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The September UN Vote on Palestine: Will the EU Be Up to the Challenge?

Riccardo Alcaro and Andrea Dessì

Abstract

Frustrated by years of inconclusive peace talks, the Palestinians are turning to the United Nations to gain recognition as an independent state. Their bid is opposed by Israel and the United States, with the latter threatening to block any bid for full UN membership in the UN Security Council. To bypass the US veto, the Palestinians plan to request recognition to the UN General Assembly, where they are sure to get the two-third majority of votes needed for the approval of the resolution. While legally non-binding, a favourable vote in the UNGA would be a political boost for the Palestinians' cause - or so they hope. Full EU backing would give critical political weight to the Palestinians' claim. EU states are deeply divided on the issue of Palestinian membership of the UN but instead of opposing the initiative altogether, the EU has been engaging the Palestinian leadership in the hope of modifying its stance. Should the EU fail to persuade the PA to give up on its request for full UN membership, it should abstain in bloc while tabling a concurring resolution that would spell out clearly the parameters for renewed peace talks.

Keywords: *Palestine / United Nations (UN) / UN General Assembly (UNGA) / UN permanent observer status / UN Security Council (UNSC) / UN membership / European Union / EU member countries / United States*

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The September UN Vote on Palestine: Will the EU Be Up to the Challenge?

Riccardo Alcaro and Andrea Dessì*

Introduction

By the end of September 2011, the United Nations General Assembly (UNGA) is likely to be called upon to vote on a resolution recognizing an independent Palestinian state based on the 4 June 1967 borders and with its capital in East Jerusalem. In parallel, the Palestinian Authority (PA) is expected to submit a formal request for Palestine to be granted full membership status at the UN.

After twenty years of failed peace talks and faced with a relentless Israeli settlement drive in the Occupied Palestinian Territories (OPT), the PA appears to have lost hope in the so-called Middle East Peace Process (MEPP), turning to the world body with a request that it formally recognize the contours of an independent Palestinian state in the West Bank, East Jerusalem and the Gaza Strip. This initiative reflects the PA's growing frustration with a peace process that lacks clear guidelines for the conduct of negotiations and which has thus far failed to specify a clear pathway to accomplish its set end goal of a two-state solution. Israel's early August announcement of close to 3,000 new housing units for Jewish settlers in the OPT has underscored a long-standing Palestinian concern that without a clear acknowledgment of the borders of a future Palestinian state, the current framework for peace talks has allowed Israel to expand its grip over the land at precisely the same time as the two parties were meant to be negotiating over it. This has translated into a PA push to seek greater international involvement in resolving the conflict, re-establish trust and legitimacy amongst its population, while highlighting both domestically and internationally that the conditions for implementing a two-state solution cannot last indefinitely.

On 26 July, Robert Serry, UN Special Coordinator for the MEPP, warned, during an open debate in the UN Security Council, that political efforts aimed at resolving the Israeli-Palestinian conflict are in a "profound and persistent deadlock".[1] The conflict has plummeted to new lows since late 2008, when Israel launched a 22-day military campaign against Hamas, the Islamist party that governs the Gaza Strip. Following Barack Obama's election as US president, Israeli-Palestinian peace was again placed high on America's agenda, and after months of shuttle diplomacy, direct talks were set to resume in early September 2010. Lasting only twenty-four days, this round of negotiations ended on 26 September 2010 with Israel's refusal to extend a ten-month partial moratorium on the construction of settlements in the OPT. The peace process

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[1] UN News Centre, *UN envoy warns of profound deadlock in Israeli-Palestinian peace talks*, 26 July 2011, http://www.un.org/apps/news/story.asp?NewsID=39148.

has since languished in a state of disarray and successive international efforts have failed to devise a formula to re-launch it.

With the sixty-sixth session of the UNGA fast approaching, and the prospect of a return to bilateral negotiations as distant as ever, international diplomacy is gearing up for the prospect of a UN vote. While a majority of UN member-states, including heavyweights such as China and Russia, have already expressed support for the PA's initiative, Israel and the United States have harshly condemned the PA's plan to petition the UN. A vote in the UN is troubling for the European Union, given that its twenty-seven member states are themselves deeply divided on the subject of Palestinian independence.[2] Under the leadership of the EU's High Representative for Foreign Affairs and Security Policy, Baroness Catherine Ashton, European diplomacy is struggling to avoid a division among its member states, hoping instead to create the conditions that would allow the EU to vote as a bloc at the UN later this month. The EU's response will ultimately depend on the exact wording of a UNGA resolution, and while HR Ashton has been actively engaging the Palestinian leadership in the hope of modifying their stance at the UN, what is clear is that a divided Europe would limit the EU's influence over the peace process by diminishing its chances of securing a more active, and independent, mediating role in the conflict. A unified Europe on the grounds of a resolution that can genuinely push forward the prospects for a solution is as critical to the quest of forging a meaningful European foreign policy as to that of promoting Israeli-Palestinian peace.

However, while the positions of the United States, Israel and a majority of the international community can be deduced in advance of the PA's request for formal recognition and UN membership, a full understanding of what the EU's stance will be on this issue is still lacking. With less than two-weeks from the expected UN vote, international attention is therefore focused on the EU's response. This is in itself a new development, given that the EU has traditionally been relegated to a secondary role compared to that of the US when it comes to analysing the vicissitudes of the Middle East peace process.

1. The PA's UN gamble

Mahmoud Abbas, president of the PA, chairman of the Palestine Liberation Organization (PLO) and leader of the nationalist, secular Fatah party, has repeatedly stated that the Palestinians would prefer a return to bilateral negotiations with Israel rather than resorting to a UN vote.[3] The PA has accordingly recognized that peace can only be achieved through bilateral negotiations and that a UN resolution will not, in its own right, deliver them statehood.[4] The Palestinians are nonetheless adamant that, in order for talks to resume, Israel must first halt all settlement construction and

[2] AFP, "Split EU seeks 'one voice' on Palestinian UN bid", in *EUbusiness*, 3 September 2011, http://www.eubusiness.com/news-eu/un-israel-diplomacy.bzc.
[3] "Abbas: UN membership bid does not affect our will to negotiate", in *Haaretz*, 21 July 2011, http://www.haaretz.com/news/diplomacy-defense/abbas-un-membership-bid-does-not-affect-our-will-to-negotiate-1.374487.
[4] "Abbas: PA will return to talks regardless of UN outcome", in *Ma'an News Agency*, 6 September 2011, http://www.maannews.net/eng/ViewDetails.aspx?ID=417867.

acknowledge the 4 June 1967 borders, with mutually agreed land swaps, as the basis for a two-state solution. Israel's right-wing governing coalition, headed by Prime Minister Benjamin Netanyahu, has thus far rejected both of these parameters while requesting a Palestinian recognition of the 'Jewish character' of the Israeli state as a precondition for talks to resume, a request that would precondition not only negotiations on Palestinian refugees - a core issue of the conflict - but also the future of the Palestinian minority in Israel.[5]

The Palestinians have already declared the independence of a Palestinian state. This occurred in November 1988 with a unilateral declaration of statehood read out by then PLO leader Yasser Arafat from his base in Algiers. This time around the Palestinian leadership is aiming for a UN endorsed declaration of statehood, which would hold considerably more significance, immediately bestowing international legitimacy to an independent Palestinian state.

The Palestinian initiative is expected to include passages at both the UNGA and the United Nations Security Council (UNSC). A non-binding resolution calling on the international community to recognize the 4 June 1967 borders as the basis for an independent Palestinian state could be submitted for a vote in the UNGA. A two-thirds majority, 129 out of 193 countries, voting in favour of the resolution would be enough to secure its approval, but a UNGA resolution would be advisory in nature and therefore devoid of any legal standing. On the basis of art. 4 of the UN Charter, a Palestinian application for full membership to the UN would, instead, first have to be endorsed by the UNSC, which would then refer the question to the UNGA for a final vote on its accession (again a two-thirds majority in the UNGA is needed for a state to be granted full UN membership).

Palestinian foreign minister, Riyad al-Malki, said that President Abbas would personally deliver the PA's request for statehood to UN Secretary-General Ban Ki-moon on 20 September.[6] The resolution is then expected to be passed to the UN Security Council, whose rotating presidency for the month of September is held by Lebanon. The Palestinians are counting on Lebanon's support for their initiative and hope that in its capacity as president, it can complete all the necessary steps in order for the resolution to be presented for a vote in the UNSC. In the likely event that the membership bid were to stall in the UNSC, the PA has stated its intention to refer the question directly to the UNGA, where another supporter of the PA's UN bid, Qatar, will chair the presidency of the assembly.[7]

There is no chance that the fifteen-member UN Security Council will approve Palestine's bid for full UN membership. The United States, which together with the other four permanent members of the UNSC holds veto power over any resolution, has

[5] Natasha Mozgovaya and Barak Ravid, "Quartet efforts failed over 'Jewish state' recognition", in *Haaretz*, 13 July 2011, http://www.haaretz.com/print-edition/news/quartet-efforts-failed-over-jewish-state-recognition-1.372926.
[6] Avi Issacharoff and Barak Ravid, "Palestinian Authority makes it official- will announce UN bid on September 20", in *Haaretz*, 14 August 2011, http://www.haaretz.com/print-edition/news/palestinian-authority-makes-it-official-will-announce-un-bid-on-september-20-1.378524.
[7] Bassam Abu Eid, "The road to New York goes through Lebanon and Qatar", in *Ma'an News Agency*, 13 August 2011, http://www.maannews.net/eng/ViewDetails.aspx?ID=412224.

already expressed its intention to block the procedure.[8] Within the General Assembly, however, no single country has the authority to block a resolution, and it is in this venue that the Palestinians will most probably end up making their case to the world.

So far, the PA says it has secured the support of 124 countries, and Palestinian leaders appear confident that over 140 UN member states will endorse their membership bid.[9] President Abbas has further stated that 9 out of 15 members of the UN Security Council have also expressed support for the PA's initiative.[10]

A General Assembly resolution recognizing the 4 June 1967 borders as a basis for a two-state solution to the conflict is therefore expected to be approved, but in the absence of an endorsement from the Security Council, such a non-binding resolution would represent a largely symbolic victory for the Palestinians. The PA, however, has a further two options it can pursue, neither of which require a prior vote in the UNSC.

The first option is to ask the General Assembly to upgrade the Palestinian UN mission to the status of a permanent 'observer state'.[11] The Palestinians are currently classified as a permanent 'observer entity', the only such example in the United Nations.[12] A potential upgrade to the status of non-member state would not require the approval of the UNSC and could therefore bypass an American veto. The only other example of a non-member state with permanent observer status is the Vatican (hence, the labelling of this possibility as the 'Vatican option'). While this upgrade would not give the Palestinians the right to vote on UN resolutions, it could pave the way for the 'state of Palestine' to become a full member in various UN agencies, including UNESCO, the World Health Organization (WHO) and UNICEF.[13] More importantly, the 'Vatican option' would increase the PA's chances of bringing cases before the International Criminal Court (ICC). The PA requested membership in the ICC in February 2009 in the aftermath of Israel's Operation Cast Lead in the Gaza Strip, but given that 'Palestine' is not officially recognized as a state, and Israel has never recognized the jurisdiction of the ICC, no decision was ever taken regarding the PA's membership application.[14] By upgrading its status to that of a non-member state, the PA could apply again for ICC membership, and if successful this move would allow the Palestinians to request international investigations into Israeli international human rights and humanitarian law violations in the OPT.

[8] "US to oppose Palestinian UN bid", in *Al-Jazeera*, 27 July 2011, http://english.aljazeera.net/video/middleeast/2011/07/201172704517323649.html; the other permanent members of the UNSC are Britain, China, France and Russia.
[9] "Three-quarters of world recognizes Palestine" in *Ma'an News Agency*, 28 August 2011 http://www.maannews.net/eng/ViewDetails.aspx?ID=416575.
[10] "Nine Security Council members support Palestine's UN bid, says Abbas", in *WAFA*, 18 August 2011, http://english.wafa.ps/index.php?action=detail&id=17046.
[11] Al-Haq, *Questions & Answers on Palestine's September initiatives at the United Nations*, 20 July 2011, http://www.alhaq.org/pdfs/qa_July_2011.pdf.
[12] Elliott Abrams, "Can the United Nations make Palestine a state?", in *CFR Blogs - Elliott Abrams: Pressure Points*, 23 June 2011, http://blogs.cfr.org/abrams/2011/06/23/can-the-united-nations-make-palestine-a-state.
[13] "Palestinians to bid for UN membership next month", in *BBC News*, 13 August 2011, http://www.bbc.co.uk/news/world-middle-east-14519654.
[14] "Palestinians make ICC overtures", in *BBC News*, 3 February 2011, http://news.bbc.co.uk/2/hi/middle_east/7867681.stm.

A second, not necessarily alternative, option is that of presenting a resolution to the UNGA requesting that the world body reaffirm its commitment to UN resolution 181 (II).[15] This resolution, the first UN ruling on Palestine, was adopted by the UNGA in November 1947 following Britain's referral of the issue of the future status of Mandatory Palestine to the United Nations. Otherwise known as the UN Partition Plan for Palestine, resolution 181 called for the creation of an Arab and a Jewish state in historical Palestine and is "considered the most authoritative instrument for Palestine's international legitimacy".[16] A reaffirmation of resolution 181, however symbolic, would serve to highlight the international community's continued commitment to the creation of an independent Palestinian state living side by side with Israel. Resolution 181 is widely credited with creating the legal framework for Israel's declaration of independence in May 1948 and its full membership of the United Nations the following year. The Palestinians are therefore hoping that a renewed international commitment to the notion of two states could boost the PA's chances of receiving bilateral recognitions of statehood while increasing pressure on Israel to accept an international framework for the creation of an independent Palestinian state based on the 1967 borders with its capital in East Jerusalem.

In legal terms, given the likelihood of an American veto in the Security Council, the PA's bid to seek full membership of the UN is destined to fail. In political terms, however, the approval of a non-binding resolution in the UNGA would allow the Palestinians to garner international endorsement of a precise negotiating position: one that recognizes the 4 June 1967 borders as the basis for an independent Palestinian state. This could be dismissed as a purely symbolic victory for the Palestinians, but if coupled with an upgrade in status at the UN, the combined significance of these moves could considerably boost the PA's negotiating position *vis-à-vis* Israel.

2. Peaceful unilateralism and the PA's search for an internationalisation of the conflict

The underlying strategy driving the PA's UN bid could be described as one of 'peaceful unilateralism'.[17] This is in contrast with the notion of 'peaceful bilateralism', which has been the prevailing framework for negotiations between Israel and the PA since the signing of the 1993 Oslo accords and which has crystallized the United States' role as the primary mediator in the conflict. The new Palestinian strategy would also represent a deviation from another course of action, that of 'violent unilateralism', epitomized by Israeli military incursions, targeted killings, Gaza blockade, etc. and by Palestinian terrorist attacks and other forms of political violence. Given that neither path has brought the two sides closer to an agreement, Palestinian leaders are hoping that 'peaceful unilateralism' - a strategy based on the widening of their international support base combined with an increase in diplomatic pressure on Israel - could achieve better results.

[15] Quaker United Nations Office, *Palestinian Statehood at the United Nations: a Resource*, 18 August 2011, http://www.quno.org/newyork/Resources/20110818Palestine.pdf.
[16] Al-Haq, *Questions & Answers on Palestine's September initiatives at the United Nations*, *cit*.
[17] The authors are indebted to Nathalie Tocci for the coinage of this term.

While the PA's frustration is understandable, there is very little chance that this strategy of 'peaceful unilateralism' will result in any tangible changes on the ground, at least in the short term.

Israel has warned that by resorting to a UN vote the Palestinians will further antagonize relations between the two parties, making the prospect of a resumption of peace talks even more removed. According to a series of diplomatic cables published by the Israeli daily, *Haaretz*, Israel's foreign ministry has instructed its diplomatic corps to lobby the international community to oppose the Palestinian initiative by describing it as an effort that erodes "the legitimacy of the State of Israel".[18] The Israeli government is deeply troubled by the Palestinian plan, fearing that a favourable vote at the United Nations could pave the way for further Palestinian initiatives aimed at boycotting or sanctioning Israel. A favourable vote would also represent an important precedent of *soft law* by the UNGA, since it would recognize the 4 June 1967 borders as the basis for an independent Palestinian state. This would limit Israel's chances of achieving a solution to the conflict based on borders established by its 'facts on the ground'. Israel's refusal to recognize these lines is evident in the fact that there are currently 120 official Israeli settlements and about 99 Israeli outposts situated beyond the June 1967 borders, not including East Jerusalem.[19] The total population of Israeli settlers living in the OPT, including East Jerusalem, is currently estimated at 500,000, and Israel is adamant that a majority of these settlements must remain under Israeli sovereignty under any peace deal with the Palestinians.[20]

In the event of a UN vote, Israeli leaders have threatened a series of retaliatory measures against the PA. These include the possibility of Israel withholding the transfer of tax revenues collected in the OPT and destined to the Palestinians - a measure already employed by the Israeli government following Hamas' electoral landslide in the 2006 PA legislative elections; a unilateral annexation of Israeli settlements in the West Bank; and a threat to completely sever all relations with the PA.[21] In addition to these moves, Israeli foreign minister, Avigdor Lieberman, has warned that Israel may respond to the PA's UN bid by voiding the Oslo Accords.[22]

A UN vote not only risks exacerbating relations between Israel and the PA. It also threatens to antagonizing relations between the PA and the principal mediator in the MEPP, the US. The Obama administration has voiced its opposition to the PA's plan. The administration is however concerned that a US veto will badly tarnish America's standing in the Arab world, at a time when the United States is struggling to come out

[18] Barak Ravid, "Haaretz exclusive: Secret cables show Israel's battle plan over Palestinian UN bid", in *Haaretz*, 10 June 2011, http://www.haaretz.com/print-edition/news/haaretz-exclusive-secret-cables-show-israel-s-battle-plan-over-palestinian-un-bid-1.366852.
[19] Hagit Ofran and Noa Galili, "West Bank settlements- facts and Figures, June 2009", in *Peace Now*, June 2009, http://peacenow.org.il/eng/node/297.
[20] *Ibid*.; Out of these, 300,000 are living in West Bank settlements and outposts while an estimated 200,000 reside in East Jerusalem.
[21] "Israeli leaders in hysterics ahead of September", in *Haaretz*, 12 August 2011, http://www.haaretz.com/print-edition/opinion/israeli-leaders-in-hysterics-ahead-of-september-1.378260.
[22] "Palestinian state declaration means the end of talks", in *Jerusalem Post*, 17 June 2011, http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=225434.

in support of the pro-democracy protests that have engulfed the region since late 2010. Favourable ratings for Obama's presidency have recently declined to 10 percent or less across the Arab world, and these suffered considerably following a US decision, in February 2011, to veto a UNSC resolution that condemned Israel's continued settlement construction in the OPT.[23] At the time, the Palestinians had been warned that pressing ahead with the UNSC resolution on settlements could have resulted in the US suspending its aid to the PA, a threat that has been given more substance in light of the PA's current UN membership bid. On 29 June, the US Senate adopted a resolution calling on President Obama to veto a Palestinian resolution, while again threatening to suspend financial assistance to the PA.[24] As further evidence of America's staunch opposition to the PA's initiative, US ambassador to the United Nations, Susan Rice, also stated that the US could halt funding to the UN in the event that the world body recognizes a Palestinian state.[25]

The US administration has concentrated its efforts in trying to avoid a UN vote, and for months it has tried to devise a formula that would allow for a return to bilateral negotiations. On 19 May President Obama himself tried to set out a broad framework for their resumption by prioritising the issues of borders and security over all other aspects of the MEPP. While he referred to the 1967 lines (with agreed swaps) as the basis for a two-state solution, he was also careful to emphasize that a Palestinian state should be de-militarised in order to meet Israel's security concerns.[26]

This framework was hesitantly welcomed by the Palestinians and quickly endorsed by the Middle East Quartet - an international mediating body founded in May 2002 and whose members include the United Nations, Russia, the EU and the United States - but Israel flatly refused Obama's reference to the 1967 borders.[27] By 11 July, when the Quartet met in Washington, it appeared as if the United States had succumbed to Israel's demands. According to Middle East expert Daniel Levy, the US presented a draft document to the Quartet in which America's position on these topics had shifted considerably towards that of the Israeli government. On the question of borders, the

[23] Arab American Institute, *Arab Attitudes: 2011*, July 2011, http://www.aaiusa.org/reports/arab-attitudes-2011.
[24] Natasha Mozgovaya, "U.S. Senate passes resolution threatening to suspend aid to Palestinians", in *Haaretz*, 29 June 2011, http://www.haaretz.com/news/diplomacy-defense/u-s-senate-passes-resolution-threatening-to-suspend-aid-to-palestinians-1.370341.
[25] John Swaine and Adrian Blomfield, "US 'could withdraw funding from UN if Palestine state is recognized'", in *The Telegraph*, 24 June 2011, http://www.telegraph.co.uk/news/worldnews/middleeast/palestinianauthority/8597559/US-could-withdraw-funding-from-UN-if-Palestine-state-is-recognised.html.
[26] US White House, *Remarks of President Barack Obama "A Moment of Opportunity"*, 19 May 2011, http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-barack-obama-prepared-delivery-moment-opportunity
[27] Shlomo Shamir, Haaretz Service and Reuters, "UN chief, Quartet stand behind Obama call for deal based on 1967 borders", in *Haaretz*, 20 May 2011, http://www.haaretz.com/news/international/un-chief-quartet-stand-behind-obama-call-for-deal-based-on-1967-borders-1.363065; Jeff Mason, "Netanyahu meets Obama, rejects 1967 borders proposal", in *Reuters*, 20 May 2011, http://www.reuters.com/article/2011/05/20/obama-mideast-netanyahu-meeting-idUSWNA913820110520.

US-proposed text implied the need to "take account of changes that have taken place over the last 44 years, including the new demographic realities on the ground".[28]

This reference to 'new demographic realities' amounted to an endorsement of Israeli settlements built on occupied territory, and given that no Quartet member (including the US) recognizes the legality of these settlements, the meeting in Washington pitched the United States against the combined positions of the UN, EU and Russia.[29]

The United States has not given up on its efforts to draft a framework that would accommodate all sides. According to a recent *New York Times* report, the Obama administration is currently circulating a new text that it hopes will allow for a last-minute resumption of negotiations between Israel and the PA, thereby avoiding the embarrassing prospect of the US vetoing a UNSC resolution which endorses positions which Washington has diplomatically accepted, for the second time in less than a year.[30] Realistically, however, there are very little chances that the Palestinians will agree to postpone their UN bid, and the stage seems set for a diplomatic showdown between the PA and the US.

The PA's gamble is at risk of backlash. Israel could easily seize on this show of Palestinian 'unilateralism' to refuse to return to the negotiating table and to harden its grip over the OPT (the threatened withholding of Palestinian tax revenues, in particular, would seriously hamper the PA's already limited ability to pay salaries and bills). The US administration would resent the fact that the PA's decision to push ahead with the recognition bid would highlight America's perceived bias towards Israel and further diminish the appeal of US foreign policy in the region. If the US Senate gets its way, the US could even cut off its financial aid to the Palestinians, a measure that would cripple an already fragile PA. And yet, the Palestinians seem to have calculated that the price they would pay in terms of worsened relations with both Israel and the US might be offset by the stronger international support to the legitimacy of their claims that would follow a UN vote. Arguably, a key element in determining the impact of such an international endorsement is how the EU, the second most important member of the Quartet, will vote.

3. A European wild card?

The EU is worried that a UN vote could result in a division among its member states, a scenario that would underscore, yet again, the Union's fractiousness when it comes to matters of international high politics. A negative (or a divided) EU vote would also deprive the Palestinians of critical European support for their statehood bid. As stated above, a UNGA resolution will probably garner sufficient UN votes to pass. However, the political significance of such a resolution hinges on the position adopted by European countries. In other words, the position of EU member states at the UN is as

[28] Daniel, Levy, America's attempted Quartet sophistry, in *The Middle East Channel*, 22 July 2011, http://mideast.foreignpolicy.com/posts/2011/07/22/palestine_israel_the_un_and_america_s_attempted_quartet_sophistry.
[29] *Ibid*.
[30] Steven Lee Myers and Mark Landler, "US is appealing to Palestinians to stall UN vote", in *The New York Times*, 3 September 2011, http://www.nytimes.com/2011/09/04/world/middleeast/04mideast.html.

critical to the EU quest for a common foreign policy as to the Palestinian quest for a two-state solution.

To date, four European countries - Germany, Italy, the Netherlands and the Czech Republic - have publicly stated their intention to vote against the PA's statehood bid.[31] Belgium, Cyprus, Greece, Malta, Ireland, Portugal, Spain and Sweden have all expressed their likely support for the PA's initiative.[32] France and Britain have yet to publicly express their view, and while both countries have in the past hinted that they too may support a Palestinian resolution, it remains uncertain whether they are ready to isolate the US by voting in favour of the PA's statehood bid.[33]

There appears, however, to be a growing consensus among European leaders that the EU's primary goal should be that of maintaining a united stance on this issue, and that unity should take precedence over the individual views of EU member-states. Speaking just days before an informal gathering of EU foreign ministers in Sopot, Poland, French President Nicolas Sarkozy expressed his hope that Europe could maintain a "single voice" on this subject, adding that EU member-states must live up to their "responsibilities together".[34] This view was echoed by Belgian foreign minister Steven Vanackere who was quoted as stating that it was "crucial"[35] to maintain a united European position, while Polish foreign minister Radoslaw Sikorski stressed that in order for the EU to become an "actor" in resolving the conflict, it must first achieve "a common position".[36]

The EU's position will ultimately depend on what precise request the Palestinians will put forward in the UNGA. The current approach of the EU is that of attempting to persuade the PA to give up on their application for full UN membership in exchange for EU backing of a resolution outlining clear parameters for the resumption of peace talks. However, at the time of writing, it is far from assured that such an attempt can succeed. If the Palestinians opt for pressing ahead with their request for UN membership, the EU would face the prospect of an internal division. To avoid that, the EU could abstain while at the same time tabling an alternative resolution in which Palestine's independence would be set as the undisputed end result of a negotiation process carried out according to clearly defined guidelines.

HR Ashton is engaging the Palestinian leadership in the hope of avoiding a division among its member states.[37] Palestinian officials have expressed a positive view regarding this approach. PLO secretary general, Yasser Abed Rabbo, was quoted by *AFP* as stating that "there is progress in the European stance and a willingness to

[31] "The Response: How will the world react?", in *Al-Jazeera*, 31 August 2011, http://english.aljazeera.net/indepth/spotlight/unpalestine/2011/08/2011828104540714956.html.
[32] Slobodan Lekic (AFP), "EU split on Palestinian push for recognition", in *MSNBC.com*, 1 September 2011, http://www.msnbc.msn.com/id/44353902/ns/world_news-europe/.
[33] Tovah Lazaroff, "France, Britain may recognize Palestinian state", in *Jerusalem Post*, 5 May 2011, http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=219281.
[34] AFP, "EU needs 'one voice' on Palestinian statehood: Sarkozy", in *EUbusiness*, 31 August 2011, http://www.eubusiness.com/news-eu/israel-palestinians.bxo.
[35] AFP, "Split EU seeks 'one voice' on Palestinian UN bid", *cit*.
[36] *Ibid*.
[37] *Ibid*.; AFP, "EU in damage-control over Palestinian UN bid", in *EUbusiness*, 3 September 2011, http://www.eubusiness.com/news-eu/israel-palestinians.bzo.

coordinate with the Palestinian leadership over the type of resolution we are looking for"[38]; "we [the PA] will inform them [the EU] of every move and we won't surprise them with anything"[39], he added. According to Israeli journalist Akiva Eldar there is some evidence that the PA could agree to modify the wording of its resolution: "instead of recognizing Palestine within the 1967 borders, it [the resolution] will state that the permanent borders will be determined in negotiations with Israel based on the borders of 4 June 1967".[40] This wording could be taken as evidence of the EU's success in moderating the PA's stance at the UN, something which could allow the Union to vote as a bloc on a resolution that is largely compatible with previous EU statements on the Israeli-Palestinian conflict, in particular the EU Council's conclusions of December 2009.[41]

While the EU is diligently waiting for the Palestinians to present the final text of their resolution before making any public statement on this topic, an interesting option was tabled during the recent EU summit in Poland. Given that the twenty-seven EU member states are united in their call for a resumption of negotiations, and that the EU's division is primarily over the prospect of a Palestinian request to be granted UN membership without the prior commencement of these negotiations, Austria's foreign ministry has advanced a proposal that would see the EU table its own resolution at the UNGA.[42] Such a resolution would draw on previous EU statements on the Israeli-Palestinian conflict and would thus presumably gather the full endorsement of all European member states. Its significance would lie in the fact that the EU could avoid an embarrassing division at the UNGA, by abstaining in bloc on a Palestinian resolution while simultaneously endorsing a separate resolution that would reaffirm the EU's preferred framework for the resumption of negotiations. While the EU would thus come out as opposing a PA request for full UN membership, by presenting its own resolution, it could leave the door open for Palestinian membership in the world body at a later date, a scenario which could also secure the support of most other UN members.

Such a European resolution would clearly state that Palestine's right to independence is not and cannot be subject to negotiations, but must be the necessary outcome of such negotiations. The text should indicate a clear set of parameters for peace talks, drawing on past EU statements on the Israeli-Palestinian conflict, and in particular the above-mentioned conclusions that emerged from a meeting of the EU Council in December 2009. Endorsed by all EU member states, this document reiterated the EU's support for a solution to the conflict based on two states, Israel and Palestine, with Jerusalem as a shared capital. On the question of borders, the EU endorsed the 4 June 1967 lines with mutually agreed land swaps as the basis for a two-state solution,

[38] AFP, "Palestinians see progress in EU stance on UN bid", in *EUbusiness*, 28 August 2011, http://www.eubusiness.com/news-eu/israel-palestinians.bw8.
[39] *Ibid*.
[40] Akiva Eldar, "New Palestinian strategy document will make it difficult for US to oppose UN vote", in *Haaretz*, 30 August 2011, http://www.haaretz.com/print-edition/features/new-palestinian-strategy-document-will-make-it-difficult-for-u-s-to-oppose-un-vote-1.381426.
[41] Council of the European Union, *Council conclusions on the Middle East peace process*, 2985th Foreign Affairs Council Meeting, Brussels, 8 December 2009, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/111829.pdf.
[42] AFP, "EU may draft own resolution on Palestinian UN bid", in *EUbusiness*, 3 September 2011, http://www.eubusiness.com/news-eu/israel-palestinians.bzl.

while underlining the fact that a future Palestinian state must be contiguous and viable. The EU further reiterated its support for all previously signed agreements between Israel and the PA while specifying that the Arab Peace Initiative (API) should serve as a basis for ending the Arab-Israeli conflict. First presented by Saudi Arabia in 2002 (and reconfirmed in 2007), the API was unanimously endorsed by the Arab League, which agreed to recognize Israel in bloc in exchange for an Israeli withdrawal to the 1967 borders (with mutually agreed land swaps). The EU also requested a series of security guarantees for Israel, while reiterating its refusal to recognize the legality of Israeli settlements built beyond the June 1967 lines (including East Jerusalem). The EU further called on Israel to end its blockade on the Gaza Strip and dismantle all settlement outposts built in the OPT since March 2001.[43]

As said, this resolution would easily garner the support of an overwhelming majority of UN member states. The EU should lobby the US to support it as well, insofar as no point of the resolution contradicts official US policy on the conflict. In addition, such a resolution would give Washington a way to partly thwart criticism of its opposition to the Palestinian bid for full UN membership. While remaining below the Palestinians' expectations, this resolution would therefore still be an appealing option, arguably more appealing than having Palestine's independence recognized by a divided Europe. The PA is comfortable with the EU-devised negotiating framework, since it safeguards the Palestinian right to pursue meaningful negotiations on all outstanding issues. Were this framework to receive full and unequivocal support by the overwhelming majority of UN member states, and by the US in particular, the costs of Israel's refusal to commit to its parameters would be significantly higher.

In its capacity as Quartet member, the main provider of economic assistance to the PA, and Israel's second-largest trading partner, the EU holds potential leverage over both sides, and this could help Europe emerge as a possible broker between the parties. In order to secure such a position, the EU must first avoid a split among its member states. With this goal in mind, the Union has a number of options it can pursue. If the Palestinians, following European advice, agree to modify the wording of their resolution, not only would the EU be free to support the resolution, it would also see its position as a mediator reinforced. Besides, given that the resolution would likely gain the approval of almost all UN members, the EU's effort to define the framework of a final settlement would receive a boost.

Should the Palestinians opt for pursuing UN membership, however, the most the EU could do would be to engage in damage control. The best course of action would be for the EU to abstain in bloc while at the same time presenting an alternative resolution as hinted by Austria's foreign ministry. Alternatively, the bloc could have HR Ashton spell out the main points of such an EU-sponsored resolution in an official declaration to be delivered during the UNGA vote.

The EU would be confronted with an arguably more problematic scenario if the Palestinians were to put forward an additional request for being granted an upgrade in status at the UN along the line of the 'Vatican option'. In this case, those EU member states that back recognition of Palestinian statehood would be under intense pressure

[43] Council of the European Union, *Council conclusions on the Middle East peace process*, *cit*.

to vote in favour, since a vote against something less than recognition, such as an upgrade of the PA's UN status, would be in stark contrast to their stated preferences. However, the upgrade could be too big a bite to swallow for those EU member states that oppose unilateral action by the PA, in particular out of concern that it could lead to indictments of Israeli officials by the ICC. Contrary to Israel and the US, the EU has been an outspoken champion of the ICC and none of its members can realistically afford denying support for the Court lest it risk a serious loss of prestige both within the EU and on the wider international stage. In order to avoid a division on this issue, the Europeans could invite the Palestinians to show restraint in seeking ICC indictments of Israeli officials, leaving it as a last-case scenario in the event no tangible progress is made in advancing a two-state solution (in addition, the Palestinians should be reminded that they could themselves be indicted on charges of war crimes). This request undoubtedly entails a degree of hypocrisy since all EU member states have always supported a strengthening of the ICC's role, most recently during the Libya conflict. Nonetheless, this price is worth paying if it leads to an EU backing for Palestinian statehood, although not full UN membership. In the event of a PA refusal, the least worst course of action for the EU would again be for it to abstain. This European response would be harder to defend than an abstention on a PA request for UN membership, since the upgrade would represent a far less significant change in the PA's status. However it would still be less damaging for the Union than a split, given that the EU would at least preserve its unitary position on the conflict as enshrined in the December 2009 Council conclusions.

Conclusion

The Palestinians are betting that a UN vote will result in mounting pressure on Israel to accept what is a growing international consensus on a set of parameters to guide the resumption of negotiations. The Palestinian effort can be described as an attempt to break free from an asymmetrical negotiating framework that has pitched the PA against the combined positions of both Israel and the United States, with the latter famously described as playing the role of 'Israel's lawyer' rather than that of a 'neutral mediator' between the sides.[44] The Palestinians are aware that a UN vote will not translate into any concrete changes on the ground, but are convinced that an international endorsement of the June 1967 borders as the basis for a two-state solution to the conflict will "change the legal formula"[45] of the Palestinian situation. In their eyes, this will result in future peace negotiations being carried out between two internationally recognized states, which would amount to a final break from the failed Oslo framework and, so the Palestinians hope, finally level the playing field between the two sides in the conflict.

On the European side of the Atlantic, a UN vote on Palestine could be translated into a prime diplomatic opportunity. HR Ashton's success in persuading the Palestinians to give up on their original claim to full UN membership would be an important victory for

[44] This view was expressed by Aaron David Miller, who worked at the US State Department as a Middle East negotiator for 25 years. See; Aaron D. Miller, *The Much too Promised Land. America's Elusive Search for Arab-Israeli Peace*, New York, Random House, 2009.
[45] AFP, "Palestinians see progress in EU stance on UN bid", *cit*.

Europe. Not only could the twenty-seven member states of the EU vote as a bloc in the UN, and thus avoid an embarrassing division, but the EU would also gain important international recognition for its role in devising a widely endorsed set of parameters to guide the resumption of negotiations. While this framework would not be welcomed by Israel, having convinced the Palestinians to modify their stance would boost the EU's international credibility as an independent and neutral broker between the sides.

In the event that Europe fails to reach a unified consensus on a Palestinian resolution, European leaders would do well to consider the repercussions of a European split. Such a division would undermine the Union's previous declarations on the conflict, while simultaneously damage the EU's chances of becoming a credible actor on the world scene. Faced with these realities, it would be preferable for European states to abstain in bloc at the UN, while presenting a secondary resolution in which Europe's position on the conflict is clearly outlined before the international community.

The US has traditionally been recognized as the only international player capable of pressuring both sides into accepting a negotiated solution to the conflict, but this time around it appears as if the EU can ultimately hold the key to unlocking the stalemate. The EU must rise to the challenge and not squander this opportunity, given that by playing its cards right it could enhance its global standing as a third party in the conflict.

After having appointed her as their foreign policy representative, and having criticized her actions at every move, the time has come for European leaders to back HR Ashton in her efforts to secure a unified European stance on this issue. A divided Europe will otherwise greatly damage the prospects of having the international community welcome a more active and independent European role in resolving the conflict. With less than two weeks left until the opening of the sixty-sixth session of the UNGA, it remains unclear whether the EU will be up to the challenge. The recent flurry of diplomatic activity could however serve as an indication that the EU is no longer willing to sit on the sidelines and is ready to take the lead on an issue that can no longer be considered the sole responsibility of the United States of America.

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