

RE: EU-Israel Association Agreement and Israel's accession to the Organization for Economic Cooperation and Development in light of the situation in Gaza

Your Excellency Mr. Jose Manuel Barroso,

In light of the recent Israeli military attack on Gaza and the continuing blockade on Gaza, we are calling upon you to do everything in your power to urge the annulment of the upgrade of EU-Israel bilateral relations, suspension of the EU-Israel Association Agreement and to halt Israel's accession to the Organization for Economic Cooperation and Development (OECD) until:

- A sustainable and durable ceasefire has been reached
- Gaza's border crossings are permanently and unconditionally opened for humanitarian aid and for all civilian imports and exports
- An independent and impartial investigation is conducted into whether grave breaches of the Fourth Geneva Convention and gross violations of human rights law have been committed and the perpetrators brought to justice.
- Israel complies with all UN Resolutions, the Advisory Opinion of the International Court of Justice and concluding observations of international human rights treaty bodies relating to the human rights of Palestinians.

This crisis, more than ever demonstrates the need to establish a systematic linkage between human rights and economic relations. The EU has a vital role to play in promoting the protection of human rights and a sustainable peace.

We would like to bring to your attention the European Union Guidelines on Promoting Compliance with International Humanitarian Law (2005) which calls for the imposition of sanctions and other restrictive measures to ensure compliance with international humanitarian law and bring perpetrators of violations to justice before domestic courts or an international criminal tribunal such as the International Criminal Court. As High Contracting Parties to the Geneva Conventions, European member states are duty bound to ensure Israel's compliance with the Geneva Conventions (Article 1) and hold perpetrators responsible for grave breaches to account (Article 146).

The European Union has committed itself to the highest possible respect for human rights, including in its foreign policy. The Barcelona Declaration of 1995 calls upon all partners to "respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms ... without any discrimination on grounds of race, nationality, language, religion or sex." We further note that Article 2 of the EU-Israel Association Agreement states that: "Relations between the parties, as well as all the provisions of the Agreement itself, shall be based on a respect for human rights and democratic principles, which guides their internal policy and constitutes an essential element of this Agreement."

In the 'Road Map for the accession of Israel to the OECD Convention', adopted by the OECD Council (the Council) at its 1163rd session on 30 November 2007, the Council noted that in order for Israel to accede to the OECD it must demonstrate its commitment to "fundamental values" shared by all OECD members. These include "a commitment to a pluralist democracy based on the rule of law and a respect of human rights, adherence to open and transparent market economy principles and a shared goal of sustainable development."

We wish to express our deep concern regarding Israel's military attack on the Gaza Strip which began on 27 December 2008. According to the latest United Nations reports, Israeli forces killed over 1,300 Palestinians, the majority of them innocent civilians including an estimated 400 children. They wounded over 5,400 people; destroyed or seriously damaged civilian property and infrastructure including homes, mosques, schools, hospitals, shelters for displaced persons and UN premises. According to verified data of local monitors, Israeli forces displaced hundreds of thousands of civilians during the war. Currently some 60,000 people remain displaced as a result of Israeli strikes on their homes.

While the firing of rockets by Palestinian factions onto Israeli civilian areas also breaches humanitarian law, Israel's conduct during 'Operation Cast Lead' was characterised by its failure to distinguish between civilians and combatants and civilian and military objects and the use of disproportionate means and methods of warfare. Israel's attacks wreaked untold destruction and massive loss of civilian life. The now proven use of white phosphorous shells in built up areas has caused horrific suffering and maiming of civilians. As Israel maintains effective control over the Gaza Strip, it remains the Occupying Power, and therefore is bound by its international human rights and humanitarian law obligations to protect the civilian population in the occupied territory from the dangers arising from military operations.

Attacks by Israel which did not distinguish between civilians and combatants, and civilian objects and military objectives are war crimes which may amount to grave breaches of the Fourth Geneva Convention. The widespread and systematic nature of attacks on civilians during 'Operation Cast Lead' may also amount to crimes against humanity. These international crimes are subject to individual criminal liability for those who planned or executed such attacks.

Israel's military attack exacerbated a pre-existing and dire humanitarian situation that Israel created by its 18-month blockade on the Strip. This blockade had a pervasive impact on the supply and provision of essential goods and services related to water, sanitation, health, education and prevented humanitarian relief from entering Gaza. In addition, the blockade had a devastating long term impact on Gaza's economy. The widespread effects of the blockade were confirmed by the latest ECOSOC report on the social and economic repercussions of Israeli occupation.¹ This blockade has continued in spite of repeated appeals to Israel by the European Union and the United Nations for the blockade to be lifted. The blockade itself violates international humanitarian law and international human rights law as contained in the Fourth Geneva Convention and the International Covenant on Economic, Social and Cultural Rights, both of which Israel has ratified in 1951 and 1991, respectively, and which are *de jure* applicable to the occupied Palestinian territory.

Inside Israel, the State by its own legislation, maintains a two-tiered civil status that differentiates between mere citizens and "Jewish nationals," favouring the latter with superior economic, social and cultural rights and privileges at the expense of the indigenous Palestinian people. This regime of institutionalised discrimination has been questioned by serial reviews of Israel's human rights treaty implementation, including the Concluding Observations of the relevant UN treaty bodies.²

If the European Union fails to take action in light of Israel's attack and continuing blockade of Gaza its commitment to international human rights and international humanitarian law will be severely undermined.

We, the undersigned organizations, believe that the EU and its member States need to send a strong signal to Israel that those responsible for gross violations of human rights law and grave breaches of humanitarian law will be held to account, and that any country should be appraised according to the same high standards.

We look forward to your response and an opportunity to engage with you meaningfully on these issues.

Please be assured of our highest consideration,

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¹ Report prepared by the Economic and Social Commission for Western Asia on the economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan, A/63/74 and E/208/13, 6 May 2008.

² "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel," E/C.12/1/Add.27, 4 December 1998, paras. 10, 11, 13, 25, 34, 35 and 36; "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel," and E/C.12/1/Add.90, 23 May 2003, paras. 5, 16, 18, 32 and 34; Concluding Observations of the Committee on the Elimination of Racial Discrimination, CERD/C/ISR/CO/13, 14 June 2007, paras. 13, 17–22, 28 and 30.

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