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

30 April 2021

israeltrade@dfat.gov.au

Re: Feasibility study on strengthening trade and investment with Israel

Who are we?

The Australian Jewish Democratic Society, Inc (AJDS) was established in 1984 as a politically progressive voice in the Australian Jewish community:

- To promote and contribute to justice in Israel/Palestine.
- To facilitate, support and grow politically progressive voices in the Jewish community.
- To be in solidarity with Indigenous fights for justice, land and water rights and decolonisation.
- To foster a specifically Jewish approach to the issues of peace and Social Justice.

Our organisation has promoted a just solution to the conflict in Israel and Palestine since our inception, one that accounts for the rights of both Israelis and Palestinians in conflict resolution. In August 1989, AJDS issued a 12-page pamphlet titled *A Case for Israel's Future* and has published many letters, opinion pieces and editorials over the years, including backing the creation of a Palestinian state in 2011¹. We continue to engage with the broader community, including parliamentarians, offering a progressive perspective on the situation in Israel/Palestine. Our positions are similar to those found in many progressive Jewish organisations in Israel and the US.

In August 2010, the AJDS became the first Australian community-affiliated Jewish organisation to adopt the view that limited boycotts of goods and services coming from the Occupied Territories were justified, a view held by many Israeli organisations for decades. This is a position quite different to the Boycott, Divestment and Sanctions (BDS) movement

1 <https://www.theage.com.au/politics/federal/why-australia-should-back-creation-of-a-palestinian-state-20110814-1isxn.html>

which calls for a general or global boycott of Israeli goods and services, and it is a distinction we wish to strongly emphasise.

In our submission we emphasize the importance of human rights principles, and apply these to both Israeli and relevant Palestinian activity.

I. Australia's trade and investment relationship with Israel

The AJDS knows that Israel has a strong Research & Development sector that is of considerable interest and potential importance to Australia across a range of areas in the global knowledge and information economy.

However, the fact that Israel is also a military power and occupying force under international law must not be ignored in assessing the nature of any trade relationship. As long as Israel continues that occupation, its policies in relation to the Palestinian population can be broadly characterised as unlawful, discriminatory and deserving of sanction. As accepted by leading ex-Mossad and Israeli military leaders, the separate and unequal system far exceeds Israeli's own defence and security requirements. The human rights implications of the occupation must be considered in any trade relationship between Australia and Israel, and Australian monies must not be used to support the Occupation.

Currently, the situation in the Occupied Territories is under review by the International Criminal Court. Human rights organisations and international lawyers have long claimed that Israel's settlement policies are in breach of international human rights norms. Indeed, Senator Marise Payne has given voice to these concerns recently on the issue of the annexation of land in the Occupied Territories³.

By way of comparison, the relationship between Australia and the Tatmadaw in Myanmar is under scrutiny, and the government has pledged to review this in the light of growing evidence of human rights abuses being perpetuated by the military regime. The approach being considered in relation to Myanmar should be applied more broadly. Such an approach would affect Australia's dealings with countries that have demonstrated a checkered history in preserving human rights. Calls have been made by other Australian organisations in relation to weapons deals with Saudi Arabia and Egypt, calls which we support. Indeed, US President Biden has made moves in this direction by retracting financial and military support for Saudi Arabia's wars in Yemen. Without in any way implying a direct equivalence between Israel and these countries, the application of a human rights perspective based upon the Universal Declaration of Human Rights and other relevant international instruments should inform the Australia-Israel free trade relationship. Taking such an approach would be consistent with community concerns and the expressed principles of both of the major political parties in Australia.

The common thread linking these precedents, which have been codified into law in the US for some time now, is that they demand commercial imperatives be subordinated in favour of an expression of democratic and human rights values - whether in relation to friends or foes. With respect to Israel in particular, the use of a human rights perspective does not prevent commercial or other relationships with the state of Israel: it only impedes those relationships that do not meet the human rights standards that we expect from democratic states.

3 <https://www.smh.com.au/politics/federal/australian-voices-concerns-over-israel-s-annexation-plans-20200701-p5586y.html>

2. Why is Israel relevant to a rights-respecting approach to trade?

For many years Israel's relations with the Palestinian people have been called into question by Israeli and international bodies. In Israel, this has been the case since 1967, when numbers of Israelis began to question the policy of military occupation. Rights violations in the Occupied Territories can be summarised to include:

- War crimes and unlawful killings
- Illegal settlement building and unfettered settler violence
- Forced displacement and destruction of dwellings
- Restrictions on freedom of movement
- Theft and unlawful acquisition of land and natural resources, including water
- Abusive detention practices, including the unlawful detention and abuse of children⁴
- Non-vaccination of the Palestinian population against COVID 19, despite obligations under international law to subject populations in such situations.
- Two Congressional examples from the United States - Betty McCollum and Bernie Sanders - are illustrative of the position we wish to advance in this submission:

There are nations on which US imposes additional requirements before committing to standard bilateral relations. Long-serving US Senator Bernie Sanders has repeatedly argued for Israel to be one of those nations. In particular, he stated: "So I would use the leverage...\$3.8 billion is a lot of money. We cannot give it carte blanche to the Israeli government ... We have the right to demand respect for human rights and democracy".

Congresswoman McCollum, and others have very recently introduced a human rights bill into the US Congress. This "prohibits Israel from using U.S. taxpayer dollars in the Occupied West Bank and East Jerusalem for: the military detention, abuse, or ill-treatment of Palestinian children in Israeli military detention; to support the seizure and destruction of Palestinian property and homes in violation of international humanitarian law; or, to extend any assistance or support for Israel's unilateral annexation of Palestinian territory in violation of international humanitarian law."⁷

Such a bill, we emphasise, does not call for sanctions against Israel, but only those aspects of US government funding which are linked to the violation of human and property rights in the Occupied Territories and East Jerusalem.

3. What could a future Australian trade & investment relationship with Israel look like?

In suggesting that Australia's allies should not receive special treatment on issues relating to democracy and human rights, particularly where human rights abuses have been documented, we wish to propose a template for how such a bilateral trade relationship with Israel might look if issues of justice were prioritised by the government.

4 <https://www.hrw.org/news/2017/06/04/israel-50-years-occupation-abuses>;
https://www.btselem.org/sites/default/files/publications/202010_the_annexation_that_was_and_still_is_eng.pdf

7 <https://mccollum.house.gov/media/press-releases/mccollum-introduces-historic-legislation-defending-human-rights-palestinian>

In 2010 the AJDS adopted a resolution which supported limited boycotts and services to hold Israel accountable for its occupation. This included selected actions designed to bring about an end to the Israeli occupation, blockade and settlement on Palestinian lands lying outside of the June 1967 Israeli borders. Our submission specifies which actions we regard as significant for human rights, ones which would have impact upon Israel's occupation.

We also raise issues about human rights within Israel proper and relationships with Palestinian entities and our desire for a human-rights based approach.

We argue that engagement with Israel through a human-rights-based trading relationship is a better way of advancing the rights and security of both Israelis and Palestinians than global BDS. It is an approach which supports Israeli sovereignty but does not neglect the just human rights of Palestinians.

4. How should Australia modify the Australian trade & investment relationship?

In brief, changes in three areas are warranted:

- Cease trade in military goods, including the purchase and sale of arm and security services unless there is a pressing humanitarian need (for example, disaster situations)
- Subject non-military goods and services (e.g. food products) from Israeli companies that are manufactured in the Occupied Territories to sanction unless they meet human rights standards and are labelled Product of the Occupied Territories.
- Cease commercial and other (e.g. charitable, academic) relations with Israeli companies and institutions that are headquartered in the Occupied Territories.
- Review existing relations with the State of Israel with an eye to imposing human rights criteria on existing joint-projects that might unduly exclude Palestinians from equal rights and opportunities.

In detail, the AJDS submits to the inquiry that neither the Australian government nor any company or charity in Australia should be engaged in any trade or investment with Israel in the Occupied Territories. The specifics here include:

- Military, security, intelligence, and related services developed by and for the Israeli government that are used in the Occupied Territories, including East Jerusalem. These can be services developed by the Israeli military, or private contracting companies, or universities within the Green Line or in the Occupied Territories. This range of products includes not only traditional military hardware, but any software surveillance, control, and profiling systems used to violently or covertly control the Palestinian population. ID systems, phone tapping and software systems such as face and voice recognition, and training provided to support these systems.
- Police and military training associated with these systems, or methods of population control and policing. Nor should Australian personnel be permitted to take part in such training outside Australia.
- Products known to have been field tested in the Occupied Territories when made available on the international market and sold to governments that abuse human rights either directly or via third parties.

- The import of such products into Australia, unless there is a need (for example, disaster situations) that demonstrates there is no alternative for their use.
- General non-military goods and services (e.g. food products) from Israeli companies that are manufactured in the Occupied Territories, even if the companies are headquartered within the Green line. Many Israeli companies use Palestinian labour in the Occupied Territories. Palestinians are generally paid less, and have reduced labour rights, with the threat of dismissal and loss of work permits always present⁸. However, if such goods and services can be certified as meeting a Human Rights Clause such as that developed by the EU for Free Trade Agreements, which ensures that equal rights of Palestinians in the Occupied Territories and Israeli Jews employed in any joint project, then they should be permitted.
- Charitable fundraising for Jewish settlements and services in the Occupied Territories whether under the Charities Act or not.
- Any goods coming from the Occupied Territories that are not clearly labeled as being products of the Occupied Territories. This includes products whose origin is obscured by being labeled as a Product of Israel.
- Any Israeli institutions including academic institutions situated in the West Bank. This includes Ariel University which is situated in the West Bank. These institutions legitimise the occupation. NB. European Research Council (ERC) and the US-Israel Binational Science Foundation (BSF), and the German-Israeli Foundation for Scientific Research and Development do not allow any of their grants to support research performed in the Occupied Territories in general, and at Ariel University in particular. The University also excludes Palestinian students from the OPT. The University also has strong military ties.
- Any joint academic research between Australia and Israel that is deemed to have a negative human rights impact under international standards in the Occupied Territories.

Human Rights principles and Palestinian entities

- There are documented problems with human rights and the Palestinian Authority (and Hamas in Gaza). We also note that any relationship between Australian and Palestinian entities such as the Palestinian Authority should also be subject to a similar human rights assessment with respect to military, security, intelligence, and related services, and be subject to sanction if necessary¹¹.

8 The situation of workers of the occupied Arab territories https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_745966.pdf

11 <https://www.hrw.org/world-report/2019/country-chapters/israel/palestine#>

- Thus every relationship between Australia and Israeli entities engaged in the Occupied Territories, and some with the Palestinian Authority should be subject to assessment under a Human Rights Clause such as that developed by the EU for Free Trade Agreements¹².

5. Human Rights within the Green Line (pre-1967 Israel Borders)

In addition, the AJDS brings to the attention of the Inquiry its concerns about the general human rights situation within the Green Line of Israel proper.

- While there has been progress in the lives of many Palestinian citizen of Israel, there are considerable political, economic and social barriers to their full acceptance in Israeli society and there is a considerable underclass¹³. There is a desire for some political parties to exclude or even expel Palestinians from their homeland. The recent “Nation State Law” privileges Jewish over others’ rights¹⁴. Israeli Palestinian leaders regard this as the institutionalisation of second-class citizenship. There are also continuing attempts to displace communities for Jewish communities only¹⁵.
- The recent elections show the increased presence of a racist political block which supports the formalisation of a local form of apartheid or worse.
- Any relationship between Australia and Israel, at government or trade, charitable, academic, or R&D levels should be subject to a Human Rights Clause, which ensures that equal rights of Israeli Palestinian citizens and Israeli Jews employed or affected by any joint project or investment are a precondition to its authorisation and status as determined by DFAT. A model for this lies in the EU Human Rights Clause, as well as the Sullivan Principles used in the US to ensure equal treatment for all in US investments in South Africa.

Sincerely

Dennis Martin
For the AJDS committee

12 Human rights in EU trade agreements. The human rights clause and its application
[https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637975/EPRS_BRI\(2019\)637975_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/637975/EPRS_BRI(2019)637975_EN.pdf)

13 <https://www.timesofisrael.com/arab-communities-shattered-as-organized-crime-fuels-record-levels-of-bloodshed/>

14 <https://www.haaretz.com/opinion/editorial/israel-s-second-class-citizens-law-1.5471222>

15 <https://www.adalah.org/en/content/view/9888>,
<https://www.nrc.no/news/2021/february/israel-displaces-more-palestinian-bedouins-seizes-their-tents-in-humsa-al-bqaia/>