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## The Multilateralisation of the Israeli-Palestinian Conflict: A Call for an EU Initiative

by Daniela Huber and Lorenzo Kamel

### ABSTRACT

The “battleground” of the Israeli-Palestinian conflict is shifting from its local context, where it has been placed in the Oslo, Intifada and Roadmap/Quartet periods, to its original dimension: the international arena. While it is indeed unclear if a multilateral approach will fare well, it is a fact that the unilateral/bilateral approach has failed. Having reached the end of the Middle East Peace Process as we have known it for the past decades, it is about time to be open-minded about realistic alternatives. This paper analyses these potential scenarios, the roles played by the main local and international actors, and outlines how a EU multilateral initiative should look like.

*Israel | Palestine | United Nations | International law | International  
Criminal Court (ICC) | United States | European Union*



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by Daniela Huber and Lorenzo Kamel\*

### 1. A structural shift in the Israeli-Palestinian conflict

The “battleground” of the Israeli-Palestinian conflict is shifting. It is moving from the Israeli-Palestinian context, where it has been located in the Oslo, Intifada and Roadmap/Quartet periods, to the international arena. This process of internationalisation is taking shape in several ways. On the transnational civil society level, mobilisation against Israel’s occupation of the Palestinian territories is gaining momentum.<sup>1</sup> The Boycott, Divest, and Sanctions (BDS) campaign, despite its ambiguous agenda, increasingly succeeds to mobilise support among academics, business, civil society organisations, and cultural actors worldwide, and is recording successes, maybe most notably in diffusing the idea of boycotting Israeli products and services “until it complies with international law and Palestinian rights.”<sup>2</sup> The EU – while continuing to be one of Israel’s largest trading partners<sup>3</sup> and which provides generous research and development subsidies to the Israeli army<sup>4</sup>

<sup>1</sup> This trend found new impetus since Prime Minister Benjamin Netanyahu has taken office in 2009, as his terms have registered a standstill in peace negotiations and a significant growth of the settler population accompanied by a marked increase in the construction of settlements deep inside Palestinian territory. During Netanyahu’s second term (2009-2013), 38 percent of nearly 6,900 West Bank construction starts were reported in settlements deep inside Palestinian territory, compared to 20 percent under his predecessors. Moreover, in violation of the Roadmap and other international obligations, Netanyahu’s government adopted a new policy in regard to outposts by explicitly signaling to settlers a green light to establish facts on the ground. Finally, between 2009 and 2011, according to the Israeli Central Bureau of Statistics (CBS), investment in settlements grew by at least 38 percent. See Peace Now, “Settlements and the Netanyahu Government: A Deliberate Policy of Undermining the Two-State Solution”, in *Peace Now Reports*, 16 January 2013, [http://peacenow.org.il/eng/Netanyahu\\_Summary](http://peacenow.org.il/eng/Netanyahu_Summary); Yanir Yagna, “Lieberman: Contrary to decline in polls, Likud-Beiteinu will win 40 seats”, in *Ha’aretz*, 19 January 2013.

<sup>2</sup> BDS, *Introducing the BDS Movement*, <http://www.bdsmovement.net/bdsintro>.

<sup>3</sup> See European Commission DG Trade, *EU-Israel Trade Statistics*, last updated 27 August 2014, <http://trade.ec.europa.eu/doclib/html/113402.htm>.

<sup>4</sup> Ben Hayes, “How the EU subsidises Israel’s military-industrial complex”, in *openDemocracy*, 6

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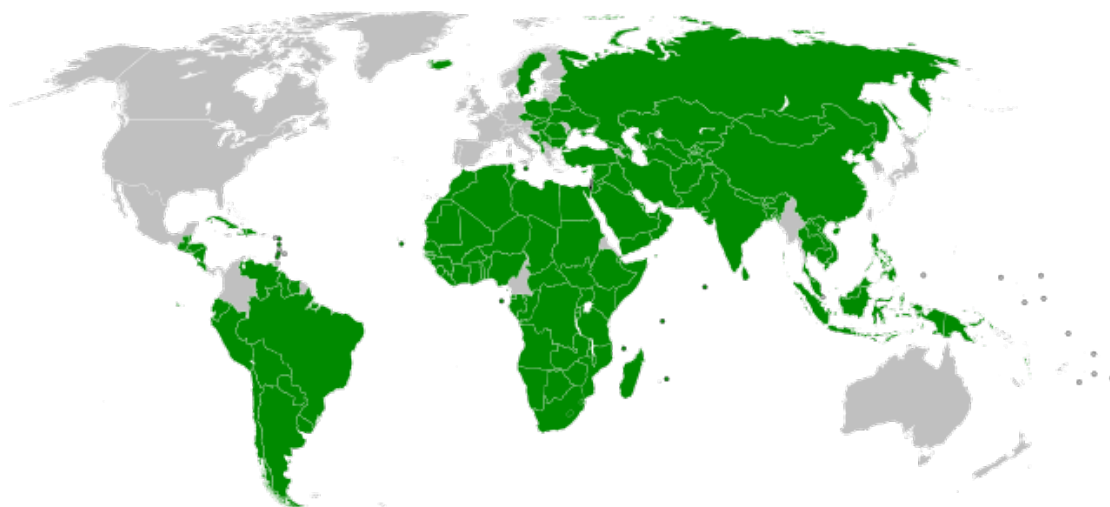
· Paper prepared for the Istituto Affari Internazionali (IAI), January 2015.

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– has come forward with guidelines barring loans and grants to Israeli entities established or operating in the territories captured in June 1967 and is continuing to work on EU-wide guidelines concerning the labeling of products originating in Israeli settlements (several member states, such as the United Kingdom and the Netherlands, already pursue such labelling).<sup>5</sup>

On the state level, there is a growing international consensus regarding the recognition of the State of Palestine (see Map 1 below). This trend is also advancing in Europe, as seen in Map 2 on the UNESCO vote in 2011 and in Map 3 on the vote in favour of accepting Palestine as a non-member observer state at the United Nations in 2012. In the October-December 2014 period, Sweden recognised Palestine, and the French, British, Irish, Portuguese, and Spanish parliaments approved non-binding motions calling on their countries' governments to recognise the State of Palestine. Also the European Parliament has passed a resolution in December 2014 which supports the recognition of the State of Palestine "in principle" and as part of a two-state solution.

**Map 1** | States which recognise the State of Palestine as of December 2014



Source: Wikipedia, [http://en.wikipedia.org/wiki/International\\_recognition\\_of\\_the\\_State\\_of\\_Palestine](http://en.wikipedia.org/wiki/International_recognition_of_the_State_of_Palestine).

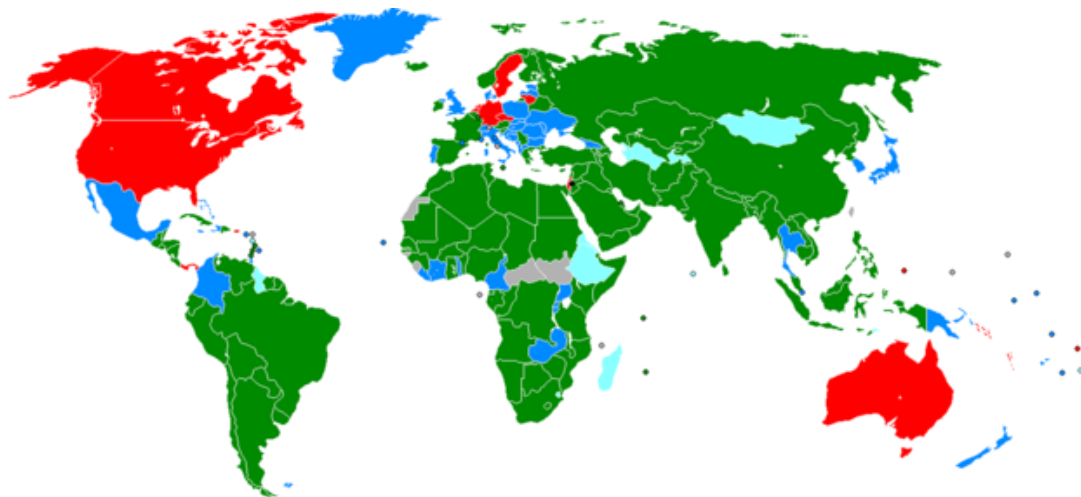
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March 2013, <https://www.opendemocracy.net/node/71339>.

<sup>5</sup> At present, these products are still profiting from special benefits under the EU-Israel Association Agreement and continue often to be sold under the "Made in Israel" label. For a comparative study of the EU's approach in Northern Cyprus, Western Sahara and the Palestinian territory see Lorenzo Kamel, "Is the EU Adopting a Double-Standards Approach toward Israel and the Palestinian Territories?", in *Opinio Juris*, 9 January 2014, <http://wp.me/phJqg-7PX>.

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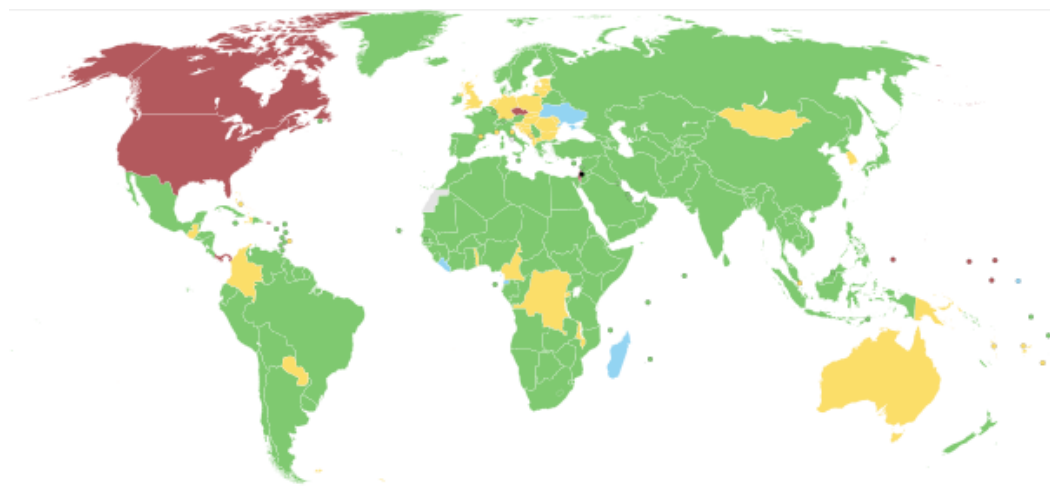
**Map 2** | 2011 UNESCO vote on accepting Palestine as a member state



Note: Green in favour, red against, yellow abstention, blue absent.

Source: Wikipedia, [http://en.wikipedia.org/wiki/State\\_of\\_Palestine](http://en.wikipedia.org/wiki/State_of_Palestine).

**Map 3** | 2012 vote on Palestine as a non-member observer state at the United Nations



Note: Green in favour, red against, yellow abstention, blue absent.

Source: Wikipedia, [http://en.wikipedia.org/wiki/International\\_recognition\\_of\\_the\\_State\\_of\\_Palestine](http://en.wikipedia.org/wiki/International_recognition_of_the_State_of_Palestine).

On the international level, in September 2011 the Palestinian National Authority (PNA) started its quest to gain membership of the United Nations for the State of Palestine. The latter became a member state of UNESCO in October 2011 and in November of the following year it reached the status of non-member observer state at the UN General Assembly. In December 2014, the Palestine Liberation Organization (PLO), the representative of the Palestinian people within the

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United Nations system, also submitted through the government of Jordan a draft resolution to the UN Security Council (UNSC), which called for a peaceful solution to be found within 12 months of the adoption of the resolution and a full and phased withdrawal of Israeli security forces and an end to the occupation no later than 2017.<sup>6</sup> This resolution stands in a line of resolutions, notably Resolution 476, adopted by the UNSC on 30 June 1980, which clarified that the “acquisition of territory by force is inadmissible.” Adopting a much clearer formula in comparison to the latest attempt, the resolution reaffirmed “the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem.” It was a simple call for withdrawal, without reference to any condition. Also this new (and vaguer) draft resolution, as the one voted in 1980, would have been approved on the basis of Chapter VI of the UN Charter. Only resolutions under the umbrella of Chapter VII of the Charter provide the Security Council the authority to impose sanctions and contemplate the possible use of force to ensure implementation.

The Palestinian authorities were fully aware that a favourable vote from the UNSC would have had little more than symbolic value. The decision taken by the PNA to rush for a vote for the approval of the new draft resolution, instead of waiting a few more days to secure the necessary number of supportive votes (with a change in the non-permanent rotating members of the UNSC) was likely intentional. The rejection of the draft resolution by the UNSC gave to Palestinian President Abu Mazen the necessary political strength to sign the Rome Statute, the founding charter of the International Criminal Court (ICC). As the draft was voted down in an 8-2 vote with five abstentions, Palestinian President Abu Mazen signed 18 international treaties and conventions, including the Rome Statute.

The short- and medium-term effects of these decisions are still unclear. A provision added to the Rome Statute in 1998 allows the UNSC to prevent the Court and the prosecutor from investigating and exercising jurisdiction by passing a Chapter VII resolution at 12-month intervals.<sup>7</sup> On top of this, a decision by the Court might take years and the Court could eventually only pursue an individual if crimes were committed on the territory of a state party (Israel has signed but not ratified the Rome Statute and the ICC only takes jurisdiction when a state is unable or unwilling to carry out criminal investigation on its own), thus restricting its authority to the State of Palestine, though the scope of that territory remains a matter of debate. Finally, the various Palestinian factions would also become liable for possible prosecution by the Court and – as clarified in September 2014 by the ICC Office of the Prosecutor – the ICC would not accept jurisdiction over events prior to 29 November 2012,<sup>8</sup> when the UNGA voted for the recognition of Palestine

<sup>6</sup> For a full text of the resolution, see UN Security Council, *Jordan: draft resolution (S/2014/916)*, 30 December 2014, <http://undocs.org/S/2014/916>.

<sup>7</sup> Art. 16 of the *Rome Statute of the International Criminal Court (A/CONF.183/9)*, 17 July 1998, <http://undocs.org/A/CONF.183/9>.

<sup>8</sup> ICC, *Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda: 'The Public*

as a non-member State. In reference to these last two points, it is necessary to take into account that if Israel will put forward charges against Palestinians, this will implicitly also mean that it does recognise Palestinian sovereignty in the parts of the occupied territories raised in those charges.

Yet, and despite these limitations, the signing of the Rome Statute represents a turning point toward a full internationalisation of the conflict. If the ICC will decide to accept a Palestinian accession and the Palestinian authorities will ratify the Statute, the role played by the Court will force the parties involved to be accountable for their actions. In light of this structural shift in the conflict, this paper examines the discourses which four central players – Israel, Palestine, the US, and EU – are advancing in respect to the conflict's "multilateralisation", on the basis of which it calls for a new EU initiative in a changing conflict arena.

## 2. Four discourses on the multilateralisation of the Israeli-Palestinian conflict

In the run-up and follow-up to the submission of the resolution and the signing of the Rome Statute, the representatives of Palestine, Israel, Europe, and the US advanced diverse positions on their perception of the conflict, their role in it, and its multilateralisation.

### 2.1 PLO: multilateralism as the only way out

The signing of international conventions and treaties, as well as the draft resolution submitted by to the UNSC stylises the PLO as an actor who works in the framework of international law, while it represents Israel as a violator of universal principles, mainly through its settlement policies. The PLO sees Israel's policies regarding settlements as a war crime,<sup>9</sup> and also as unilateral acts, which undermine the viability of a two-state solution. The conflict is represented as an issue conflict, focused on the issues of borders (land swaps), land (withdrawal from land occupied in 1967), security (ensured through a third-party presence), Jerusalem (shared or

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*Deserves to know the Truth about the ICC's Jurisdiction over Palestine*, 2 September 2014, [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/otp-st-14-09-02.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/otp-st-14-09-02.aspx).

<sup>9</sup> Art. 8(2)(b)(viii) of the Rome Statute prohibits "[t]he transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies," while Article 49 of the Fourth Geneva Convention states that "the Occupying Power shall not [...] transfer parts of its own civilian population into the territory it occupies." The ICJ cited the Geneva Convention's travaux préparatoires, which recommended that the conventions be applicable to any armed conflict "whether [it] is or is not recognized as a state of war by the parties" and "in cases of occupation of territories in the absence of any state of war" as confirmation that the drafters of the article had no intention of restricting the scope of its application. See ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory opinion of 9 July 2004, p. 175, <http://www.icj-cij.org/docket/index.php?case=131&p3=4>.

internationalised),<sup>10</sup> refugees, and water. Multilateralism is presented mainly as an answer to Israel's unilateral settlement policies and as a response to the failure of bilateral peace negotiations. In the draft resolution submitted on 30 December 2014, the PLO presented multilateralism as a framework for bilateral peace negotiations; but as the PLO suspects that Israel uses the deadlock in the negotiations/ endless negotiations to create facts on the ground, it has suggested a one-year timeframe for negotiations and a time limit (2017) for withdrawal of Israel from the territories occupied in 1967. Thus, multilateralism serves as a framework to guarantee the conclusion of negotiations and an end to Israeli occupation. The PLO does not make the international recognition of the state of Palestine subject to the outcomes of negotiations. Negotiations should settle the conflict issues, but recognition and the end of occupation is represented as a right (the right to self-determination). Support for the Arab Peace Initiative is reiterated in the resolution.

## 2.2 Israel: multilateralism as an act of unilateralism and aggression

In its reaction to the draft resolution and the signing of the Rome Statute, Israel has constructed the PLO as an existential threat. Israeli Foreign Minister Avigdor Lieberman argued that the resolution was a "Palestinian gimmick" and that its submission represented "another act of aggression."<sup>11</sup> The Israeli Prime Minister presented the draft resolution itself as an existential threat, arguing in an official statement that this diplomatic attack "is designed to deny us our very right to defend ourselves and seeks to deny us the legitimacy of our very existence."<sup>12</sup> He also argued that this "will lead to Islamic extremists in the suburbs of Tel Aviv and to the heart of Jerusalem."<sup>13</sup> Similarly, Netanyahu contended that the PNA is not a state but an "entity that maintains an alliance with a terrorist organization [Hamas]" in his reaction to the PLO's ICC bid.<sup>14</sup> In terms of the Israeli position on multilateralism, Israeli National Security Adviser Yossi Cohen defined the Palestinian international initiative as a unilateral act, in which "the Palestinian Authority is trying to advance a forced settlement on Israel on its own terms instead

<sup>10</sup> Israel's admission to the United Nations (11 May 1949) was not unconditional but bound up with the full acceptance of the UN Charter and provisions regarding Jerusalem (Israel's original application for admission was thus rejected by the UNSC): "Negotiations," assured Abba Eban (1915-2002) in front of the UNGA on 5 May 1949, "would not, however, affect the juridical status of Jerusalem, to be defined by international consent." None of the historical events of the last 65 years have the legal power to erase these assurances. See Lorenzo Kamel, "Is it too late to defuse a third intifada in Jerusalem?", in *Ha'aretz*, 19 November 2014.

<sup>11</sup> Israel Ministry of Foreign Affairs, *FM Liberman: Security Council should deal with world threats, not Palestinian gimmicks*, 18 December 2014, <http://mfa.gov.il/MFA/PressRoom/2014/Pages/FM-Lieberman-Security-Council-should-deal-with-world-threats,-not-Palestinian-gimmicks-18-Dec-2014.aspx>.

<sup>12</sup> Israel Prime Minister Office, *PM Netanyahu Lights Chanukah Candles with IDF Soldiers at Latrun*, 21 December 2014, <http://pmo.gov.il/English/MediaCenter/Events/Pages/eventlatrun211214.aspx>.

<sup>13</sup> Barak Ravid, "Netanyahu: Let there be no doubt - Palestinian proposal at UN will be rejected", in *Ha'aretz*, 14 December 2014.

<sup>14</sup> Barak Ravid, "Palestinians submit request to join International Criminal Court", in *Ha'aretz*, 2 January 2015.

of conducting peace negotiations.”<sup>15</sup> Israel did not present an Israeli counter position how peace negotiations could be successfully pursued. Israel has, however, taken some measures in light of the internationalisation of the conflict with the issuing of the Levy report, released on 9 July 2012 by a special committee appointed in late January 2012 by PM Netanyahu to investigate whether the Israeli presence in the West Bank is to be considered an occupation or not. A growing percentage of the Israeli society and its political representatives believe that the concerns expressed by large part of the international community regarding settlements and other issues are, historically and legally, unjustified.<sup>16</sup> The Levy report asserted that “Israelis have the legal right to settle in Judea and Samaria and the establishment of settlements cannot, in and of itself, be considered illegal.”<sup>17</sup> PM Netanyahu said the report “is important because it deals with the legalization and the legitimization of the settlement enterprise in Judea and Samaria on the basis of facts, a variety of facts and arguments that should be seriously considered.”<sup>18</sup> The Arab peace initiative is not officially supported. However, in an influential opinion piece in *Ha’aretz*, former Mossad Director General Shabatai Shavit advocated reconsidering the Arab Peace Initiative; but while his article proposed a concrete solution, Palestinians were not mentioned as agents in it.<sup>19</sup>

### 2.3 United States: multilateralism as a danger to US mediation

The US has constructed its role as the major broker in the conflict. The spokesperson of State Department, for instance, rejected the draft resolution of the Palestinians, arguing that Secretary of State John Kerry “continued to have discussions with

<sup>15</sup> Israel Ministry of Foreign Affairs, *PM Netanyahu: Israel will not show restraint over the firing of rockets at its territory; we hold Hamas responsible for any firing at the State of Israel*, 21 December 2014, <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Cabinet-communique-21-December-2014.aspx>.

<sup>16</sup> For a deconstruction of some of the major claims made in the Levy report see Lorenzo Kamel, “The Palestinian Territories and The (Self)legitimizacion of the Settlements”, in *e-International Relations (e-IR)*, 14 February 2014, <http://www.e-ir.info/?p=46793>; and “Israel Remains on the Right. The Historical Reasons Behind a Long-established Political Supremacy”, in *IAI Working Papers*, No. 13|06 (February 2013), <http://www.iai.it/content.asp?langid=2&contentid=847>.

<sup>17</sup> See the English translation of the Levy Report’s conclusions and recommendations, <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Documents/edmundENG100712.pdf>. For the complete report see: *דו"ר נורמושו הדוהי רוזאב הינבה דמעמ לע ח"וד* (A report on the status of construction in Judea and Samaria), 21 June 2012, <http://www.pmo.gov.il/Documents/doch090712.pdf>.

<sup>18</sup> Tovah Lazaroff and Lahav Harkov, “C’tee to debate legalizing outposts in wake of report”, in *The Jerusalem Post*, 10 July 2012, <http://www.jpost.com/page.aspx?pageid=7&articleid=276855>. See also Stephen Lendman, “International Law Revisionism and the Military Occupation of Palestine”, in *Global Research*, 12 July 2012, <http://www.globalresearch.ca/?p=31876>.

<sup>19</sup> In his article, Shabatai Shavit mentions Palestinians only twice: once to describe the “ongoing conflict with the Palestinians” and once to refer to Palestinian accomplishments in the international arena. However, in the remainder of the article and when he speaks about peacemaking, Palestinians are not mentioned. Instead, the focus is on Saudi Arabia. See Shabtai Shavit, “Former Mossad chief: For the first time, I fear for the future of Zionism”, in *Ha’aretz*, 24 November 2014.



parties in the region and stakeholders.”<sup>20</sup> The US does not want to have this brokering role compromised by multilateralism. The US has also rejected the Palestinian ICC bid. In general, the US has opposed any legalistic approach to the conflict, which by definition reduces the scope for political discretion and, consequently, the US influence as a mediator. The US represents Palestinian multilateral moves as unilateral measures, which endanger bilateral negotiations. In a reaction to the Palestinian draft, the spokesperson of the State Department argued that the US does not support “any action that would prejudge the outcome of the negotiations.”<sup>21</sup> In the same way, the US also justified its veto in February 2011 against a resolution of the UNSC (approved by 14 out of 15 member states), which held the settlements in the West Bank and East Jerusalem to be “illegal”. In her justification of the veto, US Ambassador Susan Rice argued that the resolution “risks hardening the positions of both sides and could encourage the parties to stay out of negotiations.”<sup>22</sup> While Washington did not join the rest of the members of the Security Council in defining the unilateral acts represented by settlement construction as illegal, it continues to raise the accusation of unilateralism against the Palestinian authorities. In so doing, the US opposed Palestinian “unilateralism”/multilateral efforts while indirectly supporting – or, not opposing – “Israeli unilateralism”/the settlements policy (Washington also threatened aid to Palestinians over their ICC bid, but holds out no consequences for Israel’s settlements). Finally and connected to this, the US has also rejected the rights dimension, which the conflict carries. It sees the issue of a Palestinian state not as an issue of the right of self-determination but as subject to bilateral negotiations; issues such as the exploitation of land and natural resources in the Palestinian territories, as well as human rights of Palestinians living in the occupied territories, so become all subject to negotiations for which the US rejects concrete time limits. The US has frequently voiced its support for the Arab Peace initiative.

#### *2.4 Europe: multilateralism as an opportunity*

The EU is searching to construct a brokering role for itself through the multilateralisation of the conflict. The EU3 (France, UK, Germany), for example, have tried to come forward with an own draft resolution in the UNSC that would have been acceptable to all sides involved. This role has, however, been compromised by differences between key EU members. No consensus exists if the recognition of a Palestinian state should be conditioned on negotiations or not. Germany is closer to the US position, while France, for example, voted for the Palestinian draft resolution in the UNSC and Britain abstained. At the same time, there is a consensus among EU member states that settlements are a violation of international law and

<sup>20</sup> US Dept of State, *Daily Press Briefing*, 18 December 2014, <http://www.state.gov/r/pa/prs/dpb/2014/12/235404.htm#PALESTINIANS>.

<sup>21</sup> Ibid.

<sup>22</sup> Ed Pilkington, “US vetoes UN condemnation of Israeli settlements”, in *The Guardian*, 19 February 2011, <http://gu.com/p/2n8h3/tw>.

a dangerous undermining of the two-state solution. This is not only evident in the EU settlement guidelines, but also in the coordinated UK-France-Germany vote for the February 2011 UNSC resolution against settlements. Thus, the EU constructs a normative role for itself in the conflict, which differs qualitatively from the US role. Also the EU is reiterating its support for the Arab Peace initiative.

### 3. A strategic role for the EU in a multilateral setting

The EU's normative role in the conflict has frequently been compromised by internal differences, an inconsistent use of conditionality, US interference, as well as EU passivity. In the first three areas, however, one can register some movement. Alongside growing frustration with the Middle East Peace Process being deadlocked, EU member states are increasingly finding common ground on issues such as the settlements. Consensus is likely to increase as more and more European parliaments are speaking out for a Palestinian state, so putting pressure on their European peers. These symbolic decisions represent an unmistakable shift in EU attitude towards Israel. This can also be registered in the reaction of the Netanyahu government. Policies such as the settlement guidelines or the decision of the general court of the European Union to remove Hamas from the EU's terror blacklist on procedural grounds have been put in the context of Europe's shameful past.<sup>23</sup> Movement has also been seen in respect to the inconsistent use of conditionality. In the wake of the last Gaza war, for example, the provision of weapons to the Israeli army through some European states has come under increasing critique, leading some EU countries to review their military cooperation.<sup>24</sup> Nonetheless, trade and other cooperation between the EU and Israel has not been compromised. Finally, US interference when the EU assumes a more proactive role in the conflict is continuing. Just as the EU published its new settlement guidelines, for example, Secretary of State John Kerry came forward with a re-energised attempt to broker between the two parties and asked the EU to suspend the guidelines.<sup>25</sup> US bearing on EU positions is, however, waning as can be seen in the gaps in voting in UNSC resolutions. The US is also more than ever dependent on European cooperation in the Middle East.

Less movement can, however, be registered in the EU's passivity in the conflict. While the Palestinian Authority and the US are currently the protagonists in coming forward with new initiatives, both Israel and the EU have been rather reactive. As the conflict is multilateralising, the EU should come forward with an own initiative in this respect, not least as multilateralism is the area where the EU has comparative advantages and strengths in relation to other actors in world politics.

<sup>23</sup> Robert Tait, "Netanyahu slams European 'hypocrisy' as court orders removal of Hamas from terror blacklist", in *The Telegraph*, 17 December 2014, <http://fw.to/SbRXx3X>.

<sup>24</sup> Barak Ravid, "Spain freezes arms exports to Israel over Gaza op", in *Ha'aretz*, 5 August 2014.

<sup>25</sup> Hugh Carnegy and John Reed, "EU under pressure over funding in Israel settlements", in *The Financial Times*, 8 September 2013.

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Multilateralism does not present a solution to the conflict, but it does present a solution to move the conflict parties out of their deadlock.

What could an EU multilateral initiative look like? As the Palestinian draft resolution has been voted down and as the Palestinian leadership is circulating the idea to resubmit a new draft, the EU3 in coordination with all EU member states could come forward with their own draft resolution which will force the US, Israel and the PA out of their business as usual. This draft could be based on the French draft, which had initially been considered by the Palestinian leadership. They, however, then moved forward with their own tougher version, in a bid to appease internal opposition, as well as the US since it was almost clear that such a tough resolution would not pass the 2/3 majority and the US would not be forced to cast a veto. This resolution should 1) clearly relate to international principles which have been already defined in the past decades, 2) present the Arab Peace initiative as a basis for negotiations, 3) set a concrete time limit (or graded time limits) for negotiations, 4) and outline a new international brokering context for negotiations. The huge economic, political, and military disparities between the two sides have been aggravated by the perception of Washington as a biased broker. Saudi Arabia could act as the sponsor of a renewed initiative, Washington and Brussels as equal brokers. Also, an efficient international monitoring system should be set up. This setting would be diverse from the dysfunctional Middle East Quartet, which has served as a multilateral cover for US unilateral policies rather than as a real international mechanism.<sup>26</sup>

Accompanying this measure, the EU should continue working on its document on carrots and sticks for both parties as this would not only help Europeans to stake out common positions and enable them to play a role in the conflict which the US and Israel cannot ignore, but would also help to abandon the reality that European tax money is effectively subsidising the occupation. This also means that the EU – the largest funder of the PNA – has to create the conditions for the reconstitution of a functional political system that could allow actors other than Fatah and Hamas – both largely unrepresentative – to compete on the Palestinian political scene. While the PNA could act as an interim negotiator on behalf of the Palestinians (backed by a unity government), an eventual agreement would have to be put to referendum in both Israel and Palestine which will not only make negotiators accountable, but also give them equal weight in the negotiating process (an electorate can serve as a powerful negotiation card), and assumes both societies as responsible.

The here proposed multilateral approach could be opposed by two principal arguments:<sup>27</sup> the Oslo Accords' constraints (as argued by many Israelis) and the

<sup>26</sup> Nathalie Tocci, "The EU, the Middle East Quartet and (In)effective Multilateralism", in *Mercury e-papers*, No. 9 (June 2011), [http://www.iai.it/pdf/MERCURY/Mercury-epaper\\_09.pdf](http://www.iai.it/pdf/MERCURY/Mercury-epaper_09.pdf).

<sup>27</sup> A third less common argument is that much of the international community is showing too much attention and thus a double-standard toward Israel. Much of the region, as noted by Aaron David Miller, "is melting down right now" and in this scenario Israel's own policies "pale by comparison." See Aaron David Miller, "Why the Diplomatic Intifada Will Fail", in *Politico Magazine*,

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priority of the rights dimension (as argued by many Palestinians). The Oslo Accords explicitly preserve the positions of the parties without resolving the question of the sovereignty of the territories occupied by Israel in 1967. However, to invoke the Oslo Agreements in order to undermine the validity of any potential intervention from external actors is problematic. The Agreements provided that the interim period was not supposed to exceed five years (Article 1). It is still a matter of debate if the application of the Oslo Accords beyond its five-year interim period – a period characterised by the construction of a huge number of new settlements, by acts of terrorism pursued by Palestinians and by Israeli military operations – is compatible with the Palestinian people's right of self-determination. Furthermore, Article 103 of the UN Charter ensures that in case of conflict, the obligations of Israel under the UN Charter would prevail over any other agreement. Finally, Article 31 of the Agreements clarified that "neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip."<sup>28</sup> In each round of negotiations the Israeli authorities require the interested parties to take into account the new local demography. The considerable incentives granted by the Netanyahu government to the settlements can hardly be considered as an unintentional result of their policies in the area. They aim to affect the present and future status of the area, and represent themselves a violation of Article 31.

A significant percentage of Palestinian public opinion considers the EU's approach toward the region as risky, because it can divert the attention from what they perceive as the real priority: Palestinian rights and equality of treatment. It is, therefore, important to consider the reasons why, despite all, many Palestinians maintain a generally positive attitude toward the internationalisation of the conflict and the EU's policies in favour of the two-state solution. The dichotomy "one or two states" is perceived by many as an illusion, while the principle of self-determination of both peoples is considered as a starting point (a regional federation is the final goal). There is a large consensus among the Palestinians that in the absence of more concrete forms of pressure the Israeli authorities will annex Area C of the West Bank (about 60 percent of the total) and will offer the Palestinians what Israel's Minister of Economy Naftali Bennett defined as an "autonomy on steroids."<sup>29</sup> Such

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5 January 2015, <http://www.politico.com/magazine/story/2015/01/palestinians-diplomatic-intifada-will-fail-113958.html>. It should be noted that the Palestinian territory represents indeed a "sui generis case." In other somewhat similar contexts, such as, just to name a few, Abkhazia, the Turkish Republic of Northern Cyprus (TRNC) and East Turkestan, the "occupying powers" of these areas have created in loco nominally independent states (TRNC-Turkey, Abkhazia-Russia and so on), and/or are not building settlements in their "occupied territories" (Chechnya is just an example), and/or have incorporated the local inhabitants as their citizens: with all the guarantees, rights and problems that this entails. In the Syrian context, where, contrary to the Palestinian territory, a civil war is taking place (with external interventions), Brussels has imposed sanctions on the regime of Bashar al-Assad since the onset of the civil war and it has abandoned its arms embargo, meaning that single EU member states can now arm the opposition: this is a whole different response than, for instance, agreeing on guidelines on how to label products that will give the consumer a choice.

<sup>28</sup> *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* (Oslo II), 28 September 1995, available at: <http://www.refworld.org/docid/3de5ebbc0.html>.

<sup>29</sup> Tovah Lazaroff, "Bennett: 'We'll annex Area C and offer the Palestinians autonomy on steroids'",

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a scenario does not require any war, or the removal of most of the population residing in the area: the relatively few Palestinians that in the coming decades will still reside in Area C will get the option of receiving Israeli citizenship. At this stage, investing energies imagining an unlikely mass-struggle for human, social and political rights between the Mediterranean and the Jordan River would facilitate the process of annexation of Area C.

### Conclusions

The US, virtually the only mediator among Israelis and Palestinians in these last few decades, has rushed to criticise as “unproductive” and “unilateral” the recent Palestinian move to join international treaties. While it is indeed unclear if a multilateral approach will fare well, it is a fact that the current unilateral/bilateral approach has failed. Having reached the end of the Middle East Peace Process as we have known it for the past decades, it is about time to be open-minded about alternatives. The tendency to stigmatise as “unilateral” the attempt to consult world bodies in order to foster international consensus is, in many respects, an oxymoron. Even more so considering that on 14 May 1948, David Ben-Gurion proclaimed unilaterally the foundation of the State of Israel: a decision taken also on the basis of a resolution supported by 33 of the 56 countries that made up the UNGA at the time. Concrete changes in Israel and the Palestinian territories will not occur by means of rhetorical statements but in the context of an agreement between two equal parties and, most of all, in the frame of a full internationalisation of the conflict in support of international consensus: that is, a return to its original dimension.

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