



Coalition for Justice and Peace in Palestine

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Coalition for Justice and Peace in Palestine Inc.

Levant Section
Middle East Branch
Department of Foreign Affairs and Trade
RG Casey Building, John McEwen Crescent
Barton ACT 0221

April 30, 2021

To whom it may concern

RE: Submission re feasibility study on strengthening trade and investment with Israel

We are responding to the call by DFAT for submissions regarding the feasibility study currently underway into strengthening trade and investment with Israel.

The Coalition for Justice and Peace in Palestine (CJPP) is strongly opposed to any strengthening of trade and investment between Australia and Israel and believes that any strengthening of these ties would be directly counter to Australia's best interests and reputation in terms of respect for and adherence to human rights conventions and international law.

Our submission will offer a perspective on *more general issues with a possible FTA*.

International Law and a 'rules-based order'

Australia's support for a 'rules-based order' (RBO) is emphasised regularly by Australian government ministers. Foreign Minister Payne in March this year asserted that in relation to Australia/China relations, 'Australia wanted to maintain the "rules-based global order" which ensures "might is not right and power does not mean everything", and that the rhetoric which Australia employs in discussing the RBO is intimately connected with the concept of 'right over might': the idea that powerful states should not be able to act with impunity, but must be constrained by rules, norms and institutions that have been created by an international community of states.¹

CJPP recognises the importance of this position and its applicability in relation to the actions of the state of Israel and its unequal and apartheid laws in relation to Palestinians inside Israel², and its brutal occupation and dispossession of Palestinians from their lands and property in the West Bank, East Jerusalem, and Gaza. According to Al Haq, the pre-eminent Palestinian human rights organisation, 'the current system of discriminatory policies, access restrictions and physical barriers, separate legal systems

¹ <https://www.smh.com.au/politics/federal/marise-payne-says-australia-won-t-trade-away-values-to-restart-china-dialogue-20210319-p57c8j.html>

² https://www.btselem.org/publications/fulltext/202101_this_is_apartheid



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for Israeli and Palestinian individuals who live in the same area, and collective punishment measures including the closure of the Gaza Strip, violate International Human Right Law and are major obstacles to Palestinian economic development.³

In 2019 Senator Payne made the following statements on a rules-based order in her Keynote address to the Committee for Economic Development of Australia (CEDA), *"The government believes that the UN remains central to maintaining the rules and institutions that underpin a free, open, inclusive and prosperous global order. She said that 'Australia on the international stage must continue to support a rules-based international order which is founded on values that enhance stability and prosperity for all people for Australia' and that those values included "freedom, openness, inclusiveness and respect by each nation for the sovereignty and independence of others" and the 'power of competition on a level playing field governed by a code we all agree on."*⁴

Israel has repeatedly and seriously breached international law over many decades in relation to its occupation and settlement building within Palestinian territories including the West Bank, East Jerusalem, Gaza and as well as the occupation of the Syrian Golan Heights. UN Resolution 2334 of 2016 states that Israel's settlement activity is a *"flagrant violation"* of international law, yet the Israeli state continues to illegally enlarge its settlements despite international condemnation.⁵ Israel's breaches of a 'rules-based order' are outlined in this Amnesty International Report⁶ and here in relation to its blockade of Gaza⁷. Of note as well is the current International Criminal Court investigation of war crimes by Israel in Gaza which will focus on 'investigations and prosecutions of the crime of genocide, crimes against humanity, war crimes and the crime of aggression'.⁸

Israeli Apartheid and Crimes Against Humanity

The April 27, 2021 release of the Human Rights Watch report, *"A Threshold Crossed"*,⁹ concludes that *the Israeli government has demonstrated an intent to maintain the domination of Jewish Israelis over Palestinians across Israel and the OPT. In the OPT, including East Jerusalem, that intent has been coupled with systematic oppression of Palestinians and inhumane acts committed against them. When these three elements occur together, they amount to the crime of apartheid.*

The prohibition of institutionalized discrimination, especially on grounds of race or ethnicity, constitutes one

³ <https://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/RighttoDevelopment/AI-haq.pdf>

⁴ <https://www.ceda.com.au/NewsAndResources/News/International-affairs/Keynote-speech-Senator-the-Hon-Marise-Payne>

⁵ <https://news.un.org/en/story/2019/11/1051781>

⁶ <https://www.amnesty.org/download/Documents/MDE1594902019ENGLISH.PDF>

⁷ <https://reliefweb.int/report/occupied-palestinian-territory/suffocation-and-isolation-15-years-israeli-blockade-gaza>

⁸ <https://www.icc-cpi.int/Pages/item.aspx?name=210303-prosecutor-statement-investigation-palestine>

⁹ <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>



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of the fundamental elements of international law. Most states have agreed to treat the worst forms of such discrimination, that is, persecution and apartheid, as crimes against humanity, and have given the ICC the power to prosecute these crimes when national authorities are unable or unwilling to pursue them. Crimes against humanity consist of specific criminal acts committed as part of a widespread or systematic attack, or acts committed pursuant to a state or organizational policy, directed against a civilian population.

The Apartheid Convention defines the crime against humanity of apartheid as “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.”

Israeli officials have also committed the crime against humanity of persecution. This finding is based on the discriminatory intent behind Israel’s treatment of Palestinians and the grave abuses carried out in the OPT that include the widespread confiscation of privately owned land, the effective prohibition on building or living in many areas, the mass denial of residency rights, and sweeping, decades-long restrictions on the freedom of movement and basic civil rights. Such policies and practices intentionally and severely deprive millions of Palestinians of key fundamental rights, including to residency, private property, and access to land, services, and resources, on a widespread and systematic basis by virtue of their identity as Palestinians.

This report which is based on years of research and field work and analysis of primary sources has recommended that States examine their *bilateral agreements, cooperation schemes, and all forms of trade and dealing with Israel, to enhanced due diligence to screen for those directly contributing to the commission of crimes of apartheid and persecution of Palestinians, mitigate the human rights harms and, where not possible, end the activities and funding found to directly contribute to facilitating these serious crimes.*

Additionally, it calls for States to Condition military and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution.

The findings of this report and of the B’Tselem report, “This is Apartheid”¹⁰ provides unequivocal evidence of Israel’s clear and ongoing breaches of international law and human rights conventions. Under these circumstances, we believe Australia cannot entertain any consideration of expanding trade relations between Australia and Israel but rather must seek to impose targeted sanctions and other measures until such time as Israel is no longer in breach of these international laws and conventions.

Impact of Israel’s Occupation on Palestinian Economy

¹⁰ https://www.btselem.org/publications/fulltext/202101_this_is_apartheid



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The impact of the Israeli State's prolonged occupation and domination of the West Bank, East Jerusalem and Gaza and its discriminatory laws in relation to Palestinian citizens of Israel and the outdated Paris Protocol, have all had an inestimable negative economic impact on Palestine and Palestinians.¹¹

The August 2020 Report¹² on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory provided a bleak analysis of the situation - *Economic prospects darkened further as a result of the annexation of large areas of the West Bank, the economic ramifications due to the COVID19 pandemic, faltering aid flows and the loss of hundreds of millions of dollars through deductions or leakage to the treasury of Israel. By April 2020, one month after the start of the COVID-19 pandemic, the fiscal revenues of the Palestinian National Authority (PNA) had declined to their lowest levels in 20 years. The persistence of occupation and current trends in donor aid threaten the very existence of PNA.*

There is no doubt that Israel has progressively worked to destroy the Palestinian economy. There are no free trade options for Palestinians who are experiencing high rates of poverty and unemployment.

The UN Office for the Coordination of Humanitarian Affairs (OCHA) in 'Jan 2021 made the following assessment¹³ "Humanitarian needs in the occupied Palestinian territory (oPt) continue to be driven by a protracted protection crisis that leaves many Palestinian's struggling to live a life with dignity. This crisis is characterized by more than 53 years of Israeli military occupation, lack of respect for international humanitarian and human rights law, internal Palestinian political divisions, and recurrent escalations of hostilities between Israel and Palestinian armed groups.

Conclusion

Given this situation and evidence noted above and Israel's intransigence and refusal to abide by a 'rules-based order' over many decades, any enhanced trade relationships between Australia and Israel would be completely contrary to Australia's stated position on international law and would irrevocably damage this country's reputation and its credibility in its relations with other foreign powers.

¹¹ https://unctad.org/system/files/official-document/gdsapp2019d2_en.pdf

¹² <https://reliefweb.int/report/occupied-palestinian-territory/report-unctad-assistance-palestinian-people-developments-8>

¹³ <https://reliefweb.int/report/occupied-palestinian-territory/occupied-palestinian-territory-opt-humanitarian-needs-overview>