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Israeli impediments versus Palestinian private sector requirements under the current political situation

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المجلس التنسيقي
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Purpose of the Study

This study deals with the Palestinian – Israeli economic relations under the continuation of the current conditions and aims at identifying the needs, requirements and priorities of the private sector in order to maintain its existence and open the door for potential growth in the future through guaranteeing facilitation of movement of Palestinian trade.

Background of the Palestinian – Israeli economic relations and importance

Basic dependence on the Israeli Economy

Estimations vary as to the size of trade between Palestine and Israel prior to the establishments of the PNA and afterwards. What is agreed upon, however, is the fact that the Palestinian economy is almost completely dependent on the Israeli economy, as a result of the occupation and continued Israeli control of Palestinian lands and exit and entry points. This utter dependence has resulted in severe distortions to the Palestinian economy both structurally and functionally.

Most of the external trade of the Palestinian private sector (both exports and imports) is done through Israeli ports and airports. Internal Palestinian trade, within the West Bank, and between the West Bank and the Gaza Strip goes through roads and passages which are controlled by Israel. Palestinian exports to Israel formulate about 70 to 80 percent of total Palestinian exports. Despite Palestinian dependence on the Israeli market, Israel has managed to reduce its dependence on Palestinian imports to around 1% of total imports, while it reached in recent years up to 8% of total imports. The Palestinian market, however still constitutes the second largest market for Israeli exports after the United States.

Relations with other trade partners

Based on the aforementioned, the importance of Palestinian external trade with partners other than Israel becomes prominent for the purpose of diversification of trade and the reduction of Palestinian dependence on the Israeli market. This importance has led in the past to the signing of trade agreements with several trade partners. These agreements, however, did not benefit the Palestinian economy as expected. Hence the public and private sectors are called to comprehensively study the reasons for the limited benefits from such agreements and the issues linked to the implementation of these agreements which if resolved would bring higher potential for benefitting from these agreements. The following is a synopsis of these agreements and some suggested starting points on the impediments to the implementation of these agreements:

1. The Interim Association Agreement (IAA) with the European Union, signed between the Palestine Liberation Organization (PLO) and the European Commission to the benefit of the Palestinian Authority is an interim agreement aimed at providing duty

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free access of Palestinian industrial goods and some agricultural goods into the European Union, as well as the same for European goods into the Palestinian market. This agreement is considered one of the most important agreements for the Palestinian economy because of the potentials it provides for Palestinian membership in the Euro-Mediterranean system of trade, and entry into the 27 member states of the European Union. The IAA, however had minimal impact on the Palestinian economy due to its Israeli impediments in movement and access, as well as the ever prominent lack of recognition by Israel of the agreement, thereby causing non-recognition of certificates of origin and impediments of entry of products through Israeli ports for semantics related to the mention of Palestine or Palestinian Authority as the destination in the documentation of the shipments.

2. The Agreement with the European Free Trade Association (EFTA) which is quite similar to the agreement with the EU, also facing the same types of constraints.
3. Palestinian membership in the Arab Free Trade Area which pertains to the reduction of duties on entry of products into Arab member states down to zero percent, but again, the Palestinian economy did not benefit from this agreement due to the lack of control by the Palestinian Authority on passages and hence its inability to implement the requirements of the agreement and the increased impediments by Israel on the movement of goods and the restrictions on importing from countries that do not have diplomatic relations with Israel, which was agreed upon within the Paris Protocol, thereby reducing the potential for trade with most Arab countries.
4. Free Trade Arrangements with the United States and Canada, which are considered extensions of the free trade agreements which they have with Israel, and which allow for the entry of products of both sides into the markets of the other side exempt from duties. This agreement potentially opens the door for the Palestinian exporter into two very large markets, but in reality, Israeli impediments to movement of goods and discrimination against Palestinian products in Israeli ports on the one hand, and the lack of capacity of local producers on the other have also restricted from the benefits which Palestinians can get out of these agreements.
5. It is important to note that the PLO on behalf of the PNA has signed the following agreements since its inception in 1994:
 - a. Interim Association Agreement with the EU
 - b. Interim Association Agreement with EFTA
 - c. Free Trade Arrangements with the United States
 - d. Free Trade Agreement with Canada
 - e. Free Trade Agreement with Turkey
 - f. Greater Arab Free Trade Area

Based on the abovementioned, it has been determined that Israeli impediments to Palestinian trade is one of the most important obstacles to diversification of Palestinian trade. This is clearly manifested in the impediments put in place by Israel in the non-recognition of these

agreements. The other reason is related to the decline in productive and competitive capacity resulting from the restrictions placed on the Palestinian economy within the prevailing Paris Protocol, which is the Israeli trade regime, whose aim is to assist the growth of the well developed Israeli economy and not the disfigured and underdeveloped Palestinian economy.

The legal framework between the two sides and extent of its implementation

The only legal framework that governs Palestinian – Israeli economic and trade relations is the Paris Protocol and its amendments. This framework, however, no longer formulates a real regulatory structure due to the infringement or lack of implementation of a tremendous number of articles in this agreement by the Israeli side. Israeli violations of the Paris Protocol, which range from prevention of movement of goods (both internally and externally) to the refusal to transfer funds collected by Israeli customs on behalf of the Palestinian Authority quite regularly, hence minimizing the potential for benefitting from this agreement by the Palestinian side.

It is well known that the agreement formulates a quasi-customs union between the Palestinian and Israeli economies, later on termed as a common customs envelope, which was built on the following basic principles:

1. Free movement of goods between the two markets (Palestinian and Israeli) without any type of tariff and non-tariff barriers
2. The adoption of a joint / unified tariff list while giving the Palestinian Authority the right to determine duties and standards requirements for a list of basic / strategic commodities known as lists A-1, A-2 and B. The purpose of these lists was twofold, to allow Palestinian traders to do business with Arab and Islamic markets without interference with Israel, as well as to provide for control over some strategic commodities to the Palestinian Authority.
3. The concept of revenue sharing, whereby Israeli customs (while still in control of external borders for the West Bank and the Gaza Strip) would clear goods imported by Palestinian traders, on behalf of Palestinian customs (based on the customs envelope) and then transfer this money to the PNA on a regular basis.

Under the current situation, Israel is contravening these basic principle “at will,” thereby putting the whole agreement in question of further effectiveness for the Palestinian side. It is imperative to note that the Paris Protocol is no longer functioning as agreed, and is missing the spirit of mutuality that was built into it when it was first signed. There is a need, therefore, to find solutions to the various problematic areas of the protocol which might put an end to Israeli impediments to Palestinian economic recovery and development. These impediments should be on top of the list of issues which are to be discussed by the Joint Economic Committee (JEC), which has resumed its meetings lately. The first item on the agenda of the JEC from the Palestinian side should the issues related to movement and

access for goods and businesspeople. The Palestinian negotiator should always have in mind:

1. Removing movement blockages internally within the West Bank
2. The facilitation of movement between the West Bank and the Gaza Strip
3. Facilitation of movement of goods through border crossings with Jordan and Egypt, as well as the unhampered utilization of Israeli ports and airports.

These are pivotal short term goals which will open the door for increased competitive capacity of Palestinian products both in the local as well as external markets, which is of prime importance on the road to diversification of Palestinian trade and the conversion of the Palestinian economy into an export led economy. The potential for unencumbered importation of production inputs should also be clearly put on the negotiating table of the JEC.

Impediments to the movement of trade

The most serious impediments to the movement of Palestinian trade are the non-tariff barriers placed on Palestinian goods by Israel, and it can be included in the following points:

1. Impediments to movement of goods
2. Administrative Impediments

Impediments to movement of goods

These can be divided into the following categories:

1. Complete closure of the Gaza Strip
2. Internal Closures in the West Bank
3. The Separation Wall
4. Non-Implementation of the safe passage between the West Bank and the Gaza Strip
5. Israeli control of border crossings and the implementation of border crossing between the West Bank and Israel in contravention of the Paris Protocol
6. Movement restrictions on Palestinians in the Jordan Valley area of the West Bank

Non-Tariff Barriers

1. Israeli non-recognition of Palestinian Certification of Standards and Sanitary and Phytosanitary compliance
2. Labelling requirements for Hebrew language in the Palestinian market
3. Non-recognition of corporate registration
4. Non-recognition of Kosher certification
5. Prolonged periods of testing for standards compliance

Impediments to Physical Infrastructure

Most physical infrastructure work to be undertaken by the Palestinian Authority such as electric supply, water supply, sewage, roads and highways, as well as any other economic projects such as industrial areas or zones have to pass through areas of the West Bank designated as area C, and thereby requiring Israeli approvals, which in turn take too long if ever they are reached. Thus, Israeli approvals and the delays of these approvals formulate one of the most serious impediments to the implementation of physical infrastructure projects.

The Gaza Industrial Estates Experience

Industrial estates require special arrangements which guarantee freedom of movement either internally or externally. The Gaza Industrial Estates (GIE) required special arrangements in order to function as an export processing zone, and it was hoped that it would draw Israeli as well as other international investors. Once the zone was established, an agreement was reached with the Israeli side for duty free entry of products which were destined for export, as well as special arrangements for the movement of the goods out of the industrial zone. After long negotiations, these agreements were reached, but were never implemented by the Israeli side, thereby rendering the GIE as another industrial property without all the factors of success. Hence this experience is indicative that any industrial/export zone requires special arrangements and guarantees that these arrangements will be respected by the Israeli side.

Impediments to Trade Diversification

Trade diversification means that Palestinian importers, exporters and producers with the capacity to improve their access to external markets, whether for production inputs or for imports and exports of products, with the purpose of reducing Palestinian international access, as well as reducing Israeli reliance on the Israeli market. This does not mean that the Palestinian private sector is not interested in the Israeli market, but that Israel should be a market like any other for the Palestinian businesses. Hence, the Private sector and the government should immediately work on the following:

1. Re-assessment of all trade agreements with the involvement of the private sector, especially in strategic markets for the various productive sectors
2. Identification of strategic markets and the focus of the formulation of trade agreements for these markets that would facilitate Palestinian entry into these markets
3. To create trade representation by qualified personnel in these markets as soon as possible.
4. Put the right policies in place in order to increase the competitive capacity of Palestinian products in the regional and international markets

Impediments to the movement of trade in Jerusalem

There is almost no trade between the West Bank and East Jerusalem at this time. This is due to the separation wall which has separated East Jerusalem from the rest of the West Bank, as well as the movement impediments which Israel places to hamper movement of trade and services into and out of Jerusalem, particularly tourism and insurance. This separation is also preventing the access of the business community to the programs put in place by the Palestinian authority and the donor community to benefit the private sector.

Impact of Israeli Impediments on the Palestinian Economy

- Israeli impediments have led to the complete cessation of trade between the West Bank and the Gaza Strip, they have also impacted on the general economic life of Palestinians in the West Bank and the Gaza Strip, thereby increasing poverty to unprecedented levels, and increased the number of residents that depend on international aid for their daily sustenance. Unemployment has also increased tremendously while GDP dropped by at least 40 percent, thereby also decreasing governmental income and spending.
- Private sector companies have had to reduce the number of employees and reduce spending through reducing their productive outputs to the minimum in order to deal with the new situation caused by these impediments. Exports went down by 30% and prices increased tremendously, including the rise in transaction costs and transport costs.

Industrial Zones

There are currently four suggested industrial zones to be established in the West Bank and the Gaza Strip, two of which are border industrial zones (Jalameh and Tarqoumia) and two others (Bethlehem and Jericho) that are not border zones. It is believed that the benefit of the non-border zones far outweigh the industrial ones, and therefore should receive more attention. In all cases, however, the following are specific issues which need to be addressed in all industrial zones:

1. The movement of people and goods from and to these industrial zones is the basic measure of their success or failure, and the first requirement by the private sector for such zones.
2. The private sector is interested in the preparations and participation in the planning of these zones, since they are going to be the main beneficiaries from them.
3. Guaranteeing a bundle of investment incentives, such as guarantees of investment and export incentives, as well as tax breaks and the existence of solid infrastructure.
4. Ensuring that the border industrial zones are directly on the borders with Israel, without the presence of border passages or corridors outside the zone through which goods and people need to go to reach the zone.

Needs and priorities of the private sector in dealing with the current situation

Under the current situation, the private sector understands the importance of the economic relationship with Israel in the short to medium term. Taking into consideration the aforementioned recommendations, as well as the recommendations of the first and second NEDP conferences, the private sector is hereby calling on the Palestinian National Authority to take the following steps in order to reduce the impact of the policies and procedures that have been put in place by the Israeli side:

In Jerusalem

- The government must place on its list of priorities the support of Jerusalem and the Jerusalemite private sector through:
 - Giving priority to pressuring the Israeli side to re-open private sector institutions which it had closed many years ago since these institutions play a major role in economic development in Jerusalem and in pushing forward the wheels of economic growth.
 - Give incentives to all ministries in order to include in their programs specific projects from which the private sector in Jerusalem can benefit.
 - Call on all donors to include Jerusalem in their developmental projects, and to introduce programs to assist the private sector, and especially tourism in Jerusalem.
 - Guaranteeing the access to finance that the Jerusalem private sector needs, including specific programs which would provide for lower cost financing from banks in the West Bank.
 - Israeli impediments to movement to and within Jerusalem should be on the list of priorities for negotiating teams and the JEC.

Trade Relations with Israel

- The private sector demands that the Palestinian Authority implement the concept of reciprocity in dealing with Israeli – Palestinian trade through:
 - Proper management of the entry of Israeli goods into Palestinian areas
 - Ensuring that labelling and standards requirements are met by Israeli exporters
 - Ensuring that food and health products are duly registered in the relevant Palestinian ministries of institutions for entry into the market
- The private sector places itself in the hands of the Palestinian Authority as a supporter and advisor in its current negotiations with the Israeli side on all levels, and requests that a mechanism be put in place for the participation of the private sector in the preparations for economic and trade negotiations taking place now or at any time later.
- The importance of putting the private sector in the picture of the discussions taking place in the JEC and taking their point of view into consideration in the preparations for these discussions, with a recommendation that these discussions take the following into consideration:

- The importance of proper implementation of the Paris Protocol, if this is not possible, then the private sector recommends that immediate negotiations take place which would put in place a new legal framework which can better safeguard the interests of the private sector and the Palestinian economy in general.
- Increasing the quantities and expanding the content of lists A-1, A-2 and B of the Paris Protocol
- Arrange for binding agreements with the Israeli side that deal with the issues of movement and access of goods and people and specifically for industrial zones both border and internal.
- The PNA is requested to take action to stop the trafficking and trade in smuggled and illegally obtained goods which include expired goods or goods unfit for human consumption, as well as goods being dumped by Israeli producers and traders in the Palestinian market. Most importantly, the PNA and Ministry of Finance are requested to fully activate and fully enforce the use of the unified invoice (maqasa) which ensures the proper handling of products and fair competition within the Palestinian market.
- The PNA is requested to involve the private sector in putting in place policies for the management of the border crossings which would facilitate the movement of goods and guarantee transparency and prevent the implementation of the individual interests.
- The private sector also requests from the PNA to follow a transparent and clear process for the allocation of import quotas and to properly announce the procedures ahead of time.
- The PNA should place in its list of priorities for negotiations and the JEC the issue of immediate implementation of the Agreement on Movement and Access that should include foreign investors as well, along with the Israeli commitments for the first phase of the roadmap.

Trade Relations with the World

The Palestinian private sector requests that the PNA takes into consideration the facilitation of trade relations with trade partners other than Israel which should take place via Jordan or Egypt through:

1. Assistance in the assessment of export opportunities for Palestinian producers
2. Participation in the building of the capacity of potential exporters and establishing a special fund for export tax refunds which would facilitate these refunds in the quickest possible mode, and thereby ensuring that they have the required liquidity for exporting.
3. The opening of Rafah and Damiah border crossings for trade in both directions, and the rehabilitation of the Damiah crossing within the Japanese Corridor for Peace project and to follow the procedures put in place between Israel and Jordan at the Sheikh Hussein Bridge on all border passages.

4. Establishing a logistics and consolidation center in the Jordan Valley in order to reduce the cost of transactions.
5. Reactivation of the transit agreements with Jordan and Egypt for export and imports.
6. Support for the potential to use Jordanian and Egyptian ports and airports for export of Palestinian products as an alternative to exports through Israel.
7. Coordination with the Jordanian and Egyptian sides in producing “non-manipulation” certificates for products being imported to Palestine through Jordan or Egypt.

Industrial Zones

The Palestinian private sector assures the importance of industrial zones both internal and border zones, which should be given a priority and the re-assessment of the feasibility of establishing these zones and especially border industrial zones with Israel. In order to guarantee the success of these zones, the PNA is requested to adhere to the following:

1. Negotiate binding agreements with Israel guaranteeing free movement of goods and people with the background that if this movement is not guaranteed, then the success of these zones will be seriously jeopardized and the PNA is requested to direct donor funding towards more beneficial projects in private sector development.
2. Provide more incentives to investors in these industrial zones than those provided by the Investment Promotion Law
3. Work on reducing the cost of land in industrial zones through the concept of eminent domain
4. Work on the provision of utilities in industrial zones at reduced costs.
5. Participation of the private sector in planning of industrial zones and ensuring its feasibility
6. Participation of the private sector in discussions taking place to guarantee the movement and access issues for industrial zones with the third parties.

Lands in Area C

The private sector requests that the PNA work on using all possible lands which are located in area C for the creation of housing and new cities, as well as the opening of new roads and the provision of services and infrastructure in order to facilitate the work of the private sector.

The private sector also recommends the expansion of the municipal boundaries in the West Bank in order to further utilize existing land and guarantee the provision of infrastructure by the municipalities.

Trade diversification

The private sector considers the diversification of trade to be one of the most important issues facing the Palestinian economy and a tool for private sector success, continuity and sustainability and hence requests that the PNA undertake the following:

1. Re-assessment of the existing trade agreements with all parties including Israel, with the participation of the private sector
2. Identification of strategic markets and the focus of the formulation of trade agreements for these markets that would facilitate Palestinian entry into these markets
3. To create trade representation by qualified personnel in these markets as soon as possible.
4. Put the right policies in place in order to increase the competitive capacity of Palestinian products in the regional and international markets



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