



INTERNATIONAL TELECOMMUNICATION UNION
TELECOMMUNICATION DEVELOPMENT BUREAU

**WORLD TELECOMMUNICATION DEVELOPMENT
CONFERENCE (WTDC-98)**

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For information

PLENARY MEETING

Israel (State of)

RESPONSE OF THE STATE OF ISRAEL TO THE NOTE SUBMITTED
BY THE DIRECTOR OF THE BDT (DOCUMENT 93) IN
THE FRAMEWORK OF WTDC-98

A General

1 The State of Israel opposes the submission of a "Country Paper" by the Ministry of Posts and Telecommunications of the Palestinian Council. This body is neither an administration, as it has been erroneously presented by the Director of the BDT; nor is it a country or a member of the ITU. The Ministry of Posts and Telecommunications of the Palestinian Council has no authority to submit a document to the World Telecommunication Development Conference; and the Director of the BDT has no authority to circulate the Note numbered Document 93 in the name of the "Palestinian Administration" (which is not a recognized entity). Finally, the document has been circulated on a letterhead of the Palestinian National Authority, an appellation which is not recognized by either the ITU or Israel, and which is in violation of the Interim Agreement signed by Israel and the PLO, on the West Bank and Gaza Strip of 28 September 1995 (herein, "the Interim Agreement"), which will be discussed herein.

2 Moreover, Israel protests the usage in the document referred to of the term "Palestine" to denote a geopolitical entity. No such entity exists: the proper designation of the territories in question is "the West Bank and Gaza Strip". The responsibility at the international level for regulating postal and telecommunications issues for these territories lies exclusively with Israel: the issue is not in any way management of Palestinian national resources, but rather of Israeli national resources. Additionally, the use of the abbreviation "PNA" is in contradiction to the Interim Agreement between the parties.

3 In addition to these procedural irregularities, the State of Israel protests the distortion of facts presented in the above-mentioned document, which contradicts the realities and undermines the achievements of Israeli-Palestinian cooperation in the area of telecommunications, in the era since the signature by both parties of the Interim Agreement.

4 The Interim Agreement contains a lengthy section dealing with telecommunications, Article 36 of Appendix 1 to Annex III, hereto attached. In Sections B (1) and B (3) of Article 36, respectively, the parties agreed as follows:

"Israel recognizes that the Palestinian side has the right to build and operate separate and independent communication systems and infrastructures including telecommunication networks, a television network and a radio network."

.....

"The Palestinian side has the right to establish its own telecommunications policies, systems and infrastructures. The Palestinian side also has the right to choose any and all kinds of communication systems (including broadcasting systems) and technologies, suitable for its future in, *inter alia* basic and value-added services (including cellular telephony)."

5 It should be emphasized that the Interim Agreement provides a wide range of opportunities for growth and development in the field of telecommunications to the Palestinians, which are further described in Article 36. Nonetheless, international communications are beyond the scope of the Agreement, and thus the Palestinian side is permitted to undertake international communications (cable, wireless, broadcasting and satellite) only through Israeli infrastructures at present.

6 The Interim Agreement provides a comprehensive and detailed framework for telecommunications development for the areas under Palestinian civilian control. It also provides for ongoing coordination and cooperation between the parties, including the assignment of frequencies to the Palestinian side, through a Joint Technical Committee (JTC), which meets several times a year in order to address common issues. The Director-General of the Israeli Ministry of Communications and the Deputy Minister of the Ministry of Posts and Telecommunications on the Palestinian side serve currently as co-Chairmen of the JTC.

B Resolution 32 of the Kyoto Plenipotentiary Conference, 1994

1 Development and enhancement of the existing telecommunications infrastructure for the Palestinian population in the West Bank and Gaza Strip was a justifiably important concern of the ITU during the Kyoto Plenipotentiary. Israel and five Arab Member States, in an unprecedented step, jointly sponsored Resolution 32, the declared aim of which was:

"... to explore and study the needs of the Palestinian Authority in order to improve the telecommunication infrastructure and identify where assistance is needed."

2 Israel has closely monitored the implementation of Resolution 32, although it was not included in the internal committee established to oversee the Resolution's implementation.

3 Based on the reports of the internal committee which Israel has received to date, it appears that progress has been made within the framework of Resolution 32 to fulfil the objectives mentioned above, in addition to the achievements reached under the cooperative Israeli-Palestinian regime established by the Interim Agreement.

C The Palestinian telecommunications network at present

1 It is clear that the Palestinian Council has made good progress over the past several years in implementation of the powers and responsibilities transferred to it in the field of telecommunications. The Council has created an autonomous legal framework in telecommunications, established a Palestinian telecommunications operating company (Paltel), developed broadcasting facilities and begun the establishment of an independent telecommunications network. The Ministry of Posts and Telecommunications, established in 1996, has taken the responsibility for these initiatives.

2 In addition, as the result of intense negotiations which have taken place under the auspices of the Israeli-Palestinian JTC, an agreement establishing a Palestinian GSM system is close at hand. It should be noted that the agreement envisages close cooperation, including co-usage of spectrum, between the Palestinian GSM operator and the recently-named Israeli GSM operator. It is essential to keep two points in mind: first, that the tender process on the Palestinian side was concealed from Israel, and was carried out in violation of the Interim Agreement; and secondly, that Israel has assigned more spectrum frequencies for Palestinian GSM use than were requested by the Palestinian side.

D Inaccurate representation of facts in Document 93

1 The relationship between the Palestinian Council and Bezeq - The Israel Communications Corporation, Ltd.

The document refers on its second page to "The commercial agreement signed with the Israeli main operator (Bezeq) ...", and proceeds to criticize its provisions. No such agreement has ever been signed between Bezeq and any Palestinian party, although the Interim Agreement does so require. In fact, negotiations to conclude a commercial telecommunications agreement have been stalled time and again, since the entry into force of the Interim Agreement, by the Palestinian side. The present arrangements between the parties, which have been informally agreed, permit each side to collect in full the amounts due for all calls which originate in the territories under its control in the sphere of telecommunications. These arrangements have been agreed upon by Israel despite the fact that the infrastructure utilized by the Palestinian side is mainly based on Israeli efforts and past investment.

2 Import of telecommunications equipment

The document states that "MPT [Ministry of Posts and Telecommunications] faces considerable delays caused by lengthy and complicated procedures (bureaucracy) to import telecommunication equipment for the use of the operator and individual users." The truth is that the import of telecommunications equipment by the Palestinian Council is a routine matter, handled on an ongoing basis, in much the same way that the telecommunications equipment of any other importer is treated. Verification by the authorities that the import of equipment to areas under Palestinian civilian control is in conformity with the Interim Agreement is of necessity a part of this procedure.

It is worth noting that Israel has also on occasion allowed the import of equipment which is specifically not permitted under the Interim Agreement, on an *ad hoc* basis, as in the recent decision to allow the import of satellite receiving equipment for international broadcast transmissions.

3 Topics falling under the auspices of the Interim Agreement

Page 2 of the document under discussion contains the following puzzling sentence:

"MPT has to negotiate with the Israeli Postal and Telecommunication Authority several arrangements so as to implement the provisions of the postal and telecommunication agreements, especially; obtaining separate local code as a prerequisite for the country code; the allocation of frequencies required to operate the GSM services; assigning of frequencies to establish other telecommunication service." [sic]

These points will be taken one by one:

- There is no "Postal and Telecommunication Authority" in Israel. There is an independent Israel Postal Authority, on the one hand; and a governmental Ministry of Communications, on the other.
- There are no "postal and telecommunication agreements" between the two sides; rather, there exist specific articles within the Interim Agreement dealing Posts (Article 29) and Telecommunications (Article 36), respectively.
- "... [O]btaining separate local code..." is by no means a "... prerequisite for the country code" under the Interim Agreement.
- All of the topics mentioned as requiring negotiation were specifically agreed to by the Palestinian side in the Interim Agreement: there should be no cause for complaint regarding terms which were thoroughly negotiated by the parties and formally accepted by them. In fact, several of the topics mentioned are near complete agreement by the two sides: a commercial postal agreement, a numbering plan for the areas under Palestinian civilian control, and the assignment of GSM frequencies.
- Several Palestinian requests for frequency assignment by Israel go beyond the amount of frequencies assigned in the Interim Agreement for exclusive Palestinian use, although the initial quantity has not yet been utilized by the Palestinian side. One example is the recent request made by the Palestinians, through the JTC, for more short microwave links, whereas the links already assigned are not yet in use.
- The State of Israel would like to reinforce and support the request made in the penultimate paragraph of Document 93 (with the necessary changes in terminology),
"To continue and enhance the technical assistance provided to the [PA], in order to enable MPT to achieve its development objectives and programs of the telecommunication sector."

E Israel's position on central issues

Israel's positions on the central issues raised in these two documents are well known. They are reiterated here briefly.

1 International telephone access to areas under the civilian jurisdiction of the Palestinian Council

There is no jurisdiction at present under ITU law and policy for the implementation of a separate international country code to be utilized by the Palestinian Council. Such implementation would also be incompatible with the provisions of Article 36 (D)(5) (c) of the Interim Agreement, which states that the introduction of an international code for the Palestinian side is subject to agreement

between Israel and the Palestinians. It should be noted that the ITU has already taken the highly unusual step of setting aside an international country code for future Palestinian use, a step which Israel strongly opposes as prejudicing the outcome of negotiations between the two parties.

2 Notification of frequency assignments

Where relevant, notification of frequency assignments for the territories in question shall continue to be communicated exclusively by Israel to the ITU. This practice is in complete conformity with both the ITU Administrative Regulations and the provisions of the Interim Agreement. Any step taken with regard to this matter, which does not conform with existing practice, without the express prior consent of Israel, would result in a double violation of both the ITU Administrative Regulations and the Interim Agreement. Again, such a step would also unfairly prejudice the outcome of negotiations between the two parties.

3 Radio call signs

The Interim Agreement does authorize separate radio call signs for the territories under Palestinian civilian control. Israel's position is that the ITU is not authorized to assign a radio call sign to the areas in question, until such time as the matter is resolved between Israel and the Palestinians. In addition, Israel reiterates its strong objection to the current unsanctioned use of illegal call signs from these areas.

4 Request to alter the legal status of the Palestinian observer delegation in ITU fora

The legal status of the PLO observer delegation in ITU fora is extremely well-defined in ITU Council Resolution 741, itself rooted in three UN General Assembly resolutions, which are applied in a consistent and unified manner throughout the UN system. The acceptance of an entity which is not a State would require, as a prerequisite, changes in these documents.

Accounting to Article IX (5) of the Interim Agreement, the Palestinian Council (which replaced the Palestinian Authority) does not have powers and responsibilities in the sphere of foreign relations. Consequently, it cannot become a member of the ITU. Furthermore, Article XXXI (7) of the Interim Agreement stipulates that "Neither side shall initiate or take any step that will change the status of the West Bank and Gaza Strip pending the outcome of the permanent status negotiations." Therefore, the PLO's status as observer in the ITU may not be upgraded, since such would imply a change in the status of the West Bank and the Gaza Strip.

It follows, then, that granting membership in the ITU to either the Palestinian Council or to the PLO would result in a serious breach of the Interim Agreement.

In addition, it is essential to remember that Article 2 of the ITU Constitution stipulates that only States may be members of the ITU.

F Conclusions

The State of Israel strongly objects to the submission of a so-called "Country Paper" by the Ministry of Posts and Telecommunications of the Palestinian Council. There is no standing to submit such a paper, nor is there any authority invested in the WTDC to accept such a paper. Likewise, the submission of the document to the WTDC by the Director of the BDT "from the Palestinian Administration" is unacceptable: no such administration currently exists.

The inaccuracies and misinformation in the paper have been discussed above; they only serve, in Israel's view, to hamper the parties in their ongoing and fruitful professional relationship in the field of telecommunications.
