

**PALESTINIAN ECONOMIC DIPLOMACY:
PLANNING FOR STATEHOOD**

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To My Family,

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Abbreviations and Acronyms:

AHLC	Ad-Hoc Liaison Committee
CCC	the Customs Cooperation Council
CU	Custom Union
DAI	Development Alternatives Inc. Palestine
EC	European Commission
EFTA	European Free Trade Association
EPP	Economic Policy Program
FDI	Foreign Direct Investment
FOI	Freedom of Information
FTA	Free Trade Area
FTAP	Foreign Trade Act - Palestine
EU	European Union
GDP	Gross Domestic Product
GOI	Government of Israel
GAFTA	Greater Arab Free Trade Area
GATT	the General Agreement on Tariff and Trade
HS	Harmonised System
ICJ	International Court of Justice
ICT	Information and Communication Technology
IMF	International Monetary Fund
IP	Intellectual Property
IPR	Intellectual Property Rights
IRU	International Road Transport Union
ISP	Internet Service Providers
ISO	International Organization for Standardization
MAS	Palestinian Economic Policy Research Institute
MFN	Most-Favoured Nation
MNE	Ministry of National Economy
MoP	Ministry of Planning
MTDP	Medium Term Development Plan
NDTP	non-discriminatory Trade Policy
NGO	Non-Governmental Organization
PA	Palestinian Authority
Paltrade	Palestinian Trade Center
PCBS	the Palestinian Central Bureau of Statistics
PECDAR	Palestinian Economic Council for Development and Reconstruction
PIPA	Palestinian Investment Promotion Agency
PMA	Palestinian Monitoring Authority
PP	Paris Protocol
qCU	quasi Custom Union
RoO	Roles of Origin
RoRo	Role On/ Role Off
SPS	Sanitary and phytoSanitary

SMEs	small and Medium Enterprises
TBT	Technical Barriers to Trade
TP	Transitional Period
TRIPS	Trade Related Aspects of Intellectual Property Rights
VAT	Value Added Tax
WB	West Bank
WB&G	West Bank and Gaza
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
USA	United State of America.
USAID	United States Agency of International Development
UN	United Nation.
UNCTAD	United Nations Conference on Trade and Development.

Abstract

This study intends to give the Palestinian policymakers a tool to support the emergence of an economically-viable Palestinian state through equipping the Palestinian Authority PA with legal, economic, and technical policy advice to prepare the regulation for:

- The development of a trade policy for an independent state;
- The establishment of a WTO compatible sovereign framework for trade;
- Permanent economic status negotiation with Israel.

The two-state solution is the least common denominator for a just and peaceful solution for the conflict, justice means; economic viability and socio-economic potential for development.

Aspects of Research:

To have an economically viable Palestinian state, is to reach a Free Trade Agreement with Israel and to reach the open market. In addition, diversification of trade in Palestine and implementation of agreements with other regional and international countries are prerequisites in order to reach the international markets.

Although statehood is some way off the PA's reform agenda, the Quartet's Road Map¹ and Israel's proposal to withdraw from Gaza had focussed international attention on economic aspects. Analysis, planning documents and drafting effectively provide the foundations for an economic and trade-relevant agenda to statehood and the new roles and responsibilities.

Specifically, the legal, economic and technical work completed by the PA in 2004, with its policy options, priorities, sequencing and timelines for trade-related activities provided the frame and most of the substance for a detailed Economic Road Map in terms of Palestine's future economic relations with Israel.

The Palestinian goal of a viable and sustainable sovereign statehood requires the elaboration of WTO-compatible domestic legislation and the establishment of institutions to conduct foreign trade. Irrespective of the eventual shape of the future relations with Israel, these foundations will be indispensable for shaping Palestine's third-country trade relations based on the rule of law.

The elaboration of domestic laws and strategies for the development of appropriate institutions for trade, the preparation of the building blocks for a future trade agreement with Israel and preparation for the application to the WTO – constitute a very important contribution to the state-building process, now underway, and a valuable investment and asset for the PA.

According to the PA, the work has contributed to the steps taken by the Palestinian administration to prepare for an economically-viable statehood, to the political objectives of the international community to bring about a sustainable two-state solution and to the

¹ The Quartet's Road Map¹; Two states, Israel and sovereign, independent, democratic and viable Palestine, living side by side in peace and security, with three phases ended by 2005 with a permanent status agreement and end of Israeli-Palestinian conflict 2004-2005.

medium-term objectives of donors' assistance programmes to support the emergence of an economically-viable Palestinian state.

In broad terms the PA seeks to:

- Focus attention on the critical importance of giving economic issues prime attention and addressing them across the different tracks in a coherent way. Economic issues cannot be dealt with incrementally;
- Provide an understanding of the breadth and coherence of the PA interdisciplinary programme, WTO- compatible trade regime upon Palestinian independence;
- Ensure that this work is taken into account and built upon in the countdown to statehood so that future donor assistance is targeted cost effectively;
- Increase awareness of policymakers of what has been achieved to date, what remains to be done, and what appropriate priorities and sequencing for the transitional period based on Palestinian needs might be.

Focus of the study

This study aims to provide a user-friendly means of access and a guide to its relevance for PA policymakers, international players and other interested parties. With diplomatic and donor involvement in economic areas likely to accelerate at some stage, it is important that international efforts and the scoping of further work be informed by PA achievements to date and the substantial work completed.

This study provides a basis for a coherent programme of preparations in the economic/trade domains both for a viable, independent Palestinian state and for the negotiations with Israel. It demonstrates that it can fit into the implementation of trade-related reforms and assist in providing a foundation for a coherent programme of preparations for a WTO-compatible trade framework for an economically-viable Palestinian state, and the transition period. The work focuses, as a priority, on the minimum trade-related requirements on Day One of statehood. With regard to these minimum requirements, it indicates what has been achieved by the PA.

The objective of this paper is to present a draft indicative work-plan and a coherent agenda for the essential trade-related activities, some are completed, most to be completed and implemented, in order to achieve a workable sovereign trade framework upon statehood.

The present work is based on and is a reflection to the political and economic assumptions provided by the PA:

- To build of an independent, viable Palestinian state with a separate customs territory;
- To have political boundaries, territorial continuity and geographical contiguity, which is one of the major principles for an economically viable Palestinian State.
- That East Jerusalem is to be the capital of the Palestinian state and be an open city with free movement of goods and people. Because of its position at the centre of the future Palestinian state, it will play a major role for all economic, cultural and

health activities; and according to the international legitimacy the Palestinian state should include the 1967 occupied territories, West Bank including East Jerusalem and Gaza Strip.

- To have no Israeli settlements on the territories;
- To have open economic relations with Israel and other neighbours based on, and compatible with, WTO rules;
- That economic relation with Israel will be based on a Free Trade Agreement; there should be a transitional period that gives Palestinians the requirements to enable them to start the process of diversification of their trade.
- Recognition of legitimate security interests only.
- The need for a comprehensive development vision focused on priorities in some potential sectors in the Palestinian economy by developing, improving and supporting these sectors in order to strengthen the Palestinian market and to create a modern, open and sustainable economy.

I Introduction – Overview

The Palestinian economy is characterized by profound structural imbalanced high external dependence as a result of 38 years of Israeli occupation starting 1967, which had blocked export markets and minimized investments in the West Bank and Gaza. After almost four decades of occupation with restrictive measures that continue to dominate the economic prospects of the West Bank and Gaza, setting the Palestinian economy in a path of sustained growth requires an understanding of the conditions that influenced its long-term development prospects, and affected its growth dynamics.

Many changes happened in the Palestinian development environment after signing the Oslo Accords in September 1993, and the emergence of the Palestinian Authority in 1994. For the first time, Palestinian people in the occupied territories possessed an official body concerned with and had influence over the process of development. Shtayyeh (2003) stated that “donors provided PA with aid to face the problems of underdevelopment that had accumulated over the previous decades. Although Oslo agreement was not a successful agreement but it made positive changes for the Palestinians”.

Paris Protocol² was annexed to the Oslo Accords (Annex V). It covered the Economic Relations between Israel and the Palestine Liberation Organization (PLO); it was signed on April 29, 1994 to deal with regulating economic relations between the two parties during the Interim Period, where PA has a limited control over tax, budgetary management and fiscal policy in general because of the Israeli policy that kept to itself the right to control indirect taxes, import and export, standards and measurements of the Palestinian national currency.

The Protocol sets the regulatory and legal framework related to import policies during the Interim Period (1994-1999). It regulates tariff exceptions in regard to trade with Arab and Islamic Countries under List A1³ and A2⁴ as well as imports for the Palestinian development program under List B⁵. Also Palestinian assimilations to Israeli trade policy and procedures. When Palestinians import from third country (WTO member states), they are subject to the rules and disciplines of the WTO regard to non tariff measures without benefiting from corresponding market access opportunities.

This research gives the main elements for the future of Palestinian trade policy and the means for economic development. It shows how the Palestinians could create a healthy future state by creating an open market strategy, and how to be part of the multilateral trading system.

² Paris Protocol: Protocol on Economic Relations between the Government of Israel and the PLO, Paris 29 April 1994, Available from: <http://www.mne.gov.ps/MneModules/agreements/paris.htm>. [Accessed 2 September 2005].

³ The list A1 initially consisted of 29 tariff items of goods locally produced in Arab countries, with 2/5 of them restricted even further by having to have been produced in Egypt or in Jordan.

⁴ The list A2 initially consisted of 18 tariff items which could be imported from all Arab, Islamic, and other countries without having necessarily been produced there.

⁵ List B consist of machinery, equipment, tools and some semi-processed pharmaceuticals and raw materials for the wood industry.

There exist some agreements between Palestine and other countries, most of which are not really active because of Israeli impediments on trade, external and internal closures and daily barriers in the Palestinians territories.

These agreements are (Ministry of National Economy, 2005):

- Trade agreement between the government of the Hashemite Kingdom of Jordan, the state of Israel and the Palestinian National Authority, Amman, January 26, 1995.
- Technical and Economic Cooperation Accord between PLO and Arab Republic of Egypt, Cairo, January 25, 1994.
- US presidential Proclamation 6955 to provide Duty-Free Treatment to Products of the West Bank and Gaza Strip and Qualifying Industrial Zones, November 13, 1996.
- Euro-Mediterranean Interim Association Agreement on Trade and Cooperation between the European Community and Palestinian Liberation Organization, February 24, 1997.
- EFTA – PLO Interim Economic and Trade Agreement, November 30, 1998.
- The Joint Canadian Palestinian Framework for Economic co-operation and Trade, February 27, 1999.
- Interim Free Trade Agreement between the Republic of Turkey and PLO, February 12, 2004.
- An agreement between PA and China 2005.

PA has much to gain from developing and diversifying its economic relations with regional and Arab countries (Jordan, Egypt, Gulf States), with the European Union and others. There is a good potential for trade expansion where there are bilateral trade agreements, protocol accords among the four countries (Jordan, Egypt, Palestine and Israel), there is a need for harmonizing and coordinating these agreements in such a way to expand the lists of duty free goods.

The vision of Palestine as a viable independent and democratic state living side by side with Israel is a vision of normality. To achieve normality, there should be concrete steps toward a Palestinian economic viability as a prerequisite for long-term recovery, where Israel is one of Palestine's future partners, both will be important trading partners for each other, but the current quasi-exclusivity will be replaced by a much more diversified and healthier network of Palestinian foreign trade relations.

The Palestinian economic viability is the potential for economic growth contact with the outside world, territorial continuity and contiguity, as a sovereign link control over borders:

- Economic Sovereignty:
 - Control over exports and imports.
 - Mature trading and transit arrangements with Israel, Jordan and Egypt.
 - Legislation and institutions in place.

- Infrastructure (airport, seaport, roads network, electricity grid, water desalination ...etc.
- Palestine Integrated in the regional and world economy:
 - Member of Euro-Med Free Trade Agreement.
 - Member of Arab Free Trade Agreement.
 - Member of Key global systems e.g. WTO.
 - Solid FTAs (goods, services) with all key trading partners.
 - Trading routes (transit) and other infrastructure up to normal standards.
 - Facilitate the work of the donor and aid agencies.
 - GOI facilitating Palestinian Reform.
 - Free transit routes through neighbouring countries (Egypt, Jordan, and Israel).
 - Active participation in regional trade arrangements.
 - Fully beneficial treatment accorded to least developed countries.
 - Development and liberalization and facilitation of trade in services.

The key elements of the future autonomous Palestinian foreign trade policy regime are:

- Enabling environment for a solid, export oriented development of Palestinian businesses. PA should provide a comprehensive legal and institutional environment for the development of Palestinian businesses in a framework of economic statehood.
- A functional foreign trade regime: a comprehensive, modern foreign trade regime with the legal and institutional environment that includes legislation on import and export administration, tariffs and customs.
- Autonomous Palestinian Access (exit/entry) points, full Palestinian control on the borders with the rest of the world, and free transit routes through neighbouring countries (Egypt, Jordan, and Israel).
- Normal preferential trade relations with immediate neighbours.
- Normal preferential trade relations with key trade partners, including EC, USA, Arab states.
- Towards development, liberalization and facilitation of services trade. On the way towards a modern open economy, Palestine will work in all international fora - bilateral, regional and multilateral – as well as domestically.

II. Trade Policy Road Map

Political uncertainties greatly complicate the planning of a future Palestinian trade policy. During the period of 1996-2005, the Palestinian Authority requested many projects to work on a number of trade policy options; Free Trade Agreement (FTA) with Israel, Non-Discriminatory Trade Policy (NDTP), and policies for a transitional period.

These PA guidelines assumed that an independent Palestinian state will have its own trade regime – switching from the current quasi-customs union, to an FTA with Israel, that the future state will continue preferential trade arrangements, in particular with the USA, EU and the neighbouring countries, and that Palestine will apply for World Trade Organisation (WTO) membership⁶.

2.1 A Future Trade Policy towards Israel

On the basis of the PA assumption – ‘Economic relations with Israel are to be based on FTA, by working on three WTO-compatible options for bilateral preferential agreements with Israel and providing proposals for draft legal texts for agreements with explanatory comments.

2.1.1 Free Trade Agreement with Israel

Palestine would need to reach agreement with Israel to facilitate trade through customs cooperation involving exchanges of information, the simplification of procedures and the establishment of joint committees to oversee and monitor the operation and implementation of the agreement. For the other neighbouring countries like Syria, Lebanon, Jordan and Egypt are already members in the GAFTA as well as Palestine.

In view of Palestine’s aspiration to establish an open, liberal trading system compatible with WTO rules, the request of the PA provided substantial analysis with options for legal texts for Comprehensive Trade Agreement or a fully-fledged FTA with Israel based on the twenty points framework (EPP, 2000)⁷.

An FTA would provide open access to Israel’s markets, whilst permitting the diversification of trade relations and the development of policies to enhance economic growth. Such an accord would provide the most comprehensive framework for co-operation with Israel, not only in trade, but also in other areas of economic relations. It would create the political and psychological atmosphere for developing relations, improving conditions for investment and maximizing complementarities between the two economies. Furthermore, a Palestinian strategy targeting an FTA with Israel complies with EU strategies and the US initiative toward creating a Free Trade Area in the Middle East by 2013.

2.1.2 Transitional Arrangements

The issue of how the transitional period (TP) to statehood might be efficiently used had been addressed frequently. In the year 2000, terms of reference adopted by the MNE,

⁶ Note: WTO regime (MFN), which is applied on all WTO members, that Palestine will not automatically alien the foreign trade policy, Israel is one member out of 140 members, NTDP is one option and not the only one.

⁷ Economic Policy Program, (2000). *Twenty Points Framework*. London. London School of Economics. (Provided in Annex 1).

stressed that during a TP to the agreement and entry into a FTA, it would be important to introduce specific improvements in the Paris Protocol rules and application, agreed by Israel; and that the period should be used to develop and lay the building blocks for new economic relations with Israel, based on a FTA.

Between 2002 and 2004, TP was defined as the period that extends to the statehood and beyond during which Palestine's sovereign trade regime would be developed, including WTO-compatible domestic legislation to provide the legal foundation for external trade and preparations made for WTO accession. This latter definition reflected Palestine's aspiration to guarantee its freedom to associate with third parties on the basis of a sovereign trade policy as of Day One of Statehood whilst doing so in a manner consistent with the development of bilateral relations with Israel, including a potential FTA.

2.1.3 Sectoral Agreements with Israel under Non-Discriminatory Trade Policy (NDTP)

Based on the PA assumption of an NDTP and a sovereign trade regime, shortcomings of NDTP are analyzed so that they can be accommodated. A number of areas were identified where sectoral agreements with Israel could and should complement the NDTP option in order to cope with adverse consequences. While NDTP relies on the MFN principles, and strict WTO disciplines on preferential trade, these areas could nonetheless be addressed in bilateral arrangements in a manner compatible with WTO rules and Palestine's future membership in the organization. The suggestion here is that priority should be given to customs co-operation, transit, and technical barriers to trade, SPS, labour, trade in water, dispute settlement and security management.

- FTA involves consideration of various broad issues: competition, customs, tariffs, FDI, taxation, labour, IPR, monetary issues
- FTA involves consideration of various specific issues: Telecommunications, environment, electronic media, professional services, tourism, transportation

2.2 Autonomous - adopted Non-Discriminatory Trade Policy (NDTP)

A non-discriminatory Trade Policy (NDTP) implies that a country sets its trade autonomous policy and sets its charges according to MFN tariff, that states will treat all countries equally with regard to access to its markets, providing no country with preferential access.

The NDTP option implies a policy based upon Most-Favoured Nation (MFN) treatment of all trade partners alike, including Israel, subject to existing preferential agreements in particular with the US, the European Free Trade Association (EFTA) countries and the Greater Arab Free Trade Area (GAFTA) in the work of De Melo and Greather (2003). Under this option, Palestine - upon acquiring independence and on the basis of appropriate domestic legislation – would grant Israel the same treatment as all other countries with whom it has no specific treaty relations. Since NDTP is generally adopted under the disciplines of the WTO, Palestine's adoption of NDTP prior to its membership of the WTO would be a unilateral step.

NDTP based upon MFN would provide a necessary and WTO-compatible foundation for trade policy for a Palestinian state. In the absence of international agreements, in particular with the state of Israel, it offers a sound unilateral basis for trade, to be

implemented - in line with the Foreign Trade Act of Palestine and customs legislation - vis-à-vis all states, including Israel.

NDTP would facilitate Palestine's goal of advancing sovereign goals of economic development and diversification. It would also provide a clear framework for Palestine's starting point for future regional integration. Finally, NDTP, based on zero tariff rates, would increase administrative efficiencies, and, in a pure economic sense, would benefit the Palestinian economy by removing distortions that flow from tariff protection. Replacing existing preferential relations with Israel based on the Paris Protocol, NDTP implies independence in policymaking. Through ending dependence on Israel, it would provide potential to enhance the Palestinian economy, but it would also expose the newly-independent state to risks.

The risks of limiting trade relations with Israel to NDTP include the potential for Israel to apply tariff barriers and tariffs on 96% of Palestinian export trade, and the neutralisation of any incentive for Israel to negotiate bilateral agreements with Palestine (such as Sectoral Agreements, Trade Agreement, Free Trade Agreement or regional arrangements)⁸.

Palestine is advised, therefore, when formulating NDTP policies to take these risks and challenges into account. Cottier T. (2003) states that " The introduction of NDTP based upon MFN treatment provides the foundation for external trade. It offers the basis for trade regulation based upon domestic laws, which will directly determine the terms and conditions of imports to and exports from, the territory of Palestine."

Policy should be developed in a manner that encourages negotiations with Israel in key areas and creates incentives. This depends on a number of economic and political factors.

2.3 Sequencing of trade-related activities and timescales

Although PA assumptions assume a readiness on Palestine's behalf to pursue NDTP on independence, a Palestinian strategy to achieve a FTA as soon as conditions are right requires preparing for this eventuality and ensuring that nothing is done in the interim to close this option off. It is evident therefore that under these assumptions, an optimal use of resources requires Palestine to decide as soon as possible in favour of one the trade options and to develop a work plan for the implementation of necessary-trade related measures.

The absence of negotiations with Israel, and the proposed Gaza Disengagement greatly complicated Palestine's planning of trade policy options; they did not however negate its importance and necessity. Despite the uncertain political environment, the international community still supports a two-state solution, and an independent statehood remains the goal for Palestinians. If such a state is to be economically viable when it emerges, then preparations reflecting a coherent set of lead times should be undertaken to the extent possible across the trade-related areas, in order to assist the PA to use the transitional period to build on the previous work and to develop options to prepare for the gradual or immediate introduction of these in different combinations on Day One of statehood,

⁸ Cottier and Hughman (2000). *Options for Regulating Economic and Trade Relations with the State of Israel during a Transitional Period*. London: London school of Economics.

replace the Paris Protocol, provide a basis for cooperative relations with Israel in key areas and prepare for joining the multilateral trade system, especially the WTO.

The rest of this chapter will be devoted to proposed sequencing for the implementation of these trade-related measures and the institutional capacity building required.

2.3.1 Phase 1: Preparations for Statehood

The following agenda is drawn to reflect the Phases of the now moribund Quartet Road Map; the agenda provides a sound basis for the PA to sequence the work in phases. Summarised briefly here are the economically-relevant proposals for trade policy measures that reflect a list of activities.

2.3.1 i The right climate for trade talks

Meaningful consultations on trade can only be conducted within economic negotiations. The parties may have the opportunity to address options based upon a future NDTP and exploring their implications. One of the main aims would be for Palestinians to achieve a full understanding of the goals of future trade policy, its legal foundations and possible long-term options with a view to addressing these in final negotiations with Israel.

2.3.1 ii Provisional borders

The aim of the second phase of the Road Map is to achieve a Palestinian State with provisional borders. This provisional status, which now seems away ahead, would effectively mean that it would not be possible to implement a final border regime at this stage.

In terms of trade regulation, the Paris Protocol would remain in operation for as long as the borders are not finally settled. However, improvements in the Protocol's implementation could be sought. It would only be feasible for Palestine to announce NDTP on the establishment of a state with provisional borders if the contours of future final borders are also agreed upon and subsequent border adjustments are so minor as to have no influence on the establishment of border control systems.

2.3.1 iii Legal preparing for statehood

The period prior to full statehood should be used to prepare for the implementation of a sovereign trade framework to replace the Paris Protocol. In particular, Palestine should seek to implement the steps needed to develop key components of its future sovereign trade framework – trade-related legislation and the institutions to administer it.

In addition, Palestine should use that period to prepare a comprehensive and coordinated plan to speed up the recovery of the Palestinian legal issues and improve the performance of the private sector in terms of productivity. This can be done by completing and streamlining the economic and financial legislative framework of interest to the private sector and strengthening the Palestinian institutions required for implementing and enforcing these legislations.

2.3.2 Phases 2: Full Palestinian Statehood with a potential FTA

Following the establishment of full Palestinian statehood based on defined borders, it should be possible to implement the strategies proposed here.

2.3.2 i *Negotiating trade agreements with the state of Israel*

The scheduled period to full statehood (Phase 1), would allow for the preparation and negotiation of essential sectoral agreements with Israel. It could be introduced to accompany NDTP upon statehood or to prepare for a comprehensive trade agreement or lead to a FTA. It is worth mentioning that the three options could all be combined together.

Option 1: Sectoral Agreements

This option would make it possible to focus on the most sensitive issues on which bilateral agreement would need to be reached with Israel in the event of an NDTP. There is a need to focus on reaching agreement on customs co-operation, transit, safe passage, Jerusalem, TBT and SPS issues, transit and labour relations. Each of these agreements would need to entail efficient dispute settlement mechanisms. The advantage of this approach is that results may be achieved very rapidly by decoupling the different areas.

Option 2: Comprehensive Trade Agreement based upon NDTP

This option would make it possible to address the above-mentioned issues plus additional components of trade regulation, including services, all on the basis of NDTP. The advantage of this approach is that it combines all areas in a consistent manner while avoiding fragmentation.

Option 3: Comprehensive Free Trade Agreement

Finally, and depending on regional developments, Palestine and Israel may choose to negotiate a FTA, as described above. This option reflects a relatively high level of integration, mutual confidence and economic interdependence. It covers both goods and services. While it is possible to envisage a FTA from the outset, it is also possible to create such a framework on the basis of sectoral agreements or a Trade Agreement (Options 1 or 2).

2.3.2 ii *Comprehensive peace in the Middle East*

The proposal for comprehensive peace in the region, as foreseen by the Road Map, would be based on UN Security Council Resolutions 242, 338 and 1397⁹, and concluded in the framework of the Middle East Peace Process (MEPP). It would also reflect the clauses in the Beirut Arab League Resolution of March 28, 2002¹⁰. This resolution promised normalisation of Arab relations with Israel as soon as the Palestinian-Israeli conflict is comprehensively and satisfactorily settled.

In terms of trade policy, the permanent status agreement should recognise the sovereign right of Palestine to conduct its own trade and economic policy within recognised borders. It should also address the issue of transitional arrangements and include support by Israel and by outside powers for Palestine's accession to the WTO.

⁹ U.S. Department of State. *UN Security Council Resolutions 242, 338 and 1397*. [online]. Available from: <http://www.state.gov/p/nea/rt/11134.htm>. [cited 8 November 2006].

¹⁰ Beirut Arab league Resolution, (2006). *The Arab –Israeli Conflict: to reach a lasting peace*. Jerusalem, Amman, Brussels. Faten Sharaf

2.3.2 iii Implementing legislation, NDTP and modulation of the Paris Protocol

The definition of final borders would allow domestic legislation prepared during Phase 1 to be passed and implemented, including the Foreign Trade Act and other laws related to the conduct of trade policy, notably those on customs, unilateral rules of origin, tariffs, VAT, procurement, competition and technical barriers to trade. Once the Foreign Trade Act, customs legislation, including tariffs, and taxation arrangements are in place as a minimum requirement, the Paris Protocol should be modulated for the purpose of trade in goods, and the NDTP foreign trade regime based upon MFN could take effect. Furthermore, second priority components of the trade framework, such as IP and SPS measures required for WTO accession, could be bolted on later.

III. SOVEREIGN TRADE REGIME:

KEY UN Security Council Resolutions 242, 338 DOMESTIC COMPONENTS

There should be many preparations in the domestic trade-related legislation and the associated measures, to replace the 1994 Paris Protocol, and have a sovereign framework to regulate foreign economic relations. These laws and policies, which will be indispensable for the new independent state, are considered below as first priority issues. Second priority legislations are to cover the protection of foreign direct investment and intellectual property.

These preparations will be conducted in parallel with the preparations for Palestine's accession to the WTO, which will provide a crucial framework for stable trade relations for Palestine and open avenues for dispute settlement protecting Palestinian interests. The goal behind the WTO membership is, therefore, to provide the basis and framework for domestic trade-related legislation.

3.1 First Priority Issues

3.1.1 Foreign Trade Act and Associated Measures

Present proposals for a draft Constitution for Palestine, scarcely mention foreign trade affairs. The FTAP fulfils constitutional functions in the field of trade policy. It is built on the Basic Law, which was enacted in March 2003; it plays the role of the constitution law until it takes the endorsement from the government. Following the drafting of a future Constitution, the draft Act may require adjustment.

The legal requirements for a Foreign Trade Act depend on the constitutional structure of the state concerned. Foreign Trade Acts vary according to the allocation of power between the state's executive and legislative bodies.

Cottier, et al. (2002) concluded that the foreign trade needs to:

- Provide the legal basis for the conduct of foreign trade relations, and define the authority to take decisions and enact regulations.
- Address treaty-making power and define the scope of authority to negotiate and enter into international agreements in the field.
- Contain the basic rules on trade measures which can be lawfully taken by public authorities.

The FTAP addresses the following additional regulatory areas:

- Balance of payment measures.
- Rules on Anti-dumping and countervailing duties with respect to unlawfully subsidised products.
- Basic rules on technical barriers to trade and sanitary and phytosanitary measures.
- Rules of transit.
- Basic provision on tariffs, customs valuations, and rules of origin.
- General rules on trade in services.

- General rules on foreign labour.
- Rules on intellectual property and competition.
- Rules on export promotion, export subsidies.
- Rules on the protection of foreign direct investment.
- Rules on trade in agriculture goods.
- Rules on taxation of imported and exported products.
- Rules on customs administration and border controls.

The draft Foreign Trade Act (FTAP), prepared in 2003, provides the legal foundation for regulating and administering foreign trade. It plays an essential role through defining principles as well as jurisdiction to act and to review decisions in the trade-related field. The act autonomously applies to all imports and exports of goods and services. It sets out procedures for consultation and decision-making, as trade issues today involve more than one ministry; and it addresses the relationship to international agreements, in particular with respect to licensing, TBT measures, standards, and conformity assessment.

The Act aims to apply principles to secure an open market and to limit restrictions on the implementation of legitimate policy goals. It contains principles of non-discrimination (MFN as well as national treatment), proportionality, and transparency. It defines conditions for the application of trade remedies, in particular safeguard and national security protection measures.

The Act defines the authority assigned to the PA, Palestine's Legislative Council, the President, the Cabinet, the Ministry of National Economy, and special Agencies. Provisions address different functions assigned in the process of treaty negotiations. In particular, the policy input of the Legislative Council and the role of the Cabinet are addressed.

The Act addresses the relationship between international and domestic law. It establishes the principle of the supremacy of international agreements, and the principles of direct effect and consistent interpretation. The draft also sets out rules on how the Act will relate to other national laws affecting import and export of goods and services, including a future Customs Act, as well as rules on treaty-making and decision-making powers.

The Act, as phrased, should be suitable for operating under existing and future bilateral agreements, as well as under probable membership to the WTO and of other international organisations. It will enhance confidence in the stability of the Palestinian legal system amongst Palestinian citizens and potential investors, whilst providing decision-makers with flexibility where de facto compliance with WTO rules is not appropriate prior to entry to the WTO.

3.1.2 Tariff Policy and Tariff Act

- *Tariff Policy*

A major challenge to the PA is to identify an appropriate tariff structure that takes into account the specific Palestinian situation and advice on how this structure is to be calculated and implemented in practice.

In 2004, a report was prepared by the IMF, the World Bank and the Palestinian Tariff Committee that provided a valuable input for Palestinian stakeholders on future tariff structure. This report took a broad approach based on economic analysis and on international experience, where applicable to the Palestinian case. The foundation of an independent sovereign and viable Palestinian state, with open economic relations based on WTO rules, was taken as the point of departure, in accordance with PA guidelines. It was assumed that some of preferential trade arrangements with the European Union (EU), US, EFTA, GAFTA, Canada, Turkey, and other agreements, will be maintained.

Though not examined, the option of a Customs Union (CU) with Israel is another alternative. Such an option would be quite close to the status quo (with the exception of tariff collection issues), which means that most of the identified efficiency and transfer effects, quantified in the case of the alternatives examined in the study, would not take place.

The study handled the case for an autonomous low-tariff policy applied on an MFN basis. It argued that any future tariff policy should be based on the principles of an open and transparent trade regime, characterised by a low tariff and the avoidance of non-tariff barriers. This line of reasoning is supported by an examination of relevant characteristics of the Palestinian economy – the importance of trade for small economies, the persistence of high transaction costs, the structure of government revenue, and the existence of large net transfers from abroad.

Using a perfect competition partial equilibrium methodology, the report presented estimates of the welfare effects for Palestine to move from current trade arrangements to each of four options for an open trade regime, each built around a uniform tariff policy (and maintaining FTAs with the EU and US). Next steps towards developing such a law would require work during Phase One on: Scenario 1 a uniform 5% tariff; Scenario 2 a uniform 10 % tariff; Scenario 3 a uniform 0 % tariff.

The results indicate that a free trade regime (Scenario 3) would make the best option in terms of economic welfare. This scenario leads to the largest private sector gains. As expected, extra gains for the private sector would be more than the compensations that arise from the qualitative differences between having low tariffs and no tariffs at all. Choosing the best option depends on the situation after the final status. We recognise that a low and uniform tariff would most likely have adverse effects on agriculture, particularly in the absence of an FTA with Israel, and Israeli products will compete with Palestinian Agriculture products, the competition is expected to be extremely hot. If Israel was not ready to accept a Free trade Agreement in the final status, Palestinians should consider Scenario 2 (%10) in relevance with the final status arrangement with Israel.

The issue of tariffs compensating for market distortions could be of particular relevance to the discussion on the tariff options for Palestine. And the “infant industry” arguments could be of relevance to the case of an economy under reconstruction.

- *Tariff Act*

Once a tariff policy for Palestine has been reached, the PA will develop the tariff law as part of its sovereign trade regime and later the regulations to administer it. This law provides the legal basis for tariffs and authorises the government or ministry to set, adjust

and operate tariffs through a general schedule of tariffs, which needs to be approved by the legislature. The tariff schedule should be based on the Harmonised System (to which Palestine should adhere) and can be incorporated into the Tariff Act by means of an annex.

A schedule of goods showing the duties applicable; and based on Harmonised System (HS);

- Provisions for imposing duties;
- A schedule of duty exemptions.

3.1.3 Customs Legislation and Future Operations:

The traditional roles of Customs Administrations are revenue collection, the protection of society and law enforcement. Although these responsibilities still form a valuable part of the overall function of Customs, trade facilitation is an equally important responsibility in a highly competitive world. The efficiency and effectiveness of Customs procedures can significantly influence a country's economic competitiveness and therefore its national prosperity.

Customs Territory:

All sovereign states require legislation on which to base customs clearance operations for goods and passengers. Customs administrations have a duty to enforce such customs legislation and to identify and prevent the movement of prohibited or restricted goods across the frontiers of the country. From an economic perspective, all legitimate trade should be allowed to pass quickly and without unnecessary delay. The manner in which these controls are carried out is an important indicator of the efficiency and effectiveness of the Customs and associated Border Authorities.

The aim of the Palestinian Government is to develop straightforward and efficient customs control operations at seaports, airports, land borders, and inland, capable of facilitating a flow of legitimate trade and passengers, while ensuring collection of revenue and the social protection of citizens.

Hughman and Jackson, (2003a) in their research paper stated that customs clearance of goods and passengers will normally be carried out at a Border Post at, or near to, the National Frontier. The location of these customs facilities will usually be driven by factors such as:

- Trade patterns and anticipated volumes of traffic;
- Geographical considerations;
- Major road networks and proximity to main urban areas;
- Development plans regarding land use, industrial estates, etc; and
- National security issues.

Geographic link:

(World Bank, 2004) clearly stated that, not only the political expectations but also the economic necessity of the unity of Palestinian territory in Gaza and West Bank are important.

The structure and resources of each facility in Palestine is likely to be influenced by the available timescale, and level of co-operation from the neighbouring states (particularly Israel). These facilities are expected to cater for all cross-border movements of goods, persons and means of transport, and will be the only means for legitimate movements between neighbouring states.

Currently, there exists a Border Administration Authority under the umbrella of the National Police. This Authority is expected to retain responsibility for owning and administering the border clearance sites.

The current option outlined by Customs was one involving a total of nine (9) crossing points:

- One between Gaza and Egypt;
- Two between Gaza and Israel;
- Four between West Bank and Israel; and
- Two between West Bank and Jordan.

The initial plan, as been indicated, was to have six (6) 'full' border clearance facilities:

- One crossing point with Egypt;
- One crossing point with Jordan; and
- Four crossing points with Israel - *three* with the West Bank, and *one* with Gaza.

For the other three locations, a basic administrative structure is proposed that would draw on the resources sited at the major facilities as and when required.

Hughman and Jackson (2003b) stated that there will be a need for the continuation of border (frontier) facilities at the existing Rafah Airport, for new facilities for the proposed West Bank airport at Qalandia and for the seaport near Gaza town.

Customs Act

It was mentioned earlier that, an Independent Palestine, like all sovereign states, will require a Customs Act to provide the legal basis for the administration and enforcement of customs operations. This would replace the Paris Protocol which currently covers customs issues.

The development of work on the draft Foreign Trade Act of Palestine, which covers the following:

- General Regulations;

- Customs Procedure Law;
- Customs Debt Law.

The Customs Act is not yet a law, the draft was submitted to PA in late 2003, and it is waiting to be endorsed in PLC.

Administration and institutional development

To implement the Customs Act, Palestine needs to develop straightforward and efficient customs operations, capable of facilitating the flow of legitimate trade and passengers, while ensuring collection of revenue and the social protection of citizens.

Hughman and Jackson, (2003a) explained in their study that it is requested from the PA to examine the implications for customs development of an independent Palestine adopting either a NDTP towards its trading partners, including Israel, or establishing a possible FTA between Palestine and Israel. The study provided a model framework for capacity building institutions within an independent Palestinian state with full responsibilities for operating a border regime. It identified the minimum customs institutional requirements – all in line with international best practices - for implementing both of the above trade policy options, and suggested strategies as to how new responsibilities and roles might be managed, a work plan and likely timescales for the transitional period to statehood.

The study concluded that irrespective of the trade policy pursued toward Israel, customs would need to assume greatly extended responsibilities on Day One of Statehood, moving from the current predominantly audit-based monitoring role, to one with direct responsibility for the financial and physical clearance of goods and persons at a customs frontier. It also concluded that the minimum range of functions required underpinning either of the two policies and the timescale for implementation would not differ much. However, since the Customs Department is presently capable of meeting only a fraction of the responsibilities it will face on Day One of Statehood. The greatest challenge to developing a world-class organisation lies in a strategy similar to what is presented in the paper to develop a minimum standard of operation by that day.

3.1.4 Autonomous regulation of Rules of Origin (RoO):

Rules of origins are part of the laws of a country and they are designed to enforce its economic policy. They play a role in the application of laws concerning marketing, labelling, misleading advertising, in duty drawback provisions, government procurement, process patents, countervailing duty and safeguard proceedings, quantitative restrictions, prohibited imports, trade embargoes and services. They are also used to enforce anti-dumping actions.

In the context of the Palestinian-Israeli FTA, though, the area of economic policy is of critical importance. It concerns the extent to which PA wishes to insulate domestic products and consumers from international market forces. The economic relationship between PA and Israel is very difficult, so the rules of origin have to be amended to deal with these special circumstances. But these unique features of the current PA-Israeli economic relationship do not alter their function. What must be done is that, the PA

possess more farsighted than any other government in designing the economic policy that the rules of origin will support.

The overarching strategic vision of the PA should attract foreign investment to help develop economical sectors in the domestic market by extending and diversifying trade patterns. In order to implement such strategy, the PA should insist on an economic policy that provides a stable framework, avoid the access of producers to competitively priced imports and provide appropriate support to domestic production during an initial start-up phase (Stevens, 2000).

An approach to the autonomous regulation of origin rules through urgent consultations among concerned Ministries and with the private sector should be undertaken as a matter of priority. Such regulation should be distinguished from treaty-based special rules which Palestine will address in bilateral agreements.

Autonomous rules of origin should be as simple as possible. While an approach based upon the criterion of last substantial transformation, captures well the purpose of such rules, a percentage rule is much easier to administer. Whether or not regulation will require at least 35% content from Palestinian origin in order to obtain national origin, less percentage will require further analysis depending on the structure and international interdependence of the economy of Palestine (referring to the Arab League Rules of Origins).

With regard to setting up an appropriate border regime during the transition to statehood (Phase One) and in the post-statehood period (Phase Two), strategies, sequencing and timing will need to take into account the following first priority tasks, in addition to preparing the Customs Act and developing efficient customs operations.

Building the infrastructure: Cottier (2001) wrote that to manage the border clearance regime under an NDTP or an FTA, Palestine will need clearance facilities and procedures to secure revenue collection, anti-smuggling controls, facilitate transit operations, and special regimes for Jerusalem. One option is an Open City; Jerusalem will have no physical borders within. Borders will be nominal and invisible except for national security checks. There will be no borders established for customs and tax purposes in the city, but there should be one around the largely metropolitan area in order to control the flow of goods to and from the open city. Another option is that Jerusalem is divided in to two parts, East Jerusalem for Palestine and West Jerusalem for Israel; in this case each country will seek to operate its own regime in its respective part of the City. Cottier, (2000) Outlined how the development of infrastructure could be located either on, or near, the perceived border line in order to allow infrastructure development to begin before a final agreement has been reached on permanent borders. As the required infrastructure is likely to take up a small period to be built, this activity will most probably form the “critical” path in any strategic planning document.

- WCO membership. Membership of the World Customs Organisation (WCO) would provide the Customs Department with guidance, support and a valuable international forum. Palestine should work to align the development of the customs Department with WCO principles and Kyoto standards.

- Transit agreements. On reaching statehood, Palestine will need to give priority to the development of transit agreements with its neighbours (Jordan, Egypt and Israel) to secure access of goods to Palestinian territory from land routes, airport and seaports, in accordance with pertinent international standards and agreements. It is an important instrument to facilitate trade with and beyond the region through Egypt, Israel and Jordan. “The transit agreement shall provide a free and unencumbered movement of goods not originating in Palestine or Israel through the territory of one party when destined for sale in the territory of a third country” EPP (2000, p. 18). Palestine should also consider becoming a contracting party to the TIR Convention.
- Safe Passage. Assumptions provided by the PA that West Bank and Gaza Strip are to be considered legally contiguous and that movement of goods, people, and means of transport between these Palestinian territories should not be covered by the definition of “traffic in transit”.
- Jerusalem. Assuming that Palestine and Israel will have mutually-recognised and sovereign capitals in East and West Jerusalem respectively. Palestinian economic and trade policy and the associated border regime will, therefore, need to take into account the specific needs of Jerusalem. Assuming Jerusalem will be an Open city where goods and people circulate freely, many functions would need to be undertaken by a joint municipal structure, and special control mechanisms will need to be employed, such as labelling of goods and the use of number plate readers to monitor the flow of traffic and trade.

3.2 *Second Priority Issues:*

3.2.1 Competition Act

The case of Palestine is unique because of:

- The small size of the economy and the very weak economic conditions;
- The relatively small size of economic actors;
- The prolonged absence of a legislative authority prior to the establishment of the PA and
- The distance from the developed economics where this notion has been developed.

There are many principles to be considered in developing competition policy, whether internally or externally:

- All competition policies should be consistent with WTO rules.
- Any competition policy should protect and promote investment into the territory under the authority of the PA, while at the same time insuring that the interests of Palestinian investors, businesses and consumers are protected. And it is very important that foreign businesses can invest in the Palestinian territory under stable, transparent and open legal conditions. The PA should consider operating a liberal, non-interventionist economic policy.

- Policy should be fully integrated into an overall PA economic policy.
- It should be based on the principle that the Palestinian economy as a whole should be wealthier as a result of any competition measures.
- The PA should ensure any international competition obligations with the current Palestinian economic situation that comply with internally at reasonable cost.

Although Palestine does not strictly require a Competition law upon independence, competition rules would be very useful in order to enhance the competitiveness of the Palestinian economy and to serve the needs of consumers alike. They constitute an important element of investor protection, although if made too onerous, they can deter investment. At the same time they would help control the anti-competitive practices of Israeli entities operating in Palestine. As the WTO has no rules or framework for dealing with internal conditions of competition, Palestine has, in effect, a free hand in establishing its competition regime.

Some other problems that need to be addressed is the need to attract and keep international investment, the reliance on trade with contiguous States, including Israel and the limited administrative resources.

Principles of Regulation;

- Simple but flexible administrative structure, subject to review by courts
- Prohibition and where established violation fines
- Rigorous system of penalties that increases per violation
- Private right of action
- Possible use of “extraterritorial” penalties if consistent with international law obligations
- Detailed implementation of regulations required

The next steps for Palestine will be to develop regulations for the administration of the act; to establish operating rules and procedures for “the Committee”; and create Competition Tribunal of Palestine and draw up procedures - in line with the Law on the Judiciary.

Palestine requires Public procurement legislation upon statehood, independent of any international agreements on the issue, in order to regulate procurement activities of public entities.

While the WTO has a plurilateral agreement, the Agreement on Government Procurement (GPA) regulating procurement between the signatory parties, Palestine is not required to accede to the GPA as a condition of its accession to the WTO. However, certain WTO members may wish to impose accession by Palestine to the GPA as a condition for their agreement to Palestine’s accession to the WTO.

Palestine, therefore, has a significant degree of latitude with regard to how it chooses to regulate procurement by public bodies. At the moment, Palestine has the two existing laws that provide a high degree of transparency in procurement, which could, if slightly

amended, permit Palestine to accede to the GPA. An integral part of this analysis is whether Palestine wishes to make use of Article V of the GPA, which permits accession by developing countries. Would Palestine's acceptance that it is a developing country, worth the special and differential treatment, as it may send the wrong political message to the international community!

The next step is for Palestine to decide how to approach the public procurement issue and implement the necessary activities during the transition to statehood. It would be advisable to examine the whole system of public procurement in Palestine, once a decision has been made whether or not to adhere fully to the GPA, particularly Article V, which gives certain special and differential rights to developing and least-developed countries. Having made the decision, action could be taken to update the current laws to comply with WTO/GPA obligations by deleting or amending inconsistent provisions.

3.2.2 Intellectual Property

The major issue of intellectual property rights to be addressed by the Palestinians in a permanent status agreement is the need to end the discriminations of Palestinians by Israel's registration and enforcement institutions, and for Palestine to join the most important international treaties on intellectual property protection, by establishing a modern, high standard system of protection. The PA would comply with the requirements of the international agreements, and send a clear signal to potential investors. So Palestinians will benefit from national treatment as well as MFN treatment in other countries.

The PA needs to address different intellectual property rights in the West Bank and Gaza Strip that will tackle protection mechanisms against the violation of intellectual property rights. The current laws in force in the Palestinian territory:

- Copyright
- Patents and designs
- Trademarks
- Merchandise marks

The most favourable solution for the implementation of a highly-developed IP protection system by Palestine and Israel in the long run would consist of the mutual sharing of capacities and infrastructure, and eventually the implementation of a single IP office with competence extended to both countries. This situation would also have an important economic advantage, since it would be too burdensome for Israel and the PA, in view of the relatively small size of their countries, to set up and continuously maintain separate IP offices for the long run. The PA should, otherwise, set up and enhance its own offices with needed infrastructure, management organization and legal procedures and mechanisms.

3.2.3 Technical Normative Infrastructure

An appropriate law on technical normative infrastructure would be very useful, for until such a law is in place, Palestine will be compelled to continue to use Israeli standards.

Technical legislation (laws and regulations) and standards, consisting of rules and requirements on products, processes and production methods, have a crucial role in any modern society. Their purpose is:

- To protect human, animal and plant life and health;
- To protect the environment;
- To ensure efficient utilisation and conservation of water and energy resources;
- To support economic development and well-functioning market economy; and
- To promote international trade and technical co-operation.

The current Palestinian Law on Standards and Measurements No. (6) Of 2000, which the Palestinian stakeholders felt did not provide the best support for developing a viable market economy, needs to be redrafted. Taking into account the experience of the European Union (EU) as a useful model, and the relevant requirements of the WTO Agreement on Technical Barriers to Trade (hereinafter the TBT Agreement), one that is compatible with WTO rules and based on the model of technical legislation and standards that is prevalent in developed market economies. The experiences of other small countries with limited resources must also be considered.

It was proposed that the connection between mandatory technical regulations issued by the government and voluntary standards issued by the PSI should be arranged in line with the “New Approach” method of the EU.

The PSI would be organised as a semi-governmental organisation based on law and government regulations but with extensive autonomy in its daily activities;

- Drawing up and passing of regulations to administer the Act;
- Reorganisation of the PSI as a semi-governmental organisation;
- Creation of technically-competent laboratories and certification bodies – currently those in Palestine are not internationally recognised;
- Establishment of a WTO/TBT Enquiry Point and a National Accreditation Body.

Later on, the PA will desire to complement the new Law on Technical Normative Infrastructure with regulation on general product safety and on product liability, and, possibly, market control.

3.2.4 SPS Measures

Neither a Food Safety Act nor other measures are pre-requisites for establishing independent statehood. However, they would significantly strengthen the basis for a well-functioning market economy and foreign trade and are required to meet obligations of the WTO membership.

IV - TRADE AGREEMENTS WITH ISRAEL AND THIRD PARTIES

Political uncertainties greatly complicate Palestine's planning of future trade policy options with Israel and the region. It is therefore necessary to prepare different options and building blocks, which may be introduced as of Day One of Statehood in different combinations, either gradually or immediately, in order to replace the Paris Protocol regime. This approach should permit Palestine to move towards what will be defined as an optimal regime involving close interdependent economic relations with the State of Israel. The building blocks range from potential stand-alone sectoral agreements with Israel to a fully-fledged Free Trade Agreement (FTA) covering both goods and services. The legal texts for these options were drafted at the request of the Ministry of National Economy (MNE) in a manner compatible with Palestine's future obligations as a potential member of the WTO and the multilateral trading system.

Priority Issues

4.1 Free Trade Agreement with Israel

It is a priority to have a comprehensive Free Trade Agreement (FTA) with the State of Israel. Such an agreement must take into account conditions set forth by the WTO law due to Israel's membership of the Organisation and in light of Palestine's intended future membership. An FTA complying with WTO requirements will automatically fit a regional free trade system which may evolve in due course.

An FTA is considered a priority because under PA assumptions it would come after sectoral agreements in terms of implementation. However, it is suggested that concepts and texts should be worked on as of now during Phase One and ensure not to foreclose this option during any trade negotiations with Israel.

The building blocks covered additional key regulatory areas required for an FTA, as follows:

Abolition of tariffs and quantitative restrictions;

General exceptions and security exceptions;

Safeguards;

Rules of Origin (RoO);

Service sector;

Intellectual property (IP);

Rules on government procurement;

Promotion and protection of foreign investment;

Dispute settlement policy

Then, following negotiations of the above economic areas, draft legal texts for an FTA could be finalised and translated into Arabic/Hebrew. Once consultations and agreement amongst Palestinian stakeholders reached, the way would be open for parliamentary debate and approval, ratification by the legislature and entry into force.

4.2 Institutions Related to Trade Agreements with Israel

In parallel with implementing the above activities, Palestine needs to work with Israel on developing agreed procedures and mechanism and to set up joint committees to implement the agreement.

The suggestion here that preparation for negotiations and texts for sectoral agreements should be considered as a priority, to be conducted during Phase One period to statehood with immediate preparations for an FTA because under PA assumptions such an agreement would be implemented post statehood. However, it also suggests that concepts and texts for an FTA, be worked on as of now, in particular in the area of intellectual property, so that negotiators can assess requirements and be well informed prior to negotiations and care taken not to foreclose the FTA option when developing new trade arrangements during the transitional period to statehood.

4.3 Other Bilateral and Multilateral Trade Agreements

In addition to trade arrangements with Israel, the PA currently has trade agreements with other countries and trading groups; in particular:

- The European Union (EU);
- The European Free Trade Association (EFTA);
- The United States;
- The Greater Arab Free Trade Area (GAFTA);
- Jordan and Egypt.

These agreements make an important political contribution towards statehood and may be expanded upon independence. Palestine may seek to enter into Free Trade Agreements with these and additional trade partners.

As a matter of first priority during the period to statehood, the PA should review the above and other preferential agreements with key trade partners, consider the key issues and assess changes required in the context of statehood. Such agreements would also need to be compatible with WTO laws for the reasons already discussed. Where trade partners are Members of the WTO, they need to respect rights of third parties, and Palestine will need to respect such rights in view of her own impending or completed accession to the WTO. The conditions for preferential agreements set forth in Article XXIV GATT and Article V GATS apply to bilateral preferential agreements as well as to multilateral trade agreements, seeking to promote regional integration in the Middle East.

Core issues for negotiation will be broadly similar to those set out above for an agreement with the State of Israel (except for special issues such as Jerusalem and transit). On the basis of agreements negotiated, a number of activities to prepare for implementation would be required: drawing up of regulations, establishing of responsible agencies, revision of procedures and training.

4.4 Palestine and Israel: Essential Sectoral Agreements

If Palestine autonomously wants to introduce NDTP based on its own sovereign trade regime either immediately or soon after achieving statehood, there will be a number of

trade and economic areas where, for pressing economic reasons, it will be vital to agree on bilateral contractual rules with its neighbour and main trading partner, Israel.

In order to establish a workable economic regime and a viable economy, Palestine will need, as a matter of priority, to prepare and conclude sectoral agreements with Israel in the following key areas:

- Border controls and customs co-operation;
- Transit and Safe Passage;
- Jerusalem;
- TBT and SPS issues;

Vertically and horizontally integrated the draft texts can be used selectively or comprehensively both as a basis and starting point for bilateral negotiations with the state of Israel on trade-related topics.

It is important to note that the option of entering sectoral agreements related to trade in goods and services will need to take into account obligations of the State to Israel as a WTO member, to third parties and similar obligations of Palestine upon joining the WTO. Respect for the conditions and criteria for preferential agreements, therefore, should be taken into account from the outset. The sectoral agreements proposed are compatible with these requirements either because exemptions are provided under WTO rules or because matters covered, such as labour, are not yet fully covered by WTO disciplines.

Of these options prepared, the draft texts and commentaries for the stand alone sectoral agreements cover issues which should be addressed and prepared in order to render relations with Israel economically viable upon achieving statehood.

In view of the importance of such agreements, Palestine would be advised to continue to address its requirements and to prepare such sectoral accords as a matter of priority during the transition period to statehood and - when politics permit - to negotiate these with Israel so that they will be operational as of statehood.

4.4.1 Border Control and Customs Co-Operation

Palestine would need as a matter of priority to reach a bilateral sectoral agreement with Israel to facilitate trade through customs co-operation involving exchanges of information and the simplification of border procedures. Draft legal text to negotiate the following:

- Development of a framework that assists in extending trade facilitation;
- Customs co-operation for the exchange and share of information; control and surveillance related to the import and export of pirated and counterfeited goods; simplification of customs procedures for clearance of goods;
- Development of programmes and policies to work in close co-operation with the Customs Authorities of neighbouring countries to fight cross-border crime;
- Provision for fast and special procedures for the clearance of humanitarian goods;
- Systematic and targeted verifications at the border;

- Establishment of a Joint Committee on Customs cooperation to monitor the operation and implementation of the Agreement.

4.4.2 Transit and Safe Passage Agreements

Transit rights must be an integral part of any package of agreements and rules that Palestine will consider in connection with its overall trade policy strategy because transit will be a critical element of the effort to ensure that independent Palestine is economically viable. In the absence of the right to conduct trade in transit across Israeli territory, Palestine would not be able to conduct trade effectively with its major trading partners. Therefore, from Day One of Palestinian state, Palestine should have a corridor which connects the Palestinian territories and should have the right to trade in transit across Israeli territory.

Although basic rules under the General Agreement on Tariffs and Trade (1994) guarantee transit rights to WTO Members, two obvious problems need to be addressed. First, it is assumed that Palestine will not be a Member of the WTO on Day one of its independence; and second, the national security issues that predominate in any debate on transit issues with Israel fall beyond the scope of WTO competence.

The Palestinian negotiators' priority should be that the "Parties shall adopt a comprehensive agreement on transit, securing access of goods to their respective territories from land routes, air and sea ports, in accordance with pertinent international standards and agreements, in particular, the TIR [Convention]."

A potential of "WTO Plus" sectoral agreement on transit includes the following issues to be negotiated with Israel:

- provisions of Article V of the GATT (1994), entitled Freedom of Transit, to form the basis for integrated trade agreement covering transit disciplines;
- requirements needed to maintain minimum level of financial/physical security and documentary control;
- inclusion of basic transit procedures in the body of the agreement;
- application of the terms of the TIR Convention to traffic in transit once both parties accede;
- designation of specific transit routes;
- provision of specific dispute settlement for Transit;
- creation of a Joint Committee on Transit (JCT) - responsible for the operation of this agreement, including dispute settlement;
- 'transparency' obligations;
- clarification of security exceptions-respect for sovereign decisions but introduction of yardsticks to assess measures once they have been taken;

Safe passage

Although, on essential areas for agreement, the states of Palestine and Israel will need to establish an effective mechanism for linking the West Bank and Gaza Strip to ensure practical levels of territorial contiguity. The use of ‘corridors’ is favoured. These would be permanently open and under Palestinian administration / sovereignty and allow for the establishment of the necessary infrastructural facilities linking the West Bank and Gaza Strip, e.g. pipelines, electrical and communications cables, and associated equipment. It is assumed that these corridors will not disrupt Israeli transportation and other infrastructural networks, or endanger the environment, public safety or public health.

4.4.3 Jerusalem

As requested by the PA, in relation to Jerusalem, future work on trade agreements with Israel assumes that Palestine and Israel will have mutually-recognised and sovereign capitals in East and West Jerusalem respectively. Palestinian economic and trade policy and associated border regime will therefore need to take into account the specific needs of Jerusalem, e.g. movement of tourists and intensity of border crossing use including provisions for Jerusalemites (Cottier, 2000). Assuming Jerusalem is an Open City where goods and people circulate freely, many functions would be undertaken by a joint municipal structure.

The draft legal text and explanation for a stand-alone agreement suggest:

- The respective customs duties and VAT of the importing State be paid upon entry at the border into the territory of either Palestine or Israel. If both States use the same horizontal 0%-tariffs, then customs duties would not need to be paid.
- Labelling requirements with respect to goods destined for consumption in the city should be introduced in order that these might be identified easily and also statistical control of such goods entering and leaving Jerusalem. The burden of labelling requirements would be imposed on the wholesalers. De-labelling would be possible under the supervision and control of the customs authorities of the parties.
- Use of number-plate readers and audit-based customs controls would provide a ‘light touch’ approach to monitoring compliance with rules, without creating harmful barriers to the free flow of trade.

Issues to be negotiated and agreed with Israel, including labelling and de-labelling requirements and conditions, arrangements for wholesalers trading within the Open City of Jerusalem and the establishment of a joint Monitoring Committee are to be discussed.

4.4.4 TBT and SPS Agreements

Upon independence, Palestine will not be (yet) a member of the WTO. However, the easiest and most effective way to regulate technical barriers to trade (TBT) and Sanitary and Phytosanitary (SPS) issues between Palestine and Israel would be to base such regulation on the relevant provisions of the WTO Agreements on Technical Barriers to Trade (hereinafter the TBT Agreement) and on the Application of Sanitary and Phytosanitary Measures (hereinafter the SPS Agreements. For Israel, this arrangement

would clearly be the easiest to implement. For Palestine, it would represent appropriate and good preparation for its planned accession to the WTO.

Thus, taking WTO disciplines into account, the draft text suggests that a stand-alone agreement with Israel includes:

- A Joint Committee on TBTs and SPS to be responsible for the operation of the agreement, including dispute settlement. Any agreement should provide a basis for third-party involvement, which may be of considerable help at the start of TBT and SPS co-operation between the Parties.
- Provision of a specific Article on administrative review in view of the particular importance of an adequate procedure on TBT and SPS issues.
- Provisions for access to the courts of law and prescription that these courts be obliged to examine the consistency of decisions made on the basis of provisions of this Agreement.
- Procedures on dispute settlement with binding panel reports.
- Vague provisions on harmonisation of regulations and standards – Palestine might have an interest to harmonise at least some of its regulations and standards with international, European, or Israeli standards.
- Vague provisions on mutual recognition of test results and certificates. For the time being, any such arrangements would only benefit Israel. It will take substantial funds and considerable time before Palestine has any internationally-recognised certification bodies and test laboratories.

4.4.5 Labour Market

Achievement of a viable independent state of Palestine will require access to labour markets and professional services in Israel – both important for the promotion of welfare in the territories of Palestine and Israel. Areas of importance to be addressed in a stand-alone agreement would be:

- Mutual access to labour and professional services;
- Provision of fair treatment and accommodation of the pressing needs for all workers of Palestinian or Israeli nationality in the territory of either Party;
- Mutual access to dispute settlement mechanisms.

Relevant texts and/or explanations are provided for the following issues, where it is suggested the Palestinians will consider when drawing up this key agreement:

- use of an MFN clause - privileges granted by either Party to nationals or residents of a non-Party will automatically apply between the present Parties;
- an Israeli obligation to providers of labour and services from Palestine;
- appropriate border controls to employ swift procedures and use modern technology for identification - combined with the principles of necessity and

- proportionality, thus excluding arbitrary recourse to or abuse of security measures for economic or other purposes that are not directly related to security;
- recognition of diplomas and professional qualifications acquired under the laws of the other Party - principle of recognition of equivalence that implies a person is entitled to work on the basis of a diploma acquired in Palestine to the extent that the education (training and experience) is considered equivalent, and vice-versa;
 - co-ordination in the field of social security and taxation;
 - Family members to enjoy the same rights as the employee or the service provider protected by this agreement;
 - Existing international agreements - instruments under the International Labour Organisation should equally be joined by Palestine within five years. A process which would also entail the provision of technical assistance by the ILO;
 - clarification of security exceptions - respect of sovereign decisions but introduction of yardsticks to assess measures once they have been taken;
 - creation of a compensation fund for measures taken lawfully;
 - transparency; individuals access to the courts of law, national treatment;
 - a Joint Committee - responsible for the operation of the agreement, including dispute settlement;
 - Private international arbitration - may be relevant for private translational labour disputes.

4.4.6 Institutional Development

Once the above agreements on Borders and Customs, Transit, Jerusalem, TBT and SPS issues, and Labour are negotiated, approved by parliament and ratified by the legislature, they will enter into force. Therefore, during the period to statehood, and in parallel with preparation of the sectoral agreements themselves, Palestine will need, as a matter of priority, to implement appropriate activities to ensure that the agreements will be properly administered and that Palestinian institutions are equipped to implement the laws.

V - JOINING THE MULTILATERAL TRADE SYSTEM

Joining the multilateral trade system should be achieved after statehood. Palestine's Membership to the World Trade Organisation (WTO), World Customs Organisation (WCO) and Transports Internationaux Routiers (TIR) will be important, as these bodies can assist in reinforcing the status of Palestine in its relations with neighbouring countries, supplementing its trade regime with market access rights and providing the possibility to defend its rights in WTO dispute settlement, if needed. Membership will also bring about technical assistance in capacity and institutional building.

Since Palestine aspires to join the WTO as soon as possible after statehood, preparations for joining the multilateral trading system will need to be ongoing during the period to statehood, undertaken in parallel with preparations for a sovereign trade framework and sectoral agreements in key regulatory areas with Israel. Preparations for membership in the WTO, WCO and TIR will be crucial, as will be the revision of domestic legislation in the key areas of TBT and SPS issues, IP and the Service Sector.

5.1 WTO Membership

With the increasing importance of principles and disciplines of World Trade Law in the region, Palestine is convinced that its trade policies should be based upon these rules with a view to foster its trade in the region and worldwide. As a first step, Palestine seeks to achieve an observer status in the WTO in order to become fully acquainted with the multilateral trading system. "The initiative shall eventually result in the membership of Palestine in WTO as a state or a separate customs territory, depending on the outcome of bilateral negotiations with Israel"(Cottier and Arpagaus, 1997a).

Palestine should plan to join WTO as a developing country which is entitled to GSP, for the balance of rights and obligations under WTO will soften in practice by GSP. Trade Policy of Palestine is increasingly regulated by international agreements such as Euro Mediterranean Interim Association Agreement between the EU and the PA and the trade agreement with Jordan. Therefore Palestinian's Trade Policy will find a sound foundation in the global system.

For Palestine, the rules and laws of the world trade organization are already implemented through Paris Economic Protocol that was signed in 1995, this is because Israel is an establishing country and a member in WTO, and it imposed its commercial system on Palestine through the Protocol. This is why the Palestinian economy pays for the membership, and commits to the regulations imposed on the members without having any membership privileges.

Membership of the WTO, which will take long time, seven to nine years, would provide a crucial framework for stable trade relations, providing specific legal remedies compensating for the risks and challenges of NDTP and also the basis and framework for domestic trade-related legislation. Although this latter is not solely a legal matter, it will be crucially important to create a domestic legal framework for the conduct of trade

relations that supports diversification of trade, foreign direct investment (FDI), competition and the protection of intellectual property.

In view of the above, and Palestine's stated desire to join the multilateral trade system, to comply with WTO rules and to accede to the organisation; preparations for accession should be a priority for Palestinian trade policy. WTO membership will provide a regulatory framework with all WTO members, including Israel. Based on its new Foreign Trade Act, Palestine's trade relations would be conducted in compliance with WTO rules. There are some essential actions that should be prepared immediately, as stated by (Cottier and Arpagaus, 1997b):

- 1- Starting capacity building related to WTO trade regulation within PA staff, by training and taking these rules into account in daily work.
- 2- Enhancing awareness among WTO members and neighbouring countries like Jordan, Egypt... etc.
- 3- Enhancing awareness among the private sector and civil society.
- 4- Getting support from trading partners for the observer status.
- 5- Exploring, in informal talks, the achievement of the general observer status in WTO, Consultations with European Commission and other supportive member states to provide support.

Accession to the WTO would be particularly useful to Palestine. Many discussions provided on how WTO dispute settlement will provide a key tool in offsetting asymmetries with Israel brought about by NDTP and how WTO disciplines will discourage protectionist policies and rent-seeking at home.

In the event of achieving Statehood, in the first instance with provisional borders, Palestine should apply for membership to the WTO. This would establish a status of observer-ship which would allow Palestine to fully acquaint itself with the operation of the organisation and to build its own infrastructure. A memorandum for accession to the WTO could also be prepared and bilateral negotiations on tariffs and other trade barriers with interested countries could be undertaken. Negotiations on the protocol of accession should then be completed so that full membership can be assumed upon or soon after the establishment of final borders and full statehood.

5.1.1 Application for WTO membership

Palestine could achieve the first step towards membership in WTO by participating in the 6th WTO Ministerial conference in Hong Kong on December 2006 as an observer with a consensus of all members.

When Palestine applies for WTO membership it will be able to negotiate the implementation of some WTO Agreements. However, upon accession it will need to implement the WTO Agreement on Technical Barriers to Trade (hereinafter the TBT Agreement) and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter the SPS Agreement) as they stand, although there may be some leeway if Palestine is granted special status as a developing country.

An application for membership could be made during the Transitional Period to statehood, either upon achievement of a separate customs territory or, if the Road Map is

adhered to when a state with provisional borders is established. The application would in itself establish a status of observer-ship, allowing Palestine to familiarize itself with the operation of the organisation, benefit from support for capacity building provided by the organisation and prepare its own infrastructure. To position itself for such an application, the PA would need both to update and adjust the draft memorandum that describes all aspects of Palestinian trade and economic policies, and to prepare answers to potential questions by WTO Members. (Pannatier, 2000).

Bilateral trade negotiations between Palestine and Israel and with the individual members would take place, leading to reductions in tariffs and non-tariff barriers and commitments in the field of market access for services. Following negotiations and agreement on the protocol of accession, then a two-third majority vote in favour, in the WTO General Council or the WTO's Ministerial Committee would pave the way for Palestine to sign the Protocol and accede to the organisation. Palestine's own legislature would need to ratify the agreement to complete formalities.

5.1.2 Development and review of legislation

When Palestine accedes to the WTO, it will be required to implement certain WTO agreements as they stand. For this to happen national legislation relating to TBT, SPS and Intellectual Property Rights will need to be compatible with WTO agreements, and institutions restructured in line with revised domestic legislation.

In the services sector (banks, insurance, and transportation), priority should be given to enhance the legal environment such as monetary law, land reform and licensing, merger of small banks, to implement the reforms of the financial sector including movable assets law, financial notification system to assure transparency, and activate the role of broker companies. In the Insurance sector, priority will be given to reform insurance law, activate the role of insurance controller, ensure transparency in procurements, and offer national treatment to foreign companies.

In the Information Technology there should be a focus on the ongoing expansion of internet and associated technologies such as wireless networks and high speed broadband technologies and the transformation of business models and the global adoption of e-business based exchanges.

In order to prepare for the accession of WTO, Palestine needs, therefore, as a matter of priority to prepare relevant domestic legislation in the areas of TBT and SPS, Intellectual Property and Services. Less urgently, over the next two to three years, legislation in areas such as investment protection and agriculture will need to be revised. Especially that the process of negotiation for liberalization in trade in services started at the level of Barcelona process and the first meeting was held in Brussels last July 2006.

5.1.2. i. SPS legislation

The WTO SPS Agreement covers three different fields: food safety, animal health and plant protection. Any country applying for membership in the WTO must be able to demonstrate that its legislation provides sufficient assurance of the Applicant's ability to fulfil its obligations under the Agreement.

In most developed market economy countries, this is achieved through the enactment of three separate laws:

- Law on Food Safety;
- Law on Animal Health; and
- Law on Plant Protection.

The overall purpose of food safety legislation is to protect human life and health against any risks caused by foodstuffs. In order to achieve this, the Law should define appropriate requirements on foodstuffs and handling the measures to ensure that these requirements are met.

In this connection it is useful to understand the difference between food security, food safety and food quality. Food security concerns measures to ensure that a sufficient amount of food is available – even in times of crisis – to feed the population. Food safety is concerned with assurance that food does not cause health risks to the public. Food quality ensures that food characteristics meet the expectations of consumers.

The purpose of animal health legislation is to protect animals against risks caused by pests, diseases or feed. The purpose of plant protection legislation is to protect plants against risks caused by pests or diseases.

However, the easiest and most effective way to regulate SPS issues would be to base such regulations on the relevant provisions of the WTO SPS Agreement.

As such, it is advisable for Palestine to have separate laws on Food Safety, Animal Health and Plant Protection - which would also be a way of preparing for WTO membership. However, alternatively, although not the recommended approach, it would be conceivable to incorporate food safety, animal health and plant protection as separate chapters within one all-encompassing Agricultural Act.

a) Palestinian Issues on Food Safety

Current Palestinian draft legislation proposes that food safety issues be covered by the Public Health Law for the Year 2000, and administered by the Ministry of Health. Chapter 8 of this draft law (Articles 55 – 69) is devoted to food safety.

This Public Health Draft Law does not, however, contain the necessary elements to assure that the pertinent provisions of the WTO SPS Agreement would be fulfilled. For example, there is no reference to non-discriminatory treatment, or to the application of relevant international standards, nor to an appropriate appeals procedure.

In this connection it is also proposed that administration of the food safety legislation be moved to the Ministry of Agriculture. There is a clear international tendency for allocating the responsibility of food safety to the Ministry of Agriculture. This tendency has several reasons. One is the new awareness of the close links between animal health and human health as demonstrated by the “mad cow” disease. A second is mutual dependence of food safety and food quality, and a third the effort to guarantee food safety “from the field to the table”. An additional advantage would also be that by allocating food safety to the Ministry of Agriculture, all issues under the SPS Agreement would be under one ministry only.

Since food safety problems as well as measures to deal with them are continuously changing and developing, it is generally considered appropriate to draft laws on food safety as framework laws, leaving detailed regulatory work to the government.

For Palestine, an additional advantage of the above approach would be that regulations on food products could be developed gradually, addressing the most pressing needs in order of priority.

In this regard, it would be advisable for any regulations of a general nature to be adopted by the Council of Ministers while regulations dealing with specific requirements or control procedures should be issued by the Ministry of Agriculture.

b) Palestinian issues on animal health and plant protection

This law also covers animal health and plant protection issues but the relevant provisions on these issues do not unfortunately amount to appropriate implementation of the WTO SPS Agreement by Palestine.¹¹

c) Summary of implications for future legislation of having three separate laws on food safety, animal health and plant protection.

5.1.2. ii Intellectual property rights (IP)

Draft intellectual property protection laws should be ready upon full statehood with final borders and should enter into force, at the latest, upon the accession to the WTO, subject to additional requirements imposed by the Accession Protocol. Apart from border measures, intellectual property is not a likely subject for sectoral agreements discussed above, but may be included in an FTA with Israel.

Intellectual property protection is perhaps the regulatory area which has been harmonised to the greatest extent in international law, more even than the regulation of trade, competition or investment. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) provides essential standards both on substance and procedures for protecting and enforcing these rights, significantly reinforcing the international intellectual property system. Although higher levels of protection are possible, in practical terms, the TRIPs agreement provides the essential benchmarks for future legislation for Palestine. Palestine will be obliged to render its obligations compatible with the TRIPs Agreement. Since it will qualify as least-developed countries, it may benefit from a number of exceptions and suspension of obligations under the special and preferential rules, provided that Members of the WTO do not insist on implementing the TRIPs agreement beyond these standards when Palestine accedes. The World Intellectual Property Organisation (WIPO) provides model laws on which countries may base their laws in accordance with contemporary international standards.

At the same time, intellectual property protection requires careful analysis of the needs of particular sectors of the economy, of consumers and traders alike. As economic structures

¹¹ It is improbable that the WTO would accept the relevant Articles of the current Draft Agricultural Law, as it stands, as sufficient demonstration of the appropriate implementation of the WTO SPS Agreement by Palestine. The following important aspects are not covered: national and non-discriminatory treatment, reference to international standards, risk assessment, control procedures, and appeals procedures. See *Brief Note: Sanitary and Phytosanitary Issues in Palestine: Proposals for Future Legislation*, EPP (2003).
Faten Sharaf

vary from country to country, rules on intellectual property should take differences into account. This is particularly true for Palestine.

Reich, PH. And Meitinger, I. (2000) in their study, review examined existing draft legislation in the fields of copyright and industrial property concluded that the two draft laws, which merely copy model laws without accommodating the particular needs of Palestine, are outdated, lack coherence and uniformity for the Gaza and the West Bank, and no longer reflect current and appropriate international standards of protection and enforcement of IPRs. They require careful revision.

The paper also concludes that legislation on IPRs is not an urgent matter for Palestine and suggests that sufficient time be taken to elaborate appropriate laws for implementation. The author recommends a comparative law approach that would draw on national and regional jurisdictions, close to the legal culture and economy of Palestine, as well as on WIPO model laws. Furthermore, it is suggested that options for the protection of IPRs be examined alongside the draft Foreign Trade Act and legislation on competition and health, be coordinated with the Judiciary act and remedies available under Customs and other associated legislation, and take into account copyright issues and forms of industrial protection.

All these issues require in-depth analysis before intellectual property legislation is submitted to the legislative council, if the legislature preparing a new generation of intellectual property laws for Palestine is to take a fully-informed decision on the matter.

Intellectual property protection laws are a long-term investment by the State of Palestine. They should be ready upon the achievement of full Statehood with final borders and should enter into force, at the latest, upon Palestine's accession to the WTO.

There is no need to rush into new legislation, and there is a need to an in-depth assessment of the economic interest of different sectors. It is recommended, therefore, that the implementation of carefully planned studies to provide the basis for subsequent drafting legislation should begin. In line with that draft legislation, appropriate efforts towards building institutions and capacity should follow including the drawing up of regulations, the establishment of bodies, the design of procedures and training (Phase Two).

5.1.2. iii Service Sector Legislation

Extending rights and obligations under international trade agreements to include trade in services is a relatively new development. Unlike trade in goods, trade in services is often governed by sector-specific legal and regulatory regimes that are tailored to the unique nature of particular services.

The General Agreement on Trade in Services (GATS), which was agreed in 1994 with the creation of the WTO, established the first multilateral disciplines applicable to trade in services.

The GATS framework is a patchwork of sectoral coverage and a very complex scheduling system, which combined lists of specific commitments with limitations and conditions on those commitments. The framework covers areas such as insurance, banking, telecoms, transport, professions, etc

Palestine will need to ensure that WTO accession obligations are consistent with any agreement contemplated, to address how to structure sector-specific provisions for financial and telecommunications services and how to address the temporary movement of business persons as it develops its domestic legal and regulatory structure for these sectors, and its development strategy for them.

5.2 Application for WCO Membership

Palestine is unable at the moment to meet the criteria for applying for WCO observer-ship and subsequent accession. This is due to the requirements of the WCO internal guidelines that state that non-Member countries can only attend WCO meetings “In the absence of any obvious geopolitical sensitivity”.

Once these ‘sensitivities’ have subsided, Palestine would be advised to request an invitation to attend the WCO meetings and through this process to become an official ‘Observer’. Meanwhile, Palestine should consolidate its position by continuing to express an interest in the work of the WCO and, where possible, to align the development of its Customs Department with WCO principles and Kyoto standards.

Article XVII of the Convention, establishing the Customs Cooperation Council (CCC) in 1952, specifies the criteria for admission to the WCO. According to the Article, Palestine’s status of ‘Observer’ will continue whilst it negotiates full WCO Membership. On becoming an independent customs territory – as a result of establishing full autonomy in the conduct of its external commercial relations – Palestine’s transition to full WCO Membership should be a matter of formal accession rather than a complex alteration to trade policy involving institutional restructuring. During 2003, the PA Customs Department researched the WCO’s rules and standards. As a result of a request for guidance on the requirements and procedures involved in an application for WCO Membership.

If Palestine, as of now, starts the process of adopting WCO / WTO standards, the future Palestinian administration’s customs department should be in a position upon independence to provide a level of service at least comparable to that currently in place under the Israeli-led system. There is a list of activities for the PA to implement during the transition to statehood (Phase One) in order to secure observer status at the WCO and also a list of activities to implement post statehood (Phase Two) in order to secure WCO Membership and to build its institutional capacity to implement any agreement.

5.3 Transit Agreements and Membership of the TIR Convention

Article V of the General Agreement on Tariffs and Trade (1994) provides for the right of transit of goods across the territory of a country in which the movement of the goods neither originates nor ends (i.e. international transit).

The existence of a continuous chain of Transports Internationaux Routiers (TIR) countries between Israel and Europe will allow Palestinian imports to move from Europe by road under cover of a TIR carnet to the border between Israel and Palestine. However, exports from Palestine could not easily be covered by a TIR carnet until Palestine becomes a contracting party to the TIR Convention.

Therefore, as a matter of first priority during the transition to statehood (Phase One), Palestine should consider becoming a contracting party to the TIR Convention. So gaining approval to use the TIR system is not just a question of signing the Convention, and currently not all signatories are able to issue TIR carnets. The International Road Transport Union (IRU) must first approve Palestine's national guarantee association and associated procedures.

During the transition to statehood (Phase One), Palestine should liaise with the IRU for guidance with regard to putting in place the internal mechanisms required for accession to the Convention, and then should seek early approval of an appropriate Palestinian national body authorised to issue TIR carnets.

VI A Palestinian Development Vision

6.1 The Need for a Comprehensive Development Vision

After the establishment of the Palestinian Authority (PA), the Palestinian struggle for liberalization and independence was affected negatively. That period was characterized by lack of focus on part of the PA relevant to its economic and social development strategies and policies. Those strategies and policies could not free the Palestinian economy and social structure from dependency on the Israeli economy; and, as a result, fell short of improving Palestinian-Arab economic relations. All this ended up with deterioration in creating a development environment conducive to build a modern, open and sustainable economy compliant with the multi-lateral trading system.

It is necessary for the private sector and civil society to elaborate development that satisfies their needs and unites their efforts to create a modern, competitive economy in order to face the challenges of globalization. This vision needs to address the socio-economic structure to develop resources and capacities and to create conditions for political independence

In order to achieve the vision, there is a need for many objectives to structure the framework, actions and policy priorities for the Palestinian actors to help reach the Palestinian independent state. The objectives are:

- Creating a stable and supportive macroeconomic environment
- Creating international and regional integration by increasing competitiveness and market diversification.
- Increasing competitiveness capacity and diversifying export markets and import sources.
- Restructuring the Palestinian economy to be part of the international trading system.
- Strengthening domestic labour.

In order to achieve the outcomes of these objectives, there are some indicators that should be satisfied along with the different stages of development.

- Developing a stable economic environment through:
 - Strengthening the investment climate, regulatory supervisory oversight by the PMA, and providing assurance to investors regarding the transparency and predictability of the regulatory environment
 - Creating legal and regulatory infrastructure by simplifying regulations and procedures, modernizing existing laws and regulations.
 - Improving public-private dialogue.
- Developing a comprehensive economy through:
 - Creating a viable Palestinian trade system.
 - Developing a multi-modal transport system.

- Developing an independent regulator relevant to the Information and Communication Technologies (ICT).
- Developing human infrastructure in the field of education and training.
- Encouraging communication and information-sharing in the government processes by facilitating the e-government.
- Developing the private sector competitive ability through:
 - Increasing integration of Palestinian economy within regional and international economy.
 - Encouraging the entrepreneurial ideas to access the new markets, and establishing joint-ventures with overseas enterprises.

6.2 The Internal Palestinian Development

Points of strength:

- The Palestinian work force is distinguished by a high level of education; where 26% to 30% of the force completed more than 12 years of education.
- The presence of almost five million Palestinians abroad is considered one of the assets to the Palestinian economy. It is, in fact, a source of human and financial capital that supports development and facilitates technology transfers which ultimately serves as a tool for access to international export markets and attracting foreign investments to Palestine.
- The geographic location, climate and coexistence of various religions are considered elements of strength in the Palestinian economy, and it is characterized by a unique combination of assets that make it an attractive place for international tourism.
- The Palestinian private sector is considered as the main driving force for Palestinian development in the investment environment; Hundreds of private enterprises were established covering many fields of economic activities.
- The existence of many supporting institutions that strengthen the role of the private sector such as the Federation of Industries, the Palestinian Investment Promotion Agency (PIPA), the Federation of Chamber of Commerce, Industry and Agriculture, the Palestine Standards Institution, the Palestine Trade Center (Paltrade) and the Palestinian Businessmen's Association. These institutions aim to develop competitive advantages in different sectors through the development of exports, to encourage and facilitate local and foreign investments, and to represent the interests of the private sector.
- The Palestinians have signed preferential trade agreements with many parties. In 2001 the Arab League decided to grant Palestinian products duty-free access to all its member states. But the benefits to Palestine from these trade agreements have been limited as a result of the Israeli occupation measures, including border control and closure policies.
- The Arab World represents a large market, and it can create a powerful support for the liberation and development of the Palestinian economy and society.

Points of weakness:

- The limited capacity of the governmental sector; the PA is still a new structure that has suffered from political and economic instability during the last ten years.
- Inadequate resources of the governmental sector; West Bank and Gaza (WB&G) are poor in natural resources with respect to geographical size, richness of soil, availability of water. Besides, the colonial nature of the Israeli occupation has put many restrictions on the Palestinian's use of these natural resources, particularly land and water.
- The Palestinian dependence on Israeli economy; More than 90% of commodity exports are destined to the Israeli markets; almost one-fourth of the Palestinian labour force was employed in Israel in (PCBS, 2005), but the number has dropped gradually to about 10% in (PCBS, 2005). This dependency has weakened the link between labour productivity and wages in Palestinian economy.
- The policies of the occupation; in particular, the restrictions on road construction, caused distortions for development of infrastructure.
- The Israeli control of over 60% of the West Bank and Gaza Strip, the keys of the Palestinian economic development and the international border crossings with Jordan and Egypt. Also the Israeli isolation of the Palestinian communities from one another and from the rest of the world prevented the construction of infrastructure of the seaports, airports, road networks and the Territorial link between West Bank and Gaza.
- Limited participation of Women in economic activities; only 14% of women at working age are employed (PCBS, 2005).

6.3 Towards a Palestinian Development Vision

This vision is derived from the most features of the Palestinian economic and social reality with its different dimensions. It needs to be adopted by different partners in order to direct resources and efforts towards developing Palestinian human resources and social capital in order to build a viable economy.

The development vision is based on the following factors:

- Human capital is the main contributor in achieving high rate of growth, and the economic impact of human capital is visible at microeconomic level.
- Investing in human capital and safeguarding the social capital are considered the main Palestinian development objectives. This plays a decisive role in preventing the disintegration of the difficult economic and political circumstances. The World Bank, in its report of the Intifada, highlights the social cohesion and resilience characterizing the Palestinian Society: Despite violence, economic hardship and daily frustrations of living, under curfew and closure, lending and sharing are widespread, and families, for the most part, remain functioning (...). World Bank (2003, p. xiii) stated that "the West Bank and Gaza had absorbed levels of unemployment that would have torn the social fabric in many other societies".

- Focusing on promoting knowledge-intensive sectors and services, and relying on the innovative skills and knowledge of a highly educated workforce; this will create new jobs and increase the potential comparative advantages.
- Enhancing the proportion of exports and economic activities that compete on the basis of the pre-eminent knowledge and skills.
- Developing Palestinian sectors including furniture, textile and clothing, jewellery, food products, tourism and culture industries.

The economic development of Palestinians relies on the connection between national liberation tasks and democracy-building and development, which means that national political goals match with the objectives of economic development; this will help to set strategic objectives for short and long term.

The role of PA, the private sector and civil society should be coordinated and supported from all partners to policies and to mobilize resources in order to achieve the objectives outlined in the development vision. The coordinating council for private sector is a body that apposes the institutions of the private sector and civil society. This council works with the government as a deliberative body for the adoption of the policies and the development vision of the Palestinians.

Priorities

There are priority areas to guide the thinking process in setting sectoral and subsectoral priorities, these are:

- Addressing strategic sectoral and sub-sectoral issues;
- Analyzing public policies;
- Understanding potential areas of economic growth;
- Supporting export in the strategic sectors and economic growth.

As Palestinians, many things have to be done to ensure the stability in the short and long terms. So in this thesis, I tried to justify the necessities for the Palestinian economy through listing some important sectors that will help the Palestinian economy to reach the stability, growth and development.

6.3.1 Immediate and Short-Term Development Objectives (Current Situation):

The reason for choosing the immediate and short term objectives is to fulfil the stabilization and recovery in this period:

- Improve the efficiency of services of the Government by capacity building and reform agenda;
- Prepare for the independent state, through building the political economic infrastructure;
- Develop and strengthen human resources and social capital, as they are the main capital of the Palestinian society;
- Stop the deterioration in the Palestinian productive sectors;

- Reduce the gap between the rural and urban areas in terms of services and funds allocation;
- Support main productive sectors that provide basic needs;

The criteria for selecting priority sectors should be based on employment generation, sector strategic importance in export and future contribution to economic growth.

The priorities should be given to:

The labour Sector: Priority should be given to assist labour – intensive industries, offer special and emergency training, and employ the new graduates.

The Service Sector: Banks, insurance and transportation, the support should be in enhancing the legal environment and financing facilities.

The Agriculture Sector: It is a very important sector because many people in the West Bank and Gaza still depend on this sector, not only for internal but also for external products.

- Create effective systems to provide needed credit to farmers through centralizing the different roles of NGO's and private sector suppliers.
- In human and physical infrastructure through training and capacity building.
- Enhancing the linkages between the agricultural sector and the industrial sector. The success of agriculture trade with the availability of the infrastructure and investment will increase the interdependence between industrial and agricultural sectors.
- Focusing on the production non-traditional crops to export to EU.
- Upgrading the Ministry of Agriculture in key areas, such as policy formulation and analysis, planning and evaluation of public sector investments, projects implementation and monitoring, and preparing database and information systems to help in policy making.

The Agro-Industry Sector,

- Working on export development strategies to upgrade production in food industries.
- Enhancing training in areas of production and adoption of international markets.

The Industrial Sector,

- Using current resources of agricultural sector in the industrial sector.
- Supporting Small and Medium Enterprises SME's.

The most important sectors in industry are:

The Stone and Marble Sector,

- Provide specialized training programs to supply this industry with skilled and specialized labour.

- Focus on the international standards and create an identity to the Palestinian stones.
- Target the highest quality customers in the regional and international markets.
- Diversify production through producing high quality.
- Utilize the holy land stones label to reach regional and international markets.

The Furniture Sector,

- Establish a design center which will help in developing the industry.
- Start joint ventures with regional and international parties.

The Leather and Shoes Sector,

- Improving the quality of leather to target the international markets.
- Creating a design center.
- Facilitating education and technology transfer and access to credits.
- Investing in information sharing technologies such as Computer Aided Design.
- Reaching to the international quality standards and certification such as ISO 9000.
- Focusing on producing specific market segment.

The Information Technology Sector

- Provide a strategic framework for IT sector.
- Develop new technologies by reviewing the scale of industry and the products in the market.
- Encourage internet services, office automation suppliers, consulting and training.
- Focus on the ongoing expansion of internet and modern technologies such as wireless networks and high speed broadband technologies.

6.3.2 Medium Term Development Objectives:

Medium term objectives are:

- Human Resources.
- Supporting the private sector reform.
- Supporting the important services: health, education and social safety.

The criteria for selecting priority sectors are based on:

- Job creation.
- Enhancement of productivity.
- Investment attraction.

Recovery priorities are:

Improvement of the investment environment through:

- Market Economy and Reform

- Assurance of transparency, accountability and role of law
- Institutional building and infrastructure upgrading.

Diversification in trade relations:

- Diversifying export markets through improving current trade agreements including both international and regional ones.
- Encouraging foreign investment and participating in improving marketing techniques.
- Supporting the main productive sectors:

The Agriculture Sector,

- Work on rehabilitating and developing the marketing structure, management and infrastructure (storage, packing, laboratories ...).
- Create common trademarks for categories of Palestinian agricultural products to be marketed in other markets.
- Encourage and support the Palestinian farmers to use technology in increasing the efficiency of water use and restoring the efficiency of existing lands.
- Encourage the agriculture production systems such as greenhouses.
- Find new export markets for Palestinian fruits and vegetables.
- Create an export center that deals with the logistic practices, packing, standard checking and grading for export, also to find the suitable markets for these products.

Information Technology Sector,

- Develop software and Internet Service Providers (ISP).
- Move towards a business driven culture to succeed in local and international markets.
- Develop software and coordinate with the industry for diversification of this sector.
- Create a business driven culture to reach the local and international markets.

The Handicraft Sector,

- Develop quality and new design to attract larger markets and achieve wider distribution through exploiting unique specification i.e. religious and historical value.

The Stone and Marble Sector,

- Having specialized vocational centres to train the human resources.
- Develop the midlevel technicians to be highly specialized.

- Improve supporting services, through improving marketing and distribution services.

6.3.3 Long-Term Development Objectives:

To create a viable state governed by a solid legal framework, efficient and transparent institutions. The long term objectives aim for the sustainability of production, cluster competitiveness enhancement, human resources advancement and poverty reduction.

Development priorities are:

- Develop a socio-economic structure which is abounding in knowledge and modern technology.
- Prepare the Palestinian human capital to compete with the international community.
- Improve the investment climate to attract local and foreign investors to Palestine.
- Integrate the Palestinian Economy in the regional economies especially with the Arab Economies.
- Increase trade and economy cooperation with the international economies to benefit from globalization.

The development priorities will be given to strengthen:

- The education system to prepare our students to the global economy.
- Infrastructure advancement like airport, seaport ...etc.
- Private sector support to be part of the international economy.
- Enhancements of the productive sectors to benefit from international agreements, and meet the requirements of their markets, enhance trade and marketing cooperation with the neighbouring countries.

6.4 The Role of the Private-Public Sector to reach a strong economic development Strategy:

6.4.1 Trade Development – Building Export Capacity

- National sector export strategy that includes up-to-date and comprehensive analysis of export capacity, potential markets and export development strategy.
- Rebuilding and rehabilitating key productive sectors.
- Industrial Estates development programs for internal and external (borders).
- SME technical capacity development in manufacturing/service delivery methods, and modernization of industrial technology.
- Export competitiveness capacity development through training in marketing, packaging and general competencies.

- Trade services development including marketing, merchandising, packaging design, testing and certification, promotion, advertising shipping and clearance through local service providers.

- Private sector Institutional development.

6.4.2 Trade promotion – Access and diversify markets

- Specialized and national trade exhibitions, logistics and potential exporters in international trade exhibitions and fairs.

- Logistics and financial support for Palestinian business people in exporting sectors to establish business relationships in the international markets.

- Capitalize on global Palestinian expertise to promote trade and collaboration through a network of Palestinian businesses.

6.4.3 Trade Policy- Providing the regulatory and physical infrastructure

- Improving and implementing trade and transit agreements with regional partners.

- Reform the business and competitive regulatory including competition law, Bankruptcy law, food safety, SPS.

- Rehabilitation and establishment of Gaza Airport and seaport

- Rehabilitation of road networks, and establishment of systemized transaction systems and infrastructure at border terminals.

6.4.4 Trade information - Providing trade enabling knowledge.

- Exporting market intelligence and information centre.

- Customizing market research and intelligence gathering for key exporting sectors in target markets, and new potential markets.

6.4.5 Financing-Facilitating trade through finance

- Assisting local lenders for review and restructuring of private sector debt, investment fund to provide new lending/equity to distressed loans with future potential.

- Establishing access to import/export finance and guarantee programs.

- Providing investment finance facilities and develop new long-term loan products.

- Loaning guarantee program for SME's.

- Micro-financing for micro-enterprises with the goal of poverty alleviation and job creation.

Priority Interventions are the need for some programs that will enhance potential for economic development:

- Humanitarian and Social assistance to enhance capacity.
- Damage repair to Infrastructure and Public building.
- Budget support.
- Enabling an environment for Private Sector growth.
- Institution and capacity building for good governance.
- Infrastructure Development.
- Donor Support.

Both the PA and the international community should work together within a socio-economic development vision to protect the poorest, reduce dependence on the Israeli economy and also to expand markets for Palestinian exports.

PA should work to create an environment for the private-public sector to work together in healthy conditions through:

- Closing the gap in the Palestinian economy by expanding the productive sectors, agriculture and manufacturing in order to increase the GDP and increase the employment capacity to replace the export of labour with the export of goods and services.
- Ending the Palestinian economy dependence on the Israeli economy and integrating the regional and international economic relations. The Palestinian efforts should be rooted in a development-driven approach to trade rather than a trade-driven approach to development. (UNCTAD, 2006).
- Having a strategy of sustainable growth based on poverty reduction and social security considerations.
- Protecting local industries and promoting increased participation in foreign trade.
- Supporting import substitution industries and export oriented industries.
- Providing support for national products in marketing and promoting these products in international markets.
- Protecting domestic products from dumping.

Strategic Framework for export Development

The Palestinian Medium-Term Development Plan (Ministry of Planning, 2005) represents a map of Palestinian priorities in the medium term, depending on the national agenda of the private sector. Its primary goals are to:

- Ensure social protection.
- Invest in social, human and physical capital.
- Invest in institutions of good governance.
- Create an environment for private sector growth.

These priorities focus on agriculture, industry, trade development and promotion, SME development and industrial modernization.

The private sector is the only source of sustainable growth in Palestine, economic development is ultimately driven by the private sector, it expresses concern over the development efforts, emphasize the need to link relief with recovery and development efforts, develop competitiveness of productive sectors, diversify markets and improve business and trade enabling environment. The strategy is to develop exports as a drive for economic recovery and sustainable growth according to Palestinian Trade Centre (2005).

VIII Conclusions:

First: Future Economic Relations with Israel

The economic and trade relations with Israel, the most important trade partner, should be guided through a Free Trade Agreement under the following concepts:-

- 1- Economic and trade relations must be based on and compatible with established rules and principles of the multilateral trading system.
- 2- Joint committees and mechanisms must be established in the field of economic regulation to ensure trade facilitation.
- 3- Institutions, rules and procedures and effective dispute settlement should be founded, including the involvement of third party institutions.
- 4- A comprehensive agreement on transit is to be appointed to secure access of goods to the respective territories from land routes, air and seaports, in accordance with pertinent international standards and agreements.
- 5- Incentives for investment, including rules prohibiting discrimination, double taxation, and the expropriation of real or intellectual property rights.
- 6- Security measures are necessary to protect legitimate and essential security interests. Measures of equivalent security effect, that are least harmful to trade, labour relations and investment should be applied.

Second: Components for the Future of the Palestinian State:

- Create a suitable environment for trade and a healthier business environment by generating a legal and regulatory framework for commercial activities, control of borders, and adoption of trade facilitation approach.
- Provide a comprehensive legal and institutional environment for the development of Palestinian businesses in a framework of economic statehood, including legislation on import and export administration, tariffs and customs
- Create a transit agreement with free transit routes through the neighbouring countries Jordan, Egypt and Israel.
- Reinforce the service sector to facilitate trade in Banking sector, Insurance and Telecommunications in order to liberalize service trade.
- Reinforce the Economic environment, regional international agreements in order to have the maximum benefit from this issue.
- Establish normal trade relations with key trade partners, including EC, US and Arab States. By existing agreements and full implementation and expansion, to fully cover areas of importance for the Palestinian economy.
- Work towards a modern, open economy and facilitations of trade services.

PA strategic action plan should be based on the following concepts:

- Create a viable Palestinian economy which is ready to interact with regional and global levels in order to disengage from the extreme dependence on the Israeli economy.
- Strengthen the basis for autonomous Palestinian economic decision making and domestic economic restructuring with an eye on re-orientation, taking into consideration the need to create alternative export markets from the region. And to take into account WTO compatible to the principles of an open, transparent, modern and liberal trade regime.
- Diversify export markets and import resources and increase the competitive capacity of the economy and the productive sectors.
- Invest in infrastructure projects to fulfil the required needs and create jobs by focusing on Agriculture and construction sectors.
- Create a viable Palestinian trade system, because it is a basic need for the Palestinian economy.

The Palestinian economy would be better served through an open market strategy, diversifying and expanding both import and export markets, and increasing the competitive capacity of the economy through the conversion of the embodied in the rule of the multi-lateral trading system by taking in to consideration these three principles:

- Expanding dialogue with the public-private sector.
- Using international standards to establish the best practices for building the Palestinian economy.
- Creating a Palestinian Economic strategy in compliance with the multi-lateral trade system.

Palestinian development strategies should work to:

- Link short-term development efforts and long-term objectives to improve economic growth and efficiency, and leads the economic transition towards sustainable development economy
- Focus on efficiency and productivity of education and invest in all levels of education to generate Palestinian human resources that could accommodate with the knowledge economy.
- Secure and develop the investment climate to attract local and foreign investors and enable the private sector to perform a leading role in the economic development.
- Work on the reform agenda of the PA and improve the efficiency of its government.

The efforts should focus on re-orienting the Palestinian economy, enhancing the economy supply capacity; by restructuring and strengthening domestic markets and diversifying Palestinian export markets. The PA should also maintain openness to foreign investment and trade and ensure compliance with the multilateral trading system.

In order to achieve Economic Development, prosperity and high sustainable standard of living; the competitive capacity and potentials for trade should be increased locally and in external markets.

PA has four missions for this to be achieved:

1. Improve competitiveness of Palestinian products in export markets, by developing sector capacity and competency, technical capacity, productiveness of the human resources and cooperation with regional private sector.
2. Establish cost-effective, efficient and systemized trade transactions per international best practices.
3. Enhance Business-Enabling Environment through developing legal and regulatory environment, working towards macroeconomic stability and developing private sector role and public-private dialogue.
- 4- Improve the trade agreements with Israel, EU, EFTA, and others, and have transit agreements with border countries (Israel, Egypt and Jordan).

In order to minimize the long term effects of occupation, the Palestinian economy should be served through an open market strategy, diversification and expansion of import and export markets. To fulfil the Palestinian needs to increase the competitive capacity of the economy to reach the macro-economic stability and create the suitable environment for investment and development.

The role of the Donor community in supporting the Palestinian private sector in survival and rehabilitation efforts is very vital, and there are still needs for support in repairing and rehabilitation of the private sector infrastructure, institutions and better enabling environment in order to prepare the private sector for entering to the multilateral trade market.

Third: Bilateral Trade Agreements with other countries:

The PA has other Bilateral and Multilateral Trade Agreements with other countries (GAFTA, EU, EFTA, US, etc). These agreements need to be utilized and implemented, reviewed and negotiated after the statehood in order to assure best interests for the Palestinian economy. Joining the Multilateral Trading System is a strategic goal for the state of Palestine; concrete steps should be taken towards joining different international bodies including WTO, WCO, TIR and others.

For Palestine to reach the viable Palestinian state, economic growth and economic development; there is a need for a comprehensive development vision and an enhancement of productivity throughout the Palestinian enterprises, which can be achieved through increasing both the quality and quantity of output and reducing costs. The PA must work to strengthen investment climate, create stability in rationalizing public expenditures, provide assurance to investors related to transparency and predictability of the domestic regulatory environment, support export in the main productive sectors, implement an effective competition regime and reducing time and cost for the procedures for government procurement.

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Annex 1

Options Paper

THE TWENTY POINTS FRAMEWORK

EPP (October 2000)

Trade and Economic Relations

The State of Israel and the State of Palestine (the Parties) hereby agree to conduct negotiations regarding the Permanent Status Agreement according to the following framework:

1. The Parties agree that economic and trade relations are inextricably linked to the other parts of this Agreement and that these relations need to be based upon, and compatible with, established rules and principles of the global trading system, particularly those of the World Trade Organisation and other bilateral and multilateral agreements.
2. The Parties recognise the sovereign authority of each other to conduct internal and external economic affairs.
3. The Parties shall reciprocally recognise each other as independent customs territories and look upon this recognition as the foundation for their economic and trade relations.
4. In the context of these relations and in a spirit of co-operation, the Parties shall not introduce any new barriers to trade in goods, services, labour and investment. The Parties shall eliminate existing barriers and promote mutual investment in accordance with the following principles.

General Principles

5. Each Party shall accord the other Party and its nationals most favoured nation treatment with respect to all laws and regulations affecting trade in goods and services as well as movement of labour. This shall not apply to any advantages and privileges which ensue from participation in a customs union, a free trade area or regional economic organisation to which either Party is, or may become, a Member, including advantages and privileges granted to Members of the Arab League in the context of economic co-operation.
6. Each Party shall accord to the other Party and its nationals treatment no less favourable than accorded to its own products and nationals in the field of goods, including access to essential resources such as water supply and electricity, and in labour relations including freedom of association, collective bargaining and collective representation. The Parties shall seek to gradually expand national treatment in the

field of services and investment, including professional services, telecommunications and other services, in a process of gradual liberalisation of market access rights in legal instruments to be subsequently attached to the Permanent Status Agreement, within an agreed framework and timetable.

7. The Parties shall guarantee the transparency of all laws, regulations, or administrative practices directly or indirectly affecting flows of goods, services, or investment under principles of immediate and mandatory prior notification and comprehensive reporting, documentation and consultations, in particular in the application of exceptions.
8. The Parties shall establish joint committees and shall adopt mechanisms in the field of economic regulation in order to use scarce human and financial resources in an optimal manner and to ensure trade facilitation.
9. The Parties shall establish institutions, rules, and procedures both for mandatory consultations and for binding and effective dispute settlement. The Parties agree on the involvement of third party nationals in these institutions in order to guarantee that no Party can block their effective operation. These institutions, rules, and procedures shall apply to disputes between the Parties in all areas of trade and economic regulation, including the application of security exceptions. They shall resolve disputes within fixed time periods.
10. Any Party applying measures affecting trade in goods, services or investment contrary to agreed rules under the Permanent Status Agreement shall immediately remove such measures and shall provide full, prompt and effective financial compensation to private parties for losses or damages suffered through the application of such measures.
11. The Parties agree that the State of Israel shall, in addition to restitution in kind, retroactively compensate the State of Palestine for the expropriation of all real property owned by Palestinian nationals and for the use and exhaustion of natural resources and shall provide such compensation for all other actions similarly taken inconsistently with international law during Israel's occupation of Palestinian territory.

Trade in Goods

12. Goods originating within the territory of one Party and destined for sale in the territory of the other Party shall move free of any tariffs or any direct or indirect charges equivalent thereto. The Parties shall adopt rules of origin that are in accordance with internationally recognised standards. They shall operate inspections of such products on the basis of certificates of origin at borders or by means of customs clearing houses. They shall co-operate in due course in the process of implementation and administration, in particular in the fields of customs clearance, intellectual property rights (co-ordinated registration systems) and competition policies (judicial assistance and law enforcement).

13. The Parties shall not apply quantitative restrictions on goods, including agricultural products, or other measures equivalent thereto, unless such measures are demonstrably based on legitimate policy goals and are justified in accordance with well established principles of international trade regulation, in particular those of the World Trade Organisation.
14. The Parties shall base their relations on technical, health, safety and environmental requirements on the relevant WTO Agreements. They shall operate under a principle of mutual recognition of the results of trade-related conformity assessment procedures. They shall seek to harmonise such requirements and procedures where appropriate and shall co-operate in their implementation.
15. The Parties shall adopt a comprehensive agreement on transit, securing access of goods to their respective territories from land routes and from air and sea ports, in accordance with pertinent international standards and agreements, in particular the TIR Agreement. The transit agreement shall provide for the free and unencumbered movement of goods not originating in Palestine or Israel through the territory of one Party when destined for sale in the territory of the other Party, and of goods originating in Palestine or Israel through the territory of the other Party when destined for sale in the territory of a third country. They shall allow the operation of customs clearance of such products by way of customs clearing houses located within the territories of the Parties.

Labour Market

16. Each Party shall grant to the other Party free and unencumbered access to its labour market and shall grant such access on preferential terms compared to access granted to third countries. Each Party shall guarantee that national treatment will apply to all aspects of labour relations including: market access rights; freedom of association, collective bargaining and collective representation; transfer of labour revenues; all terms and conditions of employment including wages, hours of work, occupational health and safety, and health, social security and pension benefits; and access to courts, administrative procedures and to any other means of dispute resolution.

Trade in Services and Investment

17. The Parties shall seek to gradually liberalise market access in the field of services, taking into account the diverging levels of economic and social development of the Parties. They shall work towards mutual recognition and harmonisation of professional qualifications and standards.
18. The Parties shall grant each other national treatment and most favoured nation treatment with regard to services relating to trade in goods, including transportation, distribution, storage and other related services. In particular, the Parties shall not restrict the access of vehicles duly registered in the other Party, unless in the individual application of either duly notified safety standards or security exceptions

and only if such application is in accordance with the agreed rules under the Permanent Status Agreement.

19. The Parties shall establish incentives for investment, including rules prohibiting discrimination, double taxation, and the expropriation of real or intellectual property rights. The Parties shall remain free to regulate ownership of real estate in accordance with their own needs.

Security Exceptions

20. The Parties shall only apply restrictive economic measures to protect legitimate and essential interests in national security in accordance with principles and practices well established in international law, including international trade regulation. In particular, the Parties shall define in detail the relevant factors and criteria under which such measures may be applied, including the requirements of necessity and proportionality. Security measures must be demonstrably necessary to protect legitimate and essential security interests, and among measures of equivalent security effect, the one least harmful to trade, labour relations and investment shall be applied.
