command of details of the talks has been lauded as much as his nearly constant accessibility

for the parties has been criticized. Thus, Obama may reserve his personal entry into the talks for a moment when he can maximize the effect. In terms of domestic politics, staying away from the talks until there is a chance of a real breakthrough shields him from criticism in the very possible case of the process breaking down.

In the last decades, both Israelis and Palestinians have proven to have a fine sensor for the slightest daylight between the White House and the US State Department. Up to this point, there is no public hint that they may doubt Obama's commitment. Whether they are really certain will transpire when both sides are asked to make concrete and lasting concessions, or when the US, for the first time since Bill Clinton, publishes its own bridging proposals for final status principles.

### Abbas and Netanyahu – partners for peace?

President Abbas is in a precarious situation. Within the West Bank, his democratic legitimacy is questionable at best; in the Gaza Strip, he has no power at all. Greeted with

big hopes after he succeeded Arafat, he has gained a reputation for being willing to conclude an agreement, but reluctant to push through against internal resistance. The euphoria following the acceptance of Palestine as an observer state by the UN General Assembly in November 2012 has died down for a lack of concrete results. On top of this, the recent rumours suggesting a possible poisoning of Yassir Arafat do not strengthen his negotiating position.

Yet, Abbas wants an agreement, and he wants it soon. As he himself admits, even among his closest circle, support for a two-state agreement is diminishing. In addition, he is in need of further diplomatic successes to compensate for his lack of democratic legitimacy and to gain leverage vis-à-vis Hamas.

What Abbas could accept can probably be summarized as "more than 2000 and 2008". In July 2000, Prime Minister Ehud Barak was ready to make far-reaching concessions. Furthermore, according to reports, in August 2008, Ehud Olmert presented Abbas with a package that went beyond Barak's offer: A Palestinian state on a large part of the West Bank, substantial land swaps, a symbolic return of refugees and a joint Israeli-Palestinian administration of Jerusalem, with international oversight over the holy places.

Why exactly these offers failed is the subject of many debates. A central aspect will have been that both Barak and Olmert were in very weak negotiating positions. Shortly before leaving for Camp David, Barak had only narrowly survived a vote of no confidence in the Knesset; and while Olmert negotiated with Abbas, he was in-

### Switzerland and the Kerry Initiative

Switzerland has always followed the Middle East negotiations with considerable interest. Throughout the last decades, Berne has been a regular mediator and provided venues for confidential discussions among various parties on neutral ground. Switzerland thus maintains good relations with various conflicting parties in the region. Additionally, the “Geneva Initiative” of 2003, re-launched and extended in the last few years, still remains a reference document for realistic and achievable solutions within a two-state framework.

With regard to the current talks, however, the Swiss influence is limited. The key players are Israel, the PA, and the US. In addition, the Arab states play an important role. Nevertheless, Berne can support the talks on two levels: First, it can help to bring voices to the process that normally remain unheard or unconstructive on the public stage – be they from the Gaza Strip or from Iran. Second, Switzerland can help to reduce the political and economic risk for Netanyahu and, more importantly, for Abbas. It is especially the PA that would need immediate and consequential assistance in the aftermath of a possible agreement, not least with regard to the intra-Palestinian divide. In this way, Berne could help to set the right framework for an agreement. The key, however, lies in the region and in Washington, D.C.

investigated for fraud. Both politicians tried to hold on to their office by dint of a diplomatic breakthrough. Therefore, it is very much uncertain whether they could have delivered on their offers after an agreement had been signed.

Today, after a possible agreement, President Abbas himself would face the daunting task of implementation. Here, he would need all the assistance the Arab states, and especially Europe, could muster. Abbas is weak domestically; but he is willing, and whether someone better suited would succeed him is a risky bet.

The success or failure of the Kerry Initiative therefore depend on Netanyahu and his willingness to make historic decisions. He can do so, if he wishes – he is in a position of strength not known since Yitzhak Rabin’s day: First, he has the security credentials to counter accusations that he would be sacrificing Israel’s security for an agreement. Second, he is well connected in the US, where he maintains good contacts with representatives of both parties in Congress. Third, and most importantly, he has the domestic room for manoeuvre that could enable him not only to sign an agreement, but to follow through on it (see Box on page 3).

The central question now is whether Netanyahu wants to capitalize on his strength and conclude an agreement? His public statements are ambivalent. On the one hand, he is unequivocal about Iran being his foreign policy priority. Apart from the failed talks of September 2010, he has shown no willingness to tackle the conflict with the Palestinians energetically. On the other hand, since 2009, Netanyahu has called for a Palestinian state – albeit under very restrictive conditions. During the last months, he has reiterated his warning of a bi-nation-

al Israeli-Palestinian state under the framework of some “One-State-Solution.”

Optimistic observers, of which there are few, believe that Netanyahu could be willing to conclude a deal – be it to ensure his political legacy; to create new political options towards the centre of the political spectrum; or to fend off the increasing political-economic pressure on Israel. This economic pressure, embodied symbolically in the EU Guidelines on the “territories occupied by Israel since June 1967” of July 2013, cannot be underestimated – though less with regard to the real economic damage. No Israeli prime minister will take

steps that could in any way compromise the security of Israel for short-term economic gains. Still, the potential long-term cost of increasing international civilian campaigns along the lines of the international effort to isolate the South African regime until 1994 could be substantial. Netanyahu, famous for his political pragmatism, will see this real danger clearly.

Ultimately, even close observers do not know whether Netanyahu is ready to make the difficult and historic decisions necessary. He has numerous reasons for engaging in tactical manoeuvres – based on domestic as well as foreign-policy considerations. In addition, he will be under no illusions what the political price of an agreement would be. Regardless, for a long time, no one has been better positioned to pay that price than Netanyahu.

Author: Martin Zapfe  
zapfe@sipo.gess.ethz.ch

Responsible editor: Christian Nünlist  
analysen@sipo.gess.ethz.ch

German and French versions / other  
CSS Analyses / mailinglist:  
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