Between Autonomy and Effectiveness: Reassessing the European Union's Foreign Policy Towards the Israeli-Palestinian Conflict

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1 INTRODUCTION

The preparation of an EU Global Strategy on Foreign and Security Policy has provided a fillip to debates on the purpose and execution of European external action.[1] A multitude of issues has figured in this debate, but two in particular – European Union (EU) effectiveness and autonomy – are noteworthy given that both have framed the discussion of the Common Foreign and Security Policy (CFSP) since its inception. Federica

[1] Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy (June 2016), https://europa.eu/globalstrategy/sites/globalstrategy/files/eugs_review _web.pdf.

Mogherini, the High Representative of the Union for Foreign Affairs and Security Policy, has suggested that the EU needs to follow its own priorities, and be more 'adaptive, more innovative, and more proactive'.[2] This is a view also voiced in much expert commentary. Autonomy, Damien Helly has noted, remains 'the missing ingredient in a European strategic renaissance'.[3]

Israel-Palestine (I-P) is, in this connection, an instructive case. Much, of course, has been written on the EU's role here, not all of it complimentary. Recent studies have acknowledged the EU's distinctive contribution,[4] but this has to be set against the view that EU external action is largely incapable of having tangible effect.[5] The implied link here between actorness (or autonomy) and effectiveness is another well-trodden path of EU studies.[6] Interest in this subject has recently been revived,[7] the reasons for which have been aptly captured by Arne Niemann and Charlotte Bretherton. In their view, the EU is 'at a crossroads'. On the one hand, there

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[2] The European Union in a Changing Global Environment: A More Connected, Contested and Complex World 20, presented by High Representative Mogherini (June 2015), https://europa.eu/globalstrategy/en/ strategic-review-european-union-changing-global-environment.

[3] Growing Pains? The Long Teenage Years of European Strategy, ECDPM Talking Points blog (8 Jan. 2016), http://ecdpm.org/talking-points/challenges-2016-blog-eu-global-strategy/.

[4] D. Bouris, The European Union and the Occupied Palestinian Territories: State-Building Without a State (Routledge 2014); A. Persson, The EU and the Israeli-Palestinian Conflict 1971–2013 (Lexington Books 2013).

[5] E. B. Aymat, European Involvement in the Arab-Israeli Conflict, 124 Chaillot Paper (European Union Institute for Security Studies 2010); R. Miller, The Business of Politics, the Politics of Business: Turning EU Economic Power into Political Influence, in The Middle East Conflict in Europe and the Middle East: the Hour of the EU? (B. Wassenberg & G. Faleg eds, Peter Lang 2012).

[6] C. Bretherton & J. Vogler, The European Union as a Global Actor (2nd ed., Routledge 2006).

[7] G. Edwards, The EU's Foreign Policy and the Search for Effect, 27(3) Intl. Rel. 276–291 (2013); K. McDonagh, Talking the Talk or Walking the Walk? Understanding the EU's Security Identity, 53(3) J. Com. Mkt. Stud. 627–641 (2015).

have been notable institutional and treaty changes that have raised both the profile and authority of the EU in external relations. Yet, on the other, EU effectiveness has been circumscribed by cumbersome procedures, internal division and the lingering shadow of American international leadership.[8] Despite heightened expectations, therefore, the EU has, for some, continued to 'punch below its weight'.[9] The EU Global Strategy must be seen in this context, as another attempt to promote the EU's place in the world. That it sets out to do so in an atmosphere of despair occasioned by the European migration crisis, civil war in Syria, a broken relationship with Russia and 'wicked problems' such as climate change makes the task necessary but seemingly that much more difficult.[10]

By revisiting the EU's role in relation to I-P, we depart from such pessimism, articulating a qualified but still positive assessment of European external action.

Taking the formation of the Quartet for Peace in 2002 as our point of departure, we show that in the period up until mid-2016 the EU has moved towards autonomy and effectiveness. The EU has been able to take advantage of the various opportunities it has had on the I-P conflict and has been able to stake out, on occasion, a position distinct from that of the United States. This has meant neither that the EU has usurped US leadership

[8] A. Niemann & C. Bretherton, EU External Policy at the Crossroads: the Challenge of Actorness and Effectiveness, 27(3) Int. Rel. 261–275, 262 (2013).

[9] D. C. Thomas, Still Punching Below Its Weight? Coherence and Effectiveness in European Union Foreign Policy, 50(3) J. Com. Mkt. Stud. 457–474 (2012).

[10] These factors and others are all considered in The European Union in a Changing Global Environment, supra n. 2.

nor that it has brought the I-P issue to a resolution. Its record does, however, suggest that EU external policy (and CFSP specifically) can in certain circumstances be more consequential than its gainsayers would believe[11] and so gives point to the argument that a Global Strategy for the EU is far from a lost cause. Before providing detail in this regard, we turn first to a brief discussion of autonomy and effectiveness, the criteria by which we will judge EU action.

2 CONCEPTS

2.1 EU AUTONOMY

Autonomy is essential to actorness. The latter's properties of authority, cohesiveness and recognition by others only make sense if autonomy is assumed a priori.[12]Autonomy has more than one connotation in the EU context. In the first place, it exists internally, being a function of how the EU relates to its Member States. This relationship, between an organization and its principals, is a mainstay of organizational studies. In the case of the EU, as Randall Stone notes, 'states have delegated substantial authority […] in areas where they have broadly congruent interests'.[13]It is the extent of this delegation that represents the EU's unique qualities. The Lisbon Treaty's allocation to the EU of areas of exclusive and shared competence (coupled with the granting of full legal personality to the Union) is without equal in global and regional governance. Logically-speaking, actor

[11] J. Howorth & A. Menon, Wake Up Europe!, 1(1) Global Aff. 11–20 (2015).

[12] E. da Conceiçã-Heldt & S. Meunier, Speaking with a Single Voice: the EU as an Effective Actor in Global Governance, 21(7) J. Eur. Pub. Policy 961–979 (2014).

[13] R. W. Stone, Controlling Institutions: International Organizations and the Global Economy 29 (Cambridge University Press 2011).

autonomy is most assured where, in keeping with Articles 3 and 4 of the Treaty on the Functioning of the European Union (TFEU), these competences are exercised. Thus, on trade (an exclusive competence) the Commission negotiates directly on behalf of the EU (albeit subject to a mandate from the European Council). On global climate change (a shared competence), meanwhile, the EU is, along with the individual Member States, a party to both the 1997 Kyoto Protocol and the 2015 Paris Agreement. Coordinating EU and joint Member States' positions in this regard has been done through the combined efforts of the Commission, the European External Action Service (EEAS), and the Council.

But what does such an understanding of autonomy mean for CFSP specifically? Here, the Lisbon Treaty has meant little change to a policy sphere already tightly controlled by the Member States. Both the High Representative and the EEAS can call upon institutional resources but their impact is reliant ultimately on the readiness of the Member States to follow and support. The High

Representative thus acts to greatest effect where a European consensus pertains. On the Iran dossier, for instance, Catherine Ashton was able to play a prominent role in negotiations on Iran's nuclear programme. Mogherini continued these efforts and so the EU obtained a formal role in the E3+3 (the EU, France, Germany, the UK, Russia, China and the United States) agreement with Iran in July 2015. Thereafter, the ending of financial sanctions provided the High Representative with the opportunity to lead a high-level dialogue on economic cooperation with Iran. While implementation of the deal with Iran is by no means certain, the case does

testify to the EU's ability to develop a common foreign policy approach, one that addresses a major international challenge in concert with other actors. Equally, on I-P, where the two-state solution is among the most consistently held of EU foreign policy objectives, the High Representative has for many years acted on behalf of the EU on the Quartet. By contrast, where the Member States are fundamentally divided – on Syria for instance – the High Representative has been a largely marginal figure.

Such dependency on Member State positions has led Franco Algieri to describe the EU as 'a nonautonomous actor'.[14] This is a critical observation when considering how policy is made, but somewhat less important when considering what policy is made – the outputs of the EU, in other words, rather than its inputs. Such 'black-boxing' is a step removed from the reality of how the EU arrives (or fails to arrive) at a particular position. However, while we accept that the EU is not a unitary actor in policy formulation, we can, for the sake of analytical convenience still regard it 'as a single intervening actor' in policy articulation.[15] Not do so would leave one at an analytical dead end – we cannot make judgments on EU policy if we assume away its status as an agent.

In making that assumption, we are moving to the second way in which autonomy can be understood. Here, it is something that exists externally, a relational property considered by reference to other actors. The Treaties of European Union have not only empowered the EU to pursue CFSP (and its

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[14] F. Algieri, In Search of Shared Autonomy: the EU as a Restricted Foreign, Security and Defence Political Actor, in European Autonomy in Space 93 (C. Al-Ekabi ed., Springer 2015).

[15] A. Kartsonaki & S. Wolff, The EU's Responses to Conflicts in Its Wider Neighbourhood: Human or European Security?, 29(2) Global Socy. 199–226, 201, fn.7 (2015).

offspring, the Common Security and Defence Policy [CSDP]) but have done so in a way that presupposes the EU will act distinctively and purposively. The EU in this domain is thus possessed of policies and strategies (including both the 2016 Global Strategy and its precursor the 2003 European Security Strategy), institutional assets, and an identifiable discourse of security and order, giving rise, in turn, to a unique set of epithets – 'civilian', 'normative power' and so on – which scholars have used to describe its role in the world.[16] The EU can thus claim an ability to articulate European interests, 'promoting' according to Sven Biscop, 'respect for the universal values that underpin [the European] model in the rest of the world'. Equally, it can claim 'a specific way of doing foreign policy' – one which, to paraphrase the European Security Strategy, is preventative, multilateral and comprehensive.[17][18]

If external autonomy presumes taking action in contradistinction to that of others, in the case of the I-P conflict and the wider Middle East region, the United States has necessarily been the main point of reference.[18] Politically-speaking, such an articulation may be problematic – the United States, is after all, an ally of most European states in a formal sense through North Atlantic Treaty Organization (NATO). However, difference is a desirable state of affairs not because European and American aims may be

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[16] I. Manners, Global Europa: Mythology of the European Union in World Politics, 48(1) J. Com. Mkt. Stud., 67–87 (2012); A. J. K. Shepherd, The European Security Continuum and the EU as an International Security Provider, 29(2) Global Socy. 156–174 (2015).

[17] S. Biscop, Peace Without Money, War Without Americans: Challenges for European Strategy, 89(5) Intl. Aff. 1125–1142, 1127 (2013).

[18] Euro-American Relations and the Middle East: From Suez to Iraq (D. Möckli & V. Mauer eds, Routledge 2011).

at odds but because, in a broad historical context, European integration has been premised on correcting the imbalance in the transatlantic relationship that has favoured the United States. And this has a particular relevance in the context of the I-P conflict. As Christopher Hill has suggested, when the European Community (EC) entered the Middle East peace process in the early 1970s it did so with a promise to provide 'an alternative view to that of the United States, both within the Western world and on behalf of it'. [19] There has ever since been a creative tension in the EC/EU-US relationship over Middle East issues. The EU has, most notably, been out in front in supporting the Palestinian claim to statehood.[20] Further, even when European and American views are in agreement one cannot simply assume that this is a consequence of European deference. A coincidence of views could be precisely that – a coincidence, based on shared assumptions. Equally, it might reflect the obligations of partnership, a point of some consequence given the EU's involvement in the Quartet. In both cases, some agency would need to be accorded to the EU.

2.2 EU EFFECTIVENESS

Ineffectiveness has long been the bête noir of EU foreign policy. Critics of its international role have charged the EU with being poor at aggregating the preferences of its Member States, feeble in projecting collective European influence, and incapable of taking swift, necessary and decisive action.[20] The strength of this criticism lies, in part, in the all too evident

[19] C. Hill, The Capability-Expectations Gap, or Conceptualizing Europe's International Role, 31(1) J. Com. Mkt. Stud. 305–328, 311 (1993). [20] Bouris, supra n. 4.

[20] A. Menon, The JCMS Annual Review Lecture. Divided and Declining? Europe in a Changing World, 52(S1) J. Com. Mkt. Stud. 5–24 (2014).

contrast between the ambition of EU action and the achievement of results. Christopher Hill's well-known notion of the 'capabilities-expectations gap',[21] is relevant here as is the problem of internal disagreement, or the so-called 'consensus-expectations gap'.[22] That, in turn, has been paralleled by concern at the overly complex nature of policy-making postLisbon as well as the reluctance among the Member States to exploit policy instruments to the full, distracted as they have been by the internal challenges of European integration, not least the Eurozone crisis.[23]

Yet, as Christopher Bickerton has pointed out, a good deal of commentary bemoaning the EU's lacklustre performance starts from 'a crypto-normative attachment' to comparing it with national foreign policies.[24] Here, effectiveness is judged, even by those sympathetic to European foreign policy, by how well the EU has performed when set against the actions of great powers, most obviously the United States, but also on occasion China, India and Russia.[25] This comparison makes sense in those cases – trade and environment policy – where the EU operates as an authoritative state-like actor. In the case of CFSP, however, the picture is very different given the constraints already noted. A view of effectiveness, however, can still be arrived at. If, 'external' autonomy is

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[21] Hill, supra n. 19.

[22] A. Toje, The Consensus-Expectations Gap: Explaining Europe's Ineffective Foreign Policy, 39(1) Sec. &. Dialogue 121–141 (2014).

[23] S. Vanhoonacker & K. Pomorska, EU Diplomacy Post-Lisbon: The Legacy of the Ashton Era, in The Diplomatic System of the European Union: Evolution, Change and Challenges (M. Smith, S. Keukeleire & S. Vanhoonacker eds, Routledge 2016).

[24] C. J. Bickerton, European Union Foreign Policy: From Effectiveness to Functionality 8 (Palgrave Macmillan 2011).

[25] S. Biscop, The Winter of Our Discontent? Europe and the Arab Spring, paper presented at the UACES Annual Conference (Leeds, 1–4 Sept. 2013), http://uaces.org/documents/papers/1301/biscop.pdf.

related to difference, then to extend an earlier point, effectiveness can be regarded as the ability of the EU to articulate positions that are distinguishable from other actors in a policy domain. On that basis, one would be interested in how far policy actors have accepted the right of the EU to take a position, how far those actors have recognized the EU position as worthy of consideration, and how far, finally, those same actors have accepted (and, by extension, adopted) it.

Evidence is still needed as to the outcome the EU has sought to influence. Effectiveness is, in other words, about objectives.[26] In this connection, a maximalist definition would consider how far a given objective has been realized; a minimalist one would pay regard to the ability of an actor to set and articulate that objective; and a median definition would look at the manner in which the objectives had been pursued. In what follows, we are concerned with the second and third of these. The first, is very demanding methodologically (having to contend with myriad problems of causation), but is side-lined here simply on grounds of pragmatism; the I-P conflict has proven resistant to resolution for reasons that go well beyond the ability of the EU to influence an outcome. Certainly within the framework of the Roadmap for Peace, the best efforts of the United States as much as the EU, Turkey, Egypt and other interested parties, have not translated into a lasting settlement.

3 PRACTICE

[26] D. C. Thomas, Still Punching Below Its Weight? Coherence and Effectiveness in European Union Foreign Policy, 50(3) J. Com. Mkt. Stud. 457–474, 460 (2012).

3.1THE TWO-STATE SOLUTION AND THE ROADMAP FOR PEACE

The EU, Sven Biscop has suggested, has been 'instrumental in the world-wide acceptance of […] Palestinian claims as legitimate demands'.[27] The 'rights of the Palestinians' were raised as early as the Brussels Declaration of 1973; support for the right to Palestinian self-determination followed in the Venice Declaration of 1980 and in the 1999 Berlin Declaration the EU lent its support to 'the option' of a Palestinian state.[28] Sympathy for the Palestinian cause was balanced by an unequivocal acceptance of Israel's rights to statehood and to live in peace with its neighbours. Nonetheless, the European stance was a significant assertion of diplomatic leadership as the EU staked out a position that 'went ahead of other international players, including the US'.[29]

By the time the Quartet was established, the EU was thus already possessed of a vision of how to deal with the Israel-Palestine conundrum. That vision was reaffirmed in the Seville Declaration of June 2002 which called for 'the early establishment' of a 'sovereign State of Palestine', an end to Israel's occupation of the West Bank and Gaza, a 'fair solution […] to the complex issue of Jerusalem', and a 'just, viable and agreed solution to the problem of the Palestinian refugees'. The end result 'should be two states living side by side within secure and recognized borders enjoying normal relations with their neighbours'. To that end, the EU was committed

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[27] S. Biscop, Euro-Mediterranean Security 65 (Ashgate 2003).

[28] Unless otherwise cited, EU positions on I-P are collected at the site of the European External Action Service, http://www.eeas.europa.eu/mepp/about/eu-positions/eu_positions_en.htm.

[29] P. Mueller, Europe's Foreign Policy in the Middle East Peace Process: The Construction of EU Actorness in Conflict Resolution, 14(1) Persp. Eur. Pol. & Socy. 20–35, 27 (2013).

to working 'with its partners in the international community, especially with the United States in the framework of the Quartet'.[30]

The United States, for its part, showed unprecedented agreement with the two-state solution. As George W. Bush later reflected, he was 'the first [American] President to publicly call for a Palestinian state'.[31] That call came in the Rose Garden speech of June 2002. Bush had already asserted in his appearance before the UN General Assembly in November 2001 that the United States was 'working for the day when two states – Israel and Palestine – [could] live peacefully together'.[32] The Rose Garden speech reaffirmed this 'vision [of] two states, living side by side in peace and security', but to appease doubters within his Administration, Bush accompanied it with a call for Palestinians 'to elect new leaders […] not compromised by terror' (a clear indication that a resolution of the I-P conflict required the removal of Yasser Arafat from office). Such linkage was not EU policy, however. Indicative of its autonomy from the United States, throughout 2002 the High Representative Javier Solana, acting on behalf of the EU in the Quartet, made concerted efforts to keep open lines of communication with the
Palestinian leader.

While US policy was careful to give the impression of leadership, Washington was still reliant on partners to effect change. It was for this

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[30] Seville European Council, Presidency Conclusions (21 and 22 June 2002), Annex VI www.consilium.europa.eu/en/european-council/conclusions/pdf-1993-2003/presidency-conclusions_seville-european-council_-21-and-22-june-2002/+&cd=2&hl=it&ct=clnk&gl=uk.

[31] G. W. Bush, Decision Points 404 (Virgin Books 2010).

[32] G.W. Bush, Remarks by the President to United Nations General Assembly (10 Nov. 2001), http://georgewbush-whitehouse.archives.gov/news/releases/2001/11/20011110-3.html.

reason that the Bush Administration conceded to the formation of the Quartet (embracing representatives of the United States, the EU, the UN and Russia). That body's first and most important statement, the Roadmap for Peace (issued in April 2003), was heralded as a breakthrough but met with immediate problems. The Roadmap was comprised of three phases. Phase I (from inception to May 2003) foresaw an end to Palestinian violence, followed by Palestinian political reform, Israeli withdrawal from Palestinian cities and a freeze on Israeli settlement expansion. Phase II (June 2003 – December 2003) would start after Palestinian elections and end 'with the possible creation of a Palestinian state with provisional borders'. Phase III (as early as 2004/2005) would, finally, bring about the consolidation of a Palestinian state, and 'Arab acceptance of normal relations with Israel'.[33] Israeli Prime Minister Ariel Sharon's first reaction to this initiative was entirely hostile, claiming it was a 'document of surrender' that would lead to 'Israel's destruction'.[34] The Palestinian Authority (PA), for its part, accepted the Roadmap but more militant Palestinian organizations such as Hamas and Islamic Jihad did not.

Despite this impasse, the Roadmap held a broader international significance. Bush in comments in March 2003 noted that the document was the product of 'close cooperation' between the United States and the other members of the Quartet.[35] As such, that meant an alteration of the US

[33] Roadmap for Peace, http://www.un.org/News/dh/mideast/roadmap122002.pdf.

[34] Cited in Y. Meital, Peace in Tatters: Israel, Palestine, and the Middle East 106 (Lynne Rienner Publishers 2006).

[35] President Discusses Roadmap for Peace in the Middle East (14 Mar. 2003) http://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030314-4.html.

approach. Previous interventions in the Arab-Israeli dispute (under Presidents Carter and Clinton) had sought to exclude the UN and the Russians, while paying only lip-service to European acquiescence. The Roadmap, by contrast, entailed the active involvement of other parties both in framing an agreement and overseeing its implementation. In that light, it was not surprising that Russia took advantage of the opportunity to become involved in the Quartet. Moscow had a lingering influence in the region plus diplomatic muscle given its permanent status on the Security Council. That the EU (rather than say, the UK or France, two other permanent members of the Security Council) was included was more significant. It was an acknowledgement that the EU had come to encapsulate the European position on I-P, that it (rather than individual Member States) had some diplomatic traction over the Palestinian side, and that EU assistance to the Palestinians would be material in seeing through the provisions of the Roadmap. The EU had very little influence over the Israeli government, and Tel Aviv for its part barely concealed its distaste for European involvement. However, as the Roadmap was taking shape the EU made clear where it could have an effect. The European Council meeting of December 2002 noted that 'with the aim of supporting the reforms in the Palestinian territories, the EU [would] continue its budgetary support to the Palestinian Authority with clear objectives and conditions'.[36] With financial support of the PA standing at some 10 million Euros per month at that point, Richard

[36] Seville European Council, supra n. 31.

Youngs summarized the EU's position thus: 'we help build the Palestinian state first, then we aim to perfect democracy'.[37]

3.2THE SECURITY WALL AND SHARON'S DISENGAGEMENT PLAN

No sooner had it been launched than progress on the Roadmap was blocked by the vexed issue of the Israeli security wall. The wall's first section was completed in July 2003. When fully erected it was expected to largely follow the 1949 IsraelJordan armistice line, although some sections would penetrate the West Bank. The initiative was fiercely defended by the Israeli government as a legitimate response to Palestinian terrorism, [38] yet international opinion was largely hostile. Condemnation of the wall provided an opportunity for the EU to assert a clear position on the I-P conflict. The Council (External Relations) at its meeting of May 2003 noted that 'the so-called security fence' threatened 'to render the twostate solution physically impossible'.[39] The European Council the following month called upon Israel to end the wall's construction.[40] Initially, the United States too was critical of the Israeli position,[41] but the Bush administration continued to steer to the view that Palestinian terrorism constituted the main obstacle

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[37] R. Youngs, Europe and the Middle East in the Shadow of September 11 162 (Lynne Rienner Publishers 2006).

[38] Israeli Foreign Ministry, Summary of Israel's Response Regarding the Security Fence (28 Feb. 2005), http://www.jewishvirtuallibrary.org/jsource/Peace/fencereply.html

[39] European Council, Declaration on the Middle East (Brussels 29 Jan. 2003), http://ec.europa.eu/research/ era/docs/en/council-eu-27.pdf.

[40] Thessaloniki European Council, Presidency Conclusions (19–20 June 2003), para. 86 www.consilium. europa.eu/en/european-council/conclusions/pdf-1993-2003/presidency-conclusions

[41] D. Stout, Israel to Continue Building Security Fence Criticized by Bush, N.Y. Times (29 July 2003).

to peace. This difference of emphasis with the EU sharpened as the security wall and related issues garnered wider international attention.

In February 2004, Sharon claimed, 'this [security] vacuum for which the Palestinians are to blame, cannot go on forever' and so announced a 'disengagement plan' involving the evacuation of Israeli settlements in the Gaza Strip and Samaria in the West Bank.[42] Coincidently, Bush was running for re-election and believed that backing Sharon's plan would help him find a common cause with Jewish voters and pro-Israel Christian conservatives in battleground states such as Florida, Ohio and Pennsylvania.[43] By contrast, the EU's reaction to Sharon's initiative looked more balanced. As Stephen Everts pointed out, 'European governments were quick to welcome any withdrawal from occupied territory; but they were deeply critical of the other elements of the Bush-Sharon deal.'[44]

In fact, by this point the United States was already isolated. In October 2003 it had vetoed a draft Security Council resolution condemning the security wall. A similar resolution sponsored by the EU caucus was then put before the United

Nations General Assembly (UNGA) and passed by 144 votes to 4 (the United States, along with Israel, Micronesia and the Marshall Islands voted against). A further UNGA resolution of December referred the matter to the International Court of Justice (ICJ) which, in turn, issued an advisory opinion that 'the construction of the wall constitutes action not in

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[42] Cited in T. Reinhart, The Roadmap to Nowhere: Israel/Palestine Since 2003 30 (Verso 2006).

[43] D. Milbank & M. Allen, Move Could Help Bush Among Jewish Voters, Wash. Post (15 Apr. 2004).

[44] S. Everts, The Ultimate Test Case: Can Europe and America Forge a Joint Strategy for the Wider Middle East?, 80(4) Intl. Aff. 665–686, 670 (2004).

conformity with various legal obligations incumbent upon Israel'.[45] The UNGA then voted by 150 to 6 (the United States again being one of the few dissenters) demanding that Israel heed the ICJ's opinion. On this occasion, the US delegate insisted that 'Bush's vision of two states' premised on the Roadmap still remained the most credible route to peace. The Dutch delegate speaking on behalf of the EU caucus, concurred that the Roadmap 'remained the basis for a peaceful settlement' and further that Israel had a right to self-defence, but made clear that the route of the security fence remained unacceptable.[46]

For all these differences, the American and EU positions still offered some hope of convergence – both sides remained committed to the Roadmap as well as the Quartet (even if, in light of the war in Iraq, Washington's Middle East efforts were directed elsewhere), and the EU had seemingly tempered its opposition to the security wall – regarding its route, rather than the construct as such, as the problem. Yet the EU had clearly staked out a distinctive role. It would do so again in 2005 with the launch of two missions in Palestinian territory under the auspices of CSDP: EUBAM Rafah on the border between the Gaza Strip and Egypt, and EUPOL COPPS deployed following a Palestinian request for help with the PA's policing and law enforcement function.

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[45] International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Advisory Opinion (9 July 2004), http://www.icj-cij.org/docket/files/131/1671.pdf.

[46] UN General Assembly, General Assembly Emergency Session Overwhelmingly Demands Israel's Compliance with International Court of Justice Advisory Opinion (20 July 2004), http://www.un.org/press/en/2004/ga10248.doc.htm.

3.3THE BOYCOTT OF HAMAS

Following elections to the Palestine Legislative Council in 2006, open conflict erupted between the two main wings of Palestinian politics. Hamas assumed control of the Gaza Strip while its rival, Fatah, obtained ascendancy in the West Bank. Two rival Palestinian governments arose in consequence, although it was the Fatah-led administration of President Mamoud Abbas in Ramallah which came to be regarded internationally as the more legitimate. Hamas, despite its electoral showing (the Change and Reform bloc, which it led, had won a majority of seats), continued to be ostracized.

With the assent of the EU, the Quartet suspended aid to the Palestinians. The Quartet made its resumption contingent upon a renunciation of violence, recognition of Israel and acceptance of previous agreements on I-P including the Roadmap. In the case of Hamas, this was a policy designed to fail and ensured that the lion's share of aid to the Palestinians – both from the United States and the EU – would favour the government in Ramallah. Indeed, EU aid to the PA actually increased between 2006 and 2008, such that the EU and its Member States retained the record of the first half of the 2000s as the largest donors of Overseas Development Assistance to the Palestinians.[47] Broader ties between the EU and the PA resumed in June 2007 following the collapse of the Palestinian unity government (which had included Hamas) and work on the EU-Palestinian Territory Action Plan agreed in May 2005 recommenced in 2008.

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[47] M. Asseburg, European Conflict Management in the Middle East: Toward a More Effective Approach, 14 Carnegie Papers 1–53, 31 (2009).

An important cornerstone of EU policy – institution building and support of the PA – had been challenged by the Hamas episode. But siding with the United States in a boycott was not, as some have claimed, simply a consequence of American pressure. [48] The EU had labelled Hamas a proscribed terrorist organization in 2001 and European governments had long regarded it as an unwelcome rival of Fatah. The downside of such a stance was that the EU enjoyed no credibility with Hamas itself and so was unable to mediate in the intraPalestinian dispute. Had it offered a diplomatic olive branch to Hamas then the EU would have assumed a distinctive position on the I-P conflict. The diplomatic costs of doing so were, however, too high. Rapport with Hamas would have scuppered EU-Israeli dialogue, harmed relations with those Arab countries (not least Saudi Arabia) which opposed the organization, irreparably divided the Quartet, and compromised the EU's support of US-sponsored talks on the I-P premised as these were on a bilateral understanding between Israel and the government in Ramallah. While there was some support for dialogue with Hamas in the European Parliament, among the Member States opinion was almost uniformly hostile. [49] The assumption here was that Hamas was diplomatically toxic and keeping it at arms' length was essential if the EU was to retain its credibility among the I-P conflict's main players.

[48] N. Tocci, The EU, the Middle East Quartet and (In)effective Multilateralism, 9 Mercury E-paper (2011).

[49] C.M. O'Donnell, How the EU Can Help Kerry with Israel and Palestinian Peace Talks, Centre for European Reform (7 Aug. 2013) http://www.brookings.edu/research/articles/2013/08/07-eu-helpkerry-israel-palestine-peace-talks-odonnell.

3.4THE ANNAPOLIS PROCESS

The benefits of the EU's stance were only partly in evidence as the peace process resumed with the Annapolis Conference on the Middle East in November 2007.

Ostensibly geared to kick-starting the Roadmap, this event was only made possible by American efforts – Secretary of State Condoleezza Rice had met several times with the Israeli and PA leaderships in the course of the year, resulting in a Joint Understanding by which the two sides agreed to work towards a resolution of their differences. While Solana had prior to the conference undertaken his own diplomatic mission to Israel, the PA and Egypt, the role of the EU in laying the diplomatic ground was marginal. Further, when the Annapolis conference convened, the main route of EU participation, the Quartet, was barely visible in a gathering of forty-nine attendees. Yet it was the Quartet which retained formal responsibility for the Roadmap and to that end the EU continued to stake out a 'supporting role' in the so-called 'Annapolis process'.[50] Further, in the run-up to the conference the EU presented an Action Strategy on State-building for Peace in the Middle East which reaffirmed obligations to fund Palestinian institutions of government, police and customs, as well as ensuring the sustainability of PA finances and contributing towards humanitarian relief. An international donor conference in Paris in December saw pledges of over

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[50] Asseburg, supra n. 48, at 35. [52] O'Donnell, supra n. at 50.

5 billion Euros received on behalf of the PA with the EU contributing 2.3 billion for the period 2008–2010.[52]

3.5 OPERATION CAST LEAD

The Annapolis process eventually stalled owing to irreconcilable differences between Israel and the PA compounded by internal disagreements within both camps. Neither was possessed of the political resources necessary to see through implementation of the initial requirements of the Roadmap – respectively, the cessation of Israel settlements in the West Bank and the disarming of Palestinian militias (Hamas, in other words). Evaporation of the prospects of a settlement coincided with important developments in the United States (the election of Democratic president, Barack Obama) and the EU (the adoption of the Lisbon Treaty) both of which would be important in international efforts on I-P.

Obama's coming to power coincided with a convergence of EU and US positions similar to that experienced in the initial aftermath of the Quartet's formation. Speeches in Cairo by, respectively, the US president (in June 2009) and the newly installed High Representative, Catherine Ashton (March 2010) reaffirmed support of a two-state solution and opposition to continued Israeli settlements in the West Bank. There were some different shades of emphasis – Ashton made clear that 'a viable State of Palestine' should be based on 'the 1967 lines' (that is, those which existed prior to the 1967 Arab-Israeli war), a position rejected by Israel and avoided by the United States. That distinction, however, was made good in a subsequent Obama speech in May 2011 in which the president, to Israel's great

consternation, referred to 'the 1967 lines' as the preferred basis of the 'borders of Israel and Palestine'.[51]

It would be wrong to suggest this shift was occasioned by EU influence, but it was certainly facilitated by a desire on the part of Obama to close some of the sharp trans-Atlantic disagreements which had opened up under his predecessor (most notably over Iraq) while adding credibility to US efforts in the region (on Iran as much as I-P).[52][53] American-EU convergence was also the result of a common frustration, not simply with the seemingly endless task of pursuing an I-P settlement, but increasingly with Israeli intransigence.

Operation Cast Lead (the Israeli military assault on the Gaza Strip in December 2008–January 2009) tested both American and European opinion. The EU, in line with its long-standing position in favour of Israel's right to defend itself was initially supportive of the operation. Under the Czech Presidency of the European Council, the EU announced that the operation was defensive in nature.

While domestic Czech politics played a role in asserting this pro-Israel stance, the EU was quick to revert back to its policy in favour of the Palestinians. In fact, the EU came to roundly condemn the disproportionate use of force by Israel and, for good measure, suspended talks on an EU-

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[51] G. Kessler, Understanding Obama's Shift on Israel and the '1967 Lines', Wash. Post (20 May 2011).

[52] A. Yossef & S. Fabbrini, Obama in the Middle East: Why He Needs European Support, 10(1) Eur. Pol. Sci. 36–43 (2011).

[53] T. Schumacher, Germany and Central and Eastern European Countries: Laggards or Veto-Players?, in Northern Europe and the Making of the EU's Mediterranean and Middle East Policies: Normative Leaders and Passive Bystanders?, 77–96, 88 (T. Behr & T. Tiilikainen eds, Ashgate 2015).

Israel Action Plan.[54] The US position moved in a similar direction. The Bush administration among its last acts of foreign policy offered tacit support of Israel by blocking a UN Security Council statement calling for a cease-fire. By contrast, Obama who took office just as Cast Lead was winding down sought, once inaugurated, a diplomatic balance between competing Israel and Palestinian positions.[57]

3.6 VOTES IN THE UN GENERAL ASSEMBLY, 2011 AND 2012.

The convergence over Operation Cast Lead foundered subsequently. As in 2004, the arena of dispute was the UNGA (although on this occasion the European position was much less united). In September 2011, Abbas submitted a letter to the UN Secretary General requesting that 'the State of Palestine' (i.e. the PA) be admitted as 'a full member of the United Nations'.[55] Referred initially to the Admissions Committee of the Security Council, the request failed to win sufficient support – the United States made clear it would use its veto, while the UK and France indicated they would abstain. The matter was then put before the UNGA in amended form, the proposal now being to upgrade the observer status Palestine had enjoyed since 1974 from 'non-state' to 'state' (a position similar to that held by the Holy See). In the midst of these moves, a parallel bid for Palestinian membership of United Nations Educational, Scientific and Cultural Organization (UNESCO) did succeed, amidst a patchwork of European

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[54] R. Whitman & A. Juncos, The Lisbon Treaty and the Foreign, Security and Defence Policy: Reforms, Implementation and the Consequences of (Non) Ratification, 14(1) Eur. For. Affairs Rev. 25–46 (2009). [57] O. Eran, Operation Cast Lead: The Diplomatic Dimension, 11(4) Strat. Assessment 13–17, 15 (2009).

[55] UN General Assembly, Application of Palestine for Admission to Membership of the United Nations, document A/66/371 (23 Sep. 2011), http://unispal.un.org/UNISPAL.NSF/0/F6CF1ED25A5D8FE9852579170050C37F.

positions (five joined the United States in voting against, eleven voted in favour, and eleven abstained). That move, however, carried much less significance than the UNGA vote. Scheduled for November 2012, the vote provided an ideal opportunity for the EU to assert a common position and collective influence. The United States had made it clear it would oppose the Palestinian proposal and urged European states to do likewise.[56] The US position was, however, representative of only a small minority in the UNGA as the resolution to upgrade Palestine's status was passed by a large margin (138 in favour to 9 against). Only one EU Member State (the Czech Republic) joined the American delegate in voting against the proposal; 14 voted in favour and 12 abstained. It is too severe to view this lack of unity as indicative of EU ineffectiveness. True, the EU Member States did not vote as a bloc, but the pattern of voting made clear that Europeans would not simply submit to American pressure.

3.7 PUTTING PRESSURE ON ISRAEL

Differences at the UN had not prevented ongoing diplomatic cooperation between the United States and the EU. In June 2013 the US Secretary of State, John Kerry, managed to persuade Israel and the PA to resume direct peace talks. The subsequent nine months of negotiation proved as inconclusive as previous efforts but it was clear nonetheless that the diplomatic process had, once again, been framed by the United States rather than the Quartet. Meetings of Israeli and Palestinian officials were mediated by the US Special Envoy, Martin Indyk, while Kerry himself engaged in an

[56] H. Sherwood, US Warns European Governments Against Supporting Palestinians at UN, Guardian (1 Oct. 2012).

intensive shuttle diplomacy at the highest levels of Israeli and Palestinian politics. The basis of the American position was a by now familiar one, centred on a two-state solution (involving agreement on pre-1967 borders) and a freezing of Israeli settlements in the West Bank.[57]

Ashton, on behalf of the EU, offered her support to Kerry's efforts and in December 2013 the European Council held out the possibility of 'special privileged' partnerships for both Israel and the PA if a final settlement could be reached. In this sense, the EU was attempting to maintain a balanced position. Despite its record of sympathy towards the Palestinians, the EU had just about sustained a cooperative relationship with Israel, formalized since 2005 within the Action Plan framework. That relationship, however, had its limits. EU hostility to Israeli settlement policy gave rise in July 2013 to the termination of European grants to companies and educational bodies associated with settler communities. In a further initiative, any Israeli entity seeking to obtain funding or cooperation with the EU would henceforth have to show an absence of links to the West Bank, East Jerusalem and the Golan Heights. These measures were supplemented by a campaign, rolled out since the early 2000s (and already in force in the United States), of diplomatic sanction against Israel via labelling guidelines (with a variety of exports into the EU from the occupied territories being required to avoid a 'product of Israel' designation).[58]

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[57] M.R. Gordon & J. Rudoren, Kerry Achieves Deal to Revive Mideast Talks, N.Y. Times (19 July 2013).

[58] For details see European Commission, Interpretive Notice on Indication of Origins of Goods from the Territories Occupied by Israel since 1967, C (2015) 7834 final (11 Nov. 2015), http://eeas.europa.eu/delegations/israel/documents/news/20151111_interpretative_notice_indication_of_origin_of_goods_ en.pdf.

3.8 OPERATION PROTECTIVE EDGE

The resumed peace process was condemned to irrelevance shortly after by Operation Protective Edge, an Israeli military assault launched in July 2014 in retaliation for Hamas rocket fire from the Gaza Strip. Here, American and European positions were clearly distinct. The United States did, unusually, criticize Israeli actions but entered into new arms sales agreements with Israel even while the Gaza conflict was raging.[59] The European position was much more forthright. While criticizing Hamas and acknowledging Israel's right of self-defence, the EU noted it was 'appalled by the human cost of the Israeli military operation'. The EU also supported Egypt's efforts at brokering a ceasefire, offered to contribute to 'a comprehensive and sustainable solution' to the crisis in Gaza through 'a reactivation and possible extension' of its two CSDP missions in the region, and made clear it would play a major role in post-conflict reconstruction.[60] An international donors' conference held in Cairo in September elicited pledges of nearly USD 5.4 billion for the Palestinians (with half ear-marked for the reconstruction in the Gaza Strip). Turkey and the United States were among the largest donors, but the combined pledges of the EU bloc were bettered only by Qatar.[61] Twelve months after the Gaza crisis, its diplomatic repercussions were still being felt. In July 2015, all EU Member States present in the UN Human Rights Council approved a

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[59] P. Lewis & H. Sherwood, US Condemns Shelling of UN School in Gaza But Restocks Israeli Ammunition, Guardian (31 July 2014).

[60] Council of the European Union, Foreign Affairs Council Meeting Conclusions on the Middle East Peace Process (22 July 2014), http://eu-un.europa.eu/articles/en/article_15300_en.htm.

[61] European Commission, EU Increases Humanitarian Aid in Gaza in Response to Escalating Crisis (25 July 2014), http://europa.eu/rapid/press-release_IP-14-881_en.htm.

Palestinian-drafted resolution condemning Israel's Gaza operation and calling upon the Israeli government to cooperate with an International Criminal Court investigation. The United States cast the sole vote against.

These events also shaped European opinion in favour of a Palestinian state. In October 2014, Sweden became the first member of the EU to recognize the state of Palestine.[62] Shortly after parliaments in the UK, Ireland, France, Portugal and Spain called upon their governments to do the same. The process was capped in December when the European Parliament backed a motion in favour of recognition in principle by 498 votes to 88. None of these resolutions was binding and the European Parliament's resolution was most obviously constrained by the fact that recognition is a matter for Member States not the EU.

That said, two points stand out from this episode. First, pro-Palestinian sentiment was clearly at odds with the American position, which continued to regard recognition as 'premature'.[63] Second, such sentiment was indicative of a growing frustration at the limits of the EU's rhetorical commitment to Palestinian statehood. Despite the aspirations of the 1999 Berlin Declaration and the intervening history of disagreement with Israel, 'neither the EU nor its member states [had] ever led the process of breaking with the status quo and firmly advancing toward recognition'.[64] The vote of

[62] Bulgaria, Cyprus, Hungary, Malta, Poland and Romania had previously extended recognition but did so prior to their accession to the EU.

[63] US State Department spokesperson, Jen Psaki, cited in Middle East Eye (3 Oct. 2014), http://www.middleeasteye.net/news/sweden-recognise-palestinian-state-1290868965.

[64] B.O. Martins, 'A Sense of Urgency': The EU, EU Member States and the Recognition of the Palestinian State, 20(2) Med. Pol. 283 (2015).

the European Parliament did not, however, change this – indeed, subsequent Council conclusions on I-P stuck determinedly to familiar positions on 'the viability of the two state solution' (in other words, no support for an independent Palestine outside the 'multilateral approach to the peace process').[65]

The consequences of Operation Protective Edge thus provided a mixed message. The EU made clear its displeasure at Israeli action, but following this up with decisive diplomatic action remained subject to the EU's internal politics and the exigencies of working within established international frameworks.

4 CONCLUSION

Operation Protective Edge notwithstanding, our central argument is that the EU has been effective in articulating a consistent and clear set of policies on I-P since its entry into the Quartet in 2002. The broad parameters of policy have entailed support for a two-state solution, acceptance of Israel's right to defend itself and live peacefully with its neighbours, along with promotion of the political and socioeconomic integrity of the PA. These positions have placed the EU on-side with US-led initiatives including the formation of the Quartet and the launch of the Roadmap for Peace, the Annapolis process and the Kerry-led diplomatic effort of 2013–2014.

Such an alignment is compatible with EU autonomy if we bear in mind four considerations. First, the EU cannot mobilize diplomatic action like the United States can. We cannot criticize the EU for being overly deferential

[65] Council Conclusions on the Middle East Peace Process, Press release 610/15 (20 July 2015), www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-mepp-conclusions

to the United States (and, by extension, ineffective) because it could not convene the Annapolis conference in 2007 or because it could not push the parties back to the negotiating table as Kerry did in 2013. Such diplomatic initiatives remain in the gift of the United States which is possessed of an influence over Israel which the EU simply lacks. Following the American lead, then, is the means by which the EU is able to avail itself of diplomatic opportunities which otherwise would be closed off. Second, the United States has not demanded EU involvement on the I-P issue. Rather, the EU has followed the American lead through choice. That it has done so, thirdly, is because convergence with the United States on I-P has been in accord with established EU positions. Some of these, in fact, pre-date US policy. While the EU cannot claim to have influenced the United States in moving towards the two-state solution, it certainly paved the way in making that position more acceptable internationally. Fourth, and crucially, convergence on core principles has not prevented the EU (acting as a bloc of Member States) pursuing secondary matters at odds with US preferences. On several occasions, UN fora have been the site of a distinct difference of opinion in which European views matched an international consensus from which the United States has departed. Similarly, as Operation Cast Lead indicates, the EU has been prepared to offer criticism of Israel that goes well beyond American positions. The revival of the recognition issue in 2014, meanwhile is indicative of a strain of European opinion which, while not formally set in European institutions, reinforces the distinction the EU has fostered over many years that it is the international champion of the Palestinian cause.

Overall, however, the partnership between the EU and the United States has developed in a mutually beneficial way. Its institutional format, the Quartet, has faded from prominence but the EU has provided credibility to international efforts to address the intractable I-P problem as well as making a significant material contribution to the operation of the PA. It is interesting to note that these efforts have, in recent years, run in parallel with joint US and European efforts on Iran. That issue as well as the challenges of Syria and Iraq have, since the collapse of the Kerry initiative in 2014, drawn international attention away from I-P. However, on the basis of the discussion above, it is clear that the EU and the United States remain locked in a relationship of mutual interest. A French initiative to host an international conference on I-P in June 2016 was initially delayed in order to accommodate Kerry's schedule. Mogherini, meanwhile, noted that the EU as Israel's biggest trade partner and the PA's main source of aid held the incentives necessary to entice the conflicting parties back to the negotiating table.[66]

This conclusion leads to a final thought relevant to the unfolding of the new EU Global Strategy. Timid and divided the EU may well be in many instances, but on I-P the ability of the EU to both assert its autonomy and to affirm its credentials as a partner of the United States suggests that CFSP is not as ineffectual as some would claim. True, the EU has demonstrably little leverage over Israel and despite obvious investment in the Palestinian cause has been unable to obtain a position of co-equal of the United States

[66] M. Dalton & F. Schwartz, France Hosts International Meeting on Israeli-Palestinian Peace Process, Wall St. J. (5 June 2016).

in negotiations. Yet what is equally clear is that where Member State preferences have largely coincided and where the instruments of CFSP and the EU more widely (most notably economic and civil assistance) have been put in service of a consistent set of policies, then autonomy and effectiveness have followed.