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A DECADE OF EUROPEAN PEACE
BUILDING EFFORTS IN THE ISRAELI-
PALESTINIAN CONFLICT:
1991-2001

Dissertation submitted in partial fulfilment of the Masters degree in
Advanced European and International Studies (M.A) by
Alison LAMONT

Under the direction of:
M. Claude NIGOUL, Director of the European Institute of Advanced
International Studies, Nice; Secretary-General of the Academy of
Peace and International Security, Monaco
M. Riadh JAIDANE, Assistant at the European Institute of Advanced
International Studies, Nice

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M. Claude NIGOUL, Director of the European Institute of Advanced International Studies, Nice; Secretary-General of the Academy of Peace and International Security, Monaco

M. Riadh JAIDANE, Assistant at the European Institute of Advanced International Studies, Nice

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M. Yohanon MANOR, co-president of the CMIP observatory,
Jerusalem

Mme. Esther ZANA, Director of Research and Development at the European Institute of Advanced International Studies, Nice

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INTRODUCTION

1. The life and death of the peace process: Madrid to Wye River

The past decade has seen a series of high-profile attempts, led by the United States, to resolve the Israeli-Palestinian conflict. All such attempts have failed. Following the stagnation of the original Middle East Peace Process, inaugurated by the Madrid Conference in 1991, the infamous handshake between Yasser Arafat and Shimon Peres outside the White House on their signature of the Declaration of Principles (Oslo I) confirmed the position of the United States as the mediator preferred by both Israelis and Palestinians and led to unprecedented hope of a peaceful resolution to the conflict. Considering the limitations and eventual 'death' of the Oslo process, this optimism was clearly short-lived. A brief consideration of the major steps in the peace process serves to illustrate the formal results of international peace-building intervention and its limitations over the past decade.

The Cairo agreement of 04 May 1994 followed Oslo I. It established the Palestinian Authority¹ and sought to deal with 'Gaza and Jericho first,' envisaging an interim period of five years for the PA to take control of domestic affairs. After the interim period, the PA was technically justified in unilaterally declaring a Palestinian state.² This agreement also led to the creation of a Palestinian police force of 12,000 and the organisation of Palestinian presidential and legislative elections. However, the PA was not granted sovereignty over its borders, foreign affairs,³ or questions of external security – the preserves of a *bona fide* state. The 'quasi-state' to be governed by the PA was to comprise over 60% of Gaza and a parcel of 62km² of land around Jericho. This area was supplemented by the Taba

¹ Referred to throughout as 'the PA.'

² Thus, on 04 May 1999

³ The Palestinian equivalent of a Foreign Office is its Ministry of Planning and International Cooperation.

Accord of 28 September 1995, which cut the West Bank into three zones with varying degrees of Palestinian control.

The eventual 'final status' talks envisaged would resolve the most important bones of contention between Israel and the Palestinians: Jerusalem's status and the fates of Palestinian refugees and Israeli settlements. However, the Oslo time frame was not respected, these issues remain untreated, and thus the very parameters of a future Palestinian state are still shrouded in uncertainty.

Israeli right-wing parties drew a line of causality between the creation of the Palestinian Authority in 1994 and the subsequent increase in terrorist attacks on Israeli territory: previously, most such attacks tended to target Israelis within the Occupied Territories. In February and March 1996, around sixty were killed in separate attacks in Jerusalem and Tel Aviv. This led to an undertaking by President Arafat, under strong Israeli and international pressure, to fight Islamist organisations in Gaza and the West Bank – i.e. in the territories under its control.

In April 1997, the European Union enacted a Common Foreign and Security Policy Joint Action creating a Programme of Assistance to the PA to aid its activities to fight terrorist acts '*originating in the territories under its control*,' with a view to encouraging Arafat to practice what he preached with regard to anti-terrorism measures. A further aim of this action may also have been to advance the EU's political credibility as a peace-building actor in the conflict. It will be seen that, in practice, the result of this project has been to enhance significantly the internal security of the PA; however, its overall utility in combating terrorism is very limited.

Talks between the parties recommenced at the beginning of 1997 and led to the Hebron Agreement entailing the partial Israeli retreat from Hebron and the strengthening of the Palestinian police force. The concessions made by Prime

Minister Netanyahu, leader of the Israeli Likud party, traditionally against the restitution of the Palestinian territories, made the Hebron Agreement highly significant. However, the advances made were tempered in March 1997, when the Israeli government decided to build a new Jewish colony in East Jerusalem. There followed an 18-month impasse in the peace negotiations, finally broken by former US President Clinton's intervention in October 1998.⁴

The result was the Wye Plantation accord of 23 October 1998. For the Palestinians, this agreement provided for a 13% Israeli retreat from the West Bank, the liberation of several hundreds of Palestinian prisoners held in Israel, and the re-opening of discussions on the construction of a passage between the West Bank and Gaza Strip territories. The Israeli delegation secured a commitment from the PA to improve efforts to prevent terrorism, crimes and hostilities and the supervision of its security services by the CIA. The crucial issues of Jerusalem, Israeli settlements and Palestinian refugees as well as water were again postponed to a future date as part of the final status talks. Despite high expectations, there followed, within a month of this agreement, an announcement that the Israeli government intended to increase settlement activity in the West Bank and an attack by *Hamas*.

Former US President Clinton made a last attempt to put the peace process back on the rails before the end of his office at 'Camp David III' from 11 to 24 July 2000, but his efforts to make progress on the final status negotiations were to no avail, the failure of the summit being linked to the subsequent *Al Aqsa Intifada*.

The departure of President Clinton marked a '*new phase in diplomacy*'⁵ and an escalation in the violence between the parties. In January 2001, the former President finally declared the inevitability and inherent desirability of a Palestinian state. Interestingly, this declaration came almost two years after the 1999 Berlin

⁴ which may have derived from his need for a diplomatic success story to detract media attention from the 'Monica-gate' scandal.

⁵ Foundation for Middle East Peace Report January-February 2001

Declaration of the EU, which contains the first express recognition by the European Union of the desirability of the early creation of a Palestinian state.

The recent⁶ escalation of violent attacks and reprisals does not afford any scope for complacency with regard to the practical peace-building utility of the Mitchell Report of 21 May 2001, brokered by an international fact-finding committee appointed by the Clinton administration. The Report does, however, reflect a degree of enhanced cooperation between the US and EU in formulating the international community's position vis-à-vis the Israeli-Palestinian conflict.

2. The Motivations of American and European Intervention

The 'melting' of the Cold War at the beginning of the 1990s prompted the gradual installation of a 'new world order' which would be characterised by increasing synergies in international reaction and intervention with regard to conflicts, in marked contrast to the antagonistic bipolar era.⁷ The antecedent logic of the two super-powers, discretely encouraging opposing factions in peripheral conflicts in order to destabilise each other, was replaced by a more cooperative climate, evident in the international community's coalition against Iraq⁸ and in the joint sponsorship by the US and USSR of the Middle East peace process at the Madrid Conference of October 1991.

The United States has led the international community's intervention in the Israeli-Palestinian conflict since success in the Gulf War inaugurated America as the sole 'hyper-power' on the global chessboard.⁹ America thereafter reserved itself the exclusive role of mediator in the Israeli-Palestinian conflict. In fact, the peace-

⁶ Events until 01 June 2001 will be treated.

⁷ RUFIN 1999, p23

⁸ *ibid*, p26

⁹ Zbigniew BRZEZINSKY, former US Secretary of State under Carter, famously employed this analogy in his book 'The Great Chessboard: America and the Rest of the World.' French version referred to throughout.

building role of the US in the Israeli-Palestinian conflict has varied immensely over the past decade and is difficult to define because of its dynamism and complexity.¹⁰ The strategic reasons behind this intervention should be considered.

Despite the US's disadvantageous geographical position regarding the Mediterranean, it secured the protection of its main interests (oil and Israel) during the Cold War (1947-1989) by 'containment' of Soviet expansion and doctrine, in accordance with the Trumann and Carter doctrines. Thus, during the Cold War, America had already assumed the responsibility of politico-military hegemony in the Mediterranean region, establishing bilateral agreements to ensure its influence on countries on the North and South banks of the littoral.

Since 1945, more than two-thirds of US deployments have passed through the Mediterranean. During the 'second Gulf War' of 1991, 90% of US forces and equipment took this route.¹¹ In the same vein, the Mediterranean passage has more recently been of importance to the US and NATO in assuring the supply of provisions to its missions in Bosnia and Kosovo. So, although the motive of containment was eradicated by the collapse of the USSR and American success in the Gulf War, for military reasons, and to ensure successful exploitation of this passage, stability in the Mediterranean region as a whole has still been considered a priority of American foreign policy during the past decade.

An additional crucial strategic priority for America presented by the Mediterranean and Middle East region has been energy. Given that half of US energy consumption depends upon imported fuel, assuring continued access to Middle East fuel resources is certainly one of the most important concerns of the

¹⁰ LEWIS mentions the following facets of the US's role, highlighting its diversity: '*facilitator, catalyst, energizer, mediator, messenger, creative wordsmith, bodyguard against interference in the process by the UN Security Council, sympathetic friend, nag, architect, cheerleader, umpire, technical expert, 'prodger,' buffer against cultural insensitivities, shield for the parties against risks, political scapegoat for tough decisions, provider of carrots, and occasionally wielder of sticks and sometimes all of the above!*' 1999, p364

¹¹ LESSER, 1992, p.8.

US in this region in the twenty-first century. This primary need entails the creation of a peaceful climate in the Mediterranean. Thus, the US's intervention as the principal mediator of the Israeli-Palestinian conflict since 1991 can be explained, at least in part, by America's energy needs. This may be attenuated, however, in the light of President George W. Bush's Energy plan to increase American consumption of *nuclear* energy.

Europe's interests in the Mediterranean region are also primarily economic, as a consumer of Middle Eastern petrol and gas and exporter of industrial goods and military technology to the Middle East.¹² Secondly, the issue of stability is of concern particularly to the southern EU member states. A further motivation is perhaps the desire of the EU to play a more central role on the international stage, worthy of its new political identity and competences.¹³ In this regard, the Israeli-Palestinian conflict may provide the platform for the 'arrival' of the EU in the international political arena, although such ambitions could amount to

*'supporting, "balancing," or, in some cases, challenging what is often seen as American hegemony in the post-Cold War era.'*¹⁴

The European Community¹⁵ basks in the glory of being the greatest international donor to the Palestinian Authority.¹⁶ This position will be argued to have had important political consequences. Whereas US economic assistance is mainly aimed towards Israel, Egypt and Jordan to '*support the peace process*,' the EC has traditionally prioritised Palestinian economic and social development and

¹² STEINBERG, 1999, p01

¹³ The European Union was created by the Maastricht Treaty (Treaty on European Union), which entered into force on 01 November 1993. Although it is terminologically problematic to refer to the 'European Community' following the Maastricht Treaty, the EU institutions themselves tend to draw the distinction between EC and EU actions when they are referring to actions undertaken via procedures under Pillar 1 and 2 respectively. This distinction is respected throughout.

¹⁴ STEINBERG 1999, p01

¹⁵ The Maastricht and Amsterdam Treaties consolidate but do not replace the Treaty establishing the European Community, which sets out the competences of the EC institutions (Commission, Parliament, Council, Court of Justice and Court of Auditors) within the 'First Pillar' of EU activity.

¹⁶ Cf. Chapter One and **Annex I**

recent EU declarations and actions aim to support the gradual creation of a Palestinian state. In parallel to the peace process, the goal of the Euro-Mediterranean partnership is the creation of a Mediterranean free-trade zone, entailing the injection of around \$6 billion of EU¹⁷ aid to the region as a whole.

The Mediterranean littoral may be cited as an example of a region where the US has significant strategic interests but is limited in its potential strategic reach by political, social and economic factors,¹⁸ as compared to Europe, the latter having a strong position in the Mediterranean region in historical and geographical terms. In the eventuality of future international military intervention in the conflict, clearly Europe is at an advantage in terms of its geographical proximity, although the European defence identity is still, for the most part, 'under construction.'

3. The ideal: trans-Atlantic cooperation

Kenneth Moss suggests that American and European positions in the Mediterranean are essentially compatible in the domains of diplomacy, economic assistance and trade and should therefore permit a degree of trans-Atlantic cooperation.¹⁹ Such partnership would be in the same spirit as Brzezinsky's call for meaningful trans-Atlantic cooperation between the US and EU as expressed in *'The Great Chessboard.'*

Whether Europe's position with regard to the Israeli-Palestinian conflict complements or competes with the stance of the American 'hyper-power' in this region is to a large extent a reflection of the degree of European political unity. A further crucial factor is the extent to which stability in the Mediterranean region in

¹⁷ The term 'EU' in this context allows contributions of individual Member States and European Investment Bank loans to be included along with EC aid. Cf **Annex Ib** for an example of how EU aid is broken down.

¹⁸ MOSS, 2000, p2

¹⁹

general is prioritised by the Union; will the European Union's expansion to envelop its immediate East detract its attention and resources from the 'Middle' East?

The 'complementary' relationship of the two powers attempting to resolve the conflict has often been perceived differently on either side of the Atlantic, despite formal proclamations of a coordinated EU-US approach. With the 'death' of the Oslo process following the failure of Camp David III and the subsequent Al-Aqsa Intifada, questions arise as to whether a climate of EU-US cooperation will prevail or whether we will see enhanced EU efforts to increase the European politico-diplomatic role in the resolution of the conflict. The foreign policy of the new Bush administration regarding the Middle East is not entirely clear, although so far the new President seems reluctant to become involved, in contrast with the interventionist approach of his predecessor.

On 21 May 2001, former American senator George Mitchell unveiled a 28-point Report detailing a list of measures to end the Israeli-Palestinian conflict, following its most recent escalation.²⁰ The report was much anticipated by both sides to the conflict, which have hoped in vain for American intervention since former President Clinton's departure. However, although commissioned by the Clinton administration, this report is a reflection of the input of the international community as a whole, led, but not dictated, by the United States. Javier Solana, High Representative of the EU's Common Foreign and Security Policy represented the European Union in the fact-finding committee who produced the report. Thus, the EU played a full role in the elaboration of the Mitchell Report, which was fully backed by the Bush administration.

The extensive media attention afforded to the report gave some indication of its significance as an important peace-building step by the international community

²⁰ 'The Guardian,' 22 May 2001

at an extremely volatile period in Israeli-Palestinian relations. The involvement of the EU in the fact-finding committee may be said to mark a new stage in the development of the EU's peace-building role, in a spirit of coordination with the USA (3.2).

In order to fully appreciate the role of the EU²¹ in the Israeli-Palestinian conflict, the extent of the evolution of its position and the nature of its 'peace-building' actions over the past decade must be evaluated (Chapters 1 and 2) as well as the internal and external obstacles to their effectiveness (3.1). The question also arises as to whether the EU's approach is complementary to the American stance in this context or whether the actions of the former might amount to an attempt to compete with the latter for predominance in unravelling the tangled web of competing conceptions of history and justice and mutual recriminations pervading the Israeli-Palestinian conflict (3.2).

The approach of this paper is multidisciplinary, touching upon the economic, political, social, diplomatic and humanitarian dimensions of EU intervention in this conflict, which has preoccupied the international community perhaps more than any other conflict in the world since the end of the Gulf War. The term 'peace-building' is interpreted expansively, encompassing all facets of EC and EU activity that may be said to play a role in the international community's quest for peace.

²¹ The European Union was established by the Maastricht Treaty (Article 1(ex Article A)) and consolidated by the Amsterdam Treaty, which entered into force on 01 May 1999 – the numbering of Treaty Articles respected throughout follows the consolidated versions of the Treaties
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CHAPTER ONE: THE EC: 'ECONOMIC ENGINE' OF THE PEACE PROCESS?

The European Community had already established itself as a major provider of economic assistance to Israel and the Palestinians before the Middle East Peace Process was inaugurated by the Madrid Conference of 10 October 1991 **(1.1.a)**. This conference consolidated the EC's economic function by conferring upon it an economics-based task in the Peace Process - Chair of the Regional Economic Development Working Group in the context of the multilateral track of the negotiations **(1.1.b)**. At the same time, the Madrid conference ensured that the EC was marginalized, as a simple observer, with respect to the more political and diplomatic spheres of international peace-building, led by the US in the bilateral tracks **(1.1.c)**. Even following the Maastricht Treaty innovation of a Common Foreign and Security Policy for the newly created European Union and the subsequent enhancement of the political dimension of EU intervention in the Israeli-Palestinian conflict, EC economic intervention, encouraged by the Oslo accords, has remained a constant in the EU's intervention in the conflict and amounts to the most substantial aspect of European intervention over the past decade **(1.1.d)**.

The Euro-Mediterranean partnership operates on a Mediterranean-wide basis in parallel to EC projects relating directly to the Israeli-Palestinian conflict and may contain additional economic peace-building instruments of interest for the purposes of this paper **(1.2.a)**. However, its logic rests on the premise of an operative peace settlement and there has been negative interaction or 'contamination' between the two processes **(1.2.b)**. Nonetheless, Barcelona presents a new means to develop EC economic relations with Israel and the Palestinian Authority, based on a flexible conception of 'partnership,' reflecting these parties' specificities **(1.2.c and d)**.

Despite the generosity of the economic effort made by the EC/EU over the past decade, it has yielded disappointing results in terms of economic development; its peace dividends, which are debatable, are essentially political **(1.3)**

1.1. Europe's economic prominence in the Israeli-Palestinian conflict:

1991-2001

The failed *Intifada* of 1988 had contributed significantly to the collapse of the Palestinian economy, as had the loss of Palestinian jobs in Israel, reallocated to the wave of Jewish immigrants from the former-USSR at the beginning of the 1990s. The Palestinians' attempts to attract foreign investment and stimulate the territories' private sector were crushed by the eruption of the Gulf War.

During this conflict, which began with the invasion of Kuwait by the Iraqi army on 2 August 1990, the Palestinians 'backed the wrong horse' by supporting Saddam Hussein and paid harshly for it. Following the Iraqi defeat, the Palestinian Liberation Organisation²² lost the much-needed financial support of Gulf countries and many Palestinian workers were expelled from Kuwait, suffering human rights violations in the process. The Palestinians had been by far the largest single immigrant group in Kuwait before the Gulf War and many had occupied well-paid positions.²³ On expulsion, they joined the ranks of the estimated 4,865,000 displaced Palestinians and their descendants (70% of the total Palestinian population) of which two-fifths represent the *diaspora* living outside the Palestinian territories.²⁴

a. The position of the European Community at the end of the Gulf War: financing Israeli and Palestinian reconstruction

The end of the Gulf War.²⁵ catalysed

*'the first comprehensive attempt to reach a just and lasting solution to the Israeli-Arab conflict since 1948'*²⁶

²² The first Palestinian National Council, held in Jerusalem from 28 May-02 June 1964, created the Palestinian Liberation Organisation (PLO). It replaced the Arab High Committee, which had taken charge of Palestinian resistance since the Israeli-Arab war of 1947-1948. RUFIN, 1999, p.1123

²³ Rodney Wilson, 'The Regional economic impact of the Gulf War,' in DAVIS, 1995, p96

²⁴ Figures taken from Phillippes Fargues, 'Démographie de guerre, démographie de paix,' in Ghassan Salamé, 1994, reproduced in RUFIN 1999, p1123

²⁵ The war was brought to an end on 03 April 1991 by UN Security Council Resolution 687

in the form of the Madrid Peace Conference but the EC's response came three months earlier than this and sought to assist the recovery of Israel and, in greater measure, the Palestinian territories.²⁷ Under Article 235 of the EEC Treaty (Treaty of Rome), on a proposal from the Commission²⁸ and after the Opinion of the European Parliament,²⁹ the Council of the European Communities decided to mount an operation to give financial aid to Israel and the Occupied Territories. The Decision³⁰ of 22 July 1991 set the tone for the European dimension to international peace-building measures in this conflict in the early post-Gulf War years.

The *raison d'être* of the financial aid programme established by this Decision was '*to help reduce the adverse consequences of the Gulf conflict.*' The '*social and economic effects of the conflict*' were cited as the factors by which the respective requirements of Israel and the Palestinian population of the Occupied Territories would be distinguished. On this basis, Israel was afforded a medium-term subsidised *loan* of ECU 160 million for a maximum period of 7 years, with an interest rate subsidy of ECU 27.5 million.³¹ This was to be financed by the EC Commission borrowing on the capital markets. The Palestinians, on the other hand, were to be *granted* ECU 60 million, costing the EC some ECU 27.5 million in 1991.³² It was specified that this aid would cover areas

*'such as health, education and housing, and also the technical assistance necessary to implement that operation.'*³³

²⁶ MARIN Report: 'The Role of the European Union in the Peace Process and its future assistance to the Middle East,' Communication of 26 January 1998, COS/1998/2027

²⁷ The first direct aid from the EC to the Palestinians was in 1986 and envisaged programmes in the following sectors: agriculture, health, small business, education, technical/professional training and local institution-building. The EC did not consult Israel for approval. DUPLO1990, pp181-184

²⁸ OJ No C 111, 27 April 1991, p3

²⁹ OJ No C 183, 15 July 1991

³⁰ Council Decision 91/408/EEC, 15 August 1991 OJ L227, pp.0033-0035: *On financial aid for Israel and the Occupied Territories*

³¹ *ibid* Articles 1 and 2(1)

³² *ibid* Article 2(2)

³³ *ibid*, Article 4

The Commission was empowered in this action to negotiate with the Israeli authorities with regard to the arrangements for payment of the loan and the accompanying terms and conditions in order to ensure that the *use* of the product of this loan

*'correspond[ed] to the objectives of this operation, intended to reduce the adverse consequences of the Gulf conflict.'*³⁴

In tandem with the July Council Decision, the EC's 1991 financial agreement with UNRWA³⁵ established two important projects in the wake of the Gulf War.³⁶ Firstly, the Palestinian Housing Council project was of great significance because of the immediate political and social importance of housing in the region at this time. It aimed to stimulate economic growth in the West Bank and Gaza Strip, to provide employment to Palestinians who had lost their jobs because of the Gulf War and to encourage training in construction methods, management and institution-building. In practice, as well as building-workers, Palestinian professionals such as architects who had been expelled from the Gulf were able to find employment in the context of this project.³⁷

The Commission's management of this programme, and others, has been criticised by the Court of Auditors,³⁸ as in this case the aims of the project were probably over-ambitious.

The second of these post-Gulf War projects was the high-profile European Gaza Hospital, which was financed by ECU 32.4 million. UNRWA initially managed it, until the Palestinian Authority had the power to take over its management and finance the hospital's running costs.³⁹

³⁴ *ibid*, Article 3(2)

³⁵ United Nations Relief and Works Agency to support Palestinian refugees

³⁶ Court of Auditors' Special Report No. 19/2000, 31 January 2001 at pp12-14

³⁷ *ibid*

³⁸ *ibid*

³⁹ *ibid*, p13

The position of the EC with regard to the two parties to the conflict was therefore partly established prior to the instauration of the new peace process at the Madrid Conference; the EC was clearly cautious not to damage its relations with other Mediterranean Non-Member Countries by favouring Israel, but at the same time sought to implicate itself in Israeli post-Gulf War reconstruction through EC loans. However, the EC clearly prioritised *Palestinian* economic development.

b. The Madrid Conference: towards an 'American' peace

The American Secretary of State James Baker proposed a Middle East peace conference six months after the end of the Gulf War. Israel, Jordan, Syria, * Lebanon and the Palestinians were brought together in Madrid on 11 October 1991. The Madrid Conference was jointly sponsored by the US and Russia on the basis of UN Security Council Resolutions 242⁴⁰ and 338,⁴¹ enshrining the principle of 'Land for Peace.'

In practice, the PLO was not invited and the UN was not called upon to arbitrate at the conference. Thus, the Palestinians had to content themselves with forming part of the Jordanian delegation, reflecting America's concern to appease Israel.⁴² The EC, like the UN, was given the peripheral role of '*observer*.' These changes flouted the UN General Assembly's Resolution 45/68 of 06 December 1990, favoured by the Palestinians, which had foreseen the participation of the PLO on an equal footing with the other parties to the Middle East conflict, referring to the '*legitimate national rights*' of the Palestinian people and in particular to their right to self-determination. Resolution 45/68 also required the involvement at the

⁴⁰ Cf. **Annex IV**

⁴¹ Cf. **Annex V**

⁴² However, it has been commented that at the Madrid Conference, the Palestinians for the first time ever began '*to gain the upper hand in the propaganda battle*' against Israel and the Palestinian delegation team at Madrid was the 'most effective they] had ever fielded at an international gathering': Avi SHLAIM, 'The Significance of the Madrid peace conference,' in DAVIS, 1995 p133

Peace Conference of the five permanent members of the Security Council in accordance with Security Council Resolution 241 of 22 November 1967 and 338⁴³ of 22 October 1973.⁴⁴

Rather, the division of roles in the Madrid Conference and the objectives it prioritised correlated to the enhanced prestige and diplomatic weight of the US following the end of the Gulf War. America's hegemonic role in this new world order effectively justified its rejection of the letter of the aforementioned UN Resolutions; at the end of the Gulf War, peace in the Middle East could only be '*an American peace*.'⁴⁵ It has even been argued that although the protagonists of the Israeli-Palestinian conflict were interested in building peace through negotiation, the mediators were more concerned with the prestige of initiating it.⁴⁶ This realistic perspective would consider the peace-building measures to which the Madrid Process has given rise as purely motivated by the self-interest of the actors in exploiting the conflict to enhance their international political stature.⁴⁷

Europe was America's ally during the Gulf War, but was allocated a back-seat role in the peace process as the indirect result of two major American concerns: firstly, the need to portray a balanced sponsorship of the high-profile Madrid Conference between 'West' and 'East' as an illustration of a new era of apparently enhanced international cooperation, thereby enhancing American credibility, and secondly, to disguise America's failure to overturn Saddam Hussein *⁴⁸. An additional possible explanation for the EC's weak position in the Madrid peace process framework is American suspicion of European aims to assume a more

⁴³ Cf. **Annex V**

⁴⁴ BEN ACHOUR, 1994, p345

⁴⁵ *ibid* 'La fin de la guerre du Golfe a accredité l'idée selon laquelle la paix au Proche-Orient ne pouvait être qu'une paix américaine.'

⁴⁶ RUFIN, p.1132

⁴⁷ ZARTMAN & TOUVAL, 1996 pp.445-461

⁴⁸ *Supra* note 40: 'Les Etats-Unis, nouveaux 'maîtres du monde,' ont eu besoin, à l'issue de la guerre du Golfe, d'instaurer la paix au Proche Orient pour être crédibles sur le plan international et camoufler leur échec de n'avoir pu renverser Saddam Hussein.'

political identity and to develop more concrete external relations and scepticism of diplomatic relations between Europe and the PLO.

The letter of invitation to the Madrid Conference was strongly reminiscent of the Camp David propositions of 17 September 1978, referring to the aim of arriving at an interim agreement on Palestinian autonomy by means of negotiation. In accordance with UN Resolutions 242⁴⁹ and 338,⁵⁰ this interim arrangement, to be agreed within twelve months and to last three years, would form the basis upon which '*permanent status*' talks could begin by the third year of the interim period.

In the first few years of the peace process, US mediators became increasingly involved in the finer details of the post-Gulf War Israeli-Palestinian relationship and this role was acquiesced to by the parties to the conflict. Despite the efforts of Washington to break the consecutive impasses, this timetable was not respected.⁵¹

The European Community, on the other hand, found itself restrained to economic intervention for two principal reasons: firstly, the Madrid Conference served to formalise the EC's primarily economic role in the multilateral track of the peace process, America effectively precluding EC participation in the bilateral negotiations⁵² and secondly, prior to the Maastricht Treaty, the EC's scope of influence was restricted by its own nature as an economic bloc lacking political unity. The US may have been enthusiastic with regard to a European economic buttress to its essentially political role in the mediation of the conflict, and so it is hardly surprising that the formal role envisaged for the EC in the Middle East Peace Process at the Madrid Conference in 1991 would be essentially economic.

⁴⁹ Reproduced at **Annex IV**

⁵⁰ Reproduced at **Annex V**

⁵¹ There were eleven attempts to reach agreement by way of bilateral negotiations mediated in Washington from October 1991 to August 1993: MANSOUR, 1993, pp.03-33

⁵² HEYNOLD, 2001 p2

c. The formal EC role in the peace process & its frustrations

The EC obtained the Presidency of one of the five expert groups in the multilateral track of the peace process – that of regional economic development. The purpose of these five groups⁵³ was to elaborate joint projects with a view to encouraging development and the maintenance of security within the Middle East region once a peaceful solution to the Israeli-Palestinian conflict had been found. The REDWG⁵⁴ was intended to promote enhanced regional integration and interdependence between all the parties to the multilateral track,⁵⁵ seeking to achieve regional long-term stability and prosperity in the Middle East region. However, the political climate impeded progress in this area and led to the EC's call for a redefinition of its peace-building role.

(i) REDWG – the EC's privileged role and its obstruction

In the context of its role as chair of the REDWG, the EU organised data collection, prepared feasibility studies, financed research, manned a secretariat in Amman and invested many millions of Euros. Furthermore, the Copenhagen meeting of the REDWG in 1993 established a plan involving fifty-six concrete actions. The Group also afforded itself an operational structure of two 'monitoring committees.'⁵⁶ The reasoning behind the Working Group's actions was always that the combination of economic and social measures would result in an acceleration of political integration in the Middle East. However, in practice, the good intentions of the EU were to be hindered by the political climate.

⁵³ The other four being water resources, presided by the US; environment, presided by Japan; refugees, presided by Canada; and arms control, presided jointly by the US and Russia

⁵⁴ Regional Economic Development Working Group

⁵⁵ The parties to the multilateral negotiations are as follows: Israel, Jordan, Lebanon, the PLO and Syria.

⁵⁶ Speech 99/123, 06 October 1999; reiterated in Speech 00/12, 19 January 2000

The Arab League of Foreign Ministers decided at the Cairo Summit of 30-31 March 1997 that the process of normalisation of relations with Israel would be frozen and their initial boycott reinforced; the stagnation of bilateral talks led to the suspension of multilateral negotiations. This entailed that the EC's resources and good ideas were to be indefinitely shelved in this particular formal context.

(ii) Commission proposals to redefine the EC's role in the peace process

Giving impetus to the EU's increasingly political agenda, and perhaps as a result of its frustration regarding the lack of progress of the REDWG, the Commission's Marin Report proposed on 16 January 1998 a redefinition of the role to be played by the EU in the MEPP *'in order to give the peace process a chance of survival.'*⁵⁷ The idea that the role of the Union required reformulation in order to ensure the continuation of the peace process underpins the Commission's conclusion that American mediation without European input could not suffice. The position of the Commission is unsurprising, although there is evidence that this view is not simply a case of its self-promotion; for example W. Pfaff commented in the International Herald Tribune that there would have been no peace process if this had been exclusively conferred to the US.⁵⁸ Echoing this premise, the reforms proposed were primarily designed to enhance the role of the Union, both economic and political, in the peace process to balance American hegemony of its mediation.

The multilateral goal of the Marin Report was that the Union formulate 'concrete initiatives' within the framework of the REDWG

*'to revive the process of regional economic integration, as soon as progress on the bilateral tracks allow.'*⁵⁹

⁵⁷ MARIN Report, 26 January 1998, COM (97) 715

⁵⁸ International Herald Tribune, 26 October 1996

⁵⁹ MARIN Report, 1998, p.23

European Commissioner for External Relations, Chris Patten, referred similarly in a 1999 speech⁶⁰ to the need to revitalise multilateral talks and regional cooperation. He noted that financing of more than €20 million⁶¹ was proposed by the Commission the following month for REDWG. Projects envisaged included

*'renewed assistance for People-to People activities and cross-border co-operation, where Israelis and Arabs meet on non-governmental and expert levels.'*⁶²

This appears to be an innovative package appreciating the value of forging contacts between groups of civil society as an important step towards greater regional integration and harmony. However, these ideas will remain on the shelf as long as the current standstill in the multilateral track endures.

The Commission referred to the EC's aim of providing funds to help prevent the collapse of the PA, which was considered to be a key contribution to peace-building between the parties to the conflict. However, this goal could no longer suffice, as simply encouraging Palestinian institution-building was not enough to ensure sustainable development of the Palestinian territories.

With this in mind, the Commission proposed that *bilaterally*, the EU's aim should be to guarantee the economic development of the Palestinian territories by eliminating barriers to both domestic and foreign trade. The Commission proposed that the Union should help Israel to eliminate these barriers through common dialogue and that adequate financing for technical assistance projects for the Palestinians ought to be granted.

Although no European role had been prescribed in the bilateral track of the Madrid process, the EEC had provided development assistance to the Palestinian population of the West Bank and Gaza Strip since 1980 via NGOs and through the

⁶⁰ *ibid*

⁶¹ The Euro (€), the currency of the EU, replaced the ECU (European Currency Unit). €1 = 1 ECU

⁶² *ibid* p.3

first Palestinian institutions as of 1987, as well as the post-Gulf War programmes of assistance discussed above (1.1.a). This relationship has been cemented over the past decade.

d. Financing Palestinian economic development

Today, the EU contributes the lion share of international financial commitments to rebuilding the Palestinian territories.⁶³ The main concept behind EC financial assistance to the West Bank and Gaza Strip is that of 'economic empowerment.'⁶⁴ In other words, the aim of EC aid is to lay the foundations for sustainable social and economic development in the Palestinian Territories by achieving a balanced budget and integration of the Palestinian economy at regional and international level. The peace-inducing logic behind this goal is that economic development of the Palestinian territories is necessary to be able to guarantee Israel's security.⁶⁵

In comparison with the Lomé Conventions and MEDA external economic assistance programmes, economic aid from the EC to the Palestinians has been astonishing in its volume; over the period 1991-1995, it amounted to ECU 258.7 million per capita, compared to ECU 23.2 million per capita for the Lomé Conventions and ECU 11.2 million for MEDA.⁶⁶ Per capita aid to the Palestinians continues to be the highest in the world as far as EU economic co-operation is concerned.⁶⁷

⁶³ Cf. **Annex Ia**

⁶⁴ Cf, *inter alia*, Communication from the Commission to Council and Parliament on the Future of EU Economic Assistance to the West Bank and Gaza Strip, 19 September 1996, available at <http://www.europa.eu.int/en/comm/dg1b/en/cisjoren.htm> - as at 01 March 2001

⁶⁵ cf, for example, MARIN Report 1998, p22: 'Contrary to claims that Israel's security demands stiff restrictions on the Palestinian economy, Palestinian economic development will be Israel's best security guarantee, both in the short and the long term.'

⁶⁶ European Commission for EC Aid Population Division-Department for Economic and Social Information and Policy Analysis of the United Nations Secretariat, 1996 'World Population prospects: the 1996 Revision.'

⁶⁷ *ibid*

EC aid to the Palestinians has also been remarkable in terms of the diversity of the projects financed. From 1994-1999, €447 million was paid of a pledge of €39.1 million under three different Community budget headings.⁶⁸ The Court of Auditors found many other projects of relevance in this domain which were financed under twelve other headings, totalling a further €6 million,⁶⁹ criticising this fragmented approach to Community financing and the lack of a systematic list of all projects financed by the EC in the context of the Israeli-Palestinian conflict.⁷⁰

On a request by the Dublin European Council in 1990, the Commission in 1991 appointed a Representative to the Occupied Territories, who initially worked in Brussels. In 1992, the Commission Representative was granted diplomatic status and in February 1994 moved to Jerusalem with three technical assistants, but the Israeli authorities did not allow him to open and operate an office in that capacity. Thus, a European Commission Technical Assistance Office (ECTAO) was set up locally for the management of the aid programme. The conditions for the work of the ECTAO were defined in 1994, on the basis of an exchange of letters between the Commission and the Israeli authorities.

Additionally, between 1993 and 1995, the EU donated ECU 136 million to UNRWA.⁷¹ The tenth Convention between the EC and UNWRA was signed in October 1999⁷² and foresaw the allocation of €120.8 million for the period 1999-2001. This was claimed by Chris Patten to allow the European Commission to

⁶⁸ 1. B7-4200 – EC operations connected with the Israeli-PLO peace agreement, mainly used to implement Washington Conference pledges; 2. B7-4210 - Aid to UNRWA; and 3. B7-100 – MEDA, in the context of the Euro-Mediterranean process.

⁶⁹ The budgetary headings included: food aid, humanitarian aid, refugees, non-governmental organisations, environment, aid for population policies and programmes, rehabilitation, human rights and democracy, prevention of conflicts and support for the peace process.

⁷⁰ However, the Commission's Marin Report detailed Community budget and EIB assistance to the Palestinians following the Declaration of Principles (i.e. 1993-1997) by sector. This **table** is reproduced at **Annex II**

⁷¹ The first contribution made by the then EEC to UNRWA, was in 1971; these contributions have continued to the present day by means of triennial conventions and target the fields of health and education.

⁷² 07 October 1999, p.36

*'help deal with UNRWA's severe cash shortfall and to continue our crucial support to the Palestinian refugees.'*⁷³

Over three million Palestinian refugees receive support from UNRWA, which adopted a peace programme, after the signing of the Oslo Accords to upgrade infrastructure, create employment and improve living conditions in the refugee communities. This is fundamental, given that 70% of the population of the Gaza Strip and 30% of the West Bank live in refugee camps.⁷⁴

In addition, the European Commission's Annual Report on Humanitarian Aid 1999⁷⁵ explains that a €1 billion global plan for the Middle East was adopted in July 1999 to deal with humanitarian concerns. It comprised assistance to the Palestinian population in the occupied territories and Palestinian refugees in Lebanon, Syria and Jordan, in addition to some specific aid in support of 'at risk groups' in those countries.

At the Washington Donors' Conference of 10 October 1993, which followed the Declaration of Principles of September 1993, the international community pledged \$24 billion for the period 1994-1998 to fund the peace process and EC funding was substantially increased. The US pledged 38% of the aid to Palestinians but two years later had only given 10%, highlighting its reluctance to commit itself in financial terms, despite its political zeal. The EC, on the other hand, pledged 500 million ECU from the EC budget over a five-year period and €50 million for each year in grants.⁷⁶ The European Investment Bank (EIB) would also make available up to €250 million in long term loans over the same period.⁷⁷

⁵⁶ *supra*, note 50, 1999 speech

⁷⁴ RUFIN 1999, *supra* note 24

⁷⁵ 01 December 2000

⁷⁶ The legal instrument regulating the pledge is Council Regulation No. 1734/94

⁷⁷ Cf. **Annex I** which illustrates the extent of EU aid in comparison with other international donors 1993-1997 and the breakdown of EU financing along the lines of EC budget, Member States, UNRWA budget (Member States and EC) (b)

These pledges were in fact surpassed. Following the Oslo Accords, the EC initiated a special programme to support the MEPP and more particularly the development of Palestinian society.⁷⁸ The total commitments of the EC pledged under the three main budget headings devoted to support the development of Palestinian society amounted to €639 million,⁷⁹ not including aid to UNRWA's general budget and Member States' contributions. In practice €447 million was paid out in total, amounting to a substantial increase in the financial assistance provided by the EC in this domain.⁸⁰ Furthermore, in this context, the European Investment Bank signed a Memorandum of Understanding with President Arafat to assure the Palestinian Authority the guarantee of loan financing, mainly for infrastructure developments and to stimulate economic development.

The main aims of this aid were to underpin the Palestinian Authority and contribute substantially to the reconstruction of the deteriorated infrastructure and society in the West Bank and Gaza. Preventing collapse of the Palestinian economy was seen as the key to Europe's contribution to building peace in this area. A further €860 million was contributed by EU Member States during the same period.

According to this agreement, the office would be staffed by a maximum of six people who would be granted privileges and immunities identical to those enjoyed by the UN officials in Israel and in the territories under Israeli administration, plus some local personnel. This agreement is still in force and the restriction on the number of technical advisors is still in operation. In 1998, the activities of ECTAO were taken over by the European Commission Representative Office (ECRO), which, at the end of 1999, was staffed, in addition to the

⁷⁸ Cf. **Annex II** for details of projects financed according to sector

⁷⁹ Court of Auditors' Special Report 2001

⁸⁰ *ibid*

Commission's Representative, by three officials and two European experts on two-year contracts.⁸¹

One of the positive results of the programme cited by the Court of Auditors was that the Commission has played an important role on sensitive and urgent political situations, in which it has shown itself to be '*capable of swift action.*' Examples given were the decisions to provide budgetary support to the PA after its establishment by financing recurrent education costs and in 1997, through the Special Cash Facility. Furthermore, the Commission in 1999 led the work on the updating of the Tripartite Action Plan on Revenue, Expenditure and Donor Funding for the Palestinian Authority (TAP). The TAP was initially agreed in 1995 and sets out the respective commitments of the PA, Israel and the donor community in order to overcome the existing constraints to development in the West Bank and Gaza Strip.⁸²

A further success is considered to be the fact that the programme is implemented through a significant proportion of local tenders, thus supporting the local economy. It provides for the financing of sectors that are important for the social development of the population, such as higher education. Infrastructure projects, e.g. roads, water supply, sewerage and storm-water drainage networks, school construction, have also improved the quality of life of Palestinians.⁸³

However, the desire of the EU to enhance Palestinian civil society faces the stumbling block of the claim of the Palestinian Minister of Justice that human rights NGOs⁸⁴ financed by the EC were collectively 'fighting the Palestinian people' and were guilty of financial impropriety; he had promised strong measures against

⁸¹ *ibid*: the Representative has had diplomatic status since 1992, whereas the three officials and two European experts are covered by the agreement with the Israeli authorities

⁸² *supra* note 35

⁸³ *ibid*

⁸⁴ Non-governmental organisations

them.⁸⁵ Nonetheless, in 1993, 60% of primary health care in the West Bank, Gaza Strip and East Jerusalem was provided by NGOs, half of all hospital care and all disability care. These organisations provide an essential support to the Palestinian Authority in provision of social services and require international aid to survive.

It has been commented that the gratitude of the American hyper-power with regard to the financial impetus provided by Europe may explain why the EU was invited as a 'witness' to the signature of the Taba Agreement in Washington on 28 September 1995 (also known as Oslo II or the Palestinian-Israeli Interim Agreement).⁸⁶ This agreement resulted from secret negotiations between Israel and the Palestinians undertaken following the impasse of the Madrid talks. The Declaration of Principles on interim self-government arrangements and four annexes signed on 13 September 1993 achieved the mutual recognition of Israel and the PLO and constituted a 'framework' agreement to allow the permanent status talks to continue.

The EC continued in its accustomed role as the economic engine of the peace process by promising on 09 January 1996 at the Ministerial Conference for Economic Assistance to the Palestinian People in Paris that ECU 200 million over the period 1996-1998, of which ECU 50 million would be donated each year to the PA as well as an additional ECU 15 million in 1996 to plug its budget deficit and ECU 5 million in loans for development in the West Bank and Gaza Strip. At the Washington Ministerial meeting in November 1998,⁸⁷ the EU pledged a further €500 million for the period 1999-2003. In the year 2000 alone, €155.6 million was 'ear-marked' from the EC budget to be donated to the Palestinian Authority, €90

⁸⁵ Middle East EU Human Rights Watch Report on the Occupied Territories, 21 September 1999 p.2

⁸⁶ HENOLD, 2001

⁸⁷ The international community as a whole pledged a total of \$4.039 million for 1999, although only \$2,615 million was disbursed (PA Ministry of Planning and International Cooperation, Third Quarterly Monitoring Report on Donors' Assistance, 1999)

million of which was intended to assure the preservation of the institutional framework of the PA *'that we [the EC] have helped to create and fund.'*⁸⁸

Despite the impressive volume of economic assistance granted by the EC to aid development of Palestinian society, the implementation of the programme has faced significant technical difficulties. In 1999-2000, it took the Commission five months to appoint a new Representative to deal with the programme on assistance to Palestinian society. During this time and pending the accreditation procedure that followed, there was only one official to manage all the activities. In view of the size and the high profile of this politically sensitive programme, the Court of Auditors viewed this as insufficient to carry out the task.⁸⁹ According to the Court, experience of comparable programmes was lacking amongst staff and in practice, many members of staff had to 'learn by doing.'⁹⁰ These and other obstacles to the successful implementation of Community aid programmes will be further discussed in Chapter 3.

1.2. The Barcelona Process: regional perspectives on peace-building

The 'Renovated Mediterranean Policy' of the early 1990s reinforced pre-existing association agreements developed from 1975-1979, which had introduced commercial concessions in favour of Mediterranean exports to the EEC and economic and financial cooperation with a view to development. The RMP increased European support for economic reform in the Mediterranean countries as well as financial provision for the social sectors, such as health and education.⁹¹

⁸⁸ Speech 01/49, 31 January 2001

⁸⁹ *supra* note 35 at paragraph 34

⁹⁰ *supra* note 35 paragraph 37

⁹¹ 'L'Union Européenne et ses partenaires Méditerranéens,' Supplément – L'Europe sans frontières no. 10, 1997.

On 27-28 November 1995, twenty-seven countries signed the Barcelona Declaration.⁹² This was claimed to mark a turning-point in the Europe-Mediterranean relationship, recognising that the common interests of the partner states – trade and investment, safeguarding the environment and energy supply and maintaining regional peace and stability – must be catered for in a spirit of co-responsibility,

*'leaving behind the more 'patronising' approach' of previous European policy.'*⁹³

Thus, from the beginning, Europe articulated its '*enlightened self-interest*' in the Mediterranean region, which gave it a '*particular responsibility*' for the social and political stability thereof.⁹⁴ It is also worth mentioning that such a programme represented a role for the EU that could not be rivalled by the US and would permit the former to outsmart the latter in terms of their degrees of experience in multilateral cooperation in the region.⁹⁵

a. The Barcelona framework

The Commission had proposed in 1994 that

*'[p]rogress towards a Euro-Mediterranean zone of peace and stability would be initiated through close political dialogue based on respect for democracy, good governance and human rights. The dialogue should be extended to security issues.'*⁹⁶

⁹² The text of the Barcelona Declaration and Work Programme can be found at 1 European Foreign Affairs Review, (1996) at p.125 (Documents Section).

⁹³ Chris Patten's speech 01/49 31 January 2001; Cf. also HAKURA, 1997 at p337, who continues that the purpose of the Barcelona Declaration was '*to break the historical cycle of mutual distrust and recriminations, which has characterised the Euro-Mediterranean relationship thus far.*'

⁹⁴ HAKURA 1997, p.352

⁹⁵ MOSS, 2000, p4

⁹⁶ Communication on Strengthening the Euro-Mediterranean Policy (COM (94) 427, 19 October 1994, pp.8 and 18

Furthermore, it should be led by governments and other representatives of civil society⁹⁷ and should allow extremism to be contained.⁹⁸ As Jacques Santer commented:

*'[Europe] envisages a permanent partnership on the basis of human rights and respect for international law.'*⁹⁹

These elements were retained in the text of the Barcelona Agreement, whose objectives are: cooperation for peace and stability; the creation of shared prosperity by launching free trade and providing economic and financial assistance to deal with the 'challenges' of the region; and to help towards mutual understanding and tolerance among peoples of differing cultures and traditions. The various aspects of the dialogue are considered by the EU to be interdependent with a view to providing 'an integrated and comprehensive vision' of the Mediterranean region.¹⁰⁰

The multilateral long-term goal of creating a Euro-Mediterranean free trade area by 2010 is complemented by bilateral association agreements that aim to create the conditions necessary for private investment in each partner-country, as well as national programmes of financial assistance via the MEDA mechanism. The essence of the Euro-Med partnership is economic, although it contains a cultural/human side, characterised by cultural programmes and action in support of civil society, which are financed by the EC's MEDA budget heading.¹⁰¹ The MEDA regulation was passed by the Council on 15 July 1996, and included a 'firm

⁹⁷ Communication on Proposals for Implementing the Euro-Mediterranean Policy (COM (95) 72, 08 March 1995), p.2

⁹⁸ *supra* note 88, p.3

⁹⁹ *Al-Hayat*, 22 September 1995

¹⁰⁰ EUROMESCO Report 1997-1998 p.3

¹⁰¹ The MEDA programmes are MED-URBS, relating to cooperation between local or municipal authorities; MED-CAMPUS, to enhance relations between Mediterranean universities and institutions; MED-INVEST, for cooperation between small and medium-sized enterprises; MED-MEDIA, to develop relations between media workers; and MED-TECHNO, encouraging cooperation on technological advances. Nb. the MED-URBS programme benefited the Gaza Strip town of Rafah with regard to a water management programme.

promise' of ECU 3,424.5 million over this four-year period.¹⁰² The Stuttgart Conference relayed the EU's claim that its assistance for 2000-2006 would

'reflect the high priority that it attaches to relations with its Mediterranean partners in the context of its overall commitments' (Paragraph 18).

This pledge was confirmed by the Nice European Council, 07-08 December 2000, which gave an assurance of €5.35 billion to finance the reformed MEDA mechanism and an additional €1 billion in EIB loans during the next financial perspective of the EC budget.

The Euro-Mediterranean relationship is a 'half-way house' between Lomé and the EU.¹⁰³ The Mediterranean partners do not form an integrated bloc, as is the case for EU agreements with regional groupings. Furthermore, it can be distinguished from the Lomé conventions, which amount to association agreements of a purely developmental type. The differences relate to the fact that the EMEA extends to cover political, economic, financial and humanitarian aspects with a view to securing Europe's southern borders by fashioning an area similar to the European Economic Area.¹⁰⁴

b. Logic of the Barcelona Agreement and the problem of 'contamination'

The logic of the Palestinian track of the Middle East Peace Process envisaging economic development as underpinning peace is somewhat inversed in the Barcelona Process; the basic assumption of the application of the Barcelona channel to Israel and the Palestinian Authority has been that the peace process remained on track. In the absence of progress in the peace process, the impact of Barcelona can only be marginal. The two processes are inextricably linked;

¹⁰² Article 1(3), Regulation 1488/96

¹⁰³ HAKURA 1997 at p350

¹⁰⁴ Commission Vice-President Manuel MARIN was quoted in the *Financial Times* to compare the EMEA to the EEA, 20 October 1994

however, and this has led to the phenomenon of 'contamination' of Barcelona cooperation by the obstruction of the Palestinian track of the peace process.

The text of the Barcelona Agreement of 1995 explicitly provides that the Euro-Mediterranean Cooperation Programme is separate from the MEPP. This was reiterated several times by European Councils. For example, the Cannes European Council conclusions of 26-27 June 1995 drew a clear distinction between the Madrid and Barcelona processes,¹⁰⁵ which was later to be called into question. The EU stressed that the two processes were connected only as *fora* for EU intervention in the conflict, but not necessarily inter-dependent in their purposes. However, the Barcelona Agreement does mention that the participants

*'support the realisation of a just, comprehensive and lasting peace settlement in the Middle East based on the relevant United Nations Security Council Resolutions and principles mentioned in the letter of invitation to the Middle East Peace Conference, including the principle of land for peace, with all that this implies.'*¹⁰⁶

It may be argued that the existence of the Barcelona process allowed Israel to discuss directly with its neighbours with whom she had no diplomatic relations, facilitating negotiations and EU participation in the MEPP; in this sense the Barcelona forum remains the most successful area of cooperation with an element of EU involvement in the Near East. On the other hand, it has also provided a forum for Arab leaders to pressurise Israel on the Palestinian question and put a spanner in the works of the MEPP: Israeli non-respect of the above clause on observance of the principle of 'land for peace,' for example, is open to be invoked by Arab states to justify their sidelining of Israel at Euro-Med conferences.

¹⁰⁵ '...[t]he Euro-Mediterranean partnership, with its overall approach focused on the relationship between Europe and the Mediterranean, differs fundamentally from the peace process in the Middle East. The partnership is not a new forum for resolving conflicts and should not be seen as the framework for this process, even if, among other objectives, it can help to promote its success.'

¹⁰⁶ Annex II of the Madrid European Council conclusions of 15-16 December 1995

The lack of meaningful developments in the Middle East Peace Process and related political restraints temper the progress made at the level of economic integration and co-operation. A clear illustration of the negative interconnection between the two processes is the decision of the Arab League of Foreign Ministers taken at Cairo, 30-31 March 1997 to freeze the process of normalisation of their relations with Israel. This decision was made during a Euro-Mediterranean conference. The Malta meeting of April 1997 reflected the limited results of the second Euro-Mediterranean conference, which may be attributed to a '*spill-over effect*' from the Peace Process crisis and the planned Moscow meeting of the multilateral steering group in May 1997 was postponed. Thereafter, all multilateral meetings were put on hold indefinitely.

Neither Israel nor the Palestinian Authority was present at the third annual meeting of the Euro-Mediterranean Conference of foreign ministers in Stuttgart in April 1999. This took place just before the 04 May 1999 deadline for Arafat to declare unilaterally a Palestinian state, as the Oslo accords technically allowed him to, and three weeks before the Israeli parliamentary elections. The Conference highlighted that the Barcelona process was not intended to replace the Middle East Peace Process '*but to contribute to [its] success,*' as had been expressed in the Barcelona Declaration itself. At Paragraph 8 of the Chairman's formal conclusions, the Ministers also encouraged the EU '*to continue increasing its role in support of the Middle East Peace Process.*'

The Commission suggested that the Union should renew its efforts to implement its Euro-Mediterranean policy, which had been at a standstill since the peace process reached deadlock. The US had responded to EU initiatives of Euro-Mediterranean cooperation by launching a series of economic summits – the Amman summit of 1995 was followed by those of Cairo (1996) and Doha (1997).

The Commission proposed specifically the organisation of a ministerial conference to review the Barcelona process in mid-1998.

Chris Patten noted this year that the Middle East Peace Process was significant for EU policy in the Mediterranean. Not only did the Madrid Conference and the Oslo process make Barcelona possible, but also the difficulties of the political volatility in that context did not necessarily affect adversely advances made in the Barcelona process. The Marseilles meeting of Euro-Mediterranean Foreign Ministers in November 2000 demonstrated the 'resilience' of the Barcelona process.¹⁰⁷

Experience of contamination ought to have served as a catalyst for the EU to think up new means of intervention and to take a more global view of the situation rather than attempting to consider the peace process in a vacuum: clearly its success or failure will have an effect on Euro-Mediterranean cooperation possibilities. The EU sees getting the peace process back on track as a precondition for the success of Euro-Mediterranean cooperation, but it seems that it lacks the capacity to put into practice its pacifying aims.

The third chapter of the Barcelona process relates primarily to issues of good governance, human rights, education, youth, health, women, migration and human exchanges, dialogue between cultures and civilisations, between civil societies, fighting international crime – in particular drugs and terrorism, and the fight against racism and xenophobia. The application of this chapter in the context of the Israeli-Palestinian conflict could play a crucial role in confidence and peace-building. But the operability of such projects as potential peace-building measures between Israel and her Arab neighbours has been impeded by the *Realpolitik* of the Arab states blocking Israeli participation.

¹⁰⁷ Speech 01/49 31 January 2001

The Union was recently willing to concede that

*'...cooperation that has already been initiated in the framework of the Barcelona Process [is] a determining factor in providing a foundation upon which to build once peace has been achieved.'*¹⁰⁸

Given the Commission's recognition of the interplay between the two processes, it seems likely that the Barcelona platform will be employed to further the EU's political, economic and commercial presence in Israel and the Occupied territories.

c. EU-Israel bilateral relations within the Euro-Med framework

The new Euro-Mediterranean Association Agreement between the EU and Israel was concluded on 20 November 1995. It has been commented that in formal terms, this agreement comes close to those adopted between the EU and Central and Eastern European Countries in the early 1990s¹⁰⁹ and that its importance was considered to be much more political than economical.¹¹⁰

However, the bilateral¹¹¹ Association Agreement did not in fact enter into force until 01 June 2000.¹¹² It confirms the free trade regime for industrial products, which had been in operation since 1989 and provided for additional mutual agricultural concessions.¹¹³ It also creates an institutionalised political dialogue between the EU and Israel, based on the common values of democracy, respect for human rights and the principles of the market economy.

The Essen European Council recognised the special economic status of Israel within the Mediterranean region as follows:

¹⁰⁸ Paragraph 9 of the Common Strategy 2000.

¹⁰⁹ TOVIAS, EUROMESCO Paper, October 1998, p3

¹¹⁰ Jerusalem Post, 21 November 1995

¹¹¹ Further bilateral agreements between the EU and Israel are mainly in the field of science: the 1999 agreement on scientific cooperation, two agreements on Public Procurements in 1996 and an agreement on Good Laboratory Practices concluded in 1999. Israel was also afforded 'co-operating state' status in the COST Research programme in March 2000 and the following month became a member of the Eureka research network.

¹¹² 'Country Profiles' – Bilateral relations between the EU and the Mediterranean Partners,' November 2000, p.9 – 'EU-Israel relations.'

¹¹³ *ibid*

'on account of its high level of economic development, [Israel] should enjoy special status in its relations with the European Union on the basis of reciprocity and common interests.'

However, it is argued that from the Israeli perspective, that the Barcelona Agreement undermines this 'special status' and does not address any of Israel's needs that are not already covered by the 1995 bilateral agreement,¹¹⁴ which constitutes the foundation of its relationship with the EU. Whereas the Barcelona Agreement may have enhanced the EU's relationship with some of its Mediterranean partners, including the PLO, it is not perceived as favourably by Israel. Effectively, Israel has been unable to lead any of the Euro-Med projects and Israeli participation in many of the projects, with the exception of those with a cultural element, has been impeded by the Arab states.

The political and economic interests of the Euro-Mediterranean Partnership are of marginal importance to Israel as compared to the Arab 'Non-Member Mediterranean Countries' (MNMCS). Because of the relatively high level of economic development in Israel compared to the other Mediterranean partners, Israel is not a recipient of EC funds under the MEDA bilateral financial cooperation programme, although it is covered by MEDA's regional component.¹¹⁵ Israel signed a Framework Agreement with the European Investment Bank in June 2000.

Politically, the Barcelona framework is seen by Israel as a possible forum for negotiations with Syria and Lebanon and economic and political cooperation, given the 'freeze' of multilateral talks in the Madrid process. Economically, the main benefit would be the cumulation of rules-of-origin among MNMCS. Diagonal cumulation¹¹⁶ was envisaged, which should allow Israel greater flexibility in the application of rules of origin to ensure duty-free access to the EU.

¹¹⁴ TOVIAS1998 at p.5

¹¹⁵ *supra* note 104

¹¹⁶ allowing partner country 'A' to use products emanating from another partner country in order to produce goods which would still be considered as originating from 'A'

Economic relations between the EU and Israel deteriorated at the end of 1997, however, when the EU issued a public warning regarding Israel's breach of the rules-of-origin conditions of the EU-Israel free trade agreement of 1995. The EU criticised in particular that the Israeli quota had included Palestinian shoes and flowers and that Israel was exporting twice the amount of oranges (50,000) per year than it was in fact capable of producing.¹¹⁷ In 1998, Israeli trade with the EC represented 30.9% (\$7.18 billion) of total Israeli exports and 48.5% (\$13.3 billion) of total Israeli imports and Israel has a trade deficit of €6 billion vis-à-vis the EC.¹¹⁸

In 1998, the EU required Israel to alter its obstructive behaviour towards the Palestinian territories at least to a limited extent. The EU insisted that Israel halt its practice of exporting goods to the EU that originated in the Occupied Territories or settlements that the EU did not accept to be part of Israel¹¹⁹ Such issues recurred most recently, when the Israeli delegation visiting Brussels to discuss routine trade matters was strongly criticised by European diplomats and the Commission for her '*disproportionate use of force*' in retaliation against Palestinian violence, for '*extra-judicial executions*,' and continuing '*illegal settlements*.' They also sought an explanation from Israel as to why goods produced in Israeli settlements were being marketed illegally in the EU under a 'Made in Israel' label, which gave them duty-free access under the EU-Israel Association Agreement signed last year.¹²⁰

Thus, the EU has seized the opportunity of its Euro-Med relations with Israel to pressurise the Israeli government regarding political questions pertaining to the peace process.

¹¹⁷ ALLEN & SMITH, Annual Review of the European Union, 1997-1998, p81

¹¹⁸ *supra* note 104

¹¹⁹ *ibid*

¹²⁰ The Telegraph, 22 May 2001

Miguel Moratinos¹²¹ strived in 1999 to improve EU-Israel relations by advising against excluding Israel from EU regional development programmes and by proposing the establishment of a EU-Israel forum to improve mutual understanding. Following these efforts, the third meeting of foreign ministers of the Euro-Mediterranean conference was arranged by the German presidency of the EU in Stuttgart in April 1999. As has been seen, however, neither Israel nor the PA were present.

d. EU-Palestinian Authority Euro-Med Relations

On 24 February 1997 the Interim Association Agreement on trade and co-operation between the European Community and the Palestinian Liberation Organisation (PLO) for the benefit of the Palestinian Authority was signed, despite the inexistence of a Palestinian state. Its symbolism, institutionalising EU-Palestinian relations, has been commented as being more important than its limited economic impact.¹²² A programme of assistance to the PA is 'attached' to this agreement, amounting to ECU 3.6 billion for a period of five years under the condition that the PA respects human rights. This is in accordance with the basic principles of the Barcelona Declaration, which include respect for the democratic process and for human rights and fundamental freedoms.

The PA/PLO is bound by its Interim Association Agreement with the EC whose Article 2 states that respect of democratic principles and fundamental human rights as set out in the UN's Universal Declaration on Human Rights should guide the parties.

However, the primary aim of the Agreement is to establish a free-trade area between the EU and the West Bank and Gaza Strip by 2001 and to create a

¹²¹ European Union Special Representative to the Middle East – cf Chapter 2.2.c

¹²² HEYNOLD 2001, p3

comprehensive framework for political, trade, economic and financial cooperation. The agreement entered into force on 01 July 1997. Israeli blockages to Palestinian trade are cited by the EU as the main reason behind the tardiness of the implementation of the Agreement, as well as the '*insufficient capacity of the Palestinian economy*.'¹²³

Palestinian foreign trade is heavily dependent on Israel, accounting for nine-tenths of Palestinian imports and 80% of exports.¹²⁴ Despite the fact that many cooperation agreements have been signed with, *inter alia*, the United States and the European Union, who provide preferential access to Palestinian exports, there has been negligible geographical diversification of trade.¹²⁵

Despite the great potential of Euro-Mediterranean cooperation projects to stimulate the necessary economic growth and attract private investment in the particular cases of its Middle East partners, the overall conclusion of the EC, in the light of the experience of 'contamination,' is that there is a need to get the peace process back on track before the Barcelona process can have its desired impact in the particular cases of Israel and the Palestinian territories.¹²⁶

1.3. Assessing the input of the 'economic engine' to the peace process

The Commission has admitted that economic development and regional integration have not been achieved due to an overall failure to trigger economic development and the extensive private investment that should have catalysed it. Thus, the MENA process was conceded to have failed and there were resulting obstacles to the successful continuation of the Barcelona process.¹²⁷

¹²³ 'Country Profiles' – Bilateral relations between the EU and the Mediterranean Partners,' November 2000,, EU-West Bank/Gaza Strip (Palestinian Authority relations) p32

¹²⁴ *ibid*

¹²⁵ *ibid*, p33

¹²⁶ MARIN Report 1998, *supra* note 24

¹²⁷ *ibid*

The EC has come to realise that the only tangible benefit of its financial assistance in the peace process has been political: as the Commission argues, its economic support ensured for some time the continuation of the peace process.¹²⁸ However, with the 'death' of Oslo, this claim has lost credibility. There are, nonetheless, other political implications of the EC's economic role in this realm. Since 1991, the EC's main aims have been to finance the development of Palestinian society/ its economy and the PA's 'state-building' activities, firstly in response to the ravages of the Gulf War and then in implementation of the Oslo accords. As mentioned, the EU's financial strength may have persuaded America to continue to implicate Europe in its peace plans for the Israeli-Palestinian conflict.

The Essen European Council conclusions (09-10 December 1994) encapsulated the position of the EU with respect to the Israeli-Palestinian conflict and the MEPP in general:

'..as the largest international donor, the European Union should continue to make a significant economic and political contribution in support of the Middle East peace process, in particular in the reconstruction of the Palestinian areas.'

Similarly, Chris Patten, the Commissioner responsible for External Relations expressed just before the Ad Hoc Liaison Committee for Assistance to the Palestinians¹²⁹ in Tokyo that because the EU affords over 50% of total assistance to the Palestinians, most future donor co-ordination meetings should be held within the European Union, co-chaired by the European state hosting the meeting. He added at a later date¹³⁰ that the role of the EU was not confined 'to that of a banker,' although it was important to realise that

¹²⁸ *ibid*: in the initial proposal of 16 January 1998, it was recognised that '[I]nstead of attracting private foreign investment, the massive aid from the Union has got bogged down, and economic indicators now show that the living conditions of the Palestinians are deteriorating.' COM (1997) 715

¹²⁹ this is the international donor consultation mechanism

¹³⁰ Speech 00/12, Strasbourg, 19 January 2000

*'a comprehensive Middle East peace deal comes with a hefty price tag.'*¹³¹

It is clear from these statements that the Commission considered that the position of the EU as the greatest international donor was important not only as laying the foundations for its future economic and perhaps political action in the peace process but as *justifying* the development of a more political role, with specific reference to developing the Palestinian territories.

Thus, behind the traditionally economic/financial role played by the EC in the international effort to resolve the Israeli-Palestinian conflict, its political ambitions have shone through. It is therefore overly simplistic to draw a rigid distinction between the Community and Union pillars of activity as exclusively economic and political respectively: there are important synergies between the Community and EU pillars in the context of the EU's ambitions in the Israeli-Palestinian conflict. The authors of the Annual Review of EU activities in 1998, which distinguishes between the economic role of the EC and the political objectives of the EU, encapsulate the EC/EU relationship in this context lucidly: they refer to the Mediterranean and Middle East as a dossier of the EU's external policy which represented

*'an area of high activity in 1998, with the EU seeking to underpin its political objectives, formulated within the CFSP, with the economic power of the EC.'*¹³²

The Vienna European Council at the end of 1998 concluded by referring to the position of the EU at the Washington Donors' Conference on Middle East Peace and Development as follows:

'as the largest collective donor to the Palestinians, [the EU] reaffirmed its determination as demonstrated by the active presence of the European Union Special Envoy (EUSE) Miguel Moratinos to make its political and economic contribution to the success of the Peace Process

¹³¹ *ibid*

¹³² ALLEN & SMITH, Annual Review of the European Union, 1998-1999, p.97

*in all its tracks in complementarity with the US and other parties involved.*¹³³

We can surmise that the European economic '*acquis*' is of importance in anchoring and reinforcing the EU's emerging political actions in the mediation (in the wide sense) of the conflict. This may explain why, despite the failure of the EC's overall aim to encourage economic development in the Palestinian territories,¹³⁴ it does not envisage reducing its financial assistance thereto.¹³⁵ Perhaps to do so would be to jeopardise the political dividends amassed by the EC over the past decade, having bought its way into the international community's peace-building efforts, and serving as a foundation upon which the European Union can build its political role.

¹³³ paragraph 118 of the Conclusions of the Vienna European Council, 11-12 December 1998

¹³⁴ Despite the huge EC input, the Marin Report disclosed that the Palestinians are now in a worse economic situation than before the start of the peace process, Palestinian per capita GNP having fallen by over 35%.

¹³⁵ On the contrary, as discussed in Section 1.1 above, €500 million has been pledged from the Community budget for the period 1999-2003 and in the year 2000 €155.6 million was disbursed.

CHAPTER TWO: FROM DECLARATORY DIPLOMACY TO CFSP ACTION: INCREASINGLY PROACTIVE EUROPEAN PEACE INITIATIVES

To appreciate the development of the political stance of the European Union regarding the Israeli-Palestinian conflict, it is useful to analyse the European Councils' declarations on this issue (2.1). European Council conclusions normally contain a sub-section on the Israeli-Palestinian conflict within their 'External Relations' section or include an appended declaration on the matter; thus, a considerable declaratory 'acquis' on this conflict has developed. Although this paper concentrates on the period 1991-2001, it will be seen that the principles upon which the EU now sketches the guidelines for its intervention in the Israeli-Palestinian conflict derive from much earlier declarations, and in particular the Venice Declaration of 1980 (2.1.a).

Whereas in the early 1990s, the position of the EC tended not to stray beyond the letter of the Venice Declaration, since the creation of the European Union by the Maastricht Treaty and the enhanced political credence afforded by this new paradigm of European unity, Europe has been able to embrace a bolder position on the conflict. The most renowned declaratory reflection of the fresh political courage of the EU vis-à-vis the Israeli-Palestinian conflict is the Berlin Declaration of 1999, where the EU mentioned expressly for the first time that it was in favour of the early creation of a Palestinian state (2.1.b). This step amounts to a turning point in the EU's declaratory diplomacy in this regard. Not only does it represent the pinnacle of the EU's evolving position on Palestinian self-determination, which had previously not dared to stretch to an approbation of early statehood, but it also sheds light on the rationale behind the EU's 'state-building' programme of anti-terrorism assistance to the PA in the context of the CFSP (2.3). The other relevant CFSP actions will also be analysed, giving an overview of the extent of the EU's political capacities of intervention in the conflict and their implications.

2.1. Declaratory diplomacy: from Venice 1980 to Berlin 1999

The fledgling EC foreign policy of the 1980s (European Political Cooperation), enabled the Community to issue its first declarations on the Israeli-Arab conflict by way of inter-governmental decisions, the most important being the Venice Declaration of 1980.¹³⁶ This section considers the 'acquis' developed by subsequent European Councils, with particular reference to the period of 1991-2001. Following the Maastricht Treaty, the role of the European Council is to

*'define the principles of and general guidelines for the common foreign and security policy.'*¹³⁷

The position of the European Councils in relation to the Israeli-Palestinian conflict has evolved in a fairly coherent manner over the past ten years and must be considered to fully appreciate the logic behind the relevant CFSP actions which may be categorised as 'peace-building' actions in the Israeli-Palestinian conflict. The first sub-section focuses on the European stance on the Jerusalem question, which is rooted in the Venice declaration (a), which also contained the germ for the Berlin Declaration, espousing the early creation of a Palestinian state (b).

a. The Venice Declaration *acquis*

The Venice Declaration was apparently badly received by the United States, who had not been consulted prior to its adoption.¹³⁸ Nonetheless, it marks the starting point of a well-developed body of EU declarations; these build upon the initial stance of the EEC in the Venice Declaration, without departing from its basic principles.

¹³⁶ EC Bulletin 6-1980

¹³⁷ Article 13(1) (ex. Article J.3) TEU

¹³⁸ FENASSE, 1999

The central principles elaborated in the Venice Declaration were as follows: the recognition of the legitimate rights of Palestinians;¹³⁹ the Palestinian right to self-determination;¹⁴⁰ the association of the PLO in peace negotiations;¹⁴¹ and the illegitimacy of Israeli colonisation of the Palestinian territories.¹⁴²

A crucial aspect of the Venice Declaration is its treatment of the Jerusalem question. Control over Jerusalem is the key stumbling block in the Israeli-Palestinian peace talks and disagreement over the fate of the Holy City led to the collapse of the Camp David summit on July 25. The Palestinians want sovereignty over east Jerusalem, which Israel captured from Jordan in the 1967 Arab-Israeli war and subsequently annexed, a move not recognised by the international community.

The EEC expressed its disapproval of Israel's extension of its '*law, jurisdiction and administration*' to East Jerusalem following the Six-Day War of 1967 and that it would '*not accept any unilateral initiative designed to change the status of Jerusalem.*' The EU still adheres to this position and consequently, it considers the Jewish settlements established on the areas which came under Israeli *de facto* control in 1967 to be illegal.¹⁴³ As the Council established in 1980:

*'Jewish settlements in the territories occupied by Israel since 1967, including East Jerusalem, are illegal under international law and under the 4th Geneva Convention in particular.'*¹⁴⁴

The general position of the EU regarding the status of East Jerusalem¹⁴⁵ was reiterated in the Luxembourg Council Declaration of 01 October 1996¹⁴⁶:

¹³⁹ *ibid*, Point 4

¹⁴⁰ *ibid*, Point 6

¹⁴¹ *ibid*, Point 7

¹⁴² *ibid*, Point 9

¹⁴³ LAPIDOTH 1999

¹⁴⁴ *ibid*, note 128

¹⁴⁵ Jerusalem was not on the original agenda of the Madrid Conference but was referred to in a letter of assurances from the US that accompanied the letter of invitation to the conference sent to the Palestinians.

¹⁴⁶ cf also Declaration of the Presidency of the EU of 01 October 1996

'East Jerusalem is subject to the principles set out in UN Security Council Resolution 242, notably the inadmissibility of the acquisition of territory by force and is therefore not under Israeli sovereignty. The Union asserts that the Fourth Geneva Convention is fully applicable to East Jerusalem, as it is to other territories under occupation.'

The relevant clause of Security Council Resolution 242 has been the subject of contrasting interpretations by Israel and the Arab States, given the ambiguity of the English version of the text, calling for 'withdrawal of Israel armed forces *from territories occupied in the recent conflict*.'¹⁴⁷ The Palestinian argument is that this amounts to an obligation on the part of Israel to withdraw from *all* the territories occupied in 1967, whereas Israel claims that the requirement to withdraw is not so unequivocal and must be read in the light of the aim to establish '*secure and recognised boundaries free from threats or acts of force*' on agreement of the two parties. As is clear from the above declarations, the EU prefers the Palestinian interpretation.

The European Parliament's Resolution of 1990 regarding oppression in the territories under Israeli occupation referred to the rightful status of Jerusalem as that defined by the UN General Assembly Resolution 181 of 29 November 1947. The same opinion was repeated in a *Note Verbale* sent by the German Embassy in Tel Aviv in the name of the EU to Israel's ministry of foreign affairs on 01 March 1999:

*'The EU reaffirms its known position concerning the specific status of Jerusalem as a corpus separatum.'*¹⁴⁸ *This position is maintained in strict accordance with international law. The EU therefore does not intend to change its existing practices over meetings in Jerusalem.'*¹⁴⁹

¹⁴⁷ The French version '*retrait des forces armées israéliennes des territoires occupés lors du dernier conflit*' lends credence to the EU position in favour of the interpretation favouring the Palestinians. However, as LAPIDOTH argues, it is a well-established rule of international law that where multilingual texts of equal authority should be interpreted by '*accordant la primauté au texte original*,' which in this case was the English text submitted by the British delegation.

¹⁴⁸ This refers to Resolution 181

¹⁴⁹ referred to in LAPIDOTH 1999

This Note is explicable as a reply to criticism surrounding the EU's implicit recognition of Orient House, situated in East Jerusalem, as a valid location for meetings between its delegation and that of the Palestinian Authority.¹⁵⁰

With regard to Jerusalem's religious sites, the Venice Declaration of 1980 expressed that the EC prioritised freedom of access thereto and freedom of worship.¹⁵¹ The Luxembourg Statement of 02 December 1980 went on to clarify the EC's acceptance of the UN's partition plan to internationalise Jerusalem as a viable solution to the question of the status of the city. As Ruth Lapidoth comments, the EU's view of certain UN Resolutions as amounting to international law is problematic: because Resolution 181 was not accepted by both parties (the Arab countries rejected it), Israel's consent '*has not matured into a binding commitment and lost its effect.*'¹⁵² There is, therefore, no international legal obligation to make Jerusalem a *corpus separatum*, although this option is not contrary to international law if the parties to the conflict decide to accept the UN's recommendation.

The Declaration of the Florence European Council of 22 June 1996 called for the re-engagement of all parties to the Peace Process with regard to all issues on which they had agreed to negotiate, including the question of the status of Jerusalem. The EU noted the importance of Jerusalem for the parties and the international community, citing '*not least the need to respect the established rights of religious institutions.*'

In the declaration by the Presidency on behalf of the EU of 01 October 1996, the EU referred to UN Security Resolution 1073 of 28 September 1996, calling for the cessation and reversal of all acts that may affect the status of the

¹⁵⁰ *ibid*

¹⁵¹ '*any agreement on the city's status should guarantee freedom of access for everyone to the Holy Places.*'

¹⁵² LAPIDOTH, 1999, p13

Holy sites in Jerusalem. Furthermore, the Luxemburg European Council Guidelines of 13 December 1997 refer briefly to the EU's pledge to '*enhance its support to Palestinian institutions in East-Jerusalem.*'¹⁵³ This may be interpreted as an early indication of the EU's potential acceptance of East Jerusalem as the capital of a future Palestinian state.

Yitzakh Shamir, former Israeli Prime Minister, is reported to have heavily criticised the Venice Declaration when he attended a meeting with European diplomats on 07 October 1980, alluding to a certain relationship between the position adopted by the then EEC and anti-Jewish terrorism.¹⁵⁴ However, European Councils in the 1990s were extremely careful to condemn terrorism and violence between Palestinians and Israelis. Thus, although the main question dealt with by the Berlin Declaration is the future creation of a Palestinian state, it also refers to the need for the parties to the conflict to refrain

'from any activity contrary to international law, including all settlement activity, and to fight incitement and violence.'

This should be read in the light of the Amsterdam European Council's declaration of the EU's commitment to human rights, democracy and the fostering of civil society in the '*Arab-Israeli context*' and its subsequent condemnation of infringements of those rights,

'whether it be abuses by security authorities, torture, suppression of freedom of speech and media, land-confiscations, extra-judicial killings, the deprivation of the right of residence or incitement to violence.'

The Florence European Council of 21-22 June 1996 condemned all acts of terrorism and pledged the Union's continued support the parties

'in their fight against it, its perpetrators and its political, economic and social causes.'

¹⁵³ paragraph 80

¹⁵⁴ BICHERA 1985, pp27-35: Shamir apparently stated '*Il y a un certain lien entre la position européenne et le terrorisme antisémite.*'

This support was reiterated in paragraph 77 of the Presidency conclusions of the Luxembourg European Council of 12-13 December 1997, recalling the EU's

'determination to fight terrorism wherever it occurs and for whatever reason. In this context, it also underlines the importance of security cooperation between Israelis and Palestinians.'

The EU repeated its proposal for a 'Permanent Security Committee' as a way of institutionalising Israeli-Palestinian security cooperation in addition to its counter-terrorism programme of assistance to the Palestinian Authority.¹⁵⁵ The Presidency conclusions of the Vienna European Council of 11-12 December 1998 expressed further that the EU

'deplore[d] the recent violence, mutual recrimination and the setting of new conditions which threaten to unravel the fragile progress since Wye'.

A more moralistic tone was employed in the statement of the Biarritz Informal European Council of 13-14 October 2000, calling the Israeli and Palestinian leaders and peoples

'to renounce any use of violence by letting reason and tolerance take the precedence over fear, hatred and extremism.'

Annex III to the Amsterdam European Council of 16-17 June 1997 refers to the '*foundations of peace*' as: the right of all States and peoples in the region to live in peace within safe, recognized borders; the exchange of land for peace; the non-acceptability of the annexation of territory by force; respect for human rights; the rejection of terrorism of all kinds; good relations between neighbours; compliance with existing agreements; and *respect for the legitimate aspiration of the Palestinian people to decide their own future.*

¹⁵⁵ 97/298 CFSP extended by 00/298 CFSP: cf 2.2.d below

Furthermore, the EU pronounced in its Luxemburg Guidelines of 1997 that it was '*ready*' to contribute to Permanent Status negotiations '*by offering specific suggestions*' on these areas as well as with regard to '*borders/security arrangements*' and '*possible Palestinian statehood*.'¹⁵⁶ The latter question was the centrepiece of the Union's notorious Berlin Declaration two years later.

b. The Berlin Declaration of 25 March 1999

The most significant and controversial declaration of the European Council in recent years is the Berlin Declaration of 25 March 1999,¹⁵⁷ which reiterates and expands upon the general position of the European Union with regard to the Israeli-Palestinian conflict. The EU reaffirmed its support for a negotiated settlement in the Middle East to reflect the principles of 'land for peace' and ensure the security both collective and individual of Israel and the Palestinian peoples. As has become customary in EU declarations, UNSC Resolutions 242¹⁵⁸ and 338¹⁵⁹ were referred to as enshrining the basic principles established within the framework of Madrid, Oslo and the subsequent agreements and as such should be respected by both parties.

The Berlin European Council proceeded to welcome the annulment of articles calling for the destruction of Israel in the Palestinian National Charter, secured by the agreement of the Palestinian National Union, and called for full implementation of the Wye River Memorandum. In addition, the European Council urged the parties to agree on an extension of the transitional period established by the Oslo agreements and both parties were directed to refrain from activities that might pre-empt the outcome of those final status negotiations as well as '*from any*

¹⁵⁶ Paragraph 83

¹⁵⁷ Cf. **Annex VI**, which reproduces the text of the declaration

¹⁵⁸ Cf. **Annex IV**

¹⁵⁹ Cf. **Annex V**

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001,' *activity contrary to international law, including all settlement activity,*' and to fight incitement and violence.

The Palestinian right to self-determination was declared to be '*continuing and unqualified,*' and the option of a Palestinian state was upheld: the EU awaited the '*early fulfilment of this right*' '*on the basis of existing agreements and through negotiations.*' With regard to the Palestinian warning that they would unilaterally declare a state in all of the West Bank and Gaza Strip, the position of the EU has been interpreted as supportive if a negotiated solution has proven impossible. The EU, having expressed its concern at the 'deadlock' in the peace process, did not rule out its approval of the creation of a Palestinian state if compromise with Israel could not be achieved after one year.

In fact, a Palestinian cabinet minister was led to believe that, following the Berlin Declaration reasoning, France would probably direct the European Union towards recognising a Palestinian state, even one revindicated by unilateral declaration,¹⁶⁰ when it took over the rotating EU presidency in July 2000. The Palestinian planning minister, Nabil Shaath, said it had become clear from his meetings with European officials, especially with the French, that

*'the Europeans are ready to accept the [Palestinian] state **without connecting it to the peace solution.**'*¹⁶¹

Nonetheless, the Berlin Declaration does not underestimate the importance of Israeli-Palestinian peace negotiations in this regard. It expresses the conviction that the creation of a democratic, viable and sovereign Palestinian State '*on the basis of the existing agreements and through negotiations*' '*in good faith*' would be the best foundation for Israeli security and Israel's acceptance as an equal partner in

¹⁶⁰ HAZBOUN, The Guardian, Wednesday June 21, 2000

¹⁶¹ *ibid*, own emphasis

the region. It also insists that the parties strive towards '*a negotiated solution*' and that they speed up the Final Status talks.¹⁶²

These phrases suggest that the Union still hoped for a breakthrough in the peace negotiations at this stage and envisaged the creation of a Palestinian state on the basis of successful final status negotiations with Israel. Furthermore, they indicate that although the EU might recognise a unilaterally-declared Palestinian state after the one year period, it would probably not consider such a state to be '*democratic*,' '*viable*' or guaranteeing Israeli security.

In previous declarations, the European Council tempered qualitatively the term '*unilateral acts*' of which it discouraged. For example, the Amsterdam European Council of 16-17 June 1997 mentioned among the '*foundations of peace*' the

'rejection of counterproductive unilateral initiatives. In this context the Union recalls its opposition to settlements and attachment to security cooperation [...] It is vital to abstain from unilateral actions prejudging the Permanent Status issues.'

A further example is a reference in the Luxembourg European Council Conclusions of 12-13 December 1997 to the

'importance of avoiding counterproductive unilateral actions, for instance on settlements and Jerusalem.'

The pronouncement of Palestinian statehood after the final status deadline could be interpreted as being tacitly approved by the EU in these declarations, as this would not '*prejudge*' the final status negotiations but rather follow their failure as a last resort and in this sense could not be considered by the Union as '*counterproductive*.'

The Berlin Declaration was upheld by the conclusions of the Cologne European Council of 03-04 June 1999.¹⁶³ However, the Helsinki European Council

¹⁶² Cf. **Annex VI**

Conclusions request both parties to 'refrain from *all unilateral acts*' and emphasised the significance of the steps taken so far by Israel and the Palestinians to implement the Sharm El-Sheikh Understanding.¹⁶⁴ This attenuation may be interpreted as a warning to the Palestinians not to declare unilaterally a Palestinian state as much as a critique of Israeli unilateral acts of settlement. This does not appear to have been the intention of the EU, however: the essence of the Berlin declaration has been reaffirmed by the EU Ministers of Foreign Affairs meeting in Brussels on 24 January 2000, to which President Arafat was invited for an informal exchange of views on the Palestinian Track of the Peace Process.¹⁶⁵ The most recent reaffirmation of the Berlin Declaration was the Presidency Conclusions of the Stockholm European Council of 23-24 March 2001, which referred to the Union's

'determination to make its contribution to peace, stability and future prosperity in the Middle East.'

The Mitchell Report of 21 May 2001 called for an immediate cessation of all violence by both Israelis and Palestinians with no preconditions on either side. The text expresses that the most recent upsurge in violence was not caused by Israeli prime minister Ariel Sharon's high-profile visit to Jerusalem's Temple Mount, last September but nonetheless criticises the visit as poorly timed and provocative.

The plan envisages resumed co-operation between the security forces on both sides to prevent terrorism and encourages both governments to back cross-community efforts to promote understanding and co-operation between the two

¹⁶³ At Point 86: 'Following the elections in Israel the European Council reiterates its Berlin Declaration (25 March 1999) and stresses the importance of a negotiated solution in the Middle East. It calls on the Israeli and Palestinian sides to implement the Wye River Memorandum fully and without delay and to resume negotiations on final status as soon as possible with a view to establishing a comprehensive, just and lasting peace in the region.'

¹⁶⁴ Helsinki European Council Conclusions, 10-11 December 1999, Point 68

¹⁶⁵ cf also EUROMED Report No.12 on the Feira European Council Presidency Conclusions, paragraph 62: 'The European Union [...] recalls its declaration 25 March 1999 in Berlin. It is particularly important in the discussion of Permanent Status issues now taking place that the viability of any resulting Palestinian State is fully taken into account.'

communities. Finally, there must be full negotiations to resolve the underlying causes of the conflict, without the threat of more violence hanging over the talks. It remains to be seen how the parties to the conflict will interpret these recommendations in the long term, although in the short-term, little progress has been made in implementing these recommendations.

2.2. Common Foreign & Security Policy Actions

The Common Foreign and Security Policy, established by the Maastricht Treaty, signed in February 1992, provides the EU with the technical instruments to allow it to '*act with one voice*' on the international scene. The Presidency of the EU, representing the Union, is responsible for the implementation of actions¹⁶⁶ taken under the Common Foreign and Security Policy and the Commission is '*fully associated*' in this regard.¹⁶⁷

The statement of intent in the preamble to the Treaty of Maastricht that it '*marks a new stage in the process of creating an ever-closer union among the peoples of Europe,*' reverberates in the changes it introduced. The European Union is wider than the European Community but founded upon it: two new pillars of activity are to be pursued by the EU but not by the EC. The first of these new pillars – the Common Foreign and Security Policy, the successor to European Political Cooperation – is of key importance to the evolution of EU action in international relations in general and in the Israeli-Palestinian conflict in particular.

The political importance of establishing a foreign and security policy common to the European Union lies in the fact that these areas represent aspects traditionally associated with the sovereign identity of its component member states.

¹⁶⁶ Art. 12 TEU (ex Art. J2) lists these actions as *common strategies, joint actions* and *common positions*. Article 14 TEU (ex Art. J4) describes Joint Actions, as '*operational actions*.' They should therefore be distinguished from Common Positions (Art. 15 TEU, ex Art. J5), which '*define the approach of the Union to a particular matter of a geographical or thematic nature*.'

¹⁶⁷ Art. 18(4) TEU (ex Art. J8(4))

Thus, the Maastricht Treaty includes real mechanisms to enable the pursuit by the newly created European Union of 'state-like' objectives, marking a significant departure from the previously weak political powers of the EC and allowing the Union, in principle, to adopt a peace-building role as an integrated bloc within the international community.

There is an obligation on the Presidency of the EU to consult the European Parliament on the principal aspects and decisions of the CFSP and the views of the latter must be taken into account. The European Parliament must also be

*'kept regularly informed by the Presidency and the Commission' on CFSP issues.*¹⁶⁸

The Amsterdam Treaty amended the Maastricht Treaty with the effect that the position of High Representative for the CFSP was introduced¹⁶⁹ and more importance was given, again in principle, to decision-making by qualified majority.¹⁷⁰ Javier Solana's role is defined in Article 25 TEU (ex Art. J16) as involving in particular

'the formulation, preparation and implementation of policy decisions and [...] through conducting political dialogue with third parties.'

Joint Actions have been taken to appoint the Special Representative of the EU in the Middle East Peace Process, Mr. Miguel Moratinos, and to develop a programme of financial assistance to help the Palestinians combat terrorism. Last year, a Common Strategy was finally adopted on the Mediterranean region, synthesising to an extent the position of the EU vis-à-vis its Maghreb and Mashrek neighbours. These and the earlier CFSP actions will be analysed below.¹⁷¹

¹⁶⁸ Art. 21 TEU (ex Art. J11)

¹⁶⁹ Under Article 18(3) TEU (ex Art. J8(3)) the Secretary-General of the Council (presently Javier SOLANA), who also exercises the function of High Representative for the CFSP, assists the EU Presidency in implementing CFSP actions.

¹⁷⁰ Article 23(2) TEU (ex Art. J13(2)) prescribes that the Council shall act by qualified majority 'when adopting joint actions, common positions or taking any other decision **on the basis of a common strategy**' and 'when adopting any decision implementing a joint action or a common position' (own emphasis).

¹⁷¹ Cf. **Annex VII** for the full list of relevant CFSP actions

a. The initial Council Decisions 'in support of the peace process'

Under Article 13(3) TEU (ex Article J3), the Council

'shall take the decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines defined by the European Council.'

On this legal basis, Council Decision of 19 April 1994 constitutes the first EU CFSP action in relation to the Israeli-Palestinian conflict.¹⁷² Predictably, it contains a list of the new political aims of the Union in the Middle East Peace Process: it is clear from these goals that the Union felt even more justified in seeking a more political input in the conflict following the implementation of the Maastricht Treaty.

The Council of the European Union pledged that the EU would participate in international arrangements agreed by the parties to guarantee peace in the context of the Madrid process¹⁷³ and to *use its influence* to encourage all the parties to support the peace process unconditionally as well as working for *the strengthening of democracy and respect for human rights*.¹⁷⁴ It went on to assure its continued involvement in the Arms Control and Regional Security Working Group,¹⁷⁵ which the Madrid Conference had accorded to the joint presidency of the US and Russia. The pledge that the EU would strive to develop its role on the *ad hoc* Liaison Committee responsible for the coordination of international aid to the Occupied Territories¹⁷⁶ was perhaps more meaningful, given that the EU has frequently reiterated its claim that, as the greatest international donor to the peace process, it ought to have a more important role in coordinating the international aid effort.¹⁷⁷

¹⁷² On the basis of Articles J(3) and J(11) of the Treaty on European Union, as well as the general guidelines issued by the European Council of 29 October 1993 (Brussels Extraordinary Council) and the framework for Joint Action agreed by the European Council on 10 and 11 December 1993

¹⁷³ Article 1(a) of Council Decision 94/276/CFSP

¹⁷⁴ *ibid*

¹⁷⁵ *ibid*

¹⁷⁶ Article 1(b) of Council Decision 94/276/CFSP

¹⁷⁷ Cf. *infra* Chapter One; 1.3

The Council vowed that it would '*develop its participation in other multilateral groups*' alongside the sponsors of the Madrid Conference;¹⁷⁸ and '*consider additional ways in which it might contribute towards the development of the region*;' pursue confidence-building measures which it has submitted to the parties;¹⁷⁹ pursue demarches to the Arab countries with the aim of securing an end to the boycott of Israel;¹⁸⁰ and to closely follow the future of Israeli settlements throughout the Occupied Territories and pursue demarches to Israel about this issue.¹⁸¹

A key aspect of this Decision was the perceived need to create a Palestinian police force, for which the EU decided to provide a maximum of ECU 10 million '*as a matter of urgency*.'¹⁸² Furthermore, the decision announced the EU's intention to provide assistance and to observe the elections in the Occupied Territories.

In its brief supplementing Decision of 01 June 1995, the Council decided to provide a maximum of ECU 10 million to be charged to the EC general budget

*'to provide support in preparing for and observing the Palestinian elections provided for in Article III of the Declaration of Principles of 13 September 1993.'*¹⁸³

However, the decision indicated that, once Israel and the PLO had reached agreement on the organisation of the elections, a distinct Council action would be necessary to determine the financial arrangements, with the participation of the European Parliament.¹⁸⁴

¹⁷⁸ *ibid*

¹⁷⁹ Article 1(c) *supra* note 165

¹⁸⁰ *ibid*

¹⁸¹ *ibid*

¹⁸² *ibid*, Article 3(c)

¹⁸³ Article 1(1) of Council Decision 95/205/CFSP

¹⁸⁴ Article 5 of Council Decision 94/276/CFSP; Article 1(2) of Council Decision 95/205/CFSP

b. Observation of Palestinian Authority elections

The Palestinian-Israeli Interim Agreement of 28 September 1995 designated the EU as the co-ordinator of the international observation of the first ever presidential and parliamentary elections in the West Bank and Gaza Strip and the EU's first major action on the ground – the deployment of 300 '*observers*.' Thus, in accordance with Article III of the Declaration of Principles of 13 September 1993, the EU undertook, on the request of the parties, that it would implement a coordinated programme of assistance in preparing for and observing the elections in the Occupied Territories. The EU provided ECU 7.5 million¹⁸⁵ to assist the Palestinians in their preparation for the elections, which included drafting the electoral law, drawing the boundaries of the electoral districts, setting up the election administrative mechanisms, training election officers, carrying out a civic education campaign and providing equipment.¹⁸⁶

This was assured by the Council Decision of 25 September 1995, which established the European Electoral Unit and defined the financial and administrative procedures for the observation of the elections.¹⁸⁷ The EU considered that the gradual deployment on the field of the European Electoral Unit and its 300-strong observation team would ensure that the Union be perceived as '*a vital partner in this field*.'¹⁸⁸

The European Electoral Unit organised the European observation mission and coordinated the other 390 international observers, ensuring the democratic character of the electoral process despite some incidents, such as restrictions to

¹⁸⁵ Financed from budget-line B-7-420 (former B7-7110)

¹⁸⁶ Communication from the Commission on EU Electoral Assistance and Observation, 11 April 2000, p27,

¹⁸⁷ Decision 95/403/CFSP, Official Journal L 238, 6/10/1995 p.4

¹⁸⁸ Communication from the Commission to Council and Parliament on Future European Union Economic Assistance to the West Bank and Gaza Strip, 19 September 1996 p4,

Palestinian press, intimidation of certain candidates, police obstacles to voting in East Jerusalem and intimidation of voters in Hebron during polling day.¹⁸⁹

The principles underpinning the EU's role as election observer are full coverage, impartiality, transparency and professionalism.¹⁹⁰ Further guidelines state the goals of this role as being to legitimise the election process and to enhance public confidence in the electoral process, to deter fraud, to strengthen respect for human rights and to contribute to the resolution of the conflict.¹⁹¹

The EU believes that its electoral missions reflect the post-Cold War era of more active implementation of human rights norms and standards and refers to Article 6 of the Treaty on European Union, which establishes that the principles of liberty, democracy, respect for human rights and the rule of law are fundamental European values.¹⁹² The new legal bases for Community activities intended to further and consolidate democracy, the rule of law and respect for human rights are Regulations 975/99¹⁹³ and 976/99 of 29 April 1999.¹⁹⁴

The EU viewed these elections as '*human rights events*,' in the spirit of the Universal Declaration of Human Rights (article 21.1) and the International Covenant on Civil and Political Rights (article 25) which enshrine the right to take part in government directly or through freely chosen representatives. As such, this

¹⁸⁹ *supra* note 175, p27

¹⁹⁰ International IDEA Lessons learnt: international election observation, Stockholm 1995, page 7

¹⁹¹ *ibid* page 8 and UN Electoral Assistance Division, Coordination and Support of International Observers, draft operational guidelines, New York 1996

¹⁹² *ibid* p3

¹⁹³ Council Regulation (EC) No 976/1999 of 29 April 1999 lays down the requirements for the implementation of development co-operation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms, Official Journal L120, 08/05/1999, p1

¹⁹⁴ Council Regulation (EC) No 976/1999 of 29 April 1999 lays down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms, Official Journal L 120, 08/05/1999, p8

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001.' *'political complement to election assistance'*¹⁹⁵ constituted an important practical articulation of EU enforcement of Article 6 TEU.

c. Appointment of the EU Special Envoy/Representative

The Luxembourg European Council of 01 October 1996, issued a Declaration stating that the EU was ready to play an active part in promoting the Middle East Peace Process,

'...commensurate with its interests in the region and on the basis of its major contribution to the Peace Process so far.'

This should be read in the light of the earlier clarification¹⁹⁶ that the EU's justification for extending its political and diplomatic intervention in the peace process was the fact that it had established itself as the major international donor in the region. This declaration came less than two months before the appointment of the EU special envoy to the Middle East, which may be said to amount to a personification of the EU's political ambitions in the region to enhance its visibility and credibility.

The key importance of his role may lie in the fact that the Middle East is a *'highly personalised region'* where

*'kings, Presidents and Prime Ministers are accustomed to dealing with each other through personal emissaries and face to face meetings, not through institutionalised foreign affairs bureaucracies.'*¹⁹⁷

The possibility of appointment of 'EU Special Representatives' (EUSRs) was not institutionalised until the Treaty of Amsterdam (Article 18). However, the designation of special envoys began before this: Miguel Moratinos was in fact

¹⁹⁵ Communication from the Commission to Council and Parliament on Future European Union Economic Assistance to the West Bank and Gaza Strip, 19 September 1996, p4

¹⁹⁶ Essen European Council, 09-10 December 1994

¹⁹⁷ LEWIS, 1999 at p376

appointed EU 'Special Envoy' for the Middle East on 25 November 1996.¹⁹⁸ His initial mandate was to observe the peace process, establish relations with Israeli and Palestinian negotiators¹⁹⁹ and to report on possible EU actions.

These functions have been extended several times,²⁰⁰ both temporally and quantitatively. Thus, Article 2 of Council Decision 97/475/CFSP of 22 July 1997 provided for an additional amount of ECU 2,051 million to be charged to the EC general budget for the financial year 1997 to allow Mr. Moratinos to carry out his responsibilities. This was significantly reduced for the following year, however, by Council Decision 98/608/CFSP of 26 October 1998: which fixed ECU 450,000 as the maximum amount to be charged to the general budget of the EC in the pursuit of the Special Representative's mandate for the financial year 1998.

Of further importance is the widening of the scope of the Special Representative's mandate to incorporate security issues in accordance with the Declaration on cooperation between the European Union and the Palestinian Authority in the field of security adopted by the Council on 9 April 1998. The aim of this aspect of Moratinos's mandate was to assist the Palestinians to meet their commitments on security under the Oslo accords.²⁰¹

Questions of *continuity, coherence and coordination* led to the repeal of Joint Action 97/289/CFSP and Decision 1999/440/CFSP by Joint Action 00/794/CFSP.²⁰² It was deemed appropriate to adopt a multi-annual programme and

¹⁹⁸ Joint Action 96/676/CFSP, 25 November 1996 – Designation of a special envoy of the EU for the peace process

¹⁹⁹ It must also be remembered that the Treaty of Amsterdam allows the High Representative of the CFSP to enter into political dialogue with third parties in the name of the EU, if the Presidency so requires.

²⁰⁰ Cf **Annex VII**: 22 July 1997: Joint Action 97/475/CFSP – Extension; 26 October 1998: Joint Action 98/608/CFSP – Extension; 11 October 1999: Joint Action 99/664/CFSP – Modification of mandate; 16 December 1999: Joint Action 99/843/CFSP – Extension; 14 December 2000: Joint Action 00/794/CFSP – Nomination of the special representative and repeal of Joint Action 96/676/CFSP.

²⁰¹ Council Decision 98/608/CFSP, paragraph 2

²⁰² 14 December 2000, on the Nomination of the Special Representative and repeal of Joint Action 96/676/CFSP

to establish a financial reference amount for the period covered by this programme (*cf* Inter-institutional Agreement of 06 May 1999) – €10 million. The programme was to be extended for a period of 3 years and the role of the Commission therein was expressly mentioned in Article 2(2).

The main reasons given by the Council for repealing the above Joint Actions can be resumed as follows: to extend Moratinos's mandate until 31 December 2001; to ensure coordination and coherence of the EU's approach in the Middle East; to implement the guidelines on the appointment of EU special representatives; and for reasons of transparency and clarity, a single text is preferable.

The financial reference amount intended to cover the operational expenditure related to the mission of the Special Representative for the year 2001 is more than halved to €1,285,280²⁰³ as compared to €2,845,000 for the year 2000²⁰⁴ and the domains to be financed are specifically mentioned for the first time, namely: the expenditure of the EU-Israel Forum; the Final Status Task Forces; and cooperation through the EU-Palestinian Security Committee.²⁰⁵ This may be said to reflect a more stream-lined, precise set of goals for the Special Representative to facilitate his delicate role.

There are also new provisions to enhance the transparency of the position of Special Representative, in accordance with the guidelines adopted by the Council. Notably, M. Moratinos must report directly to the Secretary General/High Representative and is accountable to the latter, Javier Solana, for administrative expenditure incurred in respect of his activities.²⁰⁶ Furthermore, the management of

²⁰³ Joint Action 00/794/CFSP, Article 3(1)

²⁰⁴ Joint Action 99/843/CFSP, Article 2(1).

²⁰⁵ *supra* note 192, Article 3

²⁰⁶ *ibid*, Article 5(1)

operational expenditure shall be subject to a contract between the Special Representative and the Commission.²⁰⁷

In practice, the Joint Dialogue between the EU and Israel on the obstacles facing the Palestinian economy has been, in practice, one of M. Moratinos's main tasks. It aims to identify and implement solutions to all main obstacles facing Palestinian economic development in conjunction with the Israeli authorities. Within this framework, Israel and the EU established five working groups on Palestinian labour, passage of goods and people, fiscal and financial issues, Gaza airport and harbour, and the medium and long-term economic potential. But as the Commission admits, although this project was originally conceived as a results-oriented exercise, the Joint Dialogue has yet to produce any concrete results.²⁰⁸

Nonetheless, the Cardiff European Council of 15-16 June 1998 paid tribute to the '*positive role*' played by Mr. Moratinos in the MEPP. His role was declared to have included close involvement in the London talks of May 1998, in the negotiations on interim economic issues, in the conclusion of the Joint Declaration on EU/Palestinian security cooperation and in intensified exchanges with the parties and the US.²⁰⁹

d. Programme of anti-terrorism assistance to the Palestinian Authority

Terrorism is at the heart of the Israeli-Palestinian conflict. Israel's security is threatened by terrorist attacks by Palestinian 'resistance' groups, triggered most explosively in response to draconian acts carried out in the name of Israeli security policy, such as expanding settlements in the Palestinian territories or the military repression of the Intifada.²¹⁰ These are often supported or instrumented by countries

²⁰⁷ Joint Action 00/794/CFSP, Article 5(2)

²⁰⁸ MARIN Report 1998, note 24, *supra*

²⁰⁹ Paragraph 87 of the Cardiff European Council Conclusions, 15-16 June 1998

²¹⁰ RUFIN 1999 p1115

such as Syria or Iran. At the same time, attacks by Israeli extremist groups in opposition to Israeli concessions constitute a further security risk and their incidence has increased over the past decade.

The high cost endured by both sides to the conflict through terrorist acts has been only too evident in recent times and the importance of quelling them at their source ever-more compelling. As mentioned in section 2.1, consecutive European Councils have emphasised the EU's condemnation of such violence; the anti-terrorism principles adhered to by the European Council serving as guidelines, in accordance with Article 13(1) TEU, for CFSP action in this domain.

On 29 April 1997, Joint Action 97/289/CFSP initiated a programme of EU assistance to support the Palestinian Authority in its efforts to fight terrorist actions originating in the territories under its control. The fundamental aim of this programme is to enhance the capacity of the PA to fight terrorism by providing assistance and training compatible with the principles of human rights and respect of the Rule of Law.²¹¹

The text of the Joint Action firstly refers to the declarations adopted by the European Council in Florence on 21 and 22 June 1996 and in Dublin on 13 and 14 December 1996 as part of the *acquis* of the Council in this area. The former expresses the EU's condemnation of all acts of terrorism and its guarantee to

*'continue to support the parties in their fight against it, its perpetrators and its political, economic and social causes.'*²¹²

Two further Council declarations, adopted on 1 October 1996 and 20 January 1997 are mentioned. The former reiterates that the European Union is ready to play an active part in promoting the Middle East Peace Process, commensurate with its interests in the region and on the basis of its major contribution to the Peace Process

²¹¹ Article 1(2)

²¹² *supra* note 196, Article 5

so far, and the latter that the European Union would continue its active role in promoting and strengthening the said Peace Process. On 09 April 1998, another declaration was issued on the cooperation between the EU and the Palestinian Authority in the field of security, highlighting its aim of assisting the Palestinians to meet their commitments on security under the Oslo accords.

The assistance programme was established for the duration of three years *to assist in the establishment of related Palestinian administrative structures*²¹³ and was extended on 06 July 1999 to be replaced by the Joint Action of 13 April 2000, although projects initiated under the initial two Actions remain valid.²¹⁴

The programme includes training in surveillance, search and interview techniques; the establishment of a technical investigation bureau with forensic capability; training of management personnel of the security and police agencies involved to bring about cooperation and effective reaction concerning acts of terrorism; and assistance to senior management of the various services for effective administration.²¹⁵ These aspects were to be complemented by measures in the fields of human rights, training, procurement of equipment and services, information technology, secure communications and explosive ordnance disposal.²¹⁶

A European Union adviser was appointed to oversee the implementation of the programme, to monitor the proper use of European Union-provided capabilities for the purposes of implementing Article 1(3). The EU adviser and the Commission, within the scope of their respective competences, should ensure appropriate coordination between this programme, Community assistance and the bilateral assistance provided by the Member States and should cooperate to this end.²¹⁷ The

²¹³ *supra* note 196, Article 1(1)

²¹⁴ Council Decision 99/440/CFSP and Joint Action 00/298/CFSP respectively. Article 8(1) of the latter repeals the former and the original Joint Action

²¹⁵ *supra* note 196, Article 1(3)

²¹⁶ *ibid*, Article 1(3)

²¹⁷ *ibid*, Article 2(1)

EU adviser should be guided by the Presidency and should report, under the Presidency's authority, to the Council or its designated instances on a regular basis and as necessary.²¹⁸

The issues of '*continuity*,' '*coordination*' and '*coherence*' were highlighted, as well as the extension of Miguel Moratinos's mandate to cover security questions. The Council therefore decided that the EU adviser and the EU Special Representative for the MEPP should

*'coordinate their action in the field of security cooperation to ensure coherence of Union action in support of the MEPP.'*²¹⁹

ECU 3.6 million was earmarked for the project as follows: ECU 1.2 million to the budget for 1997, ECU 1.8 million to the budget for 1998 and ECU 0.6 million to the budget for 1999.²²⁰ The rationale of the Commission regarding the programme of training PA security officers in the field of counter-terrorism was that this amounted to a contribution to the *necessary technical support* to the Palestinians to reach the goal of open trade conditions, because:

*'each terrorist attack has automatically been followed by tight and prolonged closures of the West Bank and Gaza Strip which are described by Israel as security measures but perceived as collective punishment by the Palestinian population.'*²²¹

This economic perspective on the problem is, of course, typical of European Commission reports, and is not reflected in the reasoning of the EU Joint Action. Nonetheless, the Council noted at Article 2(2) that the Commission intended to work towards the realisation of the objectives and priorities of this Joint Action, particularly with regard to the human rights aspect, by employing the '*relevant Community measures*.'

²¹⁸ *ibid*, Article 2(3)

²¹⁹ Council Decision 99/440/CFSP, Article 2

²²⁰ *supra* note 196, Article 3(1)

²²¹ MARIN Report 1998, p.7

Certain EC/EU synergies are therefore apparent. This is particularly evident following the most recent Joint Action of 13 April 2000 relating to this programme. In the light of the extension of Miguel Moratinos's mandate to cover security questions, this action emphasises the necessity of a coordinated and coherent approach.²²²

Despite the denial of the PA, there have been worrying allegations that the PA has provided support to pro-Palestinian terrorists. If this is proven to be the case, the Joint Action will have been counter-productive and should be brought to an immediate end. After all, the programme was to be suspended if the PA failed to cooperate fully in its implementation, to take appropriate measures to ensure respect for human rights in its implementation, or to allow European Union monitoring and/or periodic external evaluations to that effect.²²³ Periodic independent evaluations were to be conducted at agreed stages, depending on progress²²⁴ and the operational, administrative and financial aspects of the programme were to be reviewed on a yearly basis.²²⁵

Results of the mid-term review of the initial Joint Action on the programme on counter-terrorism assistance to the PA declared that it had made a significant contribution to the objectives pursued by the EU in supporting the PA in this way. However, its implementation was complicated and delayed by the fact that funds were coming from three different budget headings with different procedures and financing decisions.²²⁶

A central problem with the logic of the EU's anti-terrorism support to the PA is that it concentrates solely on terrorist actions '*originating in the territories*

²²² 00/298/CFSP, Paragraph 6

²²³ *ibid* Article 1(5)

²²⁴ *ibid* Article 1(4). Following the Wye River Memorandum, the CIA has a supervisory role with regard to the PA's actions to fight terrorism.

²²⁵ *ibid* Article 1(6)

²²⁶ Special Report No.19/2000 of 31/01/2001, paragraph 80

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001.' *under its control.*' This approach is very limited in its potential reach, given that Palestinian and, indeed, Israeli terrorist organisations operating in the conflict must rarely plan their attacks from bases on Palestinian territory. This being the case, the new Palestinian security mechanisms can, in principle, only be expected to control or suppress a minority of pro-Palestinian terrorist attacks. Thus, despite the good intentions of the EU to tackle terrorism, this particular programme can have little real impact on the volume or severity of anti-Israel attacks.²²⁷

In spite of its obvious limitations, this Programme has allowed the Palestinian Authority to develop a considerable internal security capacity in accordance with the logic of the Oslo Accords. In this way, the anti-terrorism programme appears to be most effective as a 'state-building' mechanism allowing the PA to deflect to an extent both Palestinian and Israeli hostilities. This does not necessarily mean that it cannot be considered as a 'peace-building' measure, at least in principle, in particular from the EU's point of view that enhancing Palestinian institutions and promoting the respect of human rights is the best way to ensure Israel's security and peace in the region.

e. The Common Strategy on the Mediterranean Region & future Charter for Peace and Stability in the Mediterranean Region

Kenneth Moss argued in March 2000 that

'two contradictory perspectives have coexisted in much of Europe's strategic approach to the Mediterranean.'

The first of these perspectives is the '*Mediterranean-wide community*,' guiding European trade policy, notably in the form of the Euro-Mediterranean partnership

²²⁷ This obstacle to the overall effectiveness of the EU action in helping the PA to fight terrorism will be further discussed at **3.1.a** below.

established by the Barcelona Conference of 1995.²²⁸ Its roots are the historical patterns of cultural and commercial exchange between Europe and the rest of the Mediterranean. This notion was confirmed as applying to Europe's relationship with the Eastern Mediterranean countries, including Israel and the Palestinian territories by the EU's 'Call for Peace in the Middle East,' annexed to the Amsterdam European Council conclusions of 16-17 June 1997, which referred to the 'common destiny' and 'common history' of the peoples of Europe and the Middle East. The second such European strategic approach is apparently the image of the Mediterranean world as

'the stage on which Western civilisation fought back the incursion of non-Western cultures.'

Moss considers this perception to be traceable to the Greek-Persian wars of the fifth century BC and reflected today in European anxieties regarding the impact of immigration from North Africa on the future of European national identities.

However, the idea of a lack of a single European strategy towards the Mediterranean region appears, in principle, to have been surpassed by the EU's adoption of a '*Common Strategy on the Mediterranean Region*' on 19 June 2000,²²⁹ within the EU's Common Foreign and Security Policy.

The interest of the Common Strategy in the context of the Israeli-Palestinian conflict is that it expressly bases itself on the Berlin Declaration²³⁰ as well as the Euro-Mediterranean partnership of the Barcelona process and the rest of the European political *acquis* developed with regard to the Mediterranean region.²³¹

At paragraph 5, the strategy refers to the need to achieve peace in the Middle East as a precondition of peace and stability in the Mediterranean region as a whole. The Barcelona process is stressed to be central to laying the foundations

²²⁸ Cf. 1.2 above

²²⁹ 2000/458/CFSP

²³⁰ Cf. **Annex VI** and **2.1.b** above

²³¹ Part I, paragraph 4

for the *post-peace* climate. The strategy also refers to the future Euro-Mediterranean Charter for Peace and Stability as a further decisive factor in the '*post-peace process*' era.²³² The planned Charter has not yet been agreed upon, although apparently '*a good deal of progress has been made towards agreement.*'²³³ Paragraph 5 also clarifies that the present strategy would constitute the Union's contribution to the *consolidation* of peace in the Middle East once a global peace settlement is in place.

The Common Strategy continues at Paragraph 6 that the EU will offer its competences to the parties to the conflict, put forward ideas and provide its Good Offices and aid to facilitate the conclusion of peace treaties and restore peace to the Middle East. It also seeks to

'actively promote progress on the multilateral track of the Peace Process drawing also on synergies with the Barcelona Process.'

The notion of 'synergy' may be interpreted as requiring the coordinated action of the different processes in the articulation of the EU's peace-building role, an example of this being that the High Representative for the CFSP, assisted by the Special Representative for the Middle East, must help the Council and the EU Presidency to implement it and all decisions taken thereunder.²³⁴

Furthermore,

'With regard to central issues such as water and refugees, the EU will offer its expertise whenever requested.'

The strategy therefore provides a basis for implementation of the recommendation of EUROMED Report no. 4 of 27 January 2000 that the Secretary General / High Representative of the CFSP, assisted by the Special Representative to the Middle East and the Commission should

²³² *ibid*, paragraph 5

²³³ Chris Patten's Speech 01/49 of 31 January 2001

²³⁴ paragraph 25

'step up examination of issues in which the EU is particularly suited to play a full role, such as [...] water and refugees.'

At present, the EU's role in these areas is simply pecuniary,²³⁵ although in the context of the Euro-Mediterranean Partnership, water has been considered on a Mediterranean-wide level, for example by the Euro-Mediterranean ministerial conference on local water management in Turin in the second half of 1999. Chris Patten referred to EU support to initiatives increasing the availability and improving the distribution and management of the region's limited water resources as an *'additional potential target area'* in a recent speech.²³⁶

The water problem is argued by a UK Government research paper to require international cooperation, however, it is lucidly commented that

*'in the Middle East, cooperation often seems just as scarce a commodity as water.'*²³⁷

One-fifth of Israel's agriculture is currently dependent on treated waste-water, but the Palestinians lack the resources and technical expertise to exploit this option; the Palestinian Water Authority is therefore in need of capital investment and training in this area.²³⁸ The EU would be able to play an important 'cooperative' role in this area, funding and developing projects to discover new ways to produce more water resources.

Paragraph 15 of the Common Strategy continues that the EU would envisage the participation of its Member States in security measures on the ground, in the context of a global peace settlement and on the request of the parties. It would contribute to the international effort to create and consolidate peace in the Middle East, but prefers to underscore its capacities to support regional economic

²³⁵ Cf **Annex II**

²³⁶ Speech 00/12, 19 January 2000

²³⁷ UK Foreign and Commonwealth Office Research and Analytical Paper, Middle East and North Africa Research Group, London, May 2000, 'Water in the Middle East Peace Process,' p1

²³⁸ *ibid*, p4

cooperation and integration and the intensification of commercial exchanges, rather than those of future military intervention.

In sum, the Common Strategy is necessarily vague regarding the position of the EU vis-à-vis the Israeli-Palestinian conflict, as it applies to the whole Mediterranean region. Its basis is the pre-existing *acquis* detailed above and it adds little to its pre-existing substantive position.

Its main value is perhaps in allowing future CFSP actions relating to the conflict to be taken by qualified majority and in formalising a more coordinated approach, notably between Javier Solana and Miguel Moratinos. It also has the benefit of conceptualising in a single document the position of the EU towards the Israeli-Palestinian conflict as part of the wider Mediterranean region and the relationship between the Barcelona process and the MEPP. The fact remains, however, that this document is rather short on details and full of good intentions for the '*post-peace*' order, envisaging little new in terms of *peace-building*.

CHAPTER THREE: PRACTICAL OBSTACLES TO THE REALISATION OF EU AMBITIONS & ANALYSIS OF THE IDEAL OF EU-US 'COMPLEMENTARITY'

The apparent synergies between the socio-economic peace-building *aquis* of the EC and the political declarations and actions of the EU face, in practice, significant obstacles to their effectiveness. One of the main findings of the Marin Report was the disheartening realisation that efforts made since the Washington donors' conference in 1993 had failed and had led to widespread international donor fatigue. However, in respect of the failure of EC funds and projects to improve the lot of Palestinians, the report makes no reference to the internal weaknesses of the EU institutions themselves, laying the blame squarely at the feet of the Israeli government.

Although external obstacles (3.1.a) have been a crucial factor in determining why the EU's peace-building role has so far yielded little success, weaknesses that are internal to the EU institutions themselves must also be reviewed and their implications assessed to produce an accurate vision of the main reasons for Europe's limited success as a 'peace-builder' in the Israeli-Palestinian conflict since the end of the Gulf War, despite its great resources (3.1.b). It is also of importance to reflect upon the impediments to the future evolution of this role.

It should not be forgotten that the EU is in a sense further restricted by its position within the international community, in which context the burning question arises as to the extent to which European action and ambitions can be said to have complemented the peace-building role of the US (3.2). In the New World Order favouring international cooperation to resolve conflicts, the question of 'complementarity' is of great significance as a variable factor that may explain the overall success or failure of the international community as a whole on the path towards peace.

3.1. Obstacles to the effectiveness of EU action in the Israeli-Palestinian conflict

The following treatment can only purport to provide an impression of certain key factors that serve as impediments to European peace-building activity in the context of the Israeli-Palestinian conflict. The 'external' aspects discussed pertain to the very nature of the conflict itself and serve to contextualise the projects already discussed, giving some indications as to why they have not been particularly successful **(3.1.a)** However, these obstacles do not rid Europe of the responsibility of ensuring that its peace-building efforts are as effective as possible in the circumstances; there will therefore follow an overview of elements relating to the inherent weakness of the EU institutions in putting their good intentions into practice **(3.1.b)**. The internal factors are considered in more detail than the 'external obstacles,' which are much more indirectly linked to European responsibilities. It is argued that the internal hindrances can be surmounted by enhanced European will to strengthen EU input to peace building in the conflict.

a. External obstacles

Certain of the external factors discussed follow the reasoning of the Court of Auditors' report this year on the management by the Commission of the programme of assistance to Palestinian society.²³⁹ The Court of Auditors conceded that these factors explain to a large extent the overall failure of international assistance to produce visible results, despite the EC's impressive volume of aid to the PA.²⁴⁰ This reasoning is extended in this section beyond the context of the programme of assistance to Palestinian society as they may also explain failures of EU action in other 'peace-building' domains.

²³⁹ Special Report No.19/2000 of 31/01/2001

²⁴⁰ *ibid*, paragraphs 16-22

(i). Extremist factions in opposition to the peace process²⁴¹

As has been discussed above (2.2.d), the programme of assistance initiated by the EU to help the Palestinian Authority combat terrorism is limited by the fact that it pertains only to acts of terrorism '*originating in the territories under its control.*' Thus, it automatically precludes Israeli terrorist acts and the acts of Islamic terrorist organisations which cannot be said to originate on Palestinian soil. This is explicable by the fact that, technically, the PA does not have competence for external security questions, limited by the competences foreseen by the Oslo Accords.

A key obstacle to the success of this programme is that the majority of terrorist acts in favour of enhanced Palestinian autonomy against Israel or against the peace process find their origin in neighbouring Arab states. Most importantly, *Hizbollah*, who were responsible for the murder of two captured Israeli soldiers during the al-Aqsa Intifada, is a *Lebanon*-based guerrilla group and *Islamic Jihad*, who were particularly active during the 1998 Intifada, is based in *Syria*, but both have played a central role in planning and operating the most serious pro-Palestinian terrorist attacks against Israel which have incited often draconian retaliation by the Israeli army.²⁴²

For example, the recent suicide bomb in Netanya, which killed five people, was followed by an Israeli retaliatory attack by means of a F16 aircraft, which bombed a Palestinian security compound in Nablus, killing nine police officers. This constituted the first use of warplanes against the Palestinians inside the Occupied Territories since 1967.²⁴³ According to Israeli security sources, the

²⁴¹ RUFIN 1999, pp.1115-1117

²⁴² For a comprehensive treatment of the principal terrorist actors in this conflict and their origins, cf. *ibid*, pp.1119-1143

²⁴³ PILKINGTON, The Guardian, 23 May 2001

intention of this attack was to kill Mahmoud Abu Hanoud, a leading member of the Islamic militant group *Hamas*, who is allegedly under Arafat's protection.

The enormity of these events highlights the limitations of the EU's support of anti-terrorism measures: the PA would appear to be powerless to prevent terrorist attacks of organisations based out-with its jurisdiction. The Palestinian cause is of central importance for *all* Islamist movements in the Middle East region.

Arafat's past associations with such groups often come back to haunt him in Israeli allegations that he finances terrorists. If approbated, this would mean that, essentially, *Europe* finances such acts, in flagrant opposition to its intention to contribute to peace-building in the region.

It should be clarified that Palestinian resistance is not a centrally organised or coherent movement and that for historical reasons there is much conflict between factions considering themselves pro-Palestinian, particularly since the 1980s, and which has been primarily orchestrated by Syria.²⁴⁴ For example, the Damascus-based *Popular Front for the Liberation of Palestine* and *Islamic Jihad* admitted responsibility for the car bombs in Jerusalem on 28 May 2001, which marked the arrival of a new Middle East peace envoy from the United States. Allegations were made at this time against the PA for failing to comply with its anti-terrorism obligations.

In apparent recognition of the limitations of the PA's current undertaking to prevent terrorist acts '*finding their origin in the territories under its control*,' the Mitchell Report concludes that the Palestinians must stop gunmen from '*using their areas*' to attack Israeli positions. The Palestinian Authority must take firm action on terrorists and

²⁴⁴ Cf. RUFIN 1999, p1128 for a full analysis of '*l'implosion de l'unité palestinienne*.'
Institut Européen des Hautes Études Internationales, MA dissertation 2000-2001

*'make clear through concrete action that terrorism is reprehensible and unacceptable. This effort should include immediate steps to apprehend and incarcerate terrorists.'*²⁴⁵

To this end, the Palestinian security forces should also strive to make sure that all Palestinians who try to enter Israel are not in any way associated with terrorism.

(ii) Israeli closures and settlement policy

The Marin Report of 1998 referred to Israeli closures as the main factor which rendered EC aid ineffective, by crippling the Palestinian economy so badly that EC funds were swallowed up immediately with no evidence of improvement in the Palestinian economy – in fact the situation has deteriorated dramatically, despite EC efforts.²⁴⁶

Given that the Gaza Strip and the West Bank areas under Palestinian administration lack territorial continuity, under the existing political circumstances the circulation of Palestinian persons and goods is complicated and sometimes uncertain or even impossible. Palestinians living in the Gaza Strip are only allowed to travel to the West Bank and vice versa, if they have special permits issued by the Israeli authorities.²⁴⁷ Border security checks are time-consuming, even in periods of relative calm.

In periods of tension, the Israeli policy has been to seal off the West Bank and the Gaza Strip; this has been explained to have a positive psychological effect²⁴⁸ on Israelis, in need of clear physical evidence of security measures, but a purely negative impact on the Palestinians, particularly in economic terms. A striking aspect of this is increasing unemployment – on a daily average, Palestinian

²⁴⁵ extract from 'The Guardian,' 22 May 2001

²⁴⁶ MARIN Report 1998, p.17: *'The situation [referring to the closures] has caused a severe Palestinian economic decline. So severe that it has more than invalidated the international donors' efforts.'*

²⁴⁷ Special Report No.19/2000 of 31/01/2001, p3

²⁴⁸ RUFIN 1999 p1133

workers in Israel dropped from 116,000 in 1993 to about 30,000 in 1996.²⁴⁹ Further aspects include hindering trade with Israel and the rest of the world, increasing costs and slowing down the implementation of development projects.

The Florence Declaration of 22 June 1996 referred to the '*serious effects*' of the border closures on the Palestinian economy and encouraged Israel to lift the remaining restrictions, '*while recognising Israeli security needs.*' The Marin Report of the Commission later claimed that losses due to closures had taken up to 7.4% of the Palestinian GDP per year.²⁵⁰

The ECRO Strategy Report 2000-2006 on the West Bank and Gaza Strip refers to the cost of border closures since 1993 in terms of restrictions on the free movement of persons and direct and indirect effects on the Palestinian economy: losses of income from the reduction of Palestinian employment in Israel; restrictions on trade, which reduce export volumes and increase their costs; increase in transaction costs and decline in investors' confidence; reduced average demand; increased production costs; reduced net value of investments, which is particularly serious in the export sector; and a fall in private investment from 19% of GDP in 1993 to 10% in 1997. The Report also refers to the World Bank's estimate that the cost of closures on the Palestinian economy amounted to between six and ten million US dollars per day.

The Middle East EU Human Rights Watch Report on the Occupied Territories claimed that during the period of 01 February to 15 June 1999, closures were imposed on the Occupied Territories for eight days; these were for Israeli holidays and the elections and were not prompted by specific security threats (paragraph 5). This conclusion implies that the EU does not accept the Israeli perspective that such periods involve a greater risk of Palestinian terrorism on

²⁴⁹ World Bank, quoted in 'The Economist Intelligence Unit: Country Profile, Israel/ The Occupied Territories, 1999-2000.'

²⁵⁰ MARIN Report 1998

Israeli soil. Clearly, the EU favours the creation of the conditions to allow the Palestinian economy to recover once obstacles to growth are removed *by Israel*.

All Palestinian trade with the rest of the world has to go through Israel or Israeli-controlled border points. All goods imported from third countries to the Palestinian self-ruled areas are physically inspected by the Israeli customs and can be blocked for security reasons. The Israeli authorities impose similar restrictions on Palestinian exports.²⁵¹ The PA is still dependent on transfers by Israel for a large part of the resources of its operational budget. In 1998, Israel collected on behalf of the PA and then transferred the funds to taxes and duties amounting to 40% of the PA's domestic revenue.²⁵² In 1997, Israel blocked all such transfers, causing a financial crisis, which prompted the EU to intervene in favour of the PA by the adoption of a Special Cash Facility.²⁵³

The Mitchell Report calls for Israel to lift the embargo on all Palestinians entering Israel, which is crippling the economy of the territories, Palestinian per capita GNP having fallen by over 35% since the beginning of the peace process.²⁵⁴

In addition to the closures, a further aspect of Israeli policy can be invoked as an external factor in explaining to an extent the EU's lack of peace-building success. It has been reported that during the first nine months of the year 2000, the population of Israeli settlers in the West Bank and Gaza Strip rocketed from 13,000 to 200,000, whereas in the whole of 1999 there was only an increase of 12,000.²⁵⁵ This policy is continuing, in flagrant breach of the Oslo Accords, inciting pro-Palestinian terrorist reprisals. Former US President Jimmy Carter highlighted in a

²⁵¹ SEC(98) 1769

²⁵² Report of the Independent task force, chaired by M. Rocard and directed by H. Siegman, sponsored by the Council on Foreign Relations, 1999.

²⁵³ Israel's action here violated the Paris Protocol of 1994. The Special Cash Facility introduced by the Commission was intended to be used for urgent spending, such as salaries.

²⁵⁴ MARIN Report 1998

²⁵⁵ FMEP Report, 2000, 'Settlement Shorts'

recent article the centrality of the settlement policy as an obstacle to the peace process in general as follows:²⁵⁶

'It seems almost inevitable that the United States will initiate new peace efforts, but it is unlikely that real progress can be made on any [of the central issues] as long as Israel insists on its settlement policy, illegal under international laws that are supported by the US and all other nations.'

In this regard, the Mitchell Report also calls for a ceasefire to be followed by confidence-building measures, *including* a freeze on settlement building within the Palestinian territories by the Israeli government.²⁵⁷

However, the timetable for the implementation of the Mitchell Report has been hotly disputed between Israel and the PA.²⁵⁸ Israeli Prime Minister Ariel Sharon rejected the call for a freeze on settlements, arguing that the Palestinians must call an immediate cease-fire and after a 'cooling off' period, discussions could take place regarding Israeli settlement policy. Palestinian negotiator Saeb Erekat relayed that the Mitchell Report could only work as a 'one-step package,' with a settlement freeze coinciding with a ceasefire.

It would appear that the EU's peace-building projects are doomed to failure as long as the vicious circle of reprisals and recriminations between the parties to the conflict continues.

(iii) The weakness of Palestinian Institutions

The basic position of the EC with regard to the development of the Palestinian institutions is that the PA needs to develop the institutional authority to direct and absorb aid in order to optimise the use of donor funds.²⁵⁹ However, there are two flaws which may impede this aim: firstly, there is evidence of financial mismanagement by the PA, which is clearly of concern to the EC as the greatest

²⁵⁶ The Washington Post, 26 November 2000, 'For Israel, Land or Peace?'

²⁵⁷ 'The Guardian,' 22 May 2001

²⁵⁸ The Telegraph, 22 May 2001

²⁵⁹ Country Strategy Paper (West Bank and Gaza Strip) 2000-2006, ECRO: <http://www.delwbg.cec.eu.int/strgeyl.htm>

financial donor to the former; secondly, there have been worrying findings that the PA does not respect accepted human rights standards, in breach of its Euro-Med obligations.

In 1999, the report 'Strengthening Palestinian Public Institutions,' prepared by an independent Task Force and supported, among other donors, by the EU, provided a comprehensive and systematic assessment of the institutional structure and capacities of the PA. According to this report, endorsed by President Arafat, the PA, in the short period of time since its establishment, has managed, under complex conditions and with limited territorial jurisdiction, to achieve a number of important objectives. In particular, the election of the President and of the Legislative Council, the setting up of a cabinet, the creation of a public administration and the maintaining of public order.

Nonetheless, important reforms must still be implemented in order to ensure a constitutional government, political accountability, judicial review and the transparent management of public resources. PA accounting for domestic revenues and expenditures lacks transparency and completeness. The Palestinian national audit institution has already observed cases of financial waste and mismanagement.²⁶⁰ Chris Patten has commented that

*'the Palestinians need to persevere in the path of sound institution building, including budgetary transparency'*²⁶¹

but later applauded the steps taken by the PA to enhance its budgetary transparency and stressed the active involvement of the Commission in this domain.²⁶²

At the EU Ministers of Foreign Affairs meeting in Brussels on 24 January 2000, the Council welcomed a decree signed by President Arafat on the

²⁶⁰ Palestinian General Control Institution, First Annual Report, 1996.

²⁶¹ Speech 99/123, 06 October 1999

²⁶² Speech 00/12, 19 January 2000

consolidation of public accounts as '*an important step towards transparency and good governance.*'

With regard to the second obstacle pertaining to the Palestinian institutions, the Middle East EU Human Rights Watch Report on the Occupied Territories for the period of 01 February – 15 June 1999 detailed that President Arafat has publicly stated on several occasions the commitment of the PA to respect all internationally recognised human rights standards and to incorporating them fully into Palestinian law. However, because Palestine is not yet an internationally recognised independent state, the Palestinian Authority cannot ratify international human rights instruments, such as the International Covenant on Civil and Political Rights or the Convention Against Torture and it is in fact forbidden from doing so by the terms of the Oslo Agreement. It is therefore in a different position from any of the other Mediterranean partners of the EU within the Barcelona process, which proceeds on the basis of an acceptance by the partners of international human rights standards.

Despite adhering to these standards on paper, in the form of the Interim Association Agreement on trade and co-operation between the European Community and the Palestinian Liberation Organisation (PLO) for the benefit of the Palestinian Authority,²⁶³ the situation in the areas under full control of the PA continues to fall short of required human rights standards. According to the Human Rights Watch report, torture is frequently used in Palestinian prisons and detention centres: for example, '*[a]t least 200 people [were] in detention without trial.*'

Arafat has nonetheless appointed a Chief Justice, an Attorney General and established a Supreme Judicial Council: these decisions followed the recommendations of human rights groups campaigning for a more effective Palestinian judicial system. The Palestinian Basic Law, unratified at the time of the

²⁶³ cf. 1.2.d above

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001,' report, contains clauses on the respect of human rights. The early signature of a Palestinian law on the independence of the judiciary was encouraged by the European Commission at a recent meeting between Arafat, Romano Prodi, President of the Commission, and Chris Patten, Commissioner for External Relations. The Commission also reiterated the importance of continuing reforms within the Palestinian institutions in general.²⁶⁴

b. Internal hindrances

The 'internal' problems within the EU are most cruelly evident when linked to the failures and shortcomings of certain of its peace-building efforts in the Israeli-Palestinian conflict despite the EU's good intentions. These shortcomings are evidenced by the parties' preference of American mediation and the lack of concrete results of EU projects on the ground. The 'internal' weaknesses which prevent the European Union from maximising its potentially great role in the resolution of the conflict are primarily institutional: firstly, the obstacles within the Commission which prevent its effective management of EC projects in support of Palestinian society and secondly, those which concern the decision-taking process in Council under the 'second pillar,' impeding the swift and effective elaboration of EU foreign policy. The 'EC/EU' procedural distinction is, of course, blurred by the fact that certain actions or projects undertaken by the EU in this area may contain elements from the 'EC' and 'EU' pillars and this will be borne in mind throughout.

(i) Project management and implementation troubles

In its special report on the EU election observation of the 1996 Palestinian elections, the Court of Auditors criticised the lack of human resources allocated by

²⁶⁴ 'President Arafat meets President Prodi and Commissioner Patten in Brussels,' 31 May 2001: available at http://www.europa.eu.int/comm/external_relations/gaza/news/ip_01_769.htm
Institut Européen des Hautes Études Internationales, MA dissertation 2000-2001

the Commission to deal with EU election involvement in third countries.²⁶⁵ With regard to the management of the projects and actions in the context of the Programme of aid to Palestinian society, the Court of Auditors criticised the Commission on the basis that the allocation of its staff does not reflect the priority given by the EU, financially and politically, to the programme. Chris Patten, the European Commissioner for External Relations has also criticised the 'cumbersome' procedures for EU external assistance, which can and ought to be improved.²⁶⁶

Within the programme of assistance to Palestinian society, it was noted that the allocation of responsibilities for project implementation and monitoring was so unclear that ultimately no action was taken. With heavily centralised procedures, ECRO must refer to the central services for all the important decisions. This not only involves implementation delays but also undermines its profile when dealing with other donors.

The decision-making process was also criticised on the basis that it was too cumbersome; because several levels were involved, decision-making was slow and sometimes unclear, causing implementation delays to and blockages of projects examined during the audit: namely, the Palestinian Development Fund (PDF) and the Centre for Private Enterprise Development (CPED).

A further key criticism was that the NIP for 1996-1998 contained no performance indicators or quantified objectives with a view to assessing the degree of progress made in the implementation of EU cooperation policy towards Palestinian society. It contained no assessment of the lessons of previous experiences, which ought to be taken into account in the context of the planned activities. Furthermore, the issue of coordination with the strategies of other donors

²⁶⁵ Special Report 03/96, p16

²⁶⁶ *ibid*

was not addressed. This is despite the fact that the Commission itself recognised the need to assess previous experiences and deal with donor coordination in these documents in 1996.²⁶⁷

In relation to the basic aim in the programme of realising the PA's institution building capacity, the Court of Auditors noted that although the Commission had started many projects in this field, it had achieved few concrete results. Most results were in the form of the supply of equipment to the Palestinian institutions, whereas little progress has been made on the more substantial issue of upgrading the structures, systems and administrative capacities of the Palestinian institutions. Of particular concern to the Court was the failure of project OT/96/03 to provide technical assistance to the Palestinian Legislative Council (PLC). In this regard, the Commission committed €5 million to finance the construction of a building for the temporary seat of the PLC in Ramallah. Delays in approving the Financing Agreement were caused in part by the PA changing the location of the building.

According to the Financing Agreement, the project had an implementation period of two years, from August 1999 to August 2001. However, at the end of 1999, after several denials from the Palestinian authorities, it was found that they had already begun to construct a building for the PLC in another location, in the context of a different project not funded by the EU, rendering the EU project entirely superfluous.

A further high profile project for which Commission resources were essentially wasted entailed the provision of technical assistance and equipment to the PLC, for which €3 million was committed. The invitation to tender has never been launched. As no progress has been made since 1997, other donors moved in to

²⁶⁷ *ibid*

finance the activities originally foreseen for this key EU project. At the time of the Court of Auditors' audit, the Commission had neither reformulated nor cancelled the project.

To counteract these problems, the Commission published a White Paper last year in the form of an Action Plan, which aims to bring about the '*most far-reaching modernisation strategy in its forty-year history*.'²⁶⁸ It seeks to adopt a new approach to management, which will be focussed on achieving results rather than simply following procedures. Such an approach would clearly be welcome with regard to the Commission's management of various projects seeking to aid Palestinian society and institution building. However, it is foreseen that this reform will not be implemented before the second half of 2002. Furthermore, legislation will be necessary to revise the Financial Regulation and EU's staff Regulations and so the Commission has called for the support of the European Parliament and Council to this end. This represents a victory for the European Court of Auditors, which has campaigned for such reform, but awaiting its realisation will probably mean even more delays in the implementation of existing projects.

(ii). Lack of selectivity of projects

Luigi Colajanni (PES, Italy) argued that whether or not aid should be allocated should be a matter for political assessment: if funding for the police were called into question, this would prevent the PA from combating terrorism, which would present a major obstacle to the peace process. Similarly, he suggested that to cut off funds for education would '*leave teaching in the hands of fundamentalists and extremists*.'

However, this argument fails to take into account the central problem of a lack of an efficient control of how EU funds are employed in this domain. It is

²⁶⁸ Press Release on the White Paper <http://www.europa.eu.int> at Commission Human Resources Directorate General site.

submitted that simply supplying funds for *prima facie* 'good causes,' such as education, without verifying what exactly is being funded is extremely irresponsible of the EU and may be counter-productive.

Recent questions from MEPs have led to a request to a public hearing on this particular matter, as it is argued that EU funds have contributed to the propagation of schoolbooks including passages susceptible to the incitement of Palestinian schoolchildren to hatred of Israelis.²⁶⁹

M. Marin, Commissioner, replied that there was '*no question of "dropping" areas such as education,*' but there was a need for '*selectivity.*'²⁷⁰

However, the debate has continued. Commissioner Patten clarified that

'[a]ssistance to the educational system has focussed mainly on infrastructures, equipment for schools and school libraries and direct assistance for current school expenses (salaries).'

He continued that the content of textbooks and curricula is within the sphere of competence of the Palestinian Centre for Curriculum Development, founded by UNESCO, with the support of EU member states in 1995.²⁷¹ However, he evaded the question of the *use* of Community funding in this context, despite the seriousness of the allegation of misuse of EC aid. This allegation calls into question a fundamental aspect of the declaratory *acquis* of successive European Councils, condemning incitement to violence as an infringement of the principles of human rights, democracy and the fostering of civil society to which the EU adheres,²⁷² and highlights the potentially serious implications of the incapacity of the Commission to control how its aid is employed. In this case, there is a possibility that Europe may be playing a role in encouraging Palestinian school children to become the vehicles of war by essentially furnishing them with Palestinian school textbooks,

²⁶⁹ Cf. MANOR, Newsletter April 2001 CMIP: '*Europe's inability to ensure that its financial support serves the cause of peace.*'

²⁷⁰ 01 June 1999, p3

²⁷¹ Plenary Session, 31 January 2001, cited by MANOR *supra* note 261

²⁷² Cf, *inter alia*, Amsterdam European Council conclusions of 16-17 June 1997

which are said to '*contain the same myths and hostility.*' This argument is illustrative of the potential for the perversion of the EU's peace-building aims due to its own lack of control on how its funds are employed; such projects could be entirely counter-productive, perpetuating the hostilities rather than forging peace.²⁷³ This is particularly serious, given the phenomenon of child fighters in the Intifada. The Mitchell Report makes reference to statistics illustrating that during the last eight months of the Intifada, 444 Palestinians were killed, 106 of whom were under the age of 18.²⁷⁴

The Committee for Foreign Affairs, human rights, security and defence of the European Parliament had previously argued in relation to the allocation of EU funds that

*'swifter action should be taken to ensure that the Commission exerts direct control over the use to which European funds are put, given the unacceptable fact that such funds have been repeatedly misappropriated.'*²⁷⁵

In this connection, it supported Commission initiatives

*'aimed at ensuring total transparency of expenditure and the measures it intends to adopt to this end.'*²⁷⁶

The Commission's report on the lack of implementation progress with respect to this programme highlights a number of constraints, but makes virtually no reference to shortcomings in its own management.²⁷⁷ Similarly, the Marin Report blames the failure of EU aid to have an impact on the Palestinian economy and the non-implementation of donor-financed development projects upon the

*'series of measures put in practice by Israel to seal off Palestinian territories from the outside world. These are the closures.'*²⁷⁸

²⁷³ *ibid*

²⁷⁴ These figures were compiled by *B'tselem*, an Israeli human rights group: 'The Guardian,' 22 May 2001

²⁷⁵ COS/1998/2027, 01 June 1999, p3

²⁷⁶ *ibid*

²⁷⁷ Justification for the transfer of appropriation No 53A/99 (1999 Notenboom Procedure), SEC (1999) 1608 final, p.26

²⁷⁸ MARIN Report 1998, p7

Evidently, the closures have had a disastrous effect on the Palestinian economy. However, it may be commented that this does not rid the EU of the key responsibility of ensuring the '*best possible implementation*' of its various projects under the circumstances. Having regard to the selection of projects managed by the Commission discussed above,²⁷⁹ however, it appears to have failed to uphold this duty.

(iii). Lack of performance indicators

As the Court of Auditors has suggested, performance indicators are necessary to enable assessments to be made of whether or not the objectives of programmes are being met, results are being achieved, and whether the Commission services are performing adequately.²⁸⁰

As Gerald Steinberg calculates:

*'statements, meetings and vague declarations that avoid the key issues are not, in themselves, evidence of success.'*²⁸¹

In the context of a programme where external constraints can disrupt significantly its implementation, it is important for the Commission to identify some indicators that refer to those parts for which it has direct responsibility. It is only in this way that it can determine whether it is performing as well as it should, notwithstanding what happens in those areas over which it has no direct control.²⁸² The Court of Auditors suggests that performance indicators could be established for such matters as the speed with which internal decisions are taken and delivery at all

²⁷⁹ The European Gaza Hospital, the Palestine Housing Council and projects in support of the Palestinian Legislative Council

²⁸⁰ Special Report, 2001, *supra* note 35

²⁸¹ STEINBERG, 1999, p09

²⁸² *ibid* Paragraph 54

stages of implementation, and for deadlines by which adequate management resources, procedures and systems should be in place.

The Commission has failed to identify any such indicators against which its own performance in managing the programme can be assessed. In these circumstances, it can too easily allude to the external constraints mentioned above as the main reasons for all failures of implementation.

Gerald Steinberg suggests that the EU also needs '*clear and realistic goals*' so that it can make '*significant substantive contributions*' to build peace.²⁸³ He argues further that direct negotiation, as was favoured by Clinton, is preferable; the measure of EU success in its intervention in the context of the Israeli-Palestinian conflict should be

*'the degree to which [its projects] contribute to direct interactions between the parties. Cooperative economic, environmental, security, or other programs would be important achievements.'*²⁸⁴

Measuring EU action against the criterion of 'direct interactions' between the parties leads to the unhappy conclusion that it has achieved very little over the past ten years. Miguel Moratinos and Javier Solana have been unable to rival the progress made by Clinton.

(iv) Lack of political will/ CFSP limitations

Ferdinand Kinsky commented in 1990 that European integration remained limited to the economic domain, despite the efforts of political cooperation²⁸⁵ and that the EU needed to overcome its 'motivation problem.' However, on reflection of the past ten years of European intervention in the Israeli-Palestinian conflict, this

²⁸³ STEINBERG, 1999, p08

²⁸⁴ *ibid*, p09

²⁸⁵ KINSKY 1990, pp12-14

view and the criticism of Paul Valéry that Europe's politics do not deliver on its grand ideas²⁸⁶ still ring true.

It must, of course, be remembered that the European Union is itself only eight years old and as such still very much 'under construction.'²⁸⁷ The creation of the European Union by the Maastricht Treaty was an important step towards increased political unity between Member States. With the melting of the Cold War, an external force that had previously served as an excuse for EC Member States to prioritise their foreign policies as purely sovereign prerogatives, combined with the further factors of the realisation of economic union and the mysterious effects of globalisation, reducing the role of the state, the main barriers to the creation of the CFSP were removed.²⁸⁸

The increasing involvement of the European Union in the mediation of this conflict is a symptom of the sharing of enhanced sovereignty by its member states, despite claims of critics that such political union amounts to a reduction in member states' sovereignty. Member States are free to establish their own individual foreign policies towards the Middle East at the same time as contributing to decisions taken by the Council of the European Union.

However, as has been seen in the above analysis of EU CFSP actions in the context of the Israeli-Palestinian conflict, the potentially great resources of Member States' pooled experiences in intervening in international conflicts appear to have yielded few concrete, positive results. The limited success of CFSP actions in this domain may be partially explained by a lack of political will of Member States,

²⁸⁶ cited in TOULEMON, 1999, p271: '*L'Europe n'a pas la politique de sa pensée.*'

²⁸⁷ Jean Monnet, one of the founding fathers of the EEC recognised that '*[l]es nations souveraines du passé ne sont plus le cadre où peuvent se résoudre les problèmes du présent. Et la Communauté elle-même n'est qu'une étape vers les formes d'organisation du monde de demain,*' cited in TOULEMON at p.263

²⁸⁸ Cf. NIGOUL: '*Le Contrôle des Intérêts Nationaux dans la mise en oeuvre de la Politique Etrangère de Sécurité Somme,*' 1999

which is aggravated by the inter-governmental mechanisms in place for CFSP decision taking.

The Amsterdam Treaty brought about significant reforms in the context of the Common Foreign and Security Policy, which may be thought to have mitigated some of the difficulties in decision-making in this context: notably, the introduction of 'Common Strategies' and qualified majority voting for the adoption of joint actions, common positions and any other decisions on the basis of a common strategy. In theory, this should enable decisions to be taken with less difficulty.

These reforms are tempered, however, by the insertion of a version of the Luxemburg Agreement into the logic of the decision-making procedure, enabling a member state to abstain for important and stated reasons of national policy.²⁸⁹ Furthermore, the constant rotation of the Presidency of the Union entails uneven diplomatic weight between large and small member state Presidents.

Perhaps the principal obstacle to the coherence of EU external action is that the CFSP is an 'inter-Governmental' aspect of the EU's activity²⁹⁰ which is often segregated artificially from the 'Communitarian' first pillar, under which the majority of European budgetary funds and commercial decisions are issued. The lack of coordination between pillars has been attenuated by the Amsterdam innovation of common strategies, which are 'trans-pillar' instruments and the creation of the position of High Representative of the CFSP, to be adopted by the Secretary-General of the Council, to give the EU 'a face and a voice,' if not a telephone number, as famously requested by Henry Kissenger. The Cologne

²⁸⁹ In such circumstances a vote will be taken and the Council can, by qualified majority request the matter to be referred to the European Council for a unanimous decision (Article 23(1) TEU)

²⁹⁰ TOULEMON 1999 at p 213 refers to this problem as the cause of the incapacity of the EU during the first phase of the Yugoslav crisis: '*Le scepticisme manifesté par de nombreux observateurs à l'égard des dispositions du traité de Maastricht relatives à la PESC s'est trouvé justifié par le spectacle désolant des désaccords entre gouvernements au cours de la première phase de la crise yougoslave.*'

European Council appointed Javier Solana, former Secretary-General of NATO, to this post.

Chris Patten appealed that

*'a change in the politics of the Middle East will require a gear change in the support we shall be asked and expected to provide. I hope that I can add that we **will want to provide that too**,'*²⁹¹

However, arguably the EU has other priorities, which may conflict with its ambition to become a more powerful actor in the resolution of this conflict. It can be argued that the EU is looking to its *immediate* East rather than towards the *Middle* East in terms of its financial and political priorities in view of the immediacy of the first wave of enlargement.²⁹² The Common Strategy on the Mediterranean Region came after that on East and Central Europe, after all.

It must, however, be remembered that the CFSP is at an embryonic stage, and will reflect the particular given political climate between member states. The Treaty of Nice was heavily criticised because Member States' national interests prevailed in an uncooperative climate, and it is submitted that this does not bode well for the 'commonality' of the CFSP. Furthermore, the fundamental importance of the Franco-German relationship as the motor of European integration was undermined by the power politics of the two countries.²⁹³ Brzezinsky argues that the health of this relationship is of paramount importance if Europe wants to be taken seriously on the international stage.

The level of EU involvement in the mediation of the conflict may, therefore, decrease rather than increase over the next ten years, depending on how it decides

²⁹¹ Speech 00/12, 19 January 2000

²⁹² HAKURA, pp. 365-366, argues that '[a]lthough Central and Eastern Europe will probably always remain at the top of the EU's external relations agenda, due to the integrative nature of their relationship, the Middle East [...], for historical, economic and geographic reasons, should both be relegated to the second division.'

²⁹³ The Economist, 16 December 2000, 'The European Union's summit in Nice gave a foretaste of the power struggles to come as the EU prepares for enlargement.'

to use its resources and upon political will. EUROMESCO recommends in its report on the Euro-Mediterranean partnership that the EU must have

*'a balanced vision of its relations with its partners in Eastern Europe and the Southern Mediterranean.'*²⁹⁴

Within the EU, certain member states, notably France and Spain, have displayed their willingness to pursue the aim of an area of security and co-operation in the Mediterranean in a sense to counterbalance the 'German-dominated' concern for a similar area in central Europe.²⁹⁵

In the context of the Barcelona process, the Cannes European Council agreed to a full aid package of ECU 4,685 million for the Middle East and North Africa (MENA) countries, compared to ECU 6,693 million for the Central and Eastern European Countries for the period 1995-1999. This constitutes a 59 to 41 ratio in the latter's favour.²⁹⁶

Chris Patten argues, however, that it is a '*particularly widespread misunderstanding*' to consider that the EU's obligations with regard to Eastern Europe will impede its cooperation to the South and South-East because development in one area is not necessarily at the expense of another.²⁹⁷ He stresses that enlargement of the EU to the East will open up new opportunities rather than dilute EU concern for the Mediterranean region which

*'will remain a relationship of primary significance for the EU.'*²⁹⁸

However, in reality an important repercussion of enlargement may be the dilution of the coherence and strength of the EU's foreign policy because of the

²⁹⁴ EUROMESCO Report 1997/1998, p.7

²⁹⁵ ALLEN & SMITH, Annual Review of the European Union, 1998-1999, p.97

²⁹⁶ *International Herald Tribunal*, 27 June 1995

²⁹⁷ EUROMED Report Issue No. 08, 04 April 2000: 'The European Union's External Policy and the Mediterranean,' Speech by the Rt. Hon. Christopher Patten, European Commissioner for External Relations, p3

²⁹⁸ *ibid*

difficulties in decision-taking with up to 27 member states, particularly in view of the limitations of the Amsterdam Treaty amendments in this regard.

(v) Lack of visibility of EU actions

Zohar Peri, Israeli Minister of Industry and Trade is quoted to have said in a conference in 1995:

*'The Europeans are strong when it comes to politics and declarations, however when there is a concrete opportunity to do something and help along, they shy away.'*²⁹⁹

This view is perhaps partly due to the lack of a clear EU policy and the instruments to implement it, and the upshot of a lack of visibility of the EU in the Peace Process. This has led to frustration on the part of Member States and the European Parliament, where EU funds have been committed but EU support cannot clearly be seen. The Commission suggests that this problem arose in the case of the Palestinian elections because of insufficient effort on the part of the EU in attracting media attention and adds that

*'unlike the United States, the EU does not appoint retired high level politicians for this kind of job.'*³⁰⁰

The Commission suggests that enhanced EU visibility should flow from *'improved and more transparent policy-making and implementation mechanisms,'* and recommends the appointment of a media officer who is an EU citizen, with professional qualifications and knowledge of the policies and institutions of the EU, although it is careful to stress that *'visibility is not an aim in itself.'*³⁰¹ The Commission adds that internet publicity should be exploited and even goes so far as to suggest that the logo of the EU should appear on clothing of those involved and, where the EU is working under the umbrella of an international organisation, that

²⁹⁹ Jerusalem Post, 03 August 1995

³⁰⁰ Communication from the Commission on EU Election Assistance and Observation, 11 April 2000, p9,

³⁰¹ *ibid*, p23

'EU visibility should be part of the formal agreement.' It would therefore appear that, contrary to the Commission's claim, visibility *is* an aim in itself.

The Commission has suggested that co-operation between the EU and international organisations and NGOs has often entailed the relegation of the EU to the position of 'banker' for operations which are controlled by other organisations,

*'whose membership and interests are not necessarily synonymous with those of the EU.'*³⁰²

The result has been that the EU has lost policy input and visibility. The Commission suggests regular contact and framework agreements with the main international governmental and non-governmental organisations and these should be based on true partnership in the design and implementation of policy, rather than solely concerned with funding issues.

3.2 The ideal of 'complementarity' of EU and US peace-building initiatives

The US oscillates between isolationism and hegemony³⁰³ with respect to its mediating role in the conflict, as is the case for other aspects of its foreign policy. In the event of American failure, it has been argued that the EU is encouraged to believe that it can come up with

*'a better formula for settlement, a belief that has contributed to intermittent tension in US-European relations.'*³⁰⁴

On consideration of the positions of the EU and US with regard to each other as third party actors in the Israeli-Palestinian conflict: the question arises as to whether they tend to complement each other or whether there really are trans-

³⁰² *ibid*

³⁰³ TOULEMON, 1999 p.270

³⁰⁴ MOSS, 2000 p.7

Atlantic tensions in this domain (3.2.a,b). It is also of interest to consider briefly the standpoints of Palestinians and Israelis to the two powers (3.2.c)

a. The American Perspective

A crucial paragraph in Chapter VI of the US Department of Defense Report issued in December 2000, '*Strengthening Trans-Atlantic Security*' illustrates that America is ready to adapt to enhanced political unity between member states, whilst maintaining its 'leadership role':

'America's leadership role has adjusted before to changes in Europe and we are prepared to adapt ourselves in the future to work with stronger, more versatile and more united European partners.'

However, certain prominent Americans have interpreted increasing EU intervention in the mediation of the Israeli-Palestinian conflict as above all an effort in anti-Americanism, as extensive American intervention in the conflict has in no way impaired the development of Euro-Israeli commerce and investment.³⁰⁵ Thus, John R. Bolton argues that

*'to the extent the EU is driven, the major consequence will not be a peaceful settlement in the Middle East, but the exacerbation of trans-Atlantic tensions.'*³⁰⁶

For those who interpret the EU's assertion on the international stage as 'anti-Americanism,' complementarity would mean the continuation of the formal distribution of roles of the international powers in the peace process, with the EU supporting American mediating supremacy with its wallet.

The Clinton government, given the appointment of the EU High Representative of the CFSP alongside former US Senator George Mitchell in the Mitchell fact-finding committee, appeared to negate Bolton's view that EU efforts should be interpreted as anti-Americanism. However, George W. Bush's visit to

³⁰⁵ http://www.house.gov/international_relations/full/106first/106first/testimony/bolton.htm

³⁰⁶ *ibid*

the Gothenberg European Council gave rise to American claims of European anti-Americanism, characterised by the condescension of European political figures to the American President. Nonetheless, George W. Bush seems, thus far, to be content to allow EU efforts in this area to continue to develop without necessarily feeling threatened thereby.

The American proclamations in favour of European unity, such as the Madrid declaration on 15-16 December 1995, will remain, according to Brzezinsky, devoid of substance unless the US declares, without ambiguity, that it accepts all consequences linked to the new status of a united Europe and that it makes clear that it is ready to act in consequence. A real partnership signifies a sharing of decisions as well as responsibilities. An engagement by the US in this direction would help to revive the transatlantic dialogue and would force Europe to give flight to higher international ambitions for the Union.³⁰⁷

In this light, Chapter VI of the December 2000 Report, '*Strengthening Trans-Atlantic Security*,' is of great interest. It is entitled '*Improving Transatlantic Cooperation to face Global Challenges*' and refers to the common interests of the US and EU in maintaining uninterrupted access to regional energy sources; stemming the development and proliferation of NBC weapons, ensuring the success of the Middle East Peace Process and combating terrorism.

Examples of EU-US cooperation cited include the arrangement of sensitive negotiations to advance a peace agreement between Israel and the Palestinians. According to this report, despite differences with their Allies over particular aspects of these and other regional issues which are explicable by our differing cultural, historical ties and economic interests, US-European cooperation

³⁰⁷ BRZEZINSKY 1997, p.119

'is essential to build stronger support within the region for the MEPP. European states can play an important role in encouraging both sides to take the difficult but necessary steps to just and lasting peace.'

In a typically American idealistic refrain, the Report continues that the US and EU should cooperate, sharing their collective experience

'to lessen tensions, improve confidence and build positive security relations among all parties in the Middle East....'

Furthermore, at page 58, the Report recognises that

'...the military and civilian crisis response capabilities that the EU seeks to build through ESDP could play a role in the implementation of eventual peace settlements between Israel and the Palestinians, Syria and Lebanon.'

Brzezinsky argues that America ought to treat international political and security problems as an equal with the EU and that Palestinians desire American intervention.

Under President Clinton, no other question in US foreign policy received as much attention as the Israeli-Arab peace process.³⁰⁸ On the other hand, in the light of the recent Israeli F16 retaliatory attack on a Palestinian security building, President George W. Bush seemed reluctant to become fully involved. It is of interest to note that whereas Javier Solana, the High Representative of the European Union's Common Foreign and Security Policy, commented almost immediately on the Israeli attacks on 21 May 2001, there was no comment from the White House. However, as Samuel Lewis comments

*'Presidents cannot easily abdicate for long the role of peacemaker which their predecessors have played.'*³⁰⁹

Former President Bill Clinton reaffirmed in 2000 that the US had an exclusive policy in the Israeli-Palestinian track of the Peace Process. This

³⁰⁸ TELHAMI, 'From Camp David to Wye: Changing Assumptions in Arab-Israeli Negotiations,' MEJ Volume 53, Summer 1999, p.379

³⁰⁹ LEWIS, 1999, p.376

corresponded to the special relationship the US enjoyed with both parties to the conflict: both Israelis and Palestinians.

For former US Secretary of State, Zbigniew Brzezinski, the key factor for dealing with the challenges of the region in a climate of cooperation between EU and US efforts remains Europe's auto-definition of a post-Cold War identity. Brzezinski argues that America cannot ignore that a united EU will eventually become a rival for the US on the world stage. In this context, he refers to the geopolitical interests of the Union in the Middle East. However, he rejects the notion that the EU is at present capable of surmounting the diversity of its national traditions to form a homogenous political entity with real weight in international relations. He refers to the intensity of the historical roots of European nation-states and their decreasing enthusiasm for a supranational Europe as key factors distinguishing the pre-existing conditions of the European integration project from those existing at the time of the creation of the US.³¹⁰

Peace building in the Middle East is politically popular with the American public, enhancing the President's popularity in the event of success, which is a clear motive for intervention. Furthermore, the parties to the Israeli-Palestinian conflict have come to expect American support in seeking an end to the troubles, highlighted by Israeli and Palestinian expressions of dismay at the lack of involvement by the Bush administration. These considerations, relayed by the international media reporting on the violence, undoubtedly played a role in Bush's eventual decision to hold a meeting at the White House with an Israeli delegation with a view to reviving the peace process on 31 May 2001 and announcement of the appointment of a new US special envoy to the region.³¹¹

³¹⁰ BRZEZINSKY 1997, p.105

³¹¹ The details/ evolution of the Bush administration's position with regard to the conflict is limited to the cut-off date of 01 June 2001.

b. The European Perspective

Annex 10 to the text of the Madrid European Council of 1995 embodies '*The New Trans-Atlantic Agenda*,' which is of interest because the first of the four major goals of this framework is

'promoting peace and stability, democracy and development around the world'

and securing peace in the Middle East is specifically mentioned in this regard. The main activities referred to were '*an active role*' in the Conference for Economic Assistance to the Palestinians, the aim of dismantling of the Arab boycott of Israel, the proposed improvement of access given by the EU and US to products from the West Bank and the Gaza Strip and the encouragement of the implementation of the conclusions of the Amman Summit.

The EU has been keen to refute suspicions that it seeks to challenge the mediating role of the US in the conflict, in recent declarations stressing the reinforcement of the EU-US relationship and the notion of the '*complementarity*' of EU and US peace-building actions. Its representatives have emphasised repeatedly that the EU is not trying to supplant the role of the US. For example, Chris Patten stressed on behalf of the European Commission more recently that

*'we intend to continue to work closely with the United States – not as competitors, but as partners.'*³¹²

In the same vein, according to Mr. Moratinos,

'the Europeans do not want to interfere in the negotiations between the parties for the sake of appearing as another mediator.'

The EU Special Representative, also referred at the Institut Català de la Mediterrània d'Estudis I Cooperació on 31 May 1998 to the '*moment of truth*' according to which the international community, including the US and the EU, must assume its responsibility to revive the peace process by employing a more useful

³¹² Speech 99/123, 06 October 1999

approach.³¹³ He stressed the principle of *irreversibility* of the peace process, given that there is a Palestinian reality, permanent contact between the Palestinian and Israeli authorities, an economic and financial relationship between Israel and the Palestinian territories and a desire to revitalise the peace process. But there is also an irreversibility of the intervention of the international community.

The European Commission's 1998 Marin Report denied that its proposals could be interpreted as '*a challenge*' to the role of the US, in recognition of Europe's weak political identity in comparison with

'[t]he present determining role of the US, rooted in the past, [and which] will continue in the future.'

Nevertheless, it proposed that the principle of complementarity should be adapted to take into account the expansion of the EU's role in the conflict. Two practical gauges of a new role for the EU were envisaged. Firstly, in participatory terms, the Union should be recognized *in all the fora* established in support of the negotiations between the parties to the conflict, alongside the US. Secondly, the EU's role in the coordination of financial aid ought to be strengthened, on consultation of the other donors, because the Union is the main net contributor to the peace process: '*the basic shareholder should be the key co-ordinator.*' Thus, the international economic effort should be co-ordinated by the EU (Presidency and Commission) on the basis of the Ad Hoc Liaison Committee model: Palestinians Israelis, Bretton Woods Institutions, the UN and the active participation of key donors.³¹⁴

Although the EU has not gone so far as to reiterate the proposal of President Jacques Chirac during the French Presidency of the Union in 1996 that there should

³¹³ '*...un momento de verdad, en el que la comunidad internacional, tanto Estados Unidos como la Unión Europea, debemos de empezar a asumir nuestra responsabilidad y empezar a buscar quizás un marco diferente para abordar de manera diferente, la manera que pueda ser más útil, para sacar el proceso de paz de su actual estancamiento.*'

³¹⁴ MARIN Report 1998, p16

be a formalised joint sponsorship of the peace process between the EU and US, there has been a clear orientation towards a more political and diplomatic dimension to the EU's accompaniment of the US's role.

Moss refers to the '*region-wide*' efforts of the EU to reduce tension, which appear to be more acceptable to the Americans than an

'inclusive framework that would challenge its role in the Middle East peace process'

because this is the one regional issue that the United States has deliberately chosen to dominate.³¹⁵

In this light, America will applaud EU initiatives in the Mediterranean region insofar as these can be benefited from by the US to further its diplomacy efforts in the Middle East Peace Process. Europe has been considered to be jealous of US supremacy as the central mediator in the peace process, which may explain certain differences in EU and US Middle Eastern policy over the past decade, which tend to undermine their claims of complementarity.³¹⁶

It may be argued that the influence of the EU stance on the content of the Mitchell Report may be evident in the greater exigencies on the Israeli government than would be expected of an American report, and that this cooperative approach marks a significant departure from the tendency of the EU to be sidelined, as was the case at Madrid and Oslo.

c. Israeli and Palestinian perspectives

According to Gerald Steinberg, Israel is in favour of coordination between the EU and US in their actions aiming to contribute to Israeli-Palestinian peace. Thus, the EU is advised to avoid succumbing to

*'[...]the emotional desire to return to great power status and compete with the US.'*³¹⁷

³¹⁵ MOSS 2000, p04

³¹⁶ GORDON, 1998, pp.14-21 : <http://www.naa.be/publications/comrep/1998>

³¹⁷ STEINBERG 1999, p.06

Steinberg maintains that the EU should '*re-examine its goals and resources*;' it would have to match American resources and understanding of the conflict in order to become a major player in the Israeli-Palestinian track of the Peace Process.³¹⁸ This is not yet the case and is unlikely to happen in the near future. His advice is therefore that Europe should focus its energies and resources on areas where it can provide an important service, essentially in the areas of confidence-building, people-to-people contacts, and

'[neutralising] the cultural basis for the continuation of the Arab-Israeli conflict.'

The reasons for Israel's preference of the US are, of course, historical. It is also argued by Samuel Lewis that the US is preferred as a mediator by the Palestinians because it is the sole power believed to have enough influence on Israel to be capable of persuading her to yield some or all of the lands conquered in 1967.³¹⁹

Whereas the US has provided Israel with weapons and billions of dollars in military assistance to offset the security risks of Israeli deployments and withdrawals, Europe has provided little or nothing in this domain, almost all of its financial assistance packages targeting the Palestinian Authority. Furthermore, America is preferred as a mediator by Israel because Europe is seen to be appealed to by the Palestinians when in the latter's interest and this has led to the renegotiation of agreements achieved in American-mediated negotiations.

Gerald Steinberg reflects upon the Israeli view that Europe's policies are designed to compensate for the allegedly pro-Israel biases of the 1940s and 1950s, which were allegedly explicable by the European need to atone for the sins of the Holocaust.³²⁰ This view is rejected by Israel, as is the perception of the Palestinians as '*victims*' and Israel as '*aggressor*,' which is the predominant European

³¹⁸ *ibid*, p.9

³¹⁹ LEWIS 1999, p365

³²⁰ STEINBERG, 1999, pp.03-04

understanding of the positions of the two parties to the conflict. The EU's overtly pro-Palestinian programmes of economic assistance/ CFSP actions and the Berlin Declaration *acquis* can only reinforce this understanding of the EU's stance. This clearly provides an obstacle to enhancing EU-Israeli relations. For example, the Berlin Declaration of 1999 was heavily criticised by Netanyahu and Barak with regard to the degree of EU support expressed for Palestinian objectives.³²¹

The Palestinians clearly encourage European intervention, given Europe's blatantly pro-Palestinian stance. The Palestinian negotiating team responded to Bill Clinton's Camp David III proposals, which failed to provide '*the basic Palestinian need: a viable state.*'³²² Although Clinton subsequently declared himself in favour of a Palestinian state, he was no longer President of the US.

It has been argued, on the other hand, that the PA remains

*'completely dependent on the US to deliver Israeli concessions. Without the US prodding Israel along, the Palestinians could expect to get nothing...'*³²³

³²¹ *ibid* p.04

³²² FMEP Report, Jan-Feb 2001, 'Palestinian Response to Clinton Proposal.'

³²³ ROBINSON, 2000, p.85

CONCLUSIONS

The 'peace-building' facets of EU activity in the context of the Israeli-Palestinian conflict, whether in the economic, political or diplomatic spheres, rest on the premise that the creation of a Palestinian state is the best means of ensuring Israeli security and full Palestinian autonomy, the necessary guarantees for peace between the parties.

The explicit recognition in the Berlin Declaration of 1999 that the EU sought the 'early' creation of such a state represented a key stage on a continuum of increasingly political intervention by Europe to bolster Palestinian autonomy since the end of the Gulf war.

The period 1991-2001 has seen remarkable changes in Europe's capacities to embrace a more proactive approach to its interpretation of the challenges of the pacification of the conflict. Nonetheless, in times of escalation thereof, the knee-jerk reaction of Europe in 2001, as in 1991, has been to dig deeper into its financial pockets in search of a solution. The EC's role as 'economic engine' of the peace process has stretched well beyond its initial role in the Madrid Process as head of REDWG over the past ten years, with Europe remaining the largest international donor to the Palestinians, despite difficulties in project implementation and management by the Commission and the serious external obstacles to the effectiveness of such aid.

Clearly, the main success of EU financial assistance to the Palestinian Authority over the past decade has been in helping to keep the latter alive. However, the claim of the Commission that this funding has given rise to a Palestinian institutional capacity that allows the PA to carry out its basic functions '*in a satisfactory way*'³²⁴ appears to be unsubstantiated and perhaps even contradictory, given that the Commission felt the need to impose the condition of

³²⁴ MARIN Report 1998

enhanced transparency on the PA before it would allocate funds of the same importance as were previously granted and in the light of the European Middle East Human Rights Watch Report.

As discussed, there have also been serious allegations surrounding the ultimate use made of EC funds, particularly in the education sector, which, if substantiated, call into question the EU's respect of its own fundamental principles under Article 6 TEU.

The EU's action relating to anti-terrorism measures is perhaps the clearest example of its intention to assert a more politically meaningful role in the resolution of the conflict. However, this has also faced significant stumbling blocks. It is perhaps not overly sceptical to suggest that this programme is of most help to Yasser Arafat to ensure his own security against pro-Syrian organisations, boosting his own Presidential status, rather than of real import in curbing the scourge of anti-Israeli terrorism and its drastic economic repercussions for the Palestinian population.

The EU could serve as an inspiring precedent for models of compromise – especially regarding the reduced relevance of territorial sovereignty as practiced by the EU and as an example of cooperation between neighbours without agreement on the exact location of the borders.³²⁵ However, despite the reformist tone of the Marin Report of 1998, the efforts of the EU institutions in the Israeli-Palestinian conflict remain essentially financial in nature and there has been little in the way of innovative reforms in practice.

Crisis management and conflict prevention measures are also areas of potential future European action in the Israeli-Palestinian conflict. The EU's

³²⁵ As TOULEMON argues: '*[d]ans nulle autre région, la paix et une prospérité relative ne voisinent d'aussi près avec la guerre et la misère [...] [m]ais aussi nulle autre région du monde n'a poussé aussi loin l'effort de dépassement des haines collectives et des souverainetés nationales,*' 1999, p.263

planned Charter for Peace and Stability would contain mechanisms to facilitate conflict prevention and crisis management but, despite progress, has not yet been agreed upon. Furthermore, EU action could be called for in a multilateral observer force, which would be necessary to assure the respect of terms of demilitarisation of a Palestinian state. Cooperative security arrangements will become essential in building mutual confidence, allowing for the transfer of additional territory to the Palestinian state. This could provide a significant test for the EU's embryonic Defence identity.

With respect to water, it is possible to develop technical solutions, including desalination, in order to increase the supply and prevent conflict over this issue. On the agreement of the parties to the conflict, the EU could play a central role in the domains of security and water. On these bases, the historical-emotional issues of Jerusalem and refugees could develop; confidence building is clearly necessary and *'efforts to force the pace are likely to be counterproductive.'*³²⁶ Israeli-Palestinian reconciliation requires frequent and meaningful contacts at all levels of society; the EU can make a major contribution to this area in assisting further the development of civil society.

The EU has the means to develop its role into a much stronger and more effective one; its present incapacities are reflective of the degree of non-integration of the political sovereignties of its Member States, rather than a lack of resources.³²⁷ If Europe is capable of overcoming its political identity problem, asserting itself more convincingly and effectively on the international playing field, the US is unlikely to stand in its way.³²⁸ This aspiration must come from within.

³²⁶ STEINBERG 1999, p.06

³²⁷ TOULEMON, 1999, p271: *'L'Union européenne a tous les atouts matériels et humains qui lui permettraient d'aspirer au rang et à l'influence de première puissance mondiale.'*

³²⁸ *ibid*, p.190 *'..face à une volonté européenne qui s'affirmerait, [les Etats Unis] ne constitueraient nullement un obstacle insurmontable.'*

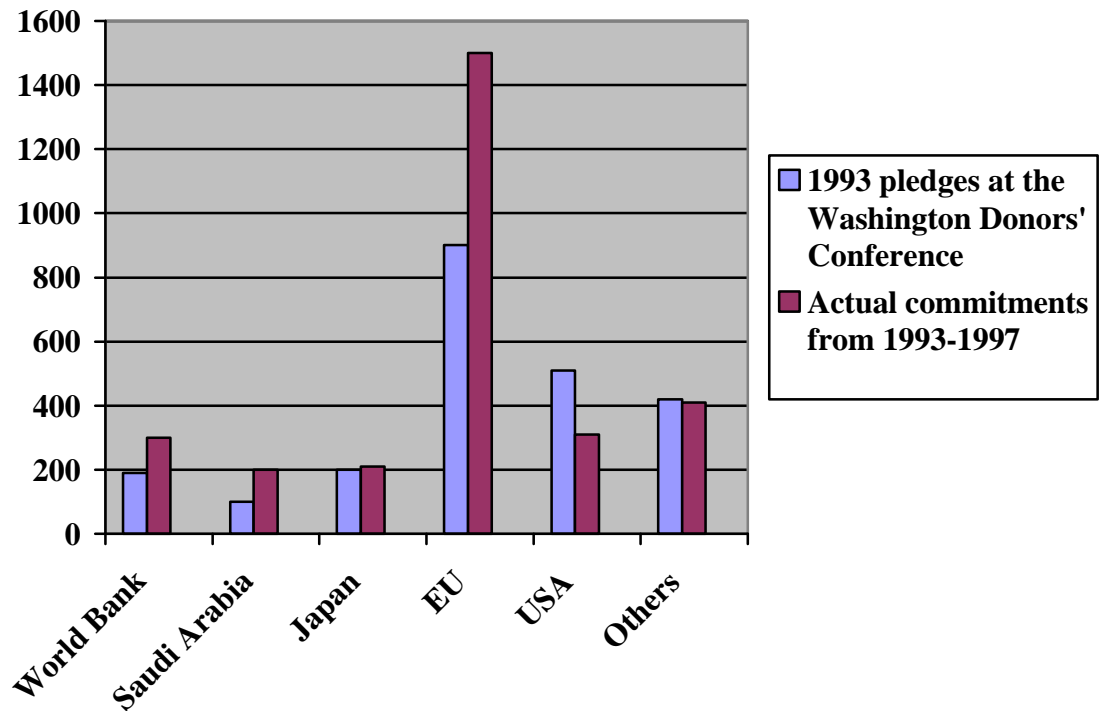
ABBREVIATIONS

CEEC	Central and Eastern European Country
CFSP	Common Foreign and Security Policy
CPED	Centre for Private Enterprise Development
EC/ EEC	European Community/ European Economic Community
ECRO	European Commission Representative Office
ECTAO	European Commission Technical Assistance Office
ECU/ EURO	European Currency Unit/ Single Currency of the European Union
EIB	European Investment Bank
ESDP	European Security and Defence Policy
EU	European Union
EUROMED	European Union – Mediterranean
EUROMESCO	Euro-Mediterranean Study Commission
EUSE/ EUSR	European Union Special Envoy/ Representative
GDP	Gross Domestic Product
MEDA	Mediterranean Economic Development Agreement
MENA	Middle East and North Africa
MEP	Member of the European Parliament
MEPP	Middle East Peace Process
MNMC	Mediterranean non-Member Country
MS -	Member State (of the European Union)
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
PA	Palestinian Authority
PDF	Palestinian Development Fund
PLC	Palestinian Legislative Council
PLO	Palestinian Liberation Organisation
REDWG	Regional Economic and Development Working Group
RMP	Renovated Mediterranean Policy
TAP	Tripartite Action Plan
TEU	Treaty on European Union (Maastricht Treaty)
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNRWA	United Nations Relief and Works Agency
US(A)	United States (of America)
USSR	Union of Soviet Socialist Republics

ANNEXES

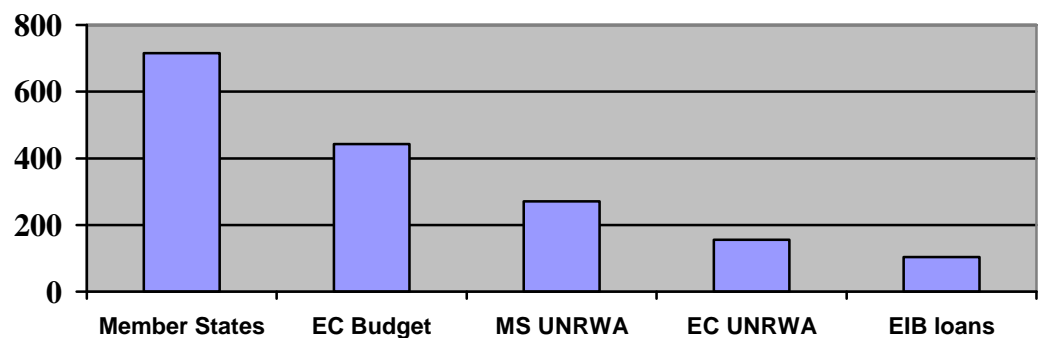
Annex I: EC aid to the Palestinians

a. Comparison of 1993 pledges & 1997 commitments of International donors



(in ECU million)

b. Sources of EU Assistance to the Palestinians (1993-1997)



Total EU aid = ECU 1.68 million. Source: The Marin Report: 'The Role of the European Union in the peace process and its future assistance to the Middle East,' 26 January 1998, pp10-11

Annex II: EC aid to the Palestinians (1993-1997) by sector

SECTOR	1993	1994	1995	1996	1997	TOTAL
Education/ running costs	19.9	10.9	41.2	49.9	8	129.9
Institution building	1.5	1.5	2.5	3	5	13.5
Municipalities			15	15	20	50
Housing		10				10
Private Sector	0.4	8.4	3.3	3.3	5	20.4
Health	3.35	2.7	13.27	8.3	5.2	32.82
Technical Assistance	7.8	5	5		5	22.8
Agriculture production	1.9	0.02	0.5	1.3	1.5	5.22
Environment/ water	1.57			0.7		2.27
Police/ Counter- terrorism		20			7.1	27.1
Elections			12.9			12.9
Ex-detainees		10				10
Vocational training				4.7		4.7
Human Rights/Democracy	0.3	0.32	1.5	3	1.5	6.62
Humanitarian Assistance	5.72	4.8	5.85	13.3	6.3	35.97
Raffah sewage/ solid waste	16.8	0.8				17.6
TV/Radio	2				1.5	3.5
Micro-projects		1	1	0.5	0.5	3
MED/Peace networks	0.1	2	4.5	1.8		8.4
ECIP			0.25	0.1		1.25
Energy		0.5				0.5
SpecialCash Facility					25	25
Customs					1.2	1.2
Other				0.7		0.7
UNRWA	24.1	31	32	34.1	35.3	156.5
EIB				86	14	100
Total	85.44	108.94	138.77	225.7	142.1	700.95

Displays breakdown of EC budget and EIB assistance in ECU millions following the Declaration of Principles.

Source: The Marin Report: 'The Role of the European Union in the peace process and its future assistance to the Middle East,' 26 January 1998, pp10-11

Annex III: The Venice Declaration, 12-13 June 1980

1. The Heads of State and Government and the Ministers for Foreign Affairs held a comprehensive exchange of views on all aspects of the present situation in the Middle East, including the state of negotiations resulting from the agreements signed between Egypt and Israel in March 1979. They agreed that growing tensions affecting this region constitute a serious danger and render a comprehensive solution to the Israeli-Arab conflict more necessary and pressing than ever.
2. The nine member states of the European Community consider that the traditional ties and common interests which link Europe to the Middle East oblige them to play a special role and now require them to work in a more concrete way towards peace.
3. In this regard, the nine countries of the Community base themselves on Security Council Resolutions 242 and 338 and the positions which they have expressed on several occasions, notably in their declarations of 29 June 1977, 19 September 1978, 26 March and 18 June 1979, as well as in the speech made on their behalf on 25 September 1979 by the Irish Minister for Foreign Affairs at the 34th United Nations General Assembly.
4. On the bases thus set out, the time has come to promote the recognition and implementation of the two principles universally accepted by the international community: the right to existence and to security of all States in the region, including Israel, and justice for all the peoples, which implies the recognition of the legitimate rights of the Palestinian people.
5. All of the countries in the area are entitled to live in peace within secure, recognised and guaranteed borders. The necessary guarantees for a peace settlement should be provided by the United Nations by a decision of the Security Council and, if necessary, on the basis of other mutually agreed procedures. The Nine declare that they are prepared to participate within the framework of a comprehensive settlement in a system of concrete and binding international guarantees, including (guarantees) on the ground.
6. A just solution must finally be found to the Palestinian problem, which is not simply one of refugees. The Palestinian people, which is conscious of existing as such, must be placed in a position, by an appropriate process defined within the framework of the comprehensive peace settlement, to exercise fully its right to self-determination.
7. The achievement of these objectives requires the involvement and support of all the parties concerned in the peace settlement which the Nine are endeavouring to promote in keeping with the principles formulated in the declaration referred to above. These principles are binding on all the parties concerned, and thus on the Palestinian people, and on the PLO, which will have to be associated with the negotiations.

8. The Nine recognise the special importance of the role played by the question of Jerusalem for all the parties concerned. The Nine stress that they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the city's status should guarantee freedom of access for everyone to the Holy Places. The Nine stress the need for Israel to put an end to the territorial occupation which it has maintained since the conflict of 1967, as it has done for part of Sinai. They are deeply convinced that the Israeli settlements constitute a serious obstacle to the peace process in the Middle East. The Nine consider that these settlements, as well as modifications in population and property in the occupied Arab territories, are illegal under international law.
9. Concerned as they are to put an end to violence, the Nine consider that only the renunciation of force or the threatened use of force by all the parties can create a climate of confidence in the area, and constitute a basic element for a comprehensive settlement of the conflict in the Middle East.
10. The Nine have decided to make the necessary contacts with all the parties concerned. The objective of these contacts would be to ascertain the position of the various parties with respect to the principles set out in this declaration and in the light of the results of this consultation process to determine the form which an initiative on their part could take.

Annex IV: United Nations Security Council Resolution 242 (22 November 1967)

The Security Council,

- *Expressing* its continuing concern with the grave situation in the Middle East,
- *Emphasizing* the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,
- *Emphasizing further* that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfilment of Charter principles requires the establishment of *a just and lasting peace in the Middle East which should include the application of both the following principles:*

- (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
- (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. *Affirms further* the necessity

- (a) For guaranteeing freedom of navigation through international waterways in the area;
- (b) For achieving a just settlement of the refugee problem;
- (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. *Requests* the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Adopted unanimously at the 1382nd meeting.

Annex V: United Nations Security Council Resolution 338 (22 October 1973)

The Security Council

1. *Calls upon* all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;
2. *Calls upon* the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;
3. *Decides* that, immediately and concurrently with the cease-fire, negotiations shall start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

Adopted at the 1747th meeting by 14 votes to none.

1/ One member (China) did not participate in the voting.

Annex VI: The Berlin Declaration, 25 March 1999

The Heads of State and Government of the European Union reaffirm their support for a negotiated settlement in the Middle East, to reflect the principles of 'land for peace' and ensure the security both collective and individual of the Israeli and Palestinian peoples. In this context, the European Union welcomes the decision by the Palestinian National Union and associated bodies to reaffirm the nullification of the provisions in the Palestinian National Charter which called for the destruction of Israel and to reaffirm their commitment to recognize and live in peace with Israel. However, the European Union remains concerned at the current deadlock in the peace process and calls upon the parties to implement fully and immediately the Wye River Memorandum.

The European Union also calls upon the parties to reaffirm their commitments to the basic principles established within the framework of Madrid, Oslo and subsequent agreements, in accordance with UNSC Resolutions 242 and 338. It urges the parties to agree on an extension of the transitional period established by the Oslo agreements.

The European Union calls in particular for an early resumption of final status negotiations in the coming months on an accelerated basis, and for these to be brought to a prompt conclusion and not prolonged indefinitely. The European Union believes that it should be possible to conclude the negotiations within a target period of one year. It expresses its readiness to work to facilitate an early conclusion to the negotiations. The European Union urges both parties to refrain from activities which prejudice the outcome of those final status negotiations and from any activity contrary to international law, including all settlement activity, and to fight incitement and violence.

The European Union reaffirms the continuing and unqualified Palestinian right to self-determination including the option of a state and looks forward to the early fulfilment of this right. It appeals to the parties to strive in good faith for a negotiated solution on the basis of the existing agreements, without prejudice to this right, which is not subject to any veto.

The European Union is convinced that the creation of a democratic, viable and peaceful sovereign Palestinian State on the basis of existing agreements and through negotiations would be the best guarantee of Israel's security and Israel's acceptance as an equal partner in the region. The European Union declares its readiness to consider the recognition of a Palestinian State in due course in accordance with the basic principles referred to above.

The European Union also calls for an early resumption of negotiations on the Syrian and Lebanese tracks of the Middle East Peace Process, leading to the implementation of UNSCRs 242, 338 and 425

Annexed to the Berlin European Council Conclusions 24-25 March

Annex VII: Complete list of CFSP actions relating to the Israeli-Palestinian peace process/ Mediterranean (as at 01 June 2001)

- **19 April 1994**, Joint Action 94/276/CFSP in support of the MEPP³²⁹, OJ L119 07/05/94, p1
- **01 June 1995**, Joint Action 95/205/CFSP in support of the MEPP, OJ L130 14/06/95 pp1-2
- **25 September 1995**, Joint Action 95/403/CFSP on the observation of the elections of the Palestinian Council, OJ L238 06/10/95
- **25 November 1996**, **Joint Action 96/676/CFSP** on the designation of a Special Envoy of the EU for the MEPP, OJ L238 06/10/95
- **29 April 1997**, **Joint Action 97/289/CFSP** - on the creation of an assistance programme of the EU to support the Palestinian Authority in its efforts to control terrorist actions originating in the territories under its control, OJ L120 12/05/97
- **22 July 1997**, **Joint Action 97/475/CFSP** – extension of mandate of Special Envoy, OJ L205 31/07/97
- **26 October 1998**, **Joint Action 98/608/CFSP** – extension of mandate of Special Envoy, OJ L290 29/10/98
- **06 July 1999**, **Joint Action 99/440/CFSP** extending Joint Action 97/289/CFSP, OJ L326 18/12/99
- **11 October 1999**, **Joint Action 99/664/CFSP** – modification of mandate of Special Envoy and correction, OJ L264 12/10/99; OJ L021 26/01/00
- **16 December 1999**, **Joint Action 99/843/CFSP** – amendment of mandate of Special Envoy, OJ L326 18/12/99
- **13 April 2000**, **Joint Action 00/298/CFSP** - modifying Joint Action 97/289/CFSP, OJ L097 19/04/00, p.4
- **19 June 2000**, **Common Strategy 00/458/CFSP** – on the Mediterranean region, OJ L185 22/07/00, pp.5-11
- **14 December 2000**, **Joint Action 00/794/CFSP** – repeal of Joint Action 96/676/CFSP, providing a more coherent text regarding the role and re-appointing him as Special *Representative* in accordance with the Amsterdam Treaty, OJ L318 16/12/00, p18

³²⁹ Middle East Peace Process

BIBLIOGRAPHY

Books

David ALLEN and Michael SMITH, Annual Review of the European Union, Blackwells, Edwards and Wiessala 1997-1998, Blackstone's, tenth edition, 1998

David ALLEN and Michael SMITH, Annual Review of the European Union, 1998-1999

Nigel FOSTER, *EC Legislation* 1999-2000, Blackstone's, tenth edition, 1999

Zbigniew BRZEZINSKY, *Le grand échiquier : l'Amérique et le reste du monde*, éditions Bayard, 1997

Mary Jane DAVIS, ed. *Politics in the Middle East: Continuity and Change*, Edward Elgar Aldershot, UK, Brookfield, US 1995

Jean Christophe RUFIN, *Mondes rebelles*, éditions Michalon, 1999

Robert TOULEMON, *La Construction Européenne*, Livre de poche, Editions de Fallois, 1999, p271:

Articles

Rafaa BEN ACHOUR, 'L'Accord Israélo-Palestinien du 13 septembre 1993,' Revue générale du droit international public, No.2 1994 p345

Khader BICHARA, 'Israel et l'avenir du dialogue euro-arabe,' Revue française d'études politiques, 11 November 1985, pp27-35

Jimmy CARTER, 'For Israel, Land or Peace,' The Washington Post, 26 November 2000

Thomas DUPLO: 'The role of the European Community, economic aspects of political settlement in the Middle East,' 18-21 April 1990, V.U. University Press, Amsterdam 181, pp181-184

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001.'

Phillipes FARGUES, 'Démographie de guerre, démographie de paix,' in Ghassan Salamé, *Proche Orient, les exigences de la paix*, éd. Complexe, Paris, 1994

Delphine FENASSE, '*L'Union européenne et l'Autorité palestinienne*,' Mémoire DEA, Université Paris V (Malakoff) 1999

Philip H. GORDON, *The Transatlantic Allies and the Changing Middle East*, Adelphi Paper No. 322, International Institute for Strategic Studies (Oxford and New York: OUP, 1998) and Pedro Moya (Rapporteur)

Fadi S. HAKURA, 'The Euro-Mediterranean Policy: The Implications of the Barcelona Declaration,' CMLR 34 1997, p337

Christian HEYNOLD, 'Le Silence de l'Europe: Combien d'Euros vaut-il?' in *Confluences Méditerranées* No. 37 Spring 2001: 'Le Processus de Paix au Proche-Orient'

Ferdinand KINSKY, 'De la Communauté à la fédération européenne,' *Presses d'Europe* No 277, printemps 1990

Ruth LAPIDOTH, 'The EU, Jerusalem and the Peace Process,' 1999

Ian O. LESSER, *Mediterranean Security: New Perspectives and Implications for US Policy*, RAND Report R-4178-AF, Rand: Santa Monica, California, 1992, p.8.

Samuel W. LEWIS, 'The US and Israel – Evolution of an Unwritten Alliance,' *Middle East Journal* Vol53, No.3, p364

Yohanon MANOR, '*Europe's inability to ensure that its financial support serves the cause of peace*,' Newsletter April 2001 CMIP

C. MANSOUR, 'Un an de négociations palestino-israéliennes,' *Révue d'Etudes palestiniennes* No.48, Été 1993, pp.03-33

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001.'

Kenneth B. MOSS, 'Europe, the Mediterranean, and the Middle East.' MERIA Journal Vol.4, No.1 – March 2000

Claude NIGOUL: 'Le Contrôle des Intérêts Nationaux dans la mise en oeuvre de la Politique Etrangère de Sécurité Somme,' 1999

Glenn E. ROBINSON, 'Palestine after Arafat,' The Washington Quarterly, Autumn 2000

Gerald STEINBERG, 'The European Union and the Middle East Peace Process,' Jerusalem Center for Public Affairs No. 418, 6 Kislev 5760 / 15 November 1999

Shibley TELHAMI, 'From Camp David to Wye: Changing Assumptions in Arab-Israeli Negotiations,' MEJ Volume 53, Summer 1999, p.379

A. TOVIAS, 'Israel and the Barcelona Process,' EUROMESCO Paper, October 1998

William ZARTMANN and Saadia TOUVAL 'International Mediation in the Post-Cold War Era,' in *Managing Global Chaos*, eds. Chester Crocker, Fen Hampson and Pamela Aall (Washington D.C: United States Institute of Peace Press, 1996) pp445-461, cited by Tanya GLASER, Conflict Research Consortium (<http://www.crc.colorado.edu>)

Reports (non-EU) and news articles

International IDEA Lessons learnt: international election observation, Stockholm 1995

UN Electoral Assistance Division, Coordination and Support of International Observers, draft operational guidelines, New York 1996

'L'Union Européenne et ses partenaires Méditerranéens,' Supplément – L'Europe sans frontières, no. 10, 1997

Alison Lamont, 'A Decade of European Peace-Building Efforts in the Israeli-Palestinian Conflict: 1991-2001.'

'Security in the Greater Middle East,' Committee Report of the Mediterranean Special Group, North Atlantic Assembly, November 1998

PA Ministry of Planning and International Cooperation, Third Quarterly Monitoring Report on Donors' Assistance, 1999

The Economist Intelligence Unit: 'Country Profile, Israel/ The Occupied Territories,' 1999-2000

UK Foreign and Commonwealth Office Research and Analytical Paper, Middle East and North Africa Research Group, 'Water in the Middle East Peace Process,' London, May 2000

The Economist, 16 December 2000, 'The European Union's summit in Nice gave a foretaste of the power struggles to come as the EU prepares for enlargement.'

Clinton's Departure, Intifada, and Israeli Elections signal new phase in diplomacy,' Foundation for Middle East Peace Report January-February 2001, Vol.11 No.1

EU Reports, Legislation, Communications and Speeches

in chronological order

Cf also Annex VII for list of CFSP actions consulted. Treaty articles derived from Nigel FOSTER, EC Legislation 1999-2000, Blackstone's, tenth edition, 1999

Council Decision 91/408/EEC, OJ L227, 15 August 1991, pp.0033-0035 : *On financial aid for Israel and the Occupied Territories*

Council Regulation No. 1734/94 Regulating EU Washington Donors' Conference pledge 1993-1997

Communication on Strengthening the Euro-Mediterranean Policy COM (94) 427, 19 October 1994, pp.08 and 18

Communication on Proposals for Implementing the Euro-Mediterranean Policy COM (95) 72, 08 March 1995

Communication from the Commission to Council and Parliament on the Future of EU Economic Assistance to the West Bank and Gaza Strip, 19 September 1996

European Foreign Affairs Review, (1996) at p.125 (Documents Section)

Regulation 1488/96 (O.J. 1996, L 198/1): the 'MEDA' Regulation

European Commission for EC Aid Population Division-Department for Economic and Social Information and Policy Analysis of the United Nations Secretariat – 1996 'World Population prospects: the 1996 Revision.'

Communication from the Commission to Council and Parliament on Future European Union Economic Assistance to the West Bank and Gaza Strip, 19 September 1996

EUROMESCO Report 1997-1998, '*Examining the relations between the EU and its partners, as well as the perspectives opened by the Euro-Mediterranean Partnership, established in Barcelona in November 1995 in the fields of politics and security,*' p.3

Middle East EU Human Rights Watch Report on the Occupied Territories, 21 September 1999 for the period of 01 February – 15 June 1999

Justification for the transfer of appropriation No 53A/99 (1999 Notenboom Procedure), SEC (1999) 1608 final, p.26

Marin Report: 'The Role of the European Union in the Peace Process and its future assistance to the Middle East,' Communication of 26 January 1998, COM (97) 715

Council Regulation (EC) No 976/1999 of 29 April 1999: the requirements for the implementation of development co-operation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms, Official Journal L120, 08/05/1999, p1

Council Regulation (EC) No 976/1999 of 29 April 1999: the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms, Official Journal L 120, 08/05/1999, p8

Chris PATTEN Speech 99/123 on the Middle East Peace Process at the European Parliament Plenary Session – Strasbourg, 06 October 1999

Chris PATTEN Speech 00/12 on the Middle East Peace Process at the European Parliament, Strasbourg, 19 January 2000

EUROMED Report Issue No. 08, 04 April 2000: 'The European Union's External Policy and the Mediterranean,' Speech by the Rt. Hon. Christopher Patten, European Commissioner for External Relations

Communication from the Commission on EU Electoral Assistance and Observation, 11 April 2000, COM(2000)191 final

'Country Profiles': Bilateral relations between the EU and the Mediterranean Partners,' November 2000, p.9 – EU-Israel relations.

'Country Profiles': Bilateral relations between the EU and the Mediterranean Partners,' November 2000, p32, EU-West Bank/Gaza Strip (Palestinian Authority) relations.

European Commission's Annual Report on Humanitarian Aid 1999 Brussels 01 December 2000; COM (2000) 784 *final*

Chris PATTEN speech 01/49 in the context of the Joint debate on a common strategy for the Mediterranean and reinvigorating the Barcelona process, 31 January 2001

Court of Auditors' Special Report No. 19/2000 on the Management by the Commission of the programme of assistance to Palestinian society, together with the Commission's replies OJ C032, 31 January 2001 at pp12-14

Special Report No.19/2000 on the management by the Commission of the programme of assistance to Palestinian society, together with the Commission's replies, 31 January 2001, pursuant to Article 248(4) second subparagraph of the EC Treaty (2001/C32/01)

Country Strategy Paper (West Bank and Gaza Strip) 2000-2006, ECRO:
<http://www.delwbg.cec.eu.int/strgey1.htm>

Internet sites consulted

<http://www.euromesco.net> (Euro-Mediterranean Study Commission)

<http://www.fco.gov.uk> (UK Government Foreign & Commonwealth Office)

http://www.europa.eu.int/comm/external_relations/med_mideast/mideast-peace-process/docs_links.htm for relevant EU documents & declarations (including Venice and Berlin), UN Resolutions, position of the European Commission, relevant speeches

<http://fmep.org/> (Foundation for Middle East Peace – FMEP) – NGO giving information on the peace process and colonies.

http://www.house.gov/international_relations/ (House of Representatives, US)

<http://www.ipcri.org> (Israel/Palestine Centre for Research and Information)

<http://www.un.org/unrwa/> (United Nations Relief and Works Agency for Palestinian refugees)

<http://www.usrom.com> (US Report on the Middle East)