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Chair of Comparative Public Law*

Master Thesis

The steep path to the independence: Swedish Foreign Policy's involvement in the Israeli- Palestinian conflict

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ABSTRACT

This work aims to address Swedish foreign policy's involvement towards the Israeli-Palestinian conflict over the years. Having a specific interest towards the Palestinian question, it is hence divided in two parts, the first one addressing the Palestinians' claim for statehood in terms of international law, the second one focusing on Swedish foreign policy in the Israeli-Palestinian conflict over the years.

In the first part of this research, we proceeded step by step to examine if Palestine could pretend to the status of State according to international law. What comes out from this analysis is that Palestine fulfills the Montevideo criteria, qualifications a State should possess to be considered as such in accordance with international law. Thus, our attention shifted to the question of recognition to end up examining why the EU did not recognize the State of Palestine yet as it has already been recognized by more than 135 countries worldwide. Finally, we took a close look at the recent change of strategy that had been operated by the Palestinian leadership to find out that the international path was chosen to unlock the bilateral negotiations deadlock.

In the second part of this work, we undertook an analysis of Swedish foreign policy's involvement in the Israeli-Palestinian conflict so as to understand its recent recognition of the State of Palestine in October 2014. Whilst Sweden has been involved in the Israeli-Palestinian conflict since 1947, it appears that the arrival to power of Olof Palme in 1969 further increased Sweden's involvement in the conflict as Palme proceeded to a reassessment of Swedish foreign policy. Since then, we observed that Sweden strove for the Palestinian cause, primarily through what we refer to as back channel diplomacy. Consequently, the recent recognition of the State of Palestine by Sweden has to be understood as the continuity of the Swedish foreign policy.

Whereas it is possible to explain Swedish foreign policy's involvement in the conflict by the importance it confers to the respect of international law and human rights, to point out that its involvement not only paved the way for the Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis, our two last hypotheses have to be rejected. In fact, while the Swedish recognition of the State of Palestine in October 2014 did trigger a reaction among EU Member States, the results are far from what we expected. Likewise, the recognition of the State of Palestine by 136 States did not pave the way for a sustainable solution to the conflict. Although it is possible to speak of a Swedish exceptionalism, it remains that recognition of the State of Palestine by the EU could have a greater effect on the conflict as it is perceived as a legitimizing and normative power.

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LIST OF ACRONYMS

CFSP	COMMON FOREIGN AND SECURITY POLICY
EPC	EUROPEAN POLITICAL COOPERATION
EC	EUROPEAN COMMUNITY
EU	EUROPEAN UNION
ICJ	INTERNATIONAL COURT OF JUSTICE
ICC	INTERNATIONAL CRIMINAL COURT
GA	GENERAL ASSEMBLY OF THE UNITED NATIONS
PLO	PALESTINE LIBERATION ORGANIZATION
PNA	PALESTINIAN NATIONAL AUTHORITY
PNC	PALESTINIAN NATIONAL COUNCIL
SC	SECURITY COUNCIL OF THE UNITED NATIONS
UN	UNITED NATIONS
UNESCO	UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION
UNSCOP	UNITED NATIONS SPECIAL COMMITTEE ON PALESTINE
US	UNITED STATES OF AMERICA

INTRODUCTION

Based on its title, it seems clear that this thesis will address the Swedish foreign policy's involvement in the Israeli-Palestinian conflict. However, as much as we intend to do so, the first part of the title points out towards which aspect of this policy this thesis will focus on. As Israel is an independent State since the 14th May 1948, it is possible for the reader to understand that our approach will be directed towards Palestine's steep path to the independence.

In fact, while Palestine could have been a State the same year the State of Israel was established, history has decided otherwise. As we discuss this matter today, it is crystal clear that the Palestinian people did not seize this opportunity in 1948. The missed chance was gone and the steep path to the independence began.

As the purpose of this thesis is to explain Swedish foreign policy towards the Israeli-Palestinian conflict, we chose not to address it directly but to reflect on crucial questions that must be raised if one wants to understand Sweden's recent formal recognition of the State of Palestine.

In the first instance, our approach is to examine if Palestine could pretend to the status of State according to international law. It goes without saying that if Palestine does not fulfill the criteria prescribed by international law, its claim to statehood is undermined. If Palestine does fulfill these criteria, the question of recognition takes on its full meaning as it will be possible to question ourselves why not every member of the international community recognizes Palestine as a State. This matter being imbued with a political aspect as we will see, this will lead us to wonder why the Palestinian leadership recently decided to put the bilateral negotiations with Israel aside in favour of another strategy, the internationalization. Of course, the Israeli-Palestinian conflict is an international one as the international community played a role in it since its onset. Nonetheless, the novelty is its emphasis on international law as the Palestinian leadership triggered what we can call a legal offensive in April 2014 and January 2015.

In the second instance, we choose to question ourselves how it was possible to explain the Swedish foreign policy towards the Israeli-Palestinian conflict. Likewise, we wondered if the Swedish foreign policy had a favourable impact on this change of strategy. As aforementioned, Sweden decided to formally recognize the State of Palestine on the 30th October 2014. While the Palestinians' legal offensive took place in two stages as stated above, one might wonder if the second one did not result from Sweden's recognition and the repercussions it might have set off among the international community. As Sweden is a

member of the European Union (EU), and the first EU Member States to recognize the State of Palestine¹, taking an interest in other Member States' reactions is also a process that had to be done. In fact, in doing so, it had been possible to look into EU policies towards the Israeli-Palestinian conflict as the Union is entering its fifth decade of peacebuilding in the conflict. Moreover, it will be possible to compare Swedish foreign policy with the EU's one on the conflict. Finally, we will have the opportunity to determine if we can speak of a Swedish exceptionalism within the Union or not.

From this reflection emerged our research question: *How can we explain the Swedish foreign policy towards the Israeli-Palestinian conflict? Did the Swedish foreign policy have a favourable impact on the internationalization of the Palestinian cause? Is this policy in agreement with the current European policy towards the Israeli-Palestinian conflict? Can we speak of a Swedish exceptionalism?*

Although our reasoning is based on recent events, we deemed important to provide an overall view of the topic we address. Indeed, it seems beyond belief not to identify where the Swedish involvement in the Israeli-Palestinian conflict comes from. Consequently, we proceeded to an analysis of Swedish foreign policy to identify when this involvement began but also what it accomplished over the years. As the formulation of a research question requires browsing the literature on the subject, we were able to identify five hypotheses to which we intended to validate or refute:

- 1) In Sweden, the arrival to power of Olof Palme at the head of the Swedish Social Democratic Party in 1969 was a major turning point regarding Swedish Middle Eastern Policy
- 2) The Swedish foreign policy with regard to the Israeli-Palestinian conflict cannot be explained only by economic and strategic reasons, but by the importance of the respect of the international law and human rights.
- 3) By favouring the rapprochement between the Palestinian Liberation Organization and the United States, Sweden did not only pave the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis.
- 4) The Swedish recognition of the State of Palestine in October 2014 might have triggered a snowball effect within the European Union, leading to a more dynamic and enterprising European policy with regard to the resolution of the conflict.

¹ What we mean here is that other EU Member States have already recognized the State of Palestine but they were not part of the Union at that time.

- 5) The recognition of the State of Palestine by 136 States, and its admission within the international institutions, constitute a major opening in favour of a sustainable solution to the conflict.

According to us, if one undertakes to discern the logic behind these hypotheses, the first thought would be that all of them are interlinked. And indeed, they are as our research attempts to define what Swedish foreign policy was in the past as well as what occurred to make it strive for the Palestinian cause. From this came out the first hypothesis but also the second one as we had to find out what was hiding behind this change, what reasons justified it.

With respect to the third hypothesis, it appears that Sweden played a role in the rapprochement between the Palestinian Liberation Organization (PLO) and the US. This lead us to wonder if the opening of the dialogue between the US and the PLO was crucial for Oslo Accords and if it contributed to the establishment of a sustainable dialogue between Palestinians and Israelis.

The Middle East Peace Process is not new as we observed, it has been studied in every aspect but few authors took an interest in Sweden's participation to it. What comes out from our research is that Sweden has a historical commitment to the conflict, but it is generally unknown as its implication is rather behind closed doors than public. Nonetheless, the fourth hypothesis suggests that Sweden decided to reverse the trend as it took the decision to formally recognize the State of Palestine. Consequently, the following hypothesis intends to foresee the repercussions of such action within the EU.

Finally, the fifth hypothesis attempts to see the results of the State of Palestine's recognition within the scope of a possible solution to the conflict. Our intention here is to determine whether or not recognition from a State equals the one from another. In this sense, we suggest that the recognition of the State of Palestine by the EU might have a different effect on the conflict as it is perceived as endowed with a legitimizing and normative power.

Having discussed the hypotheses back and forth, it is now necessary to explain the methodology we adopted. As a state of the art is following this section, we will not address the literature available on the subject but mention which data collection we resorted to. Regarding both parts of the thesis, we chose to rely on document analysis as a qualitative research method. Consequently, the content of work comes, among others, from scientific literature, institutions' documents and newspaper articles. As a complementary research method as the subject is rather recent and there is not a great deal of literature on the more contemporary component of Swedish foreign policy, we intended to have recourse to

interviews. Whereas requests were sent, few answers were received. Among the respondents, two² out of three solicited a written questionnaire as their function prevented a meeting face-to-face. However, we remain awaiting for their answers. Consequently, the only interview we were able to conduct – and to use in this thesis - was with Mr. Hassan Albawali, advisor in charge of the bilateral relations with Belgium and Luxemburg for the Mission of Palestine to the EU. Nonetheless, we wish to thank all of them for their consideration and interest for our research.

To conclude this introduction, we would like to point out that the theoretical approach used in this research is not discussed hereinabove as an entire section is dedicated to it as it is the case for the state of the art.

² We are referring to His Excellency the Ambassador Fernando Gentilini, European Union Special Representative for the Middle East Peace Process, and Her Excellency the Ambassador of Palestine to Sweden, Hala Husni Fariz.

STATE OF THE ART

Since the debate on the Israeli-Palestinian conflict has been held for decades due to the longevity of the conflict, this state of art does not aim to reflect the whole debate in question. Rather, the present section aims to provide an overview of the literature on the conflict, although we did operate a selection based on the approach we have chosen for our thesis. In fact, as the core of this research is to examine the Swedish foreign policy on the conflict over the years, we remain convinced that one must first wonder if Palestine meets the Montevideo criteria for example. In fact, an analysis of Palestine based on international law is essential before going further. If Palestine does not meet the required criteria to pretend to the status of State and if it does not claim its desire to be recognized, Swedish foreign policy's efforts towards these goals are not relevant. Consequently, this state of art will address the literature that demonstrated that Palestine is an entity that can pretend to the status of State in accordance with international law. Then, our attention will turn towards the literature on the recent change of strategy of the Palestinian leadership to achieve statehood. Finally, this state of art will develop the literature on Sweden's involvement, past and present as this thesis' originality is characterized by its interest towards Sweden's historical involvement in the conflict but also its recent formal recognition of the State of Palestine and its possible repercussions on the EU.

To address such a long-term conflict, the first step was to carefully read the literature that tackles the subject with a historical perspective. To do so, our attention focused on a book entitled *Les Palestiniens dans le siècle* by Elias Sanbar, a historian and former Palestinian ambassador to the UNESCO. Providing an overall view of Palestine history, this book allowed us to take note of the key events that characterize the conflict as well as more contemporary ones that depict Palestine's steep path to the independence in the international arena.

Another relevant publication in this sense is Steve Mock, Amer Obeid and John Zeleznikow's article *A Brief Outline of the Israeli-Palestinian conflict*. Although the present publication is based on a historical approach of the conflict, it differs from the previous one with respect to the temporal scope it addresses. Indeed, the authors' starting point is the Antiquity as it takes an interest in the religious right to the land Israelis commonly refer to. However, the authors nuance this argument and further develop the history of the conflict by addressing various themes such as Zionism and Arab Nationalism, the Nakba and other key events such as the Suez Crisis and the Intifadas. As this publication dates from 2011, the conflict is addressed until then. In addition to that, the publications of the New Historians are also relevant as they

differ from previous Israeli historians' with a new approach: challenging traditional versions of Israeli history.

To get a better understanding of the conflict, Jimmy Carter's book *Peace Not Apartheid* also turns out to be relevant as it provides a more political approach of the conflict. As the author was an actor in the conflict from 1971 to 1975 being the President of the United States (US), this book is a reflection towards what Carter did during its mandate but also after it as a political activist in the Israeli-Palestinian conflict.

As it is commonly known, literature on the Israeli-Palestinian is abundant as it was studied by academics around the world although on different angles. Our research question being related to the internationalization of the Palestinian cause, our thesis includes a part addressing the conflict on the basis of international law. As the origin of the conflict is the desire of the Palestinian people to have their own State, we questioned ourselves on the criteria an entity had to satisfy to be recognized as a State. In this regard, James Crawford's book entitled *The Criteria for Statehood in International Law* was central in this task as it includes all the information one must read carefully before addressing such a tricky issue as Palestine's quest for independence. Addressing the issue of statehood of international law, this book however does not address the Palestinian case in detail – although the author makes references to it.

Therefore, John Quigley's book *The Statehood of Palestine* was substantial to us as we were able to put the knowledge acquired in Crawford's book into practice. The major difference with Crawford's publication is that Quigley's book is an attempt to use the framework of international law to assess that Palestine does satisfy the criteria to pretend to the status of State. Despite the displayed willingness to prove that Palestine does satisfy the Montevideo criteria, one must be aware that Quigley's approach is purely legal. As Quigley's approach is bereft of political considerations, his book does not go against the axiological neutrality principle we subscribed to before starting this research. Consequently, Quigley's contribution is of major importance if one chooses to take an interest into Palestinian state-building history.

Another author whose work cannot be overlooked is Jean Salmon, university lecturer of international law but also member of several institutions that are related to international law such as the Institut de Droit International or the Permanent Court of Arbitration. Amongst its numerous publications, two of them retained our attention as they focus on the Palestinian issue: *La proclamation de l'Etat palestinien* and *La qualité d'Etat de la Palestine*. While the first article was published in 1988 in reaction to the Palestinian Declaration of Independence, the second one was published in 2012 following Palestine's UNESCO membership and its

new non-member observer State status within the UN. Both publications offer a legal approach of the issue although the first one limits itself to whether Palestine satisfies the Montevideo criteria or not. The added-value of the 2012 publication is that it does address the question of recognition - developing its two-stage process, but also the Palestinians' attempt to join international organizations and its repercussions in terms of additional rights in case of membership.

As the publications aforementioned allowed us to come to the conclusion that Palestine could pretend to statehood, another question sparked our interest: what about Palestine's recognition by its peers? Again, Jean Salmon and John Crawford's publications provided us information relating to the question of recognition's history. Indeed, what comes out from their contribution was that recognition did not have the same importance over the years. Based on Robert Redslob's modern definition of State recognition, but also the Institut du Droit International's one from 1936, we found out that the recognition of a State by others became something that matters over the years as it became regarded as a contract between States, a free act that led to the creation of an international community in which every member decided to subscribe to international law – the latter regulating relations between States. Moreover, we discovered that the recognition process was a two-stage one in which an entity had to proclaim its desire to be recognized as a State before already acknowledged States have the opportunity to recognize it – or not – as one of its peers. As various theories are available on the recognition question, we decided to choose the declaratory theory to the detriment of the constructive theory as it suits better the common view on the question depicted in legal precedents such as the one given by the Arbitration Commission for former Yugoslavia: the existence of a State does not depend on its recognition by others as it is merely a political act that does not confer any legal status but merely international legitimacy to a State³. Furthermore, as our thesis addresses the Swedish foreign policy, that this policy is expressed among the EU too, we thought it was essential to find out what was the Union's position towards the recognition of a State of Palestine. In this regard, Jean-Christophe Martin's publication *L'Union européenne et la reconnaissance de l'Etat palestinien* was pertinent as it not only provides information on this subject but also examines the EU procedure and its criteria with respect to the recognition of an entity as a State. As his research points out the absence of a specific EU procedure and specific criteria to the matter, we chose to examine if an alternative to this situation could be found.

³ Crawford, J., *The Creation of States in International Law*, New York, Oxford University Press, 2007, pp. 24-25.

Despite the fact that the contributions of Crawford, Salmon and Quigley were crucial in our understanding of international law when it comes to the creation of a State or the recognition process among others, it is important to mention that we did not rely only on them. While other authors' contributions were used such as Monique Chemilier-Gendreau's who provided a legal explanation of Palestine right to exist, Boyle's plea regarding PLO's fulfillment of the effective control, or Gerhard von Glahn's article which insists on the fact that the occupation does not imply a transfer of sovereignty from the occupied to the occupier, we also resorted to other type of sources. Not only did we rely on course notes we pursued at the Université Libre de Bruxelles such as Oliver Corten's International Public Law course but also on theses written on the subject. While Oliver Corten's course provided us general knowledge on international law, whether on the creation of State or the recognition process among others, the theses we resorted on were more specific on precise segments of international law as they were applied to a specific topic: the Israeli-Palestinian conflict.

Among the theses we relied on is Anaïs Carton de Tournai's entitled *Pourquoi la question de la reconnaissance d'un Etat palestinien, à l'intérieur des frontières de 1967, est-elle de nouveau à l'ordre du jour dans l'agenda international, et quelles en sont les conséquences ?* which proved to be of a great help as it did address the question of recognition of Palestine. However, this thesis was written in 2012 and many things happened since. Indeed, while Anaïs Carton de Tournai's thesis was written in reaction to the Palestine application to the UN, ours addresses the recent change of strategy of the Palestinian leadership, which started in late 2014. Not only do we aim to further develop this strategy but our thesis also aim to link it with the Swedish foreign policy over the years. Although Victor Persson has addressed this change of strategy in his thesis *Palestine's Ratification of International Treaties – A Back Door to Independence*, it remains that our approach is deeply different as the former focuses on how Palestine can implement the content of the international treaties it has signed within its national legislation. Indeed, our approach does not pay attention to the implementation of the international treaties but to the repercussions it would have in terms of additional rights for the PA. In this way, few cases have been developed to depict what could ensue from an ICC membership for example.

To come back to the change of strategy from the Palestinian leadership to achieve statehood, our process was not to rely only on already written theses but to explore the literature on the subject to understand why this change occurred and what it consisted in. *The Palestine-Israel Journal of Politics, Economics, and Culture* provided us knowledge on the question through various articles such as *Bringing in the international community as a major factor in the*

solution written by Ziad Abuzzayad and Jakob Rieken or *How can the international community play a more active role in facilitating a resolution?* by Nida Kamhawi-Bitar. What comes out from these articles is that the international arena was used in the past only as a supportive strategy as the bilateral negotiation was the main one. Hence, the Palestinian leadership had no choice but to increasingly involve the international community to unlock the situation, to trigger its support towards the end of the occupation and the creation of a State of Palestine.

Another important source with respect to the internationalization of the Palestinian cause is Thierry Garcia's book *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain?* in which specialists of the Israeli-Palestinian conflict address various questions related to Palestine's new strategy such as Palestine's journey within the UN system addressed by Thierry Garcia or the opposition of States to the accession of Palestine to multilateral treaties within the UN framework addressed by Pierre Bodeau-Livinec. This led us to broach the consequences of the internationalization of the conflict as Palestine strives to become part of the UN and other international organizations as it results in a wide range of rights in the event of membership. For every international organization that caught our interest, we looked up in the academic literature available on the subject – whether it is John Cerone's *Introductory Note to the Admission of Palestine to UNESCO and Related Documents*; Eynard's publication on the legal relation between Palestine and the ICC or Palchetti's on Palestine's attempt to join the ICJ.

Whereas the literature on the Palestinian's quest to independence is rather vast, it is not the case when it comes to Sweden's involvement in the Israeli-Palestinian conflict. As the role of Sweden in the Israeli-Palestinian negotiations is often unknown by the general public, it remains that Sweden has a historical involvement in the conflict.

In order to examine Sweden's involvement in the conflict, we had to take a look at its foreign policy, and its relations with both protagonists – Israel and the Palestinians. To this effect, Jacob Abadi's article *Sweden's Policy Toward Israel: Constraints and Adjustments* turned out to be pertinent as it addresses Swedish-Israeli relations from the establishment of Israel in 1948 to 2001. Consequently, it was possible to understand why these relations tended to decline and how the Swedish foreign policy shifted towards a more pro-Palestinian stance over the years.

However, it is Jacob Eriksson who provided us a vast range of information on Swedish foreign policy towards the conflict in his book *Small-State Mediation in International Conflict, Diplomacy and Negotiation in Israel-Palestine*. Indeed, as this book covers a large part of Swedish foreign policy history, Jacob Eriksson explains how such a small-State managed to play its part in an attempt to achieve a peaceful resolution in this conflict. Not only did it provide us a broad view of Sweden's involvement but it also allowed us to come across several publications on the subject thanks to the snowball effect. According to us, Eriksson's book remains the most complete on the subject at the time we speak. Indeed, not only does Eriksson's work base itself on the literature available – including the one written in Swedish, but it also relied on archives of the Swedish Labour Movement and on interviews with high-level actors of the era it covered.

Nonetheless, depending on the period we were addressing, other authors' contributions have proven to be useful as Ann-Marie Ekengren's article on Olof Palme, *How Ideas Influence Decision-Making: Olof Palme and Swedish Foreign Policy, 1965-1975*, or Mohamed Rabie's article *The US-PLO Dialogue: The Swedish Connection*. Both articles provided us complementary information on a specific period of Swedish historical involvement in the conflict, allowing us to better understand how the Swedes played a crucial role whether by voicing concern in international arena or supervising bilateral negotiations behind closed doors. As Sweden's involvement was characterized by back channel negotiation, both the article of Anthony Wanis-St. John, *Back Channel Negotiation: International Bargaining in the Shadows*, and Jacob Eriksson's *Israeli Track II Diplomacy: The Beilin-Abu Mazen Understandings*, gave us a better understanding on such practice.

As the Israeli-Palestinian peace process started decades ago, we relied on different publications which provided us an outline of the former such as Abdolsamad Doulah and Mirshabbiz Shafee's *Review of Recommended Peaceful Projects and Contracts for Israeli-Palestine Conflict in Terms of International Rights*. Other publications such as *Camp David Rashomon: Contested Interpretations of the Israel/Palestine Peace Process* by Myron J. Aronoff allowed us to understand the complexity of the peace process as someone's interpretation of it is different in accordance with his background and the camp to whom he belongs.

As the aim of our case study is to examine if the recent recognition of the State of Palestine coincides with the European policy towards the Israeli-Palestinian conflict or if it was a Swedish exceptionalism, we first decided to look up for sources regarding EU policy on the matter. This event dating from October 2014, we had to rely on publications that were addressing EU policy on the conflict without necessarily offering a wealth of information on Swedish foreign policy. However, an article written by Stelios Stavridis, Maria Gianniou and Andrea Cofelice retained our attention. Entitled *EU National Parliaments and the Recognition of Palestine: “Really” Breaking New Ground or “Just” Adding Further Support*, this publication offers us a recap of the EU’s implication in the Israeli-Palestinian conflict while examining the repercussions of Swedish recognition of the State of Palestine on other EU Member States Parliaments. Anders Persson’s publications were also of great help as both *The Historical Case for Europe to Recognize Palestine?* and *Sweden’s Recognition of Palestine: A Possible Snowball Effect?* provided us historical but also political information on both EU and Swedish foreign policy. Other authors provided us an alternative approach to the EU’s past policies such as Martin Beck’s *How to (Not) Walk the Talk: The Demand for Palestinian Self-determination as a Challenge for the European Neighbourhood Policy* in which the author recommend not to take severe actions against Israel but to opt for the business as usual approach as the actual context prevents the EU to assume a greater role in the peace process. Finally, as the literature covering Swedish foreign policy was rather poor from 2014 to 2017, we also resorted to official publications and newspapers articles in order to achieve our goal: provide an answer to our research question by validating or rejecting our pre-established hypotheses. Interview requests were also sent to a various range of political actors but unfortunately due to constraints of time we were not able to get their insights on that matter.

THEORETICAL APPROACH

Within the framework of this research, we have chosen constructivism as the theoretical frame because of the importance it confers to ideas and its interest in the sources of change. Moreover, this chapter will also point out why international law will also be a key element of this theoretical framework.

As Dario Battistella elucidates in his book *Théories des relations internationales*⁴, constructivism points out the impact of ideas. According to him, constructivists do not see the State as an entity whose only aim is to survive. In fact, constructivism tends to consider interests and identities of the States as something that is not fixed. Hence, it is possible to understand where its interest for the sources of change comes from, why it defines the international relations theories « as a project under construction, a process ongoing rather than a state of affairs »⁵. Consequently, constructivism can be viewed as « a sociological perspective of world politics »⁶ in which the emphasis is put « on the social context, the intersubjectivity and the constitutive nature of rules and norms »⁷. This brings Dario Battistella to state that these views reflect an emphasis on 1) both normative and material structures, 2) the role of identity in the constitution of the actors' interest and actions, but also 3) the mutual constitution of agents and structures⁸.

To get back to the three postulates highlighted by Dario Battistella, it is interesting to see what renowned constructivist authors say about them. Therefore, we will mention the point of view of an author for each of these postulates. By doing so, the reader will acquire a better knowledge of the latter, hence a better understanding of the key elements of constructivism.

In her book, *National Interests in International Society*, Martha Finnemore takes an interest in how a State behavior can be influenced by norms in world politics. In order to demonstrate that, Finnemore's interest focuses on the international organizations effect on States' behavior in world politics. Through three case studies, the UNESCO, the International Committee of the Red Cross and the World Bank, Martha Finnemore concludes that State interests and actions are the « product of socialization to norms, rules, understandings, and

⁴ Battistella, D., *Théories des relations internationales*, Paris, Presses de Sciences Po, coll. « Références », 2015, pp. 313-347.

⁵ Adler, E., « Constructivism and International Relations », in W. Carlsnaes, T. Risse and B. Simmons (eds), *Handbook of International Relations*, Londres, Sage, 2002, pp. 95-118.

⁶ Price, R., and Reus-Smit, C., « Dangerous Liaisons? Critical International Theory and Constructivism », *European Journal of International Relations*, vol. 4, 1998, pp. 283-288.

⁷ Klotz, A., Lynch, C., Bouyssou, R., and Smouts, M.-C., *Le constructivisme dans la théorie des relations internationales*, in : *Critique internationale*, vol. 2, 1999, pp. 53-54. (own translation)

⁸ Battistella, D., op.cit., 2015, p. 318.

relationships at the international level »⁹, hence stressing that « international normative structures matter in world politics »¹⁰. In his book, *The Culture of National Security*, Peter Katzenstein and its co-authors argue that « international and domestic cultural environments influence the behavior and identity of states »¹¹. Therefore, shared norms have an impact not only on States' behavior in world politics but also on how they establish their identities and interests, the latter being constructed through social interactions between States rather than already fixed beforehand¹². Regarding the last postulate, it is important to mention more than one author to prove its pertinence. While Nicholas Onuf was the first author to come up with the idea of mutual constitution, this concept was however not used at an international level. Nonetheless, by stating that the reality was mutually constructed by the individual and the society - the former doing so according to the rules, and the latter by constituting individuals as individuals¹³, Onuf contributed enormously to the international meaning of the concept thanks to its linguistic constructivism. Drawing inspiration from Onuf's contribution, Alexander Wendt transposed the concept of mutual constitution internationally in his article « Anarchy Is What States Make of It », maintaining that States interactions – amongst themselves but also with international institutions, lead to the formation of their interests¹⁴. As it is the theoretical frame we choose among the numerous constructivism currents, we will now explain Wendt's view more in depth.

According to Alexander Wendt, constructivism can be seen as both idealistic – because the social structures are « firstly established by ideas shared by the agents rather than by the material link between them », and holistic – since social actors' interests and identities « are built by ideas they share rather than ideas fixed for ever independently of interactions amongst themselves »¹⁵. This frame being displayed, Wendt applied it to world politics in order to study violence and its regulation in international relations. Without denying non-State actors, Wendt's constructivism is state-centric as he considers that « their role is indirect regarding the international violence domain »¹⁶. However, as Wendt mentioned in his book *Social Theory of International Politics*, the non-State actors, whether national or transnational ones, « can indeed have a decisive impact on violence but the States remain the

⁹ Dessler, D., « National Interests in International Society by Martha Finnemore », *American Journal of Sociology* 103, n°3, November 1997, p. 785.

¹⁰ *Ibid.*, p. 786.

¹¹ Crawford, N.C., « The Culture of National Security: Norms and Identity in World Politics by Peter J. Katzenstein », *The American Political Science Review*, Vol. 93, n°4, December 1993, p. 1021.

¹² Battistela, D., *op.cit.*, 2015, p. 319.

¹³ Bonditti, P., POLI-D-410 : Théories de la sécurité : Le geste constructiviste, Université Libre de Bruxelles, 2015-2016. (own translation)

¹⁴ *Ibidem.*

¹⁵ Battistela, D., *op.cit.*, 2015, p. 326. (own translation)

¹⁶ *Ibid.*, p. 326. (own translation)

principal link through the other actors act on it », from where comes its belief that States is and will remain the center of the international system¹⁷. Therefore, Wendt pictures the States as an intermediary for the non-State actors in the world politics. Consequently, according to Battistella, Wendt's approach focuses on « an analysis of the States' social construction internationally, a study of their socialization by the interstate relationships networks in which they are settled and shape not only their perceptions of the world but also the role they play within it »¹⁸. From there comes its interest for internationally shared ideas of the States regarding their national interests, but also their consequences on a State's behavior on the international stage.

According to Battistella, Wendt is right when he affirms that interests are also a constructivist variable because: a) « the interest of the States do not depend from the objective configuration of material ratio of power, but from States identities - namely the States own perception of themselves as the perception they have from others; from the international system; as well as their own place and other States' one within this international system »¹⁹; b) « the idea that a State have of itself depends not only from him but also from the ideas the others have from him as well as the reactions – in compliance or not – of other States toward this idea and so on »²⁰. Consequently, Wendt does not see the national interests as something imposed to the States but rather something embedded in norms and values that shape a State's behavior²¹. In other words, constructivists view these national interests « as the product of shared ideas and beliefs which arise internationally »²², therefore « structuring world politics life and giving it signification »²³. Nonetheless, one must be aware that a State is not forced to respect these norms and values as Wendt pictures the international system as anarchistic, thus without any authority above the States. If a State does not respect them, it will face consequences from others but this will not endanger its existence. Likewise, this international culture is not fixed but malleable « as changes in world politics are likely to appear when actors, by their practice, change the rules and the norms through their international interactions »²⁴.

¹⁷ Wendt, A., *Social Theory of International Politics*, Cambridge, Cambridge University Press, 1999, p. 9.

¹⁸ Battistella, D., op.cit., 2015, p. 328. (own translation)

¹⁹ *Ibid.*, pp. 329-330. (own translation)

²⁰ *Ibid.*, p. 330. (own translation)

²¹ Wendt distinguishes four identities that lead to the formation of national interest: the corporate identity, the type identity, the role identity and the collective identity. Except the first one, which refers to specific elements of the State, the others are the product of states interactions according to Dario Battistella. *Ibid.*, pp. 330-332.

²² *Ibid.*, p. 332. (own translation)

²³ Finnemore, M., *National Interests in International Society*, Ithaca (N.Y.), Cornell University Press, p. 3. cit. in Battistella, D., *Théories des relations internationales*, Paris, Presses de Sciences Po, coll. « Références » 2015, p. 332.

²⁴ *Ibid.*, pp. 339-340. (own translation)

However, we do believe that key norms and values such as international law, democracy, human rights and the advocacy of a peaceful resolution of conflicts between the States will remain part of this international culture because « systemic change may also be inhibited by actors' interests in maintaining relatively stable role identities [...] otherwise social order would be impossible »²⁵, that their importance will even increase as « the world is becoming more larger, more unexpected, more surprising and endowed with more possibilities »²⁶ as Adler once stated. In fact, according to Wendt, the international system is fated to move from the current Lockean world to a Kantian one, where States will no longer see each other as rivals but as friends²⁷. However, this will require an increase interdependency, an increase homogenization, a common destiny and self-restraint before the international structure changes²⁸. Yet, what we can notice is that whenever actors, such as Olof Palme in our case, start to think differently, « the international structure, their interests and their roles within it, and therefore their behaviors have been altered leading to a change of the structure itself »²⁹. This is the purpose of this work, to examine the complex relationship between the agent and the structure, Sweden policies and its impact on other States or “State-like” entities, like Palestine. Whereas we could have opted for other theories such as intergovernmentalism whose aim is to « explain why states, perceived as rational actors pursuing their own interests, actually accept the idea of shared sovereignty »³⁰, we chose constructivism as it allows us to analyze how a country, such as Sweden, happens to refuse to keep up with what is going on as it appears that it goes against the ideas it believes in. As Sweden's foreign policy towards the Israeli-Palestinian went through different phases depending on who was in power, constructivism enables us to understand how this small-State came to raise its voice to make things change.

²⁵ Wendt, A., « Anarchy Is What States Make of It. The Social Construction of Power Politics », *International Organization*, vol. 46, n°2, Spring 1992, p. 412, p. 419.

²⁶ Adler, E., *op.cit.*, 2002, pp. 95-118.

²⁷ Battistella, D., *op.cit.*, 2015, pp. 332-340.

²⁸ Telo, M., *Relations internationales. Une perspective européenne*, Bruxelles, Editions de l'Université de Bruxelles, 2013, pp. 135-136.

²⁹ *Ibidem.* (own translation)

³⁰ Saurugger, S., *Theoretical approaches to European integration*, Palgrave Macmillan, Basingstoke, 2014, p. 75.

As cited previously, our theoretical frame will not only be based upon constructivism but also international law. Knowing that our thesis subject is related to both international relations and law, we deemed compulsory to use some key notions of the latter as both disciplines are interrelated. Before taking an interest in Swedish foreign policy towards the Israeli-Palestinian conflict, it is important to use the scientific literature to find out the relation Palestine has with international law, in particular whether it can be considered as a State or not. If Palestine does not meet the Montevideo criteria, its recognition is hardly conceivable. If it meets them, we will be able to analyze why recognition from the international community has yet not occurred and what could be its consequences if it does occur. This will lead us to the internationalization of the conflict through an attempt of Palestine to join several international organizations, thus addressing the issue and the added value that Palestine can gain from this move. It will also allow us to review the international community role and its responsibilities regarding the conflict, to try to understand its reaction – or its impassibility, in the event of non-respect of international law – for instance the United Nations resolutions, of one of the parties involved in the conflict. In order to answer these questions, we will rely on a legal positivism methodology, thus on legal texts and their interpretation. As our case is based on Swedish contribution to find a pacific resolution of the conflict, we have chosen to focus on the legal literature, which strove to legitimate the Palestinian people's right to a State recognized by the international community. In spite of this choice, the axiological neutrality principle of Max Weber will be ours in order not to be influenced by our personal opinions but to focus on the facts we will identify on the literature available. Indeed, no matter what the researcher studies, its task is to describe the reality, not to make a value judgment³¹.

³¹ Weber, M., « L'objectivité de la connaissance dans les sciences et la politique sociales », in *Essais sur la théorie de la science*, french translation of Freund J., Paris, Editions Plon, 1965, pp. 416-417.

PART ONE: THE QUESTION OF PALESTINE AND INTERNATIONAL LAW

CHAPTER I: PALESTINE FULFILLMENT OF MONTEVIDEO CRITERIA

A. AN HISTORICAL OVERVIEW OF PALESTINE'S QUEST FOR RECOGNITION AS A STATE

In order to find out where Palestine's right to exist finds its roots, one must know that Palestine was first a province of the Ottoman Empire until its defeat against the Allies during World War I. Following the Sykes-Picot Agreement in 1916, what is now known as Israel, Gaza, and the West Bank became officially the mandate of the United Kingdom in July 1922³². However, what is known as the Israeli-Palestinian conflict has its roots in 1917 with the Balfour Declaration. In this letter, Arthur Balfour, the Foreign Secretary of the United Kingdom, declared that his country was in favour of the creation of a national home for the Jewish people by stating that:

*His Majesty's government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.*³³

The problem was the following: in order to encourage the Arabs to enter the war against the Ottoman Empire in the Arabian Peninsula during the First World War, the same promise was done to the former by MacMahon in 1915³⁴. Thus, witnessing an increasing immigration of the Jew population during the interwar and the increasing tensions between both communities, the United Kingdom decided to renounce to its mandate in favour of the UN³⁵. In order to tackle the problem, the UN adopted resolution No. 181 in November 1947, which recommended the partition of the Mandatory Palestine, therefore creating two independent states, one for the Arabs, the other one for the Jews³⁶. Jerusalem was also placed under the administration of the UN to avoid any conflict between both communities.

Taking advantage of this resolution, Ben-Gurion, the head of the Jewish Agency, proclaimed the establishment of the State of Israel on the 14th May 1948³⁷, recognized the same day by the US. As expected, this proclamation did not please the Arabs, sparking the first Israeli-

³² Sanbar, E., *Les Palestiniens dans le siècle*, Gallimard, 2007, p. 31.

³³ Schenker, H., « The International Community's Role in Israeli History », *Palestine-Israel Journal of Politics, Economics, and Culture*, East Jerusalem, 2015, p. 102.

³⁴ Sanbar, E., *op.cit.*, 2007, p. 28.

³⁵ *Ibid.*, pp. 33-51.

³⁶ *Ibid.*, p. 51.

³⁷ Bockel, A., « L'autonomie palestinienne - la difficile mise en œuvre des accords d'Oslo-Washington » In: *Annuaire français de droit international*, volume 40, 1994. p. 264.

Arab war the same year, the first of a long series. The first Israeli-Arab war ended up with the victory of Israel, Palestinians losing ground in favour of Israel and the « Green line » was born, marking out their new respective territories³⁸. Following this war, Palestinians were no longer viewed as part of their own state « in the making » but part of their neighbours', viewed merely as refugees as a result of the Nakba³⁹ – the exile of hundreds of thousands of Palestinians. Additionally, in 1950 Jordan annexed the West Bank and East Jerusalem, while Egypt started to administer Gaza, giving it a certain autonomy in 1962⁴⁰. This is when the steep path to independence began.

After having mentioned the historical background of the conflict, we must come back to it with some legal comments so as to argue why Palestine has the right to exist.

First of all, according to Monique Chemilier-Gendreau, a jurist and professor emeritus at the Université Paris VII – Diderot, the end of the United Kingdom's mandate on Mandatory Palestine should have led to the independence of these territories as stated in the article 22 of the Treaty of Versailles⁴¹. According to the author but also to other eminent jurists such as Henri Cattan⁴², the sovereignty on the territories was given to the Palestinians by the League of Nations within the mandate. Consequently, as stated above, it is the British government who decided not to do so by supporting the Zionist idea of a Jewish home on those lands rather than respecting its mandate. Indeed, as John Quigley noticed, « all the Class A mandates gained independence by arrangement with the particular mandatory », Palestine being the only exception to the rule⁴³. Moreover, resolution No. 181 itself can be seen as problematic « as the UN did not have the power to create a State nor the power to recognize it »⁴⁴. In fact, as highlighted by Monique Chemilier-Gendreau during a meeting of the *Association France Palestine Solidarité*, only the people of an emergent state can create it while only the other States can recognize one of its own⁴⁵. While some jurists could be

³⁸ Carter, J., *Palestine: Peace Not Apartheid*, Simon & Schuster Paperbacks, New York, 2007, p. 66.

³⁹ Manna, A., « The Palestinian Nakba and its Continuous Repercussions », *Israel Studies*, vol. 18, n°2, 2013, pp. 91-94.

⁴⁰ Sanbar, E., *op.cit.*, 2007, p. 67.

⁴¹ Chemilier-Gendreau, M., « Aspects institutionnels et juridiques de la reconnaissance internationale de l'Etat de Palestine », in D.Vidal (ed.), *Palestine/Israël : un Etat, deux Etats ?*, France, Actes Sud, 2011, p. 27.

⁴² Salmon, J., « La proclamation de l'Etat palestinien », *Annuaire français de droit international*, vol. 34, 1988, p. 55.

⁴³ Among the Class A mandates that gained independence by arrangement with their particular mandatory were Iraq which gained independence in 1932, Lebanon in 1941 and Syria in 1943 / Quigley, J., *The Statehood of Palestine*, New York, Cambridge University Press, 2011, p. 83.

⁴⁴ Chemilier-Gendreau, M., « Etat de Palestine : et maintenant ? », *Association France Palestine Solidarité*, 27 février 2013, <http://cjpp5.over-blog.com/article-afps-etat-de-palestine-et-maintenant-par-monique-chemillier-gendreau-115784374.html> (last consultation 21 March 2017)

⁴⁵ *Ibidem*.

tempted to argue that this resolution was invalid⁴⁶ – therefore calling the legal aspect of the creation of Israel into question, Chemilier-Gendreau argues that it is the argument aiming to transform this recommendation into a restrictive one, a norm that must be respected by everyone, that is invalid⁴⁷. As the purpose of this section is to prove that Palestine has the right to exist on legal grounds, not to debate if Israel was built legally or not⁴⁸, we will not discuss that any longer. Our only purpose was to mention these views as it reflects the complexity of the Israeli-Palestinian conflict on the ground as in the academic literature.

Whereas resolution No. 194 of the UN did no more than granting the Palestinian people the status of refugees, demanding from Israel that those « wishing to return to their homes and live at peace with their neighbours should be permitted to do so [...] and that compensation should be paid for the property of those choosing not to return »⁴⁹, the Nakba produces a different effect on the Palestinian people. Indeed, this catastrophe, « characterized by the loss of the homeland, the disintegration of the national community, and the marginalization of all the Palestinian communities »⁵⁰ among Arab countries « provided a feeling of commonality between them »⁵¹, giving rise to their own national consciousness and a reawakening of the Palestinian national movement. In fact, two decades after the Nakba, « the refugees stepped up to the political stage to play an important role in affirming their national identity and took the lead in the struggle for liberation and representation »⁵². According to Adel Manna, the defeat of the Arabs during the Six-Day War was another incentive for this reawakening led by the PLO⁵³.

Following this preventive war, the UN adopted resolution No. 242 in November 1967, in which the Security Council (SC) demanded « the withdrawal of Israel armed forces from territories occupied in the recent conflict »⁵⁴ but also the « [...] respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every

⁴⁶ Klein, J., *La question palestinienne. Colloque des juristes arabes sur la Palestine, Alger, 22-27 juillet 1967* ; Maxime Rodinson, *Israël et le refus arabe, 75 ans d'histoire*, in *Politique étrangère*, n°6, 1968, pp. 635-641.

⁴⁷ Chemilier-Gendreau, M., « Retour sur la Résolution 181 », in J. Duchatel, F. Rochat (eds.), *ONU, Droits pour tous ou loi du plus fort ?*, Genève, CETIM, 2005, p. 278.

⁴⁸ In his book *The Creation of States in International Law*, James Crawford observes that the creation of Israel is complex and cannot be considered as the result of *terra nullius* as Mandatory Palestine was a Class A Mandate.

⁴⁹ General Assembly, *Palestine – Progress Report of the United Nations Mediator*, A/RES/194 (III), 11 December 1948, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/C758572B78D1CD0085256BCF0077E51A> (last consultation 22 March 2017)

⁵⁰ Manna, A., *op.cit.*, 2013, p. 91.

⁵¹ *Ibid.*, p. 92.

⁵² *Ibid.*, p. 94.

⁵³ *Ibidem.*

⁵⁴ Security Council, S/RES/242, 22 November 1967, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7D35E1F729DF491C85256EE700686136> (last consultation 22 March 2017)

State in the area and their right to live in peace within secure and recognized borders [...] »⁵⁵. As this resolution was not respected by Israel, the General Assembly (GA) adopted resolution No. 2535 two years later, the first one in which the « inalienable rights of the people of Palestine »⁵⁶ are stated. According to Jean Salmon, this resolution marks a turning point as the Palestinians are not pictured as refugees benefiting from individual rights but as a people endowed with collective rights⁵⁷. On 22nd November 1974, the GA recognized « that the Palestinian people is entitled to self-determination in accordance with the Charter of the UN [...] without external interference »⁵⁸, to their «right to national independence and sovereignty »⁵⁹, to their « right to regain its rights by all means in accordance with the purposes and principles of the Charter [...] »⁶⁰, as well as recognizing the PLO as the representative of the Palestinian people and granting him a non-member observer status⁶¹. Over the years, other resolutions followed to recall UN's position on the Palestinian's right to a State but the US veto forbade any progress in the SC⁶².

In this section, by using historical and legal aspects, we attempted to prove that Palestine had the right to exist as a State. Whether it be by pointing out the content of the mandate given to the United Kingdom or the choice of the latter to have it both ways, promising the same thing to two communities – one living on the territories; the other willing to establish a home there, we demonstrated the complexity of the conflict characterized by various interests. According to us, this conflict is not only a conflict between Israel and the Palestinians but other States' interests are involved such as the US. Indeed, no one can deny the fact that its constant veto at the SC has a reason, the same way it has recognized Israel the same day the latter proclaimed its independence, so did the Soviet Union few days later⁶³. According to Brown, this was essentially a political act rather than a legal one, an act justified by varying factors in

⁵⁵ *Ibidem*.

⁵⁶ General Assembly, *United Nations Relief and Works Agency for Palestine Refugees in the Near East*, A/RES/2535 (XXIV) A-C-, 10 December 1969, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/41F2C6DCE4DAA765852560DF004E0AC8> (last consultation 22 March 2017)

⁵⁷ Salmon, J., *op.cit.*, 1988, p. 57.

⁵⁸ General Assembly, *Question of Palestine*, A/RES/3236 (XXIX), 22 November 1974, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/025974039ACFB171852560DE00548BBE> (last consultation 22 March 2017)

⁵⁹ *Ibidem*.

⁶⁰ *Ibidem*.

⁶¹ General Assembly, *Observer status for the Palestine Liberation Organization*, A/RES/3237 (XXIX), 22 November 1974, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/512BAA69B5A32794852560DE0054B9B2> (last consultation 22 March 2017); Salmon, J., 1988, *op.cit.*, p. 58.

⁶² *Ibidem*.

⁶³ Brown, P.M., « The Recognition of Israel », *The American Journal of International Law*, vol. 42, n°3, 1948, p. 620.

accordance with whom makes it⁶⁴. Putting this aside, as part of the League of Nations as well as the United Nations (UN), the international community played a role in Palestine's right to exist quest. Even though the UN backed off over the years and adopted resolutions in favour of Palestine, there is still a long way to go before the Palestinian people enjoys the same rights as every free nation. This will be seen in the next sections.

B. IS PALESTINE A STATE ACCORDING TO INTERNATIONAL LAW?

According to the Oxford English Dictionary,

*A nation is considered as an extensive aggregate of persons, so closely associated with each other by common descent, language, or history, as to form a distinct race or people, usually organized as a separate political state, and occupying a definite territory.*⁶⁵

Nevertheless, we agree with Clifford Geertz, a well-known anthropologist, as he stated in one of his lecture « how poorly all of the new states and a fair number of the old as well [...] fit such characterizations » as it is « increasingly difficult these days to find culturally solidary entities functioning as organized and autonomous political communities »⁶⁶. Aware of that, but also of the difference of meaning between a Nation and a State – the latter being an actor in world politics, we will refer to the word State in accordance to its meaning in international law referring to the Montevideo Convention:

*The State as person of international law should possess the following qualifications: a permanent population; a defined territory; a government; and a capacity to enter into relations with the other states*⁶⁷.

Nonetheless, as Jean Salmon observed, the conditions of existence of a State remain an unstable matter « as every case is different and rather determined by political concerns than only legal ones »⁶⁸. Likewise, even though a State required an international recognition as an independent country to be part of the international community, we consider it as political act coming afterwards. Similarly, the Montevideo Convention agrees on this point stating in its article 3 that:

*The political existence of the state is independent of recognition by other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit [...]*⁶⁹

⁶⁴ *Ibid.*, p. 624.

⁶⁵ Oxford English Dictionary, definition of nation, cit. in Geertz, C., « What Is a State If It Is Not a Sovereign?: Reflections on Politics in Complicated Places », *Current Anthropology*, vol. 45, n°5, 2004, pp. 578.

⁶⁶ *Ibidem.*

⁶⁷ Pan American Union, *Montevideo Convention on the Rights and Duties of States*, 26 December 1933, article 1, p. 2, <https://www.ilsa.org/jessup/jessup15/Montevideo%20Convention.pdf> (last consultation 5 August 2017)

⁶⁸ Salmon, J., *op.cit.*, 1988, p. 39 (own translation).

⁶⁹ Pan American Union, *op.cit.*, article 3, p. 2, <https://www.ilsa.org/jessup/jessup15/Montevideo%20Convention.pdf> (last consultation 24 March 2017)

Consequently, in this section, we will examine every qualification aforementioned to determine if Palestine is a state in terms of international law or not – the question of recognition being discussed in the next chapter of this research.

1. The territory

According to Olivier Corten, a material foundation must be in the possession of the State as it is the place where the latter exclusively exert its power, its authority⁷⁰. However, as stressed by John Quigley, there are no criteria regarding the size of the territory neither a need to have a contiguous one⁷¹. Indeed, despite the size of its territory, the Vatican is considered as a State and has almost the same rights as the US under international law. The same goes with the second argument as the Overseas France are still considered to be part of France notwithstanding that they are located in America, Oceania and so on. In case of a territorial dispute, a conflict regarding a frontier or another matter does not imply that there is no State but only that there is a state of uncertainty regarding the border as stated in the *North Sea Continental Shelf Case* by the International Court of Justice (ICJ)⁷². Knowing that the territory of Palestine has been defined by resolution No. 181 of the UN, that part of it is occupied by Israel due to various conflicts but that the UN rejected Israel's claim on occupied territories gained by war, we can attest that Palestine's borders are clearly constituted⁷³. Indeed, despite the occupation, international law does not view this factual situation as a transfer of sovereignty.

According to Jean Salmon, putting aside historical and religious rights, Israel's *de jure* borders rest exclusively upon resolution No. 181 but also when it got admitted within the UN in 1949 – thus acknowledging that the territories acquired following the first Israeli-Arab war were not part of it⁷⁴. Consequently, both Palestine and Israel borders are based on the same legal document. Nonetheless, while Palestine's independence is not as much recognized on an international level than Israel's independence, both remain without fixed borders in practice even if their borders are legally defined. Whereas the Palestinian Declaration of Independence referred to the territories mentioned in the *United Nations Partition Plan for*

⁷⁰ Corten, O., Dubuisson, F., *DROI-C-4001 : Droit international public : La création de l'Etat*, Université Libre de Bruxelles, 2015-2016. (own translation)

⁷¹ Quigley, J., *op.cit.*, 2011, p. 210.

⁷² International Court of Justice, *North Sea Continental Shelf*, 20 February 1969, p. 32, <http://www.icj-cij.org/docket/files/51/5535.pdf> (last consultation 24 March 2017)

⁷³ Salmon, J., *op.cit.*, 1988, p. 43.

⁷⁴ *Ibid.*, p. 44.

*Palestine*⁷⁵ in 1988, the Palestinian representatives agreed on the « Green line » as the base of their future State on the 13th September 1993 in Washington following the Oslo Accords. There is no point of arguing that Israel has been recognized as a State without having its borders fixed, and therefore that Palestine could be recognized without arguing on this qualification. In fact, as understood by Oliver Corten's lecture, but also by Jean Salmon contribution, nowadays it is established that « a State can exist even if its territory is subject to claim from a third country, whether a part of all of it »⁷⁶. Consequently, as demonstrated, Palestine meets the territory criterion even though its borders are still definitively unfixed as it is precise – the West Bank and Gaza, and stable – it has not changed for decades and the modern international law rejects any attempt of annexation proposal regarding the occupied territories.

2. The population

According to James Crawford, a judge of the ICJ, States are not only « territorial entities » but also « aggregates of individuals », which makes it essential for them to have « a permanent population even though no minimum limit is apparently prescribed »⁷⁷. On the premise that nationality can be granted only by States, this practitioner in the field of public international law concludes that the nationality comes from the statehood rather than the reverse⁷⁸. Addressing the problem between municipal nationality and international nationality⁷⁹ if a new State emerges on the territory of a previous one, James Crawford opts for the middle ground saying that « in the absence of provision to the contrary, persons habitually resident in the territory of the new State automatically acquire the nationality of that State, for all international purposes, and lose their former nationality, but this is subject to a right in the new State to delimit more particularly which persons it will regard as its nationals »⁸⁰. However, this approach does not apply to our case as we are trying to prove that a Palestinian State could exist because it has a population, rather than going towards a one-State solution. In fact, although no law impedes that various Nations form a common State, we still consider that it will be utopic to think that a one-State solution could be possible as the Palestinian people struggle for independence never stopped since 1948.

⁷⁵ General Assembly, *Future government of Palestine*, A/RES/181 (II), 29 November 1947, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253> (last consultation 22 March 2017)

⁷⁶ Salmon, J., *op.cit.*, 1988, p. 46 (own translation).

⁷⁷ Crawford, J., « The Criteria for Statehood in International Law » *British Yearbook of International Law*, vol. 48, n°1, 1977, p. 114.

⁷⁸ *Ibidem*.

⁷⁹ Based on James Crawford's writings, international nationality can be understood as a situation in which individuals can be considered as nationals of a particular State for international purposes despite the absence of rules determining who is a national of it and who is not.

⁸⁰ *Ibid.*, p. 115.

Having acquired the right of self-determination, we are convinced that this conflict will not stop unless the Palestinians gain their independence.

Regarding the conditions to determine who was a Palestinian, we looked into Yasser Arafat's speech when he proclaimed the independence of the State of Palestine the 15th November 1988 in Algiers after the vote of the Palestinian National Council (PNC) - the Parliament in exile of the Palestinian movement. Unfortunately, no such information was mentioned in this document. Therefore, we attempted to look into other official documents to find out that the Palestinian National Charter of 1968⁸¹ mentions that:

Article 5: The Palestinians are those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it or have stayed there. Anyone born, after that date, of a Palestinian father – whether inside Palestine or outside it – is also a Palestinian.

*Article 6: The Jews who had normally resided in Palestine until the beginning of the Zionist invasion will be considered Palestinians.*⁸²

In addition to that, Jean Salmon argues in his article *Proclamation de l'Etat Palestinien* that a Palestinian nationality was developed during the British mandate⁸³. Through the practice of census, the author observes that the population of Mandatory Palestine was composed of 1 972 000 inhabitants among which 1 337 000 Arabs – Arab Christians included, and 608 000 Jews. After the Partition Plan, Palestinians were encouraged not to take the nationality of their host country by the Arab League⁸⁴. If we base ourselves on the Charter from 1968 regarding who is considered as a Palestinian, it does not only include the Palestinians living in Israel; the West Bank or Gaza. Indeed, this Charter refers also to the Palestinian Diaspora, the ones who had to leave the country due to their fear of retaliation, the ones that are considered as refugees according to the resolution 194 - therefore those for whom the right to return remains. As it is a diaspora, it seems that the PLO will see no problem for them to return, whether they have another nationality or not. This is what we can deduce from Jean Salmon's statement while he says that « for those who received a citizenship elsewhere (especially Israel and Jordan), situations of right to return will be held concurrently with another nationality »⁸⁵. According to us, there is enough evidence to say that a Palestinian population exists, without mentioning the resolutions of the UN recognizing this population

⁸¹ The Palestinian National Charter, commonly known as the PLO Charter, is an ideological paper which established the PLO in May 1964. Having been amended over the years, this covenant reflects the aim of the PLO. This text is noteworthy for its disputed content – the latter comprising articles which deny the existence of Israel and advocates for the worldwide elimination of Zionism. Following the Oslo Accords in 1993, these articles will be deleted from the PLO Charter.

⁸² The Avalon Project, *The Palestinian National Charter: Resolutions of the Palestine National Council*, July 1-17 1968, http://avalon.law.yale.edu/20th_century/plocov.asp (last consultation 24 March 2017)

⁸³ Salmon, J., *op.cit.*, 1988, pp. 48-49.

⁸⁴ Kassim, A., « The Palestine Liberation Organization's claim to Status: A juridical analysis under International Law », *Denver Journal of International Law and Policy*, vol. 9, 1980, p. 33.

⁸⁵ Salmon, J., *op.cit.*, 1988, p. 50 (own translation).

and giving it the right of self-determination among others. Nonetheless, as Jean Salmon observes regarding this population, the State of Palestine will have to legislate the terms on which the nationality will be given to its inhabitants⁸⁶.

3. The government

*To be a State, an entity must possess a Government or a system of government in general control of its territory, to the exclusion of other entities not claiming through or under it.*⁸⁷

As mentioned in this quotation, a government is viewed as a political and administrative apparatus, not only organized but also expressing the State's will. The last part of the quote refers to the effectiveness a government must have on the territory it administrates. Consequently, the government has to be sovereign under two aspects: a) it has to claim to be sovereign b) it has to be effective⁸⁸.

In the case of Palestine, the government refers to the PLO as it is viewed as the *de facto government*. Indeed, over the years, the PLO imposed itself as the representative of the Palestinian people. Created in June 1964 as a result of the first PNC, it was officially recognized as a member of the Arab League the 9th September 1976⁸⁹. As stressed by Jean Salmon, this recognition was accompanied by their acceptance of PLO administrative powers in various fields whether we speak about domestic matters such as taxation; coercive power such as law enforcement or even external relations ones by granting diplomatic immunities⁹⁰. In 1980 in a paper for the *Denver Journal of International Law and Policy*, Aniss F. Kassim stated that PLO governance in the West Bank and Gaza was effective through « a wide range of governmental authority in the West Bank and Gaza » but also « recognized universally »⁹¹. In 1990, while Crawford stated that the PLO was exercising a certain control in these territories but it did not suffice, Francis Boyle concluded the opposite based on the same observations – that Palestine was effectively meeting the control criterion in the same territories required for statehood⁹². According to Quigley, Israel did not replace the Palestinian National Authority (PNA) in Gaza and the West Bank, leaving to the PNA « the control of those aspects of administration that had previously been under Palestinian

⁸⁶*Ibidem*.

⁸⁷ Crawford, J., *The Creation of States in International Law*, Clarendon Press, Oxford, 1979, p. 45 cit. Salmon, J., *op.cit.*, 1988, p. 51.

⁸⁸ Corten, O., Dubuisson, F., *op.cit.*

⁸⁹ Salmon, J., *op.cit.*, 1988, p. 52.

⁹⁰ *Ibidem*.

⁹¹ Kassim, A.F., « A Response to Dr. Eyvatar Levine », *Denver Journal of International Law and Policy*, vol. 10, pp. 259-261, cit. in Quigley, J. *op.cit.*, 2011, p. 213.

⁹² *Ibid.*, pp. 213-214. Boyle, F.A., « The Creation of the State of Palestine », *European Journal of International Law*, vol. 1, p. 307, cit. in Quigley, J. *op.cit.*, 2011, p. 213.

administration »⁹³. Not only did the previous institutions were not displaced but other emerged such as the Palestinian Legislative Council which was in charge of approving new laws or monitor the actions of the executive branch⁹⁴. In addition to that, the PNA was granted a president that led to the election of Yasser Arafat in January 1996. The Palestinian people did not only establish an elected legislative body and an elected presidency but the regal powers were also attributed to the PNA as its authority in Gaza and the West Bank was preserved by the Palestine Liberation Army which ended up joining the security forces led by the PNA⁹⁵. As Quigley depicts in his book, the Palestinian Legislative Council adopted a constitutional document in 1997 named the Basic Law which « provided for the three traditional branches of government – executive, legislative, and judicial – and set out fundamental rights and freedoms »⁹⁶. With the withdrawal of Israel from Gaza in 2005, Palestinian representatives ended up being the only ones in charge of its internal administration. According to Quigley, this can be viewed as the recognition of the sovereignty of the PLO as « where a state in belligerent occupation cedes partial control to authorities who claim sovereignty in the territory, the belligerent occupant, by the very act of partial cession, acknowledges their status »⁹⁷. The next year, democratic elections were held but created a schism between Gaza and the West Bank as the Hamas won the Gaza strip and thus led it. Notwithstanding this schism, Quigley states that « the fact that administrative authority became split created practical difficulties but it is not relevant to the governance criterion for statehood », citing examples such as Korea and Vietnam respectively from 1950 and 1954⁹⁸. Aware of the perpetual conflict between the Fatah and the Hamas⁹⁹, however, we agree with Crawford's idea that « the issue of domestic legitimacy [...] is not relevant to statehood »¹⁰⁰. Moreover, while the fragmentation of the governmental authorities can be viewed as a weak point for the Palestinian government's effectiveness, Louis Balmond argues that the existence of two competing effectivenesses « would have no effect on the unity of the Palestinian State and its international representation »¹⁰¹. Indeed, if we take the Somalian case as an example, the internal fragmentation of the power resulting from the

⁹³ *Ibid.*, p. 214.

⁹⁴ *Ibidem.*

⁹⁵ *Ibid.*, pp. 214-215

⁹⁶ *Ibid.*, p. 215

⁹⁷ *Ibid.*, p. 225.

⁹⁸ *Ibid.*, pp. 216-217.

⁹⁹ See the timeline of this conflict in: Al Jazeera, « Timeline: Hamas-Fatah conflict », *Al Jazeera*, 4 May 2011, <http://www.aljazeera.com/news/middleeast/2011/05/2011549435141647.html> (last consultation 28 March 2017)

¹⁰⁰ Crawford, J., *The Creation of States in International Law*, New York, Oxford University Press, 2006, p. 67, cit. in Quigley, J. *op.cit.*, 2011, p. 217.

¹⁰¹ Balmond, L., « Etat palestinien », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?* Paris, Editions Pedone, 2016, p. 10.

central power's contestation never led to any questioning of Somalia's unity from the point of view of international law as noticed by Balmond¹⁰².

Already acknowledged as the representative of the Palestinian people by the resolution No. 3210 of the UN, the PLO were once again recognized by the latter as the GA voted the resolution No. 43/176 advocating for an international peace conference on the Israeli-Palestinian conflict with the participation of the PLO as the official representative of the Palestinian people¹⁰³. As this resolution passed with a strong majority¹⁰⁴ – 138 for; 2 against; 2 abstentions, it appears that most of the UN members tend not to refute Palestine's fulfillment of this criterion. Indeed, by their vote, nearly three-quarters of UN members endorsed the PLO as the representative of the Palestinian people.

As the lack of effectiveness of the PLO can be considered as a weak point, it remains that effectiveness is undermined by the Israeli presence on the territory. However, according to Krystyna Marek, « a State, temporarily deprived of its organs, can be conceived »¹⁰⁵, which leads John Quigley to state that the occupation or even the annexation of a territory does not necessarily mean the end of the State. Taking the Baltic states following their secession of the USSR in 1991 as an example, Quigley quotes the European Community (EC) to stress that « governmental control had been lost » in 1940 « but not statehood »¹⁰⁶. On the effectiveness matter, Jean Salmon states that « a foreign occupation – as it happens to be largely illegal – does not affect the quality of the Palestinian government »¹⁰⁷. Indeed, as much as the occupier temporarily administers the territory, the former does not acquire any sovereign right from it¹⁰⁸. Besides, holding the Namibian case up as an example, John Quigley argues that there is no legal reason why this should be applied only to the case where a government was in charge of the territory before the occupation as in the Kuwaiti example from 1990-1990¹⁰⁹.

¹⁰² *Ibidem*.

¹⁰³ Quigley, J. *op.cit.*, 2011, p. 52. This resolution was voted following the State of Palestine's declaration of independence, in which Palestinians acknowledge prior UN resolutions and a pacific resolution of the conflict.

¹⁰⁴ General Assembly, *Question of Palestine*, A/RES/43/176 (XXIX), 15 December 1988, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/8FF8AF940BEAF475852560D60046F73F> (last consultation 27 March 2017)

¹⁰⁵ Quigley, J., *op.cit.*, 2011, pp. 124.

¹⁰⁶ *Ibid.*, pp. 124-125.

¹⁰⁷ Salmon, J., « La qualité d'Etat de la Palestine », *Revue Belge de Droit International*, 2012, n°1, p. 15 (own translation)

¹⁰⁸ von Glahn, G., *The Occupation of Enemy Territory*, Minneapolis, University of Minnesota Press, 1957, p. 31 cit. in Quigley, J. *op.cit.*, 2011, p. 220.

¹⁰⁹ *Ibid.*, pp. 220-225.

4. The capacity to enter into relations with the other States

By « the capacity to enter into relations with the other States », we would like to stress that we understand this sentence as the sovereignty of a State which allows it to enter into relations with the others as equals, therefore referring to the concept of sovereign equality of States. Taking into consideration the world we live in, we do agree with the idea that the capacity to enter into relations with States « is no longer the exclusive prerogative of States »¹¹⁰. According to James Crawford, « States pre-eminently possess that capacity » as the author views it only as « a consequence of statehood which is not constant but depends on the status and situation of particular States »¹¹¹. Therefore, while this capacity can be viewed as a useful criterion in order to be part of the world politics, this can be only a consequence of internal factors that allows a State to do so. Consequently, Crawford states that the importance of this criterion stems from a conflation of the requirements of government and independence¹¹².

Regarding a future State of Palestine, the problem, as stated above, is not the sovereignty but rather the lack of effectiveness, which undermine the former – that is to say its government practices. However, it is interesting to see that Palestine does have relations with others « as they have shown a willingness to engage with Palestine on the basis that it is a state »¹¹³. As John Quigley demonstrates in his book *The Statehood for Palestine: International Law in the Middle East Conflict*, « Palestine has diplomatic or quasi-diplomatic relations with many states » but also « maintains representatives offices in other states and, in turn, Palestine hosts representative offices of other states »¹¹⁴. The author carries on stating that no matter what the name given to these offices is, the tasks they perform on a daily basis are the same as those of other embassies. As much as Palestine does have offices maintaining political contacts with the States they are implanted in, Palestine is also highly involved in international organizations like the UNESCO or the GA, be it by its status of member or observer¹¹⁵. Whether it is through the issuance of passports; by insuring consular representation of state's nationals or signing international treaties, Palestine does perform many functions that are considered as foreign relations'¹¹⁶.

¹¹⁰ Crawford, J., *op.cit.*, 1979, p. 119.

¹¹¹ *Ibidem.*

¹¹² *Ibidem.*

¹¹³ Quigley, J., *op.cit.*, 2011, p. 211.

¹¹⁴ *Ibidem.*

¹¹⁵ *Ibidem.*

¹¹⁶ *Ibid.*, pp. 212-213

Being aware of Palestine's international involvement, it is relevant to understand where this lack of effectiveness that Palestinian representatives have to deal with comes from. According to the literature available but also newspaper articles on the conflict, Palestinian capacity to enter into relations with the other States is undermined by Israeli policies and the illegal effectiveness resulting from it. Nonetheless, through legal precedents, it emerges that modern international law does not take into account the illegal effectiveness Palestinian representatives are confronted with in order to determine if the latter complies with this criterion or not¹¹⁷. As Franck Van De Craen pointed out decades ago, « a continuing occupation of these territories constitutes a violation of international law, not as such on the basis of the belligerent occupation, but because it prevents a people to exercise their inalienable rights to sovereignty, national independence, and return »¹¹⁸. Knowing that this position is still topical, be it through international law institutions' or States' statements, we deem that this occupation is not only an obstacle to Palestine's international development but also to peace. Consequently, based on international precedents but also on world politics, the occupation – seen as a hindrance, cannot be seen as a reason to deny Palestine fulfillment to this last criterion. However, as John V. Whitbeck wrote in *The Middle East Policy* in early 1993, « effective control is not purely a question of guns and the capacity to compel submission by physical force. It also encompasses the allegiance of the population, what is sometimes termed the general acquiescence of the people »¹¹⁹.

Having reviewed the criteria for statehood but also having demonstrated that Palestine was fulfilling all of them, we came to the conclusion that the only obstacle to a State was the Israeli occupation of Palestine's lands – territories defined by international law and accepted by the belligerent in 1948 and 1949. Indeed, as we determined that the hindrance to the Palestinian representatives' sovereignty was the product of Israeli actions, that sovereignty is a consequence of government and independence, that illegal effectiveness is not in accordance with international law, we can affirm that Palestine can be viewed as a State. Not only can it be viewed as a State due to the fact that it fulfills the Montevideo criteria but also due to the historical background we developed in order to prove that Palestine does have the same right to exist as does Israel. Of course, as we made a choice in the beginning to rest on jurists who have striven to demonstrate that Palestine was a State in terms of international

¹¹⁷ Salmon, J., « Les contradictions entre fait et droit en droit international », *Estudios de derecho internacional, Homenaje al profesor Miaja de la Muela*, Editorial Tecnos, Madrid, pp. 337-350.

¹¹⁸ Van De Craen, F., « The Territorial Title of the State of Israel to Palestine: An Appraisal in International Law », *Revue Belge de Droit International*, 1978-1979, n°2, p. 535, http://rbdi.bruylant.be/public/modele/rbdi/content/rbdi_2016/RBDI%201978-1979.2%20-%20pp.%20500%20a%20538%20-%20Frank%20van%20de%20Craen.pdf (last consultation 27 March 2017)

¹¹⁹ Whitbeck, J.V., « Confederation Now: A Framework For Middle East Peace », *Middle East Policy*, vol. 2, n°1, 1993, p. 65.

law, we are aware that not everybody agrees with this position – Israel amongst others for whom Palestine does not have a population within a territory, a government who exercised control nor do they have a capacity to engage in international relations¹²⁰. While authors such as John Quigley addressed the question of statehood of Palestine without embarrassing themselves with political questions – thus relying only on a legal approach, others do not share their idea stating that statehood should be viewed as a question of fact¹²¹. As we consider international law as key element in world politics, that legal texts are viewed as the rules of the game in the world we live in, we chose to rely on the camp of those for whom the international law must be respected and applied to everyone in the same way. Consequently, according to us - and based on international law - Palestinian people have the right to a State, based on legal evidence rather than value judgment.

¹²⁰ Quigley, J., *op.cit.*, 2011, p. 184, p. 205.

¹²¹ De Waart, P., « The Statehood of Palestine: International law in the Middle East Conflict by John Quigley », *Netherlands International Law Review*, vol 58, n°2, August 2011, p. 287.

CHAPTER II: MODERN INTERNATIONAL LAW AND THE STATE OF PALESTINE'S RECOGNITION

A. THE STATE OF PALESTINE, A NEW STATE AMONG OTHERS

As noticed by James Crawford in his book *The Creation of States in International Law*, the number of acknowledged States quickly increased during the twentieth century. While there were no more than fifty acknowledged States in the beginning of that century, the number rocketed after World War II. Sixty years after the end of the war, the author notices that there were no more than 192 states in 2005¹²². However, in 2011, South Sudan became the 193rd Member State of the United Nations¹²³ while the State of Palestine and the Vatican are still considered a non-member observer¹²⁴. As James Crawford considers it as a major political development of the last century, the author stresses that it did not come without consequences. Indeed, according to him, « it has changed the character of international law and the practice of international organizations » as it became « one of the more important sources of international conflict »¹²⁵. Unfortunately, the case of Palestine is no exception to the rule. Nevertheless, as demonstrated in the first chapter of this part, Palestine is considered as a State in this thesis as it meets the four criteria which determine if an entity can be considered as a State or not. Some jurists even argue that we could establish the independence of the State of Palestine – understood as « it is not subject to another power nor does it depends from the sovereignty of another State »¹²⁶. Based on the PNC proclamation of independence but also its duly record by the GA, Jean Salmon adds that the lack of effectiveness of the PNA cannot have an impact on Palestine's statehood as it would be an admittance of Israeli occupation, fact condemned by the SC since its onset in 1967¹²⁷. Aware that international law and international relations are interlinked, we remain convinced that the issue is not a legal one but a political one, thus sharing the idea of Jean Salmon among so many others. Therefore, it goes without saying that taking an interest in the recognition is a step forward to understand the Palestinian case.

¹²² Crawford, J., *op.cit.*, 2007, p. 4.

¹²³ UNRIC, « UN welcomes 193rd member state », 14 July 2011, <http://www.unric.org/en/latest-un-buzz/26841-un-welcomes-193rd-member-state> (last consultation 28 March 2017)

¹²⁴ Worldometers, « How many Countries are there in the World? », <http://www.worldometers.info/geography/how-many-countries-are-there-in-the-world/> (last consultation 28 March 2017)

¹²⁵ Crawford, J., *op.cit.*, 2007, p. 4.

¹²⁶ Salmon, J., *op.cit.*, 2012, p. 16.

¹²⁷ *Ibid.*, pp. 16-17

B. EARLY AND MODERN VIEW ON RECOGNITION

1. Early view of recognition

In the literature on State recognition, we can notice that despite being discussed, the recognition became increasingly important in the middle of the eighteenth century. Before this period, State recognition was not required by equals as it was considered as a sign of weakness, thus « the location of supreme power within a particular territorial unit necessarily came from within »¹²⁸. The recognition assumed greater significance in the middle of the eighteenth century as things were changing: that was the beginning of the elective monarchs thus in the context of recognition of governments as observed by Crawford. However, the importance of recognition was yet not even halfway through it is nowadays.

2. The recognition on its way to its modern view

The watershed happened with the involvement of the positivist theory in the debate according to which « the obligation to obey international law derived from the consent of individual States »¹²⁹. From there comes the belief that a new State became a subject of international law instantaneously after it emerged, therefore subject to new legal obligations as part of the international community¹³⁰. By endorsing this view of international law, States began to agree with a contractual approach of it, an approach that will create a link between the concept of statehood and recognition as stated by Robert Redslob, a public international law scholar:

*[...] Le droit international, qui est contractuel et qui a pour conséquent la liberté immanente de s'étendre aux partenaires de son choix, comprend tels Etats dans sa communauté et n'y accueille pas tels autres [...] La reconnaissance est un accord. Elle signifie l'extension de la communauté de droit international à un nouvel Etat.*¹³¹

As might be expected, this view was not unanimous among the authors as not all of them shared the opinion that the existence of States was a matter of international law¹³². However, what we can notice from the debate is that sovereignty is no longer viewed as something coming from within – the recognition of other States becoming something that matters over the years. In 2012, in the *Revue Belge de Droit International*, Jean Salmon describes the

¹²⁸ *Ibid.*, p. 12.

¹²⁹ *Ibid.*, p. 13

¹³⁰ *Ibidem.*

¹³¹ *International law, which is contractual and results in the immanent freedom to extend to the partners of its choice, includes such states in its community and does not accept others. Recognition is an agreement. It means the extension of the community of international law to a new State (own translation) / Redslob, R., « La reconnaissance de l'Etat comme sujet de droit international », Paris, *RDI*, p. 432, cit. in Crawford, J., *op.cit.*, 2007, pp. 13-14.*

¹³² If the reader wishes to look deeper into this debate, the book of James Crawford on which we base our conclusions offer a great overview in its first chapter.

recognition of a state as an act by which « a State acknowledges that a determined entity will be, starting from now, considered as a State within the meaning of international law »¹³³. According to him, the definition given in 1936 by the *Institut du Droit International* is still topical:

*La reconnaissance d'un Etat nouveau est l'acte libre par lequel un ou plusieurs Etats constatent l'existence sur un territoire déterminé d'une société humaine politiquement organisée, indépendante de toute autre Etat existant, capable d'observer les prescriptions du droit international, et manifestent en conséquence leur volonté de la considérer comme membre de la Communauté internationale.*¹³⁴

Consequently, nowadays, the recognition of a state under international law is viewed as a unilateral declaration by one state to acknowledge another power as a State within the meaning of international law – thus recognizing it as a subject of international law and part of the international community. Therefore, what we can deduct from this is that the act to recognize another State is at the entirely discretion of the one doing so. Of course, as observed in the first chapter, a State has to meet the criteria of Montevideo to aim for the recognition of others – but is that enough? As we will see, there are various opinions on that matter.

C. CONSTITUTIVE AND DECLARATORY THEORIES: FACTS AND CONTRADICTIONS

After having discussed the emergence of the recognition of States, it is important to glance at the debate on what the recognition of a State means nowadays. For the purpose of that, it is suitable to review both dominant theories and establish which one has got the upper hand among international jurists. In doing so, it will be possible to make a choice between them, thus carrying on our research pertinently.

1. Constitutive theory¹³⁵

According to this theory, international law, as a legal system, must be provided with an organ which task is to determine who is one of its subjects. As the international system is composed of States, they should be the ones to decide if an entity is part of the system or not - whether by acting unilaterally or in community. As a result of their action, legal effects will be

¹³³ Salmon, J., *op.cit.*, 2012, p. 14 (own translation)

¹³⁴ *Recognition of a new State is the free act by which one or more States recognize the existence in a given territory of a politically organized human society, independent of any other existing State, which is capable of observing the requirements of international law, and consequently express their willingness to consider it as a member of the international community* (own translation) / I.D.I., « Résolution sur la reconnaissance des nouveaux Etats et des nouveaux gouvernements », 23 avril 1936, article 1er, *A.I.D.I.*, 1936, vol. 39, t. II, pp. 300-301, *cit. in* Salmon, J., « La qualité d'Etat de la Palestine », *Revue Belge de Droit International*, 2012, n°1, p. 14.

¹³⁵ Crawford, J., *op.cit.*, 2007, pp. 19-22.

established for the new member of the community. Consequently, the constitutive theory considers the recognition as an act by which a legal status is given to an entity but the latter is based on a situation acknowledged by the subjects of international law. According to Joseph Weiler, « the normative force of the constitutive theory is one which regards the emergence of a new state [...] as calling for not only factual but also political judgment, and thus a situation in which the international community is called upon to act [...] as a political body, such as a legislator, whose job is to judge the political utility and which may, or might, be swayed [...] by self-interest and political prejudice »¹³⁶. However, according to Crawford, the constitutive theory cannot be applied in international law as it will turn it as « a system for registering the assent or dissent of individual States without any prospect of resolution » while its utility should be not only to express the problems of the States but also to resolve them¹³⁷. Moreover, if States practice was constitutive, it should be a duty to recognize a State that has already been recognized by others. Yet, history has shown us that it is not the case as several States were, and are, recognized by one part of the international community but not from the other – the Republic of Kosovo or the State of Palestine to quote only the best-known examples.

2. Declaratory theory¹³⁸

This theory considers the recognition process as a political act, thus the recognition of a new State has nothing to do with the latter being a subject of international law. Therefore, the act of recognizing a new State is nothing more than a declaration by a State acknowledging the existence of another – thus the recognition is considered as accessory as this theory is based on an objective conception of the international legal order. Indeed, this theory does not consider the recognition as an inherent element of a State's existence. According to the declaratory theory, there are a number of things that exist objectively, that are imposed to all States. As this theory considers that the existence of a State is based on the Montevideo criteria, the recognition process consists only in the assessment of a state of affairs. Whereas nobody can force a State to recognize another – as we have seen that it is a free act, this theory argues that the absence of recognition does not mean that a State does not exist. Consequently, the non-recognition of a State does not deprive it from its legal personality.

¹³⁶ Weiler, J.H.H., « Differentiated Statehood 'Pre-States' Palestine @ the UN; EJIL and EJIL: Talk! ; The Strange Case of Dr. Ivana Radacic ; Looking Back at EJIL 2012 - The Stats ; Changes in the Masthead – Our Scientific Advisory Board ; In this Issue », *European Journal of International Law*, vol. 24, n°1, 2013, p. 3.

¹³⁷ Crawford, J., *op.cit.*, 2007, p. 20.

¹³⁸ Corten, O., Dubuisson, F., *DROI-C-4001 : Droit international public : La création de l'Etat*, Université Libre de Bruxelles, 2015-2016.

3. A tendency to opt for the declaratory theory

Where an authority in fact exercises governmental functions within an area already accepted as a State, there seems to be nothing for recognition to constitute, at least at the level of international personality. But the establishment of a new State involves the demarcation of a certain area as a 'State-area' for the purposes of international relations, with consequent legal effects. In such a case it might be argued that recognition, at least in the non-formal sense of 'treating like a State', is central rather than peripheral to international capacity.¹³⁹

As a reaction to this quote – especially the part regarding the new States, we must mention that the demarcation of the area where the State of Palestine is supposed to act as the authority has been determined by various international legal documents. Moreover, the PNA do exercise governmental functions within this precise area as we demonstrated before. Furthermore, the fact that its authority may be undermined by Israel's occupation is illegal according to international law and cannot have an impact on Palestine's statehood as noted by Jean Salmon. That being said, legal precedents tend to opt for the declaratory theory as observed by James Crawford in his study of State creation. Whereas the Arbitration Commission established to advise the European Peace Conference on Yugoslavia considered that « the effects of recognition by other States are purely declaratory »¹⁴⁰, the ICJ in the *Bosnian Genocide* case share this idea indirectly¹⁴¹. According to James Crawford, the decision of the Arbitration Commission aforementioned has been stated again in other opinions¹⁴² which leads us to agree with the idea that:

Recognition, as a public act of state, is an optional and political act and there is no legal duty in this regard. However, in a deeper sense, if an entity bears the marks of statehood, other states put themselves at risk legally, if they ignore the basic obligations of state relations.¹⁴³

As we consider that an entity meeting the Montevideo criteria is a State, that the recognition is rather a political act emanating from a State declaration than an act creating a legal status for the entity, we are convinced that the declaratory theory is the one on which we should rest on.

Indeed, as noted by James Crawford, « right under international law are not contingent upon the acceptance of the right-holder by individual others »¹⁴⁴. Consequently, a State's existence does not depend on its recognition by others. The recognition rather befalls because its peers acknowledge it as one of them, as a State. Therefore, according to us, the State of Palestine can be considered as a State as it meets the conditions to be considered as such. Indeed, as the

¹³⁹ Crawford, J., *op.cit.*, 2007, p. 23.

¹⁴⁰ Opinion 1, Badinter Commission, 29 November 1991, 92 ILR 165, *cit. in in Ibid.*, p. 24.

¹⁴¹ ICJ Rep 1996, p. 595, 613, *cit. in in Ibid.*, p. 25.

¹⁴² Opinions 8 and 10: 92 ILR 201 (4 July 1992); *ibid.*, 206-8 (4 July 1992), *cit. in Ibid.*, p. 24.

¹⁴³ *Principles* (2nd eds), 94, *cit. in Ibid.*, p. 25.

¹⁴⁴ *Ibid.*, 2007, p. 93.

recognition does not give any legal status, the State of Palestine's existence cannot be denied on the pretext that it is not recognized by all the members of the international community. While we consider the existence of a State as a question of law – based on the criteria defined by the international law, we regard the recognition as a question of fact, a declaration attesting a given situation - the presence of a State on a territory in possession of a population administrated by a government able to maintain international relations with its peers. Rather than creating the State, the recognition can be seen as a way to provide international legitimacy to a State.

D. ACQUIRING THE RECOGNITION OF ITS PEERS: A TWO STAGE PROCESS

Le caractère formellement unilatéral de la reconnaissance dissimule le fait qu'il s'agit en réalité d'une relation bilatérale, d'un accord. On est reconnu par qui veut bien vous reconnaître et pour ce que l'on veut être connu.¹⁴⁵

From this definition, it is possible to understand why the recognition process is a two-stage process. As the recognition starts with the expression of one State's desire to be recognized by others, it belongs to the latter to accept the former as a State. One cannot go without the other, otherwise the recognition cannot be effective.

1. The desire to be recognized as a State

By means of its proclamation of independence, Palestine claimed its desire to be recognized as a State. Not only the declaration of independence, held on the 15th November 1988 in Algiers, demonstrated the Palestinian desire to be recognized, but it also acknowledged the prior UN resolutions. In fact, following the declaration, the PNC released a statement in which the use of force, violence and terrorism were rejected as means to gain its independence¹⁴⁶. It was the first time in which not only the existence of Israel was acknowledged but also an implicit recognition of the borders from 1967. One month later, the proclamation of the State of Palestine by the PNC was acknowledged by the GA – even though Palestine remained an observer at the UN without any mention of the word « State »¹⁴⁷. Despite not being welcomed as a UN member afterwards, the State of Palestine was nonetheless recognized as a State by about a hundred of countries following its

¹⁴⁵ *The formally unilateral character of recognition conceals the fact that it is actually a bilateral relationship, an agreement. One is recognized by who wants to recognize you and depending for what one wants to be recognized for* (own translation) / Salmon, J., *op.cit.*, 2012, p. 17.

¹⁴⁶ Middle East Gateway, « Palestine Declaration of Independence: 15 November 1988 », 2002, <http://www.mideastweb.org/plc1988.htm> (last consultation: 29 March 2017)

¹⁴⁷ The status as a non-Member State will be acquired the 29 November 2012 as we will see in the next chapters. General Assembly, *Question of Palestine*, A/RES/43/177, 15 December 1988, <http://www.un.org/documents/ga/res/43/a43r177.htm00548BBE> (last consultation 29 March 2017)

proclamation of independence. According to Jean Salmon, this can be explained by the fact that Palestine was already meeting the criteria to be considered a State¹⁴⁸. If we cast a glance to the countries that recognized the State of Palestine in 1988 or in the following years, it is interesting to notice that are essentially Arab, African and South American. Few European countries did, amongst them essentially ex-Soviet Union members.

2. The acceptance of a State to consider another as an equal

As we came to the conclusion that the recognition of a State was a free act made by a State already acknowledged as a member of the international community, that it is a unilateral move from the latter with regard to the former thus a discretionary act – yet based on the Montevideo criteria, it appears that this process can be considered as a contract between both parties. According to Jean Salmon, « the formal unilateral nature of the recognition tends to hide the fact that it is actually the creation of a bilateral relation among the States »¹⁴⁹.

Having said that one cannot be forced to recognize another, it is also important to mention that a State can be obliged not to recognize. Indeed, while the situation is regarded as illegal in terms of international law – the breach of a peremptory norm, it is a duty for the international community members not to recognize this illegality nor the effects that might ensue from it. This was defined in 2001 in the *Responsibility of States for Internationally Wrongful Acts*:

*Article 41: 1. States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40; 2. No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation.*¹⁵⁰

In the same way, Olivier Corten observes that it is a duty not to recognize anything following the breach of the non-intervention principle mentioned in the Article 2 (7) of the *Charter of the UN*¹⁵¹. To illustrate this duty not to recognize, the Namibian case related to the end of the South African mandate on the territory remains a typical example. In its opinion, the ICJ invites the international community not to recognize the authority of South Africa on the Namibian territory as the GA had put an end to the mandate because of the apartheid policy:

¹⁴⁸ Salmon, J., *op.cit.*, 2012, p. 17.

¹⁴⁹ Salmon, J., *op.cit.*, 2012, p. 17 (own translation).

¹⁵⁰ International Law Commission, *Responsibility of States for Internationally Wrongful Acts*, 2001, <https://www.ilsa.org/jessup/jessup17/Batch%201/Articles%20of%20Responsibility%20of%20States%20for%20Internationally%20Wrongful%20Acts.pdf> (last consultation 31 March 2017)

¹⁵¹ Corten, O., Dubuisson, F., *DROI-C-4001 : Droit international public : La création de l'Etat*, Université Libre de Bruxelles, 2015-2016.

133. (1) the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration [...] and thus put an end to its occupation of the Territory (2) States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to [...].¹⁵²

3. Recognition of the State of Palestine: the EU position

On the 31st March of 2017, the State of Palestine has been recognized by 136 countries but also by international organizations, which accepted to grant it a membership. Among these 136 countries, seven did so before joining the EU – Czech Republic, Hungary, Poland, Bulgaria, Romania, Malta and Cyprus¹⁵³. Consequently, only Sweden did so while already being a EU member on the 30th October 2014¹⁵⁴. So far, the EU position consists in supporting the process by which a State of Palestine could be achieved. Rather than considering Palestine as a State, the Union maintains that Palestine is a State « in the making », an entity with which the EU has political relations and partnership agreements but still does not fit the conditions to be a State.

a. Procedure and criteria

As Jean-Christophe Martin observed, neither an established procedure nor established criteria exist regarding the recognition of a State by the EU¹⁵⁵. In fact, according to him, the only way to take note of the conditions regarding the EU recognition process is to deduce them from EU institutions declarations, actions or even from its treaties. In doing so, this professor specialized in International and European law, identified the following conditions: « the State viability, the democratic nature of the State, the mutual recognition between Israel and the State of Palestine, the reconciliation between Palestinians, the need for the PNA to fulfill more responsibilities and to act as a government in the Gaza Strip »¹⁵⁶. Strangely, other parameters related to the peace process in the Middle East are mentioned but do not depend on the Palestinians – they depend on Israel:

¹⁵² International Court of Justice, *Legal Consequences For States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, 21 June 1971, <http://www.icj-cij.org/docket/files/53/5595.pdf> (last consultation 31 March 2017)

¹⁵³ Martin, J.-C., « L'Union européenne et la reconnaissance de l'Etat palestinien », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?* Paris, Editions Pedone, 2016, p. 184.

¹⁵⁴ AFP, La Suède reconnaît l'Etat de Palestine, *Libération*, 30 Octobre 2014, http://www.liberation.fr/planete/2014/10/30/la-suede-reconnait-l-etat-de-palestine_1132448 (last consultation 31 March 2017)

¹⁵⁵ Martin, J.-C., *op.cit.*, 2016, pp. 180-188.

¹⁵⁶ *Ibid.*, pp. 185-187 (own translation).

La politique d'implantation que mène Israël et aux mesures prises dans ce cadre, telles que la construction de la barrière de séparation au-delà de la ligne de 1967, les démolitions et les confiscations, notamment de projets financés par l'UE, les expulsions, les déplacements forcés, y compris de Bédouins, les colonies de peuplement sauvages qui menacent sérieusement la solution fondée sur la coexistence de deux Etats.¹⁵⁷

Regarding the absence of procedure to recognize a new State, our assumption was that it could be explained by the fact that the Common Foreign and Security Policy (CFSP) is not based on a community method but an intergovernmental one. This view is confirmed by Jean-Christophe Martin, who describes the decision-making process on the matter « as a dialogue between the States members in order to determine a common position – the end of this process leading to the collective recognition of the new State jointly with the EU »¹⁵⁸. Not only Jean-Christophe Martin confirmed our thought on this point, but he also informs us that the EU practice turns out to be miscellaneous, that every case has been treated differently¹⁵⁹. Addressing the dismantling of Yugoslavia and the rupture of the Soviet Union, the professor notices an intern procedure in which the new States will be recognized in exchange for the acceptance of a number of conditions¹⁶⁰. However, this procedure was applied only to this case. Referring to Kazakhstan's recognition by the EU, Professor Martin describes it as « a tacit recognition resulting from the establishment of diplomatic relations between the EU and the former, followed by a partnership and cooperation agreement »¹⁶¹. While Montenegro benefited from an express recognition from the EU in 2006, South Sudan was granted a jointly recognition by the EU and its Member States in 2011 – considered as an unusual act according to Jean-Christophe Martin¹⁶². Whether the EU states that Palestine cannot be considered as a State yet, John Quigley regards it as a matter of *Realpolitik*, as a way to hold out recognition until Palestine reaches an agreement with Israel¹⁶³.

¹⁵⁷ *Israel's settlement policy and actions taken in the context, such as building the separation barrier beyond the 1967 line, demolitions and confiscation – including of EU funded project – evictions, forced transfers including of Bedouins, illegal settlement outposts that seriously threaten the solution based on the coexistence of two States (own translation) / Communiqué de presse 610/15, 20 July 2015, cit. in. Martin, J.-C., « L'Union européenne et la reconnaissance de l'Etat palestinien », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?*, Paris, Editions Pedone, 2016, p. 187.*

¹⁵⁸ Martin, J.-C., *op.cit.*, 2016, pp. 180-181.

¹⁵⁹ *Ibid.*, pp. 180-185.

¹⁶⁰ *Ibid.*, pp. 181-182.

¹⁶¹ *Ibid.*, p. 182.

¹⁶² *Ibid.*, pp. 182-183.

¹⁶³ Quigley, J. *op.cit.*, 2011, p. 227.

b. Alternatives to the absence of an EU recognition procedure

*Dans la pratique traditionnelle, la reconnaissance apparaît comme une prérogative des Etats mais il n'y a pas lieu de la leur réserver. Tout autre sujet du droit devrait être également appelé à (ne pas) reconnaître.*¹⁶⁴

Starting from Joe Verhoeven, we found it interesting to see if the recognition of a new State could be achieved on behalf of the Union rather than the Member States. Two articles of the *Treaty on the European Union* hold our attention. The first one is the following:

*Article 26: 2. The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council. The Council and the High Representative of the Union for Foreign Affairs and Security Policy shall ensure the unity, consistency and effectiveness of action by the Union.*¹⁶⁵

According to this article, the European Council could remain defiant in the face of the absence of an EU recognition and recognize Palestine as a State. As every European Council is organized in order to « identify specific issues of concern for the EU and outline particular actions to take or goals to reach »¹⁶⁶, that « each of these meetings are followed by the release of a statement aimed to influence and guide the EU's policy agenda »¹⁶⁷, this could be an alternative to compensate the absence of an EU procedure regarding the recognition of a new State. However, conclusions have to be adopted consensually by all EU Member States.

The same could be done by the High Representative of the Union for Foreign Affairs and Security Policy according to the article 27 (2) of the *Treaty on the European Union*:

*Article 27: (2) The High Representative shall represent the Union for matters relating to the common foreign and security policy. He shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organizations and at international conferences.*¹⁶⁸

However, as the High Representative does not have the full powers, this declaration has to follow a procedure¹⁶⁹. After having consulted the European Parliament, this declaration has

¹⁶⁴ *In traditional practice, recognition appears to be a prerogative of States, but there is no reason to reserve it for them. Any other subject of law should also be called upon to (not) recognize* (own translation) / Verhoeven, J., « La reconnaissance internationale, déclin ou renouveau ? », AFDI, 1993, p. 8.

¹⁶⁵ Official Journal of the European Union, *Consolidated Versions of the Treaty on the European Union and the Treaty on the Functioning of the European Union*, 202/01, 7 June 2016, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC#C_2016202EN.0101301 (last consultation 31 march)

¹⁶⁶ Council of the European Union, « European Council conclusions », 8 March 2016, <http://www.consilium.europa.eu/en/european-council/conclusions/> (last consultation 31 March 2017)

¹⁶⁷ *Ibidem*.

¹⁶⁸ Official Journal of the European Union, *op.cit.*, 7 June 2016.

¹⁶⁹ Secrétariat Général du Conseil de l'UE, Note d'information : Le Haut Représentant pour les affaires étrangères et la politique de sécurité / Le Service européen pour l'action extérieure, Novembre 2009, https://eeas.europa.eu/sites/eeas/files/hr_fr1.pdf (last consultation 31 March 2017)

to be approved by the Commission. Finally, the European Council will have to decide whether the declaration should be made or not.

c. The European Parliament offensive

On the 17th December 2014, the European Parliament adopted a resolution in which it affirms its support with regard to the recognition of the State of Palestine¹⁷⁰. The text having been adopted with 498 votes in favour, 88 against and 11 abstentions, the resolution is the result of negotiations between the five major political groups of the European Parliament – the PPE, the S&D, the ALDE, the GUE/NGL, and the Verts/ALE – to come up with a text which suits all of their political sensitivities. Although this resolution did not recognize the State of Palestine on behalf of the Union – as it has not the power to do so and there is no mention of a call to the national Parliaments to do the same – this resolution remains gifted with a strong political weight. Indeed, this resolution can be considered as an attempt to rekindle discussions on the question, to put an end to the status quo. According to Jean-Christophe Martin, the Union tends to stick to its participation to the process by which a State of Palestine could be achieved rather than taking a political stance. Yet, the resolution of the Parliament has certainly played a key role in the prolongation of the established relations between the EU and Palestine – which he sees as « a form of recognition as a State in progress from the EU towards Palestine »¹⁷¹.

¹⁷⁰ Le Monde, « Le Parlement européen soutient la reconnaissance de l'Etat palestinien », *Le Monde*, 17 December 2014, http://www.lemonde.fr/proche-orient/article/2014/12/17/le-parlement-europeen-soutient-la-reconnaissance-de-l-etat-palestinien_4542086_3218.html (last consultation 31 March 2017)

¹⁷¹ Martin, J.-C., *op.cit.*, 2016, p. 176.

CHAPTER III: INTERNATIONALIZATION OF THE CONFLICT: BILATERAL NEGOTIATIONS PUT ON HOLD?

A. A CHANGE OF STRATEGY

1. Reasons for the internationalization of the conflict

Firstly, one must know that the international community has always been part of the equation. Indeed, as we have mentioned before, the roots of the conflict are imbued by the international community mark – whether it is by the role of United Kingdom as part of its mandate given by the League of Nations or the resumption of the case by the UN with its Partition plan. Throughout the years, the international community - by way of the UN, has indeed kept an eye on the conflict and passed several resolutions to put an end to it. Consequently, the novelty of the Palestinian leadership's new strategy resides more onto the utilization of the international community as a major factor in the solution of the problem – not based on political measures but international law ones.

Second, it is relevant to mention why this change of strategy has occurred. According to Nabil Shaath, former Palestinian foreign minister and chief negotiator, « the failure of the negotiations, the continuation of settlement expansion, the US unbalanced mediation and the absence of a political horizon left no choice but to change their strategy to the Palestinian leadership »¹⁷². Aware of Israel determination to achieve a peace resolution for the conflict only through bilateral negotiations, the Palestinians kept on doing so despite few results coming from it. Therefore, Nabil Shaath affirms that choosing the international community's path was made only when it became a strategy of salvation. Indeed, the PNA did not go systematically to the international arena. Rather, this path was chosen only for specific cases such as the issue of the Separation Wall at the ICJ¹⁷³ or the Gaza attacks at the Human Right Commission¹⁷⁴. Consequently, even though international initiatives were taken, Palestinians remained focused on a bilateral negotiation while using the former as a supportive rather than its main strategy¹⁷⁵. In fact, going to the international arena was not really an option as the Palestinian leadership faced threats from the US and Israel if they did so. Thus, going international was not considered as a way to unlock the situation but rather to block it even

¹⁷² Abuzzayad, Z., Rieken, J., « Bringing in the international community as a major factor in the solution », *Palestine-Israel Journal of Politics, Economics, and Culture*, vol. 20, n°2-3, 2015, p. 126.

¹⁷³ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion, ICJ Reports, 9 July 2004, pp. 136-203, <http://www.icj-cij.org/docket/files/131/1671.pdf> (last consultation 1 June 2017)

¹⁷⁴ General Assembly, *Ensuring respect for international law in the Occupied Palestinian Territory, including Jerusalem*, A/HRC/RES/S-21/1, 24 July 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/092/50/PDF/G1409250.pdf?OpenElement> (last consultation 31 July 2017)

¹⁷⁵ *Ibid.*, p. 127.

further. This is not until the failure of the last negotiations led by John Kerry that Palestinians decided « to go full speed ahead to the international community » before going back to the negotiations¹⁷⁶. What we can notice from Nabil Shaath interview is the Palestinians strongly desire to change the parameters of the negotiations – parameters seen as tools to stall the negotiations and pursue the occupation of the Palestinian territories. Not only the Palestinians want to use the international arena in order to equip themselves with legal tools but they also want a guarantee that the next negotiations will lead them to the freedom and independence they have been struggling for nearly seven decades. Worn out by bilateral negotiations, which brought nothing more, but frustration and resentment among their population, the Palestinian leadership opted for an international path in order to ensure that the next agreements will be enforced rather than just signed. According to Nida Kamhawi-Bitar, a human rights and international issues advisor, the « ensuing years of conflict have undermined Palestinian trust in a full-fledged peace process with Israel »¹⁷⁷ - referring to the three last Gaza wars in 2008, 2012 and 2014. Consequently, the internationalization is viewed as the last option, the one that will drive international support to their cause, to the end of the occupation and the creation of a State of Palestine.

Peace process at a standstill, expansion of the settlement activities, failure to respect the agreements or their deadlines – whether the one decided bilaterally or with the help of the Quartet on the Middle East, Israeli interventions in the Gaza Strip, destabilization of the region – ISIS implantation in Syria and Iraq, all these reasons justify the desire of the Palestinian leadership for a new framework in which their destiny will not be decided only by Israel and the US but by the international community as a whole. According to Jean-François Guilhaudis, the international path is the one to follow, as Western countries' domination is no longer what it was when the peace process started¹⁷⁸. As a multipolar world emerges, Jean-François Guilhaudis argues that the international community impact on the conflict could change despite the remaining veto right of the US in the SC.

¹⁷⁶ *Ibidem*.

¹⁷⁷ Kamhawi-Bitar, N., « How can the international community play a more active role in facilitating a resolution? », *Palestine-Israel Journal of Politics, Economics, and Culture*, vol. 20, n°2-3, 2015, p. 68.

¹⁷⁸ Guilhaudis, J.-F., « La Palestine : D'un Etat non membre de l'ONU à un Etat souverain ? », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain?* , Paris, Editions Pedone, 2016, pp. 91-93.

2. The legal « offensive », or the use of international law as the novelty of the internationalization strategy

In order to use the international law to defend its cause, Palestine has to ratify international treaties. In doing so, Palestine will be bound by them, so are the other States. As we are deeply aware that international law does not give a solution to the conflict we address, we remain nonetheless convinced that the law is not an end to itself but rather an instrument with respect to the resolution of international conflicts¹⁷⁹. As the latter are deeply imbued by politics – the Israeli-Palestinian conflict not being an exemption, « the law can turn out to be a conflict tool used by all its stakeholders »¹⁸⁰. This is the novelty of the Palestinian strategy, not the internationalization as this conflict has always been international from its onset, but the wish to join a certain number of multilateral treaties to carry on its struggle for independence internationally. However, as Pierre Bodeau-Livinec, points out:

*What should be a legal formality comes to generate a political tension that can be depicted in three acts: the process toward the membership; the reactions arousing from it and Palestine's response to each of these reactions.*¹⁸¹

Consequently, Palestine's attempt to join multilateral treaties is not viewed as a banal action, it is viewed as a legal « offensive » triggering unilateral responses from its political opponents. In this situation, law is thus considered as a weapon in a political battle between Palestine and others – the membership to international treaties being at stake.

a. Planned initiative or made on an impulse?

To understand what we can call the conventional initiative launched in April 2014 and January 2015, one must take a glance at the treaties Palestine decided to join¹⁸². According to Pierre Bodeau-Livinec, there is no doubt that Palestine planned this legal « offensive », that it chose carefully which multilateral treaties it will go for or not. While John Quigley regards this initiative as « a mechanism whereby states more fully integrate themselves into the international system »¹⁸³, Pierre Bodeau-Livinec considers that these treaties contain the most emblematic tools for Palestinians' struggle – « tools aimed to support the Palestinian cause or strengthen the international stature of the State of Palestine »¹⁸⁴.

¹⁷⁹ Bodeau-Livinec, P., « L'opposition des Etats à l'accession de la Palestine aux traités multilatéraux dans le cadre onusien », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?*, Paris, Editions Pedone, 2016, p. 61.

¹⁸⁰ *Ibidem*.

¹⁸¹ *Ibid.*, p. 62 (own translation).

¹⁸² See Annexe I

¹⁸³ Quigley, J., *op.cit.*, 2011, p. 250.

¹⁸⁴ Bodeau-Livinec, P., *op.cit.*, 2016, p. 63.

As a matter of fact, these treaties can be divided in three categories on the basis of their typology: a) the tools emanating from general international law; b) the tools pertaining to the international protection of individuals and c) some major treaties such as the *Montego Bay Convention*¹⁸⁵. While the first category of treaties can be seen as pillars of the international community of States such as the *Vienna Convention on Diplomatic Relations* or on the *Law of Treaties*, the second category of treaties aims to guarantee human rights such as the *Geneva Conventions* or the *Rome Statute of the International Criminal Court (ICC)*. The third category is about sectoral treaties Palestine chose to be part of.

By seeking to be a part of these multilateral treaties, Palestine intends – as aforementioned – to equip itself with legal tools that can be useful in support for its cause – the treaties related to diplomatic relations could be an asset for its quest of independence for example. However, by joining treaties such as the *Rome Statute*, Palestine does take risks as it could also be prosecuted for Hamas' actions. In short, this legal offensive portrays the image of Palestine as an entity which seeks to be recognized by its peers of the international community, which tries to demonstrate that it is willing to subscribe to their shared values.

b. States' opposition to Palestine membership to multilateral treaties

Of course, as we stated before, not everyone welcomes this initiative. Whether it is Israel, its major allies the US or Canada, all of them reacted to this initiative in coherence with their respective position to the treaties involved. However, as Pierre Bodeau-Livinec observes, it happens that countries mark their opposition to Palestine's membership of a treaty they are not part of. Indeed, regarding the *Rome Statute of the ICC*, both Israel and the US joined Canada's position even though they did express their intention not to be part of this treaty despite being a signatory¹⁸⁶.

Based on the work of Pierre Bodeau-Livinec¹⁸⁷, we can notice that this opposition is indicative of political tensions regarding the Palestinian move. The States' process intends to repeat their opposition to the recognition of Palestine as a State as it does not fit the criteria according to them – criteria which Palestine fits as we demonstrated in the previous chapters. While the States reasoning differs, similarities can be found such as the desire to paralyze the effect of Palestine's membership of treaties they are part of. To the reactions of these States, Palestine chose to respond systematically, based on legal texts such as the resolutions of the UN. International law is thus used to discredit the arguments of the opponents with respect to

¹⁸⁵ *Ibid.*, pp. 63-64.

¹⁸⁶ *Ibid.*, p. 70.

¹⁸⁷ *Ibid.*, pp. 61-78.

Palestine's increasing desire to be part of multilateral treaties. In other words, what depicts this quarrel is a veritable competitive pitch between legal conceptions in the service of a political project.

B. INTERNATIONAL LAW AS A MEAN TO DEAL BETWEEN EQUALS

*We the peoples of the United Nations determined to [...] to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained [...] and for these ends [...] to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security [...].*¹⁸⁸

Referring to the preamble of the *Charter of the UN*, it appears that international law has the purpose to be the shared language among States. Consequently, the former has to be spread through multilateral treaties, treaties that « must not only be multilateral but also uniform, imposing equal limitations and obligations to every signatory »¹⁸⁹ according to Gabriella Blum. The transition to a more enlightened international society is thus viewed as the result of both multilateral treaties and international organizations, the latter ensuring that its members comply with the content of the former – thus keeping the incentives alive for everyone. Therefore, multilateralism can be considered as a way to regulate international behavior as its signature creates both common and equal commitments to the signatories.

In order to point out the advantages of multilateralism, one has to compare it with bilateralism relations. Bilateralism – which involves negotiations only between two countries whereas multilateralism involves three or more - does not provide guarantees for a small state if it negotiates with a stronger one than itself. According to scholars, multilateralism reduces this power difference between states and impedes the exploitation of weaker states by stronger ones in a significant way. Indeed, while a small state is left to its own devices in bilateral negotiations, this effect is lessened in a multilateral context as the weaker states have the option to form a coalition. Consequently, weaker states could have a greater impact in such context. Moreover, one cannot decide to apply different measures to another part of the treaty. Indeed, no discriminatory regimes can be applied to another party to the treaty – the contract being the same for everyone.

Increasing participation to the negotiations, equal vote for every State regarding the multilateral treaty drafting and final text, less flexibility and adaptation to a State special circumstances, multilateralism is thus seen as an alternative to bilateralism – an alternative

¹⁸⁸ United Nations, *Charter of the United Nations: Preamble*, San Francisco, 26 June 1945, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (last consultation 31 May 2017)

¹⁸⁹ Blum, G., « Bilateralism, Multilateralism, and the Architecture of International law », *Harvard International Law Journal*, vol. 49, n°2, 2008, p. 334.

where equality and fairness are seen as more present than in the latter. As a result, multilateral treaties enjoy both a symbolic and a normative power as it is accepted by the international community, which decided to come together to tackle a specific problem or provide general rules regarding an aspect of States' interactions. Not only the act of signing a multilateral treaty creates obligations to the signatories, but the fact that it is multilateral confers it « a discursive force whereby the norms incorporated into the multilateral regime reverberate into and across national constituencies become ingrained in public consciousness, and are imprinted upon states' behavior »¹⁹⁰. Therefore, it is not only the act of signing the treaty, which makes it legally binding but also the symbolic and discursive power, which also confers it such a perception. Which State could possibly deny publicly the human rights? Of course, those are not respected everywhere around the globe but no State dares to question them as it is acknowledged by a multilateral treaty ratified by the great majority of the international community¹⁹¹.

For all these reasons, but also because Palestine wants to show to the international community its desire to become a respected member of it, a member which respects and adheres to international law, which aims to be an example in the Middle East in respect to human rights and equality, Palestine decided to go full speed – as Nabil Shaath said – towards an international path. Ratifying multilateral treaties is thus seen as a mean to strengthen Palestine's claim for statehood, to make the international community perceive this so-called entity as a full-fledged state - the expected result being to prompt its recognition by the former. In addition to the fulfillment of the Montevideo Criteria, the obligations that these international treaties create increase the legitimacy of Palestine to be recognized as a State among others. Moreover, Palestine's new strategy for statehood will also increase pressure on Israel, its occupier. How can this State still deny Palestine ability to enter in relations with other States if it is part of multilateral treaties? Nonetheless, PA must understand that being part of a treaty is not simply characterized by its ratification, but also by its application. As much as these treaties will confer rights to Palestine, it will have to comply with its obligations too. If not, Palestine will lose its credibility. If it does, Palestine will be in a better position to achieve formal recognition by the countries that still did not recognize it. At the end, the international legitimacy leading to statehood could be achieved thanks to this process.

¹⁹⁰ *Ibid.*, p. 344.

¹⁹¹ See the German Institute for Human Rights' website for more details about how many states ratified the various human rights treaties: Deutsches Institut für Menschenrechte, « How many states have ratified human rights treaties? », <http://www.institut-fuer-menschenrechte.de/en/topics/development/frequently-asked-questions/4-how-many-states-have-ratified-human-rights-treaties/> (last consultation 31 May 2017)

According to us, this process of internationalization does not mean that the Palestinians do not want to negotiate anymore. Rather, as stated by Nabil Shaath above but also by Hind Khoury, a former PLO delegate general to France in a roundtable discussion held by *the Palestine-Israel Journal* in March 2015, this change of direction means that Palestinians want to « negotiate on the basis of international law and hence give a chance to peace »¹⁹². By using membership in the UN agencies but also by adhering to the ICC for example, the internationalization will allow the Palestinians « to support their rights and prove a deterrent in the face of further Israeli aggression and violence and hence contribute to future peace »¹⁹³. Far from being an easy task, internationalization is thus seen as the only way to compel Israel to respect international law, to pressure other prominent member of the international community to act in such a way so as to achieve this result. Aware that the process might be slow, that it means more hardships for the Palestinian people, Hind Khoury states that « reverting to international law and international agencies [...] can lead to an acceptable and fair basis for reconciliation »¹⁹⁴. Therefore, the international arena is perceived as the only option to break out the status quo, to create dynamic for change. According to Ofer Zalzburg, Jerusalem analyst for the International Crisis Group, internationalization will not deliver any easy success but it will help to find a new negotiation architecture as « it cannot continue to be simply about American-led bilateral negotiation »¹⁹⁵.

1. Palestine within the United Nations' system

Based upon Thierry Garcia's contribution in a collective book addressing Palestine status within the UN¹⁹⁶, we will describe how Palestine considered the United Nations to gain an international recognition as a State. According to him, the UN system has been used as a secondary means in the past, a complementary one in the present and will develop itself as a necessary one in the future in order to achieve the goal aforementioned.

It is not until the adoption of resolution No. 242 by the SC that the Palestinian leadership renewed confidence with the UN. Following this resolution, as developed in the first chapter of this thesis, the PLO was recognized as the representative of the Palestinian people and it started to be involved within international organizations. However, it is not until the UN granted Palestine a non-member observer status in 1974 that a multilateral strategy started to

¹⁹²Abuzayyad, Z., « The Palestinian Internationalization Campaign », *Palestine-Israel Journal of Politics, Economics, and Culture*, vol. 20, n°2-3, 2015, p 112.

¹⁹³ *Ibid.*, p. 113.

¹⁹⁴ *Ibid.*, p. 115.

¹⁹⁵ *Ibid.*, p. 121.

¹⁹⁶ Garcia, T., « La Palestine au sein du système des Nations Unies », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?*, Paris, Editions Pedone, 2016, pp. 25-34.

be set up. Indeed, with the adoption of resolution No. 3237, the PLO was allowed to participate in the debate within the UN system. According to Thierry Garcia, this multilateral strategy was also strengthened by the standstill of the Israeli-Palestinian negotiations at the end of the nineties – standstill explained by the non-respect of the Oslo Accords by Israel¹⁹⁷. In reaction to that, the GA improved Palestine's observer status by granting it a greater participation within the UN – Palestine being allowed to express itself on questions related to itself and the Middle East¹⁹⁸. Increasing its normative activity within the GA, the Palestinian Mission to the UN was able to influence the assembly in order to condemn Israeli actions such as the Goldstone Report or United Nations Fact Finding Mission on the Gaza Conflict¹⁹⁹. Therefore, one can deduce that resolution No. 52/250²⁰⁰, elevating Palestine to a *sui generis* observer status, that is to say an observer with special right, paved the way towards a complementary use of the UN system.

As aforementioned, the transition from a bilateral legal policy to a multilateral one is partly due to the paralysis of bilateral negotiations. Another factor for such a transition is the settlement policy in the occupied territories, policy condemned by the ICJ in its advisory opinion on *Legal Consequences of the Construction of a Wall in the Palestinian Territory*²⁰¹. In fact, the Court acknowledged that this wall could be an obstacle to the two-State solution, that no security reason could justify the wall and that all actions resulting from the construction of the wall must be recognized as illegal by the international community. This advisory opinion is not only important because it states that Israel violated international law but also because it fosters once again the international community to find a solution to this conflict based on international law, insisting on the need for « a negotiated solution and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region »²⁰². Consequently, according to Thierry Garcia, the Palestinian leadership opted for a multilateral strategy in order to acquire the status of Member State, « status it deemed important in order to be recognized as a sovereign State in the international community »²⁰³. But how does this complementary use of the UN system

¹⁹⁷ *Ibid.*, p. 28.

¹⁹⁸ Garcia, T., « Organisation de libération de la Palestine- Renforcement du statut auprès de l'Organisation des Nations Unies », *op.cit.*, pp. 1051-1052, *cit. in* Garcia, T., *op.cit.*, 2016, p. 29.

¹⁹⁹ For more information concerning the Goldstone Report, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>

²⁰⁰ Security Council, *Participation of Palestine in the work of the United Nations*, A/RES/52/250, 13 July 1998, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/IP%20A%20RES%2052%20250.pdf> (last consultation 31 May 2017)

²⁰¹ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion, ICJ Reports, 9 July 2004, pp. 136-203, <http://www.icj-cij.org/docket/files/131/1671.pdf> (last consultation 1 June 2017)

²⁰² *Ibid.*, §162.

²⁰³ Garcia, T., *op.cit.*, 2016, p. 30 (own translation)

was put into practice? The answer is simple: by attempting to join specialized agencies of the UN such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) or the UN itself as a Member State. As we will discuss these examples later on, we will not develop them further for now. Nonetheless, what we can add is that the complementary use of the UN system involves an increasing role of the international organizations in the Palestinian quest for statehood, particularly as the bilateral negotiations are at a standstill.

In the current climate, considering the failure of the bilateral negotiations and the change of strategy of the Palestinian leadership, we are convinced that the UN system will have a major role in the former's multilateral strategy. Whether it is by joining more international organizations or by achieving symbolic victories such as having its flag fluttering at UN headquarters²⁰⁴, the PA is moving forward in order to achieve their ultimate aim: getting the UN status of Member State leading to a worldwide recognition of the State of Palestine.

2. Becoming a member of international organizations as a way to remain on the international agenda

In this section, we will study various attempts of the PA to join international organizations as a way to remain on the international agenda but also to gear up in order to defend its cause internationally. Additionally, we will describe the conditions required for the membership of each of these international organizations. As it goes without saying that not every attempt to join an international organization ends with a positive result, this will allow us to explain this refusal. Nonetheless, as we will see with the UNESCO for example, a refusal is far from dissuading the PA to give it another try.

a. The United Nations (UN)

The 23th September 2011, Palestine officially applied to become the 194th Member State of the UN²⁰⁵. The conditions Palestine must satisfy to be part of the UN are stated in the fourth article of the *Charter of the UN*:

*Article 4 §1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations §2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.*²⁰⁶

²⁰⁴ Le Cain, B., « Le drapeau de la Palestine flotte pour la première fois au siège de l'ONU », *Le Figaro*, 1 October 2015, <http://www.lefigaro.fr/international/2015/09/30/01003-20150930ARTFIG00143-l-onu-s-apprete-a-voir-flotter-le-drapeau-de-la-palestine.php> (last consultation 1 June 2017)

²⁰⁵ Le Monde, « Abbas a remis à l'ONU une demande de reconnaissance d'un Etat palestinien », *Le Monde*, 23 September 2011, http://www.lemonde.fr/proche-orient/article/2011/09/23/les-quelques-heures-qui-vont-decider-du-destin-de-la-palestine_1576984_3218.html (last consultation 1 June 2017)

²⁰⁶ United Nations, *Charter of the United Nations: Chapter II Membership*, San Francisco, 26 June 1945, p. 4, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (last consultation: 1 June 2017)

In other words, to become the 194th Member State of the UN, Palestine must be a State, a peaceful one, to accept the obligations of the Charter and be able to observe it. If the candidate does satisfy these conditions, the §2 states that the GA has to take the decision after the SC decides to recommend a candidate to the former. However, in the case of Palestine, the Security Council Admission Committee did not reach an agreement regarding the fulfillment of article 4§1. In the absence of a consensus, rather than proceeding by a vote in which a nine-vote majority is required if none of the permanent members uses its veto right, the Committee did not recommend to the GA to grant Palestine the status of Member State but to elevate its status to that of a non-member observer State²⁰⁷. The next year, on the 29th November 2012, the GA decided, by two-thirds majority as required, to follow the report of the Security Council Committee on the Admission of New Members and « decides to accord to Palestine non-member observer State status in the United Nations »²⁰⁸.

Yet not being welcomed within the ranks of the UN, Palestine did not leave empty-handed as its new status comprises the word « State ». Moreover, this elevation does not consist solely in the acquisition of the title of State. Indeed, this status confers new prerogatives to Palestine. Palestine is now entitled to become a member of UN agencies and join international conventions²⁰⁹. Likewise, Palestine has now the power of referral to the ICJ and the ICC²¹⁰.

Before addressing the reactions that such a status prompted in the international community, it is interesting to mention the result of the vote: 138 for, 9 against and 41 abstentions²¹¹. Regarding those who voted against, there is no major surprise, as it comprises the US, Canada, Israel and other small Pacific Islands. What is interesting to notice, however, is that the EU vote was not united; rather, it was divided as 14 voted for – amongst others Belgium, France, Spain and Sweden; 12 members abstained – amongst others the United Kingdom, Poland and the Netherlands; finally, one of them decided to vote against – the Czech Republic.

²⁰⁷ Security Council, *Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations*, S/2011/705, 11 November 2011, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/IP%20s%202011%20705.pdf> (last consultation 1 June 2017)

²⁰⁸ General Assembly, *Status of Palestine in the United Nations*, A/67/L.28, 29 November 2012, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N12/607/36/PDF/N1260736.pdf?OpenElement> (last consultation 1 June 2017)

²⁰⁹ Garcia, T., *op.cit.*, 2016, p. 31.

²¹⁰ Assouline, G., « Qu'est-ce que le statut d'Etat observateur de l'ONU ? », *Le Figaro*, 30 November 2012, <http://www.lefigaro.fr/international/2012/11/30/01003-20121130ARTFIG00279-qu-est-ce-que-le-statut-d-etat-observateur-de-l-onu.php> (last consultation 1 June 2017)

²¹¹ United Nations' Meetings Coverage and Press Releases, « General Assembly Votes Overwhelmingly to Accord Palestine Non-Member Observer State Status in the United Nations », 29 November 2012, <https://www.un.org/press/en/2012/ga11317.doc.htm> (last consultation 2 June 2017)

While the resolution was backed by the EU – whether by voting for or abstaining – it is important to mention that it does not equate to a recognition of the State of Palestine, nor does it represent a desire to give up a negotiated solution between both parts²¹². Whereas those who voted against the resolution – Israel in particular - consider that it will harm the peace process, the abstainers and the supporters of the resolution rather view it as an attempt to rebalance the asymmetric balance of power between Israel and the Palestinians.

b. The United Nations Educational, Scientific and Cultural Organization (UNESCO)

After being denied the membership in 2007 due to the deterrence policy of the US, Palestine joined the UNESCO on the 23th November 2011, the vote was held on the 31st October of the same year resulting in 107 for, 14 against and 52 abstentions²¹³. Numerous authors consider this vote as significant regarding the broader question of the status of Palestine in international law. In an introductory note regarding the admission of Palestine to UNESCO, John Cerone highlighted that if Palestine does join the UNESCO, « it becomes a state [...] and will be entitled to all of the rights of states under international law »²¹⁴. As it is the case, Palestine should therefore enjoy the rights and obligations associated with its status. To cite only a few, it includes « immunities of the state and its officials, the right of self-defense and collective self-defense in the event of an armed attack, the possibility of membership in other intergovernmental organizations and specialized agencies, and the full treaty-making capacity »²¹⁵. Notwithstanding, John Cerone considers that one has to distinguish the existence of States from the UN membership. Indeed, as the latter is regulated by the *Charter of the UN*, the former is regulated by general international law such as the Montevideo Convention developed in the previous chapters.

That being said, it is relevant to explain the admission process of the UNESCO. Prior to the vote, one has to be recommended by the Executive Board if it wants to join the UNESCO as stated in the article II of the *UNESCO Constitution*:

*[...] states not members of the United Nations Organization may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two-thirds majority vote of the General Conference.*²¹⁶

²¹² *Ibidem*.

²¹³ Le Monde, « La Palestine devient membre à part entière de l'Unesco », *Le Monde*, 31 November 2011, http://www.lemonde.fr/proche-orient/article/2011/10/31/l-unesco-se-prononce-sur-la-demande-d-adhesion-de-l-autorite-palestinienne_1596258_3218.html (last consultation 1 June 2017)

²¹⁴ Cerone, J., « Introductory Note to the Admission of Palestine to UNESCO and Related Documents », *International Legal Materials*, vol. 51, n°3, 2012, p. 606.

²¹⁵ *Ibidem*.

²¹⁶ UNESCO, *UNESCO Constitution*, art. II, 2, <http://unesdoc.unesco.org/images/0022/002269/226924e.pdf#page=6> (last consultation 1 June 2017)

As stated in this quotation, the vote has to obtain a two-thirds majority. Then, it is necessary to explain why Palestine got admitted with 107 for, 14 against and 52 abstentions. Based upon the *Rules of Procedure of the General Conference*, it appears that the two-thirds majority concerns the members that are present and voting. However, according to the article 85 of this text, only those who cast a positive or a negative vote are considered as such, « those who abstain from voting are considered as non-voters »²¹⁷. The number of positive votes required is 81; Palestine was admitted with more than two-thirds of the vote.

Following the admission of Palestine to UNESCO, both the US and Israel decided to suspend their contribution to the UNESCO's budget without delay. Consequently, both countries cannot participate in the vote of the General Conference as it is stipulated in the article IV, C, 8 (b) of the UNESCO Constitution:

*A Member State shall have no vote in the General Conference if the total amount of contributions due from it exceeds the total amount of contributions payable by it for the current year and the immediately preceding calendar year.*²¹⁸

As the decision, not to pay its contribution has been made on a voluntary basis rather than due to conditions beyond their control, the point (c) of this article is therefore not applicable and no exception can be made related to the voting right of the US and Israel in the General Conference.

While the suspension of Israel's contribution was regarded as a response to Palestine admission to the UNESCO, the US justified its suspension on the basis of its domestic legislation. According to the latter, the US is not allowed to finance any UN specialized agency amongst whose members is a group or organization which do not possess all the internationally accepted attributes of a State²¹⁹. According to Thierry Garcia, this decision is illegal as it is not only contrary to the right of the international organizations « which does not provide the possibility to suspend its financial contribution in the event of the admission of an entity that the member in question regard as illicit », but also against international law as it is « a violation of the primacy of international obligations on domestic law »²²⁰.

²¹⁷ UNESCO, *Rules of Procedure of the General Conference* of UNESCO, art. 85, http://portal.unesco.org/en/ev.php-URL_ID=48895&URL_DO=DO_TOPIC&URL_SECTION=201.html (last consultation 1 June 2017)

²¹⁸ UNESCO, *UNESCO Constitution*, art. IV, Cn 8 (b), <http://unesdoc.unesco.org/images/0022/002269/226924e.pdf#page=6> (last consultation 1 June 2017)

²¹⁹ Le Monde, « Les Etats-Unis et Israël perdent leur droit de vote à l'Unesco », *Le Monde*, 8 November 2013, http://www.lemonde.fr/international/article/2013/11/08/les-etats-unis-et-israel-perdent-leur-droit-de-vote-a-l-unesco_3510753_3210.html (last consultation 2 June 2017)

²²⁰ Garcia, T., *op.cit.*, 2016, p. 30 (own translation).

Following Palestine's admission to UNESCO, Israel did not only suspend its contribution to the organization but also took retaliation measures against Palestine²²¹. Not only did Israel decide to intensify its settlement policy by announcing the construction of 2000 new housings in the West Bank and Jerusalem, but the country also adopted budgetary pressures by temporarily freezing the reimbursement of customs duties and VAT collected for the benefit of the Palestinians – thus depriving the PA of 30% of its annual budget. Since Palestine's admission to UNESCO, relations between Israel and the organization are heated. Indeed, the organization passed several resolutions that prompted Israel criticism and led it to suspend cooperation with the former²²². Whether it is the draft resolution Israel viewed as a motion that downplays its links with Jerusalem or the latest resolution referring to Israel as an occupying power²²³, UNESCO actions are strongly criticized by Israel and lead to a constant relationship deterioration over the time.

Deprived of a quarter of its budget, the suspension of the US contribution did not let the UNESCO unharmed. Nor does the difficult relationship it has with Israel. Nevertheless, while the UNESCO faces financial and political challenges, Palestine's admission to the UNESCO as a Member State remains a political breakthrough for the Palestinian leadership. Not only Palestine's rights within the organization increased compared with its previous observer status, but the granting of the right to vote also set it on an equal footing with other Member States.

c. Other international organizations

Although Palestine did already become a member of numerous multilateral treaties, it is interesting not only to address them but also to establish which treaties Palestine will be able to join in the future. Indeed, as Palestine is now a non-Member States of the UN, it will be able to join UN specialized institutions. Knowing that the latter are subject to a qualified or a simple majority to welcome Palestine into its midst, it is likely that Palestine will not face major obstacles to be part of it – the UNESCO being an example.

²²¹ Le Monde, « Israël prolonge le gel des transferts de fonds palestiniens », *Le Monde*, 14 November 2011, http://www.lemonde.fr/proche-orient/article/2011/11/14/israel-prolonge-le-gel-des-transferts-de-fonds-palestiniens_1603581_3218.html? (last consultation 3 June 2017)

²²² The Guardian, « Israel suspends ties with Unesco over motion that downplays Jerusalem links », *The Guardian*, 14 October 2016, <https://www.theguardian.com/world/2016/oct/14/israel-unesco-resolution-jerusalem-palestine> (last consultation 3 June 2017)

²²³ McKernan, B., « Israeli anger over Unesco ruling on Jerusalem calling state an occupying power », *The Independent*, 4 May 2017, <http://www.independent.co.uk/news/world/middle-east/israel-unesco-jerusalem-jewish-sites-occupying-power-palestinian-heritage-christian-muslim-united-a7717046.html> (last consultation 3 June 2017)

Nevertheless, one must understand that joining the Food and Agriculture Organization (FAO) or the World Health Organization (WHO) will be easier for Palestine than joining the International Monetary Fund (IMF), the World Bank (WB) or the World Trade Organization (WTO). According to Thierry Garcia, the US influence on the IMF and the WB will impede Palestine to join them while the WTO membership will be hardly possible as it requires bilateral negotiations with all its Member States²²⁴. Regarding the GA Subsidiary Organs such as the World Food Program (WFP) or the United Nations Development Program (UNDP) to quote only the best known, there should not be any problem to join them as Palestine's non-Member State status was granted by the GA itself.

3. Legal opportunities resulting from international organizations' membership

As mentioned previously, Palestine opted for a legal offensive in order to defend its cause. As we already mentioned that becoming a member of international organizations was a way to remain on the international agenda but also to equip itself with different tools it could use to defend its cause internationally, it is now essential to address two organizations that are linked to international justice: the ICC and the ICJ. While the former observes the responsibility of individuals, the latter observes the responsibility of States. Herein below, we will address each of these Courts and examine Palestine's progress within each of them.

a. The International Criminal Court (ICC)

Following its second application to the ICC, on the 31st December 2014, Palestine became a member of the Court on the 1st April 2015. Far from being an easy process, it was rather the opposite as Manuel Eynard suggests in its article called *La relation juridique entre la Palestine et le Procureur de la Cour Pénale Internationale*²²⁵. In this section, we will address both application – the first one made on the 29th January 2009 and the second one made on the 31st December 2014. In doing so, we will be able to develop the ICC accession process but also the difference within it whether the concerned party has ratified the *Rome Statute* or not.

Referring ourselves to the article 12§3 of the *Rome Statute*, it appears that a State that is not a party to the Statute can still accept its jurisdiction:

²²⁴ Garcia, T., *op.cit.*, 2016, p. 33.

²²⁵ Eynard, M., « La relation juridique entre la Palestine et le Procureur de la Cour Pénale Internationale », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?*, Paris, Editions Pedone, 2016, pp. 95-125.

*If the acceptance of a State which is not a Party to this Statute is required [...], that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception [...].*²²⁶

As aforementioned, Palestine did express its desire to accept the exercise of jurisdiction of the ICC twice – the first one being rejected by the ICC Prosecutor as it was unable to determine if Palestine was a State or not, that it was not its role to respond to this question but to the « competent organs of the United Nations »²²⁷. While the first declaration to the ICC did not include any precise geographical nor temporal scope, the second one states that:

*The Government of the State of Palestine recognizes the jurisdiction of the Court for the purpose of identifying, prosecuting and judging the authors and accomplices of acts committed in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014.*²²⁸

Nevertheless, both declarations have in common the absence of a limited temporal scope. Moreover, this date was not randomly chosen. According to Manuel Eynard, this date coincides with the recent formation of a government of national unity, the launch of the ‘Operation Protective Edge’ as well as with the establishment of an independent international commission mandated by the Human Rights Council²²⁹.

As Palestine is officially a member of the *Rome Statute*²³⁰ as it came into force on the 1st April 2015, Palestine is now authorized to refer to the Prosecutor a situation as stated in the article 14§1:

*A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.*²³¹

²²⁶ International Criminal Court, *Rome Statute of the International Criminal Court*, 17 July 1998, article 12§3, https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf (last consultation 3 June 2017)

²²⁷ International Criminal Court, The Office of the Prosecutor, *Situation in Palestine*, 17 July 1998, §4, §7, https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf (last consultation 3 June 2017)

²²⁸ Gouvernement de la Palestine, *Lettre de Monsieur Mahmoud Abbas – Président de l’Etat de Palestine*, 7 janvier 2015, <https://www.icc-cpi.int/iccdocs/PIDS/press/150107-Registrar-Letter-to-HE-President-Abbas-regarding-Palestine-Art-12-3--Declaration.pdf> (last consultation 3 June 2017)

²²⁹ Eynard, M., *op.cit.*, 2016, p. 99.

²³⁰ Palestine’s admission to the Rome Statute was further facilitated by its non-member observer State status granted by the GA the 29th November 2012.

²³¹ International Criminal Court, *Rome Statute of the International Criminal Court*, 17 July 1998, article 14§1, https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf (last consultation 3 June 2017)

Linked to the article 53§3(a), it is possible to understand why being a State Party increases the State's chances to see a situation prosecuted by the ICC. Indeed, if the Prosecutor decides not to carry on its investigation, the State has the possibility to ask the Pre-Trial Chamber to request the Prosecutor to reconsider its decision²³². However, the final decision remains in the Prosecutor's hands²³³.

Speaking of the referral of a situation by a State Party, one must know that this option comes with constraints. In fact, when a State Party decides to do so, it is no longer possible for the former to limit the temporal and the material scope of the ICC jurisdiction. According to Manuel Eynard, only crimes committed after the entry into force of the treaty – on the 1st April 2015 for Palestine – will fall within the jurisdiction of the Court, and it will be no longer possible to focus the attention of the Court on a precise issue²³⁴. Likewise, once the procedure is triggered, there is no going back. Aware of the fact that this move could impact the peace process but also bring its own citizens to the ICC, Mahmoud Abbas and the PA delayed the ratification of the *Rome Statute* – regarding it rather as a diplomatic leverage in bilateral negotiations than a first-choice strategy²³⁵. Nevertheless, the ICC path is no longer seen as a last resort strategy, but as a strategy, which will bring back justice and accountability « should all other routes of negotiation to achieve the stated objectives fail »²³⁶.

Discussing which possible crimes the ICC Prosecutor will focus on, David Bosco argues that his attention will turn towards Hamas rockets' strikes towards Israel and its use of civilians as shields as well as the placement of military equipment in civilian facilities²³⁷. As Israel might be prosecuted for its conduct in Gaza, Bosco nuances it as « the former will be able to demonstrate that it was targeting Hamas operatives and fighters »²³⁸. However, the major issue for Israel is not its conduct in the Gaza wars but its settlement policy in the occupied territories as senior officials might be prosecuted for setting it up and contributing to it²³⁹.

²³² International Criminal Court, *Rome Statute of the International Criminal Court*, 17 July 1998, article 53§3(a), https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf (last consultation 3 June 2017)

²³³ Eynard, M., *op.cit.*, 2016, p. 115.

²³⁴ *Ibid.*, p. 100.

²³⁵ Cadman, T., « The ICC, Israel, and Palestine - The Time Has Come The Walrus Said To Talk of Many Things », *Toby Cadman*, 28 October 2014, <http://tobycadman.com/the-icc-israel-and-palestine-the-time-has-come-the-walrus-said-to-talk-of-many-things/> (last consultation 4 June 2017)

²³⁶ *Ibidem*.

²³⁷ Bosco, D., « Palestine in the Hague: justice, geopolitics, and the International Criminal Court? », *Global Governance*, vol. 22, n°1, 2016, pp. 159-160.

²³⁸ *Ibid.*, p. 160.

²³⁹ *Ibid.*, p. 161.

b. The International Court of Justice (ICJ)

Within the framework of its « legal offensive », Palestine could be tempted to become a member of the Statute of the ICJ. Nevertheless, as Palestine is not a member of the United Nations, becoming a party to the latter involves the participation of the SC as stated in the article 93 of the *Charter of the UN*: « A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council »²⁴⁰. As seen in this chapter, the Security Council Admission Committee did not reach an agreement regarding the article 4§1 of the *Charter of the UN* – thus reflecting the lack of consensus within the SC with respect to Palestine. According to us, the same political reasons that impeded Palestine to gain full UN membership will prevent it to become a State Party to the Statute of the ICJ. Therefore, this section will not address Palestine's attempt to become a member of the ICJ. Rather, we will address Palestine participation at the ICJ through its advisory proceedings and its contentious cases.

Regarding the advisory proceedings of the ICJ, it is interesting to point out that States cannot ask an advisory opinion from the ICJ. Indeed, it is not one of their prerogatives but one of the GA's or the SC's as stated in the article 96§1 of the *Charter of the UN*. Nevertheless, according to Paolo Palchetti, States having an interest in doing so may be the sponsors of a draft resolution in the GA or the SC – pressuring their peers to adopt the resolution leading to a request for an advisory opinion of the ICJ²⁴¹. While the draft resolution must be submitted by a Member State of the GA, nothing impedes that it be cosponsored by a quasi-State, which is not a UN member such as Palestine as it was the case in 2004 with *the Construction of a Wall in the Occupied Palestinian Territory* case. The participation in the advisory proceedings, however, is another question as the article 66§2 of the Statute of the ICJ reserves it to States²⁴². Nonetheless, through its practice, the Court invited quasi-States to participate in the proceedings. Whether it was in 2004 in which Palestine's participation was justified by its special observer status or in 2008 where the authors of the unilateral declaration of independence of Kosovo were invited to provide information on the matter, the Court invited quasi-States even though they were not considered as such by consensus.

²⁴⁰ United Nations, *Charter of the United Nations: Chapter XIV The International Court of Justice*, San Francisco, 26 June 1945, p. 17, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (last consultation 5 June 2017)

²⁴¹ Palchetti, P., « La participation de la Palestine à la Procédure devant la Cour Internationale de Justice », in T. Garcia (ed.), *La Palestine : d'un Etat non membre de l'Organisation des Nations Unies à un Etat souverain ?*, Paris, Editions Pedone, 2016, p. 80.

²⁴² International Court of Justice, *Statute of the International Court of Justice, article 66§2*, 18 April 1946, http://legal.un.org/avl/pdf/ha/sicj/icj_statute_e.pdf (last consultation 5 June 2017)

Although the Court seems to accept the participation of quasi-State to the advisory proceedings, the recent elevation of Palestine's status by the GA appears to have strengthened its position as a potential participant within the meaning of the article 66. As this status upgrade does not guarantee that Palestine fits the article 66, it remains to be seen « whether a limitation on the participation of Palestine will arise in the light of the subject-matter of the question submitted to the Court »²⁴³.

Another way for Palestine to participate in the ICJ is through another procedure, the contentious cases. In the case of Palestine, as aforementioned, being a State Party to the Statute of the ICJ will not be possible due to political reasons. Consequently, there is no way the SC will rule in favour as the US is strictly opposed to it for example - the latter being in possession of a veto right. However, under certain conditions laid down by the SC, it is possible for States, which are not party to the Statute to use the Court²⁴⁴. This leads Dapo Akande, former adviser on international law issues to UN bodies, to state that « Palestine would not need to get specific authorization to use the ICJ » as the SC did lay down general conditions that must be met by the non-parties in 1946, in its resolution 9²⁴⁵. According to Paolo Palchetti, the fact that Palestine could use the ICJ if it makes this declaration is not the most interesting one. Indeed, what matters is that the ICJ will be competent to determine if the entity that made the declaration is a State or not – taking away this privilege from the political entities of the UN²⁴⁶. Although the parties to the Statute could object to the validity of the Palestine's declaration, the fact remains that it is the Court that will decide, and only when the case will be brought before it²⁴⁷.

Consequently, it appears that Palestine's participation in the contentious cases is not impossible, but strewn with obstacles contrary to its participation to the advisory proceedings. Therefore, limits to the use of the Court by Palestine are significant, making it unlikely that Palestine could trigger a prosecution against the State of Israel. Nevertheless, as demonstrated above, Palestine is fully able to use the ICC to prosecute senior officials for war crimes for example, a tool David Bosco, regards as « a particularly potent one for altering the diplomatic dynamic »²⁴⁸.

²⁴³ Palchetti, P., *op.cit.*, 2016, p. 84 (own translation).

²⁴⁴ International Court of Justice, *Statute of the International Court of Justice, article 35§2*, 18 April 1946, http://legal.un.org/avl/pdf/ha/sicj/icj_statute_e.pdf (last consultation 5 June 2017)

²⁴⁵ Akande, D., « Palestine as a UN Observer State: Does this Make Palestine a State? » *EJIL: Talk!*, 3 December 2012, <https://www.ejiltalk.org/palestine-as-a-un-observer-state-does-this-make-palestine-a-state/> (last consultation 5 June 2017)

²⁴⁶ Palchetti, P., *op.cit.*, 2016, p. 86 (own translation).

²⁴⁷ *Ibidem*.

²⁴⁸ Bosco, D., *op.cit.*, 2016, p. 155.

SUMMARY OF THE FIRST PART

As this first part comes to an end, that the second one will address our case study, we deem important to go through the main findings we addressed.

In the first chapter, our attention focused on whether Palestine had the right to exist as a State or not. Based on an historical overview of Palestine's quest for recognition as a State, we attempted to demonstrate that Palestine's historical background worked in favour of Palestine's quest for recognition as a State. This was further developed through legal aspects as this entire part, but also this thesis, confers a major role to law in general, international law in particular. Therefore, we not only relied on a historical overview to determine whether or not Palestine had the right to the status of State but we also proceeded to an analysis of Palestine on the basis of the Montevideo Convention. The latter providing the qualifications « the State as person of international law should possess »²⁴⁹ to be recognized as such, we helped ourselves with the literature available on the subject to verify if Palestine's fulfillment of the Montevideo criteria was effective or not. What comes out from this analysis is that Palestine does fulfill the four criteria defined by international law: the territory, the population, the government and the capacity to enter into relations with other States. Although some might argue that the government criterion is not fulfilled as it is not effective, not only did we provided arguments that go against this statement but we also insisted on the fact that the lack of effectiveness resulting from Israeli occupation cannot be taken into account as the latter is illegal and does not affect the quality of the Palestinian government.

In the second chapter, we took an interest in the question of recognition in general but also applied to the Palestinian case. As we started by explaining that recognition gained importance over the years, we put the emphasis on how recognition is conceived in its modern view but also which theory we chose to rely on when approaching such question. Addressing the recognition process, we thus pointed out that we considered it as a political act as it does not create any legal status but relies not only on a State's desire to be recognized but also on the acceptance of other States to consider the former as one of them. The State of Palestine having been recognized by more than a hundred States over the world, we then looked into who did and did not recognize it in the EU. As Sweden is the only EU member who did recognize Palestine after it joined the Union, we ask ourselves why and how could we explain EU position on the matter. We came to the conclusion that the EU did not have any established procedure and criteria to determine if the Union could recognize an aspirant to

²⁴⁹ Pan American Union, *Montevideo Convention on the Rights and Duties of States*, 26 December 1933, article 1, p. 2, <https://www.ilsa.org/jessup/jessup15/Montevideo%20Convention.pdf> (last consultation 5 August 2017)

the status of State or not. Consequently, our attention turned to the possible alternatives to the absence of an EU recognition procedure to end up with the late 2014 European Parliament resolution which calls for a peaceful end to the Israeli-Palestinian conflict and « supports in principle recognition of Palestinian statehood »²⁵⁰.

In the third and last chapter of the first part, we took a close look at the internationalization of the Israeli-Palestinian conflict. As we noticed that the Palestinian leadership had operated a change of strategy, we sought to understand why this change occurred and in what it consisted in. The bilateral negotiations being on a standstill, it comes out that the Palestinian leadership chose the international path so as to unlock the situation. Moreover, it appears that the Palestinian leadership legal offensive – as this internationalization's novelty is characterized by its focus on international law – was planned and relies on an attempt to join international organizations so as to equip itself with additional legal tools and rights it might use to support their cause and achieve statehood. Naturally, this strategy is hardly restful, as the PNA's new strategy does not win unanimous support among the international community as we observed States' opposition to Palestine membership to multilateral treaties such as the *Rome Statute*. Nonetheless, what we found out is that progress was made as Palestine not only became a non-member observer State of the UN but also became a member of international organizations such as UNESCO or the ICC. Yet, it remains that the path to statehood is not a bed of roses and Palestine will have to strive for its cause before an international community which views on the issue is not uniform.

²⁵⁰ European Parliament, « European Parliament resolution on recognition of Palestine statehood », 17 December 2014, <http://www.europarl.europa.eu/news/en/press-room/20141212IPR01105/european-parliament-resolution-on-recognition-of-palestine-statehood> (last consultation 12 August 2017)

PART TWO: CASE STUDY: SWEDISH FOREIGN POLICY'S INVOLVEMENT IN THE ISRAELI-PALESTINIAN CONFLICT

A. CHAPTER I: SOCIAL DEMOCRATS' FOREIGN POLICIES UNTIL LATE SIXTIES

Before addressing the period that matters for our case study, it is important to review Swedish foreign policy's previous history. As one of our hypotheses states that the arrival to power of Olof Palme at the head of the Swedish Social Democratic Party in 1969 has constituted a major turning point regarding Swedish Middle Eastern policy, this chapter will provide us leads to see if this hypothesis is correct or false.

Based on the literature on the subject, it seems that Sweden's involvement in the conflict began in 1947 with its participation in the United Nations Special Committee on Palestine (UNSCOP). According to Jacob Abadi, Sweden's representative Emile Sandstrom « fulfilled an important role in the political efforts to find a solution to the Arab-Israeli conflict »²⁵¹. As the result of the UNSCOP work was the UN Partition Plan, that Sweden supported it, it appears that Sweden was rather favorable than against the establishment of the State of Israel. Moreover, as the Arabs were hostile to this plan and did everything to put an end to it, Swedish reaction to this move depicted a pro-Jewish attitude.

However, the assassination of Count Bernadotte on the 16th September 1948 complicated the relations between the two States. Indeed, as the Swedish diplomat appointed UN mediator for Palestine did not secure an extension of the ceasefire from the Arabs but also regarded the UN Partition Plan as an error that should have been replaced by a unitary State, the former was gunned down by the Lehi, a militant Jewish nationalist organization²⁵². Not only did Swedish authorities criticize Israeli investigation of the murder but it also abstained on Israel's admission vote to the GA in 1949. Nevertheless, as much as Sweden showed its discontent internationally, the Swedish ambassador to the UN invited the other Member States not to use Count Bernadotte's assassination as an argument against Israeli membership²⁵³. Rather than a vote against Israeli membership, this abstention was a signal to the former that Sweden will not recognize it until a proper investigation was conducted.

²⁵¹ Abadi, J., « Sweden's Policy Toward Israel: Constraints and Adjustments », *Middle Eastern Studies*, vol. 37, n° 2, 2011, p. 25.

²⁵² Eriksson, J., *Small-State Mediation in International Conflict. Diplomacy and Negotiation in Israel-Palestine*, London/New-York, I.B. Tauris, 2015, p. 49.

²⁵³ *Ibidem*.

Following this satisfactory investigation came Sweden de jure recognition of Israel on July 12th July 1950 and their bilateral relations became friendly again²⁵⁴.

While relations between both States were empowered by the fact that they were both stable democratic states, by the close relationship between their labour movements and the solidity of their trade relations, « the 1956 Suez crisis [...] did evoke a critical reaction from Sweden at the UN and dented the goodwill that had been accumulated up until then »²⁵⁵. While acknowledging the provocations that Israel was facing in the region, Sweden rejected its right to preventive war as a means to deal with them. Consequently, Sweden chose to advocate for a negotiated solution to the Arab-Israeli conflict, rejecting any military solution to it. According to Jacob Eriksson, this intervention not only « reflected the anti-colonialism that would become the flagship of Swedish foreign policy » but also depicted Sweden's desire « to reinforce the principles enshrined in the UN charter regarding the non-use of force »²⁵⁶.

As much as sympathy for the Israeli situation in the Middle East was demonstrated in the following years, Jacob Abadi considers that tension in the bilateral relations became obvious in the early 1960s as Dag Hammarskjöld became in charge of Israel and Egypt mediation regarding Israel's freedom of navigation in the Suez Canal²⁵⁷. While Swedish-Israeli bilateral relations were generally excellent until 1967, what we can notice is that the Suez Crisis aroused Sweden's interest to strengthen its ties with the Arab States. Indeed, Hammarskjöld reluctance to increase the pressure on Nasser was not innocent, nor the fact that Swedish officials refrained from overt expressions of sympathy towards Israel²⁵⁸. It was part of a cautious diplomacy in which Sweden opted for a rapprochement with Arab countries, one that could have been damaged by overt commitment to Israel. As much as Sweden avoided overt commitment to either party, it also decided to avoid overt criticism and apportioning blame for the start of the Six Day War in 1967 in order not to jeopardize the chances of a peaceful resolution to the conflict²⁵⁹.

However, the end of the war marking the onset of the Israeli occupation, and the rise to power of Olof Palme put to an end the cautious diplomacy. As a result, Swedish foreign policy « gradually begin to shift away from its traditional pro-Israeli leaning to an increasing

²⁵⁴ Abadi, J., *op.cit.*, 2011, p. 27.

²⁵⁵ Eriksson, J., *op.cit.*, 2015, p. 53.

²⁵⁶ *Ibidem*.

²⁵⁷ Dag Hammarskjöld, Swedish diplomat, was Secretary-General of the United Nations at the time. ; Abadi, J., *op.cit.*, 2011, p. 29.

²⁵⁸ *Ibid.*, pp. 29-32.

²⁵⁹ Eriksson, J., *op.cit.*, 2015, p. 54.

focus on the plight of the Palestinians »²⁶⁰. The transition to active neutrality was consummated.

While our first hypothesis states that *the arrival to power of Olof Palme at the head of the Swedish Social Democrat Party in 1969 was a major turning point regarding Swedish Middle Eastern policy*, this chapter does not provide us all the necessary information to answer it. Whereas a definitive answer to it will be provided at the end of the next chapter, it is nonetheless possible for us to state that this change was neither sudden nor abrupt as shown above. Indeed, the Social Democrats were in power since 1946 and did not have a similar policy over the years. Rather, it changed over the time from a pro-Israeli one to a policy, which is more sensitive to the problems of Palestinians. More details will be provided in the following chapter.

²⁶⁰ *Ibid.*, p. 55.

CHAPTER II: OLOF PALME AND THE ACTIVE NEUTRALITY

A. SWEDISH NEUTRALITY POLICY

First and foremost, it is important to understand that a neutrality policy does not mean that a country will not act in any circumstances. Rather, if we refer to the Swedish case, this neutrality policy meant in the past that Sweden would not join any alliance whether in times of peace or in times of war. Sweden was thus a non-aligned country in the Cold War, a country that chose not to be part of one bloc but to be free of any alliance. Often misunderstood, the concept of neutrality does not refer to passivity. Rather than passivity, the absence of an alliance allowed Sweden to exercise a completely independent foreign policy over the years. However, as noticed by Jacob Eriksson in his book *Small-State Mediation in International Conflict, Diplomacy and Negotiation in Israel-Palestine*, this neutrality became more active by the end of Erlander's term as described by the Foreign Minister at the time:

We are in the process of developing an active opinion on foreign affairs... Sweden's policy of neutrality has never meant passivity, and will do so even less in the future. On the contrary, we try – both within and outside the UN – to voice as actively as we can the values inherent in Swedish democracy that in our opinion are compatible with our responsibility for the vital interests of our people.²⁶¹

From this quote, it is possible to understand that Sweden's neutrality policy did not mean a lack of opinion on international matters. Rather, Sweden chose to remain neutral in order to be able to express its opinion and spread the values it believed in such as democracy, justice, peace and freedom. In a world in which a small-State such as Sweden could not compete with a super power in various fields such as military, it is not surprising that adherence to international law was a key element of Swedish foreign policy. By advocating international law as the regulator of the international system, Sweden not only aimed to strengthen its own security but also international peace and security by conferring an important function to international institutions such as the UN²⁶².

B. THE TURNING POINT

Appointed Prime Minister in 1969, Olof Palme took the helm and further developed Swedish foreign policy. As he considered that no matter its size, Sweden had a role and a responsibility to play internationally, Palme's active neutrality was focused on several key issues Sweden should not be silent on. Consequently, Sweden's foreign policy came to be characterized by an anti-colonial policy, its support for national liberation movements and the

²⁶¹ Yegar, M., *Neutral Policy – Theory vs. Practice: Swedish-Israeli Relations*, Jerusalem, Israeli Council on Foreign Relations, 1993, p. 49 cit. in. Eriksson, J., *op.cit.*, 2015, p. 56.

²⁶² *Ibid.*, 2015, p. 57.

rights of small States, the spread of democracy, the importance of international law and human rights, and the advocacy of the peaceful resolution of conflicts²⁶³. Therefore, Sweden got involved in different debates such as the Vietnam War. It also had an impact on Swedish Middle Eastern policy as the Arab-Israeli conflict was no longer viewed as a dispute between the Arab States and Israel but as a conflict in which the Palestinians were considered, « as a nation with legitimate rights to self-determination and statehood, and the PLO was recognized as their authorized representative »²⁶⁴. This change was further noticed in the international arena such as in the UN in which Sweden's vote depicted an increasing sympathy for the Arab States and criticized more Israel's actions.

As stated in the previous chapter, Swedish foreign policy was neither sudden nor abrupt. Rather, it changed over the years. What makes the rise to power of Palme so important is that it represents the change of leadership within the Social Democrats, not only in terms of the one who leads but also with respect to the ideas that Palme brought with him. These were not only his ideas but also the one of the new generation of the party, the one that Palme represented, the generation who began to challenge the old ideas of their predecessors regarding the Israeli-Palestinian conflict. Nevertheless, one must understand that Israel's criticism was justified by the key elements of Swedish foreign policy, especially the Palestinians' self-determination right. As much as Israel had the right to exist in peace, the Palestinians had to determine their own future by themselves too. In order to make it possible, Sweden pointed out the role of UN as it was considered as the only way to bring about a peaceful solution to the conflict, a solution based on legal texts such as Resolution No. 242. This leads Jacob Abadi to state that « Swedish foreign policy was based more on juridical than political consideration », an approach which had « inevitable consequences for its attitude towards Israel and the Palestinian question »²⁶⁵.

Therefore, what we can deduce from this is that Palme's era was innovative in that Palme's decision-making was primarily influenced by its ideas of what the world should be, a world in which core values in which he believed should be applied to everyone. Equality and self-determination, decolonization, justice through international law were objectives to reach and no political consideration could have gotten the upper hand on it. According to Ann-Marie Ekengren, Palme was effectively influenced by his ideas, the former used as roadmaps, as

²⁶³ *Ibid.*, 2015, p. 59.

²⁶⁴ Abadi, J., *op.cit.*, 2011, p. 33.

²⁶⁵ *Ibid.*, 2015, p. 34.

guidelines, which brought Palme to act on matters, related to them as they were providing a meaningful interpretation of reality²⁶⁶.

Knowing the importance of ideas for the Prime Minister, the fact that he considered that no men were free until the colonization was abolished, that every population had the right to decide what their destiny will be, it is not surprising that it is under Palme's mandate that Sweden began not to refrain on the Palestinian question. In fact, in the early 1970s, Swedish stance regarding the occupation was everything but cautious. Just as much as the Swedish Democrats were proud of Israel's achievement in terms of state-building and democracy, the occupation was perceived as the privation of the same rights to the Palestinians²⁶⁷. Far from having something personal against Israel, the Swedish government was rather striving for the rights of the oppressed as it had been the case previously when it took part in the Vietnam War debate. However, while Sweden was criticizing Israel's actions at the UN like it did in 1973 following the Yom Kippur War through its Foreign Minister Hans Krister Wickman, the orders were not to condemn one side as it was deemed counterproductive to a peaceful resolution. Similarly, Moshe Yegar observes that Sweden was used to abstain on most resolutions aiming to condemn Israel within the UN, especially when Arab States brought them in²⁶⁸.

Despite its criticism of Israel, relations between the two countries were rather cordial until November 1974. During an official visit to Algeria, Palme was presented to Arafat, which displeased the Israelis. The crisis between both States further escalated when Sweden voted in favour of inviting the PLO to the UN, casting the decisive vote at the SC on the 4th December 1975²⁶⁹. Reacting to domestic and international criticism, Palme argued that « all parties to the conflict must be involved in its resolution, that only by taking advantage of every sign indicating a willingness to compromise from both parties can one work towards a political solution »²⁷⁰. Consequently, this vote was not made to side with the Palestinians but to promote the dialogue between the concerned parties. Palme will sustain its momentum as leader of the opposition while addressing events such as the Israeli invasion of Lebanon in 1982. Indeed, as much as he was critical to PLO actions, Palme never stepped back to denounce serious breach of international law committed by Israel on that occasion. While many perceived Sweden's Middle Eastern policy as a consequence of the oil embargo

²⁶⁶ Ekengren, A.-M., « How Ideas Influence Decision-Making: Olof Palme and Swedish Foreign Policy, 1965-1975 », *Scandinavian Journal of History*, vol. 36, n°2, 2011, p. 128.

²⁶⁷ Eriksson, J., *op.cit.*, 2015, p. 71.

²⁶⁸ Yegar, M., *Neutral Policy – Theory vs. Practice: Swedish-Israeli Relations*, Jerusalem, Israeli Council on Foreign Relations, 1993, pp. 69-71 cit. in. Eriksson, J., *op.cit.*, 2015, p. 72.

²⁶⁹ Abadi, J., *op.cit.*, 2011, p. 36.

²⁷⁰ Speech, 22/11/1974. OPA – Series 2.4.0: Vol. 062 cit. in. Eriksson, J., *op.cit.*, 2015, p. 74.

following the Yom Kippur War, our research suggests that this reassessment and the increasing interest for the Palestinian cause take root in the fundamentals of Swedish foreign policy. Although Sweden's dependence on Arab oil could have had an impact on its policy, it cannot be considered as the sole reason that provoked it²⁷¹.

Many other events could be mentioned regarding Olof Palme era, such as the controversial invitation of Yasser Arafat by the Social Democratic Party in 1983 shortly after they came back to power. Unfortunately, the length of this work does not allow us to do so. However, an interesting fact to mention is that Palme left his mark on Swedish foreign policy as no reassessment of Swedish Middle Eastern policy took place while the Social Democrats were not in power but the Moderate Party from the end of 1976 to September 1982²⁷². Whereas one can argue that Sweden lost its impartiality and was no longer neutral during Palme's era, others argue that Sweden still benefit from its status as an impartial country with a legacy of mediation and peacemaking efforts in the Middle East²⁷³. Jacob Eriksson is one of them as he argues that the neutrality policy was not breached by Sweden while the former initiated contact with PLO and acknowledged the existence of the Palestinians as a people. According to him, this is the opposite as « it demonstrated a key function of the policy, which was that it enabled Sweden to have relations with anyone it wanted », adding that « true neutrality warrants relations with both parties to a conflict in order not to automatically appear allied with one side »²⁷⁴.

Coming back to our first hypothesis stating that *the arrival to power of Olof Palme at the Swedish Social Democratic Party in 1969 was a major turning point regarding Swedish Middle Eastern policy*, it is now possible for us to affirm that Palme's mandate as Prime Minister had a major effect not only on Swedish Middle Eastern policy but on Swedish foreign policy in general thanks to his personal ideals and values. Although Palme pointed out the fundamentals of Swedish foreign policy, it is yet relevant to nuance its impact as its actions were in continuity with the Party's previous policies. Nonetheless, Palme will remain as the one who prioritized the Israeli-Palestinian issue like no one did before in Swedish political history.

²⁷¹ Abadi, J., *op.cit.*, 2011, p. 46.

²⁷² *Ibid.*, p. 39.

²⁷³ *Ibid.*, p. 40.

²⁷⁴ Eriksson, J., *op.cit.*, 2015, p. 78.

This second chapter also provided us elements of a response to our second hypothesis stating *that the Swedish foreign policy with regard to the Israeli-Palestinian conflict cannot be explained only by economic and strategic reasons, but by the importance of the respect of the international law and human rights*. As we observed in this chapter, the increasing interest for the Palestinian cause did not appear as a result of the oil embargo but years before. According to us, Sweden's dependence on Arab oil was not the main reason that aroused Swedish interest into the Israeli-Palestinian conflict. Indeed, we deem that the importance of international law and human rights carried way more weight than any economic or strategic reason Sweden could have from a closer tie with the Arab States. Moreover, as we observed, Sweden never took sides overtly but nuanced its approach as often as possible because it valued more its image as an impartial country with a legacy of mediation and peacemaking efforts, as a non-aligned small-State acting as an intermediary between the weak and the powerful countries. Nonetheless, we remain open to other answers to this hypothesis as next chapters might provide other elements of a response to it.

CHAPTER III: STEN ANDERSSON AND THE QUIET DIPLOMACY

A. PROMOTING CONTINUITY IN SWEDISH FOREIGN POLICY

Following Palme's assassination in February 1986, Ingvar Carlsson became the new Prime Minister. Not having a particular interest for foreign affairs as its predecessor had, its Foreign Minister became the only one in charge. Close associate to Palme, Sten Andersson decided to perpetuate Palme's tradition. Just as Palme, Andersson was considered as a friend of Israel and its Labour Party before its policies began to harm this relationship. Indeed, despite what was uniting them, the occupation and the fate of the Palestinians tarnished it as Sweden decided to raise concerns about it internationally. Throughout its mandate, Andersson's objective was to refocus attention on a conflict the Swedes used to be active on but were not for years. Surrounding itself by other diplomats who were keen to follow this path, his first move occurred on the 28th November 1986 at the UN. During its address, the Swedish Ambassador to the UN Anders Ferm reminded its country position on the conflict to the international community: the need of a peaceful resolution to the conflict based on the 1947 Partition Plan²⁷⁵.

While the previous address to the UN was rather soft, Anders Ferm's speech on the 1st December 1987 was the opposite. In its intervention, the Swedish Ambassador to the UN mentioned that Sweden regarded Israeli occupation as « an unacceptable transgression of international law » as Israel was not complying with the fourth Geneva convention and failed to respect human rights in the occupied territories²⁷⁶. Sweden fearing that the occupation could lead to a *fait accompli*, this address was thus made to warn Israel that this kind of policy will do nothing more than make a solution to the conflict harder, that the solution to the conflict must be a negotiated one involving both sides at the table. As Ferm's speech triggered Israeli outrage, a debate was held in the Riksdag over the issue. The Parliament was wondering if this speech was reflecting government policy or not, to which Andersson replied that it was nothing more than « the continuation and the restatement of years of Swedish policy toward the conflict », that the only thing which changed was the sharper tone as Sweden and other countries' « statements and pleas regarding Israeli's refusal to respect [...] basic and extremely important principles of international law [...] have fallen on deaf ears »²⁷⁷.

²⁷⁵ Abadi, J., *op.cit.*, 2011, p. 42.

²⁷⁶ Eriksson, J., *op.cit.*, 2015, p.82.

²⁷⁷ *Ibid.*, p. 84.

Importance of international law, advocacy of a peaceful resolution of the conflict thus advocacy for dialogues among enemies are nothing else than Palme foreign policy's legacy. Consequently, Ferm's address was in accordance with the latter's as its content was no different from it. However, the way of dealing with Israel announced a change, especially after the Foreign Minister witnessed the consequences of the Intifada and decided to establish a secret task force intending to find a solution to the conflict: the *studiegruppen*²⁷⁸.

B. THE SWEDISH CONNECTION

1. Towards a US-PLO rapprochement

Convinced by the fact that discussions on the conflict should involve both sides, the *studiegruppen* had to determine how to allow the PLO to be admissible at the table. Its conclusion was thus that a dialogue had to be initiated between the US and the PLO, as it would prompt a change in US policy regarding the conflict, the US being regarded as the only actor that could influence Israel's stance on the conflict²⁷⁹. Indeed, as this dialogue was prevented since 1975 as US Secretary of State Kiesinger at that time « made a secret commitment to Israel that the US would not negotiate with the PLO unless it recognizes Israel's right to exist, accepts UNSC Resolution No. 242 and renounce to terrorism »²⁸⁰, this move was viewed as a game changer.

Although it was not a new idea, the initiative was now taken by a State, not by academics. Thanks to the relationship it had with PLO, its legacy of mediation and peacemaking efforts, Sweden's chances were higher than Rabie and Quandt's in the past. What was innovative was that Andersson approach was not only to facilitate an official contact channel between the PLO leadership and the US. It was also a question of organizing a dialogue between prominent American Jews with close ties to Israel, the former being viewed as a way to add pressure on the former to start a dialogue with the PLO²⁸¹. Not encountering a negative answer nor approval from US Secretary of State George Schultz, Andersson decided to carry on this initiative which led Swedish diplomats « to get everyone on board and reach agreement on the substance of the discussions » as the Swedish Foreign Minister was convinced that « American Jewish opinion had a crucial role to play » if one wanted to affect US attitude towards the PLO²⁸².

²⁷⁸ *Ibid.*, pp. 85-86.

²⁷⁹ *Ibid.*, p. 86.

²⁸⁰ Rabie, M., « The US-PLO Dialogue: The Swedish Connection », *Journal of Palestine Studies*, vol. 21, n°4, 1992, p. 54.

²⁸¹ *Ibid.*, p. 56.

²⁸² Eriksson, J., *op.cit.*, 2015, pp. 86-87.

At the end, the approval of Schultz was given to the Swedish envoy to Washington, Mattias Mossberg, to start a Jewish American-PLO dialogue, dialogue that would go through a complex diplomatic work which will end up with the Stockholm document in late 1988. This document, based on the Algiers declaration of the PNC which declared « its readiness to recognize Israel and to negotiate a political settlement on the basis of UN resolutions No. 242 and 338 and the right of the Palestinian people to national self-determination »²⁸³, was the result of further modifications in order to meet Israeli and US approval on its formulation – modifications resulting from a secret preparatory meeting held in Stockholm between American Jews and PLO representatives under the supervision the Swedes²⁸⁴. Unaware if Arafat would back the document, an official invitation was conveyed to the former by the Swedish government to discuss the matter in Stockholm. On the 6th December 1988, Arafat landed in the Scandinavian capital but was not pleased to notice that the letter supposed to ensure official American backing to the Jewish American delegation was not addressing Palestinian concerns as « it failed to mention such issues as the convening of an international peace conference, the exchange of land for peace, and recognition of the Palestinian right of self-determination »²⁸⁵. Consequently, a new round of negotiation was held by phone between Arafat and Shultz and their respective team that finally led to a statement on which the PLO could agree²⁸⁶. Once again, Swedish involvement was a key element to secure an agreement between both parties. It was also paramount when the US realized that the speech Arafat delivered the 13 December 1988 before the GA did not use the precise wording US agreed on. As a consequence, Swedish diplomats acted as the link between both parts in order to achieve the desired outcome: a speech delivered the next day by Yasser Arafat that would clarified its previous speech at a press conference in Geneva convened for the occasion²⁸⁷.

a. Taking a step back: why Sweden turned to be the perfect intermediary between the PLO and the US?

*[...] USA and the PLO wanted to initiate a dialogue, but serious mutual mistrust existed between them. In such a situation, a third party is required whom both parties trust implicitly. Both Shultz and Arafat took great personal risks during this process. They would not have dared to do so had they not trusted us completely.*²⁸⁸

²⁸³ Rabie, M., *op.cit.*, 1992, p. 59.

²⁸⁴ *Ibid.*, pp. 58-60.

²⁸⁵ *Ibid.*, p. 62.

²⁸⁶ *Ibid.*, pp. 61-63.

²⁸⁷ Eriksson, J., *op.cit.*, 2015, pp. 89-90.

²⁸⁸ Andersson, S., *I de lugnaste vatten {In the calmest waters, Swedish}*, Stockholm, Tiden, 1993, p. 379 cit. in. Eriksson, J., *op.cit.*, 2015, p. 90.

Based on this quote from Andersson, it appears that both sides were reluctant to trust each other, which rendered Swedish third party role as a key element in order to establish a dialogue. As mentioned by Andersson, both the US and the PLO decided to engage in a risky process because the mistrust they had towards each other was counterbalanced by the trust they both had in Sweden. Consequently, it is interesting to examine briefly from where comes this trust with regard to Sweden.

Small-State interested in the respect of international law, Swedish involvement in the peace process could not be defined by other interest than what characterizes its foreign policy. Aware of the fact that Sweden intervention in negotiating process can be explained by its historical relationship with both Israel and the PLO, its involvement can also be justified by its desire to come to support to a people it considered oppressed as much as to a country it viewed as a model for the region.

In addition to that, the US were aware of Foreign Minister Andersson's deepening commitment to the peace process following the first intifada he witnessed. As this commitment was illustrated by a spirit of initiative, Andersson was the one to suggest to the US that Sweden plays an intermediary role to achieve a US-PLO Dialogue. This idea was the fruit of the *studiegruppen* he created in order to find a solution to the status quo, to further the negotiations between Israelis and Palestinians. It was Andersson's close diplomats who obtained Schultz's green light to go on with the idea of a meeting between prominent American Jews and PLO representatives in order to come up with the Stockholm document, document that will go through further modifications before being endorsed by the PLO and supported by the US. Moreover, the fact that the negotiations were secret and that no American officials were part of it offered the opportunity to the US to deny any participation in case of failure and vice versa in case of success²⁸⁹. Furthermore, the relationship between Andersson and the PLO, and the trust resulting from it, was a consequence of Palme's policy in the past. Since then, the Palestinians were confident in what Sweden could achieve. Andersson was nothing else than the heir of Palme, a politician for whom the Palestinian cause was something he deeply cares about.

In other words, US and PLO's trust towards Sweden came from its spirit of initiative and its history that made it trustworthy of such a move. Both did not have to deal with anything but the negotiations as Sweden provided all it required for the smooth functioning of the meetings between the Jewish American delegation and the PLO representatives. As an intermediary between the concerned parties, Sweden's role was supposed to be no more than

²⁸⁹ *Ibid.*, p. 93.

a facilitative one – « a channel of communication among disputing parties focusing on ensuring continued discussion and dialogue »²⁹⁰. However, as we noticed previously, Sweden tended not only to have the role of facilitator but also the one of a formulator too as it was the case for Arafat's 14 December 1988 speech wording. Indeed, additionally to the former, Sweden was in the position of making or proposing suggestions to the parties in order to come up with a mutually acceptable alternative²⁹¹. Finally, one should know that Swedish involvement in the opening of such dialogue not only improved relations with the US – especially regarding Middle Eastern Policy – but also led to subsequent intervention in the US-PLO dialogue while the latter was on the edge of the crisis²⁹².

2. Passing the baton to the neighbor

Driven by the opening of US-PLO dialogue, a similar attempt was made regarding the Israeli Labour Party and the PLO. Through academic seminars, Andersson intended to promote dialogue among them by organizing discussions on the positive outcomes that might stem from a rapprochement but it did not produce the desired result²⁹³. However, later on, the Madrid Conference held in October 1991 did achieve significant progress as « American pressure had formally brought selected representatives to the table », but unfortunately, « it was not applied to force any concessions in the negotiations »²⁹⁴. Not only were the PLO representatives excluded on Israel's request but Eriksson argues that the Madrid Conference demonstrated that public peace process showed their limits as it was not the best framework to allow the disputing parties to have a real talk on critical issues. Advocating for facilitation mediation and quiet diplomacy as a better framework to pursue negotiations as Sweden used to do in the past, Eriksson yet notices that it was no longer possible for Andersson to do so as the Conservatives were back in power and chose to « conduct a more balanced policy » although « basic principles of Swedish policy did not change »²⁹⁵. However, Eriksson adds that Andersson anticipated what would happen in case of a defeat of its party in the 1991 elections – thus its departure as Foreign Minister – and make sure to pass the baton to a third party he trusted but also benefited from other parties' trust. Providing information on how to deal with the conflict and which role to take upon itself, Andersson thus passed the role of intermediary to its neighbor and fellow friends of the Norwegian Social Democratic Party

²⁹⁰ Beardsley, K.C., Quinn, D.M., Biswas, B., & Wilkenfeld, J., « Mediation Style and Crisis Outcomes », *The Journal of Conflict Resolution*, vol. 50, n°1, 2006, pp. 62-63.

²⁹¹ *Ibid.*, p. 63.

²⁹² Eriksson, J., *op.cit.*, 2015, p. 92, p. 94.

²⁹³ *Ibid.*, p. 95.

²⁹⁴ *Ibid.*, p. 96.

²⁹⁵ *Ibid.*, pp. 97-98.

with whom the Swedish Social Democrats shared a common history of cooperation regarding various areas – Middle Eastern policy being one of them²⁹⁶.

a. Oslo Accords

What is today known as the Oslo Accords did not start with a government initiative but rather the opposite. Indeed, the idea that led to the Oslo Accords started on the initiative of Terje Rod-Larsen through its think tank FAFO. Husband of a Norwegian diplomat called Mona Juul, the couple moved out in Egypt as the former was appointed there. Thanks to that, Larsen took the opportunity to conduct social research in the Middle East where personal relationships with senior Israeli and Palestinian officials were created as well as a better knowledge of the conflict acquired²⁹⁷. From this will arise the Oslo Channel, as Larsen initiative will also gain the support of the Norwegian authorities thanks to his wife's position.

Therefore, Larsen will be described by the Norwegian authorities as « responsible for liaising with the Israeli and Palestinian parties and co-ordinating with the Ministry of Foreign Affairs »²⁹⁸. In order to allow both parties to discuss important issues freely and without the pressure of public negotiation, Larsen initiative came up to be a secret back channel between Israeli academics and Palestinian officials under the supervision of a non-governmental organization– the idea being the possibility to deny any involvement for each side in case of a leak²⁹⁹. Consequently, the Norwegian mediation had nothing more than a facilitator role.

Nevertheless, the initiative gained in stature when a close friend of the Norwegian couple, Johan Jorgen Holst, became in charge of the Norwegian Ministry of Foreign Affairs and decided to play an active role in it. Not only did it help to steer the Israelis to include officials in its negotiation team but it also confirmed the high level of commitment to the channel from the Israeli and Palestinian leadership – Peres, Rabin and Arafat were in³⁰⁰. At the end, Holst role was paramount as it secured an agreement on the Declaration of Principles but also played an active role in the mutual recognition between Israel and the PLO³⁰¹. According to Jacob Eriksson, the only oil stain on Holst involvement was that he tried to pretend that the Oslo Accords were the product of Norwegian foreign policy only, not mentioning, « the historical background, the co-operation with the Swedes that had substantially brought the

²⁹⁶ *Ibid.*, p. 98.

²⁹⁷ *Ibid.*, p. 100.

²⁹⁸ *Ibid.*, p. 103.

²⁹⁹ *Ibid.*, p. 102-104.

³⁰⁰ *Ibid.*, p. 105-106.

³⁰¹ *Ibid.*, p. 107-109

Norwegians into the fold »³⁰². Nonetheless, Holst will be forced to rectify upon his Prime Minister's request.

b. Oslo's balance sheet: pros and cons

As the purpose of this work is not to focus on Norwegian foreign policy but Swedish one, we will not proceed to an exhaustive report of Oslo Accords. However, it is important to mention that these agreements marked the first era of bilateral negotiations between the PLO and Israel. As observed before, these bilateral talks were not public but secret so as to guarantee that critical issues were discussed in a propitious environment between the parties. In contrast to the Madrid Conference in 1991, Palestinian representatives were not part of another State delegation but were negotiating directly with Israel³⁰³. Ensuing from these secret negotiations were the Israeli-PLO Recognition Agreement and the signature of the Oslo Declaration of Principles by the chairman of the PLO, Yasser Arafat, and Israeli Prime Minister, Yitzhak Rabin³⁰⁴. Both texts were made public in September 1993. These negotiations also led to the Oslo Interim Agreement two years later, agreement which created the PNA, « a para-governmental entity with the authority to negotiate and to govern areas of the West Bank and Gaza evacuated by Israel »³⁰⁵.

While everybody seems to agree that Oslo main achievement was the mutual recognition of Israel and the PLO, a shared opinion is also present regarding Oslo content: it does not address core issues such as borders, settlements, refugees, security or even Jerusalem status. The deal was that these were subject to further negotiations in the next five years. Whereas the Oslo agreements were supposed to turn into permanent one, it did not as no enforcement mechanisms were provided³⁰⁶. While the Norwegians were given the task to mediate the talks by the Swedes, it was obvious that they would not be able to ensure the agreements enforcement. Having played the role of facilitator under Larsen's mediation and the role of formulator with the active role of Holst, the US should have been the one to make sure every party meets its commitments. However, the US failed to generate symmetry between the PLO and the Israelis as « there was little inclination to adopt a framework that they had not negotiated themselves »³⁰⁷. While Oslo is the living proof that Israelis and Palestinians can reach an agreement without American support, it remains true that its implementation

³⁰² *Ibid.*, p. 110.

³⁰³ Hijab, N., « Limitations of the Oslo Accords », *Socialism and Democracy*, vol. 16, n°2, 2002, p. 17.

³⁰⁴ Doulah, A., Shafee, M., « Review of Recommended Peaceful Projects and Contracts for Israeli-Palestine Conflict in Terms of International Rights », *Journal of Politics and Law*, vol. 9, n°6, 2016, p. 157.

³⁰⁵ Mock, S., Obeidi, A., Zeleznikow, J., « A Brief Outline of the Israeli-Palestinian Conflict », *Group Decision and Negotiation*, vol. 23, n°6, 2014, p. 1258.

³⁰⁶ Doulah, A., Shafee, M., *op.cit.*, 2016, p. 158.

³⁰⁷ Eriksson, J., *op.cit.*, 2015, p. 115.

requires an international involvement that will constrain them to enforce them. Finally, what we can conclude from the US-PLO Dialogue and Oslo Accords mediation is that depending on the difficulty of the negotiation the mediators are confronted with, a combination of a coercive and a facilitation strategy can be the best option to deal with complex negotiation as both examples « demonstrated the importance of procedural aspects in difficult negotiations »³⁰⁸.

C. BACK TO THE NEGOTIATION TABLE: THE SWEDISH SAVOIR-FAIRE

As mentioned before, Oslo results were not as significant as someone could have wished for. Indeed, its main purpose was not to produce substantive results but mainly increase cooperation among the parties. The strategy was thus gradualism as the process was supposed to go step-by-step as a straightforward approach was unlikely due the consequences of decades of conflict. Rather than negotiating everything in one go, the strategy was to solve disagreements from the simplest to the most complex. Interim agreements were thus considered as way of consolidating cooperation between the parties, as negotiations were ongoing. A final agreement on the Israeli-Palestinian conflict would then be negotiated after both sides would agree on the core issues - issues that would be addressed at the end, as hope was that it would be easier with their joint cooperation experience.

However, to use a metaphorical example, nobody would be able to survive for such a long period of time with open wounds: no one is immune to a serious infection. Consequently, the wait and see strategy should not have taken that long as patience has its limits – especially for the spoilers among each population. Indeed, as each side is composed of different political sensitivities, not everybody will necessarily see the peace process as a good thing as they could believe « that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it »³⁰⁹. Aware of that and afraid that the process he helped initiate would be buried, Israeli Deputy Foreign Minister Yossi Beilin decided to travel to Tunis shortly after the Accords were concluded. Discussions were held between Israelis and Palestinians which resulted in a joint proposal for a secret channel in mid-1994, a proposal submitted to Sweden and accepted by it as the Conservative government felt that « Oslo breakthrough should have been Sweden »³¹⁰. Indeed, despite the Swedish general election getting closer, the Conservatives' feeling was that they should have followed the Social Democratic tradition of active involvement in the Israeli-Palestinian conflict back in 1991 and that « this initiative jointly authored by Israeli and Palestinian

³⁰⁸ *Ibid.*, p. 117.

³⁰⁹ Stedman, S.J., « Spoiler Problems in Peace Processes », *International Security*, vol. 22, n°2, 1997, p. 5.

³¹⁰ Eriksson, J., *op.cit.*, 2015, pp. 123-124

academics to advance thinking on final status » could not be missed³¹¹. As it was a joint initiative, Sweden would not be considered as favoring one party or another, neither his relations with the Israelis nor the PLO's would be undermined by such a move.

1. Swedish Democrats' victory: Andersson's comeback

As a consequence of the Conservatives' loss in the September 1994 Swedish general election, Beilin had to make sure Swedish agreement over the secret back channel was still on the table. Contacts were made with the Social Democrats to ensure their commitment to the initiative. However, as the new Foreign Minister Lena Hjelm-Wallén did not feel confident to supervise the talks due to her lack of experience with regard to the Israeli-Palestinian conflict, Andersson was chosen to do so first as an official government's envoy then as chairman of the Olof Palme International Center – a non-governmental sponsor which would be able to allow the parties to deny any involvement in case of a leak as provided by the Oslo channel³¹². However, the latter proceeded in the opposite way, as it was firstly a non-governmental initiative. While it is arguable that both channels do have similarities, differences remain as Stockholm talks had a greater symmetry, as it was a dialogue between academics of both sides in order to work on an agreement on final status that would be then submitted to their political representatives. In contrast, the Oslo channel was a negotiation between the PLO representatives and Jewish Americans that had nothing to do with political function except their close ties to Israel and the influence they could trigger on US policy. Although the Stockholm group was solely composed of academics, it appears that the initiative was political since its onset as each part benefited from a political anchoring in the person of Arafat and Mahmoud Abbas for the Palestinians, and Beilin for the Israelis – the latter deciding not to inform Prime Minister Yitzhak Rabin and President Shimon Peres for fear of them ending it³¹³.

a. The Beilin-Abu Mazen Understandings: history of a missed opportunity

Similarly to the Norwegians' role in the Oslo channel, it appears that the Swedes were « responsible for the logistics, accommodation, and all other arrangements the talks required », providing assistance when it was required but making sure that their role reflected the parties' needs and requests³¹⁴. As secrecy was the key to success in such discussions, the

³¹¹ *Ibidem*.

³¹² *Ibid.*, pp. 125-126.

³¹³ Eriksson, J., « Israeli Track II Diplomacy: The Beilin-Abu Mazen Understandings' », in Jones, C. and Petersen, T. (eds.), *Israel's Secret Diplomacies*, London, Hurst & Co., 2013, pp. 210-214.

³¹⁴ Eriksson, J., *op.cit.*, 2015, p. 128.

suspicion of leak due to a newspaper article in early 1995 planted seeds of doubt to whether the talks should continue or not. Doubt was dispersed shortly after it came up that the article referred to the previous meeting between Beilin and Nabil Shaath in Stockholm, which led to the end of parallel talks but the academics' one³¹⁵.

After months of talks under the Swedes' supervision, the former making sure that things were running smoothly between the academics, the final version of the document ensued on the 1st November 1995 but Prime Minister Rabin never had the chance to read it as he was assassinated days before the Beilin-Abu Mazen Understandings were due to be presented to the Israeli leadership by the Israeli team³¹⁶. Succeeding to Rabin as Prime Minister of Israel, Peres refused to use the document arguing that the context was not optimal to make such a move as it would further divide a society which just suffered a major trauma – thus advocating for the gradualism strategy rather than moving to permanent status³¹⁷.

Whereas Beilin and the academics thought that the document should be included in the Labour Party program for the upcoming elections, as it would have provided a strong signal that peace was within sight, Peres thought the opposite and put an end to the Stockholm document. This decision thus rendered the document's status as « a consultative paper, to which neither side was committed and which neither side rejected out of hand, which could resurface at some time in the future as a first draft and a basis for negotiation, if and when such negotiation should begin »³¹⁸.

As both parties agreed not to make public the Beilin-Abu Mazen Understandings, the mistrust increased between them following the publication of an article in *Haaretz* disclosing information on the secret talks in February 1996 by Ze'ev Schiff³¹⁹. Not only both sides attempted to shift the blame onto the other as to reduce the damage on their respective credibility but it also happened only three months before the Israeli general election of 1996, giving some leverage to Likud's candidate Netanyahu to portray Peres and the Labour Party as traitors to the nation³²⁰. As much as back channel negotiations in the Israeli-Palestinian conflict were paramount, Netanyahu took advantage of one of its drawbacks. Indeed, whereas this type of channel « offers parties the freedom to consider multiple problems that may seem

³¹⁵ *Ibid.*, p. 131.

³¹⁶ Eriksson, J., *op.cit.*, 2013, pp. 216-217.

³¹⁷ Wanis-St. John, A., « Back Channel Negotiation: International Bargaining in the Shadows », *Negotiation Journal*, vol. 22, n°2, 2006, p. 135.

³¹⁸ Beilin, Y., *Touching Peace: From the Oslo Accord to a Final Agreement*, London, George Weidenfeld & Nicolson, 1999, p. 184.

³¹⁹ Eriksson, J., *op.cit.*, 2013, pp. 209.

³²⁰ *Ibid.*, pp. 218-219.

intractable in a more public forum »³²¹, the hidden process requires the preparation of the public opinion to its result – the latter rendered impossible by the leak and Netanyahu’s campaign built on the opposition to the peace process. Leading to the defeat of the Labour and the advent of the right to power in Israel, it remains that « the Stockholm talks were the first real effort to firmly establish principles of final status, and a number of the ideas that originated there remain part of a realistic foundation for any future peace agreement »³²² as it addressed core issues such as Jerusalem, land swaps and so on – conditions that could lead to a two-States solution in which both communities would be allowed to live in peace and security with their neighbours. As the Stockholm document is considered as the landmark of every negotiation since then, Sweden’s facilitator role in the talks remains an important factor in the Israeli-Palestinian conflict history.

D. PUTTING THINGS INTO PERSPECTIVE: IS THE SWEDISH INVOLVEMENT ONLY ABOUT MEDIATION BETWEEN THE PARTIES?

As we observed before, 1994 was the advent of the Israeli-Palestinian conflict as a national foreign policy priority, a policy beyond cleavage as it was considered as part of the Swedish foreign policy DNA following the handover of the Stockholm group initiative from the Conservatives to the Social Democrats. Even though both parties do not address the conflict with the same tone, it remains that they share the idea that Sweden must be active in it no matter what.

In fact, with characters such as Olof Palme in the past or Andersson in the chapter which we are currently addressing, Sweden took benefit of their political capital to further advance the peace process – whether they were in charge of a ministry or not. Throughout its history, Sweden took care of using all the assets it had to strengthen its role as a valuable player. Having the ability to serve as a bridge between the Arabs and the Israelis thanks to its relationship with Arafat and the PLO, Andersson was chosen as the official government envoy on matters pertaining to the Middle East peace process, as it would act as a third-party mediator³²³. Aware that the Arabs would have viewed any initiative from Israel as suspicious, Sweden made sure to fill the void as its foreign policy history spoke from itself.

Nevertheless, Sweden’s role did not solely consist in supervising the talks between the parties. Identifying the parties’ needs – respectively security for Israel and self-determination for the Palestinians– were also made through various actions so as to secure the proper functioning of the talks – whether secret or not. Aware that the public opinion had to be

³²¹ Wanis-St. John, A., *op.cit.*, 2006, p. 128.

³²² Eriksson, J., *op.cit.*, 2015, p. 137.

³²³ Eriksson, J., *op.cit.*, 2015, p. 138.

diverted from extremism but also fostered to support the fragile peace process, Swedish foreign policy was also composed of foreign aid. Consequently, Sweden contributed « to improve the standard of living in the occupied territories », « to the development of government institutions and democratic structures for self-rule », « to economic development and job creation by developing infrastructure », « to encourage the development of a democratic society with increased respect for fundamental human rights » but also « to support the multilateral aspect of the Madrid process by acting as shepherd for issues regarding the welfare of Palestinian children »³²⁴.

However, despite the aforementioned actions and Swedish involvement in international forums such as the EU and the UN to find a solution to this long-lasting conflict, the arrival of Netanyahu to power and its focus on security appeared to put a standstill to this achievement³²⁵. Terrorism attacks were used to discredit the PNA, the peace process portraying as sullied by Israelis blood.

As relations between the Swedish Democrats and the Likud were everything but comparable to the ones they had with the Labour, the Swedes came to doubt whether they should « continue to prioritize communication facilitation and mediation, or increasingly try to shape international opinion by adopting a more outspoken public profile »³²⁶. Decision was made that not only foreign policy will continue to be characterized by foreign aid, political support, international law and human rights but also that Sweden will not choose one direction but apply both.

Applying both the top-down and the bottom-up approach was justified by the belief that peace process was not only considered as a discussion between the respective authorities but also required the involvement of the public opinion. This brings us to observe that Swedish foreign policy in the Middle East can be considered as a nearly complete mediation approach. Moreover, with its outspoken criticisms of the parties' actions, whether it is Hamas' terrorism or Israel's settlement policy, Sweden also tried to increase the international community role in the conflict – whether by voicing its opinion in the UN arena or attempting to build an EU united policy on the matter. However, as Eriksson noticed, neither Sweden nor the EU played a major role in the late 90s and early 2000s. Addressing EU role, Eriksson shares the opinion « that the EU lacked the necessary prerequisites, both political and organizational, to play an effective role » as the nomination of a EU Special Representative for the peace process did

³²⁴ *Ibid.*, pp. 140-141.

³²⁵ Mock, S., Obeidi, A., Zeleznikow, J., *op.cit.*, 2014, pp. 1258-1259

³²⁶ Eriksson, J., *op.cit.*, 2015, p. 149.

nothing more than give the illusion that the EU could sway it³²⁷. Neither of them had the leverage to compel Israel to change its policy, but the US.

This chapter coming to an end, it is now the time to address how its contents provide us information to verify our hypothesis. As the former depicts Swedish involvement in the Israeli-Palestinian conflict as the continuity of its foreign policy, we deeply think that what has been said regarding our second hypothesis in the previous chapter is strengthened by it. As much as it is possible to assert that economic factors played a role in Sweden's decision to get involved in the Middle East, it remains that well-established principles of international law on which Swedish foreign policy is founded on are more significant.

Our third hypothesis, stating that by *favouring the rapprochement between the PLO and the United States, Sweden did not only pave the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis* can also be answered at the end of the third chapter of this case study. Indeed, as we not only addressed the role of the Swedes in the US-PLO Dialogue but also the fact that the Oslo Accords resulted from Andersson initiative to pass the torch to its fellow colleagues of the Norwegian Social Democratic Party as he feared its party will lose the Swedish general election, it is possible for us to put two and two together.

As the US-PLO Dialogue led to a major change in US policy as it normalized the idea of having the PLO at the negotiation table, it comes to light that the Swedish back channel was the living proof that progress in the Israeli-Palestinian conflict could be made even though it involved secrecy before coming public. Indeed, as the Madrid Conference did not bring concrete result, as it was hardly possible for the parties to make concessions or address core issues in public for various reasons aforementioned, Swedish mediation example appeared to be a model for the upcoming discussions. The parties realized that they were not in need of advice from third parties but a proper environment to discuss their disagreements – conditions provided to the Jewish Americans and the PLO representatives during the US-PLO Dialogue. Although the Oslo Accords features are different from the latter, it remains that its spirit was inspired by it. An additional element that makes us think that Swedish mediation of the US-PLO Dialogue was a fundamental element in the peace process is that Oslo Accords were followed by an Israeli-Palestinian joint proposal to the Swedes. This proposal requesting the establishment of a secret channel under the supervision of the Swedes was not due to settle for a gradualism strategy but to carry on the discussion regarding the final status. Furthermore, the proposal was authored by academics but backed by both Israeli and

³²⁷ *Ibid.*, p. 156.

Palestinian officials. Although the Beilin-Abu Mazen Understandings did not achieve this end, the former is the evidence of Sweden's contribution to the sustainability of dialogue between Israelis and Palestinians.

CHAPTER IV: GÖRAN PERSSON'S BACKTRACK POLICY

A. THE U-TURN

1. After the calm comes the storm

Following Ingvar Carlsson's decision to withdraw from the political life in August 1995, Göran Persson became the new President of the Social Democrats and the new Prime Minister of Sweden in early 1996³²⁸. Having a different analysis from the Israeli-Palestinian conflict than his predecessors, Swedish Middle Eastern Policy yet remained unchanged until the 26 April 1998. Indeed, despite Persson's personal opinion that Swedish foreign policy was unbalanced in favour of the Palestinians, nothing was done to change it before the former delivered a speech on the occasion of Israel's fiftieth anniversary³²⁹. The latter being held in Stockholm, its contents « caused consternation within the Foreign Ministry » as it was not only paying no heed to « fundamental tenets of Swedish foreign policy towards the Israeli-Palestinian conflict » but also gave the impression that the Prime Minister's office had a different agenda than Lena Hjelm-Wallén's Ministry for Foreign Affairs regarding the conflict³³⁰. Subsequent to the September 1998 general elections and the withholding of the Prime Minister function by Persson, the impression soon became reality and a major recalibration of Swedish foreign policy took place. As the latter marked a return to the party's stance from the 1950s and 1960s prior to the onset of the occupation, the sole similarity it had with Olof Palme era was that « foreign policy was no longer the exclusive domain of the Foreign Ministry but heavily influenced by the Prime Minister's office »³³¹.

2. Early retirement for the Stockholm group?

While it is crystal clear that Persson's U-turn would not allow Palme's legacy subscribers such as Andersson to influence Swedish foreign policy as they did in the past, it is interesting to ascertain if Persson's move prompted an end to the Stockholm group activities or not. As we pointed out in the previous sections that OPIC was a non-governmental organization, our first guess was that it would not prevent the continuation of the talks between the academics under the supervision of the OPIC, but merely undermine or deprive it from the Swedish government support.

³²⁸ Taylor & Francis Group, *The Europa World Year: Kazakhstan – Zimbabwe. Sweden*, Taylor & Francis, 2004, p. 4007.

³²⁹ Eriksson, J., *op.cit.*, 2015, pp. 165-167.

³³⁰ *Ibid.*, p. 167.

³³¹ *Ibid.*, p. 168.

As we were aware that the Stockholm group was based on the refusal of the gradualism strategy, we attempted to find out if this strategy was a success or not. As the question was focused on the period which followed Persson's speech, we looked at the latest negotiations after it, negotiations held at the Wye River Plantations in October 1998 which « produced agreements on further withdrawal of Israeli troops and renewed Palestinian commitments to prevent terror and incitement »³³². Whereas the parties firstly began to honor their commitments, it did not last long as the government of Netanyahu decided to stop its implementation in response to the Knesset announcement to host general election in late spring 1999³³³. As the gradualism strategy was based on the reciprocity, that the Palestinian party thus decided not to respect its part of the deal, the Wye River Memorandum ended up in failure.

Nevertheless, the May 1999 Israeli general election resulted in the victory of the Labour party and the ousting of Netanyahu and the Likud, Ehud Barak becoming the new Prime Minister of Israel³³⁴. As peace with the Arab world and the Palestinians was a top priority in Barak's agenda as it had been the case for previous Labour Israeli Prime Minister Rabin, a meeting with US President Clinton was organized the July 1999 in order to expound his peace strategy: Syria first, Palestinians then³³⁵. This choice was based on strategic concerns as Syria represented a greater threat to Israel's security due to its military capability, but the negotiations did not lead to an agreement between the parties³³⁶. Consequently, Ehud Barak turned his attention to the Palestinians and honored part of the Wye Agreements – the phase II of withdrawal of Israeli troops from the territories mentioned within the agreements – in order to demonstrate Israel willingness to negotiate the final status³³⁷. Open to every type of negotiations that would led to a final settlement, the Stockholm group thus presented an additional opportunity to do so as we will find out later on.

³³² Mock, S., Obeidi, A., Zeleznikow, J., *op.cit.*, 2014, pp. 1259.

³³³ Doulah, A., Shafee, M., *op.cit.*, 2016, p. 159.

³³⁴ Halperin, E., Bar-Tal, D., « The Fall of the Peace Camp in Israel: The Influence of Prime Minister Ehud Barak on Israeli Public Opinion – July 2000-February 2001 », *Conflict & Communication Online*, vol. 6, n°2, 2007, p. 3.

³³⁵ Bregman, A., « The Deal That Never Was », in Jones, C. and Petersen, T. (eds.), *Israel's Secret Diplomacies*, London, Hurst & Co., 2013, pp. 231-232.

³³⁶ *Ibid.*, pp. 231-240

³³⁷ Mock, S., Obeidi, A., Zeleznikow, J., *op.cit.*, 2014, pp. 1259.

3. A strategy to be established

As stated before, the advent to power of Ehud Barak was considered as the possibility of the revival of constructive negotiations as the former campaigned on the peace issue. Although Ehud Barak did not put an end to Israel's settlement policy when he took the reins of the Israeli Prime Minister's office, it remains that its outspoken desire to achieve a final settlement brought optimism on the Arab camp as Ehud Barak was not considered as refractory to any concession as Netanyahu was.

At the occasion of the sixth anniversary of the Declaration of Principles, a meeting was held in Oslo that reunited its three protagonists – at the exception of Rabin, which was replaced by Barak. Obviously, the tripartite meeting was not organized to simply celebrate bygone agreements or reaffirm their commitment to it. A major announcement was also made as the talks resulted in the inauguration of the official final status negotiations as well as the parties' agreement on the establishment of a secret back channel in parallel to public negotiations³³⁸.

However, while both sides agreed on the necessity of a secret back channel, Abu Mazen – or Mahmoud Abbas – was opposed to a formal one as « he far preferred the resumption of the secret Track II format that had previously been used in Stockholm, a notion that had long been popular among Americans, Palestinians, and Swedes »³³⁹. This desire was further expressed during a meeting in Ramallah in late 1999 with the architects of the US-PLO Dialogue and Oslo, Andersson and Mossberg, as Abu Mazen « sought to replicate the original Stockholm group formula which had worked so well and, above all, remained secret for the duration of their original work »³⁴⁰. Knowing that the Americans held in high esteem the Stockholm group for its involvement in the US-PLO Dialogue opening, that both the Americans and the Palestinians had no objection to Sweden's participation to the establishment of a secret back channel but also that Sweden's relations with Israel improved, the only obstacle to it was Persson's reluctance to include Andersson in the process. At the end, the secret back channel saw the light of the day in late March 2000 but did not subscribe to the Palestinian desire not to have officials on board, Persson conceding to Barak's demands while not paying heed to the instigator of the secret back channel³⁴¹.

³³⁸ Eriksson, J., *op.cit.*, 2015, p. 174.

³³⁹ *Ibidem*.

³⁴⁰ *Ibid.*, pp. 175-176.

³⁴¹ *Ibid.*, p. 180.

4. The Stockholm channel: making an assessment of its outcomes

As the entire chronology of this initiative cannot be examined in this work, this section will not provide an exhaustive report of the channel proceedings but focus on the sequence of events we deem important to understand its outcomes.

Regarding the biggest picture to which the Stockholm channel belongs, it is important to highlight that the channel was a component of the broader Palestinian-Israeli negotiations of the moment. Indeed, as observed throughout this work, a distinctive feature of the latter is that both a public and a secret channel took place simultaneously. As Wanis-St. John observed that the back channel existence « is unknown to the public and, sometimes, even to the front-channel negotiators »³⁴², the resignation of Abed Rabbo from the Palestinian delegation after finding out the existence of the Stockholm channel offers us a confirmation that front-channel negotiators were not aware of what was going on in Harpsund³⁴³. Additionally, to the difficult environment on the ground during the negotiations, the internal division within the Palestinian ranks did not help.

Despite the Israeli reaction to recall its team to express discontent that Arafat was not doing enough to calm things down following Nakba Day, that secrecy was no more, talks were resumed on the 18th May 2000 to end up few days later as Barak pulled back once again its negotiators from Sweden following a further escalation of Palestinians' riots³⁴⁴. Far from being underproductive, the general statement regarding the Stockholm channel is yet that it did not bring about any substantial breakthrough as core issues such as refugees and Jerusalem were addressed but not resolved³⁴⁵. Nevertheless, as explanations for the failure of the negotiations prior to the Camp David summit are numerous and diverse as observed by Myron J. Aronoff³⁴⁶, Eriksson explains the failure of the Stockholm channel by the parties' shortcomings but also the mediators' – Sweden and the US.

a. « Put the blame on me »

As Israelis and Palestinians are to blame for having let the situation on the ground at a standstill, opting for escalation rather than cooling down the situation – whether Arafat inactivity to react to the riots or Barak's lack of flexibility regarding the negotiations, Palestinians' frustration turned into violence and Israeli reaction was to retaliate with the same tool. However, as negotiations were supervised by Sweden and the US, the former

³⁴² Wanis-St. John, A., *op.cit.*, 2006, p. 121.

³⁴³ Aronoff, M.J., « Camp David Rashomon: Contested Interpretations of the Israel/Palestine Peace Process », *Political Science Quarterly*, vol. 124, n°1, 2009, p. 150.

³⁴⁴ Eriksson, J., *op.cit.*, 2015, pp. 182-183.

³⁴⁵ *Ibid.*, pp. 183-184.

³⁴⁶ Aronoff, M.J., *op.cit.*, 2009, pp. 143-167.

providing a venue as supervising the talks jointly with the Americans, one might wonder what was their role in the failure of the negotiations.

What comes out from the literature on the topic is that both the Americans and the Swedes did not pay the same attention to both camps. Not only were the negotiations held in Harpsund not as constructive as they should have been as « both leaders were holding their cards too close to their chest and neither side was going to be prepared to divulge any more wiggle room until they reach what they thought was the moment of truth »³⁴⁷, but the sympathies both Americans and Swedes had for Barak prevented them to meet the expectations of the Palestinians according to Mossberg³⁴⁸. Indeed, launching a secret back channel was a Palestinian idea, a channel they wished to be between non-officials in order to allow flexibility among the parties. However, under Barak's desire, it turned into a meeting among officials despite the fact that « official interactions by its very nature severely limits the flexibility and the creativity of discussions when trying to move the negotiations forward »³⁴⁹. Consequently, one can call into question the difference between the public and secret talks that were held at that time. It is also possible to argue that the Camp David summit could have been better prepared if the secret back channel was composed of non-officials as it was the case in previous negotiations. Moreover, key political figures such as Abu Mazen were put aside under Barak's request, « which goes against the primary rule in any negotiation which is that each side must be allowed to nominate its own participants without one side dictating terms to the other »³⁵⁰.

Apart from the fact that the summit took place on Barak's request without making sure that it would be followed by concrete outcome, it is also possible to question the Swedish government's actions regarding whom it chose to involve in the negotiations and not. Indeed, as we observed before, Persson's policy towards the Israeli-Palestinian conflict made a break with the one Sweden had for decades. Rather than relying on key diplomats that benefited from Palestinians trust such as Andersson and its close-associates that had been working on the issue for years, Persson chose to put them aside and rely on other that neither had the same experience on the matter nor the same relation with the Palestinians³⁵¹. As this choice was based on the different opinion they had on the issue, Persson appeared to consider part of its own party as competitors rather than part of his team. Of course, both Persson and Andersson were not on the same page and had their wrongdoings, but to do without

³⁴⁷ Interview with Rob Malley cit. in. Eriksson, J., *op.cit.*, 2015, p. 189.

³⁴⁸ Interview with Mathias Mossberg cit. in. Eriksson, J., *op.cit.*, 2015, p. 193

³⁴⁹ Eriksson, J., *op.cit.*, 2015, p. 192.

³⁵⁰ Interview with Mathias Mossberg cit. in. Eriksson, J., *op.cit.*, 2015, p. 193

³⁵¹ Eriksson, J., *op.cit.*, 2015, p. 195.

Andersson can be considered as a major mistake as the latter's experience was unmatched as « he had built a repository of trust, respect and friendship with Arafat unlike any other European »³⁵². What we can observe so far from our research is that the Swedish Social Democratic Party was indeed seen as a friend of the Palestinians, but this relation was strengthened by leading figure that had been actors of the Swedish Foreign policy for years. Therefore, it is possible to assume that the conflicted relation Persson had with Andersson could have had a negative impact on Swedish Middle Eastern policy. Should they have work together, it is possible to contemplate that the Swedes could have had a better impact on the talks. Although it would be an exaggeration to assume that Camp David would have been successful in the event of collaboration between the two men, the fact remains that the negotiations prior to the summit could have been more fruitful.

³⁵² *Ibidem.*

CHAPTER V: MARGOT WALLSTRÖM'S OFFENSIVE TO PEACE

As this research is not only about Swedish foreign policy but also its possible repercussions on the European policy towards the Israeli-Palestinian conflict, we deem necessary to address the European policy on the matter before coming back to Sweden's. In consequence, we will go through the major events that characterize the EU policy as it is a prerequisite if one wants to be able to examine if Swedish foreign policy is in agreement with the current European policy towards the Israeli-Palestinian conflict or not – question we hope to be able to answer at the end of this chapter. Likewise, we will examine if the EU speaks with one voice or not.

A. THE EU AND THE ISRAELI-PALESTINIAN CONFLICT

Entering in its fifth decade of peacebuilding in the Israeli-Palestinian conflict, it is relevant to question ourselves on what EU accomplished over the years. From the literature available on the subject, we can observe that the EU foreign policy's approach on the matter has been designed in the seventies and eighties only to be elaborated in the next decade following the Oslo process³⁵³. Despite being elaborated only in the nineties, it remains that the EU, or the EC at that time, did not wait to have a policy on the matter to voice its concerns on it. In this way, authors point out that the conflict was « high on the EU agenda since the creation of its first foreign policy »³⁵⁴. Since the Europe of Nine, and their European Political Cooperation (EPC), this conflict was considered as a priority as it was a concern for the stability of EU's south eastern borders. Ever since the establishment of the EPC in 1971, official declarations were chosen as the tool to voice their concerns on this matter³⁵⁵.

Whereas some argue that the EU's official declarations are nothing more than rhetoric, it remains that « the EC/EU has played an historical vanguard role in the conflict by formulating new policy departures that were later adopted by the US, the Arab League and others »³⁵⁶. By its speech act, we can notice that the EU can be considered as a civilian power endowed with a legitimizing and normative power that is of major importance in the conflict. Through its declarations, EU could provoke a change but must speak with a common voice to do so.

³⁵³ Beck, M., « How to (Not) Walk the Talk: The Demand for Palestinian Self-determination as a Challenge for the European Neighbourhood Policy », *European Foreign Affairs Review*, 2017, vol. 22, n°1, p. 67.

³⁵⁴ Stavridis, S., Gianniou, M., Coffelice, A., « EU National Parliaments and the Recognition of Palestine: “Really” Breaking New Ground or “Just” Adding Further Support? », *Commillas Journal of International Relations*, July 2016, n° 6, p. 42.

³⁵⁵ *Ibid.*, p. 43.

³⁵⁶ Persson, A., « The Historical Case for Europe to Recognize Palestine? », *The Huffington Post*, http://www.huffingtonpost.com/anders-persson/the-historical-case-for-e_b_6673224.html (last consultation 18 July 2017)

1. Chronicle of the EU's actions towards a peacebuilding between the parties

Whereas the first official statement of the EC regarding the conflict was merely a call for a just and lasting peace as they subscribed to the idea that any future settlement of the conflict should be based on the resolution No. 242 of the SC, it is not until the EC's reaction to Yom Kippur War that they took position in the conflict. Not only did it insist on the centrality of both resolutions No. 242 and 338 in any future solution to the conflict but the EC also « recognized the legitimate rights of the Palestinian people » while no mention of the word « Palestinian » was available on the previous document³⁵⁷.

Resulting from the Yom Kippur War was the oil embargo by the Arab countries, which brought both the Europeans and the Arabs to start a dialogue on economic and political affairs in late 1973³⁵⁸. As this oil embargo created economic problems throughout the EC, we deem that the EC's 1977 declarations were influenced by these factors as it not only marked its « opposition to the construction of Israeli settlements in the occupied Palestinians territories and to any unilateral initiative that could change the status of Jerusalem »³⁵⁹ but it also « recognized the Palestinians as a people with a national identity and right to a homeland »³⁶⁰. While we deem that the factors aforementioned could have influenced EC's 1977 declarations, we remain convinced that EU's long-term commitment to a peaceful solution was based on core values of its foreign policies – peace; liberty; democracy; human rights and the rules of law – was the basis of it.

Another major event of the Union's declaratory tool was the Venice Declaration in which the Europeans confirmed their approach on the conflict. Not only did they confirm previous declarations as they emphasized that any solution to the conflict should be based on the resolutions No. 242 and 338 of the SC but it also recognized the Palestinian people's right to self-determination and the need to involve the PLO in the peace negotiations as much as expressing their concerns on Israeli settlements³⁶¹. Indeed, not only were they already considered as an obstacle to the peace process but also their illegality in the eyes of international law was also expressed by the European Council.

³⁵⁷ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 43.

³⁵⁸ European Institute for Research on Mediterranean and Euro-Arab Cooperation, *Euro-Arab Dialogue*, <http://www.medeia.be/en/themes/euro-mediterranean-cooperation/euro-arab-dialogue/> (last consultation 18 July 2017)

³⁵⁹ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 43.

³⁶⁰ Persson, A., « Sweden's Recognition of Palestine: A Possible Snowball Effect ? », *Palestine-Israel Journal of Politics, Economics, and Culture*, vol. 20, n°2/3, 2015, p. 36.

³⁶¹ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 43.

The next major declaration on the issue was the 1999 Berlin Declaration, declaration made by the EU - successor of the EC as a result of the 1992 Maastricht Treaty – in which it endorsed the right to a State for the Palestinians³⁶².

In its 2002 Barcelona Declaration, « the EU explicitly advanced the two-States solution as a guarantee to a just and durable peace between the parties »³⁶³ while it did issue a declaration in 2009 in which it « endorsed Jerusalem as the capital of the future Palestinian state »³⁶⁴. As this thesis is addressing Swedish foreign policy, it is relevant to point out that Carl Bildt, then Swedish Foreign Minister, carried the 2009 Brussels Declaration³⁶⁵. Despite belonging to the Moderate Party, Bildt did carry such a declaration despite Israeli pressure, which makes us believe that Swedish foreign policy does have its characteristics that go beyond party political preferences.

2. A common strategy among EU Member States?

Now that major events of the EC/EU policy have been mentioned, it is important to take a glance at the EU's strategy in detail, to examine if the EU speaks with one voice or if divergences are present amongst its Member States.

As we agree with Bruno Oliveira Martins that external actors can be essential in a peace process, not by dictating terms to the parties but by suggesting a solution that respects the rules and norms that are widely shared in international affairs and preventing that any solution not respecting the latter emerges³⁶⁶, we remain convinced that these external actors must agree on basic principles to make themselves heard by the parties. However, what we observed in the literature is that the EU's political initiatives over the years did not change the course of the parties' policies as it neither used « all its political tools to criticize practices that bluntly violate international law »³⁶⁷ nor did it play a primary role in the peace process negotiations over the past two decades as it is considered as « not capable of being a powerful conflict manager as it lacks the power and resources to bring pressure to the conflicting parties and induce them to negotiate an agreement »³⁶⁸. Of course, the EU's involvement proposed many parameters that are now accepted by the parties but it did not

³⁶² European Parliament, *Berlin European Council 24 and 25 March 1999. Presidency Conclusions*, 1999, http://www.europarl.europa.eu/summits/ber2_fr.htm#partIV (last consultation 18 July 2017)

³⁶³ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 43.

³⁶⁴ Persson, A., « The Historical Case for Europe to Recognize Palestine? », *The Huffington Post*, http://www.huffingtonpost.com/anders-persson/the-historical-case-for-e_b_6673224.html (last consultation 18 July 2017)

³⁶⁵ *Ibidem*.

³⁶⁶ Martins, B.O., « The EU against the New Normal: Avoiding the Banalization of the Israeli-Palestinian Dispute », *Mediterranean Politics*, 2016, vol. 21, n°3, p. 452.

³⁶⁷ *Ibid.*, p. 454.

³⁶⁸ Persson, A., « To Manage, Resolve or Transform? The Way Forward for the EU in the Middle East Peace Process », *New Middle Eastern Studies*, n°1, 2011, pp. 6-7.

provide a structural change in the conflict while it could do it if it converts its economic power into political influence³⁶⁹.

Despite being a priority for the CFSP, that it had been high on the agenda since decades – whether by the time of the EC or the EU, it appears that few significant results have been achieved as there is « much disagreement on how to approach the conflict on a practical level among Member States »³⁷⁰. An explanation to this disagreement can be found in the different degree of attachment every Member State has towards the Palestinian cause. As some of them are more favourable to it than others, it is even more complicated to find a common ground with the continuous enlargements of the Union as positions became more heterogeneous for various reasons such as « traditional historical ties or moral sensitivities »³⁷¹. Whereas the reform process of the EU foreign policy system at the end of the 20th century brought hope that cohesion would be easier, Martin Beck notes that this complex process did not get rid of two aspects that are undermining it. To use his words, « basic decisions in foreign policy are still taken consensually by the European Council » while « Member States of the EU have not waived any sovereign rights in the realm of foreign policy »³⁷². Consequently, the EU remains dependent of its Member States, as its foreign policy system does not benefit from the supranational power that is required to act in the name of its members.

As we have seen, divergences exist among EU Members States on how to approach the conflict on a practical level. However, on the rhetorical one, every member endorsed the idea of a two-State solution – the thorny issue being how to achieve this goal. While initiatives to take things further such as the appointment of Fernando Gentilini as the EU Special Representative for the Middle East Peace Process in 2015 « to boost the Union’s contribution to the conflict’s resolution and to provide support to the works of High Representative Mogherini »³⁷³ or the stated willingness of the latter to achieve a Palestinian State by the end of her mandate³⁷⁴, it remains that cautiousness is in effect among EU executives. Weary of seeing things stagnating and the EU’s status sticking to the one of a payer rather than a player, certain Member States decided to pursue their own path with respect to the conflict by developing individual strategies and building on bilateral relations rather than European

³⁶⁹ *Ibid.*, pp. 9-12.

³⁷⁰ *Ibid.*, p. 2.

³⁷¹ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 44

³⁷² Beck, M., *op.cit.*, 2017, p. 69.

³⁷³ Martins, B.O., *op.cit.*, 2016, p. 453.

³⁷⁴ Ahren, R., « Top EU diplomat calls for Palestinian State Within 5 years », *Times of Israel*, 4 November 2014, <http://www.timesofisrael.com/top-eu-diplomat-calls-for-palestinian-state-within-five-years/> (last consultation 19 July 2017)

relations with the Middle East countries³⁷⁵. Following the failure of the US negotiations, the Operation Protective Edge in the Gaza Strip and the increasing Israeli settlement expansion, the response did not come from the executive but the legislative branch in late 2014 – except for Sweden³⁷⁶. In fact, the second semester of 2014 and early 2015 was distinguished by the European Parliament and national Parliaments' adoption of resolutions « urging their governments to take actions towards Palestinian recognition »³⁷⁷. Nonetheless, one must know that none of these resolutions is legally binding. Consequently, no government concerned is forced to recognize the Palestinian State. However, the initiative of the parliamentarians deserves to be greeted as it can be considered as a first step towards a common European approach on the conflict. Starting by Sweden's formal recognition of the State of Palestine, other Member States felt compelled to follow the Scandinavian country's path. Although their move could have been more significant, that the content of these resolutions is not identical, it is yet « an attempt to Europeanize the issues »³⁷⁸.

B. MAKING ITSELF HEARD: SWEDEN DIPLOMACY WITHIN THE EU

As mentioned previously, Sweden sprang a surprise on October 2014 when it decided to formally recognize the State of Palestine. Less than a month after the victory of the Social Democrats at the 2014 Swedish general election, the Swedish government explained its initiative by the hope « that its decision will facilitate a peace agreement by making the parties less unequal, supporting the moderate Palestinian forces and contributing to hope at a time when tensions are increasing and no peace talks are taking place »³⁷⁹. Additionally to this formal recognition, the Swedish government adopted a five-year aid strategy aimed at supporting Palestinian state-building but also help the Palestinian people through Swedish humanitarian assistance³⁸⁰. Whereas Swedish foreign aid is not a novelty, the interesting fact is that the current Swedish government decided to triple it till 2019. Consequently, the formal recognition of a Palestinian State was accompanied by practical measures to take things further.

³⁷⁵ Beck, M., *op.cit.*, 2017, p. 69.

³⁷⁶ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 52.

³⁷⁷ *Ibid.*, p. 41.

³⁷⁸ *Ibid.*, p. 54.

³⁷⁹ Government Offices of Sweden, « Sweden recognises Palestine and increases aid », 30 October 2014, <http://www.government.se/press-releases/2014/10/sweden-recognises-palestine-and-increases-aid/> (last consultation 20 July 2017)

³⁸⁰ *Ibidem*

As we have seen, Swedish formal recognition of the State of Palestine did not let other EU Member States indifferent. Indeed, many of the EU Member States national Parliaments adopted resolutions in which they call their government to take actions towards Palestinian recognition. However, as observed, these resolutions are not legally binding thus their respective governments do not face any obligation to do so. Nonetheless, Hassan Albalawi minimizes the fact that these resolutions are not legally binding as they still provide the Palestinians with an additional political argument³⁸¹. Indeed, according to him, each of these resolutions allows the Palestinians to pressure the governments by stating that it represents the will of the people as they were issued by the Parliament – thus using it as a leverage to seek recognition of the State of Palestine by these governments. Whereas Sweden is the first European country to recognize the State of Palestine while being part of the Union, one must remember that other members did so before EU adhesion. Whether it is the two Mediterranean islands – Cyprus and Malta – or the former members of the Soviet bloc, it remains that the recognition was a consequence of their status as part of the Non-Aligned for the former and their affiliations to the Soviet Union for the latter³⁸².

Aware of Sweden's historical commitment to the Palestinian cause, that this recognition occurred while the context was deleterious as the peace process was on a standstill and the situation on the ground was hard to back up, our hypothesis is that *the Swedish recognition of the State of Palestine in October 2014 might have triggered a snowball effect within the European Union, leading to a more dynamic and enterprising European policy with regard to the resolution of the conflict*. As our research demonstrates that Sweden has played an important historical role in the conflict, that this is further confirmed by other authors such as Jacob Eriksson and Anders Persson that Sweden was a significant actor in EU's formulation of new policy that ended up being adopted by other countries such as the US or even the parties in dispute, it is highly probable that our hypothesis might turn out to be true in the future. However, at the time we are writing this research, Sweden's formal recognition of the State of Palestine has not yet had this effect. Indeed, apart from adopting resolutions supporting Palestinian statehood, no other EU Member States did recognize the State of Palestine besides Sweden³⁸³.

³⁸¹ Interview with Hassan ALBALAWI, advisor in charge of the bilateral relations with Belgium and Luxemburg for the Mission of Palestine to the EU, conducted on the 01/08/2017, Brussels.

³⁸² Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 44.

³⁸³ Beck, M., *op.cit.*, 2017, p. 69.

Despite EU's ideological commitment to end the Israeli occupation of Palestine in order to achieve Palestinian right to self-determination, EU Member States governments remain reluctant to follow Sweden's path³⁸⁴. This reluctance might be explained by the divergence of opinions regarding when the recognition of a Palestinian State should occur. Some argue that it should be conditioned to peace negotiations³⁸⁵ - thus occur after the end of it, while others like Sweden think that a Palestinian State must be established now before it is too late³⁸⁶. Whereas the US warned Sweden that their move was premature and that a Palestinian State could only result from bilateral negotiations between the Israelis and Palestinians, Swedish Foreign Minister Margot Wallström's answer was to wonder when would be the right time³⁸⁷. As we do share the idea of the US representatives that a Palestinian State must be the result of bilateral negotiations between the Israelis and Palestinians, we do not think that recognizing the Palestinian State will harm the peace process. Rather, we believe that a massive recognition of the State of Palestine will alleviate the asymmetry between the parties. Consequently, we see the recognition process as « a mechanism reactivating the peace process » as much as « an invitation to other elected bodies around the world to act and build momentum for peace »³⁸⁸.

Although bilateral negotiations might be the path to follow to achieve a peaceful solution to the Israeli-Palestinian conflict, it does not prevent the international community to play a role in affecting the framework and parameters of that dialogue. Whereas Sweden's recognition of the State of Palestine did not have any measurable effect on the ground but is limited to the political and diplomatic class³⁸⁹, it is relevant to wonder if things will move on if the entire EU follow Sweden's path. Although the sole recognition of a Palestinian State will not end up the conflict by itself, the EU can trigger attention to the issue as it is endowed with a normative and legitimizing power. According to Anders Persson, the EU has the power « to collectively legitimize or delegitimize many features of international affairs » as it is « the largest bloc of liberal democracies in the world »³⁹⁰. The Israeli-Palestinian conflict not being an exception to the rule, it is arguable that a recognition of the State of Palestine by the EU as a whole could have a substantial impact on how other countries perceive the conflict.

³⁸⁴ *Ibid.*, pp. 69-70.

³⁸⁵ Stavridis, S., Gianniou, M., Coffelice, A., *op.cit.*, July 2016, p. 42.

³⁸⁶ Persson, A., *op.cit.*, 2015, p. 40.

³⁸⁷ Government Offices of Sweden, « Government will decide today to recognize the State of Palestine », 30 October 2014, <http://www.government.se/opinion-pieces/2014/10/the-government-will-decide-today-to-recognise-the-state-of-palestine/> (last consultation 25 July 2017)

³⁸⁸ Kamhawi-Bitar, N., *op.cit.*, 2015, p. 70.

³⁸⁹ Beck, M., *op.cit.*, 2017, p. 72.

³⁹⁰ Persson, A., *op.cit.*, 2015, p. 38.

Whereas our last hypothesis stating that *the recognition of the State of Palestine by 136 States, and its admission within the international institutions, constitute a major opening in favour of a sustainable solution to the conflict* is correct in theory, it seems that a consensus exists on how a sustainable solution should occur in practice. Indeed, no one disputes the fact that a lasting solution must be the result of bilateral negotiations between Israel and the Palestinians. Likewise, although the recognition of the State of Palestine might alleviate the asymmetry between the parties as stated above, it remains that recognition from a State does not equal the one from another. The same statement applies to regional organizations, as the former are not endowed with the same power as Anders Persson observed. While three-quarters of the States recognized the State of Palestine years ago, EU recognition of it appears to have a greater importance, as it is perceived as a legitimizing and normative power.

CONCLUSION

The object of this thesis being the Swedish foreign policy's involvement towards the Israeli-Palestinian conflict, it remains that a choice has been operated towards which aspect of this policy this research will focus on. As the title of this work refers to the steep path to independence, that Israel is an independent State since the 14th May 1948, it appears that a specific interest towards the Palestinian question is present in this thesis. Hence the division of it in two part, the first one addressing the Palestinians' claim for statehood in terms of international law, the second one focusing on Swedish foreign policy in the Israeli-Palestinian conflict over time.

As our interest for the Swedish foreign policy resulted from Sweden's formal recognition of the State of Palestine in October 2014, our approach was to first question ourselves if this recognition was justified in light of international law as Margot Wallström argued in its press release³⁹¹. Therefore, our approach was to examine if Palestine could pretend to the status of State according to international law. Subsequent to an historical overview of Palestine's quest for recognition as State, we decided to verify if Palestine was fulfilling the criteria provided by the Montevideo Convention. As the result was positive, our attention shifted to the question of recognition in general but also applied to the Palestinian case.

What comes out is that recognition gained importance over the years and is now understood as a political act as it does not confer any legal status but merely international legitimacy to a State. Nonetheless, one should be aware that the recognition process starts with the expression of one State's desire to be recognized while it is up to other States to consider it as one of their peers. Whereas the State of Palestine has been recognized by more than a hundred States around the world, only 8 EU Members States have recognized it so far – Sweden being the only one to do so after it joined the EU. As the Union considers that Palestine does not fit the conditions to be a State yet, we found out that the EU did not have any EU recognition procedure to determine if an aspirant to the status of State should be recognized or not. In spite of the late 2014 European Parliament resolution which calls for a peaceful end to the Israeli-Palestinian conflict and « supports in principle recognition of Palestinian statehood »³⁹², it appears that cautiousness remains among EU executives on the issue.

³⁹¹ Government Offices of Sweden, « The Government will decide today to recognise the State of Palestine », 30 October 2014, <http://www.government.se/opinion-pieces/2014/10/the-government-will-decide-today-to-recognise-the-state-of-palestine/> (last consultation 5 August 2017)

³⁹² European Parliament, « European Parliament resolution on recognition of Palestine statehood », 17 December 2014, <http://www.europarl.europa.eu/news/en/press-room/20141212IPR01105/european-parliament-resolution-on-recognition-of-palestine-statehood> (last consultation 12 August 2017)

This led us to address the recent change of strategy of the Palestinian leadership – the internationalization – as the bilateral negotiations were at a standstill. The internationalization’s novelty being its focus on international law, it came out that the former was planned and relies on an attempt to join international organizations so as to equip the Palestinian leadership with additional legal tools and rights it might use to support their cause and achieve statehood. Naturally, this strategy is hardly restful, as the PNA’s new strategy does not win unanimous support among the international community as we observed States’ opposition to Palestine membership to multilateral treaties such as the *Rome Statute*. Nonetheless, what we found out is that progress was made as Palestine not only became a non-member observer State of the UN but also became a member of international organizations such as UNESCO or the ICC. Yet, it remains that the path to statehood is not a bed of roses and Palestine will have to strive for its cause before an international community which views on the issue is not uniform.

Having displayed the main findings of the part one entitled *The question of Palestine and international law*, the same process will be done for the part two entitled *Swedish foreign policy’s involvement in the Israeli-Palestinian conflict*. However, as no summary of the latter was provided at the end of it contrary to the previous part, we will address its results more exhaustively. Before that, we deem necessary to recall our research question: *How can we explain the Swedish foreign policy towards the Israeli-Palestinian conflict? Did the Swedish foreign policy have a favourable impact on the internationalization of the Palestinian cause? Is this policy in agreement with the current European policy towards the Israeli-Palestinian conflict? Can we speak of a Swedish exceptionalism?*

In the same way, as our hypotheses will be validated or refuted on the basis of this case study, we consider necessary to remind them also:

- 1) In Sweden, the arrival to power of Olof Palme at the head of the Swedish Social Democratic Party in 1969 was a major turning point regarding Swedish Middle Eastern policy
- 2) The Swedish foreign policy with regard to the Israeli-Palestinian conflict cannot be explained only by economic and strategic reasons, but by the importance of the respect of the international law and human rights.
- 3) By favouring the rapprochement between the Palestinian Liberation Organization and the United States, Sweden did not only pave the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis.

- 4) The Swedish recognition of the State of Palestine in October 2014 might have triggered a snowball effect within the European Union, leading to a more dynamic and enterprising European policy with regard to the resolution of the conflict.
- 5) The recognition of the State of Palestine by 136 States, and its admission within the international institutions, constitute a major opening in favour of a sustainable solution to the conflict.

In the first chapter of our case study, our attention focused on the Swedish Social Democratic Party's foreign policies until the late sixties. As our first hypothesis aims to determine if a major turning point occurred with the arrival to power of Olof Palme at the head of the party but also as Prime Minister, it was important to determine how Sweden used to address the Israeli-Palestinian conflict previously. What we noticed is that Sweden was involved in the conflict since 1947 through its representatives, whether it was Emile Sandstrom or Count Bernadotte. However, with the assassination of the latter, we observed a deterioration of the Swedish-Israeli relations; although not obviously apparent until the early 1960s as Sweden adopted a cautious diplomacy and operated for a rapprochement with Arab countries. Finally, we discovered that Sweden decided to put an end at this cautious diplomacy as a result of the Six Day War in 1967; which marked the onset of the Israeli occupation – Olof Palme being the one to take such actions.

In the second chapter, we took an interest in the person of Olof Palme and the active neutrality his era coincides with. As we first insisted on the fact that neutrality did not mean passivity but allowed Sweden to express itself freely on international matters, we then looked upon how Olof Palme's arrival to power became a major turning point with respect to Swedish foreign policy towards the Israeli-Palestinian conflict. As much as Olof Palme proceeded to a reassessment of Swedish foreign policy, we also discovered that this change was neither sudden nor abrupt but changed over the years as observed in the previous chapter. Nonetheless, we came to the conclusion that Olof Palme's arrival to power represented a change of leadership within the Social Democrats, not only in terms of the one who leads but also with respect to the ideas that Palme brought with him. Indeed, apart from what Olof Palme did for the Palestinian cause as Prime Minister and leader of the Social Democrats, what we observed is that Palme's decision-making process was highly influenced by his ideas of what the world should be, a world in which the core values in which he believed should be applied to everyone. As a result of this chapter, it was not only possible to confirm our first hypothesis but also to address partially the second one as we came across literature that did not consider the Arab oil embargo of 1973 as the sole reason that led to an increasing interest

for the Palestinian cause of the Swedish foreign policy. In fact, the importance of international law and human rights is significant when it comes to justify Sweden's involvement in the conflict.

In the third chapter, we chose to look upon another key actor of Swedish foreign policy in the Israeli-Palestinian, Sten Andersson. Subsequent to Palme's assassination the 28th February 1986, its close associate, Sten Andersson was appointed Foreign Minister. As new Prime Minister Carlsson did not have a particular interest for foreign affairs, Sten Andersson became the only one in charge of Swedish foreign policy. Under Andersson's lead, Sweden increased its involvement in the Israeli-Palestinian conflict whether it is in international arena such as the UN or behind closed doors with its quiet diplomacy. Among the crucial steps forward that were achieved under Andersson's watch was the opening of a dialogue between the US and the PLO as a result of back channel negotiations between prominent Jewish Americans and a PLO delegation, the latter having taken place in Stockholm under the Swedes' supervision. However, following Swedish general elections of 1991, the Social Democrats were no longer in power. Nevertheless, as the Israeli-Palestinian conflict was one Andersson deeply cared about, he anticipated an eventual defeat of his party and made sure that the Scandinavian involvement in the conflict remain untouched. From this will emerge the Oslo Accords. Months before the Social Democrats returned to power, both Israelis and Palestinians submitted a joint proposal for a secret channel under the supervision of the Swedes. Back in power in September 1994, the Social Democrats decided to ensure the previous government commitment to the initiative and Andersson was chosen to oversee its smooth running. Unfortunately, the result of these secrets negotiations, known as the Beilin-Abu Mazen Understandings, will never make it to Israeli Prime Minister Yitzhak Rabin as the latter was assassinated days before it was presented to him. Its successor, Peres, was reluctant to use the document, as the context was not optimal to make such a move in his opinion. Nonetheless, this document ended up leaked in the newspapers *Haaretz* in February 1996. As the Israeli general elections were due at the end of May, Peres' opponent, Benjamin Netanyahu used this document and built its campaign on it. Consequently, the Labour Party lost the 1996 Israeli general elections and the first real effort to address the final status never saw the light. Nonetheless, this document still remains as the landmark of every negotiation since then - which highlights Sweden's important role in the conflict. At the end of this chapter, it was possible for us to confirm that Swedish foreign policy with regard to the conflict cannot be explained only by economic and strategic reasons as our research depicts a significant importance of the well-established principles of international law in the former as well as continuous involvement in the conflict since 1947 – thus before the Arab oil embargo.

Moreover, this chapter also enabled us to validate our third hypothesis as we came to the conclusion that the opening of the US-PLO Dialogue not only paved the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis as the joint proposal of the parties in 1994 depicted a desire to continue the negotiations under Sweden supervision.

In the fourth chapter, our attention focused on what we refer to Göran Persson's backtrack policy. Indeed, whereas this policy did not become operational directly after Persson took the reins of the country in early 1996, it remains that the policy the new Prime Minister undertook following Israel's fiftieth anniversary, the 26th April 1998, constituted a U-turn in comparison to what Swedish foreign policy used to be for decades. As Persson considered that Swedish foreign policy had been unbalanced since Olof Palme's era, a major recalibration of it took place under his watch. Nonetheless, Sweden did not stop its involvement in the Israeli-Palestinian conflict; it just took another direction - which can be linked to the Social Democratic Party's stance before the Israeli occupation started. Ensuing from this change of direction was Persson's decision to surround himself with diplomats that had no connection with previous key actors such as Olof Palme and Sten Andersson. Keen to be part of the solution, Persson responded positively to a request of secret negotiations that would be held in 2000, in Harpsund, Sweden. However, it appears that Persson did not take into account the Palestinians' demands regarding a back channel, which will not involve officials although the idea came from them at first. Likewise, Persson yielded to Barak request not to include key political figures such as Abu Mazen. Moreover, Persson chose not to involve key diplomats that benefited from the Palestinians' trust such as Andersson and its close-associates that had been working on the issue for years. As Persson had a conflicted relation with Andersson, it is therefore possible to assume that it could have had a negative impact on Swedish Middle Eastern policy as Persson chose to play solo instead of relying on trump cards such as Andersson's unparalleled experience on the conflict.

In the fifth chapter, we chose to first take an interest in European policy towards the Israeli-Palestinian conflict before taking a close look at the possible repercussions Swedish foreign policy had on it. As the conflict has always been high on the EC/EU agenda, we started to examine its policies over the year so as to understand how the EU played a role in it. What comes out from it is that the EU got into the habit of voicing its concerns by way of official declarations. Although criticized for its absence of concrete engagement, it appears that EU declarations contributed to the formulation of new policy departures that were later adopted by other key actors of the peace process such as the US. Nonetheless, it seems that reaching a

common strategy among EU Member States remain a difficult task. While they do agree on the theory, disagreements remain on how to approach the conflict on a practical level. Not only do these disagreements come from the different degree of attachment every Member State has towards the Palestinian cause but also the enlargements further complicated the task. Nevertheless, through the wave of resolutions coming from the national Parliaments and the European Parliament following Sweden's formal recognition of the State of Palestine in October 2014, it is possible to perceive it as an attempt to Europeanize the conflict. Nonetheless, despite triggering reaction from its fellow EU Member States, Sweden's involvement in the Israeli-Palestinian conflict remains ahead of time compared to the latter – whether by its historical commitment to it or its present one. As a small-State, Sweden did not hesitate to pay no heed to US warning that this recognition might be premature as it considered that someone had to put an end to the dormant peace process. Whereas the EU will follow its path is yet a mystery, but at the present time, it is possible to speak of a Swedish exceptionalism. Therefore, our fourth hypothesis is rejected although it might turn out to be valid in the future. Likewise, although our fifth hypothesis is correct in theory, it is not the case in practice as everybody agrees on the fact that a lasting solution must be the result of bilateral negotiations between Israel and the Palestinians. Nonetheless, it appears that recognition from a State does not equals the one from another. Consequently, it is arguable that recognition from the EU might have a greater effect on the conflict as it is perceived as a legitimizing and normative power.

As this research comes to an end, it is important to reflect on the scope of this thesis. While lots of researches have been done on the Israeli-Palestinian conflict, it appears that few studies were carried out on Swedish foreign policy with respect to the conflict. According to us, what makes our research original is the sense of direction that it undertook. Not only did we take an interest in the Palestinian's claim for statehood in terms of international law but we also attempted to interlink it with a history of Swedish foreign policy on the Israeli-Palestinian conflict. In fact, we chose to do so as we deem that the recent Swedish formal recognition of the State of Palestine must be understood as a consequence of the Palestinians' steep path to the independence. Likewise, it is not a mere coincidence if we opted for constructivism as our theoretical framework. In fact, this choice rests on the fact that Swedish foreign policy could be explained by the impact of ideas. What comes out is that the latter was central in Olof Palme's reassessment of Swedish foreign policy. Indeed, Palme was convinced that his country's foreign policy had to be based on key norms and values from which no political consideration could ever have the upper hand on. Likewise, every actor that had been analyzed in the present thesis seems to confirm this trend. Whether they were

guided by Palme's legacy or not, we can affirm that all were guided by the ideas they believed in.

Finally, it is important to highlight that our thesis addressed an issue that is rather recent. As the recognition of the State of Palestine by Sweden dates from late 2014, not much has been written on the topic yet. Moreover, one must be aware that the author of this thesis does not speak Swedish, which drastically reduced access to the literature and the archives on the subject – whether past or present. Furthermore, the subject could have been better dealt with if we had conducted interviews with key political actors such as Swedish Foreign Minister Wallström or EU Special Representative for the Middle East Process Fernando Gentilini. However, while requests were sent to a large range of politicians, few were the answers we received. Consequently, we remain convinced that an updating of this subject could be an interesting thing to do in the nearest future as the literature will be enriched and changes will occur as the Palestinians' internationalization is ongoing and will trigger reaction among the international community – Sweden and the EU included.

ANNEXES

List of multilateral treaties signed by Palestine, provided by the Embassy of the State of Palestine in Sweden, 1st June 2017.

No.	Field	Treaty name	Entry into force date
1	HUMAN RIGHTS	Convention Against Torture And Other Cruel Inhuman Or Degrading Treatment Or Punishment 10 December 1984	02 May 2014
2		Convention On The Elimination Of All Forms Of Discrimination Against Women 18 December 1979	02 May 2014
3		Convention On The Political Rights Of Women 31 March 1953	02 April 2015
4		Convention On The Rights Of The Child 20 November 1989	02 May 2014
5		Convention On The Rights Of Persons With Disabilities 13 December 2006	02 May 2014
6		International Covenant On Civil And Political Rights 16 December 1966	02 July 2014
7		International Convention On The Elimination Of All Forms Of Racial Discrimination 7 March 1966	02 May 2014
8		International Covenant On Economic Social And Cultural Rights 16 December 1966	02 July 2014
9		Optional Protocol To The Convention On The Rights Of The Child On The Involvement Of Children In Armed Conflict 25 May 2000	07 May 2014
10	INTERNATIONAL HUMANITARIAN LAW	The Hague Convention (Iv) Respecting The Laws And Customs Of War On Land And Its Annex: Regulations Concerning The Laws And Customs Of War On Land 18 October 1907	
11		Geneva Convention (1) For The Amelioration Of The Condition Of The Wounded And Sick In Armed Forces In The Field 12 August 1949	02 April 2014
12		Geneva Convention (Ii) For The Amelioration Of The Condition Of Wounded Sick And Shipwrecked Members Of Armed Forces At Sea 12 August 1949	02 April 2014
13		Geneva Convention (Iii) Relative To The Treatment Of Prisoners Of War 12 August 1949	02 April 2014
14		Geneva Convention (Iv) Relative To The Protection Of Civilian Persons In Time Of War 12 August 1949	02 April 2014

15		Additional Protocol To The Geneva Conventions Of 12 August 1949 And Relating To The Protection Of Victims Of International Armed Conflicts (Protocol I) 8 June 1977	02 April 2014
16		Additional Protocol To The Geneva Conventions Of 12 August 1949 And Relating To The Protection Of Victims Of Non-International Armed Conflicts (Protocol Ii) 8 June 1977	
17		Additional Protocol To The Geneva Conventions Of 12 August 1949 And Relating To The Adoption Of An Additional Distinctive Emblem (Protocol Iii) 8 June 1977	
18	DISARMAMENT	Convention On Cluster Munitions 30 May 2008	01 July 2015
19		Convention On Prohibitions Or Restrictions On The Use Of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious Or To Have Indiscriminate Effects 10 October 1980	05 July 2015
20		Protocol On Non-Detectable Fragments (Protocol I) To The Convention On Prohibitions Or Restrictions On The Use Of Certain Conventional Weapons 10 Oct 1980	05 July 2015
21		Protocol On Prohibitions Or Restrictions On The Use Of Incendiary Weapons (Protocol Iii) To The Convention On Prohibitions Or Restrictions On The Use Of Certain Conventional Weapons 10 Oct 1980	05 July 2015
22		Treaty On The Non-Proliferation Of Nuclear Weapons 1 July 1968	
23		Convention On The Non-Applicability Of Statutory Limitations To War Crimes And Crimes Against Humanity 26 November 1968	02 April 2015
24	PENAL MATTERS	Convention On The Prevention And Punishment Of Crimes Against Internationally Protected Persons Including Diplomatic Agents 14 December 1973	01 February 2015
25		Convention On The Prevention And Punishment Of The Crime Of Genocide 9 December 1948	01 July 2014
26		Convention On The Safety Of United Nations And Associated Personnel 9 December 1994	01 February 2015
27		International Convention On The Suppression And Punishment Of The Crime Of Apartheid 30 November 1973	02 May 2014
28		Optional Protocol To The Convention On The Safety Of United Nations And Associated Personnel 8 December 2005	01 February 2015
29		Rome Statute Of The International Criminal Court And A 12(3) Declaration Granting Jurisdiction To The Court Since 13 June 2014 On All Of The Opt, Including East Jerusalem 17 July 1998	01 April 2015

30		Agreement On The Privileges And Immunities Of The International Criminal Court 9 September 2002	
31		United Nations Convention Against Corruption 31 October 2003	02 May 2014
32		United Nations Convention Against Transnational Organized Crime 15 November 2000	01 February 2015
33	ENVIRONMENT	Basel Convention On The Control Of Transboundary Movements Of Hazardous Wastes And Their Disposal 22 March 1989	02 April 2015
34		Cartagena Protocol On Biosafety To The Convention On Biological Diversity 29 January 2000	02 April 2015
35		Convention On Biological Diversity 5 June 1992	02 April 2015
36		Convention On The Law Of The Non-Navigational Uses Of International Watercourses 21 May 1997	02 April 2015
37		United Nations Framework Convention On The Climate Change 9 May 1992	18 December 2015
38		Paris Agreement under UN Framework Convention on Climate Change 12 December 2015.	22 April 2016
39	LAW OF THE SEA	Agreement Relating To The Implementation Of Part Xi Of The United Nations Convention On The Law Of The Sea 28 July 1994	01 February 2015
40		United Nations Convention On The Law Of The Sea 10 December 1982	01 February 2015
41	DIPLOMATIC AND CONSULAR RELATIONS	Vienna Convention On Consular Relations 24 April 1963	02 May 2014
42		Vienna Convention On Diplomatic Relations 18 Apr 1961	02 May 2014
43	COMMERCIAL ARBITRATION	Convention On The Recognition And Enforcement Of Foreign Arbitral Awards 10 June 1958	02 April 2015
44	LAW OF THE TREATIES	Vienna Convention On The Law Of Treaties 23 May 1969	02 May 2014
45	PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES	Convention For The Pacific Settlement Of International Disputes	29 December 2015

46	UNESCO	Unesco Charter	
47		Convention Concerning The Protection Of The World Cultural And Natural Heritage. Paris, 16 November 1972.	
48		Convention On The Protection Of The Underwater Cultural Heritage. Paris, 2 November 2001.	
49		Convention For The Safeguarding Of The Intangible Cultural Heritage. Paris, 17 October 2003.	
50		Convention On The Protection And Promotion Of The Diversity Of Cultural Expressions. Paris, 20 October 2005	
51		Convention For The Protection Of Cultural Property In The Event Of Armed Conflict With Regulations For The Execution Of The Convention. The Hague, 14 May 1954.	
52		Protocol To The Convention For The Protection Of Cultural Property In The Event Of Armed Conflict. The Hague, 14 May 1954.	
53		Convention On The Means Of Prohibiting And Preventing The Illicit Import, Export And Transfer Of Ownership Of Cultural Property. Paris, 14 November 1970.	
54		Second Protocol To The Hague Convention Of 1954 For The Protection Of Cultural Property In The Event Of Armed Conflict. The Hague, 26 March 1999.	
55		International Convention Against Doping In Sport 2005	

**Interview with Hassan ALBALAWI, advisor in charge of the bilateral relations with Belgium and Luxemburg for the Mission of Palestine to the EU.
Conducted on the 1st August 2017, in Brussels.**

Hassan ALBALAWI (H.A.)

Adam ELAJMI (A.E.)

(A.E.) : Puisque le contenu de cette interview sera utilisé dans le cadre de mon mémoire, souhaitez- vous rester anonyme ?

(H.A.) : Non, vous pouvez citer mon nom sans problème. Mais pour revenir au sujet de votre recherche, il est vrai que les pays nordiques sont en général plus attentifs à la problématique de l’auto-détermination, plus ouvert sur le sujet en dépit de l’absence de liens géographiques et historiques avec les pays concernés.

(A.E.) : Il est vrai qu’il s’agit d’une histoire de valeurs, mais cela découle également de leur statut de petits Etats. S’assurer le respect du droit international revient à se protéger soi-même comme l’illustre l’exemple suédois où la promotion de la démocratie, des droits de l’homme, du dialogue, ou encore la résolution pacifique des conflits sont des points essentiels de leur politique étrangère. Par conséquent, nous pouvons constater l’implication de la Suède dans divers conflits à travers le temps, et ce pour défendre les valeurs auxquelles elle tient. La Suède n’a d’ailleurs pas hésité à critiquer les Etats-Unis lorsque ce pays l’a mise en garde contre une reconnaissance prématurée.

(H.A.) : Tout à fait, c’est avec cette approche qu’il faut chercher à comprendre la politique étrangère suédoise dans le cadre du conflit israélo-palestinien. Il en va de même pour les autres pays même si ces derniers ne sont pas aussi avancés que la Suède. Maintenant, il faut garder à l’esprit que la Suède est impliquée dans la question palestinienne dès le début – notamment avec la question du droit au retour via le Comte Bernadotte. La Suède est donc impliquée dès le début dans le conflit où elle cherche à garantir le respect du droit international. Sur cette base-là, il y a également une volonté de jouer un rôle international, ce qui fait que la Suède a une relation privilégiée avec la Palestine. Mais son rôle se base sur une diplomatie qui n’est pas bruyante comme vous l’avez évoqué précédemment, une diplomatie qui cherche plus l’efficacité que de faire du bruit médiatique.

(A.E.) : Il est vrai qu’il est possible de qualifier cette diplomatie suédoise de back channel, comme l’illustre son implication dans l’ouverture du dialogue entre l’OLP et les USA.

(H.A.) : En effet, la Suède a toujours cherché à jouer un rôle, par le biais de l'internationale socialisme notamment. Un exemple est Olof Palme qui est l'un des premiers dirigeants à avoir rencontré l'OLP, à avoir rencontré Arafat alors que l'OLP était perçue comme une organisation à caractère terroriste. Du côté suédois, on cherchait à établir des contacts avec les véritables interlocuteurs sur place.

(A.E.) : Il y a quand même une différence entre la Suède et la Norvège par exemple. L'UE était aussi consciente de l'importance d'ouvrir un dialogue entre l'OLP et Israël mais cela bloquait au niveau de l'action – la Suède étant en première ligne et ayant notamment fait la passe au voisin norvégien.

(H.A.) : En effet, cependant, cela n'apparaît que plus tard. L'UE a également tenter de jouer les intermédiaires entre l'OLP et les israéliens mais c'est dans les années 80. La Suède, elle, a joué ce rôle au début des années 70 en envoyant des émissaires, en invitant les dirigeants palestiniens à Stockholm, ... Olof Palme fut le premier dirigeant européen à recevoir Arafat, notamment à Beyrouth dans les années 1973-1976 entre les dirigeants suédois et palestiniens – rencontres officielles comme officieuses. La Suède a dès le début, peut-être sans prendre forcément position, mais a essayé à nouer des contacts avec tous les interlocuteurs, à comprendre la position palestinienne. Olof Palme l'a fait sans se faire influencer par les partenaires américains et européens, et d'une manière discrète afin de comprendre le conflit. De plus, la Suède est un pays ouvert par rapport à l'immigration et a accueilli de nombreux immigrants palestiniens, libanais et irakiens dans les années 70. D'où l'importance de comprendre la question palestinienne. La Suède a su établir un système d'intégration pour ces réfugiés et a su tirer bénéfice de tous ces réfugiés. Voilà pourquoi la Suède a une approche différente du conflit.

(A.E.) : Nous parlons beaucoup de la Suède, mais comment peut-on expliquer le fait que le conflit israélo-palestinien a toujours été considéré comme une priorité pour la politique étrangère européenne ? En effet, depuis 1971 et l'EPC, le conflit israélo-palestinien devient une priorité car il s'agit de garantir la stabilité des frontières sud de l'Europe. Quel est votre avis sur la question ?

(H.A.) : Tout simplement parce que tout chercheur s'intéressant au Proche-Orient ne peut pas se passer de la question palestinienne. Cette question est dotée d'une dimension religieuse, régionale, politique, ... et fait que toute la scène politique arabe a été ébranlée depuis l'avènement de la question palestinienne. Des générations entières ont été marquées par la question palestinienne. Et donc, pour tout chercheur, et tout responsable politique, il est impératif de prendre en compte la question palestinienne pour comprendre la région.

(A.E.) : Je suis d'accord avec vous mais ne pensez-vous pas que la question palestinienne a tendance à être reléguée en seconde position avec les autres problèmes que connaît le Proche-Orient ces dernières années ?

(H.A.) : Oui, cela ne fait aucun doute puisque les pays arabes ont leurs propres problèmes – notamment à la suite des printemps arabes, et cela est légitime. Mais si vous prenez aujourd'hui les principaux dossiers qui menacent la paix, comme le dossier iranien ou syrien, ces derniers ont un lien direct avec la question palestinienne. Qui aujourd'hui tente de s'opposer par tous les moyens à l'Iran et pousse les Etats-Unis et l'Europe à intervenir militairement en Iran ? C'est Israël. L'Iran utilise la question palestinienne comme le fait le Hezbollah. Aujourd'hui, l'acteur à la fois présent et absent dans la région est Israël. La question libanaise, pourquoi le Hezbollah avance qu'il fait de la résistance ? Il utilise la question palestinienne, il revendique qu'il défend le Liban face à toute tentative d'invasion israélienne. Si vous vous intéressez à la question irakienne, vous découvrirez qui a encouragé les Etats-Unis à faire tomber Saddam Hussein. C'est Israël. Pour ce qui est de l'Arabie Saoudite et d'autres pays arabes, il s'agit de défendre la mosquée Al-Aqsa.

(A.E.) : Mais comment peut-on expliquer le fait que les pays arabes n'arrivent pas à mettre fin à ce conflit qui date de 100 ans si nous prenons comme base la déclaration Balfour ?

(H.A.) : Parce qu'il ne s'agit pas d'un conflit local mais d'un conflit mondial. Israël n'est pas une puissance d'occupation ou coloniale normale. Israël est le reflet de tout l'Occident. Israël est le reflet de toute l'histoire européenne, de la première comme la seconde guerre mondiale. C'est un pays qui a été créé par l'Occident. On dit souvent qu'Israël est le 52^{ème} Etat des Etats-Unis. Par conséquent, les Palestiniens et les Arabes n'affrontent pas un simple pays, les rapports sont complètement différents. Israël est l'enfant chéri de l'Europe. Cependant, tout n'est pas noir puisqu'il y a eu des avancés par rapport à la question palestinienne.

(A.E.) : Par rapport à cette avancée, la littérature sur le sujet vise à dire que la politique européenne par rapport au conflit n'est rien d'autre que de la rhétorique malgré le rôle d'avant-gardiste qu'a pu jouer la Communauté européenne ou l'UE en formulant des politiques qui ont menées à des avancées dans le dossier palestinien. Quelle est la position palestinienne par rapport à cela ? Est-ce de la rhétorique, des engagements concrets ?

(H.A.) : Il y a eu des avancées importantes dans le dossier palestinien, que cela soit au niveau de l'UE comme des Etats – notamment la déclaration de Venise reconnaissant pour la première fois le droit à l'autodétermination des Palestiniens. Cependant, ce qu'on oublie souvent, c'est la responsabilité politique et morale de l'Europe dans le conflit, puisqu'après tout, c'est l'Europe qui a créé la question palestinienne en créant Israël. C'est un ministre des

affaires étrangères britannique, Balfour, que vous avez évoqué plus tôt, qui est à l'origine d'une résolution en faveur d'un foyer juif en Palestine. Or, cette résolution est illégale du point de vue du droit international. D'abord, la Palestine n'est pas un territoire britannique pour qu'un ministre britannique promette la Palestine à un autre peuple. Ensuite, à cette époque-là, l'Angleterre n'était pas mandataire de la Palestine. Et même si elle était mandataire, elle n'a pas le droit de promettre une terre comme cela.

(A.E.) : En effet, de par son statut de mandat de classe A, la Palestine était supposée accéder à l'indépendance à la fin du mandat.

(H.A.) : En effet, mais les Britanniques n'en ont pas tenu compte. Ce qu'il s'est passé est que les britanniques et les français se sont partagés la région en 1917. D'où la responsabilité historique, morale et juridique de l'Europe dans la question palestinienne. D'ailleurs, je n'hésite pas à le rappeler à mes collègues européens lorsque je suis amené à discuter avec eux de la question palestinienne : en nous envoyant les juifs persécutés chez vous, vous nous avez fait payé vos erreurs, et jusqu'à maintenant vous avez tout fait pour installer Israël. Israël traite d'ailleurs avec les pays européens comme s'il s'agissait d'un pays européen. Comparé à la perte de la Palestine, ce que l'Europe nous donne n'est rien d'autre que des miettes. C'est pourquoi nous demandons aux Européens de corriger l'erreur historique, juridique et morale qu'ils ont commise – notamment en sanctionnant Israël pour non-respect du droit international et en reconnaissant directement l'Etat de Palestine. C'est pourquoi la Suède est en avance par rapport à l'UE, de par l'établissement de contacts avec l'OLP et par son rôle dans l'ouverture du dialogue entre les USA et l'OLP via l'organisation de négociations entre l'OLP et des juifs américains. De même, comme vous l'avez évoqué, la Suède a été un élément clé dans la réalisation des accords d'Oslo.

(A.E.) : En effet, d'ailleurs, vous n'êtes pas sans savoir que la Suède a formellement reconnu l'Etat de Palestine en Octobre 2014. Cette reconnaissance donna lieu à des résolutions émanant de divers parlements nationaux de même que du parlement européen où ces dernières invitèrent leurs gouvernements à prendre des actions afin de reconnaître l'Etat de Palestine. De même, il convient de préciser que le contenu de ces résolutions varie d'une résolution à l'autre, et qu'il ne s'agit pas de résolutions contraignantes. Comment cette suite d'évènements fut perçue par les autorités palestiniennes ?

(H.A.) : Il s'agit de résolutions non-contraignantes mais il ne faut pas les concevoir comme cela. Il s'agit de résolutions permettant aux autorités palestiniennes, aux amis de la Palestine de renforcer leur position en mettant en évidence une résolution émanant du parlement du pays concerné. En effet, puisque le Parlement représente la volonté du peuple, il est possible

de demander au gouvernement quand est-ce qu'il compte répondre à la volonté de leur peuple –reconnaître la Palestine dans ce cas-ci.

(A.E.) : Il s'agit donc d'un argument politique ?

(H.A.): Effectivement. Lorsque nous rencontrons nos homologues européens, nous leur expliquons que reconnaître la Palestine en tant qu'Etat est une nécessité aujourd'hui parce que c'est le droit international ; parce que c'est votre responsabilité historique ; c'est parce que la reconnaissance de la Palestine aide les négociations contrairement à certains arguments qui visent à dire que cela anticipe les résultats des négociations. Au contraire, lorsque les négociations sont menées entre l'Etat de Palestine et l'Etat d'Israël, cela aide lorsqu'il y a une égalité entre les parties, cela avance plus qu'entre une population et un Etat. Nous utilisons donc tous les arguments, que cela soit le droit à l'autodétermination des Palestiniens présent dans les résolutions des Nations Unies ou autres. Et en plus, nous utilisons l'argument découlant des résolutions émanant des parlements nationaux pour en arriver à demander quand est-ce que le pays en question reconnaîtra l'Etat de Palestine. L'argument est donc le suivant : reconnaissez l'Etat de Palestine conformément aux résolutions internationales mais également conformément au souhait de votre population. Il y a même aujourd'hui des villes qui se basent sur ces résolutions pour reconnaître l'Etat de Palestine.

(A.E.) : Notamment dans le cadre de jumelage comme c'est le cas de diverses villes françaises.

(H.A.) : Exactement ! Il faut donc voir ces résolutions parlementaires dans le cadre d'un processus qui évolue. D'ailleurs, dans la question palestinienne, il n'y a pas une seule décision décisive, qui tranche. Il y a un processus progressif composé de hauts et de bas puisqu'il s'agit d'un processus qui s'appuie sur les rapports de force, sur les changements, sur les évolutions dans chaque région et Etat. Mais dans l'ensemble, il y a une avancée, lente certes, mais il y a une avancée.

(A.E.) : Pour revenir à la reconnaissance suédoise, on se rend compte que sur le terrain, cette reconnaissance n'a rien apporté de spéciale. Des privilèges ont été attribués à la classe diplomatique mais rien ne change pour la population palestinienne dans la vie de tous les jours. Pensez-vous qu'une reconnaissance de la part de l'Union européenne dans son entièreté apporterait des changements sur le terrain ? De plus, cela pousserait éventuellement d'autres Etats à revoir leur position sur le conflit non ?

(H.A.) : Certainement, il s'agirait d'un élément contraignant pour les Etats-Unis de même que pour Israël. Bien qu'il n'y ait pas de changements sur le terrain, au moins les rapports entre l'Etat qui a reconnu la Palestine et Israël sont différents puisqu'il s'agit de mettre en évidence le fait qu'Israël occupe un Etat reconnu par son homologue étatique. C'est donc un élément de puissance, d'influence. Cela permet également d'augmenter les échanges entre le pays qui reconnaît la Palestine et la Palestine elle-même, que cela soit sur le plan économique ou autre. Beaucoup de domaines de la vie quotidienne sont impactés par cette reconnaissance puisque cette dernière crée des obligations et procure des privilèges. Cependant, il faut être réaliste et nous ne nous attendons pas à ce que les 28 Etats reconnaissent la Palestine du jour au lendemain. En effet, chaque Etat est sous l'influence de divers acteurs qui fait que cela soit peu probable. Mais au moins, chaque pays qui reconnaît nous permet d'avancer. Ce que nous faisons, c'est que nous prenons la position de la Suède et nous allons voir des pays comme la France. Ce pays était prêt, récemment, à reconnaître l'Etat de Palestinien mais le départ de Laurent Fabius a changé les choses. Peut-être que cela échoue parfois, mais nous réessayons par la suite. La position de la Suède nous aide à dire à une puissance importante comme la France qu'elle se doit de reconnaître l'Etat de Palestine puisqu'un pays comme la Suède, qui n'a aucun lien historique avec la région et aucun intérêt là-bas l'a fait. En pointant du fait leur présence dans la région, leur responsabilité historique et politique, leurs intérêts dans la région, il est possible de leur dire comment se fait-il que vous ne le fassiez pas alors que la Suède l'a fait ?

(A.E.) : Puisque vous parlez de la récente reconnaissance de la Suède, je me permets de rebondir sur le sujet. Cette reconnaissance a été annoncée par Margot Wallström, ministre des affaires étrangères suédoise. Comment peut-on décrire son rôle dans le cadre de cette reconnaissance ? Est-ce que vous distinguez une différence entre le gouvernement précédent et le gouvernement actuel ? En effet, n'y a-t-il pas une politique plus offensive du gouvernement actuel ?

(H.A.) : Je pense qu'il existe une continuité de la politique étrangère de la Suède. Il y a des changements de gouvernements mais cela n'empêche pas la Suède d'être impliqué dans la question palestinienne, bien qu'à des degrés différents. Dans le cadre de la Suède, nous observons la présence de partenariats mais aussi d'un appui systématique de la position de l'OLP au SC, dans les arènes internationales. La Suède appuie systématiquement la position palestinienne puisqu'elle reconnaît l'Etat palestinien, parce qu'elle s'appuie sur le droit international. Indépendamment du droit international, il y a donc une constante dans cette politique étrangère. L'exemple de la famille royale suédoise portant le keffieh il y a quelques

jours est un signe politique fort témoignant du soutien à la Palestine. En prenant en compte tout ce qui se passe dans la région, la Suède ne peut pas s'abstenir d'avoir une lecture du problème palestinien pour comprendre ce qui se passe en ce moment – que cela soit la montée du terrorisme ou du salafiste où la question palestinienne constitue un élément de compréhension. Nous l'avons vu récemment avec la mosquée Al-Aqsa où la Palestine revient sur le devant de la scène. Et les dirigeants arabes, même s'ils dépendent des Etats-Unis, même s'ils ont oublié la question palestinienne, ils sont obligés de revenir à cette question palestinienne.

(A.E.) : Car il y a cette mosquée qui constitue un lieu saint de l'Islam ?

(H.A.) : Exactement. Donc eux sont dans une position difficile par rapport à leur propre population. Toutes les monarchies arabes se sont empressées de revendiquer que Netanyahu a enlevé ces portails grâce à eux. Alors qu'il y a trois semaines, la question palestinienne n'existait plus pour eux. Il s'agit d'une question symbolique, une question qui peut être manipulée par des organisations islamiques ou terroristes donc il faut être présent. Tout pouvoir européen se doit de prendre cela en compte lors de ses prises de décision.

(A.E.) : Est-ce que vous considérez ce conflit comme complexe ?

(H.A.) : Complexe et simple. Simple car il se résume en une seule phrase : une puissance étrangère qui occupe la terre d'un peuple – et ce peuple milite et lutte pour son indépendance. Ce conflit est donc simple car il traite de la liberté d'un peuple à disposer d'eux-mêmes. Maintenant, il y a aussi cette complexité parce que l'histoire est très lourde dans ce conflit. Il ne s'agit pas seulement de l'histoire du conflit mais également celle des pays qui sont impliqués dans ce dernier. Il s'agit de la responsabilité de l'Europe vis-à-vis des juifs mais également vis-à-vis des peuples qu'elle a occupés, notamment les populations arabes et musulmanes. Il est complexe car il s'agit du monde arabe. Il s'agit d'un conflit entre deux civilisations.

(A.E.) : Pour en revenir à la Suède, il apparaît que la reconnaissance de l'Etat palestinien s'accompagne d'un plan visant à venir en aide à la population mais également à renforcer les appareils étatiques. D'autres Etats financent la Palestine, mais fournissent-ils une aide explicitement destinée à cela ?

(H.A.) : La Suède est impliquée dans l'aide à la population palestinienne depuis très longtemps, bien avant la reconnaissance de l'Etat palestinien. Il s'agit d'une aide basée sur des partenariats entre les sociétés civiles, ... Il s'agit de partenariats décentralisés. La Suède est consciente qu'en aidant la Palestine, cela lui ouvre les portes du monde arabe puisqu'elle

peut utiliser cet argument lorsqu'elle se rend dans les pays arabes. D'autres aident la Palestine mais la Suède est en avance, il s'agit d'une aide particulière. On ne parle pas d'assistanat mais de coopération.

(A.E.) : Tout à l'heure, nous parlions de Laurent Fabius et de sa fameuse déclaration qui visait à déclarer qu'une reconnaissance de la Palestine serait prononcée en cas d'un échec de la conférence de paix que la France souhaitait organiser. Une autre personne a fait une déclaration, il s'agit de Federica Mogherini. Cette dernière, lors de sa nomination en tant que Haute Représentante de l'UE pour les affaires étrangères et la politique de sécurité, a évoqué son souhait de parvenir à la création d'un Etat palestinien dans les 5 ans – donc à la fin de son mandat en 2019. Quelques mois plus tard, Madame Mogherini a nommé Fernando Gentilini Représentant spécial de l'UE pour le processus de paix – poste qui avait été supprimé par Catherine Ashton quelques années auparavant. Ma question est la suivante : trois ans ont passé, où est-ce que l'on en est ?

(H.A.) : La politique européenne n'a pas changé. L'UE condamne systématiquement l'occupation, continue d'apporter son aide à la Palestine, ... mais tout cela n'est plus suffisant. En effet, la colonisation israélienne détruit tous les jours un peu plus les possibilités d'un Etat palestinien. Nous avons toujours demandé à ce qu'il y ait des sanctions concrètes. Cependant, il y a un pas qui a été franchi : le fait de demander aux Etats européens de préciser quel produit vient d'Israël et quel produit est en provenance des territoires occupés. C'est un pas en avant mais cela reste un début. Pour nous, l'UE doit arriver à appliquer le droit international. Puisque l'UE reconnaît l'illégalité de la colonisation, la prochaine étape se doit d'être l'interdiction d'importer tout produit en provenance des colonies israéliennes sur le territoire palestinien.

(A.E.) : Il est vrai que l'Union européenne a tendance à ne pas sanctionner mais d'opter pour des déclarations où l'on condamne les actes de l'un ou de l'autre. On dénonce mais on ne sanctionne pas, que cela soit le Hamas ou Israël. Vu que nous disposons plus de beaucoup de temps, je voulais avoir votre avis sur les répercussions de la reconnaissance suédoise. A-t-elle entraîné un effet boule de neige au sein de l'UE ?

(H.A.) : Cela a permis de déclencher un processus important puisque divers parlements ont voté des résolutions, ce qui a amené d'autres parlements à en faire de même. Si vous jetez un œil au contenu des résolutions, tous se réfèrent à la reconnaissance de la Suède pour justifier leur démarche. Cela a permis d'initier un processus important qui continue, qui ne s'arrête pas. Même si le processus est lent par moment, cela avance.

(A.E.) : Nous venons donc de parler des politiques nationales, mais quid de la politique européenne ?

(H.A.) : Il y a eu le Parlement européen qui a adopté une motion importante fin 2014. Ce texte mentionne que le Parlement considère la reconnaissance de la Palestine comme quelque chose aidant les négociations entre les deux Etats.

(A.E.) : Est-ce que cet effet boule de neige a amélioré les relations entre la Palestine et les pays européens ?

(H.A.) : Cela a plus permis aux Palestiniens de s'appuyer sur cette reconnaissance de la Suède. Cela nous a donné un argument de plus pour revendiquer la reconnaissance de l'Etat de Palestine mais aussi pour prendre des positions concrètes par rapport à la question palestinienne.

(A.E.) : Puisque la Palestine a décidé de favoriser l'internationalisation de sa cause à travers le droit international plutôt que de continuer les négociations bilatérales avec Israël, pouvez-vous nous dire pourquoi ce changement de stratégie ?

(H.A.) : Il n'y a pas eu de changement de stratégie, la question palestinienne est une question internationale au départ. Cette question a été créée à l'issue d'une résolution des Nations Unies en 1947. Face au blocage des négociations, nous avons dit que nous voulons que les négociations sous la direction des Etats-Unis depuis 1990 s'arrêtent puisque ces dernières sont arrivées à un point mort. Comme c'est une question internationale, nous voulons revenir à la case départ. Nous avons mis en évidence que les Nations Unies étaient présentes dans tous les conflits du monde à l'exception de la question palestinienne qui fut initialement créée par une résolution des Nations Unies. Nous avons également dit que nous sommes disposés à reprendre les négociations et la voie bilatérale avec Israël pour arriver à une résolution du conflit sur la base des résolutions des Nations Unies. Puisque l'objectif, ce n'est pas d'avoir des négociations indéterminées comme le veut Israël. L'objectif, c'est d'avoir des négociations avec un calendrier et sur une base du droit international – puisque l'objectif est de mettre fin à l'occupation israélienne. Les Etats-Unis comme l'UE sont d'ailleurs d'accord sur le fait qu'une résolution du conflit se doit d'être basée sur les résolutions des Nations Unies. Nous sommes d'accord d'utiliser la voie bilatérale avec Israël et nous disons que nous sommes prêts à reprendre les négociations avec Israël tout de suite sur la base du droit international, des résolutions des Nations Unies et sur base d'un agenda. Ensuite, indépendamment des négociations, c'est notre droit, en tant qu'Etat, de faire partie de la communauté internationale, d'adhérer aux organisations internationales. Il ne faut pas concevoir le recours aux organisations internationales comme une arme contre Israël. C'est

une arme contre Israël mais il s'agit également d'un droit ! Lorsque l'on adhère à l'organisation de santé mondiale ou autre, nous sommes un Etat, un peuple qui souhaite contribuer à cela.

(A.E.) : Personnellement, je conçois plus cela comme un changement de stratégie. Sur base de ce qu'a pu dire Nabil Shaath dans diverses interviews par exemple, nous pouvons concevoir cela comme un changement.

(H.A.) : C'est vrai, c'est un changement mais nous n'avons pas rompu avec les négociations bilatérales.

(A.E.) : Il s'agit plus de quelque chose de complémentaire non ?

(H.A.) : Oui, puisqu'il s'agit d'un droit. Nous souhaitons impliquer la communauté internationale puisque c'est elle qui a créé la question palestinienne.

(A.E.) : Mais la nouveauté n'est-elle pas le fait que cette internationalisation se base explicitement sur le droit international ?

(H.A.) : Effectivement, parce que l'on s'est rendu compte qu'au bout de 23 ans, les négociations ont donné une couverture à Israël pour confisquer davantage notre terre. Cela ne peut plus continuer. D'où la volonté de retourner à la case départ, aux Nations Unies. Cependant, nous n'avons pas dit que nous allons arrêter de négocier avec Israël. Nous sommes prêts à reprendre les négociations à n'importe quel moment mais nous avons nos conditions. Nous avons d'ailleurs repris les négociations bilatérales plusieurs fois – à la suite de pressions américaines – tout en allant aux Nations Unies. Nous affirmons qu'aller aux Nations Unies ne va pas à l'encontre des négociations bilatérales, il s'agit d'un droit. Nous sommes en même temps pour la reprise de négociations bilatérales pour autant qu'il y ait un agenda et que ces négociations aient pour base le droit international. Faire partie de la communauté internationale est un droit.

(A.E.) : Y a-t-il un lien entre la reconnaissance de l'Etat de Palestine par la Suède et l'offensive légale ? En effet, la deuxième offensive eut lieu quelques mois après cette reconnaissance.

(H.A.) : Bien sûr, au plus on nous appuie, au plus cela nous aide.

(A.E.) : L'interview prend fin maintenant, je tenais encore à vous remercier pour avoir accepté de me rencontrer.

(H.A.) : Ce fut un plaisir, merci à vous également pour votre intérêt pour la question palestinienne.

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PLAGIARISM FORM

Règlement sur le plagiat Jury du Département de science politique Adopté le 6 septembre 2016

Considérant que le plagiat est une faute inacceptable sur les plans juridique, éthique et intellectuel ;

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*Department of Political Science
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Master Thesis abstract

The steep path to the independence: Swedish Foreign Policy's involvement in the Israeli- Palestinian conflict

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INTRODUCTION

Based on its title, it seems clear that this thesis will address the Swedish foreign policy's involvement in the Israeli-Palestinian conflict. However, as much as we intend to do so, the first part of the title points out towards which aspect of this policy this thesis will focus on. As Israel is an independent State since the 14th May 1948, it is possible for the reader to understand that our approach will be directed towards Palestine's steep path to the independence.

In fact, while Palestine could have been a State the same year the State of Israel was established, history has decided otherwise. As we discuss this matter today, it is crystal clear that the Palestinian people did not seize this opportunity in 1948. The missed chance was gone and the steep path to the independence began.

As the purpose of this thesis is to explain Swedish foreign policy towards the Israeli-Palestinian conflict, we chose not to address it directly but to reflect on crucial questions that must be raised if one wants to understand Sweden's recent formal recognition of the State of Palestine.

In the first instance, our approach is to examine if Palestine could pretend to the status of State according to international law. It goes without saying that if Palestine does not fulfill the criteria prescribed by international law, its claim to statehood is undermined. If Palestine does fulfill these criteria, the question of recognition takes on its full meaning as it will be possible to question ourselves why not every member of the international community recognizes Palestine as a State. This matter being imbued with a political aspect as we will see, this will lead us to wonder why the Palestinian leadership recently decided to put the bilateral negotiations with Israel aside in favour of another strategy, the internationalization. Of course, the Israeli-Palestinian conflict is an international one as the international community played a role in it since its onset. Nonetheless, the novelty is its emphasis on international law as the Palestinian leadership triggered what we can call a legal offensive in April 2014 and January 2015.

In the second instance, we choose to question ourselves how it was possible to explain the Swedish foreign policy towards the Israeli-Palestinian conflict. Likewise, we wondered if the Swedish foreign policy had a favourable impact on this change of strategy. As aforementioned, Sweden decided to formally recognize the State of Palestine on the 30th October 2014. While the Palestinians' legal offensive took place in two stages as stated above, one might wonder if the second one did not result from Sweden's recognition and the repercussions it might have set off among the international community. As Sweden is a

member of the European Union (EU), and the first EU Member States to recognize the State of Palestine³⁹³, taking an interest in other Member States' reactions is also a process that had to be done. In fact, in doing so, it had been possible to look into EU policies towards the Israeli-Palestinian conflict as the Union is entering its fifth decade of peacebuilding in the conflict. Moreover, it will be possible to compare Swedish foreign policy with the EU's one on the conflict. Finally, we will have the opportunity to determine if we can speak of a Swedish exceptionalism within the Union or not.

From this reflection emerged our research question: *How can we explain the Swedish foreign policy towards the Israeli-Palestinian conflict? Did the Swedish foreign policy have a favourable impact on the internationalization of the Palestinian cause? Is this policy in agreement with the current European policy towards the Israeli-Palestinian conflict? Can we speak of a Swedish exceptionalism?*

Although our reasoning is based on recent events, we deemed important to provide an overall view of the topic we address. Indeed, it seems beyond belief not to identify where the Swedish involvement in the Israeli-Palestinian conflict comes from. Consequently, we proceeded to an analysis of Swedish foreign policy to identify when this involvement began but also what it accomplished over the years. As the formulation of a research question requires browsing the literature on the subject, we were able to identify five hypotheses to which we intended to validate or refute:

- 1) In Sweden, the arrival to power of Olof Palme at the head of the Swedish Social Democratic Party in 1969 was a major turning point regarding Swedish Middle Eastern Policy
- 2) The Swedish foreign policy with regard to the Israeli-Palestinian conflict cannot be explained only by economic and strategic reasons, but by the importance of the respect of the international law and human rights.
- 3) By favouring the rapprochement between the Palestinian Liberation Organization and the United States, Sweden did not only pave the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis.
- 4) The Swedish recognition of the State of Palestine in October 2014 might have triggered a snowball effect within the European Union, leading to a more dynamic and enterprising European policy with regard to the resolution of the conflict.

³⁹³ What we mean here is that other EU Member States have already recognized the State of Palestine but they were not part of the Union at that time.

- 5) The recognition of the State of Palestine by 136 States, and its admission within the international institutions, constitute a major opening in favour of a sustainable solution to the conflict.

According to us, if one undertakes to discern the logic behind these hypotheses, the first thought would be that all of them are interlinked. And indeed, they are as our research attempts to define what Swedish foreign policy was in the past as well as what occurred to make it strive for the Palestinian cause. From this came out the first hypothesis but also the second one as we had to find out what was hiding behind this change, what reasons justified it.

With respect to the third hypothesis, it appears that Sweden played a role in the rapprochement between the Palestinian Liberation Organization (PLO) and the US. This lead us to wonder if the opening of the dialogue between the US and the PLO was crucial for Oslo Accords and if it contributed to the establishment of a sustainable dialogue between Palestinians and Israelis.

The Middle East Peace Process is not new as we observed, it has been studied in every aspect but few authors took an interest in Sweden's participation to it. What comes out from our research is that Sweden has a historical commitment to the conflict, but it is generally unknown as its implication is rather behind closed doors than public. Nonetheless, the fourth hypothesis suggests that Sweden decided to reverse the trend as it took the decision to formally recognize the State of Palestine. Consequently, the following hypothesis intends to foresee the repercussions of such action within the EU.

Finally, the fifth hypothesis attempts to see the results of the State of Palestine's recognition within the scope of a possible solution to the conflict. Our intention here is to determine whether or not recognition from a State equals the one from another. In this sense, we suggest that the recognition of the State of Palestine by the EU might have a different effect on the conflict as it is perceived as endowed with a legitimizing and normative power.

Having discussed the hypotheses back and forth, it is now necessary to explain the methodology we adopted. As a state of the art is following this section, we will not address the literature available on the subject but mention which data collection we resorted to. Regarding both parts of the thesis, we chose to rely on document analysis as a qualitative research method. Consequently, the content of work comes, among others, from scientific literature, institutions' documents and newspaper articles. As a complementary research method as the subject is rather recent and there is not a great deal of literature on the more contemporary component of Swedish foreign policy, we intended to have recourse to

interviews. Whereas requests were sent, few answers were received. Among the respondents, two³⁹⁴ out of three solicited a written questionnaire as their function prevented a meeting face-to-face. However, we remain awaiting for their answers. Consequently, the only interview we were able to conduct – and to use in this thesis - was with Mr. Hassan Albawali, advisor in charge of the bilateral relations with Belgium and Luxemburg for the Mission of Palestine to the EU. Nonetheless, we wish to thank all of them for their consideration and interest for our research.

To conclude this introduction, we would like to point out that the theoretical approach used in this research is not discussed hereinabove as an entire section is dedicated to it as it is the case for the state of the art.

THEORETICAL APPROACH

Within the framework of this research, we have chosen constructivism as the theoretical frame because of the importance it confers to ideas and its interest in the sources of change. Moreover, this chapter will also point out why international law will also be a key element of this theoretical framework.

As Dario Battistella elucidates in his book *Théories des relations internationales*³⁹⁵, constructivism points out the impact of ideas. According to him, constructivists do not see the State as an entity whose only aim is to survive. In fact, constructivism tends to consider interests and identities of the States as something that is not fixed. Hence, it is possible to understand where its interest for the sources of change comes from, why it defines the international relations theories « as a project under construction, a process ongoing rather than a state of affairs »³⁹⁶. Consequently, constructivism can be viewed as « a sociological perspective of world politics »³⁹⁷ in which the emphasis is put « on the social context, the intersubjectivity and the constitutive nature of rules and norms »³⁹⁸. This brings Dario Battistella to state that these views reflect an emphasis on 1) both normative and material

³⁹⁴ We are referring to His Excellency the Ambassador Fernando Gentilini, European Union Special Representative for the Middle East Peace Process, and Her Excellency the Ambassador of Palestine to Sweden, Hala Husni Fariz.

³⁹⁵ Battistella, D., *Théories des relations internationales*, Paris, Presses de Sciences Po, coll. « Références », 2015, pp. 313-347.

³⁹⁶ Adler, E., « Constructivism and International Relations », in W. Carlsnaes, T. Risse and B. Simmons (eds), *Handbook of International Relations*, Londres, Sage, 2002, pp. 95-118.

³⁹⁷ Price, R., and Reus-Smit, C., « Dangerous Liaisons? Critical International Theory and Constructivism », *European Journal of International Relations*, vol. 4, 1998, pp. 283-288.

³⁹⁸ Klotz, A., Lynch, C., Bouyssou, R., and Smouts, M.-C., *Le constructivisme dans la théorie des relations internationales*, in : Critique internationale, vol. 2, 1999, pp. 53-54. (own translation)

structures, 2) the role of identity in the constitution of the actors' interest and actions, but also 3) the mutual constitution of agents and structures³⁹⁹.

To get back to the three postulates highlighted by Dario Battistella, it is interesting to see what renowned constructivist authors say about them. Therefore, we will mention the point of view of an author for each of these postulates. By doing so, the reader will acquire a better knowledge of the latter, hence a better understanding of the key elements of constructivism.

In her book, *National Interests in International Society*, Martha Finnemore takes an interest in how a State behavior can be influenced by norms in world politics. In order to demonstrate that, Finnemore's interest focuses on the international organizations effect on States' behavior in world politics. Through three case studies, the UNESCO, the International Committee of the Red Cross and the World Bank, Martha Finnemore concludes that State interests and actions are the « product of socialization to norms, rules, understandings, and relationships at the international level »⁴⁰⁰, hence stressing that « international normative structures matter in world politics »⁴⁰¹. In his book, *The Culture of National Security*, Peter Katzenstein and its co-authors argue that « international and domestic cultural environments influence the behavior and identity of states »⁴⁰². Therefore, shared norms have an impact not only on States' behavior in world politics but also on how they establish their identities and interests, the latter being constructed through social interactions between States rather than already fixed beforehand⁴⁰³. Regarding the last postulate, it is important to mention more than one author to prove its pertinence. While Nicholas Onuf was the first author to come up with the idea of mutual constitution, this concept was however not used at an international level. Nonetheless, by stating that the reality was mutually constructed by the individual and the society - the former doing so according to the rules, and the latter by constituting individuals as individuals⁴⁰⁴, Onuf contributed enormously to the international meaning of the concept thanks to its linguistic constructivism. Drawing inspiration from Onuf's contribution, Alexander Wendt transposed the concept of mutual constitution internationally in his article « Anarchy Is What States Make of It », maintaining that States interactions – amongst themselves but also with international institutions, lead to the formation of their

³⁹⁹ Battistella, D., op.cit., 2015, p. 318.

⁴⁰⁰ Dessler, D., « National Interests in International Society by Martha Finnemore », *American Journal of Sociology* 103, n°3, November 1997, p. 785.

⁴⁰¹ *Ibid.*, p. 786.

⁴⁰² Crawford, N.C., « The Culture of National Security: Norms and Identity in World Politics by Peter J. Katzenstein », *The American Political Science Review*, Vol. 93, n°4, December 1993, p. 1021.

⁴⁰³ Battistella, D., op.cit., 2015, p. 319.

⁴⁰⁴ Bonditti, P., POLI-D-410 : Théories de la sécurité : Le geste constructiviste, Université Libre de Bruxelles, 2015-2016. (own translation)

interests⁴⁰⁵. As it is the theoretical frame we choose among the numerous constructivism currents, we will now explain Wendt's view more in depth.

According to Alexander Wendt, constructivism can be seen as both idealistic – because the social structures are « firstly established by ideas shared by the agents rather than by the material link between them », and holistic – since social actors' interests and identities « are built by ideas they share rather than ideas fixed for ever independently of interactions amongst themselves »⁴⁰⁶. This frame being displayed, Wendt applied it to world politics in order to study violence and its regulation in international relations. Without denying non-State actors, Wendt's constructivism is state-centric as he considers that « their role is indirect regarding the international violence domain »⁴⁰⁷. However, as Wendt mentioned in his book *Social Theory of International Politics*, the non-State actors, whether national or transnational ones, « can indeed have a decisive impact on violence but the States remain the principal link through the other actors act on it », from where comes its belief that States is and will remain the center of the international system⁴⁰⁸. Therefore, Wendt pictures the States as an intermediary for the non-State actors in the world politics. Consequently, according to Battistella, Wendt's approach focuses on « an analysis of the States' social construction internationally, a study of their socialization by the interstate relationships networks in which they are settled and shape not only their perceptions of the world but also the role they play within it »⁴⁰⁹. From there comes its interest for internationally shared ideas of the States regarding their national interests, but also their consequences on a State's behavior on the international stage.

According to Battistella, Wendt is right when he affirms that interests are also a constructivist variable because: a) « the interest of the States do not depend from the objective configuration of material ratio of power, but from States identities - namely the States own perception of themselves as the perception they have from others; from the international system; as well as their own place and other States' one within this international system »⁴¹⁰; b) « the idea that a State have of itself depends not only from him but also from the ideas the others have from him as well as the reactions – in compliance or not – of other States toward this idea and so on »⁴¹¹. Consequently, Wendt does not see the national interests as something imposed to the States but rather something embedded in norms and values that shape a

⁴⁰⁵ *Ibidem*.

⁴⁰⁶ Battistella, D., op.cit., 2015, p. 326. (own translation)

⁴⁰⁷ *Ibid.*, p. 326. (own translation)

⁴⁰⁸ Wendt, A., *Social Theory of International Politics*, Cambridge, Cambridge University Press, 1999, p. 9.

⁴⁰⁹ Battistella, D., op.cit., 2015, p. 328. (own translation)

⁴¹⁰ *Ibid.*, pp. 329-330. (own translation)

⁴¹¹ *Ibid.*, p. 330. (own translation)

State's behavior⁴¹². In other words, constructivists view these national interests « as the product of shared ideas and beliefs which arise internationally »⁴¹³, therefore « structuring world politics life and giving it signification »⁴¹⁴. Nonetheless, one must be aware that a State is not forced to respect these norms and values as Wendt pictures the international system as anarchistic, thus without any authority above the States. If a State does not respect them, it will face consequences from others but this will not endanger its existence. Likewise, this international culture is not fixed but malleable « as changes in world politics are likely to appear when actors, by their practice, change the rules and the norms through their international interactions »⁴¹⁵.

However, we do believe that key norms and values such as international law, democracy, human rights and the advocacy of a peaceful resolution of conflicts between the States will remain part of this international culture because « systemic change may also be inhibited by actors' interests in maintaining relatively stable role identities [...] otherwise social order would be impossible »⁴¹⁶, that their importance will even increase as « the world is becoming more larger, more unexpected, more surprising and endowed with more possibilities »⁴¹⁷ as Adler once stated. In fact, according to Wendt, the international system is fated to move from the current Lockean world to a Kantian one, where States will no longer see each other as rivals but as friends⁴¹⁸. However, this will require an increase interdependency, an increase homogenization, a common destiny and self-restraint before the international structure changes⁴¹⁹. Yet, what we can notice is that whenever actors, such as Olof Palme in our case, start to think differently, « the international structure, their interests and their roles within it, and therefore their behaviors have been altered leading to a change of the structure itself »⁴²⁰. This is the purpose of this work, to examine the complex relationship between the agent and the structure, Sweden policies and its impact on other States or “State-like” entities, like Palestine. Whereas we could have opted for other theories such as intergovernmentalism whose aim is to « explain why states, perceived as rational actors pursuing their own

⁴¹² Wendt distinguishes four identities that lead to the formation of national interest: the corporate identity, the type identity, the role identity and the collective identity. Except the first one, which refers to specific elements of the State, the others are the product of states interactions according to Dario Battistella. *Ibid.*, pp. 330-332.

⁴¹³ *Ibid.*, p. 332. (own translation)

⁴¹⁴ Finnemore, M., *National Interests in International Society*, Ithaca (N.Y.), Cornell University Press, p. 3. cit. in Battistella, D., *Théories des relations internationales*, Paris, Presses de Sciences Po, coll. « Références » 2015, p. 332.

⁴¹⁵ *Ibid.*, pp. 339-340. (own translation)

⁴¹⁶ Wendt, A., « Anarchy Is What States Make of It. The Social Construction of Power Politics », *International Organization*, vol. 46, n°2, Spring 1992, p. 412, p. 419.

⁴¹⁷ Adler, E., *op.cit.*, 2002, pp. 95-118.

⁴¹⁸ Battistella, D., *op.cit.*, 2015, pp. 332-340.

⁴¹⁹ Telo, M., *Relations internationales. Une perspective européenne*, Bruxelles, Editions de l'Université de Bruxelles, 2013, pp. 135-136.

⁴²⁰ *Ibidem.* (own translation)

interests, actually accept the idea of shared sovereignty »⁴²¹, we chose constructivism as it allows us to analyze how a country, such as Sweden, happens to refuse to keep up with what is going on as it appears that it goes against the ideas it believes in. As Sweden's foreign policy towards the Israeli-Palestinian went through different phases depending on who was in power, constructivism enables us to understand how this small-State came to raise its voice to make things change.

As cited previously, our theoretical frame will not only be based upon constructivism but also international law. Knowing that our thesis subject is related to both international relations and law, we deemed compulsory to use some key notions of the latter as both disciplines are interrelated. Before taking an interest in Swedish foreign policy towards the Israeli-Palestinian conflict, it is important to use the scientific literature to find out the relation Palestine has with international law, in particular whether it can be considered as a State or not. If Palestine does not meet the Montevideo criteria, its recognition is hardly conceivable. If it meets them, we will be able to analyze why recognition from the international community has yet not occurred and what could be its consequences if it does occur. This will lead us to the internationalization of the conflict through an attempt of Palestine to join several international organizations, thus addressing the issue and the added value that Palestine can gain from this move. It will also allow us to review the international community role and its responsibilities regarding the conflict, to try to understand its reaction – or its impassibility, in the event of non-respect of international law – for instance the United Nations resolutions, of one of the parties involved in the conflict. In order to answer these questions, we will rely on a legal positivism methodology, thus on legal texts and their interpretation. As our case is based on Swedish contribution to find a pacific resolution of the conflict, we have chosen to focus on the legal literature, which strove to legitimate the Palestinian people's right to a State recognized by the international community. In spite of this choice, the axiological neutrality principle of Max Weber will be ours in order not to be influenced by our personal opinions but to focus on the facts we will identify on the literature available. Indeed, no matter what the researcher studies, its task is to describe the reality, not to make a value judgment⁴²².

⁴²¹ Saurugger, S., *Theoretical approaches to European integration*, Palgrave Macmillan, Basingstoke, 2014, p. 75.

⁴²² Weber, M., « L'objectivité de la connaissance dans les sciences et la politique sociales », in *Essais sur la théorie de la science*, french translation of Freund J., Paris, Editions Plon, 1965, pp. 416-417.

CONCLUSION

The object of this thesis being the Swedish foreign policy's involvement towards the Israeli-Palestinian conflict, it remains that a choice has been operated towards which aspect of this policy this research will focus on. As the title of this work refers to the steep path to independence, that Israel is an independent State since the 14th May 1948, it appears that a specific interest towards the Palestinian question is present in this thesis. Hence the division of it in two part, the first one addressing the Palestinians' claim for statehood in terms of international law, the second one focusing on Swedish foreign policy in the Israeli-Palestinian conflict over time.

As our interest for the Swedish foreign policy resulted from Sweden's formal recognition of the State of Palestine in October 2014, our approach was to first question ourselves if this recognition was justified in light of international law as Margot Wallström argued in its press release⁴²³. Therefore, our approach was to examine if Palestine could pretend to the status of State according to international law. Subsequent to an historical overview of Palestine's quest for recognition as State, we decided to verify if Palestine was fulfilling the criteria provided by the Montevideo Convention. As the result was positive, our attention shifted to the question of recognition in general but also applied to the Palestinian case.

What comes out is that recognition gained importance over the years and is now understood as a political act as it does not confer any legal status but merely international legitimacy to a State. Nonetheless, one should be aware that the recognition process starts with the expression of one State's desire to be recognized while it is up to other States to consider it as one of their peers. Whereas the State of Palestine has been recognized by more than a hundred States around the world, only 8 EU Members States have recognized it so far – Sweden being the only one to do so after it joined the EU. As the Union considers that Palestine does not fit the conditions to be a State yet, we found out that the EU did not have any EU recognition procedure to determine if an aspirant to the status of State should be recognized or not. In spite of the late 2014 European Parliament resolution which calls for a peaceful end to the Israeli-Palestinian conflict and « supports in principle recognition of Palestinian statehood »⁴²⁴, it appears that cautiousness remains among EU executives on the issue.

⁴²³ Government Offices of Sweden, « The Government will decide today to recognise the State of Palestine », 30 October 2014, <http://www.government.se/opinion-pieces/2014/10/the-government-will-decide-today-to-recognise-the-state-of-palestine/> (last consultation 5 August 2017)

⁴²⁴ European Parliament, « European Parliament resolution on recognition of Palestine statehood », 17 December 2014, <http://www.europarl.europa.eu/news/en/press-room/20141212IPR01105/european-parliament-resolution-on-recognition-of-palestine-statehood> (last consultation 12 August 2017)

This led us to address the recent change of strategy of the Palestinian leadership – the internationalization – as the bilateral negotiations were at a standstill. The internationalization’s novelty being its focus on international law, it came out that the former was planned and relies on an attempt to join international organizations so as to equip the Palestinian leadership with additional legal tools and rights it might use to support their cause and achieve statehood. Naturally, this strategy is hardly restful, as the PNA’s new strategy does not win unanimous support among the international community as we observed States’ opposition to Palestine membership to multilateral treaties such as the *Rome Statute*. Nonetheless, what we found out is that progress was made as Palestine not only became a non-member observer State of the UN but also became a member of international organizations such as UNESCO or the ICC. Yet, it remains that the path to statehood is not a bed of roses and Palestine will have to strive for its cause before an international community which views on the issue is not uniform.

Having displayed the main findings of the part one entitled *The question of Palestine and international law*, the same process will be done for the part two entitled *Swedish foreign policy’s involvement in the Israeli-Palestinian conflict*. However, as no summary of the latter was provided at the end of it contrary to the previous part, we will address its results more exhaustively. Before that, we deem necessary to recall our research question: *How can we explain the Swedish foreign policy towards the Israeli-Palestinian conflict? Did the Swedish foreign policy have a favourable impact on the internationalization of the Palestinian cause? Is this policy in agreement with the current European policy towards the Israeli-Palestinian conflict? Can we speak of a Swedish exceptionalism?*

In the same way, as our hypotheses will be validated or refuted on the basis of this case study, we consider necessary to remind them also:

- 1) In Sweden, the arrival to power of Olof Palme at the head of the Swedish Social Democratic Party in 1969 was a major turning point regarding Swedish Middle Eastern policy
- 2) The Swedish foreign policy with regard to the Israeli-Palestinian conflict cannot be explained only by economic and strategic reasons, but by the importance of the respect of the international law and human rights.
- 3) By favouring the rapprochement between the Palestinian Liberation Organization and the United States, Sweden did not only pave the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis.

- 4) The Swedish recognition of the State of Palestine in October 2014 might have triggered a snowball effect within the European Union, leading to a more dynamic and enterprising European policy with regard to the resolution of the conflict.
- 5) The recognition of the State of Palestine by 136 States, and its admission within the international institutions, constitute a major opening in favour of a sustainable solution to the conflict.

In the first chapter of our case study, our attention focused on the Swedish Social Democratic Party's foreign policies until the late sixties. As our first hypothesis aims to determine if a major turning point occurred with the arrival to power of Olof Palme at the head of the party but also as Prime Minister, it was important to determine how Sweden used to address the Israeli-Palestinian conflict previously. What we noticed is that Sweden was involved in the conflict since 1947 through its representatives, whether it was Emile Sandstrom or Count Bernadotte. However, with the assassination of the latter, we observed a deterioration of the Swedish-Israeli relations; although not obviously apparent until the early 1960s as Sweden adopted a cautious diplomacy and operated for a rapprochement with Arab countries. Finally, we discovered that Sweden decided to put an end at this cautious diplomacy as a result of the Six Day War in 1967; which marked the onset of the Israeli occupation – Olof Palme being the one to take such actions.

In the second chapter, we took an interest in the person of Olof Palme and the active neutrality his era coincides with. As we first insisted on the fact that neutrality did not mean passivity but allowed Sweden to express itself freely on international matters, we then looked upon how Olof Palme's arrival to power became a major turning point with respect to Swedish foreign policy towards the Israeli-Palestinian conflict. As much as Olof Palme proceeded to a reassessment of Swedish foreign policy, we also discovered that this change was neither sudden nor abrupt but changed over the years as observed in the previous chapter. Nonetheless, we came to the conclusion that Olof Palme's arrival to power represented a change of leadership within the Social Democrats, not only in terms of the one who leads but also with respect to the ideas that Palme brought with him. Indeed, apart from what Olof Palme did for the Palestinian cause as Prime Minister and leader of the Social Democrats, what we observed is that Palme's decision-making process was highly influenced by his ideas of what the world should be, a world in which the core values in which he believed should be applied to everyone. As a result of this chapter, it was not only possible to confirm our first hypothesis but also to address partially the second one as we came across literature that did not consider the Arab oil embargo of 1973 as the sole reason that led to an increasing interest

for the Palestinian cause of the Swedish foreign policy. In fact, the importance of international law and human rights is significant when it comes to justify Sweden's involvement in the conflict.

In the third chapter, we chose to look upon another key actor of Swedish foreign policy in the Israeli-Palestinian, Sten Andersson. Subsequent to Palme's assassination the 28th February 1986, its close associate, Sten Andersson was appointed Foreign Minister. As new Prime Minister Carlsson did not have a particular interest for foreign affairs, Sten Andersson became the only one in charge of Swedish foreign policy. Under Andersson's lead, Sweden increased its involvement in the Israeli-Palestinian conflict whether it is in international arena such as the UN or behind closed doors with its quiet diplomacy. Among the crucial steps forward that were achieved under Andersson's watch was the opening of a dialogue between the US and the PLO as a result of back channel negotiations between prominent Jewish Americans and a PLO delegation, the latter having taken place in Stockholm under the Swedes' supervision. However, following Swedish general elections of 1991, the Social Democrats were no longer in power. Nevertheless, as the Israeli-Palestinian conflict was one Andersson deeply cared about, he anticipated an eventual defeat of his party and made sure that the Scandinavian involvement in the conflict remain untouched. From this will emerge the Oslo Accords. Months before the Social Democrats returned to power, both Israelis and Palestinians submitted a joint proposal for a secret channel under the supervision of the Swedes. Back in power in September 1994, the Social Democrats decided to ensure the previous government commitment to the initiative and Andersson was chosen to oversee its smooth running. Unfortunately, the result of these secrets negotiations, known as the Beilin-Abu Mazen Understandings, will never make it to Israeli Prime Minister Yitzhak Rabin as the latter was assassinated days before it was presented to him. Its successor, Peres, was reluctant to use the document, as the context was not optimal to make such a move in his opinion. Nonetheless, this document ended up leaked in the newspapers *Haaretz* in February 1996. As the Israeli general elections were due at the end of May, Peres' opponent, Benjamin Netanyahu used this document and built its campaign on it. Consequently, the Labour Party lost the 1996 Israeli general elections and the first real effort to address the final status never saw the light. Nonetheless, this document still remains as the landmark of every negotiation since then - which highlights Sweden's important role in the conflict. At the end of this chapter, it was possible for us to confirm that Swedish foreign policy with regard to the conflict cannot be explained only by economic and strategic reasons as our research depicts a significant importance of the well-established principles of international law in the former as well as continuous involvement in the conflict since 1947 – thus before the Arab oil embargo.

Moreover, this chapter also enabled us to validate our third hypothesis as we came to the conclusion that the opening of the US-PLO Dialogue not only paved the way for Oslo Accords but also for a sustainable dialogue between Palestinians and Israelis as the joint proposal of the parties in 1994 depicted a desire to continue the negotiations under Sweden supervision.

In the fourth chapter, our attention focused on what we refer to Göran Persson's backtrack policy. Indeed, whereas this policy did not become operational directly after Persson took the reins of the country in early 1996, it remains that the policy the new Prime Minister undertook following Israel's fiftieth anniversary, the 26th April 1998, constituted a U-turn in comparison to what Swedish foreign policy used to be for decades. As Persson considered that Swedish foreign policy had been unbalanced since Olof Palme's era, a major recalibration of it took place under his watch. Nonetheless, Sweden did not stop its involvement in the Israeli-Palestinian conflict; it just took another direction - which can be linked to the Social Democratic Party's stance before the Israeli occupation started. Ensuing from this change of direction was Persson's decision to surround himself with diplomats that had no connection with previous key actors such as Olof Palme and Sten Andersson. Keen to be part of the solution, Persson responded positively to a request of secret negotiations that would be held in 2000, in Harpsund, Sweden. However, it appears that Persson did not take into account the Palestinians' demands regarding a back channel, which will not involve officials although the idea came from them at first. Likewise, Persson yielded to Barak request not to include key political figures such as Abu Mazen. Moreover, Persson chose not to involve key diplomats that benefited from the Palestinians' trust such as Andersson and its close-associates that had been working on the issue for years. As Persson had a conflicted relation with Andersson, it is therefore possible to assume that it could have had a negative impact on Swedish Middle Eastern policy as Persson chose to play solo instead of relying on trump cards such as Andersson's unparalleled experience on the conflict.

In the fifth chapter, we chose to first take an interest in European policy towards the Israeli-Palestinian conflict before taking a close look at the possible repercussions Swedish foreign policy had on it. As the conflict has always been high on the EC/EU agenda, we started to examine its policies over the year so as to understand how the EU played a role in it. What comes out from it is that the EU got into the habit of voicing its concerns by way of official declarations. Although criticized for its absence of concrete engagement, it appears that EU declarations contributed to the formulation of new policy departures that were later adopted by other key actors of the peace process such as the US. Nonetheless, it seems that reaching a

common strategy among EU Member States remain a difficult task. While they do agree on the theory, disagreements remain on how to approach the conflict on a practical level. Not only do these disagreements come from the different degree of attachment every Member State has towards the Palestinian cause but also the enlargements further complicated the task. Nevertheless, through the wave of resolutions coming from the national Parliaments and the European Parliament following Sweden's formal recognition of the State of Palestine in October 2014, it is possible to perceive it as an attempt to Europeanize the conflict. Nonetheless, despite triggering reaction from its fellow EU Member States, Sweden's involvement in the Israeli-Palestinian conflict remains ahead of time compared to the latter – whether by its historical commitment to it or its present one. As a small-State, Sweden did not hesitate to pay no heed to US warning that this recognition might be premature as it considered that someone had to put an end to the dormant peace process. Whereas the EU will follow its path is yet a mystery, but at the present time, it is possible to speak of a Swedish exceptionalism. Therefore, our fourth hypothesis is rejected although it might turn out to be valid in the future. Likewise, although our fifth hypothesis is correct in theory, it is not the case in practice as everybody agrees on the fact that a lasting solution must be the result of bilateral negotiations between Israel and the Palestinians. Nonetheless, it appears that recognition from a State does not equals the one from another. Consequently, it is arguable that recognition from the EU might have a greater effect on the conflict as it is perceived as a legitimizing and normative power.

As this research comes to an end, it is important to reflect on the scope of this thesis. While lots of researches have been done on the Israeli-Palestinian conflict, it appears that few studies were carried out on Swedish foreign policy with respect to the conflict. According to us, what makes our research original is the sense of direction that it undertook. Not only did we take an interest in the Palestinian's claim for statehood in terms of international law but we also attempted to interlink it with a history of Swedish foreign policy on the Israeli-Palestinian conflict. In fact, we chose to do so as we deem that the recent Swedish formal recognition of the State of Palestine must be understood as a consequence of the Palestinians' steep path to the independence. Likewise, it is not a mere coincidence if we opted for constructivism as our theoretical framework. In fact, this choice rests on the fact that Swedish foreign policy could be explained by the impact of ideas. What comes out is that the latter was central in Olof Palme's reassessment of Swedish foreign policy. Indeed, Palme was convinced that his country's foreign policy had to be based on key norms and values from which no political consideration could ever have the upper hand on. Likewise, every actor that had been analyzed in the present thesis seems to confirm this trend. Whether they were

guided by Palme's legacy or not, we can affirm that all were guided by the ideas they believed in.

Finally, it is important to highlight that our thesis addressed an issue that is rather recent. As the recognition of the State of Palestine by Sweden dates from late 2014, not much has been written on the topic yet. Moreover, one must be aware that the author of this thesis does not speak Swedish, which drastically reduced access to the literature and the archives on the subject – whether past or present. Furthermore, the subject could have been better dealt with if we had conducted interviews with key political actors such as Swedish Foreign Minister Wallström or EU Special Representative for the Middle East Process Fernando Gentilini. However, while requests were sent to a large range of politicians, few were the answers we received. Consequently, we remain convinced that an updating of this subject could be an interesting thing to do in the nearest future as the literature will be enriched and changes will occur as the Palestinians' internationalization is ongoing and will trigger reaction among the international community – Sweden and the EU included.

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