

# CRS Report for Congress

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## Israeli-Palestinian Peace Process: The Wye River Memorandum

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### Summary

On October 23, 1998, Israeli Prime Minister Benjamin Netanyahu and Palestinian Authority Chairman Yasir Arafat signed the Wye River Memorandum which delineates parallel, incremental steps to be taken over a 12-week period to complete implementation of prior agreements. A time line attached to the Memorandum defines an exchange of Israeli redeployments from the West Bank for concrete security measures to be taken by the Palestinians. Congress may be concerned about provisions that appear to expand the U.S. role, especially about unusually visible Central Intelligence Agency activity concerning implementation of security measures and U.S. aid commitments. See also, CRS Issue Brief 91137, *The Middle East Peace Talks*, CRS Report 96-324F, *The Palestine Liberation Organization Covenant*, and CRS Report 98-791F, *A Palestinian State and U.S. Recognition: Pro and Con Arguments*. *This report will not be updated.*

**Background.** On October 23, 1998, Israeli Prime Minister Benjamin Netanyahu and Palestinian Authority Chairman Yasir Arafat signed the Wye River Memorandum at a White House ceremony, ending a 19-month stalemate in the Israeli-Palestinian peace process. The Memorandum culminated nine days of negotiations at the Wye River Conference Center which were intended to resolve differences over implementation of prior agreements, thereby enabling the parties to engage in final status talks on what are expected to be even more contentious issues: Jerusalem, refugees, settlements, water, borders, and the nature of a Palestinian political entity.

The Memorandum lists parallel incremental steps to be taken by each side over 12 weeks to facilitate completion of the implementation of the Interim Agreement on the West Bank and Gaza Strip of September 28, 1995, and agreements specified in Notes for the Record that accompanied the Hebron Protocol of January 17, 1997. Unfinished business from these earlier accords includes:

-- *Israeli redeployments from the West Bank.* Israel redeployed its forces from the Gaza Strip and Jericho as a result of a May 4, 1994 agreement, from six West Bank cities as a

result of the Interim Agreement, and from Hebron after the Protocol. The Interim Agreement and Notes for the Record required Israel to make three further redeployments from the West Bank. In March 1997, Israel proposed a further redeployment that the Palestinians found unacceptably small. No further redeployments have taken place.

-- *Palestinian Charter revision.* The Interim Agreement specified a date by which Palestine Liberation Organization Charter (or Covenant) articles calling for the destruction of the State of Israel were to be revoked. On April 24, 1996, the Palestine National Council voted to cancel "articles contrary to letters exchanged between the Palestine Liberation Organization and Israel in September 1993," wherein the PLO had recognized Israel's right to exist. The Clinton Administration and then Israeli Prime Minister Shimon Peres accepted the PNC action as fulfilling the Palestinian commitment regarding the Charter. Prime Minister Netanyahu, elected in May 1996, does not accept the PNC's vote as satisfying the commitment. On January 22, 1998, Arafat attempted to be more precise by giving President Clinton a letter listing Charter articles that the PNC's April 1996 action had repealed. However, Netanyahu insists that the PNC itself meet again to complete its work by being more specific.

-- *Security measures.* The Interim Agreement mandated a Palestinian police force of 30,000, but that strength has been exceeded, perhaps by as much as 10,000. The Agreement called for Palestinian cooperation with Israel to fight terrorism, which Israel has found deficient. Other provisions required Israel to release Palestinian prisoners in stages; about 3,000 Palestinian prisoners remain in Israeli custody.

The 1997 Notes for the Record reaffirmed Israel's agreement to release prisoners, and to negotiate safe passage between the West Bank and Gaza Strip, a Gaza airport, and a seaport. They also reiterated the Palestinian promise to revise the Charter, fight terror, keep their police force within size limits, and confiscate illegal arms. Permanent status talks were to resume two months after the implementation of the Hebron Protocol; but they did not. Only one ceremonial meeting has been held, in May 1996.

## **Provisions of Wye River Memorandum**

**Further Redeployments.** The Interim Agreement categorized territory from which redeployments would occur according to the parties' responsibilities. In Area (A) Palestinians exercise both civil and security authority; in (B) Palestinians exercise civil authority and Israelis security authority; and in (C) Israel exercises all authority. Wye requires Israel to transfer 13% of Area (C) to the Palestinians; 1% will become Area (A) and 12% will become Area (B). Of the 12%, 3% will be designated Green Areas or Nature Reserves, where no new Palestinian construction will be allowed and Israel will retain responsibility for security. Israel also will transfer 14.2% from Area (B), joint control, to Area (A), complete Palestinian control. When the new redeployments are concluded and added to redeployments that had been implemented previously pursuant to agreements between 1994 and 1997, the Palestinians will have complete or shared responsibility for 40% of the West Bank, of which it will have complete control of 18.2%.

A committee will address the question of a third further redeployment that had been specified in the Interim Agreement and on January 17, 1997.

**Security.**<sup>1</sup> The Wye Memorandum details requirements for the Palestinians to fulfill on the issue of security. Under its provisions, the Palestinians will make known a policy of zero tolerance for terror. They will implement a work plan to ensure the systematic combating of terrorist organizations and their infrastructure. The plan will be shared with the United States, and a U.S.-Palestinian committee will meet biweekly to review steps being taken to eliminate terrorist organizations and their support structure. The Palestinians will apprehend suspected terrorists. A U.S.-Palestinian committee will review and evaluate information pertinent to decisions on the prosecution and punishment of suspected terrorists.

The Palestinians will ensure an effective legal framework to prohibit illegal weapons and implement a systematic program, with U.S. assistance, for their collection.

The Palestinians will issue a decree prohibiting incitement to violence or terror and establish mechanisms to act against provocateurs. A U.S.-Palestinian-Israeli committee will monitor cases of possible incitement and make recommendations on how to prevent them.

The Israelis and Palestinians agree to full, continuous, and comprehensive bilateral security cooperation. A U.S.-Palestinian-Israeli committee will meet not less than biweekly to assess threats and deal with impediments to security cooperation. The committee will serve as a forum to address the issue of external support for terror.

The Palestinians will provide a list of their policemen to the Israelis. Should the Palestinians request technical assistance for their police, the United States indicated its willingness to help, in cooperation with other donors.

The issue of extradition will be handled pursuant to previous agreements.

**PLO Charter.** The Memorandum requires that the PLO Executive Committee and Central Council reaffirm the January 22, 1998, letter from Arafat to President Clinton which specified articles of the Charter that had been nullified in April 1996. Members of the Palestine National Council, the PLO/EC, and CC will meet to reaffirm EC and CC decisions regarding the Charter. President Clinton will address the meeting.

**Committees and Economic Issues.** The parties agreed to reactivate standing committees established by the Interim Agreement. They also agreed on arrangements for the opening of the Gaza Industrial Estate and on a protocol for the establishment and opening of the International Airport in the Gaza Strip. They further agreed to make best efforts to agree on a safe passage between the Gaza Strip and West Bank within one week, and to conclude a protocol for the Port of Gaza within 60 days.

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<sup>1</sup>According to Deputy Special Middle East Coordinator Aaron Miller, a binding, unwritten agreement, outside of the Wye Memorandum, will govern the release of Palestinian prisoners. Presentation to the Foreign Press Club, October 30, 1998, transcript carried by Reuters. Israeli spokesman Aviv Bushinsky and other participants at the Wye Conference had said that Israel would release 750 prisoners. Reuters, October 23, 1998.

**Permanent Status Negotiations** resume when the agreement takes effect, on November 2, 1998.

**Unilateral Actions.** "Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip in accordance with the Interim Agreement."

## Time Line

The following time line is an "integral attachment" to the Memorandum.

### November 2, 1998:<sup>2</sup>

- The Memorandum enters into force.
- Accelerated permanent status talks.
- Palestinians share their security work plan with the United States.
- Full bilateral security cooperation.
- Trilateral security cooperation committee meets.
- Interim committees resume.

### Week 2:

- Security plan implementation begins.
- Illegal weapons framework put in place.
- Anti-incitement decree issued. Committee begins.
- PLO/Executive Committee reaffirms letter on Charter nullification.
- *Israel redeploys from 2% of Area (C), which becomes Area (B) or joint responsibility; and 7.1% of Area (B) which becomes Area (A) or Palestinian responsibility.*

### Weeks 2-6:

- Weeks 2-4: PLO/Central Committee reaffirms Charter letter.
- Weeks 4-6: Palestine National Council reaffirms Charter letter.
- Anti-incitement committee reports.
- *Israel redeploys from 5% of Area (C), which becomes (B).*

### Weeks 6-12:

- Weapons collection committee report.
- Anti-incitement committee report.
- *Israel redeploys from 5% of Area (C), which becomes (B), 1% of Area (C) which becomes (A); and 7.1% of (B) which becomes (A).*

## Potential Problems

The attempted suicide bombing of an Israeli school bus in Gaza on October 29, 1998, by the militant wing of the Palestinian fundamentalist HAMAS organization highlighted

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<sup>2</sup>See next section, "Potential Problems."

the continuing determination of opponents of the peace process to derail it. Implementation of security measures envisaged in the Wye Memorandum would mean a 100% effort on the part of the Palestinian Authority to combat terrorism, as Israel and the United States have demanded. It cannot, however, ensure complete effectiveness. The parties' reactions to terrorist incidents may indicate the extent to which they will let opponents of the peace process influence its progress, and test their dedication to pursuing the process.

Furthermore, as with many diplomatic documents, the Wye Memorandum itself contains potential pitfalls. For example, the statement about unilateral actions may not impede such behavior. "Unilateral actions" has been understood to refer especially to Israeli settlement activity and to a Palestinian declaration of statehood. Shortly after signing the Memorandum, Prime Minister Netanyahu declared that nothing in the Memorandum affects Israel's right to expand settlements in the West Bank. He said, "We are building throughout the Land of Israel and in Jerusalem," and he specifically promised to build 2,000 homes on the disputed Har Homa/Jabal Abu Ghneim site in south East Jerusalem. Work has begun to expand a Jewish settlement near Hebron. Will Israel's action provoke Palestinian protests and, if so, how will the Palestinian Authority react to them and to the construction? Meanwhile, Chairman Arafat reiterated his right to declare a Palestinian state on May 4, 1999, when the interim period expires. How will Israel react if he does? The answers to these questions may pose problems for the peace process.

Most deadlines included in earlier Israeli-Palestinian agreements have not been met. The time line attached to the Memorandum is tight. It codifies Israel's insistence on reciprocity, whereby one party's act triggers the other party's act. At each stage, the process could break down. The effective date of the Memorandum already has been postponed to allow the Israeli cabinet and Knesset (parliament) time for ratification and because of Israel's doubts about the Palestinians' performance. Moreover, the accord expects the rapid resolution of safe passage and seaport issues that have not been settled for three years and apparently could not be achieved during intensive talks at Wye.

The Memorandum defers to a committee the issue of a third Israeli redeployment from the West Bank, but gives the committee no deadline for its work. Netanyahu would like to limit the redeployment to 1% of territory, but the Palestinians expect much more.

Finally, by inserting an active U.S. role in security matters, the Memorandum may produce only limited direct contacts between the parties and fail to rebuild trust.

## **Issues for Congress**

**Role of the CIA.** President Clinton personally mediated over 70 hours of the talks to achieve the Wye Memorandum. Because of the parties' mutual distrust, the United States agreed to undertake a very active, unprecedented role. The United States is mentioned repeatedly in the security section of the Memorandum. Central Intelligence Agency Director George Tenet was among its negotiators, and most references to the United States are understood to create an unusually visible role for the CIA. Some Members of Congress have expressed concern about this development, and the Senate Select Committee on Intelligence will be holding hearings. Others assert that the agreement could not have been reached without the CIA involvement, and believe that the

importance of the accord warrants it.<sup>3</sup> Tenet argues that the CIA's role is consistent with its traditional mission.<sup>4</sup> The possible diversion of U.S. intelligence resources from other important assignments to oversight of Wye Memorandum security measures also may generate concerns about the CIA's role.

**U.S. Assurances.** U.S. officials provided letters of assurance to the Israeli government, and reportedly to the Palestinian Authority, affirming U.S. policy. To Israel, they pledged, *inter alia*, that "the U.S. commitment to Israel's security is ironclad," that only Israel can determine its own security needs and decide on satisfactory solutions, that a third Israeli redeployment is for Israel to implement not negotiate, and that the U.S. maintains that acceptable solutions can be found only through negotiations not unilateral acts.<sup>5</sup>

The United States government appears to be responsible for the implementation of much of the Wye Memorandum. If the Administration is so committed to the success of its policy, might it gloss over non-compliance? Possible U.S. failure to perform to the satisfaction of either party may lead unintentionally to troubled relations.

**Aid.** At the signing ceremony, President Clinton said that he would consult with Congress to design a package of aid to help Israel meet the security costs of redeployment and help the Palestinian Authority meet the economic costs of development. This is in addition to technical and other assistance to the Palestinians specified in the Memorandum to help enable the Palestinians to fulfill their security commitments. Secretary of State Albright clarified that the United States would lead a major donor effort to help develop the Palestinian economy as well as seek to increase its own assistance.<sup>6</sup> Heretofore, Congress has made aid to the Palestinians conditional on their compliance with agreements with Israel.<sup>7</sup>

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<sup>3</sup>Senate Select Committee on Intelligence Chairman Richard Shelby and ranking Member Bob Kerrey, on *The News Hour*, October 26, 1998.

<sup>4</sup>George J. Tenet, What 'New' Role for the CIA? *The New York Times*, October 27, 1998, p. A25.

<sup>5</sup>Letters published in *The Prime Minister's Report*, Vol. 2, No. 34, November 3, 1998.

<sup>6</sup>Reuters, October 23, 1998.

<sup>7</sup>Beginning with the Middle East Peace Facilitation Act (MEPFA), PL.103-236, April 30, 1994, up to the Omnibus Spending Bill, P.L. 105-277, October 21, 1998. See CRS Report 97-830F, *Middle East Peace Facilitation Act: Implications of Expiration*, by (name redacted), September 10, 1997. Possibly relevant is the fact that some Members of Congress were dissatisfied with State Department reports on Palestinian compliance with prior agreements with Israel submitted pursuant to MEPFA requirements and suggested that the Administration had papered over Palestinian shortcomings.

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