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Submission to feasibility study on strengthening trade and investment with Israel

Palestine Fair Trade Australia (PFTA) is an Australian Charity which imports, distributes and sells ethically sourced and Fair Trade Palestinian goods to the Australian market from the West Bank and Gaza. The foods (olive oil, freekeh, couscous, zaatar), are produced by Palestinian companies certified as Fairtrade and organic.

PFTA's objectives are preventing and relieving poverty, promoting human rights, promoting social and public welfare and advancing sustainable development in Palestine. Our frame of reference for this submission concerns the potential impacts of an FTA on the Palestinian farmers and other producers with whom we trade.

It should be stated at the outset that these are impacts that go beyond the overall deleterious impact and structural inequalities imbedded in the Israeli occupation of the West Bank and Gaza. Some of these are outlined below.

Our submission to this feasibility study includes the following points from the Terms of Reference. These have been amalgamated to address the following issues:

- Potential benefits and costs of pursuing an FTA with Israel
- More general issues associated with a possible FTA

Potential Benefits and costs of pursuing an FTA with Israel – Background issues

1. Costs of occupation

This is the most significant issue underpinning any FTA with Israel. Since 1967, and the occupation of the West Bank and Gaza, Israel has imposed a complex web of administrative procedures, military orders and permit restrictions that remain in place until today. This brief submission can only deal with some economic impacts of occupation, at the same time as acknowledging that these costs relate to every aspect of Palestinians' lives, including those that are not quantifiable.

The [Assistance to the Palestinian People Unit of UNCTAD](#) (United Nations Conference for Trade and Development) was set up in 1985 with a brief to monitor and investigate the social and economic impact of policies of the Israeli occupation of the Palestinian territory. In 2019 it produced a report on the '[cumulative fiscal costs](#)' of occupation. This research investigated the 'fiscal leakage to the treasury of Israel within the current economic policy framework established by the Paris Protocol and other fiscal losses that do not find their way to the Palestinian treasury due to measures imposed by the occupying Power'. It estimated that 'the monetary value of Palestinian fiscal losses identified in the period 2000–2017 ... at \$US47.7 billion, almost triple the Palestinian GDP in 2017.'

This UNCTAD report also notes that its analysis, although detailed, was limited. It cites the many other fiscal losses and leakages resulting from occupation, that should be investigated:

- Fiscal leakage and losses resulting from the flow of service imports from Israel.
- Fiscal losses resulting from the lack of sovereignty over natural resources [especially water].
- Fiscal losses resulting from the unilateral annexation of East Jerusalem and the forced separation of its economy from the rest of the economy of the Occupied Palestinian Territory.
- Fiscal losses resulting from the delay in transferring the wages and compensations of Palestinians working in Israel and its settlements.
- Indirect fiscal losses resulting from denying the Palestinian people the right to adopt economic, trade and industrial policies that respond to the needs and interests of the Palestinian economy.
- Fiscal losses resulting from restrictions in Area C and the resulting loss of potential investment and foregone exploitation of natural resources in the area.
- Other losses caused by the occupation as a result of various practices, such as military operations, sieges, closures, the demolition of buildings and the uprooting of trees.

2. *Dependency economy in West Bank and Gaza under Israeli Occupation*

The relationship between the two entities, Israel and Palestine, can be characterised as one of dependency. On the one hand, natural resources (such as land, water, and minerals), unfinished goods, and human resources (labour) move from the periphery-Palestinian to the centre-Israeli economy, while final goods move from the Israeli to the Palestinian economy. Since 1994 and the establishment of the Palestinian Authority (PA), Palestinian trade has been dependent on Israel for 75% of its imports and 80% of exports, <https://al-shabaka.org/briefs/demise-of-palestinian-productive-sectors/> This article provides evidence of how Israel benefits economically from having a client-'state' at its doorstep, dependent on Israel for goods and labour market. In sum, it points to the power imbalance imposed by Israel on the Palestinian economy.

3. *Customs Union (1967) and subsequent Paris Protocol (1994)*

These economic agreements between Israel and the PA, form the basis of the dependent relationship, outlined briefly above. Again, and overall, the Paris Protocol has resulted in a situation where the Occupied Palestinian Territories are a captive market for Israeli exports. As the Oslo Accord has outlived its usefulness, so too has the Paris Protocol, which was supposed to be an interim agreement for 5 years. [The past twenty plus years](#) has seen a shrinking of Palestinian productive capacity and base, high and rising unemployment rates, financial unsustainability, a chronic trade deficit and a high level of dependence on international aid to finance a large and persistent budget deficit. In short, the trade framework and economic policies Israel has pursued to this day, [do not serve the interests of the Palestinian economy](#).

How would the realities of the Paris Protocol agreement align with an FTA between Israel and Australia?

4. Issues surrounding the Settlements especially in Area C, comprising 61% of the West Bank

Many reports have been written about the illegality of settlements in the West Bank and East Jerusalem, stressing how their economic activity favours settlers' businesses and correspondingly, discriminates against [Palestinians](#)'. We note the UN Security Council Resolution 2334 of 2016 which states that Israel's settlement activity is a "flagrant violation" of international law. A [World Bank Study](#) outlines how the persistence of administrative restrictions as well as others on trade, movement and access 'have had a dampening effect on private investment and private sector activity' in Area C.

For example, on the one hand, Israel provides settlers, and in many cases settlement businesses, with land, water infrastructure, resources, and financial incentives to encourage the growth of settlements and their businesses. On the other hand, Israel confiscates Palestinian land, forcibly displaces Palestinians, restricts their freedom of movement, precludes them from building in all but 1 percent of the area of the West Bank and strictly limits their access to water and electricity.

These many restrictions have the result of many goods produced by Palestinians costing more than their Israeli equivalents. The production of dates in the Jericho area of the Jordan Valley, is a prime example of this. [One newspaper report](#) argues that there are many reasons why Israeli dates are 25% cheaper to export; including Israeli government subsidies to settler producers, Palestinians have to purchase expensive water from water carriers to irrigate their trees as they are forbidden to drill deep wells for water. Additional is the fact that Palestinian growers are not able to travel to Israeli ports to oversee their exports, and so have to hire Israeli middlemen – another additional cost. And Israel often requires [Palestinian producers, but not Israelis](#), to offload and reload goods that pass through Israeli checkpoints on their way to a port for export, which adds to the expense and time required for transport.

These latter two imposts relate to Palestinian exports from Areas A, B and C, and Gaza, as our organisation can attest.

How will an FTA between Israel and Australia deal with the issue of the mix of Israeli and Palestinian businesses and workers in the occupied territories, where Palestinian workers are often employed by Israeli businesses at lower wages?

How will an FTA account for the extremely unlevel economic playing field between Israel and its occupied neighbour?

5. Point of Origin and Settlements

Accurately indicating point of origin of goods is an important aspect of all FTAs. In Israel's case, contention is increasing as to how goods produced in West Bank settlements, are labelled. In 2019, the [European Court of Justice](#) ruled that European Union states should require that goods produced in settlements be labelled as such, rather than 'Made in Israel'. On the other hand, the [United States stipulates](#) in 2020 that goods produced in Area C must be marked to indicate their origin as "Israel," "Product of Israel," or "Made in Israel." There is no mention of settlement production. Palestinian goods produced in Areas A and B should be marked 'Product of West

Bank', 'Product of Gaza' or variations thereof. A similar omission of origin occurs as the word 'Palestine' does not appear.

We also note with some dismay that in a [recent trade agreement](#) between Israel and Bahrain, the latter has agreed to accept settlement products as labelled 'Made in Israel'.

This submission strongly advises that an FTA between Australia and Israel recognises the highly political and contentious nature of the above US advisory on origin marking, and negotiates a different marking system with Israel, one which recognises the realities of occupation in Areas A, B and C of the West Bank and Gaza, East Jerusalem and the Golan Heights.

Will an FTA increase the likelihood of the 'Made in Israel' labelling occurring, as it appears has occurred in other FTAs Israel has made?

This would be a violation of the numerous UN resolutions that state the illegality of the settlements and their activities. Additionally, if the FTA makes explicit that goods and services produced in the settlements are **Israeli**, there is a political problem for those states, like Australia, which argue that two states are possible and desirable.

7. Labour Rights

Most FTAs between Australia and other industrialised countries have labour chapters in which both parties commit to full implementation of the ILO basic rights of work. Would Israel be able to comply with these principles given its investments in the occupied territories (and Israel itself) where there is much evidence that Palestinian workers are paid less than Israelis. For example, in the settlements, the virtually complete lack of government oversight, as well as Palestinian workers' dependency on Israeli-issued work permits, creates an environment for [settler employers](#) to pay Palestinian workers below Israel's minimum wage and deny them the benefits they provide to Israeli employees.

From the perspective of Palestine Fair Trade Australia, it is a concern that the burgeoning Fair Trade enterprise in Palestine, would be more adversely affected by a FTA, with its focus on reducing barriers and cutting costs to business. Fair Trade principles, on the other hand, are concerned with the rights of workers, improved working conditions and producing a product without the exploitation of either labour or the environment.

In conclusion, PFTA would like to reiterate that any proposal for an FTA between Australia and Israel cannot and should not be divorced from the complex and contentious politics of the relationship between Israel and the State of Palestine. Australia, as a prominent international human rights advocate in many contexts, needs to recognise the ongoing military occupation of parts of Palestine and the equally ongoing devastating effects it is having on the Palestinian people, including their economy.

As a guiding principle of this FTA, we would urge Australia to consider any trade negotiations pertaining to settlements to ensure they are consistent with our duty not to recognize Israeli sovereignty over the occupied Palestinian territories. We would hope that DFAT negotiators can conclude a Free Trade Agreement with Israel that recognises the equal rights of Israelis and Palestinians to live within a healthy, justice-oriented economy that serves the needs and aspirations of both peoples equally.

