

# Reading between the lines of the draft treaty

by Chibli Mallat

Over and above the difficult negotiations between Syria and Israel stands the towering power of the United States. The amount of time the US president is dedicating to the process is significant, and there is little doubt that Bill Clinton sees the completion of a treaty as the crowning swan song of his eight years in power.

So keen is US diplomacy to make progress that the State Department lawyers put together a draft treaty which was published in Haaretz newspaper. In the all important areas of divergence, parentheses introduce an S or an I, for the Syria and Israeli conflicting versions. Unfortunately, there are no maps attached, one wonders really whether maps are available at this point, at least for the now famous June 4 1967 border.

There was news from Israel last week about an order from Prime Minister Ehud Barak to his army cartographers to get going on the map, and they have apparently been interviewing settlers and soldiers who have been stationed in the Golan Heights for more than 30 years about where Syrian soldiers and villagers were before the 1967 war. Without maps, constructive ambiguity will remain. However, without maps, there will be no peace treaty. We shall have to wait a little longer until the boundary pictures get clearer.

Still, it is always useful to study these draft documents, for they often contain formulas with a high historical charge, sometimes as in the case of the draft treaty, of psychoanalytic value.

The text is not long, and consists of nine articles. The main divergences are where you expect them to be – Syria insisting on the

June 4, 1967 line, Israel refusing to commit; Syria wanting the Golan to be returned free of settlers, Israel requesting a further “schedule for the attainment of relevant agreements as well as arrangements concerning the Israelis and Israeli communities in areas from which Israeli forces will be relocated.”

Don't try to understand that gobbledygook of a phrase, it's merely poor legal drafting, probably designed to tell the Golan settlers that they merit to be mentioned in history. What Golan settler would want to stay under Syrian sovereignty and law escapes my current frame of mind.

Bridges appear well established, despite the continuing divergence in wording, over security arrangements and water.

First, the early warning ground station seems to be accepted by Syria, “if it's operated by the United States and France.” Article IV.a.2, however, stipulates that the Israelis want “an effective Israeli presence.” A South Lebanon-type of “monitoring, inspection and verification mechanism,” presumably by a joint committee also comprising Americans and Europeans is accepted by both parties in Article IV.a.4, so the amalgamation of the two sub-paragraphs does not seem impossible as a way forward.

How about some over-arching multinational “liaison committee” with the right to access that warning station? Water issues have also been discussed. Israel insists that its current share of water from the Golan should not diminish, while the Syrians insist on “international principles and practices.” A

compromise is conceivable in the larger economic context, and water will be literally traded between the two countries by leaving the matter to be decided by what the Israelis want to call “the Joint Water Committee” and the Syrians refer to as “the Joint Administrative Board.” Good lawyers might be able to explain the difference between the two, and one wishes them well considering that English, Arabic and Hebrew are “equally authentic,” even if English seems more equally authentic than the rest.

On to psychoanalysis, but first I leave my Lebanese compatriots to find out where they may appear in the text (here's a clue: check under the longest article amongst the nine). I should also mention the need to avoid Orwellian language which the Israelis are trying to force into the text by insisting that they “relocate,” while the Syrians ask that they “withdraw.” The history of the terms is of some intellectual interest.

Is provenance Middle Eastern? The term is familiar in the latest treaties between Israelis and Palestinians, as “redeploy” rather than “relocate,” but not in the Camp David Accords. There it was all plain good old withdrawals, as it also was in the 1993 Declaration of Principles. Orwell must have come into the picture between Oslo I and Oslo II in September 1995. The honest position is to insist on “withdrawal.” If a new era is to start in the Middle East, at least it should not come on the wings of Orwellian speak. Israelis must withdraw because they occupy the Golan illegally, and that is that. Remember

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242 and the inadmissibility of acquiring territory by force? Which brings us to the linguistic gem of the draft treaty – “supercede.”

Twice in the English text published in Haaretz does the word appear. In Article IX, the treaty is said “to supercede all previous bilateral agreements.” In Article II, the international boundary eventually accepted by the two parties under the treaty “supercedes any previous boundary.” Now the word supercede, in my American Webster's dictionary, does not exist. What the eminent drafters meant, of course, is “supersede,” with an s. In one definition this means “to cause to be set aside or dropped in use as inferior or obsolete and replaced by something else.” The Latin origin of the suffix is sedere, to sit, not cedere, to yield.

It would be useful to find out whether the error was American or Israeli, that is whether the US drafters made it or whether the terms were changed in the communication process between Washington and the Haaretz editorial room. Here is where psychoanalysis comes in: whoever was responsible for the mistake, and the legions of experts who have read it, must have perceived that the treaty will cause a “super” territorial and diplomatic sacrifice of Israel, whereby it must “super” (as in superlatively) “cede” ground to Syria. It would be entertaining, if not telling, if the error originated in America. So much for honest brokerage.

If and when the final treaty is agreed upon, one hopes that, in the legacy of Bill Clinton, both Orwellian language and Freudian lapses will be avoided.

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