

[letterhead of the Office of the Spokesman at the Coordination of Government Activities in the Territories, Ministry of Defense]

28 Tishrei 5772

26 October 2011

Ref: Gen - 112498

To: Ms. Tamar Feldman, Adv.
Gisha

Re: **Response to your application under the Freedom of Information Act regarding the policy on goods entering the Gaza Strip.**

1. In your application under the Freedom of Information Act dated June 13, 2011, the Coordinator of Government Activities in the Territories (COGAT) was requested to provide information, documents and figures regarding the policy on allowing goods to enter the Gaza Strip.
2. Prior to addressing the application, we would like to state that in the summer of 2005, Israel unilaterally implemented the disengagement plan, in which IDF forces left the Gaza Strip, the military administration established in 1967 was revoked and the Palestinian Authority (PA) took control over the entire Gaza Strip, with no Israeli involvement whatsoever. In accordance therewith, Israel's position, which has been affirmed by the Supreme Court, is that the law of belligerent occupation no longer applies to the relationship between Israel and residents of the Gaza Strip. Therefore, Israel no longer bears overall responsibility for the welfare of the population. Its responsibility is limited to basic humanitarian obligations toward the population, in accordance to the rules of international law.
3. We further recall that in June 2007, Hamas staged a violent coup in the Gaza Strip, at the end of which it seized control of the Strip by force. This organization maintains a constant state

of armed conflict with the State of Israel. It does not recognize its right to exist. It also held kidnapped soldier Gilad Shalit for five years, while ignoring basic obligations under international law.

4. Therefore, the Ministerial Committee for National Security (“the Security Cabinet”) passed Resolution B/34 on 19 September 2007, declaring the Gaza Strip a “hostile entity” controlled by a terrorist organization and that various civilian-economic restrictions would be imposed on it. These restrictions included the reduction of the types of goods Israel allows into the Gaza Strip, the quantity of fuel Israel supplies to the Gaza Strip and the movement of people between Israel and the Gaza Strip.
5. It should be emphasized that the resolution explicitly states that the restrictions would be implemented in a manner that is consistent with Israel’s legal obligations and that a humanitarian crisis must be avoided. Israel’s position with respect to the scope of its obligations toward residents of the Gaza Strip and the lawfulness of the restrictions imposed on the Gaza Strip **has been approved by the Supreme Court.**
6. It shall further be emphasized that in keeping with Security Cabinet Resolution B/44, dated 20 June 2010, the civilian policy toward the Gaza Strip was significantly expanded, following on a trend that began some 18 months prior. The decision was reached while efforts continued to prevent weapons that might serve the Hamas terrorist regime for harming Israeli citizens from being brought into the Gaza Strip.
7. Our specific responses to the questions and requests made in your application follow. It should be emphasized that the figures relate to the period beginning on the date of the Security Cabinet resolution of June 2010 and ending on October 2, 2011. We note that many of the questions, formulated as a “questionnaire”, dubiously meet the criteria of the Freedom of Information Act. However, beyond legal requirement, much effort has been made to respond to your application as best possible, considering the extensive scope of the questions and documents requested.
8. With respect to the request made in Sec. A(1) of the application, as a rule, the mechanism for coordinating import of goods into the Gaza Strip is carried out by the Gaza District Coordination Office (hereinafter: **the Gaza DCO**) vis-à-vis Palestinian officials, as well as

officials from international organizations. This mechanism normally follows the Coordination of Goods Entering the Gaza Strip Protocol (attached as **Appendix A**).

This document was formulated on July 15, 2010 and distributed as a protocol on September 15, 2010. It should be noted that during the process of formulating the protocol, a need arose to take measures against individuals who attempt to import controlled goods without a permit and or breach the terms of the permit. These measures are specified in the protocol (Secs. 7b-g), but have not been implemented to date.

It should be emphasized that the list of goods requested for entry is collected as per demands from the Palestinians and international organizations and transferred to the Gaza DCO on a daily basis.

Currently, COGAT officials coordinate the entry of goods into the Gaza Strip with the following officials and agencies:

- a. A representative from the Palestinian Ministry of Economy – coordination regarding most goods, specifically food products, hygiene products, electronic appliances, industry etc.
 - b. A representative from the Palestinian Ministry of Agriculture – coordination regarding fruits and vegetables, livestock, agricultural materials etc.
 - c. Ministry of Transportation of the Palestinian Authority in Ramallah – coordination regarding entry of vehicles and vehicle parts.
 - d. Palestinian Water Authority and Palestinian Energy Authority of the Palestinian Authority in Ramallah – coordination regarding entry of engineering equipment for the electrical grid in the Gaza Strip, the power station and projects involving water and sewage.
 - e. International organizations – coordination regarding the entry of donations, food products and materials for approved projects funded by the organizations.
9. With respect to the information requested in Sec. A(2) of the application, the list of daily goods is coordinated on a “next-day” basis. Unusual requests requiring an inquiry as to

whether the requisite equipment is banned from entry into the Gaza Strip are processed as quickly as possible. It is emphasized that there is no set schedule for processing the entry of unusual equipment, as processing of such requests requires review by professional officials who perform detailed, thorough examinations. However, a great deal of effort is made to provide responses as quickly as possible. As stated, processing is done in accordance with the Coordination of Goods Entering the Gaza Strip Protocol.

The specifics of the administrative officials in charge of processing at the Gaza DCO are as follows: Economics Branch Head, Economics Branch Deputy Head, International Organizations Division Head, Infrastructure Officer, Commerce and Employment Coordinator, Agriculture Coordinator, Transportation Coordinator and staff officers working out of the civil administration headquarters in Beit El: Communications Staff Officer, Environment Staff Officer. The aforesaid officials maintain constant and direct communications with officials from the Palestinian side and international organizations via in-person conferences, telephone conferences, fax transmissions and e-mail correspondence.

10. With respect to the information requested in Sec. B(1) of the application, the criteria for reviewing requests to import goods listed as controlled items requiring individual approval are specified in Sec. 6(B) of the Protocol on Controlled Goods Entering the Gaza Strip (attached as **Appendix B**).
11. With respect to the information requested in Secs. B(2) and (3) of the application, it is noted that, as aforesaid, schedules for processing requests vary according to the complexity of processing the request. Additionally, it is emphasized that efforts are made to respond to the applying official or agency within the shortest possible time, while attempting to meet the deadlines requested by the relevant agencies, as specified in **Appendix C**. Applications are filed and processed as per the Protocol on Controlled Goods Entering the Gaza Strip. Additionally, for the sake of convenience, the guidelines for filing applications for importing goods listed as controlled items requiring individual approval are listed below along with the titles of the processing officials:
 - a. Communications equipment – The applicant (Palestinian, an international organization, Palestinian communications companies, media) applies to the Office of the

Communications Staff Officer at the Civil Administration or the Communications Officer at the Gaza DCO for security clearance to bring the requisite good to a specific Palestinian official. In the absence of a security preclusion, the Communications Staff Officer issues a permit which serves as approval for importing the equipment. Note that the issuance of the permit is followed by individual coordination to have the equipment brought in.

- b. Fertilizers, paint etc. – The applicant (Palestinian, international organization) applies to the office of the Environment Staff Officer at the Civil Administration or the Infrastructure Officer at the Gaza DCO for security clearance to bring the requisite good to a specific Palestinian official. In the absence of security preclusion, the Environment Staff Officer issues a permit which serves as approval for importing the equipment. Note that the issuance of the permit is followed by individual coordination to have the equipment brought in.
- c. Other equipment (equipment for industry, medical equipment, etc.) – Where the applicant is a Palestinian, the application is done via the PA Economic Coordinator, who also transfers all the relevant documents to the Industry and Commerce Coordinator at the Gaza DCO. An application from an international organization is transferred to the International Organizations Division at the Gaza DCO. In the absence of a security preclusion, a permit is issued by the relevant official at the Gaza DCO. Note that issuance of the permit is followed by individual coordination to have the equipment brought in.
- d. Vehicles and vehicle parts – The applicant (the Ministry of Transportation of the Palestinian Authority in Ramallah) applies to the Transportation Coordinator at the Gaza DCO for security clearance to bring vehicles and vehicle parts to a specific Palestinian official. Note that in the absence of a security preclusion, the applications are transferred for coordination to have the vehicles and/or vehicle parts brought into the Gaza Strip via the Kerem Shalom crossing.

See specifics in Appendix C to the document ‘Application to Import Controlled Goods and Merchandise’ which is attached, as stated, to **Appendix B** to this document. See also **Appendix D** to this document – Application Form for Importing Controlled Goods and Merchandise.

12. With respect to the information requested in Sec. B (4) and C (5) of the application, the topic is not under the responsibility of the COGAT. The security screening procedures followed by the Land Crossings Authority at the Ministry of Defense conform to the instructions issued by the instructing agency – the Israel Police.
13. With respect to the information requested in Sec. C (1) and (2) of the application, as a rule, entry of construction materials is approved for projects submitted and funded by the international community. Attached as **Appendix C** is the Procedure for Implementation of Internationally Funded Projects in the Gaza Strip, including the application form, the specifics that must be included therein, the official to whom the application is submitted and highlights on the project approval process. Note that this is an internal procedure, however there are differences between the process described therein and the manner in which it is implemented on the ground:
 - a. Schedules for processing requests (see table of agencies involved in the process and areas of responsibility, **Appendix C**) constitute a COGAT request from the relevant agencies rather than a procedure which is binding on any agency external to COGAT.
 - b. The project classification (detailed in Sec. 4 and 7 in **Appendix C**) constitutes a suggestion which has never been put to practice. In practice, all projects are brought for approval by the IDF and the ministerial level.

This notwithstanding, the statement that construction materials are brought in only for international projects must be qualified and it should be noted that in addition to international projects, construction materials have been approved for entry for the purpose of expanding the infrastructure on the Palestinian side of the Kerem Shalom crossing. The request was made by the PA Crossing Authority in order to significantly increase the daily number of trucks and improve the operational capacities of the crossing in the context of the expansion of the civilian policy.

In addition, in the context of the gesture package on which the Prime Minister and Quartet Representative, Mr. Tony Blair agreed in February 2011, the Government of Israel approved a pilot project for bringing in construction materials intended for private sector use in the Gaza Strip, under an international control and supervision mechanism. The implementation

of this pilot project, which includes raw materials intended for the reconstruction and renovation of ten factories, is scheduled to begin in the near future.

It should be noted that the major administrative agencies in charge of processing applications are the COGAT, the IDF and the ISA. In some cases, additional professionals are required to provide a professional opinion. Communications between officials and applicants is carried out via the Civilian Department at the COGAT. The aforesaid officials maintain constant and direct communications with officials from the Palestinian side and international organizations via in-person conferences, telephone conferences, fax transmissions and e-mail correspondence.

14. With respect to the information requested in Section C (3) of the application, the substantive criteria for reviewing the applications concern security considerations. The criteria have not been publicized but have been brought to the attention of the relevant international officials.
15. It should be noted that for security reasons, the Information Security Department redacted a number of items from the procedure pursuant to Sec. 9 A (1) of the Freedom of Information Act.
16. With respect to the information requested in Sec. C (4) of the application, COGAT has no information with respect to the criteria employed by the Palestinian Authority for examining applications for project approval.
17. With respect to the information requested in Sec. C (6) of the application, protocols for monitoring and supervision of projects are specified in Sec. 8 (b) of the document in **Appendix C**. Additionally, attached as **Appendix G** is a draft of a document written by the United Nations following joint staff work with our office, which forms a general basis for collaboration in the context of project approval.
18. With respect to the information requested in Sec. C (7) of the application, generally, since the beginning of 2010, 163 projects have been approved for implementation. As of June 20, 2010, 149 internationally funded projects have been approved for implementation. The project approval date is also the date of approval for bringing in raw materials, as transmitted to international organizations as well in the approval letters. Of the approved projects, only

35 have been implemented and completed (21.4%). Sixty-seven projects are in progress (41.1%). Eight projects have been cancelled by the applying organization. The implementation of the remaining approved projects has not begun for reasons that are unrelated to the Israeli side.

19. With respect to the information requested in Sec. C (8) of the application, the list of projects that have been approved by Israeli authorities has been made public, both in briefings held for the international media and in a report which was distributed to officials in the international community as well as to the Israeli and international media. The report received media coverage. It was also published in full on the COGAT's website at www.cogat.idf.il and it is attached as **Appendix E**.
20. With respect to the information requested in Sec. D (1) of the application, approval is followed by coordination for bringing in the goods as per the regular procedure as detailed in Sec. 4 of the procedure attached as **Appendix A**.
21. With respect to the information requested in Sec. D (2) of the application, guidelines and procedures for coordinating transportation of goods are detailed in Sec. 5 of the procedure attached as **Appendix A**.

With respect to processing times for requests to import "sensitive" equipment, coordination is carried out subject to the request of the applying official, whether Palestinian or international, and subject to the capacity at the crossing.

It should be noted that the daily coordination list is sent to the director of the Kerem Shalom Crossing, who prioritizes the goods to be entered according to the types of goods and with the intent of giving the goods optimal service without causing damage (refrigerated products etc.)

Communications between officials and applicants is carried out via the External Relations and International Organizations Branch at the COGAT. The aforesaid officials maintain constant and direct communications with officials from the Palestinian side and international organizations via in-person conferences, telephone conferences, fax transmissions and e-mail correspondence.

22. With respect to the information requested in Sec. D (3) of the application, all guidelines and instructions with respect to the import of goods and their release from customs are set by the Israel Tax Authority, under the heading “Instructions for Customs Agents, Autonomy (a procedure from 2006), at <http://ozar.mof.gov.il/taxes>.
23. With respect to the information requested in Sec. D (4) of the application, as for the issue of goods belonging to the UN and international organizations which are destined for Gaza, the Procedure for Donations to the Palestinian Authority, which we follow, is attached as **Appendix F**. It should be noted that this is an internal procedure, but there are differences between the deadlines required by COGAT in the procedure and what takes place on the ground, due to the overall required elements and considerations. It should be noted that we work with the relevant agencies on every application for the purpose of monitoring and in order to reduce response times.
24. It should be noted that Appendix C and Appendix L of the order contained in **Appendix F** have been redacted by the Information Security Department pursuant to Sec. 9 A (1) of the Freedom of Information Act.
25. With respect to the information requested in Sec. D (5) of the application, there is no restriction on bringing goods made in the West Bank into the Gaza Strip. The Palestinian side specifies the source of the goods (Israel/West Bank) in the daily coordination list.
26. With respect to the information requested in Sec. D (6) of the application, coordination is carried out according to the particulars of the Palestinian applicant, supplier and shipper, as it is carried out with respect to all goods.
27. With respect to the information requested in Sec. D (7) of the application, the level of detail required for coordinating the transportation of goods into the Gaza Strip is listed in the form attached as **Appendix A**. The times during which goods can be brought in corresponds to the operating hours of the Kerem Shalom Crossing. It is open Sunday through Thursday from 6:30 A.M. until nightfall.
28. With respect to the information requested in Sec. E (1) of the application, it is emphasized that the operation of the Kerem Shalom Crossing is under the responsibility of the Land

Crossings Authority at the Ministry of Defense. All the information and figures related in Sec. E are based on information provided to COGAT by officials from this authority.

29. With respect to the information requested in Sec. E (2) of the application, the conveyor belt is located on the Palestinian side of the Kerem Shalom Crossing and is not under the responsibility of the Land Crossings Authority at the Ministry of Defense. Its placement at the site was carried out through coordination between the Land Crossings Authority at the Ministry of Defense and the PA Crossings Administration, which ordered the conveyor belt, operates it and maintains it.
30. With respect to the information requested in Sec. E (3) of the application, the capacity of the conveyor belt, on which wheat and animal feed is transported to the Gaza Strip is 600 tons per hour. At present, the conveyor belt transports 1,600 tons per day, up to 40 trucks, due to restricted loading zones.
31. With respect to the information requested in Sec. E (4) of the application, transporting goods through the Kerem Shalom Crossing involves the recovery of operational costs only. These fees are collected by the Land Crossings Authority at the Ministry of Defense. Traders were informed of these orally. The fees are as follows:
 - a. 250 shekels – aggregates, mix
 - b. 400 shekels – single truck
 - c. 700 shekels – semi trailer, full trailer
 - d. 1,400 shekels – oversize cargo
32. With respect to the information requested in Sec. F of the application, on the issue of export from the Gaza Strip, it should be clarified that in a resolution passed on December 8, 2010 and published on the PMO's website, at:
WWW.PMO.GOV.IL/PMO/COMMUNICATION/SPOKESMAN/2012/SPOKEDES081210.HTM [*sic*], the Ministerial Committee for National Security decided on further relaxations that would expand export from the Gaza Strip with the aim of increasing economic activity in Gaza and in so doing, to mitigate the situation of Gaza's civilian population, which is under a regime of oppression and terror by Hamas. It was further decided that at the initial stage, that

export would focus on agriculture, furniture and textile. Export will be carried out gradually and it requires logistical and security preparations at the Kerem Shalom Crossing.

It should be noted that flowers and strawberries were exported before the aforesaid Cabinet resolution of December 2010.

33. With respect to the information requested in Sec. F (1) of the application, applications for export are received both from the Palestinian Authority and the international community. The guidelines and instructions contained in the Coordination of Goods Entering the Gaza Strip Protocol, which is attached as **Appendix A**, are also valid for export applications.

34. With respect to the information requested in Sec. F (1) of the application, on the issue of criteria for export from the Gaza Strip, the criteria for export are as follows:

- a. Export from Gaza is available Sunday through Thursday, subject to the export capacity at the Kerem Shalom Crossing, which is ten Palestinian trucks per day. This restriction is for the purpose of balancing the capacity to bring goods into the Gaza Strip with the ability to support goods exiting, as well as the ability to run security checks on the goods. **It should be noted that Palestinian applications for coordinating export have never reached this quota.**

It should be noted that the international community has pledged to purchase a security x-ray machine. This has yet to be put to practice and it is a necessary condition for expanding the daily quota for goods shipped out of Gaza via the Kerem Shalom Crossing.

- b. Export is carried out under the guidelines and instructions issued by the Ministry of Agriculture and the Tax and Customs Authority: coordinated activity by customs brokers using export manifests, bills of export, and exporter declaration of origin forms.

These criteria have been recognized in talks held by COGAT and Gaza DCO officials with Palestinian Authority officials, exporters and Palestinian agricultural associations. They are also known to international officials working on this issue.

It should be noted that the economic branch head at COGAT and DCO officials have recently held a meeting with Palestinian officials (a Palestinian Authority representative and

heads of agricultural associations), during which the Palestinians were presented with the procedure required for exporting potatoes and tomatoes from the Gaza Strip to Jordan.

35. With respect to the information requested in Sec. F (3) of the application, the instructions and guidelines contained in the Coordination of Goods Entering the Gaza Strip Protocol (attached as **Appendix A**) also apply, with the necessary changes, to export applications.
36. With respect to the information requested in Sec. F (4) of the application, there are no written protocols on the subject. It should be noted that, as stated, export has been taking place for many years, including the export of strawberries and flowers to the Netherlands with almost no interruption.

Each application is examined on its merits, whilst taking the gamut of necessary considerations into account, ministerial resolutions, security aspects, customs, agriculture, disease prevention and other considerations depending on the type of application. Additionally, it should be noted that coordination for exporting goods is carried out subsequent to approval of the application, on a daily basis and between the Palestinian Commercial Import Coordinator and the Gaza DCO.

37. With respect to the information requested in Sec. F (5) of the application, since the December 2010 Cabinet resolution, six applications for export have been filed and approved. It should be noted that all applications for agricultural export (variety and quantity) have been approved and coordinated in practice. The items are detailed below:
- a. Strawberries – agricultural export of strawberries from the Gaza Strip to markets in Europe will be made possible (these items have been exported previously). In the past year, some 370 tons of strawberries have been exported.
 - b. Flowers - agricultural export of flowers from the Gaza Strip to markets in Europe will be made possible (these items have been exported previously). In the past year, some 10 million carnations have been exported.
 - c. Peppers - agricultural export of peppers from the Gaza Strip to markets in Europe will be made possible. To date, some 6 tons of peppers have been exported.

- d. Cherry tomatoes - agricultural export of cherry tomatoes from the Gaza Strip to markets in Europe will be made possible. To date, some 6.5 tons of cherry tomatoes have been exported.
- e. Potato and tomato export to Jordan – an application to export tomatoes and potatoes to Jordan was approved on June 21, 2011, but has not yet been utilized by Palestinian exporters.
- f. Textile and furniture export abroad – the Quartet’s request to approve the export of textile products and furniture from the Gaza Strip to Europe was approved on July 19, 2011, but has not yet been utilized by Palestinian exporters.
- g. Applications to export agricultural goods to the West Bank and Israel have not been approved at this stage.

38. With respect to the information requested in Sec. F (6) of the application, textile and furniture export from the Gaza Strip was destined abroad and potato and tomato export was destined for Jordan. With respect to the restriction on the final destination of the goods, the destination is examined on its merits. All applications for export abroad have been approved. As stated, at this stage, export of goods to Israel and the West Bank has not been approved.

39. As per your request.

40. Sincerely

Guy Inbar, Major
COGAT Spokesperson

Attachments:

Appendix A - Coordination of Goods Entering the Gaza Strip Protocol, p. 13;

Appendix B – Protocol on Controlled Goods Entering the Gaza Strip, p. 17;

Appendix C – Procedure for Implementation of Internationally Funded Projects in the Gaza Strip, p. 31;

Appendix D – Application Form for Importing Controlled Goods and Merchandise, p. 38;

Appendix E – Document 163, Internationally Funded Projects Approved for Implementation in the Gaza Strip, p. 42;

Appendix F – Procedure for Donations to the Palestinian Authority, p. 74;

Appendix G – Draft of a document written by the Quartet following joint staff work with our office and used as the general basis for collaboration in the context of project approval, p. 110.