

# *Fordham International Law Journal*

---

*Volume 19, Issue 4*

1995

*Article 5*

---

## Palestinian Economic Progress Under the Oslo Agreements

Mel Levine\*

\*

Copyright ©1995 by the authors. *Fordham International Law Journal* is produced by The Berkeley Electronic Press (bepress). <http://ir.lawnet.fordham.edu/ilj>

# Palestinian Economic Progress Under the Oslo Agreements

Mel Levine

## **Abstract**

The Palestinian Authority and the Government of Israel have appointed official liaisons to Builders for Peace both to symbolize their endorsement and to facilitate the process where possible. The U.S. Government has provided modest operating funds in support of the effort out of its foreign assistance budget. The World Bank, the Departments of State and Commerce, the U.S. Trade Representative, the U.S. Trade and Development Agency (“TDA”), the U.N. Development Project (“UNDP”), the U.S. Ambassadors and Consuls General in the region and the U.S. Congress have all been consistent supporters of the mission. Individually and collectively, each has endorsed the general proposition that private sector Palestinian development is not just a worthwhile end in itself, but also a precondition to the success of the peace process. The concept has now had two-and-a-half years to germinate . . . and the attentive observer has a right to ask how well Palestinian private sector development is progressing in the real world. The answer is of course more complicated than the question, but the following generalizations are permissible: (1) the diplomatic agenda has moved forward more rapidly than the economic agenda; (2) a number of the economic benefits presumed to be forthcoming with the 1993 breakthrough are only now beginning to materialize, and most remain hypothetical; (3) impediments that would appear inconsistent with the mission’s widespread, high level support have plagued many committed investors; and yet (4) there is documentable progress in several key areas that provide a solid basis for hope.

# PALESTINIAN ECONOMIC PROGRESS UNDER THE OSLO AGREEMENTS

*Mel Levine\**

## *FOREWORD*

The Essay that follows was written in January 1996, prior to the shocking series of terror bombings that killed over sixty innocent Israeli citizens and permanently maimed scores of others. These cowardly acts of hatred over a nine-day period have brought the peace process itself to its knees, rendering the economic concerns expressed in this Essay trivial by comparison. I was dissuaded from my inclination to leave the Essay unpublished, however, because of my affection and admiration for Yitzhak Rabin, to whom this text is dedicated, and because I still believe that Palestinian economic development is in Israel's best interest. I was persuaded that the lessons I have learned since devoting myself to that end two-and-one-half years ago are worth sharing. It is presented in the unedited form in which it was written prior to the current crisis, which has shaken me as deeply as it has all others who had the privilege of knowing Yitzhak Rabin, of admiring the natural decency of his leadership, and of sharing his courageous vision of the future.

## *INTRODUCTION*

To frame this Essay in a manner that will reflect the Author's perspective, I want to emphasize that I am one of two Co-Presidents of Builders for Peace — a non-profit organization created by leaders of the American Arab and Jewish communities first to foster and facilitate American private sector investment in the newly autonomous West Bank and Gaza, and secondly, to assist in promoting broader regional economic integration. The organization's founders initiated this agenda in response to a challenge issued by President Clinton and Vice President Al Gore on the occasion of the 1993 Rabin-Arafat signing ceremony on the White House South Lawn. The fact that

---

\* The Author was a U.S. Congressman from California from 1983 until 1993. He is currently a partner at Gibson, Dunn & Crutcher in Los Angeles and one of two Co-Presidents of Builders for Peace.

the founding Board members, indeed the Co-Presidents, of Builders for Peace represent the traditionally diverse interests of those two communities symbolizes a remarkably broad endorsement of the concept. This Essay assesses progress under the Oslo Accords toward Palestinian economic development based on the Builders for Peace experience to date.

Beyond American Jews and Arabs, Palestinian private sector development is supported by Democrats, Republicans, Palestinians, and Israelis, and by the spectrum of disparate interests within each of those entities. Before accepting my position with Builders for Peace, I met with Prime Minister Rabin, who assured me that his vision of regional peace and Israel's security included the betterment of Palestinian conditions and urged me to do all I could to lead that agenda forward. Shimon Peres has echoed the same theme on numerous occasions with the belief that "a dollar invested in the West Bank or Gaza is two dollars invested in Israeli *security*." The Palestinian Authority and the Government of Israel have appointed official liaisons to Builders for Peace both to symbolize their endorsement and to facilitate the process where possible. The U.S. Government has provided modest operating funds in support of the effort out of its foreign assistance budget. The World Bank, the Departments of State and Commerce, the U.S. Trade Representative, the U.S. Trade and Development Agency ("TDA"), the U.N. Development Project ("UNDP"), the U.S. Ambassadors and Consuls General in the region, and the U.S. Congress have all been consistent supporters of the mission.

Individually and collectively, each has endorsed the general proposition that private sector Palestinian development is not just a worthwhile end in itself, but also a precondition to the success of the peace process. The concept has now had two-and-a-half years to germinate since the Declaration of Principles<sup>1</sup> and the historic Rabin-Arafat handshake, however, and the attentive observer has a right to ask how well Palestinian private sector development is progressing in the real world. The answer is of course more complicated than the question, but the following generalizations are permissible: (1) the diplomatic agenda has moved forward more rapidly than the economic agenda; (2) a

---

1. Declaration of Principles on Interim Self-Government Arrangements, Sept. 13, 1993, Isr.-PLO, 32 I.L.M. 1525 (1993) [hereinafter Declaration].

number of the economic benefits presumed to be forthcoming with the 1993 breakthrough are only now beginning to materialize, and most remain hypothetical; (3) impediments that would appear inconsistent with the mission's widespread, high level support have plagued many committed investors; and yet (4) there is documentable progress in several key areas that provide a solid basis for hope.

### I. ECONOMY OF THE PALESTINIAN TERRITORIES

Economic and demographic data on the newly autonomous Palestinian territories reveal both the self-evident urgency for private sector development and the realism that imbues its advocates. Not surprisingly for a region whose political status has been so tumultuous for so long, any such data are somewhat speculative. Moreover, because border restrictions still inhibit free movement between Gaza and the West Bank, it is necessary to describe them separately in order to present a useful picture of the economic challenge. The combined population of these territories is roughly 2.3 million — about the same as St. Louis — with 35% of it in Gaza, making it one of the most densely populated pieces of real estate on Earth. Additionally, the Palestinian population is growing at a rapid 3% in West Bank and 3.3% in Gaza. The September 1995 “Oslo II” Agreement<sup>2</sup> gave self rule to 99% of the Palestinian population within 27% of the West Bank's 5800 square kilometers. Two hundred of Gaza's 340 square kilometers received autonomy under Oslo I<sup>3</sup> in May 1994.

The West Bank's purported per capita annual income of US\$1700 is twice that of Gaza and roughly 10% of Israel. The overall Palestinian gross national product (“GNP”) of US\$3 billion is smaller than that of several Caribbean islands. The 380,000 strong combined labor force, at least 50% of which is

---

2. As used in this paper, “Oslo II” is the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, Sept. 28, 1995, Isr.-PLO (on file with the *Fordham International Law Journal*).

3. As used in this paper, the term “Oslo I” encompasses: the Declaration, *supra* note 1, 32 I.L.M. at 1525; the Israel-PLO Agreement on the Gaza Strip and Jericho Area, May 4, 1994, Isr.-PLO, 33 I.L.M. 622 [hereinafter Cairo Agreement]; and the Protocol on Economic Relations between Israel and the PLO, which was later included as an appendix to Cairo Agreement. Cairo Agreement *supra*, annex IV, 33 I.L.M. at 696 [hereinafter Economic Protocol].

ostensibly unemployed, is growing by about 10,000 per year. Because of the birth rate, 65% of the Palestinian population is under the age of fifteen. Over 20% of the GNP is earned outside of Palestinian territory. The second largest source of jobs, after agriculture, is Israel, whose Palestinian borders open and close somewhat randomly in response to perceptions of the terrorist threat. A spate of terror bombings after the 1993 Declaration of Principles<sup>4</sup> led to an Israeli policy that formally allowed approximately 30,000 married Palestinians over the age of thirty to work in Israel. This was down from 80,000 in earlier years, but the new policy also excluded the tens of thousands who are typically allowed to enter for day labor in Israeli's "grey economy."

The Palestinian territories have never been a state. Prior to the late twentieth century Egyptian, Jordanian, and Israeli governance of these lands, Palestine was a part of the early twentieth century British Empire. The British, of course, acquired it as the spoils of World War I from the Ottoman Turks, whose oversight predated the modern notion of sovereign statehood. The population now commonly known as Palestinians has, therefore, never governed itself independently and has struggled more than most to sustain its identity, culture, and traditions. Ironically, however, Palestinian administrative skills are routinely credited for the economic and commercial coherence of many surrounding Arab states and Gulf Emirates, and their diaspora population of 3 to 3.5 million has been among the most commercially successful everywhere it has gone, especially in the United States. It is to this remarkably resilient, resourceful, well educated<sup>5</sup> pool of "human capital" that proponents of Palestinian economic growth frequently point. Indeed, sectors like industry and tourism are natural outlets for the expression of any such pent-up Palestinian commercial energies. To the extent that the absence of self-rule has stifled growth in these areas, the new Palestinian autonomy agreements may indeed point to a significant Palestinian economic growth potential.

There is also recent historical evidence in favor of this proposition. Prior to the 1987-93 Palestinian uprising known as the

---

4. See, e.g., Serge Schmemmann, *Bombings in Israel: The Overview*, N.Y. TIMES, Feb. 26, 1996, at A1.

5. The Palestinian population has more college degrees per capita than any Arab state. 3 INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, *DEVELOPING THE OCCUPIED TERRITORIES: AN INVESTMENT IN PEACE* 34 (1993).

*Intifada*, the economy and living standard of the West Bank and Gaza grew dramatically. For example, according to the World Bank, between 1970 and 1980: (1) per capita gross domestic product ("GDP") doubled; (2) primary and secondary school enrollments grew by over 50%; (3) life expectancies increased by five years (and by another five over the ensuing seven years); (4) infant mortality declined by a third; (5) the number of households with electricity more than doubled; and (6) the number with safe water tripled. Between 1968 and 1980, the average annual increases in GDP and GNP were 7% and 9% respectively due to integration with, and, yes, dependence on, Israel and the regional economic boom. Furthermore, Palestinian economic growth continued even after Israel's economy slowed in the mid-1970's as skilled workers found employment in the Gulf countries and provided remittances that offset weaknesses in Israel's oil-dependant system.

Nor was this growth restricted to the upper echelons of the Palestinian labor market. On the contrary, unskilled labor played a significant role in Palestinian growth and brought with it a demonstrable reduction in poverty. It is true that job creation during this period took place almost exclusively outside of the West Bank and Gaza, but the data demonstrate the levels of economic progress that are possible if political conditions permit economic relationships throughout the region.

As the regional boom crested in the early 1980's, however, the frustration of rising Palestinian expectations began to take its toll. Between 1980 and 1987, real GDP growth fell to 5% and export growth stagnated. This decline — exacerbated by the *Intifada*, intensified by disrupted economic relations with Israel, and accelerated by the resultant strikes and border closures — has still not been reversed. Merchandise exports in 1991 brought in 37% fewer dollars than in 1987 as the Israeli regulatory regime restricted the movements of goods and people. None of this was improved, of course, by the Palestinians' official and psychological support for Iraq in the 1991 Gulf War.<sup>6</sup> Besides the immediate restrictions wrought by this existential danger to Israel during the Gulf War itself, Iraq's defeat brought a

---

6. See Stephen Franklin, *Banking on Peace in Mideast*, CHI. TRIB., Jan. 30, 1994, at 1 (discussing economic repercussions of Palestinian support for Iraq in Persian Gulf War).

termination of reliable Palestinian employment in Kuwait and throughout the Gulf.<sup>7</sup> Workers who once provided a steady flow of remittances to their homeland now began returning there themselves in quest of employment, while diminished consumption in the West Bank and Gaza were exacerbating economic decline.

Ironically, 1991 might one day be viewed as the turning point in recent Palestinian economic history. The defeat of Saddam Hussein, following on the heels of the West's victory in the Cold War, put Israel in the most secure position she has enjoyed in her brief history as a modern state. This unequivocal reality put Israel in a political position from which she could afford to take greater political risks. Prodded by U.S. diplomacy leading to the 1991 Madrid Conference,<sup>8</sup> physically and psychologically exhausted by the burdens of the occupation and the *Intifada*, and restructured politically by the Labor Party's victory in 1992, Israel took the bold and controversial steps that led to the Declaration of Principles,<sup>9</sup> which has guided Israeli-Palestinian negotiations since it was announced to an unsuspecting world in 1993.

Sentiments that underpinned the *Intifada* clearly represent a powerful influence in the West Bank and Gaza to this day, and Israel's current security requirements will not allow its political leaders to permit the open-border commercial environment that the Palestinian business community seeks. But Israel is in the midst of a throttle-to-the-wall economic boom of her own today, and the six-member Gulf Cooperation Council<sup>10</sup> lifted the secondary boycott on companies that do business with Israel in September 1994.<sup>11</sup> These developments, in conjunction with the peace process, have opened up vistas of a new regional economy based on previously unlikely relationships throughout the Middle East. If this agenda unfolds in a systematic manner, regional powers like Egypt, Saudi Arabia, and the Gulf countries could come together with Israel in a trade regime that ideally suits Pal-

---

7. *Id.*

8. See David Hoffman & John M. Goshko, *The United States; Main Objective is to Keep Parties at Table*, WASH. POST, Oct. 30, 1991, at A32 (discussing Madrid Conference and U.S. role therein).

9. Declaration, *supra* note 1, 32 I.L.M. at 1525.

10. The Gulf Cooperation Council ("GCC") is a cooperative consisting of Bahrain, Oman, the United Arab Emirates, Qatar, Kuwait, and Saudi Arabia.

11. Norman Kempter, *Arabs Ease Boycott Linked to Israel*, L.A. TIMES, Oct. 1, 1994, at A6.



estinian purposes. While such regional commercial harmony remains hypothetical, the diplomatic process has come further than most expected before 1993, and the Palestinians have demonstrated — at various times both at home and abroad — an extraordinary level of business prowess. It is for these reasons that supporters of the peace process look hopefully toward private sector development as both a stimulant to, and a consequence of, progress in the Israeli-Palestinian relationship.

## II. PALESTINIAN COMMERCE UNDER THE OSLO PROCESS

Participants in the Palestinian-Israeli dialogue continue to re-learn that business has a pace and direction of its own that can be neither assured nor prohibited by the surrounding politics. Just as Palestinian businessmen have found ways to produce and trade at times despite political barriers, no political formula can by itself orchestrate the rhythms of investment, risk, market response, trade, and profit. Political conditions are neither irrelevant to nor determinant of these undertakings, but the experience to date has reminded us that what they can do is create an environment in which unseen hands are allowed to assess, strive, fail, learn, maneuver, and, if the time and place are right, succeed. The architects of peace understood from the outset that the material fruits of their labor had to become apparent in the everyday lives of the Palestinian people in order for progress at the negotiating tables to settle-in “on the street,” but, alas, their rhetoric all too often exaggerated the extent to which diplomacy could engineer such an outcome.

Thus, the photogenic “handshake” in September of 1993 was followed promptly by an International Donors Conference where the representatives of forty-three states, hosted by the U.S. State Department, outbid one another in the euphoria of the moment, pledging upwards of US\$2.5 billion toward “reconstruction of Palestinian infrastructure.” In the ensuing two and one-half years, the donors have spent less than one-third of that amount, and what has been spent has gone largely to covering the Palestinian deficit, the recurrent costs of Palestinian administrative overhead, and a Palestinian police force that constitutes 2% of the population. The United States alone pledged US\$500 million over five years: US\$125 million from the Overseas Private Investment Corporation (“OPIC”) in the form of financing

for private sector U.S. investors, and \$375 million by way of the U.S. Agency for International Development's ("USAID") conventional foreign assistance.

The OPIC largess, of which less than one million dollars has changed hands in the first thirty months, was touted as precisely what was needed to liberate the dormant energies of Palestinian entrepreneurship. Private sector investment in an era of declining foreign assistance budgets would export the best of what the United States had to offer. Market instincts would move investment, not philanthropy, into the parts of the economy where it was most needed. It would not only move more quickly than foreign assistance, but the profit incentives behind it would create permanent jobs in response to the spirit of the Palestinian market, and nurture the seeds of market behavior from which pluralism springs naturally rather than being imposed from on high.

The handshake proved to be a memorable photo-op, but the agreements it yielded have hardly generated a Palestinian economic renaissance. Oslo I encompasses a generic Declaration of Principles, signed in September 1993, and a more formal instrument of implementation that was signed eight months later in Cairo.<sup>12</sup> Sandwiched between them was a set of economic terms and conditions, signed in Paris in April 1994,<sup>13</sup> which became an appendix to the Cairo document. Collectively, these instruments granted limited economic autonomy to the dusty hamlet of Jericho, near the Allenby bridge to Jordan, and to 60% of the Gaza strip, fifty miles and two Israeli borders away along the Mediterranean coast. A Palestinian-Israeli "customs union" was formed by the Paris Economic Agreement, but it included no provisions for passage between Gaza and the West Bank, and no special arrangements for moving products in or out of either location by way of Israel, which controlled access to both. A series of terror bombings throughout Israel by Palestinian opponents of the peace process not only made it unnecessary for Prime Minister Rabin to publicly justify Israel's retention of border controls, but made it politically untenable to lift them. Indeed, they tested the very strength of his commitment to the process in the face of the domestic political anxieties.

---

12. Cairo Agreement, *supra* note 3, 33 I.L.M. at 622.

13. Economic Protocol, *supra* note 3, annex IV, 33 I.L.M. at 696.

Rabin's commitment, which proved so unshakable that it ultimately cost him his life, kept the process together throughout the two years of Oslo I's tumultuous reign. Indeed, as the average Palestinian seemed to support the terror more than the Oslo I, Rabin and then Foreign Minister Peres knew better than anyone that Palestinian economic growth would provide desperately needed support for the risks they had undertaken. As internal political tension dominated the implementation of the Agreement on both sides, and prolonged the negotiation of Oslo II's expanded autonomy provisions by over a year, questions about the nature and extent of investment became quite secondary. Thus, throughout that period, the closure of Israel's borders to the newly autonomous territories became a nearly requisite response to the persistent security threat regardless of the economic consequences.

Through various base-building efforts in the United States and the Middle East region during these difficult times in the process, Builders for Peace discovered a broad interest in the West Bank and Gaza from across the spectrum of the U.S. business community. Indeed, several investors moved forward and placed capital at risk in the territories despite the uncertainties in the wake of the Agreements. During the Oslo I period, two substantial West Bank housing projects were built and sold with exclusively private U.S. capital. One of them, a solid U.S. joint venture with a local Palestinian partner, has stayed in place, finishing one project while planning the next. Contrary to initial expectations, however, the American is neither Arab nor Jewish. Similarly, neither is the family from Youngstown, Ohio that opened a pre-cast concrete factory in Gaza in 1995. Nor is the Salt Lake City man who has completed an impressive TDA-sponsored feasibility study for the placement of a U.S. crude oil refinery in Gaza to service the local petroleum and asphalt markets.

There is no shortage of interest on the part of Palestinian-Americans in bringing their success back to Gaza and the West Bank, but the primary incentive for investment is based on market principles, not ethnic sentiments. The fact that investment moved slower than negotiators had hoped, while disappointing, is unsurprising. The market merely dictated the same caution in business investment that the negotiators are experiencing with regard to the future status of Jerusalem, Hebron, the settlements, the refugees, the borders, and the creation of reliable,

safe passage between Gaza and the West Bank. Both are saying the same thing: "wait and see."

But a "wait and see" attitude is more than many experts would have dared to forecast had they foreseen the turmoil that accompanied Oslo I's implementation. Violence from the opponents of peace on both sides exceeded the expectations of many. The difficulties of collecting many donors' pledges, and of World Bank coordination of what was contributed, were hardly anticipated after the October 1993 Donors Conference at the State Department. The seemingly routine nature of border closures in the absence of safe passage within the Gaza-West Bank-Israel customs union was part of no one's calculus during the halcyon days when investment opportunities were initially highlighted. Finally, the shocking murder of Yitzhak Rabin capped one of the most tumultuous periods in the history of Israeli-Palestinian relations.

### III. *PROSPECTS FOR ECONOMIC CHANGE UNDER OSLO II*

To ask why economic progress was as slow as it was under Oslo I misses the point, because few would have predicted that the political process itself could survive such turmoil. And yet two events that demarcated the transition from Oslo I to Oslo II demonstrate the readiness of both sides to move forward. First, the prompt, relatively uneventful redeployment of Israeli troops from many West Bank Palestinian population centers took place more smoothly than anyone had a right to expect, in some cases without even generating headlines. Secondly, on January 20, 1996, 80% of one million eligible Palestinian voters traveled long distances and waited hours to participate in the first democratic election in Palestinian history.<sup>14</sup> While acknowledging the historic achievement this represents, however, it is important that the right lessons be learned from it. It would be wrong, for example, to conclude that these two events, both fostered by Oslo II's expansion of West Bank autonomy, manifest unbridled approval of process as it has unfolded to date.

The Palestinian election exhibits a Palestinian leadership selection process more democratic than any in the Arab world save perhaps pre-civil war Lebanon. Many candidates who opposed

---

14. Daniel Schorr, *Palestinians Voted for Their Own Participation*, *CHRISTIAN SCI. MONITOR*, Jan. 26, 1996, at 19.

Arafat's handpicked nominees won on January 20, and several Hamas-dominated areas of Gaza featured turnouts as high as 90%.<sup>15</sup> The Carter Center and the National Democratic Institute, which jointly sponsored a delegation of forty election observers from eleven countries, acknowledged that the election had its share of irregularities, but concluded that overall, "the Palestinian people had an historic opportunity to choose their leaders . . . and did so with enthusiasm and a high degree of professionalism."<sup>16</sup>

Despite stagnant economic realities that persisted throughout Oslo I's implementation, architects of the process can rightly claim that it bought time for the Palestinian Authority to establish itself while fashioning the first self-governing apparatus in Palestinian history. But the "no free lunch" axiom applies as well, because the time bought was purchased at the expense of other urgent priorities. The appropriate reaction should be a sigh of relief rather than self-congratulations. Yes, the election suggests an encouraging degree of pragmatism and moderation on the part of the Palestinian people. The election/redeployment experience provided sufficient near-term gratification to offset temporarily the frustration surrounding unemployment, inaccessible borders, a burgeoning youth population, disappearing job prospects in Israel and the Gulf, and soaring birth rates in a patriarchal culture rife with unemployed fathers. Does this mean that the man-on-the-Palestinian-street, who presumably needed to see real benefits from the peace process in his everyday life, simply knew better and expected less? When compared to how fulfilling an American would find the experience of voting, while unemployed, such a testimony to Palestinian faith and hope would be good news indeed.

Thus, we must avoid the impulse to delude ourselves about what has and has not been vindicated. If investors and donors continue to "wait and see" throughout the Oslo II implementation, as they did during the two years it took to negotiate it, Palestinian pragmatism and moderation will be in for a long and

---

15. See *Palestinians Vote for Democracy, But Will They Get It?*, THE ECONOMIST, Jan. 27, 1996, at 37 (noting that, in some areas, 90% of Palestinians voted and that many of Arafat's hand-picked candidates were defeated).

16. Press Release, Preliminary Statement of Carter Center/NDI International Delegation to January 20, 1996 Palestinian Election, Carter Center & National Democratic Institute for International Affairs, Jan. 21, 1996, at 1.

frustrating test. Oslo II's implementation will take place during final status negotiations that, for good reason, were delayed until now. A governing authority has been legitimately elected, but it now must govern in an area where boundaries are still to be determined, where sovereignty still resides elsewhere, where issues related to the first *intifada* remain unresolved in the minds of most, and where the most intractable issues that have divided the parties will be on the table. One axiom of the development literature that I cited in my July 1995 testimony before U.S. Senator Hank Brown's Near East Subcommittee<sup>17</sup> is worth recalling in this regard. From Iran in 1979 to Tiannamen Square to the fall of Communism, it is seldom oppression *per se* that causes revolution but normally the sustained failure to satisfy rising expectations.

Thus, those who worked so diligently to elevate Palestinian expectations after Oslo I should not be misled as to what has been achieved. The election itself expressed Palestinian expectations of a better life. It is, therefore, not Oslo I as implemented, but Oslo II as the Palestinians expect it to be implemented, that was endorsed by the elections — much like Benjamin Franklin's characterization of second marriages as the triumph of hope over experience. So while the parties are busy negotiating Oslo III — the "final status" of Jerusalem, Hebron, refugees, settlements, and boundaries — and while the Israelis are engaged in an historic election of their own, they should take a hard, honest look at what has stood in the way of Palestinian economic progress, because that is how the Palestinian people will be measuring the governing skills of the leadership they have temporarily empowered to represent them.

#### IV. IMPEDIMENTS AND SOLUTIONS

Realistic observers will learn quickly that there is plenty of blame to go around, which leads to finger pointing among traditional adversaries. Palestinians tend to cite Israeli border and port procedures, point-of-entry harassment, and other business-as-usual practices that reflect a mismatch between policy at the

---

17. *Economic Development and U.S. Assistance in Gaza/Jericho, 1995: Hearing Before the Subcommittee on Near East and South Asian Affairs of the Senate Comm. on Foreign Relations, 104th Cong., 1st Sess. (1995)* (testimony of Mel Levine) available in LEXIS, Nexis Library, Curmws File.

rhetorical level and practice at the street level. The Israelis, in turn, point to the Paris Economic Accord as the agreed terms of commercial relations and to their own legitimate security concerns as the basis of their policies on border access. Similarly, investors who are ready to begin putting businesses in the region, of whom there is no shortage, express frustration about: OPIC's seemingly impossible terms for loan qualification, the resultant absence of private sector financing sources in a high risk region, the void in formal Palestinian commercial law, the undocumented restrictions they invariably encounter at Israeli ports, and the absence of any long-term infrastructural road map in public sector Palestinian planning. None of these is without merit, but an official response to economic difficulties cannot begin with finger-pointing. Parties should grant, from the outset, that there is much that each of them can do to improve the investment climate. It would be inappropriate in this format to offer an exhaustive listing of impediments that have been documented, but a cursory review of the broad categories and of processes for their resolution is worthy of brief discussion.

#### A. *Israeli Practices*

By far the most widely discussed category of impediments involves the difficulties associated with Israeli-Palestinian borders. One illustrative example involves a successful manufacturer of furniture in South Carolina who wants to compete for European markets. Gaza's geographic proximity and labor costs could put him in an ideal position to do so. He studied the market and its costs and arranged for land and a business partner in Gaza, but his business plan calls for him to import a container of raw materials and export a container of finished product every day. This requires routine movements of goods in and out of Israeli ports, across Israel, and across the Gaza border, in both directions. He promptly discovered that Gaza's borders are not traversable on a reliable enough basis to pursue the risk. His plans are now on hold because, without reliable ingress and egress, he can neither establish himself as a reliable supplier to the new markets nor make payments on an enabling loan. OPIC and others provide political risk insurance, but it does *not* cover border closings to which Israel, as shall be noted below, has no current practical alternative in her search for security.

There are additional examples that parallel this case, and comparable cases involving extant manufacturing operations in Gaza, restrictions at the Rafah checkpoint with Egypt, diversions of trucks forty kilometers south from Rafah to Netzama (Israel), unloadings and reloadings from Palestinian to Israeli trucks and vice versa, burdensome documentation for tariff and duty allocations, the unreliability of Jordan River crossings, and the denial of free access to Palestinian products in Israel itself. Another entire genre of impediments derives from the absence of safe passage between Gaza and the West Bank, which restricts even non-export oriented Palestinian producers to a fraction of their potential markets. Since there is enough commercial risk associated with investing in the West Bank and Gaza without these additional financial burdens and delivery uncertainties, no one will build a factory there while these conditions persist. From a trade and investment standpoint, manufacturing is one of the more logical near-term sources of large-scale indigenous Palestinian employment; human resource skills are among the few obvious assets that Palestinians can offer for near term relief from their economic plight; and exports are the only means to bring new money into these depressed regions.

But the challenges these complaints present to Israel cannot be assessed on exclusively economic grounds. The prospect of Palestinian trucks moving freely through Israel, or even into the West Bank and Gaza from other neighboring states, constitutes a clear and present danger to Israeli security. The peace process itself has been placed in serious jeopardy many times since 1993 because of terror activities far less threatening than trucks, and terrorists have used trucks everywhere from Beirut to the World Trade Center to Oklahoma City in recent years to deliver large explosives to random targets. No one will find a workable solution to the border access problem by ignoring or denying this reality, or by seeking solutions outside of its framework. It is a classic political/economic conundrum. The Palestinian leadership will find no solution to its economic crisis without recognizing legitimate Israeli concerns in this area.

Indeed, the border issue brings the Peres Government, as it did the Rabin Government, face-to-face with core principles that brought the process to this point. The current Government, like its predecessors, embraces the political, economic, and moral obligations associated with Palestinian self-rule and economic



autonomy in principle, but it has insufficient confidence in its negotiating partner's capacity to offset the accompanying risks. The border problem shines a bright light on this contradiction. It is analogous with U.S.-Soviet Cold War negotiations when national security constraints could be accepted only under strict verification regimes. Then as now, verification was too often cited as both the enabler and the delimitter of the substance of negotiations, because no amount of verification provisions can bridge the chasm of distrust when national security is at stake. The best the sides can do under such circumstances is to endure one another's limitations through partial measures until it becomes apparent that compliance is in the genuine self-interest of both parties rather than an externally enforced regime of constraints. If this proves to be untrue, then the process has greater weaknesses than those associated with border procedures.

The Israelis could accelerate this confidence building process in two ways. The first is to demonstrate convincingly that any burdensome border controls and port procedures that are in place are there solely for security purposes and not to create or preserve foreign trade advantages or domestic market controls. They could do this by bringing Palestinian business representatives and political counterparts into a process, perhaps informally, perhaps with American or European commercial and security experts as third parties. It would probably have to be done at a sub-official level so that no one's national security policies appear to have been marginalized or subordinated to outside interests. Secondly, they could take a hard, open-minded look at creative procedures that have been attempted already, some of which are now in place. For example, the Israelis themselves operate special "convoys" on a routine, scheduled basis to transport Palestinian goods to Israeli factories and distributors who rely on Gazan suppliers. Police inspections and escort patrols are provided so that interruptions are rare and delivery schedules can be met. These are no doubt expensive and logistically difficult exercises for the Israeli security system, but it demonstrates that creative solutions are possible.

Other potential solutions, of course, involve the construction of Palestinian ports, international funding for additional Israeli inspection facilities, and rapid, off-hour escort procedures that expedite Palestinian containers to and from destinations without recurring unloadings and reloadings. Experts should

also closely examine the availability of efficient inspection technologies that might speed and simplify the border crossings. The United States has inspectors on the ground at Russian missile production facilities who routinely distinguish between permitted and prohibited strategic missiles that vary by centimeters while they are housed in containerized launchers in railcars. Western COCOM<sup>18</sup> inspectors until recently prohibited shipments to Eastern Europe if they included items as small as haircombs. Impregnable "tags" can be used to certify inspected trucks at the loading end so that their cargoes need not be transferred and reinspected enroute to a predetermined destination.

Realism dictates that both sides must enter a quest for creative solutions with an honest acceptance of one another's core requirements. This means that the Palestinians must accept, as a minimum, that "free movement" is not exclusively, or even primarily, an economic issue, and that the Israelis must accept the presence of a determined economic partner and competitor on their doorstep. Good faith may or may not follow, but without these going-in positions on both sides, it is prohibited.

#### B. *Palestinian Practices*

The second category of impediments involves confusion and ambiguity in Palestinian administrative procedures. One American completed a TDA sponsored feasibility study a year ago for a US\$40 million crude oil refinery, that would not only be a profitable operation in Gaza, but would also generate up to US\$100 million per year in revenues for the Palestinian Authority and provide 1500 jobs. The investor plans widespread Palestinian public ownership with emphasis on service station owners. But so far he has not been able to get the Palestinian Authority's go-ahead to build the plant. U.S. officials at all levels routinely advocate the project in meetings with Palestinian leaders. The answer is always different, but never yes or no.

Without a doubt, the absence of established, systematic Palestinian-decision making structures on foreign investment has prevented projects that would otherwise be in place, employing Palestinians and bringing revenues into the West Bank and

---

18. The Coordinating Committee for Multilateral Export Controls ("COCOM") served to keep communist states from acquiring advanced Western technology by preventing export of such technology. After nearly 45 years, it was disbanded in 1994.

Gaza. Some will argue that this is unsurprising in light of their centuries of inexperience with self rule. Others will point out that pre-election governing procedures by an authority negotiating for its survival is not the venue on which to judge its day-to-day administrative performance. But the Palestinian leadership's style of carefully crafted ambiguity in these matters, combined with what is clearly a highly centralized decision-making apparatus, leaves the Palestinian Authority wide open to accusations ranging from exclusion of undesirable foreigners to outright corruption. Builders for Peace has seen no documentary evidence of these administrative processes, and U.N. and World Bank counterparts have consistently said they are nonexistent. U.S. foreign assistance transfers can withstand the most intrusive auditing standards, including end-use certifications, and U.S. investors operate in an accountable, transparent manner in all commonly known investment undertakings in the region. So there may be no basis for such characterizations, but in the absence of open and accountable procedures, neither is there a basis on which to refute them, which leaves little room for investors to measure the associated risk.

As a result, projects that would otherwise now be employing Palestinians and fostering an environment for follow-on market development are beyond the scope of rational planning. Construction goes forward in areas where infrastructural plans are unknown or nonexistent. Highly professional bids for large scale projects that would be funded privately or by donor countries languish without selections. Infrastructure projects like power, wastewater, telecommunications, and road construction, which would regularize domestic conditions and simplify further planning, remain neither approved nor disapproved.

As we move from the implementation of Oslo I to the implementation of Oslo II, the assets to improve these trends are in place. An elected authority is now available from which to staff ministries and delegate authority to expert levels. A law encouraging foreign investment<sup>19</sup> has been crafted in accordance with internationally recognized language and structures.<sup>20</sup> Compe-

---

19. Law on the Encouragement of Investment, translated in David Fidler, *Foreign Private Investment in Palestine: An Analysis of the Law on the Encouragement of Investment in Palestine*, 19 FORD. INT'L L.J. 529, 603-10 (1995).

20. For a comprehensive analysis of this law, see Fidler, *supra* note 19.

tent advisory services are readily available through U.S. funding as well as a competent array of non-governmental and private volunteer organizations. The new Palestinian Authority will have its hands full for the coming year as it strives to expand beyond the small slices of territory it now governs in the West Bank and Gaza and to justify the mandate it has been given by its constituents, but it will have to demonstrate its competence to a broader international audience if it expects to reward its peoples' confidence with a diverse array of international investors.

Professor David Fidler's pioneering scholarly work<sup>21</sup> and Keith Molkner's excellent analysis of the Palestinian Foreign Investment Law<sup>22</sup> probably document all of the strengths and weaknesses of its terms that can be identified in the absence of case law. The problem with legal analysis in the absence of case law is that it is only through implementation that a society's cultural values and traditions actually give life to a new commercial regime. Chairman Arafat has said time and time again that he favors "free markets." But until Palestinian businesses and foreign investors are able to pursue their own commercial instincts, no one will know what these words actually mean. Arafat has been criticized repeatedly for his over-centralized role in Palestinian business creation, but such criticism is somewhere between premature and unfair because he is only now in a position to assemble a legitimately elected array of ministerial positions, and to delegate the authority appropriate to their portfolios. Decentralization will bring its own bureaucratic procedures, which, especially at the outset, are unlikely to be more decipherable than at present. And yet it is clear that decentralized, nondiscriminating, court-enforced rule of law is an essential missing ingredient to Palestinian participation in the global economic arena.

### C. *U.S. Practices*

A third category of impediments involves shortcomings in the U.S. Government's own widely advertised investment support services. An American investor actually opened a precast concrete plant in Gaza in 1995, leasing equipment from an Is-

---

21. See, e.g., *id.*

22. See, e.g., Keith Molkner, *Legal and Structural Hurdles to Achieving Political Stability and Economic Development in the Palestinian Territories*, 19 *FORD. INT'L L.J.* 1419 (1996).

raeli bank that had foreclosed on a pre-Oslo buyer, and servicing the burgeoning residential construction "boom." This investor secured a US\$1 million loan, which is the first and only loan OPIC has made to date for West Bank/Gaza. Another investor worked with OPIC for a loan to build a large hotel in Gaza for over a year before concluding that OPIC's terms defeated the economic viability of the project. Interestingly enough, that investor appears to have secured private sector financing through foreign sources under far less onerous terms, but we will not know for sure until Spring of 1996. Other cases demonstrate that these examples are unique. In each case, the investors are seeking alternate financing, and may well succeed, but it has taken time to discover the nature of OPIC's terms while these projects languished.

OPIC is a unique agency of the U.S. Government with a challenging charter. On one hand it is an instrument of U.S. foreign policy with a responsibility to support private sector investment with financing and risk insurance in developing countries. On the other hand, OPIC must operate as a bank that actually returns a profit to the U.S. Treasury on a year-to-year basis. Under Ruth Harkin's skilled leadership the agency returned a record profit in 1994 and expected to exceed that accomplishment in 1995. If all of OPIC's decisions emanated from their status as an arm of U.S. foreign assistance, it would duplicate the efforts of the USAID. On other hand, if all it were guided by were return-on-investment interests, it would be no different from a private bank.

OPIC must find a balance between these often conflicting characteristics of its identity, emphasizing one or the other or both as conditions permit. The fact that Builders for Peace has often been frustrated with OPIC's criteria for finding that balance is no secret to our friends and supporters. Indeed, I have reluctantly seen it necessary to criticize OPIC staff policies publicly despite my high regard for OPIC President Ruth Harkin.

OPIC engaged in an aggressive public campaign throughout 1993 and 1994, calling U.S. and Palestinian attention to the US\$125 million in financing that the agency intended to make available to investors in the West Bank and Gaza as a part of U.S. Government policies in support of the peace process. U.S. officials routinely refer to a "US\$500 million" U.S. contribution to the international donors effort, of which the OPIC pledge is

25%. As investors began bringing actual projects to OPIC's doorstep, however, lending terms that were not widely understood beforehand came to define a decidedly risk averse set of preconditions. Principal among these is the policy whereby OPIC will only "lend against" businesses that are up and operating at their projected performance levels. Loans that support construction and early operations are available, but must be fully collateralized so that the U.S. Government is not at risk until anticipated revenue flows have been underway for a specified period, normally a year. The effect of this policy, which places all of the start-up risk on the investor, is to exclude small-scale business persons; specifically, those who can meet the published requirements for 50% equity capital and various forms of operating reserves, but who need financial backing to complete the project. Business investment in the West Bank and Gaza is hardly a low risk undertaking, but successful American entrepreneurs have demonstrated a willingness to go forward in the face of such risk if plausible financing is available. The absence of such support from conventional banks is presumably why an OPIC is needed in the first place.

Donor countries, all of whom would prefer to fulfill their pledge obligations through high visibility, low risk undertakings, compete with one another for the kinds of projects OPIC policies will support. Large scale infrastructure projects with virtually guaranteed revenue streams and mid-range undertakings with large corporate assets behind them will have no trouble finding such support. But only OPIC can provide financing for those who need it most. For example, industrialization in the West Bank and Gaza is quite low — 16% of Palestinian employment and eight percent of GDP. But it is the most plausible source of large scale, near-term employment. Only thirty of the 4200 industrial units in the West Bank and Gaza in 1990 employed fifty people or more, and the average number of employees was four. These "cottage industry" operations, which typify the successful businesses of many Palestinian-Americans as well, are the most logical targets for joint venture investments, in which American know-how and capital are joined with local Palestinian street sense. If investors had the capital on hand to undertake such ventures in compliance with OPIC's terms, however, they would not need financing. In short, their services work best for those who need it least, and vice versa.

It may have been that early 1995 was simply how long it took for serious investors to begin seeking the support facilities OPIC had been heralding for the previous year or so, but their orientation toward the "for profit" side of their identity, as opposed to the "instrument of foreign policy" side seemed to crystalize just after Congress changed hands at the end of 1994. A Congressional Research Service study in April 1995,<sup>23</sup> a *New York Times* Article by House Budget Committee Chairman John Kasich calling for OPIC's privatization in July 1995,<sup>24</sup> and a spate of amendments to the Fiscal Year ("FY") 1996 Foreign Operations Bill marked OPIC as a target for abolition by the new Republican Congressional leadership. OPIC's protection from such action, ironically, derives from precisely the same logic that most convincingly calls for their privatization — the fact that they return a profit to the Government, which renders them "self-sustaining." In light of Israeli and Palestinian practices identified above as impediments to investment, OPIC risk aversion, which amounts to an aversion to investment in the West Bank and Gaza, is defended by many as well advised. After all, policies that scrupulously protect the interests of the U.S. taxpayers ought to be among such an agency's highest priorities. But one of the principal benefits of U.S. investment in the region would be to reveal these and other impediments, to provide the case studies that are needed to identify and eliminate them. In the absence of foreign investment experience, the status quo interests that maintain many of these impediments will provide the only expert testimony as to their effect. In this sense, trails that need to be blazed through the morass of existing practices might prove to be comparably beneficial to the U.S. taxpayer. Policies that weight OPIC's criteria more toward U.S. foreign interests, and less toward self-sustaining return-on-investment, would help serve that purpose.

A second area in which U.S. policies as currently practiced impede Palestinian economic expansion lies in the area of U.S. import policies toward Palestinian products. The U.S.-Israel Free Trade Agreement<sup>25</sup> ("FTA") included the West Bank and

---

23. Memorandum from Wayne M. Morrison, Analyst in International Trade and Finance, Congressional Research Service, to House Budget Committee (Apr. 11, 1995).

24. John R. Kasich, *Get Rid of Corporate Welfare*, N.Y. TIMES, July 9, 1995, at 15.

25. United States-Israel Free Trade Agreement, Apr. 22, 1985, U.S.-Isr., 24 I.L.M. 653, H.R. Doc. No. 61, 99th Cong., 1st Sess. (1985).

Gaza on a *de facto* basis until the Palestinians achieved economic autonomy. No one intended for the Oslo agreements to penalize the Palestinians economically, but when the West Bank and Gaza were considered occupied territories they benefitted indirectly from many of the labeling, tariff, quota, and product inspection benefits that the United States yields to a close friend like Israel. Indeed, attempting to compensate for this unintended consequence of peace, the U.S. Government extended preferential tariff rates to Palestinian goods under the Generalized System of Preferences<sup>26</sup> ("GSP") in early 1995. However, GSP excludes textiles and agricultural products, which are currently the Palestinians' most marketable products, and, moreover, Congress failed to re-authorize the GSP program for FY 1996. Palestinians enjoy preferential trade advantages today with Israel and with the European Union, but they currently receive no statutory advantages with regard to the U.S. market. Legislation that would extend duty-free treatment to all Palestinian goods imported to the United States has been proposed by the Administration and approved by the House Ways and Means Committee. It now awaits the approval of the full House and Senate. As discussed, an export oriented industrial strategy is the most likely near-term solution to the Palestinian employment problem, and access to the U.S. market is a precondition to U.S. investment toward that end.

#### D. *International Practices*

The final category of impediments, which involves all of the parties, is the persistent difficulties they have had in attempting to create border industrial zones, which would address many of the impediments this paper has raised. Such zones would be constructed under specially agreed Palestinian and Israeli terms and operated under jointly approved but independently chartered authority. Located on the border, they would enjoy specially structured provisions for movements in and out, and thus might resolve many of the ongoing border difficulties as they relate to both manufacturing and exports. Their special legal status would "jump start" development of commercial law by limiting its scope to the specific zone, and would enable infrastructure development to be targeted to within the zones' agreed

---

26. 19 U.S.C. §§ 2461-66 (1994).



parameters. The United States, which strongly supports the zones for their "quick-fix" potential, has expressed willingness to seek special provisions for tax-exempt access of these zones' products into the U.S. market, even if progress on Palestinian FTA status continues to be delayed. The Israelis and Palestinians agreed in early 1995, in principle, to create these zones on the Palestinian side of the border in the vicinity of Israeli commercial centers from which they can draw logistical support. And yet, the idea which is fully endorsed at the conceptual stage, is nowhere near a physical reality. This is apparently because the special security, legal, and commercial procedures that would be enacted by the parties for the zones have remained beyond the reach of negotiators to date.

As this seemingly ideal near-term solution slips away, both sides have begun looking for alternative solutions. The Israelis would build the zones on their own side of the border with special subsidies for investors who bring businesses there, and with provisions to enable the employment of Palestinians who are now unable to enter Israel. But the Palestinians are looking for more than just jobs out of these zones. Troubled by the "state within a state" status of border zones and reluctant to endorse Israeli owned zones with Palestinian workers, many Palestinian leaders would prefer zones located on internal Palestinian territory in order to more fully exploit the benefits of foreign investment for their own infrastructure requirements. While the debate continues, a potentially lucrative target for investors languishes in the realm of unresolved issues.

### CONCLUSION

The compelling need for private sector Palestinian development, which essentially went unanswered throughout the period of Oslo I's implementation, cannot await the resolution of all final status issues at the political level. Indeed, the compromises and disappointments invariably associated with the give and take of diplomacy may necessitate more than ever some evidence of economic progress. It would be unwise for the architects of the political process to forget this, or to interpret the outcome of the Palestinian election as a reprieve from the obligations they have assumed in the economic realm.

But the economic issues, like the pending political issues,

have remained unresolved for good reason. They go to the core of what self-rule and economic autonomy mean. To separate them from the political realm as if they were an unrelated category misses the point entirely. The economic impediments cursorily reviewed in this Essay are the residue of political accommodations not yet achieved. They are central to any complete definition of the final status relationship. But coherent mechanisms for their resolution are not properly structured for consideration at the political level because they have been set aside from the formal proceedings. To elevate their relevance, to crystallize their core issues, and to enlighten negotiators, expert panels are needed beginning at the semi-official and sub-official levels. These should include business and management specialists, as well the good offices of third party American participants.

The most useful opening agenda item for consideration by such panels would be an examination of what stands in the way of progress on industrial zones. The immediate effects of manufacturing based "export processing zones" on jobs and balance of trade cannot be achieved by other means. These border zones, which the World Bank views as "security islands," would certainly attract private investment in the form of Israeli-Palestinian, American-Palestinian, or American-Palestinian-Israeli joint ventures, many of which are now awaiting the arrival of such a systematic regime for investment. The fact that the parties have agreed in principle regarding the broad outlines of such zones means that conceptual issues that will delay other solutions have already been overcome. All of the problems associated with borders, ports, commercial codes, business licensing, and access to markets — problems whose details require definition to be sure — are subsumed under that broad conceptual umbrella. They are difficult issues, but a framework for their resolution is in place. The parties should focus intense, expert attention on them, with international support, firm deadlines, and clear objectives.

Palestinian interest in the more internally focused zones for targeted infrastructure development should also be explored with the supportive cooperation of their foreign counterparts. The Israeli Ministry of Trade has also expressed interest in developing zones on their side of the border — either independently or through the "mirror model" in parallel with a Palestinian zone — to absorb currently inaccessible Palestinian employ-

ment. If the Palestinians' internal "municipal industry complexes" were examined in the same context as these more unilateral Israeli models, the broad outlines of a compromise might begin to take form. Indeed, the two unilateral models operating "in parallel" might be able to benefit from the same ingress, egress, and transportation protocols even if both are not on the border. The Israelis are motivated by moral as well as economic incentives when considering the issue of Palestinian unemployment. The Palestinians are motivated by developmental as well as economic incentives, but are limited by political factors when it comes to Israeli dominated economic structures. Confidence building efforts that begin with a clear recognition of these parallel perspectives will discover much common ground.

The World Bank's well established interest in industrial zones is further cause to move forward with this agenda. This commitment brings with it the Bank's good offices, technical expertise, and a degree of otherwise unattainable financial backing. The combination of the Bank's willingness to coordinate and channel donors' contributions in the form of guarantees to investors, and Israel's commitment to provide secure shipment routes to and from ports, overcomes many of the going-in problems that will burden other approaches. The Bank has estimated that US\$200 million would be required for each park, of which US\$20 million could come from donors, US\$10 million from the Bank itself, US\$20 million from the Palestinian Authority, and the remaining US\$150 million from private investors. These numbers are entirely consistent with the level of interest that has been expressed in the American private sector.

The broader issues associated with Palestinian freedom of movement will require time, realism, and confidence building. Industrial zones are one way to begin that process at the private sector level, but additional processes are needed as well. Palestinian producers whose economic potential has been limited by the occupation, must be allowed to outgrow their roles as suppliers for Israeli exporters and become exporters themselves. They must be allowed to compete with Israeli counterparts not just in foreign markets but within Israel itself. Without such an atmosphere of cooperation, which will take time to develop, Israel's own vision of a new regional economic order will be limited to annual showcase conferences and wishful rhetoric. It is true that the West's victories in the Cold War and the Gulf War were fun-

damental factors that enabled Israel's constructive role in the peace process, but it is Palestinian acceptance to date of Israel's political terms that has laid the groundwork for broader regional accommodation. That acceptance is fragile, but so is Israel's sense of security. Both should be treated with care by those who are charged with the responsibility of moving the process forward.