

***EU Civil Missions in the
Palestinian Territories:
Frustrated Reform and
Suspended Security***

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LIST OF ACRONYMS

AMA	Agreement on Movement and Access
CFSP	Common Foreign and Security Policy
COPP	Coordinating Committee for International Assistance to the Palestinian Police Force
ESDP	European Security and Defence Policy
EC	European Commission
EU	European Union
EU BAM Rafah	EU Border Assistance Mission at Rafah Crossing Point
EUPOL-COPPS	EU Police Mission in the Palestinian Territories
EUCOPPS	EU Coordinating Office for Palestinian Police Support
Fatah	Palestinian National Liberation Movement
Hamas	Palestinian “Islamic Resistance Movement”
Hizballah	Lebanese “Party of God”
Gol	Government of Israel
IAF	Israeli Air Force
IDF	Israel Defense Forces
IMG	International Management Group
MAEC	Spanish Ministry of Foreign Affairs and Cooperation
PA	Palestinian National Authority
PASSIA	Palestinian Academic Society for the Study of International Affairs
PCPDP	Palestinian Civil Police Development Programme
PECDAR	Palestinian Economic Council for Development and Reconstruction
PG	Presidential Guard
PIJ	Palestine Islamic Jihad
PLO	Palestinian Liberation Organization
PRC	Palestinian Resistance Committee
PSS	Preventive Security Service Force
RCP	Rafah Crossing Point
SSR	Security Sector Reform
TIPH	Temporary International Presence in the City of Hebron
UNDP/PAPP	United Nations Development Programme – Programme of Assistance to the Palestinian People
US	United States of America
USSC	United States Security Coordinator

SUMMARY

Since the Israeli disengagement from the Gaza Strip in August-September 2005, the European Union has launched two civilian missions to enhance security in the Palestinian territories. The EU Border Assistance Mission (EU BAM-Rafah) established a precedent for its ability to deploy rapidly in November 2005 upon invitation from the Government of Israel and the Palestinian National Authority to monitor the Rafah Crossing Point on the Gaza-Egypt border. The other objectives, however, of the Agreement on Movement and Access have yet to be implemented. The EU Police Mission (EUPOL-COPPS) went into effect in January 2006 to train and advise the Palestinian civil police. The mission has a longer background and a larger mandate, but has been equally confronted to external and internal obstacles which severely thwart proper implementation.

The two missions initially produced positive results. EU BAM-Rafah substantially increased the passage of persons between Egypt and Gaza; and EUPOL-COPPS commenced refurbishing the Jericho Training Center. However, the electoral victory of the Islamic Resistance Movement (Hamas) and the subsequent conditions imposed by Israel and international actors led to the retention of foreign donor funds and custom revenues destined to the PA, as well as the boycott of diplomatic contact with the new PA government. As political and financial conditions aggravated the transition of power for Hamas, open hostilities erupted between Israel and the Palestinians, which caused the temporary and current suspension of both EU mission activities.

EU mission activities are meant to be coordinated with the United States Security Coordinator (USSC) to facilitate Palestinian security sector reform (SSR). This report demonstrates, however, that the US and EU have adopted different approaches de SSR, which do not necessarily coincide. Whereas the US propounds a *restructurist* tactic supporting the PA Presidential Guard, the EU supports a *reformist* method to gradually change the Palestinian political system. The lack of coordination between the EU and US approaches, coupled with Israeli reservations, has not been particularly productive in bringing about substantial Palestinian security sector reform.

The two EU civilian missions have, nonetheless, maintained their presence *in situ*, which permits the possibility for positive developments. The EU could take the lull in mission activity as an opportunity to create a direct funding mechanism to EU BAM-Rafah and EUPOL-COPPS to renew much-needed material and equipment, as well as consider deploying a rapid response military mission to provide security to Israelis and Palestinians alike along the Gaza-Israel border. The EU has the operational capability to deploy a "Battle Group", comprising of 1,500 soldiers. Contributing qualitatively to the Headline Goal 2010, this recommended and possible EU "Battle Group" deployment would increase the third party role and visibility of EU efforts in the Palestinian-Israeli conflict, and increase the effectiveness of the two EU civilian missions in the Palestinian territories.

RECOMMENDATIONS

To the Government of Israel:

- Cease offensive operations in the Gaza Strip, and allow international diplomacy to go into effect.
- Facilitate the implementation of the two EU missions by permitting diplomatic accreditation to all staff members.
- Assist in thwarting the Palestinian arms race by detaining vehicles destined to the PA Presidential Guard and by prohibiting the traffic of arms from Jordan.
- Re-open the EU BAM-Rafah liaison office at Kerem Shalom to ensure the effective passage of people and goods at the Rafah Crossing Point.
- Transfer complete sovereign responsibility to the Egyptians and Palestinians operating the Rafah Crossing Point, located on the Egyptian-Gaza Strip border.
- Release unconditionally the arrested PA ministers and parliamentarians, as well as the 64 detained civil servants considered affiliated with the Hamas-led PA.
- Recognize the motion from Hamas to establish a long-term truce conditioned upon a final status settlement.
- Exchange Palestinian and Lebanese prisoners for the Israeli soldier detained by Hamas and the two Israeli soldiers captured by Hizballah.

To the European Union:

- Maintain the EU presence in the Palestinian territories via the two civilian missions, and improve facilities by renewing material, thus increasing mission effectiveness and ameliorating staff security.
- Expand the Temporary International Mechanism (TIM) to fund a wider spectrum of public sector salaries, thus creating less Palestinian resentment and more popular incentive for reform.
- Implement a direct fund to both EU missions to finance the renewal of material and equipment, thus ensuring the proper and immediate resumption of mission activity upon the cessation of hostilities. This fund may be open to international donors to assist in financing the two EU civilian missions.
- Open diplomatic dialogue, via the EU Special Representative to the Middle East Peace Process (MEPP), with the current PA government to create an incentive for the emergence of a national unity government that would be willing to abide by the parameters of a long-term truce and willing to incorporate the various militias within a unified Palestinian security force.
- Deploy a Gaza-Israeli military border mission. An initial “Battle Group” (1,500 soldiers) would provide basic security along the border, thus preventing the eruption of cross-border violence, and the subsequent spiral of reprisals between the warring parties. The military mission would facilitate Israeli-Palestinian security coordination, and would also create the possibility for the EU BAM-Rafah to expand its civilian capacity to the other Gaza-Israel crossings as well as to the “safe passage” between the Gaza Strip and the West Bank.

To the United States of America:

- Re-direct explicit funding for the PA Presidential Guard to more general efforts at security sector reform. This re-orientation of financial and military aid will avoid creating another Palestinian militia, and thus avoid the possibility of civil strife with other militant groups competing for political power. This will also assist in de-politicizing Palestinian factional competition for providing security.
- Re-engage direct coordination, via the US Security Coordinator, with the two EU civilian missions. Instead of *re-structuring* the security services with the augmentation of the Presidential Guard, a more coordinated US-EU effort to *reforming* the security sector, including the judicial system, could still create more durable and stable security for Palestinians and Israelis alike.
- Re-apply Israeli-Palestinian coordination for border security, namely the Gaza Strip, conditioned upon the simultaneous step to instate cooperative security in the West Bank and East Jerusalem. To ensure a higher sense of Israeli security, this would be based on the condition that Palestinian militias must be incorporated within the Palestinian security forces.
- These steps comply with the G8 statement (St. Petersburg, 16 July 2006) “to ensure that the Palestinian security forces comply with Palestinian law and with the Roadmap, so that they are *unified and effective in providing security for the Palestinian people*” (italics added).

To EUPOL-COPPS:

- Finish the construction at the Jericho Training Center to allow proper training facilities and courses to begin.
- Continue recognizance work to broaden security sector reform, including workshops for the criminal justice reform. These workshops could lead to the consolidation of a single Palestinian Basic Law, supervised and advised by a complementary EU civilian mission, bridging the gap between police and law, and thus expanding the third party role of the EU.
 - **Rule of Law Workshops:**
- Develop guidelines for criminal detention, including a mandatory course for the civil police on the rules of conduct.
- Institutionalize the process of inter-professional training between the civil police detention and criminal justice prosecution.
- Unify the Palestinian Penal Code, thus homogenizing the divergent legal systems between the West Bank and the Gaza Strip.
- Revise the Police Basic Law to include regulations for the functioning of the civil police and for the incorporation of militias, which would improve the possibilities for a unified Palestinian security force.

To EU BAM-Rafah:

- Due to the initial success of EU BAM-Rafah in setting a positive precedent for third party monitoring, the mission could still augment the capacity of the Rafah Crossing Point (RCP) to increase the passage of people and goods, as well as including a car scanner, such as at the Erez Crossing, for the passage of vehicles. This will help relieve the deteriorating humanitarian conditions in the Gaza Strip and eventually would reinvigorate economic development.
- Exert further pressure, via EU institutions, to implement the unfulfilled points to the Agreement on Movement and Access (AMA), most notably, the opening of a “safe passage” between the Gaza Strip and the West Bank, the dissolution of Israeli checkpoints in the West Bank, the construction of the Gaza sea port and the refurbishing of the Rafah International Airport.
- To increase the EU presence and effectiveness in the Palestinian territories, the steps of the AMA need to be fulfilled. The two EU missions could thus expand their mandate to enhance, which could spur economic development in the Palestinian territories. Substantial development will moderate the more radical factions of Palestinian society and will diminish the incentive for popular support of the armed resistance, thus providing incremental security to Israel.

To the Islamic Resistance Movement (Hamas):

- Renew the call for a long-term truce with the Government of Israel, with the understanding that a final status agreement is subject to negotiations, including the 1967 borders, the status of Jerusalem, and the return of refugees.
- Refrain from breaking talks with the PA President to create a national unity government, thus further splitting loyalties along factional lines, and increasing the possibility for internal Palestinian strife.
- Push for a clear division of executive, legislative and judicial powers along the democratic lines acquired through the elections, thus establishing the basis for a viable state for the benefit of the Palestinian people.
- Disband the militant wing, the Izz al-Din al-Qassam Brigades, on the condition that other militias, such as Saraya al-Quds of the Palestinian Islamic Jihad and the Presidential Guard, also unify in a single Palestinian security force.

To the Palestinian (National) Authority President:

- Apply restraint in augmenting the military status of the Presidential Guard, thus avoiding the emergence of another Palestinian militia and recognizing the democratic legitimacy acquired by Hamas.
- Remain receptive to proposals from the democratically elected PA Parliament to create a national unity coalition government.
- Persist in pushing for international support, and possible third party intervention, for final status negotiations with Israel.

To the Arab League:

- Reengage in resolving the conflict by diplomatically sponsoring a long-term truce with the Government of Israel, based upon the recognized Saudi initiative at the 2002 Arab League Summit in Beirut, Lebanon.

I. BACKGROUND

The Political Context

The Palestinian legislative election on 25 January 2006 was deemed democratic.¹ However, international recognition of Hamas' electoral victory quickly became contingent upon whether or not Hamas acquiesced to three conditions demanded by Israel: (1) recognizing Israel's right to exist, (2) renouncing the means of violence, and (3) accepting all previous agreements between Israel and the PA. Reinforced by the electoral victory, the popular recognition acquired by Hamas for having resisted the Israeli occupation did not realistically permit the new PA government to comply immediately. Thus, Israel sought international support to apply increasing pressure. The subsequent financial sanctions and diplomatic embargo further ostracized Hamas and aggravated the political transition from a social movement to a responsible government. As Hamas showed few signs of explicit compliance, a chain of events ensued, leading to open hostilities between Israel and the Palestinians, as well as between Palestinian factions.

As Hamas consolidated the new PA government cabinet on 29 March 2006, the PA President Mahmoud Abbas, also leader of the National Liberation Movement (Fatah) and the Palestinian Liberation Organization (PLO), refused to relinquish political power, and thus impeded a comprehensive transition of power for the Hamas-led PA government and parliament. Hamas accepted, nonetheless, that President Abbas remain the primary negotiator with Israel along the lines of the Quartet Roadmap. Buttressed by international and Israeli support, Abbas' persistence in controlling the security forces largely contributed to igniting the internal power struggle between Hamas and Fatah.²

Despite the lack of an independent state, the factional competition for the Weberian "*staatliches gewaltmonopol*" ("state monopoly of violence") led to internal Palestinian fighting. As the Palestinian power struggle gained momentum, Fatah began recruiting and equipping the Preventive Security Forces (PSS), and foreign support increasingly directed its financial attention to augmenting the presence of the Presidential Guard (PG) "with the ultimate goal of a 10,000 strong force".³ As violence erupted in the streets of Gaza, Hamas deployed 3,000 members of the Popular Resistance Committee (PRC) to provide law and order. When sporadic clashes persisted and casualties mounted, Egypt augmented diplomatic efforts and convinced Hamas "to withdraw the 3,000-member force from public view".⁴ Attacks on the Palestinian Legislative Council (PLC) and other retaliatory acts of aggression continued and caused deadly armed outbursts between Fatah's military wing, al-Aqsa Martyrs Brigades, and Hamas' Izz al-Din al-Qassam Brigades.⁵

As Fatah and Hamas continued clashing for the control of the security forces, the US

¹ Nicoletta Pirozzi, "Building Security in the Palestinian Territories", International Security Information Service (ISIS), European Security Review, N°28, February 2006, p.5: "A 172-strong EU Election Observation Missions, headed by MEP Veronique de Keyser, covering the 16 electoral districts in the West Bank and Gaza, conducted an impartial and informed assessment of the recent Palestinian legislative election. The Mission's conclusion that the election was conducted properly means that the EU has to respect the result".

² ICG, "Palestinians, Israel and the Quartet: Pulling Back from the Brink", Middle East Report, N°54, 13 June 2006.

³ Ze'ev Schiff, "PA chief Abbas aims to expand presidential guard to 10,000 men", *Haaretz*, 28 May 2006.

⁴ Avi Issacharof, "Hamas agrees to pull militia from public areas", *Haaretz*, 8 June 2006.

⁵ "Serious Escalation in Tensions between Fatah and Hamas in the Gaza Strip and the West Bank", Palestinian Center for Human Rights (PCHR), Press Release, 13 June 2006.

Security Coordinator openly supported the emergence of the PG, which could have the potential to confront and eventually supplant both factional militias. Embroiled within the internal power struggle, Hamas, like Fatah previously, could not control more radical groups, such as the Palestine Islamic Jihad (PIJ), which persisted in launching make-shift rockets into Israel. The decision taken by Israeli Defense Minister Amir Peretz to target all Palestinian activists, directly implicated Israel in undermining Hamas' efforts to create a "monopoly of force". Engaged in an internal power struggle with Fatah, additional Israeli attacks on Hamas thus appeared to intentionally buttress the PA President and his guard.

A Controversial Catalyst

On 5 June 2006, the Israeli Air Force (IAF) killed two members of the Hamas-backed PRC.⁶ A few days later, the IAF killed Jamal Abu Samhadana in a PRC training camp near Khan Younis in southern Gaza.⁷ Then on 8 June, the Israeli Navy fired "successive artillery shells at civilians on the beach in the Waha area" in the north of the Gaza Strip.⁸ The death of Abu Samhadana, who had been appointed head of the PRC by Saeed Siyyam, the new PA Minister of Interior, and the naval shelling led in large part to terminating the truce. On 10 June, Hamas responded by firing a "barrage of homemade ["Qassam"] rockets at Israel", thus officially ending the 16-month truce that Hamas had respected since 8 February 2005 when Mahmoud Abbas had negotiated a cease-fire with former Israeli Prime Minister, Ariel Sharon, in Sharm al-Sheikh, Egypt.⁹ Avenging the death of Abu Samhadana and responding to the Israeli shelling, PRC militants emerged from a tunnel on 25 June, killing two Israeli soldiers and capturing another at Kerem Shalom Crossing. Israel deployed tanks and, for the first time since the Israeli disengagement in August/September 2005, re-entered the Gaza Strip.

Implications and Outcomes

The Israeli re-engagement in the Gaza Strip implied both a large-scale military retaliation and a political reappraisal of Olmert's "convergence" plan in the West Bank. Concerning the first implication, Haim Ramon, the Israeli Justice Minister announced: "We have no intention of negotiating with Hamas. We demand that the Palestinian Authority return the kidnapped soldier so we do not have to take very harsh and painful measures".¹⁰ Imitating the tactic used by the Lebanese Party of God (Hizballah), Hamas refused to release the soldier and demanded the return of all Palestinian women and youth under 18 held in Israeli prisons.¹¹ Israel answered by bombing bridges connecting the Gaza Strip, as well as destroying the electricity plant, thus cutting over 50 per cent of energy to the Palestinians.

Following the Palestinian operation at the Kerem Shalom Crossing, Israel immediately

⁶ PCHR, Press Release, "Two Palestinians Extra-Judicially Executed by IOF in Jabalya", 6 June 2006.

⁷ "Israeli air strike kills Gaza official", *Al-Jazeera*, 8 June 2006. Abu Samhadana was among the most wanted Palestinians by Israel for "organizing rocket attacks and ordering an attack on an American diplomatic convoy in 2003". He survived a number of previous assassination attempts, having been injured on such an attempt on 9 December 2004. Steven Erlanger, "Israeli Airstrike Kills High Hamas Commander", *New York Times*, 9 June 2006. "Israel mata en un ataque aéreo al jefe de seguridad del Gobierno de Hamás", *El País*, 9 June 2006.

⁸ PCHR, Press Release, "Serious Escalation in Israeli Attacks: 14 Palestinians killed in past 24 hours in the Gaza Strip", 10 June 2006.

⁹ Steven Erlanger, "Hamas Fires Rockets at Israel After Calling Off Truce", *New York Times*, 10 June 2006.

¹⁰ Steven Erlanger, "Tensions Rise After Israeli is Kidnapped", *New York Times*, 26 June 2006.

¹¹ The number of Palestinian and Lebanese prisoners detained in Israeli prisons has climbed to 10,073. Juan Miguel Muñoz, "Hamás lanza cohetes Kassam contra Israel desde Gaza", *El País*, 1 August 2006.

closed all crossing points, including the Rafah Crossing Point, thus prohibiting the passage of people and goods entering or leaving the Gaza Strip, leading to deteriorating humanitarian conditions. In the West Bank, Israel kidnapped the deputy Prime Minister and other ministers and parliamentarians of the new Hamas-led PA, as well as detaining 64 civil servants affiliated with Hamas. They were all removed from their homes in East Jerusalem and Ramallah during the night of 28 June 2006 and detained at the Ofra prison.¹² The physical closure and continuous bombardment of the Gaza Strip have led to increasingly difficult humanitarian conditions, and have also targeted the Hamas government infrastructure, such as the Ministry of Interior and of Foreign Affairs, as well as the PA Prime Minister's office. The intentional Israeli targeting of Hamas could insinuate that Israel may prefer to see the new PA government collapse. However, the persistent attempts to overthrow the new PA have, thus far, backfired and popular support for Hamas has increased.

The second implication of the Israeli Defense Force (IDF) "Operation Summer Rains" in the Gaza Strip was to sideline Olmert's "convergence" plan in the West Bank.¹³ The *hiktansut* "convergence" plan is fundamentally a continuation of Sharon's dismantling of Jewish settlements and military withdrawal from the Gaza Strip. Adopting the policy of unilateralism as an integral part of his election campaign, Olmert's proposal was to incorporate smaller, more isolated Jewish settlements within the larger Israeli blocks in the West Bank. When the coalition party, created by Sharon and called *Kadima* "Forwards", won on 29 March 2006, Olmert had obtained general approval for the next step in pursuing unilateral peace with the Palestinians. The ensuing question was how to carry out the plan, because a massive disengagement from the West Bank would require unprecedented international financial support and coordination with the Palestinians.¹⁴

In tandem with the sidelining of Olmert's "convergence" plan, the Israeli retaliation for the Kerem Shalom operation also coincided with the beginning of a breakthrough in creating a national unity government. Just prior to the kidnapping of the Israeli soldier on 25 June 2006, the PA Prime Minister, Ismail Haniyyeh, and the PA President, Mahmoud Abbas, agreed on the National Conciliation Document, stemming from the prisoner's covenant, which affirmed the consolidation of a Palestinian state in the whole territory occupied by Israel after the June 1967 war. This point implied a two-state solution and an implicit recognition of Israel's existence, which is deemed anathema to the Palestinian cause by the outside Hamas leadership of Khaled Meshaal in Damascus. Any agreement between Fatah and Hamas recognizing the existence of Israel is also perceived as a threat to Hamas' external allies, Iran and Syria, which would weaken their strategic position in the Middle East.

Since Haniyyeh claimed complete ignorance of the Israeli soldier abduction, the operation was considered to be ordered by the outside Hamas leadership in coordination with the internal desire for revenge from the radical fringe of the Hamas-backed PRC. The militant operation was perceived as a political act of staunch opposition to the emergence of a national unity government, comprising of Hamas and Fatah elements, with the ability to negotiate with Israel. This coalition is thus seen as diminishing the

¹² Steven Erlanger, "Seizures Show New Israel Line Against Hamas", *New York Times*, 30 June 2006. Ironically, the Ofra settlement is one of the larger in the West Bank and home to the more radical Zionist-settler movement, Gush Emunim.

¹³ Aluf Benn, "Kerem Shalom attack sidelines convergence plan", *Haaretz*, 26 June 2006.

¹⁴ Shlomo Ben-Ami, "The Impact of the Elections in Israel-Palestine", CITpax, Proceedings and Conclusions, N°3, Madrid, 28 April 2006.

militant resistance groups' *raison d'être*, which would be terminally reduced by the eventual inclusion of militias within a unified security force. However, whether rejected unanimously from the outside leadership or independently from internal militias, the operation effectively provided Israel with the opportunity to respond belligerently. The IDF retaliation revamped the Palestinian cause and postponed the possibility of a political coalition and the consolidation of militias. And responding to the continuous IDF bombardment and siege of the Gaza Strip, the hostilities spread violently, and not so unexpectedly, to the West Bank and Lebanon.

Claiming solidarity with the Palestinian cause and perceived as promoting the interests of Syria and Iran in the Middle East, Hizballah captured two Israeli soldiers, killed three, and wounded two others, on 12 July 2006.¹⁵ Foregoing the option of a prisoner swap with Hizballah, Israel launched "Operation Just Reward", which aimed explicitly to recuperate the soldiers and implicitly to eliminate the military threat of Hizballah, thus diminishing the Syria-Iran axis of influence in the Middle East. The aerial Israeli retaliation caused large-scale destruction in Lebanon, but the deployment of thousands of IDF troops did not defeat Hizballah in southern Lebanon. Nonetheless, in an attempt to create a buffer zone against the launching of Katyusha missiles, the IDF intended to secure a "strip inside southern Lebanon with ground troops until an international force could take its place".¹⁶ Both fronts of the war waged by Israel against Hamas in the Palestinian territories and Hizballah in Lebanon now require third party intervention.

A Third Party Alternative

Historically adverse to a third party role, spurning "foreign forces as unreliable and likely to be biased against Israeli interests", Israel is increasingly receptive to foreign intervention. Prime Minister, Ehud Olmert, suggested that the international force could be made up of soldiers from both European and Arab states, while Defense Minister, Amir Peretz, proposed soldiers from NATO countries.¹⁷ However, a NATO force would be perceived as sponsored by the US, and thus may not be received well by neighboring Arab-Muslim nations.¹⁸ UN legitimacy was severely eroded in the Middle East by the 2003 Iraq War, which may not permit a UN peace-keeping mission to be taken seriously by local players. The IDF bombardment of the UN Interim Force in Lebanon (UNIFIL) on 24-25 July 2006, resulting in the death of four UNIFIL members, seems to confirm this lack of respect for the UN. According to *Haaretz*, the "accidental" targeting of UN bases is an Israeli tactic to "reduce countries' willingness to contribute units" and thus delay the deployment of a multinational force.¹⁹ The EU, nonetheless, has the political weight and the military power to provide a viable third party alternative.

¹⁵ Official website of the Israeli Ministry of Foreign Affairs (MFA): <http://www.mfa.gov.il/mfa>; Philip Gordon & Kenneth Pollack, "The Iranian Calculus", *Wall Street Journal*, 3 August 2006: "the timing of the kidnapping was awfully suspicious – coming just before the Western powers were about to call Iran before the U.N. Security Council over its refusal to accept the West's nuclear offer". Hizballah is thus perceived partly as Tehran's pawn acting to ignite a proxy-war for Iran with Israel and the US. However, Hizballah also acts independently to maintain its popular appeal, and uses the Sheba' Farms as an excuse to continue armed resistance. Syria, not surprisingly, agrees that the Sheba' Farms are Lebanese, and not Syrian territory. In either case, the prolongation of the IDF in southern Lebanon is seen as Israel falling into the Iranian trap. (See Jean Daniel, "Israël dans le piège iranien", *Le Nouvel Observateur*, 3-9 August 2006, pp.22-23). While the US vetoed a UNSC Resolution calling for a cessation of hostilities in the Gaza Strip, the UNSC Resolution 1696 was passed nonetheless on 31 July 2006 with a majority of 14-1, demanding Iran – unlikely to comply – to "suspend uranium enrichment by 31 August", see UNSC/8792: <http://www.un.org/News/Press/docs/2006/sc8792.doc.htm>

¹⁶ Greg Myre and Helene Cooper, "Israel to Occupy Area of Lebanon as Security Zone", *New York Times*, 26 July 2006.

¹⁷ Steven Erlanger, "Weighing Foreign Forces: Sea Change for Israel", *New York Times*, 24 July 2006. Elaine Sciolino and Steven Erlanger, "No Troop Commitments for Lebanon", *New York Times*, 25 July 2006.

¹⁸ MEMRI, Special Dispatch Series, N°1215, 27 July 2006. Iranian Expediency Council Secretary Mohsen Rezai: "Deploying NATO means the occupation of Lebanon (...) NATO is not a peacekeeping force. NATO is an army. (...) and it has problems with China and the Islamic world".

¹⁹ The previous IDF bombardment of the UN Headquarters in Qana, Lebanon, in 1996 is a more dramatic example, where over 100 Lebanese civilians were killed by IDF shelling. "Only after a clear success", *Haaretz Editorial*, 27 July 2006.

Though circumstances demand the immediate deployment of a multinational force comprising of trained and experienced soldiers to impose order and security in southern Lebanon, the deployment of an initial EU “Battle Group” could also be envisioned to provide security along the Gaza-Israel border.²⁰ As the question of Palestine remains pivotal to peace in the Middle East, a “wise Israeli proposal” to establish a cease-fire in Gaza and a subsequent long-term truce with the Palestinians could resolve the two-front war.²¹ Supported by a UN Security Council Resolution, the EU multinational military force would enforce previous resolutions, maintain the truce, permit the emergence of a national PA unity government, and increase the effectiveness of the two EU civilian missions present in the Palestinian territories.

Madrid, August 2006

²⁰ See CITpax, Middle East, Special Report, N° 2, *A Third Party Alternative*, Winter 2006-2007.

²¹ David Grossman, “Mistaken path”, *Yedioth Ahronoth*, 26 July 2006.

II. MISSION INFORMATION: HIGHLIGHTS

Though circumstances on the ground have suspended EU civilian mission activities, both EUPOL-COPPS and EU BAM-Rafah remain present in the Palestinian territories. The two EU missions share basic common characteristics. Both missions pertain to the framework and operations of the European Security and Defence Policy (ESDP) and respond to the guidance of the High Representative of the ESDP, Javier Solana, via the EU Special Representative (EUSR) for the Middle East Peace Process (MEPP), Marc Otte, and thus apply to the EU Common Foreign and Security Policy (CFSP).²² Both Heads of Mission, respectively Jonathan Mclvor for EUPOL-COPPS and Pietro Pistolese for EU BAM-Rafah coordinate their efforts with the United States Security Coordinator (USSC), currently US General Keith W. Dayton. Both missions also comprise of unarmed staff, in accordance with their respective role of advising and training the Palestinian civil police in the West Bank (EUPOL-COPPS) and monitoring the Palestinian border crossing in the Gaza Strip (EU BAM-Rafah). However, the two EU civilian missions have different backgrounds, mandates, sizes and locations.

A. EUPOL-COPPS

Background

As a result of the Oslo Accord and the Declaration of Principles, the establishment of the Palestinian National Authority (PA) required a police force. To be effective, the Palestinian civil police were to be trained, monitored and guided by the “deployment of international police observers”. The first significant international observer force to go into effect was the Temporary International Presence in the City of Hebron (TIPH) in 1994. (See Box 1) In contrast to TIPH, the Gaza-Jericho Agreement stipulated an expanded Temporary International Presence (TIP) of 400 members in eight designated towns and cities subject to full PA control in the Gaza Strip and Jericho. The TIP Protocol stated that staff “shall have no military or police function” and would “assist in the organization and training of the Palestinian Police”. Due to political discrepancies between police observer missions and peacekeeping executive forces, the TIP negotiations collapsed and failed to deploy an international team to reform the Palestinian police.²³

Despite the deficit of international observers, donor funds arrived to support the Palestinian Police units that went into effect in Gaza and Jericho in 1994. These funds were guided by the UN Special Coordinator Office in Gaza (UNSCO) and its UN Police Training Coordinator. Sweden and the United Kingdom emerged as the largest sponsors, followed by the Netherlands, Norway and Denmark, for civil police

²² See Nicole Gnesotto (Ed.), *EU Security and Defence Policy, The first five years (1999-2004)* (Paris: Institute for Security Studies, 2004) for a description of how ESDP functions, of operations on the ground and its relations with NATO. For a more precise analysis of ESDP missions, see Agnieszka Nowak (Ed.), *Civilian crisis management: the EU way*, Chaillot Paper, N° 90, June 2006, (Paris: Institute for Security Studies, 2006). The concise chapter by the EU Council, Civilian Crisis Management, Director, DG E IX, Pedro Serrano de Haro, “A strategic approach to the European Security and Defence Policy” (pp. 39-47) effectively situates the two relevant EU civilian missions within the broader European foreign policy.

²³ Brynjar Lia, *Building a Police Without a State: The PLO, the Donor Community, and the Establishment of the Palestinian Police and Security Forces* (Oslo: University of Oslo, 2003), p. 454-469. As Senior Research Fellow at the Norwegian Defence Research Establishment, Brynjar Lia is considered the authority on the development of the Palestinian police. Two complementary books emanated from his PhD: *A Police Force without a State: A History of the Palestinian Security Forces in the West Bank and Gaza* (New York: Ithaca Press, 2006) and *Building Arafat's Police: The Politics of International Police Assistance in the Palestinian Territories after the Oslo Agreement* (New York: Ithaca Press, 2006). At the time of writing, neither book was published; therefore all citations are from the PhD. CITpax is grateful to Judge Claudia Fenz, Special Advisor, Rule of Law, EUPOL-COPPS for the reference to Lia's work.

training, focusing on traffic control, rules and laws, basic forensics, human rights, woman police management, and narcotics law enforcement. Foreign efforts to implement an effective civil Palestinian police lacked proper coordination and were confronted with adverse political circumstances, including the Israeli occupation and the involvement of Egyptian secret services and the American CIA in the politics of anti-terrorism assistance in the Palestinian territories.²⁴ Entering late and with fewer resources, the EU remained largely sidelined in matters of intelligence, which continue to be dominated by the Egyptians and USSC. Nonetheless, EU efforts to create a Palestinian Academy for the training of a unified civil police force eventually would result in the refurbishing of the Jericho Training Center by the EUPOL-COPPS.

BOX 1. The Temporary International Presence in the City of Hebron (TIPH)

Though reticent to accept “a temporary international or foreign presence” as agreed upon in Annex II of the Declaration of Principles, Israel was pressured to accept the deployment of an international observer force to Hebron after the massacre perpetrated by Baruch Goldstein in the Ibrahim Mosque on 25 February 1994. The TIPH began on 8 May 1994 and ended with its first mandate on 8 August 1994. The post-mission evaluation claimed that the local Palestinian municipality of Hebron had been “uncooperative” and criticized the IDF for “obstructionism”.²⁵

Following the Interim Agreement (Oslo II) for the West Bank and the Gaza Strip, the second TIPH was launched on 12 May 1996 to monitor the partial redeployment of the IDF from Hebron. On 21 January 1997, another agreement was reached whereby Denmark, Italy, Norway, Sweden, Turkey and Switzerland would provide staff. The agreement also set a three month mandate, renewable for terms of three months, unless decided otherwise by the parties. On 1 February 1997, the multinational TIPH entered into force and remains active as a civilian observer mission. Currently, there are 71 TIPH members, comprising of 21 Norwegian, 16 Italian, 12 Swedish, 11 Danish, 5 Swiss and 5 Turkish.²⁶

The TIPH created the incentive for the launching of subsequent international missions and has demonstrated synergies with both EU civilian missions. Prior to becoming Head of Mission for the EU BAM-Rafah mission, Italian Major-General Pietro Pistolese was Deputy Head of Mission for the TIPH. Moreover, lacking proper security for staff, TIPH approached EUPOL-COPPS to improve and implement its emergency response and operational mechanism. To empower the Hebron Public Order Police and thus attempt to bridge the gap with the Palestinian civil police, EUPOL-COPPS has provided anti-riot equipment to the TIPH, including 1,500 shields, batons and helmets.²⁷

EUPOL-COPPS is thus a product of international efforts to create a sustainable Palestinian Civil Police force and subsequently derives from EU efforts to become more involved in this process. The current mission emanates from the EU Coordinating Office for Palestinian Police Support (EUCOPPS), approved at the EU

²⁴ Brynjar Lia, op. cit., Ch.17-18.

²⁵ Brynjar Lia, op. cit., p. 455-56.

²⁶ See the official web-site of the TIPH for more detail: www.tiph.org

²⁷ CITpax interview, Axel Haas, Lead Field Police Adviser, EUPOL-COPPS, 29 June 2006, Jericho.

Council (17-18 June 2004) by European leaders, which led to the Police Planning Workshop (10-14 April 2005), resulting in the drafting of the Palestinian Civil Police Development Programme (PCPDP, June 2005). The transitional and operational plans of the PCPDP serve as guidelines for the effective implementation of EUPOL-COPPS. In July 2005, EU foreign ministers reiterated the EU's commitment to develop the Palestinian security capacity through the Palestinian Civil Police, in coordination with the USSC.²⁸

Mandate

EUPOL-COPPS is a long term mission with a broad field of operation. The mission provides training and material to the Palestinian Civil Police, including reforms of the Palestinian security and criminal justice sectors. EUPOL-COPPS began on 1 January 2006 and has a three year mandate (2006-2008).

Size

EUPOL-COPPS planned in December 2005 to have 33 police advisers for the year 2006. However, due to the circumstances on the ground, EUPOL-COPPS is maintaining the minimum number of staff required to operate the mission, between 13 and 15 personnel (not including Palestinians).²⁹

Location

The EUPOL-COPPS headquarters used to be adjacent to the PA Ministry of Interior and is now located next to the Cultural Palace in Ramallah. EUPOL-COPPS also has a field office in Gaza City and maintains a Jericho Training Center, operated by the Palestinian Civil Police.

B. EU BAM-Rafah

Background

EU BAM-Rafah is a direct result of the Israeli disengagement from the Gaza Strip in August-September 2005. Following an invitation by the Government of Israel (Gol) and the PA, EU BAM-Rafah was established on the basis of the "Agreement on Movement and Access" (AMA) and the "Agreed Principles for Rafah Crossing" between the PA and Gol on 15 November 2006.³⁰ In accord with the Gol, the PA and Egypt, the third party role of EU BAM-Rafah is restricted to work inside the Rafah Crossing Point (RCP) and does not extend along the Philadelphi Corridor on the Egypt-Gaza Strip border. Also fulfilling its third party role, the EU mission does not take direct executive responsibility for the operation of the RCP, nor for guaranteeing security. The EU presence as a third party is thus to monitor that the border crossing is operated properly in accordance to customs and security protocols, and to reporting any identified weaknesses to the involved parties. Despite the recent closure of RCP and the unfulfilled principles of the AMA, the rapid deployment of EU BAM-Rafah mission was deemed an initial success for third party intervention.

²⁸ EU Council Secretariat Factsheet, EUPOL-COPPS/02, 9 February 2006, p. 2.

²⁹ See Appendix 3A: EUPOL-COPPS.

³⁰ See Appendix 1 "Agreement on Movement and Access" and Appendix 2 "Agreed Principles for Rafah Crossing".

Mandate

EU BAM-Rafah is a rapid-response mission and has a limited range of operation. Initial mission activity provides a third-party presence to monitor the passage of people at the Rafah Crossing Point (RCP) in the Gaza Strip, in accord with the understanding that mission activities would expand with the implementation of the remaining steps of the Agreement on Movement and Access (AMA), including the opening of a “safe passage” between the Gaza Strip and the West, the construction of a Gaza sea port, the refurbishing of the Rafah International Airport, and the removal of Israeli checkpoints in the West Bank. EU BAM-Rafah began on 25 November 2005 and has a one year mandate (2005-2006), with renewable six month periods.

Size

During the initial phase of EU BAM-Rafah, approximately 55 police officers from 15 Member States were deployed. In full deployment, the mission projected to include 75 staff.³¹ The EU BAM-Rafah now comprises of 16 Member States and 81 personnel.³²

Location

The EU BAM-Rafah headquarters are at the Dan Gardens Hotel in Ashkelon, Israel; and due to the circumstances on the ground, have not yet been moved to Rafah as planned.

³¹ EU Council Secretariat Factsheet, EU BAM Rafah/02, 7 February 2006.

³² See Appendix 3B: EU BAM-Rafah.

III. MISSIONS EFFECTIVENESS: IMPEDIMENTS AND OBSTACLES

Due to the eruption of open hostilities on the Israeli/Palestinian, Palestinian/Palestinian, and Israeli/Lebanese fronts, both EU missions were suspended. Though certainly aggravated by the bellicose course of events, previous and present external obstacles and internal impediments continue to thwart proper mission implementation.

A. INTERNAL IMPEDIMENTS

Internal impediments have not facilitated the implementation of both EU missions. These include the lack of new material and equipment, disagreement between international donors and local implementing agents, as well as difficulties related to local societal perceptions of women and the rule of law.

1. Material and Equipment

All the technical equipment at the RCP was removed by the GoI during the Israeli disengagement from the Gaza Strip in August-September 2005. The Palestinians resorted to taking the used material of the Rafah International Airport, which includes old conveyor belts and antiquated scanner machines. The replacement with new equipment would undoubtedly accelerate and increase the efficiency of the border crossing process. The old material now used also provides a severe security risk for operators and passengers. The question of security at the RCP is complicated by inter- and intra-Member State policy with respect to safety and salaries. (See Box 2). Regardless of the current situation on the ground, foreign funds could be directed to replacing the old material and renovating the surrounding structure, in order to modernize the border passage, thus reaching effective international standards.

BOX 2. The Case of Spain: Staff Security and Salaries

Though EU mission staff members are not direct targets of the Israelis or Palestinians, better material is required to improve security. The ten member security team for the EU BAM-Rafah needs protection level 3A or 4A, which includes a vest, with an anti-ballistic ceramic plate which provides higher protection to 7.62mm Kalashnikov bullets. (The US, UE and NATO use 5.56mm bullets). The lack of adequate security has implications for the individual life insurance: if an accident or attack occurs, the staff member involved will be asked what level of protection they were wearing; and if they do not have the adequate level of protection, the insurance will not cover the damage. Without improved security to level 3A or 4A, the life insurance is of no use.

Though salaries between Member State contingencies differ, the salary level within each contingency should be the same. In the Spanish contingency, the seven members of the Guardia Civil are paid three times less than the one National Police officer. This salary discrepancy emanates from a policy

difference within the General Management of the Guardia Civil, which makes a “restrictive interpretation” of the related *Real Decreto* to only pay their staff the difference between mission salary and the overall cost. To resolve this discrepancy, the individual salary levels in all Member States should be equal for all contingency staff exposed to equal levels of insecurity.³³

At the time of writing, the present activities of the EUPOL-COPPS involve delivering stationary to the Jericho Training Center and the Gaza Field Office. EUPOL-COPPS has also delivered material to the Temporary International Presence in Hebron (TIPH). (See Box 1). The blueprint of the EUPOL-COPPS mission claims that the “PCP [Palestinian Civil Police] need to upgrade its equipment at the same as it lacks sufficient capacity to maintain it. On the one hand it is a resource problem (maintenance costs money) but on the other it is a matter of PCP strategy and systems and the result of poor donor co-ordination”.³⁴ Moreover, during the second Palestinian *intifada*, spurred by the precipitated IDF withdrawal from southern Lebanon in May 2000, all five police training centers, as well as ten of thirteen police stations were destroyed “along with equipment and transportation vehicles, and even the headquarters of the [PA] Ministry of Interior”.³⁵ Despite the continuous Israeli policy of physical destruction and political obstruction, EUPOL-COPPS could take the opportunity to upgrade its material and equipment to increase effectiveness once EU mission activities resume.

2. International Funding and Project Implementation

Both EU missions require further international funding and better local implementation. However, access to funds has been closed since the persistent Israeli and international boycott of the Hamas-led PA government began in February 2006. This boycott resulted in the development of the Temporary International Mechanism for Assistance to the Palestinian people (TIM).

Elaborated by the EU, approved by the US, and endorsed by the Quartet, the TIM aims to provide assistance to the Palestinian people, without the money passing to or through the Hamas-led PA government. The EC provided the initial €105 million to the TIM. €12 million of the funds are directed to technical assistance and capacity building, including support and equipment for the Office of the PA President, currently Mahmoud Abbas. The remaining €92.75 million are divided into three “windows”: (I) an initial contribution of €10 million by the EC to the Emergency Services Support Programme (ESSP) of the World Bank to provide basic allowances to the health care and social services sectors; (II) €40 million directed to the Interim Emergency Relief Contribution (IERC) of the EC; and (III) €40 million to the payment of allowances to individuals. Including the TIM, the EU has contributed €259 million to the Palestinian territories in 2006 and thus remains the largest donor to the Palestinian people.³⁶

³³ CITpax interview, Enrique Carrera, Guardia Civil, Ashkelon, 3 July 2006; phone interview, José María Cascades, Guardia Civil, 25 July 2006.

³⁴ PCPDP, op. cit., p. 24.

³⁵ Erica Silverman, “Palestinian Women in Law Enforcement”, Focus, Vol. 4, *Empowering Women*, (Jerusalem: UNDP/PAPP, 2005), p. 40.

³⁶ “EU contributes €105 million to Temporary International Mechanism for Palestinians”, European Commission, Brussels, IP/06/831, 23 June 2006: <http://www.eu-delegation.org.eg/en/TIM%20US-EC%20June%2015%202006%20rev.pdf>

The TIM went into effect in early July 2006 and has an initial mandate of three months. The first EC action was providing fuel, upon request of President Abbas, to hospitals in the Gaza Strip. Following the destruction by the IDF of six transformers of the Gaza Power Plant, 45 per cent of the Gaza Strip population is without electricity. To allow hospitals to continue functioning minimally, some €600,000 a month is required.³⁷ Despite this initial EC action, the capacity of international donors to relieve the deteriorating humanitarian conditions in the Gaza Strip “pales in contrast to the financial and related tools at Israel’s disposal”.³⁸ As an integral part of the Paris Protocol (29 April 1994), the Gol agreed to collect \$50 million in customs revenues every month for the PA. Israel has not returned any of the revenues since the electoral victory of Hamas on 25 January 2006. The TIM provides the possibility for Israel to release the customs revenues via one of the “windows”. However, since healthcare material comes to the Palestinian territories via Israel, and sources of energy, such as electricity and fuel, are controlled by Israel, the money detained and destined to the PA would end up financing Israeli businesses.

Apparent Israeli and international intentions to overwhelm Hamas militarily and financially presented another predicament for the Palestinians: US approval of the TIM depended on prohibiting funds to the Palestinian security sector. This implies that security personnel that may be required at schools, hospitals and clinics are not receiving salaries. While the US bolsters the Presidential Guard and the UNDP refurbishes the Office of the President, the Palestinian civil police do not receive salaries either, thus decreasing their potential to provide basic public law and order. As mentioned above, the buttressing of Abbas’s guard and office is politicizing the security sector, “leading to greater internal tension” and outright confrontation between the competing Palestinian security forces.

The aim of the TIM, therefore, “is not to keep the PA alive, but rather Palestinian society afloat”.³⁹ This has severe consequences for the institutional sustainability of the PA, created by the Oslo Accord and financed by the international community: “Setting up different accounts, not any longer using the Single Treasury Account, channelling funds via routes that are less transparent – are all potentially steps backward, with all the ensuing security implications”.⁴⁰ The EC maintains that other donors’ contributions are welcome. However, the political implications of funding TIM render donations from Arab-Muslim neighbours highly unlikely.

The international embargo of Hamas and the subsequent lack of funds are exacerbating the effectiveness of both EU missions. The effects of the embargo are demonstrated most clearly by the difficulties faced by the EUPOL-COPPS project to refurbish the Jericho Training Center. Phase I of the project (refurbishing of the dormitory, class rooms and dining hall) is financed by the UK Department for International Development (DFID). The UK provided \$409,000 and the EUPOL-COPPS contributed \$138,000 to the total of \$545,000 for the Jericho Training Center. The building for the dining hall and class rooms was completed on 28 September 2005. The four-story dormitory building has not been completed,

³⁷ “Fuel for Palestinian Hospitals: first Commission action through the Temporary International Mechanism”, European Commission, Brussels, IP/06/973, 11 July 2006.

³⁸ Geoffrey Aronson, “Financing the Palestinian Authority”, International Development and Research Center (IDRC), 25 May 2006, p. 16.

³⁹ “Palestinians, Israel, and the Quartet: Pulling back from the Brink”, International Crisis Group, Middle East Report, N°54, 13 June 2006, p. 30.

⁴⁰ Christian Berger, “Do we actually need the Palestinian Authority?”, *The Daily Star*, 13 June 2006.

and depends on the release of foreign funds that are being withheld due to the international financial embargo.

EUPOL-COPPS coordinates the implementation of the project, and more precisely distributing equipment (Phase II). The implementing agent for the refurbishing of the Jericho Training Center is the Palestinian Economic Council for Development and Reconstruction (PECDAR), which provides technical assessment and administrative contracts.⁴¹ International donor funds are directed via the Arab Bank to the Single Trust Fund (controlled by the PA Ministry of Finance) to PECDAR. The Arab Bank is not frozen, but the remaining funds for the EUPOL-COPPS project are not being released because of the financial boycott on Hamas. Though labelled as a government affiliated agency, PECDAR could ask the Arab Bank to release the remaining \$15,000, but that would imply taking a government loan, which will not be possible because of the international embargo. Congruently, following the election of Hamas, the UK DFID wanted to withdraw their funds from the Jericho Training Center. DFID sent a letter to the PA Ministry of Finance to stop work and return the funds.⁴²

EU BAM-Rafah is also confronted with foreign funding obstacles. To better implement international funds and direct foreign donors in order to increase mission effectiveness, the International Management Group (IMG) provides assessments of the RCP. Focusing on the Gaza Strip Customs and Security assistance, IMG emphasizes “the urgent need to upgrade, or procure, suitable equipment for carrying out customs duties and the urgent need for training the existing customs human resources”.⁴³ IMG also reports a gap of capacity between the specific responsibilities of each police unit at the RCP. To rectify this deficiency, IMG suggests creating a Palestinian Border Management Agency with the assistance of the Canadian and the US training. Though this step has not yet been taken, foreign donors have provided assistance to create this agency, via the Automated System for Customs Data (ASYCUDA) of the EU Commission, the Palestinian Authority Tax Administration Computer System (PATACS), and the Palestinian Shippers Council (PSC). The Palestinian Border Management Agency, however, has yet to be created.⁴⁴

3. Local Societal Restraints

The implementation of the two EU missions is also complicated by local impediments, which include societal restraints in accepting the presence of women in the Palestinian Civil Police force, and the lack of effective rule of law in the Palestinian territories.

a. EUPOL-COPPS, Role of Women

Comprising of approximately 400 of the 19,000 civil police in the Palestinian territories, initial steps were taken by EUPOL-COPPS to incorporate women into the civil police. Palestinian women were deployed specifically at the Erez and Rafah border crossings to carry out security procedures for female

⁴¹ The implementing agent for the construction of garages for police vehicles in Nablus, Bethlehem, Gaza City and Khan Younis, is the United Nations Development Programme (UNDP), which is now involved in refurbishing the Office of the PA President.

⁴² CITpax interview, Hisham Shkoukani, PECDAR, Ramallah, 29 June 2006; Axel Haas, Lead Field Police Adviser, and Mike Mower, Mission Security Officer, EUPOL-COPPS, Jericho, 29 June 2006.

⁴³ Report, 13 December 2005, courtesy Pascal Schumacher, EUBAM.

⁴⁴ IMG report, 13 December 2005. The IMG also launched in June 2002, the Damage Assessment and Reconstruction Database (DARD): www.ecwbg.info/DA_main.asp

passengers. Women also found demand for employment at the forensic lab, elaborating a criminal database, in Gaza City “before it was destroyed by the Israeli army in 2002”. Palestinian women police have impressive academic and professional credentials, but many social obstacles have prevented further steps to proper incorporation. These obstacles include how to combine private and public life. For example, in Jenin, one of the less developed areas of the Palestinian territories, social circumstances do not facilitate the incorporation of women into the work force. Recruitment has also been a consistent problem, which has been exacerbated by gender discrimination. In the Gaza Strip, women are insulted for working “in the street”, and are not respected as being law implementing agents. As a result, currently “there are no female officers patrolling the streets”.⁴⁵

These societal restraints have also led to a separation of men and women police offices. Since the election of Hamas in January 2006, the use of the *hijab* (head scarf) has also increased, in the police force as well as in society as large. In Jericho, the women police are not necessarily veiled, but in Jenin, Hebron, Ramallah and Gaza City, women wear a navy blue uniform and a light blue scarf. Palestinian women have expressed interest in human rights and women’s rights training courses, which could improve work conditions and incorporation. Courses on gender discrimination and opportunity creation have been suggested. Another pivotal issue is how the police intervenes and resolves domestic violence. The lack of a sovereign political system permits more traditional means of resolving conflicts to persist, such as “honor killings”, which could be changed by a more effective rule of law.⁴⁶

b. EUPOL-COPPS, Rule of Law

In transitional societies, there are varying degrees of lawlessness. Due to the presence of the Israeli occupation in Jerusalem and the West Bank and to the absence of an effective Palestinian government in the Gaza Strip, albeit severely aggravated by Israeli and international efforts to topple the Hamas-led PA, there is increasing lawlessness in the Palestinian territories. Palestinian land expropriation is on the rise, by both the Gol and Palestinian mafias, which equally benefit from absent Palestinian land owners. The proliferation of small arms and subsequent mishandling is increasing, particularly in the Gaza Strip. The abuse of drugs, through considered soft, is apparently growing as well. Most of these results are attributed to the lack of opportunity caused by the continual Israeli military occupation.

The military Israeli presence has hindered the effective transition to securing law and order for the Palestinians. Lacking a centralized and unified security force, Palestinian militias, family clans and individuals take the law into their hands, and adapt it according to the punishment, secular or Islamic, required for the crime.⁴⁷ The rift between public and personal law is due in large part to an effective Palestinian civil police force, which would ideally enforce the law. However, the weak civil police force also lacks proper coordination with the

⁴⁵ Erica Silverman, “Palestinian Women in Law Enforcement”, op. cit., pp. 40-41.

⁴⁶ CITpax interview, Dolores Perez, Specialist Police Adviser, EUPOL-COPPS, Ramallah, 28 June 2006 and 4 July 2006.

⁴⁷ Brynjar Lia, op. cit., p. 70: “A number of cases never appeared before the Reconciliation Committee because they were dealt with directly by the paramilitaries, in particular cases involving drugs, prostitution, vice, adultery, theft, and most importantly, collaboration”.

criminal justice system.⁴⁸ According to the Israeli civilian-military administration, the Palestinian civil police must inform Israeli police about detentions and other activities. The collaboration with Israeli “border” police has also led to the arrest and imprisonment of Palestinian police.⁴⁹

Lacking a State and thus an adequate system of law enforcement, approximately 70 per cent of criminal cases are resolved outside of the official court system. The crime is resolved by the *sulh* system, whereby the accusing side will seek “reconciliation” via personal and family accords, including revenge. This process goes through “popular courts and trials”, which equally and “undoubtedly violated each and every norm of a formal judicial process”.⁵⁰ Where official law does intervene, imprisonment implies personal protection, rather than a phase of pre-trial detention. Moreover, judges are afraid of reprisals. When a judge does release the accused, the police can still detain the person, on the grounds that they “public danger” and keep them in custody.⁵¹

Finally, the mutual mistrust between the police and the prosecution is worsened by the lack of a single, unified Basic Law. As well as being divided geographically, different laws apply to the Gaza Strip and the West Bank. Prior to the Israeli occupation in 1967, the Gaza Strip was subject to Egyptian rule and the West Bank to Jordanian rule, each applying a different set of laws for the same crimes. The establishment of a single Basic Law for the Palestinian people would be a tremendous step in providing a point of reference to the police and judges of the Palestinian territories. Drafting and approving a unified Basic Law would also help reconcile the institutional gap between the civil police and the judicial branch, with the potential of bringing incremental law and order to the Palestinian territories.

The EU has made meagre efforts in that direction, namely in the reform of the Palestinian judicial system. In order to provide “support for judicial reform” in the Palestinian Authority, the European Commission (EC) signed a pledge of €7 million in December 2003 for a total of 42 months. The initial program “Empowering the Palestinian Judicial System (EPJ) proposed by the MEDA –the principal financial institution of the EU for the implementation of the Euro-Mediterranean Partnership– involved three components: (1) institutional support to consolidate the different branches of the Palestinian judicial system; (2) professional training for judicial studies and courses related to the application of the law; and (3) material refurbishing of courts and offices.⁵²

PECDAR is also the implementing agent for this MEDA program to rehabilitate the Palestinian judicial system in the West Bank and the Gaza Strip. Italy has supplied furniture for courts and other judicial buildings in the West Bank for an amount of €700,000 and the Netherlands is providing €750,000 to maintain and refurbish existing courts and district attorney offices. The remainder of

⁴⁸ Ibid, p. 65: “The de-legitimization of institutions associated with the Israeli occupation was not confined to the Israeli police institution, but extended to the judiciary, which was intimately linked to the military administration in the Occupied Territories”.

⁴⁹ CITpax interview, Ziad Abu Zayyad, East Jerusalem, 28 June 2006.

⁵⁰ Brynjar Lia, op. cit., p.78.

⁵¹ CITpax interview, Judge Claudia Fenz, West Jerusalem, 29 June 2006.

⁵² See European Commission, EUROMED, “Regional and Bilateral MEDA Co-operation in the Area of Justice, Freedom and Security”, p.8: <http://www.eu-delegation.org/eg/en/PDF/EUROMED%20REPORTMeda%20JHA.pdf>

the €7 million has not been disbursed and the amount released for European experts to assess the needs to refurbish the courts and to reform the judicial system has “vanished”.⁵³ The current international embargo on the Hamas-led PA government complicates the release of donor funds, which for the foreseeable future will continue to impede the proper implementation of projects related to both EU civilian missions in the Palestinian territories.

B. EXTERNAL OBSTACLES

The difficulties confronted by the two EU civilian missions do not solely derive from factors inside the Palestinian territories. Indeed, external forces – namely Israel and the US – have exacerbated internal Palestinian divisions. Israeli aggression against the Hamas-led government and US support for the PA Presidential Guard could insinuate a coordinated attempt to change the PA regime.

1. The Government of Israel (Gol)

The Israeli military occupation of the Palestinian territories is the most persistent force obstructing the emergence of a Palestinian civil police force. Besides the initial paradox of impeding the PA to operate without a viable proper state, the prolonged Israeli occupation has also maintained the existence of Palestinian militias. As an integral part of their *raison d'être*, the militias continue to declare armed resistance as the means to national liberation. Coupled with the vicious cycle of reprisals between Israel Defense Forces (IDF) and Palestinian militias, the militias also compete for political power via popular recognition for the armed resistance, thus preventing the emergence of a unified Palestinian security force. Arafat also applied an internal policy of “divide-and-rule” amongst the militias and security forces, which was not conducive either to a proper police force. On the basis of Israeli security, the Gol continues to act unilaterally and maintains control of the Palestinian territories, undermining the presence of the Palestinian police, and also aggravating the implementation of the two EU missions.

The Gol does not allow diplomatic accreditation for EUPOL-COPPS as a mission. This means that European staff must apply to their respective Member States for diplomatic permits. This renders the movement of personnel more difficult and prolongs the process of effective implementation. The general perception is that the Gol does not want a European presence in the Palestinian territories, and in particular does not want the EU advising and training a Palestinian Civil Police force. For the Gol, a strong Palestinian police force could lead to an armed and unified Palestinian Security force, incorporating the various militias, which would eventually lead to a National Army.⁵⁴

Following the militant Palestinian operation at Kerem Shalom Crossing on 25 June 2006, the IDF ordered EU BAM-Rafah to evacuate the Rafah Crossing Point (RCP). Kerem Shalom is located in the south-eastern corner of the Gaza Strip at approximately a two-kilometer distance from the RCP. Relayed by real-time

⁵³ CITpax interview, Hisham Shkoukani, PECDAR, 29 June 2006. See the PECDAR website: www.pecdar.org

⁵⁴ CITpax interview, Jonathan McIvor, Head of Mission, Ramallah, 28 June 2006. The Reut Institute considers that Israel must re-examine its opposition regarding the establishment of a Palestinian army and claims that “sole way to dismantle the military wing of Hamas is through its inclusion in the security force of the PA”. Conceding the principle of de-militarization with the establishment of a Palestinian force at the Rafah crossing, Israel is now confronted with the option of permitting a Palestinian Army. (“Palestinian Army – Now or Later?”, Reut Institute, 2 May 2006).

cameras to the Kerem Shalom crossing point, the IDF effectively maintains the final decision on the passage of Palestinians at the RCP. Due to the geographic location of the RCP on the Gaza Strip-Egypt border, the persistence of the IDF is questionable and could be reconsidered to alleviate the humanitarian crisis caused by complete closure. Taking steps to transfer complete authority to the Palestinians would also increase the role of EU BAM-Rafah.

However, IDF closure policy has barred EU BAM-Rafah initiatives to re-open the RCP. On 6 July, the EU BAM-Rafah deployed to monitor the passage of an agreed 250 Palestinians, but the IDF maintained the closure. After the death of four Palestinians at the Rafah border on 11 July, the EU mission increased its efforts and obtained the temporary and exceptional re-opening of the RCP on 18-19 July, resulting in the passage of over 5,000 Palestinian returning from the Egyptian side of the border, including 600 people defined as “urgent humanitarian cases”.⁵⁵ The RCP has remained closed since then and has seriously undermined the perception of the EU mission impartiality, which has been repeatedly accused of contributing to the “strangulation and deprivation of Gaza Strip civilians”.⁵⁶ The constant European claims that the RCP will be re-opened, followed by consistent IDF closure, severely diminishes the legitimacy of the EU civilian mission as a third party. As the mission mandate restricts EU BAM-Rafah staff to monitoring the operation of the RCP, internal mission frustration has augmented as the Europeans witness the dire occurrences outside the perimeters of the crossing point. Moreover, not only does the RCP closure threaten the future of the EU BAM-Rafah, but it may also fully “re-establish Israel’s responsibility over Gaza” with all the implications of military IDF occupation.⁵⁷

The IDF closure of the RCP has increased Palestinian desperation to enter the Gaza Strip, which could explain why Palestinian militants blew holes in the Egypt-Gaza border fence, allowing hundreds of Palestinians to enter, until the Presidential Guard intervened and sealed the wall.⁵⁸ The intervention of the Presidential Guard along the Philadephi Corridor on the Gaza-Egypt border, instead of the Preventive Security Forces, confirms the incremental role the Presidential Guard is beginning to play in providing security. The sporadic attempts to breach the Egypt-Gaza border are not without precedent. The tunnels dug into Egypt and Israel from the Gaza Strip act as veins and arteries for arms and narcotics trade, as well as for the movement of militants. These activities could be substantially rectified by permitting the constant passage of people at the RCP. The fluid operation of the RCP would lead to an increase of economic activity, which would procure more jobs and opportunities for the Palestinians, which in turn could substantially diminish the militant motives and popular support for aggressive activities.

⁵⁵ “ Hamas urges international monitors to reopen Rafah crossing to Gaza”, *Haaretz*, 22 June 2006; “Rafah Crossing Point (RCP) open today for humanitarian reasons”, EU BAM-Rafah, Press Release, 6 July 2006; “Rafah Crossing was not open yesterday”, EU BAM-Rafah, Press Release, 7 July 2006; Avi Issacharoff, “Four Palestinians die at Rafah border awaiting entry into Gaza”, *Haaretz*, 11 July 2006; Avi Issacharoff, “Erekat: Rafah border crossing to open for Palestinian entering Gaza”, *Haaretz*, 17 July 2006; “Gaza border crossing reopened”, *Al-Jazeera*, 18 July 2006; “5,178 crossed RCP within two days”, EU BAM-Rafah, Press Release, 20 July 2006.

⁵⁶ “European Union Monitors at Rafah Contribute to the Strangulation and Deprivation of Gaza Strip Civilians”, Palestinian Center for Human Rights (PCHR), Press Release, 3 August 2006; “Rafah border crossing closes again”, *Al-Jazeera*, 10 August 2006; “In Response to Statement by EU Observers at Rafah International Crossing Point, PCHR Condemns Re-closure of the Crossing Point after Reopening it for Less Than 7 Hours in Two Days”, PCHR, Press Release, 13 August 2006.

⁵⁷ A re-occupation of the Gaza Strip is not perceived by Israeli sources to be in the interest of Israel. See “Rafah Policy May Reinstate the Occupation”, Reut Institute, 31 August 2006.

⁵⁸ EU BAM-Rafah, Press Release, 15 July 2006.

The Gol has also thwarted international diplomatic mediation efforts in the Gaza Strip. During an emergency visit to mediate a solution for the release of the Israeli soldier held within the Gaza Strip, the Gol allowed EUSR-MEPP, Marc Otte, to enter the Gaza Strip on 30 June 2006, to negotiate with PA President, Mahmoud Abbas. The EUSR efforts did not cause the release of the Israeli soldier, but did provide temporary respite for the Palestinians from IDF shelling. Subsequent diplomatic attempts to mediate were barred from going into effect when the Gol denied entry to the Gaza Strip to another European delegation invited by Mahmoud Abbas in the first week of July 2006. During this time, the Gol equally asked Arab representatives to leave the Gaza Strip. The role of Egypt in negotiating the withdrawal of Hamas militia forces from the streets of Gaza should not be overlooked: Egypt could assist in the release of the Israeli soldier.⁵⁹

International efforts to relieve the humanitarian conditions of the Palestinian people were also thwarted by the Gol. As part of the foreign policy of the Ministry of Foreign Affairs and Cooperation (MAEC), Spain sent rice and sugar as alimentary aid to the Palestinians via the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) in the Gaza Strip. The Gol allowed the passage of rice through the Ashdod port, but has detained the passage of sugar to UNRWA, for security reasons.⁶⁰ The Israeli security discourse has led to the involvement of the USSC in providing support to certain security factions, which equally undermines EU mission attempts to create a single Palestinian Civil Police force.

2. US and EU approaches to Security Sector Reform (SSR)

The lack of proper cooperation between the EU and the US with respect to foreign policy in the Israeli-Palestinian conflict and within the Palestinian territories has led to the development of different approaches to Security Sector Reform (SSR).⁶¹ The US, in accord with Israel, advocates a “restructurist” approach, which called previously for the replacement of Arafat as “supreme security commander”. This approach does not call for bottom-up democratic reform, but rather a simple substitution of leaders, which directly implies regime change, as demonstrated by current US support for the PG. As the restructurist approach has failed in the past, the intended regime change will most likely backfire and radicalize the groups ostracized or deposed, namely Hamas.

“Encouraging an alternative Palestinian leadership” to the newly elected Hamas PA, US foreign policy in the Palestinian territories forges ahead. Though PA President Abbas has lost credibility in both the US and Israel because of his inability to prevent violence or establish order, he has also lost credibility among the Palestinians for not being able to fulfil the promise of peace with Israel. However, the US and Israel consider Abbas “the sole alternative Palestinian leader” and are thus “seeking to bolster his capabilities and effectiveness”, by “helping to build the security capabilities of the forces remaining under PA

⁵⁹ Due to circumstances on the ground, no interviews were conducted with Egyptian officials. CITpax recognizes this as unfortunate and hopes a subsequent report will provide the Egyptian perspective.

⁶⁰ CITpax interview, José María Ferré, Consul-General of Spain, East Jerusalem, 30 June 2006.

⁶¹ Palestinian Security Sector is also confronted by other problems, such as “corruption, chaos, absence of a clear vision and no sense of direction”, which are being addressed by the Palestinian Academic Society for the Study of International Affairs (PASSIA) in various “Strategic and Security Workshops”. The first workshop, “Palestinian Security Governance”, discussed the relevance of the White Paper in creating a cohesive Palestinian security force (Ramallah, 27 May 2006). The second workshop relates the security sector and the Palestinian society (20 September 2006). CITpax is grateful to the Friedrich Ebert Stiftung for making available the “Summary Report” of the first workshop.

Presidency control – the Presidential Guard”.⁶² The security steps currently being undertaken in coordination with the USSC may improve Abbas’ credibility with the US and Israel, but the PA President will also increasingly be perceived as a puppet by the Palestinian people.

Contrary to the US and Israel, the EU propounds a more gradual “reformist” agenda, whereby the PA security institutions are transformed from within, in order to “play an effective and democratically accountable role in providing security for the Palestinian people”. Since the EU is the largest foreign donor to the Palestinian people, the reformist approach is economy-oriented and focuses on administrative transformations, including the creation of transparent and professional structures of governance, as well as monitoring the proper use of donor grants, efficient tax collection and the reduction of corruption. Democratic changes within security sector reform, however, have been thwarted by “external constraints, political unwillingness, institutional deficiencies, and the failure of economic and societal support mechanisms”. Certainly, Israel’s policy of occupation and reoccupation, as well as Arafat’s previous resilience, and currently PA President Abbas’ persistence in remaining in power, have not assisted in providing for the democratic reform of the Palestinian security sector.⁶³

Both the EU “reformist” and US/Israel “restructurist” approach have failed to create the possibility for substantial security sector reform to occur. This has led to a continuation of factional divides between militias fighting for political power and increasingly to fratricidal tendencies, as demonstrated throughout the summer 2006 in the Gaza Strip. The PCDP guidelines for EUPOL-COPPS state: “In a democratic state the police are the main agents of the state monopoly on the use of legal force”.⁶⁴ The problem, of course, and paradox, remains that the Palestinians do not have a proper State; and when deemed democratic by international standards, the elected party and the people suffer the consequences.

3. Towards Regime Change?

US foreign policy with regard to “restructuring” the Palestinian security structure is not facilitating the implementation of the two EU missions. The current United States Security Coordinator (USSC), General Keith W. Dayton, and his team are apparently operating “beneath the radar” to buttress the PA Presidential Guard (PG).⁶⁵ Further developments along the current course of events will lead to the emergence of a heavily armed PG. However, EU Member States, such as Spain, have also contributed to bolstering the PG. (See Box 3). This renovated security force emanates from Arafat’s personal escort, named Force-17. The enlargement of Force-17 to the PG is creating another Palestinian militia, which could drastically increase inter-Palestinian strife.

⁶² Martin Indyk & Tamara Wittes, “Dual Dilemmas: U.S. Policy Options for the Israeli-Palestinian Predicament”, *Saban Center for Middle East Policy, Middle East Memo #9*, 19 May 2006.

⁶³ For a most concise and comprehensive account of the internal and external obstacles still confronting Palestinian security sector reform, see the short book by Roland Friedrich, *Security Sector Reform in the Occupied Palestinian Territories* (Jerusalem: Palestinian Academic Society for the Study of International Affairs (PASSIA), 2004). This book complements Brynjar Lia’s detailed analysis of the development of the Palestinian police. (See Note 23)

⁶⁴ “Palestinian Civil Police Development Programme, Transformational and Operational Plans, 2005-2008”, EUCOPPS and PA Ministry of Interior, Ramallah, July 2005, p. 22.

⁶⁵ CITpax interview, Dov Schwartz, Advisor USSC, Consulate-General of the USA, West Jerusalem, 5 July 2006; Aluf Benn, “US Secretly Working to Strengthen PA’s Abbas”, *Haaretz*, 16 May 2006.

BOX 3. The Case of Spain: Member State Contribution

In 2005, Spain provided \$10 million in equipment and material for the Palestinian Civil Police within the advisory framework of EUPOL-COPPS. A portion of the Spanish contribution was anti-riot material and training in preparation for the announced Israeli disengagement from the Gaza Strip in August 2005. The unexpected eruption of riots in Kosovo in 2004 could be seen as an unwelcome precedent that the EU and Spain wanted to avoid.⁶⁶ In the absence of an adequate security system in the Palestinian territories, the Spanish anti-riot training projected to “target some 20 tactical level commanders (middle management level) and some 30-35 regular POP [Public Order Police] (equivalent to a public order section) times two (one training activity in Gaza and one in West Bank)”.⁶⁷ The material was sent, but the training was not carried out.

Also part of Spain’s contribution, 29 vehicles were sent to the PA security apparatus. Though the vehicles are detained in the Ashdod port, they are now destined to Abbas’ PG, thus demonstrating the shift away from the PSS.⁶⁸ Though these are part of a package previously endorsed to assist the Palestinian Civil Police, the current contribution is not propitious and is perceived as adding to the “growing arms race” between Fatah and Hamas.⁶⁹ This arms race was assisted further by Ehud Olmert, Prime Minister of Israel, when he approved the shipment of weapons to PA President Abbas. An Israeli newspaper, *Yedioth Ahronoth*, also reported that the Government of Israel permitted the transfer of 950 M-16 rifles from Jordan to the PA Presidential Guard.⁷⁰

The PG has replaced the operational activity of the Preventive Security Forces (PSS) in both EU missions. In April 2006, the PG substituted the PSS and assumed executive responsibility at the Rafah Crossing Point. Congruently, the most recent course carried out at the Jericho Training Center was two months of physical exercises for a PG squad. The course was ordered by Chief of Palestinian Police, ‘Ali Hosni, and was completed in June 2006.⁷¹ EUPOL-COPPS aims to maintain “close coordination” with other international actors involved in security assistance, including the USSC.⁷² Equally, the blueprint of EU BAM-Rafah aims to implement and elaborate the mission with the assistance of the EUSR for disengagement “and/or the United States Security Coordinator (USSC) and his staff”.⁷³ The level of EU mission cooperation with the USSC, however, does not appear to be reciprocated.

⁶⁶ See Annika S. Hansen, *From Congo to Kosovo: Civilian Police in Peace Operations*, Adelphi Paper 343, The International Institute for Strategic Studies (New York: Oxford University Press, 2002).

⁶⁷ Palestinian Civil Police Development Programme (PCPDP), (Ramallah: June 2005), p. 29.

⁶⁸ CITpax interview, Teresa Lizaranzu, Madrid, 22 June 2006; José María Ferré, East Jerusalem, 30 June 2006.

⁶⁹ “Palestinian factions in arms race”, *Al-Jazeera*, 8 June 2006.

⁷⁰ “Hamas condemns arms boost to Abbas”, *Al-Jazeera*, 15 June 2006.

⁷¹ CITpax interview, Major Amjad Juma’, Jericho Training Center, 29 June 2006.

⁷² EU Council Secretariat Factsheet, EUPOL-COPPS/02, 9 February 2006.

⁷³ See Appendix 1: “Agreement on Movement and Access”.

The Israeli military occupation and the involvement of the USSC seriously impede the creation of a unified Palestinian Civil Police force and thus counter EU mission efforts to democratically reform the security sector. EU acquiescence to postpone all financial funds and suspend all diplomatic contact with Hamas has also not improved the perception of Europe in the Middle East. The elaboration and implementation of the Temporary International Mechanism (TIM), for example, has increased spite among Palestinians towards the EU. The EU is thus perceived as overly cooperative with Israeli-US intentions to topple the Hamas-led PA and to supplant it with the Presidential Guard, or if not to induce complete PA regime change, then at least to create a PA conducive to Israeli interests.

IV. CONCLUSION: A Third Party Alternative?

The rapid deployment of the EU BAM-Rafah mission was an immediate success at first. However, the initial monitoring role of the EU mission at the Rafah Crossing Point (RCP) is the only success, thus far, of the Agreement on Movement and Access. All other integral parts of the agreement are pending for implementation, including: (1) opening other Gaza Strip-Israel border crossing points, such as Karni, Kerem Shalom and Erez for the import and export of goods; (2) allowing the “safe passage” of convoys (buses and trucks) to facilitate the movements of goods and persons between the Gaza Strip and the West Bank; (3) reducing the obstacles (IDF checkpoints) for the movement of people and goods in the West Bank; (4) commencing construction of a Gaza seaport; and (5) refurbishing the Rafah International Airport.

Due to circumstances on the ground, the EU BAM-Rafah is reduced to negotiating the opening of the RCP for humanitarian reasons, and has only been successful in obtaining the sporadic and temporary re-opening of the RCP. EU BAM-Rafah could influence further the effectiveness of RCP, but Israel still maintains ultimate control of the passage of Palestinians, even though the RCP crossing is on the Egypt-Gaza border, not on the Israel-Gaza border. The EU mission could also take the current lull in activity as an opportunity to engage in fund-raising to acquire new material for the RCP, including new scanners, computers and conveyor belts; as well as engage in fund-raising to begin construction of the seaport and airport immediately upon the cessation of hostilities. As previously proposed by the World Bank, these financial efforts could be directed to establishing a Palestinian Border Services Agency, which would not necessarily be dependent on the government in power.

Despite the recent escalation of violence in the Palestinian territories, particularly in the Gaza Strip, the two EU missions must maintain their presence in order to re-engage immediately when hostilities cease. Mutual EU mission effectiveness may also be increased via greater coordination between both missions. EUPOL-COPPS can provide, for instance, training to the civil police operating at the RCP. An increase in mission synergies could lead to the elaboration of a sister mission aimed at “Empowering the Palestinian Judicial System”. This mission would build on innovative EUPOL-COPPS workshops and upon the MEDA initiative to refurbish the Palestinian courts to reform the judicial system and consolidate a single Basic Law. Just as opening a “safe passage” between the Gaza Strip and the West Bank would facilitate the transport of goods and people, the symbolic geographic connection would also bridge the gap of capacity between law creation and law enforcement, which lacks in the Palestinian territories.

The EU BAM-Rafah has provided a positive precedent for a viable third party monitoring role in the Palestinian territories. Closer coordination with the EUPOL-COPPS could improve the deployment of Palestinian civil police. Ironically, the “two front war” waged by Israel may decrease Israeli adversity to international involvement in resolving the prolonged Israeli-Palestinian conflict. The exemplary need for a multinational force in southern Lebanon is telling of the possibility for the EU to offer a third party alternative. The deployment of a military EU mission – an initial EU “Battle Group” of 1,500 soldiers – to secure the Gaza-Israeli border could be a major step in playing this required third party role, ensuring the implementation of the two EU civilian missions, and thus providing security to Israelis and Palestinians alike.

ACKNOWLEDGEMENTS

The rapid escalation of violence in the Gaza Strip put the outcome of this CITpax report in jeopardy. Many people deserve recognition for making this report productive.

CITpax would like to thank Jonas Jonson and his replacement, Ricardo Chellier, in charge of coordinating the two EU missions in Brussels at the DGE IX Civilian Crisis Management of the EU Council for providing initial insight from Brussels. Head of the EUPOL-COPPS mission, Jonathan McIvor, gave unreservedly an entire morning at the headquarters in Ramallah to explanations; Axel Haas, Lead Field Police Adviser, and Mike Mower, Mission Security Officer, provided transport and security to visit the Jericho Training Center; Judge Claudia Fenz, Special Adviser, gave a full afternoon to providing elaborate information about the criminal justice system; and Dolores Perez, Special Police Adviser, explained the role of women in the Palestinian civil police.

The meetings at the headquarters of EU BAM-Rafah in Ashkelon would not have occurred without the assistance of Maria Telleria, Press and Public Information Officer. Head of Mission, Pietro Pistolese, and Executive Officer, Claudio Fiori, provided preliminary comments; Soren Christensen, Liaison Officer, explained the pivotal role of Kerem Shalom; Pascal Schumacher, Head of Operations, sent information about the IMG; and Enrique Pedrosa Carrera, from the Spanish Guardia Civil, procured an enlightening perspective into the functioning of security at the Rafah Crossing Point.

CITpax would also like to thank Ziad Abu Zayyad, former member of the Palestinian Legislative Council, and Jibril Rajoub, former head of the Preventive Security Forces in the West Bank, for meeting in East Jerusalem and Ramallah. The Deputy Consul of Belgium, Emmanuelle de Foy, offered numerous remarks, and Consul of Spain in East Jerusalem, José María Ferré, gave repeatedly of his mornings to discuss various topics; from the Spanish Ministry of Foreign Affairs and Cooperation, Teresa Lizaranzu, provided an initial Spanish perspective; and Mary Glantz, Political Officer, at the US Consulate in West Jerusalem, and Dov Schwartz, Adviser to the United States Security Coordinator, both kindly agreed to discuss US coordination with the EU missions.

In Brussels, EU Special Representative for the Middle East Peace Process, Marc Otte was unavailable due to diplomatic mediation efforts, but his Personal and Press Adviser, Jochen Moeller, provided essential observations about the two EU civilian missions; Pedro Serrano, Director General of the DGE IX at the EU Council was meeting precisely about the EUPOL-COPPS, but his General Secretariat, Stefano Tomat, offered assistance; and Christian Berger, Head of Unit for Crisis Management and Conflict Prevention at the European Commission, gave generously of his time and provided invaluable insights into the principles and purposes of the EU missions.

CITpax would like to thank those not mentioned who offered perspectives on how to play a more efficient and effective third party role. In the hope of contributing valuably to EU civilian mission efforts, CITpax renders this report.

Madrid, July 2006

APPENDICES

1) Agreement on Movement and Access

To promote peaceful economic development and improve the humanitarian situation on the ground, the following agreement has been reached. It represents the commitments of the Government of Israel (GoI) and the Palestinian Authority (PA). Its implementation and further elaboration will be assisted by the Quartet Special Envoy for Disengagement and his staff and/or the United States Security Coordinator (USSC) and his staff.

1. Rafah

The parties have agreed to the attached statement of principles. Rafah will be opened as soon as it is ready to operate at an international standard in accordance with the specifications of this agreement and as soon as the 3rd party is on site, with a target date of November 25.

2. Crossing Points

The parties have agreed that:

The passages will operate continuously. On an urgent basis, Israel will permit the export of all agricultural products from Gaza during this 2005 harvest season.

The new and additional scanner will be installed and fully operational by December 31. At that time, the number of export trucks per day to be processed through Karni will reach 150, and 400 by end-2006. A common management system will be adopted by both parties.

In addition to the number of trucks above, Israel will permit export of agricultural produce from Gaza and will facilitate its speedy exit and onward movement so that quality and freshness can be maintained. Israel will ensure the continued opportunity to export.

To enhance operation, the parties agree that:

- When a new generation of x-ray equipment able to scan trailers as well as containers becomes available it will be used. Once it arrives in the country, testing will also be carried out with the assistance of the Quartet Special Envoy.
- The USSC will ensure continuing consultation, with unresolved implementation issues to be discussed as needed with the parties.
- The PA will ensure that the passages will be protected on the Palestinian side of the border and will train and upgrade the management of all crossings to ensure efficiency and effectiveness. The PA will establish, without delay, a unified system of border management.
- The management system that has been developed for Karni should, with suitable local variations, be adapted to the passages at Erez and Kerem Shalom. Israel also undertakes to put in place similar arrangements as appropriate

that will make West Bank passages fully operational as soon as possible. A bilateral committee, with participation as needed of the Quartet Special Envoy and/or the USSC, will develop operational procedures for those passages.

3. Link between Gaza and the West Bank

Israel will allow the passage of convoys to facilitate the movements of goods and persons. Specifically:

- Establish bus convoys by December 15.
- Establish truck convoys by January 15.
- Work out detailed implementation arrangements in a bilateral committee of the Gol and PA with participation as needed from the Quartet team and the USSC.

It is understood that security is a prime and continuing concern for Israel and that appropriate arrangements to ensure security will be adopted.

4. Movement within the West Bank

Consistent with Israel's security needs, to facilitate movement of people and goods within the West Bank and to minimize disruption to Palestinian lives, the ongoing work between Israel and the U.S. to establish an agreed list of obstacles to movement and develop a plan to reduce them to the maximum extent possible will be accelerated so that the work can be completed by December 31.

5. Gaza Seaport

Construction of a seaport can commence. The Gol will undertake to assure donors that it will not interfere with operation of the port. The parties will establish a U.S.-led tripartite committee to develop security and other relevant arrangements for the port prior to its opening. The 3rd party model to be used at Rafah will provide the basis for this work.

6. Airport

The parties agree on the importance of the airport. Discussions will continue on the issues of security arrangements, construction, and operation.

Source: The Agreement on Movement and Access of November 15, 2005

Prepared by the World Bank Technical Team, December 15, 2005

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AgreementMovementAccess.pdf>

2) Agreed Principles for Rafah Crossing

To be supplemented prior to opening by agreements on security, customs and 3rd party implementation procedures

General

Rafah will be operated by the Palestinian Authority on its side, and Egypt on its side, according to international standards, in accordance with Palestinian law and subject to the terms of this agreement.

Rafah will be opened as soon as it is ready to operate at an international standard in accordance with the specifications of this agreement and as soon as the 3rd party is on site, with a target date of November 25.

Use of the Rafah crossing will be restricted to Palestinian ID card holders and others by exception in agreed categories with prior notification to the Gol and approval of senior PA leadership.

The PA will notify the Gol 48 hours in advance of the crossing of a person in the excepted categories-diplomats, foreign investors, foreign representatives of recognized international organizations and humanitarian cases.

The Gol will respond within 24 hours with any objections and will include the reasons for the objections;

The PA will notify the Gol of their decision within 24 hours and will include the reasons for their decision;

The 3rd party will ensure the proper procedures are followed and will advise both sides of any information in its possession pertaining to the people applying to cross under these exceptions.

These procedures will remain in place for a period of 12 months, unless the 3rd party delivers a negative evaluation of the PA running the Rafah crossing. This evaluation will be done in close coordination with both sides and will give due consideration to the opinion of both sides.

Rafah will also be used for export of goods to Egypt.

Objective criteria for the inspection of cars will be established by consensus. The criteria are as follows:

Search equipment will be installed, including

- Black lights
- Power tools and a compressor for the tools
- Technology to be agreed, possibly including sonic imagery, gamma detection (full vehicle or hand held), and/or millimetre wave imagery
- Mirrors and bore scope equipment to search hard to reach places

Personnel will be trained to search vehicles and on the use of this equipment by the 3rd party to international standards.

Cameras will be installed to monitor the search process.

The 3rd party will evaluate the capacity of the PA to inspect cars according to these criteria and to international standards. Once the PA develops the capacity to inspect cars to the satisfaction of the 3rd party, cars will be allowed to pass through Rafah. Until that time, cars will pass through on an exceptional basis, subject to specifications agreed in the security protocol.

Rafah will be the only crossing point between the Gaza Strip and Egypt (with the exception of Kerem Shalom for the agreed period).

The PA will establish clear operating procedures.

Until Rafah is operational, the PA will open Rafah crossing on an ad hoc basis for religious pilgrims, medical patients, and others, in coordination with General Gilad's office on the Israeli side.

Israel will provide the PA with all information needed to update the Palestinian population registry, including all information on Palestinian ID card holders who are currently outside the country.

A liaison office, led by the 3rd party, will receive real-time video and data feed of the activities at Rafah and will meet regularly to review implementation of this agreement, resolve any disputes arising from this agreement, and perform other tasks specified in this agreement.

Security

The PA will act to prevent the movement of weapons and explosives at the Rafah crossing.

The PA will establish baggage limits for each passenger as part of the procedures. Limits will be the same as currently applied by the Gol; very frequent travellers (suitcase policy) to be agreed.

Travellers, including returning residents, may use the crossing point to bring in personal effects as defined in Rule 1(e) to Heading 7 of the Annex to the prevailing Customs Tariff. Any other personal belongings or other goods shall be cleared at the Kerem Shalom crossing point.

The PA will provide the 3rd party a list of names of the workers at Rafah crossing which will be shared with the Israelis. The PA will take the Israelis concerns into account.

Security services from Israel, PA, the U.S., and Egypt will continue to coordinate on security issues and will participate in the security working group.

On a case by case basis, the PA will consider information on persons of concern provided by the Gol. The PA will consult with the Gol and the 3rd party prior to the PA making a decision to prohibit travel or not. During this consultation, which will not take more than six hours, the person in question will not be permitted to cross.

Customs

Gol and PA will continue to apply the Paris Protocol of 29 April 1994 (<http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Gaza-Jericho+Agreement+Annex+IV+-+Economic+Protoco.htm>)

Rafah will be operated according to international standards and rules and the Paris Protocol.

Gol and PA agree on widest possible co-operation and information sharing.

Gol and PA will co-operate on training issues.

Gol and PA customs will hold regular meetings to which the GoE will be invited as appropriate.

Kerem Shalom

PA customs officials will clear incoming cargo at Kerem Shalom under the supervision of Israeli customs agents.

Both sides will discuss operating procedures at a later stage.

Operations at Kerem Shalom will provide training and capacity building to PA customs staff.

The 3rd party will review the PA's customs capacity in 12 months and make a recommendation to both sides for a joint decision regarding future arrangements. In the event of a disagreement, the U.S., in consultation with the Gol, the PA, and the 3rd party, will resolve the issue expeditiously.

Third party

The 3rd party will have the authority to ensure that the PA complies with all applicable rules and regulations concerning the Rafah crossing point and the terms of this agreement. In case of non-compliance the 3rd party has the authority to order the re-examination and reassessment of any passenger, luggage, vehicle or goods. While the request is being processed, the person, luggage, vehicle or cargo in question will not be allowed to leave the premises of the Rafah crossing point.

The 3rd party will assist the PA to build capacity - training, equipment and technical assistance - on border management and customs.

Details of the 3rd party's role are specified in the attached memorandum of understanding.

The 3rd party will be the European Union.

Source: Agreed Principles for the Rafah Crossing, Abbreviated version of AMA, Ministry of Foreign Affairs (MFA), Israel:
<http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Agreed+documents+on+movement+and+access+from+and+to+Gaza+15-Nov-2005.htm>

3) Mission Charts

a. EUPOL-COPPS

Participants	Member States	Contingency Size
	Austria	1
	Belgium	1
	Denmark	1
	Finland	1
	France	1
	Germany	2
	Netherlands	1
	Northern Ireland	
	Spain	1
	Sweden	3
	United Kingdom	1
TOTAL	11	14
	Palestinians	4
TOTAL		18

Source: Dolores Perez, Specialist Police Adviser, EUCOPPS

b. EU BAM-Rafah

Participants	Member States	Contingency Size
	Austria	1
	Belgium	4
	Denmark	3
	Estonia	1
	Finland	4
	France	9
	Germany	8
	Greece	3
	Italy	18
	Luxemburg	1
	Netherlands	3
	Portugal	3
	Romania	4
	Spain*	10
	Sweden	7
	United Kingdom	2
TOTAL	16	81

Source: Maria Telleria, Press and Public Information Officer, EU BAM-Rafah

* The Spanish contingency comprises of 7 Guardia Civil, 1 National Police, 1 Accounting Officer, and 1 Press and Public Information Officer.

(Total staff number, respectively, as of July 2006).

ABOUT THE TOLEDO INTERNATIONAL CENTRE FOR PEACE

(www.toledopax.org)

The Toledo International Centre for Peace (CITpax) seeks to contribute to the prevention and resolution of violent or potentially violent international or intra-national conflicts and to the consolidation of peace, within a framework of respect and promotion of Human Rights and democratic values. Thus, the CITpax contributes to the establishment of cooperation pathways and communication channels between the parties involved, governments, NGO's and representatives of all sectors in the civil society.

ACTION PATHWAYS

In order to achieve its objectives, the CITpax employs various tools specially designed for each particular situation, including the following:

- **Second Track Diplomacy**, through the direct facilitation in negotiation processes between relevant political and economic actors, in conflicts where a dialogue pathway becomes necessary to complement or break the deadlock in the official track.
- **Multi-Track Diplomacy and Dialogue Facilitation**, through the creation of dialogue platforms among scholars, experts, activists, local authorities and governing bodies, as well as assisting the development of peace-building capacities in conflict areas.
- **Field Projects**, aimed at improving the capacities for conflict prevention and resolution through confidence-building, research and advocacy of feasible peace policies.
- **Research and Policy Development** of peace-related issues.
- **Professional Development and Training**, seeking to enhance the capacities of practitioners from different institutions working on peace-related issues.
- **Public Awareness and Advocacy**, through information dissemination, policy-oriented publishing and participation in the public debate.

PROGRAMMES

Notwithstanding a progressive extension of its working field to other areas, such as Southeast Europe, the CITpax current activities and projects are divided into three main programmes: two geographical programmes, one centred on Africa and the Middle East, and the other on Latin America, and the Conflict Prevention and Resolution Programme, which thematically complements and supports the regional programmes.

Africa and the Middle East Programme

In the Palestinian-Israeli conflict, CITpax is exploring Track II diplomatic tools to enhance ongoing negotiations and the status of the peace process. The Programme also intends to progressively address some of the core challenges of the region, such as the conditions for the establishment of a cooperation and security system in the Middle East. Addressing regional conflicts, discreet efforts are being made to bring regional parties to explore venues for strengthening local peaceful resolutions. Focusing on the reconstruction of post-war Iraq and the enhancement of civil society in several

countries in the Middle East, CITpax is also engaged in the North Africa context, with an emphasis on the Western Sahara conflict and the future of economic integration in the Maghreb.

Areas of the Programme:

- Regional Stability in the Middle East
- Emphasis on the Palestinian Israeli conflict
- Economic Integration of the Maghreb
- Transition to democracy

Latin America Programme

Activities include second track diplomacy to narrow differences between parties in conflict, convening or supporting dialogue to promote consensus and generate confidence in situations of tension, monitoring and assessing facts and trends that cause instability and in which CITpax can make a positive contribution. In order to identify specific areas of intervention and to strengthen cooperation with local interlocutors, CITpax carries out missions to conflict areas. The three main fields of programme activity are: (1) in Colombia, CITpax facilitates dialogue between groups on pivotal issues emanating from the internal conflict and promotes the consolidation of relevant institutions and mechanisms; (2) in the Andean area, it undertakes initiatives of a subregional scope to strengthen the understanding of and respect for political, cultural and ethnic diversity and to foster confidence; and (3) it strengthens dialogue among countries in the region as a means to ease bilateral tensions and overcome the fragmentation that afflicts Latin America.

Areas of the Programme:

- Political regional dialogue
- Institutional stability in the Andean Region
- Alternatives to the Colombian conflict
- Promotion of "benign borders"

Conflict Prevention and Resolution Programme

The programme concentrates on the study and support of negotiation processes and peace agreements, as well as on the facilitation and elaboration of recommendations to those countries going through post-conflict situations. CITpax's activities, which are based on the idea of human security, fall within a long-term global perspective. Thus, the projects designed within this programme intend to contribute to building and consolidating peace in those contexts where violence has been formally overcome. It also aims at formulating strategies that may prevent potential conflicts by trying to address the causes and by proposing solutions for their symptoms. The programme will also study and analyse multinational peacekeeping interventions and work to improve the tools for training those professionals that participate in peace operations. This includes UN Peacekeeping Operations as well as other multilateral interventions that result in regime change

and/or post-conflict reconstruction focusing on both civil-military relations and the civil roles conducted by military personnel.

Areas of the Programme:

- International civil administration
- Rule of law, institution-building and strengthening of democracy
- Transitional justice
- Humanitarian assistance
- Electoral processes
- Disarmament, demobilization and reintegration (DDR)
- Strengthening of civil society and support for the most vulnerable sectors
- Early responses to crisis situations
- Socioeconomic dimension of conflicts
- Regional dimension of conflicts
- Development Cooperation as an instrument for conflict prevention and peace-building



MANAGEMENT AND STAFF

Shlomo Ben-Ami, Executive Vice-President
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