

What is the “separation policy”?

June 2012

Introduction

In June of 2010, the Israeli government decided, in a formal Security Cabinet decision, to make changes to its policy of closure on the Gaza Strip, which had been in effect since Hamas took over the Strip three years prior. Since the decision, there has been a gradual removal of restrictions on the transfer of goods and raw materials into the Gaza Strip and an increase in travel through Erez Crossing, particularly by businesspeople. Agricultural export from Gaza to Europe via Israel has also increased somewhat and Egypt’s opening of the Rafah Crossing for travel has provided a route for Gaza residents to travel abroad.

Gaza is less isolated from the outside world than it was two years ago, however the road to development and economic stability in the Strip remains blocked. Gaza’s connections with Israel and the West Bank, vital for its economy and the welfare of its residents, are still subject to sweeping restrictions on movement. The two main restrictions are the prohibition on marketing goods from Gaza in Israel and the West Bank and the narrow criteria for travel by individuals between the Gaza Strip and the West Bank. These restrictions have remained almost entirely unchanged, even after the release of Gilad Shalit from captivity in Gaza in October 2011.

When asked why these restrictions on movement remain in effect, security officials explain that they form part of the “policy of separation” between the Gaza Strip and the West Bank. This term reappears in official statements, but the only [explanation](#) ever given is that it is intended to “pressure Hamas and support the Palestinian Authority”. It remains unclear whether there is a well-defined and carefully considered policy that carries this title. If so, what are its goals? What government branch formulated it? Has it been brought for debate in any political forum – the government, the cabinet, the Knesset Foreign Affairs and Defense Committee?

The purpose of the following document is to provide a factual basis for a substantive discussion on the “separation policy” and its political, economic and security ramifications. Since we, like the rest of the Israeli public, do not know what the components of the separation policy are or what its purpose is, we focus here on concrete examples of uses of the term and explanations given for it by state officials. We also present a number of questions which we believe merit consideration.

The document contains three parts: Part A deals with restrictions on transfer of goods, particularly the sweeping prohibition on marketing goods from Gaza in Israel and the West Bank; Part B deals with restrictions on travel to and from the Gaza Strip and illustrates the two guiding principles of these restrictions, minimizing the number of people who are eligible for travel and preventing Gaza residents from settling in the West Bank, and; Part C looks at the economic, political and security implications of the “separation policy”, relying on the opinions of various experts.

The policy that emerges from the three parts is one that has far-reaching implications, raises more than a few questions and has not been well-documented or discussed in the media or among security, economy and legal professionals. We hope to help bring the “separation policy” up for public and

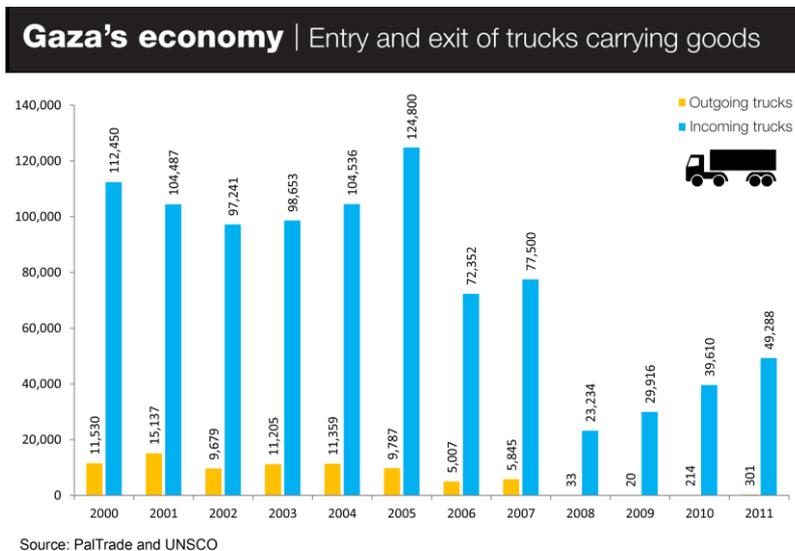
parliamentary debate in the framework of which it would be weighed against alternatives for regulating civilian movement between the Gaza Strip and the West Bank that both allow Gaza's residents to lead normal lives and enjoy economic development and safeguard Israel's security interests.

Gisha's position is that Israel is responsible for allowing civilian access between the Gaza Strip and the West Bank, which it has officially recognized as a single territorial unit. It must avoid restrictions on movement that are not connected to concrete security objectives, those that disproportionately harm the civilian population or deny residents of the Gaza Strip the ability to lead normal lives and engage in economic development.

Part A: Separation and movement of goods

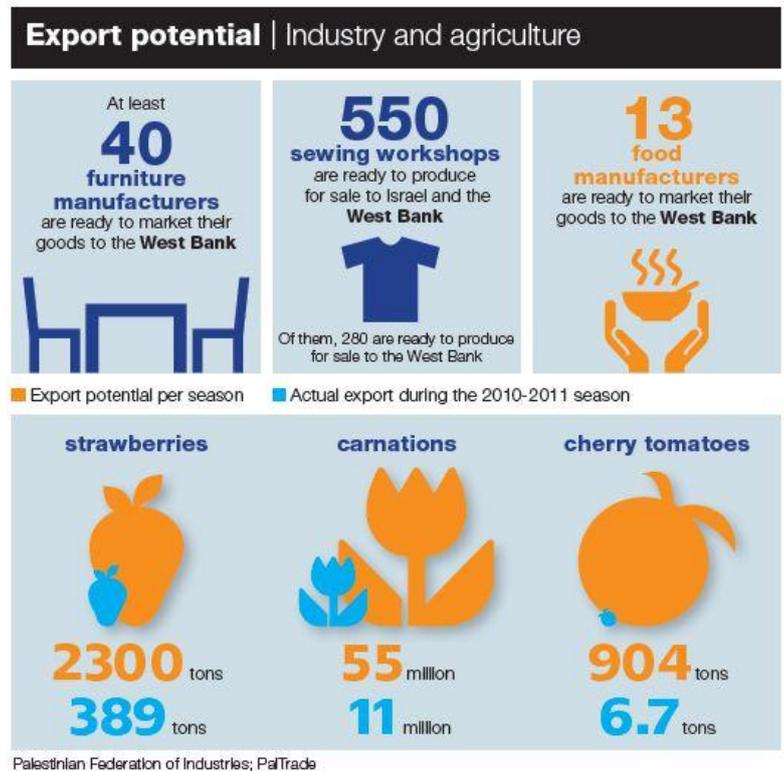
The facts:

- Since the closure was tightened in June 2007, there has been a sweeping and absolute prohibition on the marketing of any goods originating in the Gaza Strip in the West Bank and Israel. This has been the case despite the fact that until then, 85 percent of the goods exported from the Gaza Strip were marketed in these areas.



- Israel permits negligible amounts of export of agricultural produce from Gaza to Europe as part of a seasonal project financed by the government of the Netherlands.
- In the first six months of 2007, about 5750 trucks carrying goods left the Gaza Strip. During the next three years, from mid-June 2007 to June 2010, a total of 255 truckloads, all of them carrying agricultural produce, left Gaza for Europe. In the winter of 2010-2011, the total was 290 truckloads.
- The amount of agricultural exports planned for this season totals only 561 truckloads.
- Israel claims that it has approved export of furniture and textiles from Gaza to Europe, even though there is not and has never been a market for these Gaza-made products in Europe. On January 22, 2012, [the first truck carrying furniture from Gaza](#) crossed through Israel and the West Bank to an exhibition in Jordan. In February and March 2012, six truckloads of tomatoes crossed over from Gaza via Israel to Saudi Arabia.

- All export of goods which has taken place – to Europe, Jordan and Saudi Arabia – has been shipped by sea and air from Israel after undergoing sanitation inspection in Gaza and a comprehensive security inspection at the Kerem Shalom border crossing.
- In March 2012, a [shipment](#) of 13 truckloads of date-filled energy bars was allowed to cross over from Gaza to the West Bank as part of a World Food Programme project for school children. This was the first shipment of goods allowed to travel from Gaza to the West Bank in five years. However, there was no subsequent announcement of a change in policy.



- The Rafah border crossing remains closed for commercial traffic in both directions.
- The export ban has paralyzed the industrial sector in the Gaza Strip. Some 83 percent of factories in the Strip are shut down or are operating at half their capacity or less.¹
- At the end of 2011, the unemployment rate was 30.3 percent compared with 15.5 percent in the third quarter of 2000, just before the outbreak of the Second Intifada. The unemployment level is particularly high among young job-seekers aged 15-29. It stands at 46.5 percent.
- A long list of Israeli and international economists have determined that the ban on the marketing of goods to Israel and the West Bank is the main impediment to sustainable economic development in the Gaza Strip. They include Yitzhak Gal², Prof. Ephraim Kleiman³ and a [World Bank report](#) published in March 2012.⁴

Statements by officials regarding the policy:

1. The document “Procedure for Settlement in the Gaza Strip by Judea and Samaria Area Residents, December 2010”, which was provided to Gisha in April 2012, begins as follows: “In 2006, a decision was made to introduce a policy of separation between the Judea and Samaria

¹ According to a survey conducted by the industrialists’ union of Gaza in March 2011.

² Gal wrote a report for the Peres Center for Peace entitled “Gaza Strip Crossings: Israel’s Policy in a Broad Perspective”, published in 2011.

³ Prof. Kleiman took part in formulating the Paris Protocol (1994). He has written a number of papers on the dependence of Gaza’s economy on export.

⁴ Stagnation or Revival? Palestinian Economic Prospects. March 2012. Economic monitoring report to the Ad Hoc Liaison Committee.

Area and the Gaza Strip in light of Hamas' rise to power in the Gaza Strip. The policy currently in effect is aimed at reducing travel between the areas". Aside from the historical inaccuracy (the Hamas takeover occurred in 2007), this depiction does not name the echelon at which the "policy of separation" was established.

2. During a speech delivered on March 12, 2012, [Foreign Minister Avigdor Lieberman said](#) (Hebrew) that "the ongoing firing [of rockets] bury any chance that there will ever be territorial contiguity between Gaza and Judea and Samaria. As long as Hamas rules Gaza, there is no chance we will consent to safe passage, or unsafe passage, be it an overhead passage, an underground passage or any kind of passage. The Palestinians have sentenced themselves to a rupture which, at this time, looks like it will last for generations".
3. In a conversation with Gisha, Roi Kliger, managing director at the Vegetation and Animal Supervision Unit of the Ministry of Agriculture and Rural Development, told Gisha that in October and November 2011 approval, was given by the ministry to market strawberries from Gaza in the West Bank.
4. Senior officials in the office of the Coordinator of Activities in the Territories (COGAT) informed Gisha that the ban on marketing goods to the West Bank and Israel is a political decision which forms part of the "separation policy". In an interview for an [article](#) published on February 2, COGAT's spokesperson acknowledged that the decisions regarding sale of goods from Gaza to the West Bank were political and therefore could only be made by the prime minister's office.
5. In an [article](#) published on November 18, 2011 regarding the resumption of agricultural exports from Gaza to Europe, "military sources" were quoted as making it clear that there was no intention of permitting sale of goods from Gaza to Israel as part of the drive to "separate Gaza from West Bank merchants, who are allowed to sell in Israel".
6. In [testimony](#) (Hebrew) before the Turkel Committee on August 31, 2010, Major General Eitan Dangoth said, "The separation of Gaza from the West Bank is a very important concept from a security perspective. This is for established, proven reasons and I will gladly provide more details about it later on". He did not provide more details later in his testimony. In a COGAT PowerPoint [presentation](#) (Hebrew) made to the commission, the policy is described as a "political-security" necessity.
7. Another explanation that has been given for the policy in talks between COGAT officials and representatives from international organizations is that the tunnels running between Gaza and Egypt effectively result in a breach of the customs envelope, which is common to Israel, the Gaza Strip and the West Bank. In addition to the taxation issues this raises, there are also difficulties monitoring safety, health, veterinary and other standards. It should be noted that in an interview given to Gisha, Professor Ephraim Kleiman, who was among the authors of the Paris Protocol, said that even in the current state of affairs, it is possible to find ways to overcome taxation and standards issues and allow sale of goods made in Gaza to Israel and the West Bank.⁵

⁵ In an interview with Gisha (the major points of which will soon be published in a report), Prof. Kleiman stated that even under the current conditions, there are solutions for issues relating to standards and phytosanitary inspection which would

Questions:

1. The Kerem Shalom Crossing is undergoing renovations at an estimated cost of tens of millions of shekels⁶ for the purpose of allowing export of goods from Gaza to Europe. The new facilities will include comprehensive security and phytosanitary inspection capabilities. Considering the potential for marketing goods to Israel and the West Bank and its importance for economic recovery in the Gaza Strip, is it not possible to use these facilities to expand the more profitable sale of goods to Israel and the West Bank?
2. If permission were granted and conditions defined for a single shipment of goods from Gaza to the West Bank as part of a UN project, why should the government not instruct the military to allow similar shipments for commercial purposes?
3. In a [resolution passed on June 20, 2010](#), the security cabinet declared that “when security concerns are fully addressed”, Israel will “open additional land crossings”. Since then, Karni Crossing, the closest crossing to Gaza City and previously the major artery for transporting goods, has been shut down and all goods, both entering and exiting, are transported through the distant Kerem Shalom Crossing. What requirements must be met in order to enable additional crossings to open?

Part B: Separation and movement of people:

The facts:

- The criteria for movement of people between Gaza and Israel and Gaza and the West Bank are detailed in a document published this year and accessible on COGAT’s website: <http://www.cogat.idf.il?SipStorage/FILES/3/2533.pdf> (Hebrew) or in our translation here: [http://www.gisha.org/UserFiles/File/HiddenMessages/Criteria for travel from Erez.pdf](http://www.gisha.org/UserFiles/File/HiddenMessages/Criteria%20for%20travel%20from%20Erez.pdf).
- In the first quarter of 2012, close to 3,000 entries to Israel from Gaza by Palestinians were recorded at Erez Crossing each month. This figure includes entry into Israel for the purpose of traveling to the West Bank. About half of these entries were by businesspeople. Patients seeking medical treatment in Israel or the West Bank and the individuals who accompany them accounted for most of the remaining entries.
- Before the Second Intifada broke out, between July and September of 2000, the monthly average number of entries to Israel from Gaza by Palestinians was more than half a million. In 2003, when violence peaked and rockets were already being fired from Gaza, about 7,000

allow goods from Gaza to be marketed in Israel and the West Bank. The fact that agricultural export to Europe via Israel undergoes inspections and receives approval that meets all Israeli standards clearly proves that this is possible. More proof of the feasibility of marketing goods to Israel came when an unexpected shortage of lulavs (palm fronds) for the Jewish holiday of Sukkot in 2011 led the security establishment to urgently approve the [import of lulavs from the Gaza Strip to Israel](#) (which ultimately was not implemented). Gisha is also aware that Gaza industrialists have pledged to provide certificates of origin attesting that raw materials came from Israel rather than the tunnels so that they would be allowed to sell goods, but this has failed to bring about a relaxation of the ban.

⁶ 100 million shekels according to a story published by Amos Harel and Avi Issacharoff on October 7, 2011: <http://www.haaretz.com/blogs/2.244/hamas-israel-s-enemy-or-economic-partner-1.388692>

laborers were still entering Israel every month, in addition to those traveling in the remaining categories.

- Since 2000, there has been a total ban on travel from Gaza to the West Bank for the purpose of obtaining higher education. In 2007, the High Court of Justice ruled on a case involving passage of students from Gaza to the West Bank and [recommended that the state](#) consider establishing an “exceptions committee” or some other similar mechanism to individually examine cases whose resolution could have “positive humane consequences”. To the best of our knowledge, no such mechanism has been since established.
- The criteria for travel, together with the experience Gisha has gained from its ongoing work, indicate that restrictions on movement of people from the Gaza Strip to the West Bank are determined according to two basic principles:

- **Reducing the number of individuals eligible for travel.**

Examples:

- Permission to travel for the purpose of participating in mourning rituals is granted to a first-degree relative mourning the death of a first-degree relative only.
- Permission is granted for travel for the purpose of visiting a first-degree relative with a serious illness (in other words children - yes, grandchildren – no).
- Permission is granted for seventy exits by senior merchants per day – owners of medium- or small-sized businesses are not permitted to exit.
- Permission is granted to a pre-determined and limited number of Christians to travel to Israel and the West Bank for the purpose of religious worship during holidays. Travel for religious purposes by Muslims is prohibited.
- Permission is granted to members of the national soccer team to travel for the purpose of training and tournaments. Travel by students is prohibited.

- **Preventing Gaza residents from settling in the West Bank**

Examples:

- Permission is granted for the purpose of attending the wedding of a first-degree relative, but denied for the purpose of getting engaged to a resident of the West Bank.
 - Permission is granted for travel abroad through Israel, the West Bank and Allenby Bridge for the purpose of academic studies, but denied for the purpose of studying in the West Bank.
 - Travel for the purpose of relocating is almost entirely [prohibited](#).
- It is important to note that all restrictions are also applicable to entry into the West Bank by Gaza residents via Jordan and Allenby Bridge without travel through Israel.

- The policy is designed not just to prevent Palestinians from relocating from Gaza to the West Bank but also to encourage or force Palestinians who are in the West Bank to move to the Gaza Strip. This is achieved, inter alia, by forcibly removing individuals to the Gaza Strip; prohibiting separated family members from reuniting in the West Bank while allowing the family members who are in the West Bank one-way travel to the Gaza Strip, and; by allowing individuals to change their registered address from the West Bank to the Gaza Strip but not vice versa. For more information see a [fact sheet](#) published by Gisha in 2009.

Who can travel from Gaza to the West Bank? A taste of the criteria	
Permitted to travel between Gaza and the West Bank	Prohibited from traveling between Gaza and the West Bank
Participation in mourning rituals when a first degree family member passes away (ex. a person can attend the funeral of a brother who passes away and offer his family condolences)	Participation in mourning rituals when the family member of a first degree family member passes away (ex. a person cannot travel to offer condolences to a brother whose child passed away)
Students who are making their way to <u>universities abroad</u> , under certain conditions	Students who are enrolled in <u>Palestinian universities</u> in the West Bank
Soccer players	Poets
<u>Christians</u> who wish to visit holy sites during the holidays	<u>Muslims</u> who wish to visit holy sites during the holidays
Senior merchants (mainly men) who travel for business meetings	Small business owners (including women) who wish to travel for training and business opportunities (ex. hair stylists)
Orphans who wish to live with their remaining parent in the West Bank, in the case that they have no remaining family member of any degree to care for them in Gaza	Orphans who wish to live with their remaining parent in the West Bank with a family member of any degree who can care for them in Gaza

- According to a [COGAT publication](#) (Hebrew), in a meeting held with Palestinian businessmen on December 29, 2011, Major General Dangot approved the “expansion of the merchant quota” and ordered the examination of the possibility of “allowing individuals to accompany businessmen outside the Gaza Strip, primarily first-degree relatives who constitute the future generation of businessmen and the main foundation of Gaza’s economy”.

Statements by officials regarding the policy:

- In its responses to petitions filed by Gisha on the issue of [travel by students from Gaza to the West Bank](#), the state repeatedly argued that students constitute a “high-risk” group and that West Bank universities are “terrorist hotbeds” and may lead innocent students astray.
- In a statement quoted in [Haaretz](#) newspaper, a spokesperson for the security establishment mixed security concerns with concerns about possible permanent relocation to the West Bank. He explained that, “Students around the world are of the rebellious type”, and that, “universities all over the world are also hotbeds for making new acquaintances, falling in love and even getting married”.
- In response to a petition filed by Gisha, [the state wrote](#) on December 18, 2011 that “the current policy on the entry of Gaza residents into the Judea and Samaria Area is a policy of separation between the areas which is based on security reasons and **limits the cases approved for entry to the Judea and Samaria Area to exceptional humanitarian cases only** (emphasis in original)... the rationale for this policy relies on general security considerations relating to family ties, the ability to transfer information and materials to hostile entities and abuse of ties between residents of the two areas”.

- A prevalent argument in the current security discourse is that since the Hamas takeover of the Gaza Strip in 2007, Israel’s intelligence gathering capabilities in the Strip have declined and as a result so has the efficacy of individual security checks. The collapse of the Egyptian regime, the uncertainty regarding Egypt’s future security and political relations with Israel and its loosening grip on the Sinai Peninsula have also increased the general potential threat emanating from the Gaza Strip.

Questions:

- 1. How much weight is given to the close cooperation with Palestinian Authority security apparatuses in the West Bank when assessing the risk attributed to permanent relocation of Gaza residents to the West Bank?**
- 2. Is there a security impediment to following the recommendation made by the HCJ in 2007 to establish a mechanism for examining cases of students on an individual basis and according to the expected positive human implications of the age and gender of the student and the degree pursued?**
- 3. Is there a security impediment to reopening the ‘safe passage’ in a manner that allows travel between Gaza and the West Bank while minimizing the security risk to Israel?⁷**
- 4. Could the same security checks that satisfy the security establishment when it comes to approving time-limited visits sufficiently reduce the risk emanating from travel for longer periods of time? (We recall that currently 3,000 entries to Israel from Gaza by Palestinians are recorded each month, while over the past eleven years, only three students travelled from Gaza to the West Bank).**
- 5. Why is the expansion of the merchant quota designated “primarily”, as COGAT puts it, for relatives of merchants who already have permits to exit to Israel rather than being allocated according to considerations relating to the benefit of Gaza’s economy and society at large? Is there no reason to take advantage of the increase in the volume of people crossing at Erez to contribute to the advancement of women, something that has already been proven in many places as having a positive influence on socioeconomic development and democracy?**

PART C: The consequences of the separation policy

Harm to family life, education and health

Despite the separation which has deepened over the past two decades between Palestinians living in the two parts of the Occupied Territory, there are still countless family ties, friendships, business partnerships, educational initiatives, joint civil society organizations and religious and cultural activities across the Palestinian territory. All of these are impacted as a result of travel restrictions imposed by Israel as well as the internal political split that began in June 2007. The functioning of the

⁷ A number of detailed proposals for such passage have been developed including by the [AIX Group](#) (PDF), the RAND Corporation [ARC project](#) and others.

governmental systems established for the Gaza Strip and the West Bank – particularly the health and education systems – have been harmed for the same reasons.

Economic consequences

As experts in the field have established, a small economy such as that of the Gaza Strip, which lacks natural resources and has next to no purchasing power, has no hope of achieving stable and sustainable economic development without significant export. The only markets that are accessible for products made in Gaza in the near future are Israel and the West Bank. Therefore, the prohibition on sale of goods to these markets (which is imposed despite the fact that permission is received to *transport* goods through Israel) blocks development opportunities for Gaza’s manufacturing sector and strengthens [a new class of businessmen](#) (Hebrew) who benefit from the tunnel economy. A [report published by the Saban Center](#) in July 2011 determined that:

[C]utting trade and investment – meant to punish Hamas – has also hurt the small Gazan middle class and others who would otherwise have the resources to stand up to groups like Hamas.

...

The blockade has crushed Gaza’s commercial class and has increased the population’s dependence on the Hamas-controlled government. As a result, Hamas’s power has grown, particularly in relation to that of its rivals who have few economic assets.⁸

Security consequences

Based on statements by former and current security officials, we can ascertain that they believe that preventing economic development in Gaza, reinforcing the regime’s monopoly on economic activity and sources of income, blocking opportunities for business initiatives and impeding Gaza’s young adults from acquiring academic education have significant short- and long-term security implications.

In an official report published this year, security establishment officials were quoted as saying that “the broader the segments of Palestinian society which are idle, the stronger the influence of extreme Islamic movements on Palestinian society. Turning to extreme Islam as a result of high unemployment rates and poverty increases the ability of various terrorist organizations to act from inside the civilian population as well as the number of individuals who are ready and willing to take part in hostile activity”.⁹

Colonel Yuval Bazak, previously head of the combat doctrine division in the army's General Staff has recently written about the strategic importance of avoiding sweeping actions against the civilian economy during conflict: “[T]he IDF must avoid damaging critical civilian infrastructure that has no direct link to the enemy’s ability to fight. The attempt to pressure civilians to exert pressure on their governments so that they will in turn put pressure on terrorist organizations not only fails to promote the objectives of the war, but also creates an excuse to accuse Israel of causing a humanitarian crisis.

⁸ http://www.brookings.edu/papers/2011/07_gaza_borders_byman.aspx

⁹ From a report by the “Committee for Regulating, Monitoring and Enforcing Palestinian Labor in Israel”, headed by Deputy Governor of the Bank of Israel, Zvi Eckstein which was presented to the prime minister in July 2011.

Moreover, the IDF must work towards achieving stability as quickly as possible and work in full cooperation with local humanitarian organizations".¹⁰

Political consequences

Gisha's position is that the separation policy violates international law.¹¹ With regard to movement between Gaza and the West Bank, it is a continuation of the civilian closure policy that was introduced during the Olmert administration. There is a [consensus](#) among Israeli security experts, commentators and politicians regarding the ineffectiveness of the policy and the harm it caused Israel.¹² This paper was written at a time when the future of the internal Palestinian rapprochement between Fatah and Hamas is unclear. Nevertheless, we can already assume that as negotiations between the organizations advance, an Israeli policy which is perceived as a deliberate and systematic attempt to sever ties between residents of Gaza and residents of the West Bank and to preserve the internal Palestinian split can be expected to draw increasing international criticism and significantly undermine the already low credibility of statements regarding the government's and the prime minister's commitment to the diplomatic vision of a "two-state solution".

Annex 1

A collection of statements on the policy toward Gaza made by government and military officials since June 2010:

- "The Cabinet's decision removes the civilian closure on Gaza and tightens the security closure". - Netanyahu at the Foreign Affairs and Defense Committee, June 21, 2010
- "We are committed to creating a distinction between the population and the terrorists". - COGAT, April 10, 2011
- "The civil Policy [*sic*] towards the Gaza Strip deals with trade, export of agricultural goods, projects of infrastructure, education, health, water, electricity and the movement of people- all, important to life in Gaza. These competent [*sic*] separate between the civil population and the terror organization. This isn't just humanitarian activity and the transfer of patients, like everybody thinks". - [COGAT, December 1, 2011](#)
- "Expand operations at the existing operating land crossings, thereby enabling the processing of a significantly greater volume of goods through the crossings and the expansion of economic activity". - [Statement following the Israeli Security Cabinet meeting, June 20, 2010](#)
- "I thought... we wouldn't be able to bring Hamas down through the siege... this is why I thought it couldn't work and I'm sad to say it hasn't worked". - Minister Dan Meridor, Meet the Press, April 30, 2011

¹⁰

[http://www.facebook.com/gisha.eng#!/media/set/?set=a.249326338487066.60505.114183292001372&type=3http://www.inss.org.il/upload/\(FILE\)1326272957.pdf](http://www.facebook.com/gisha.eng#!/media/set/?set=a.249326338487066.60505.114183292001372&type=3http://www.inss.org.il/upload/(FILE)1326272957.pdf)

¹¹ For Gisha's position on Israel's obligations toward the Gaza Strip according to international law, see Scale of Control: Israel's Continued Responsibility in the Gaza Strip: http://www.gisha.org/item.asp?lang_id=en&p_id=1443.

¹² See quotes in the *UNDO the Closure* gallery on Gisha's website and Facebook page.

- “One way to increase stability is to continue the policy we have been implementing for the past two years – promoting Palestinian economic growth and development. It’s good for them. It’s good for us. There are a number of measures here that advance this objective”. - Netanyahu, February 4, 2011
- “The Security Cabinet this morning... approved additional measures to expedite increased exports from the Gaza Strip”. - [Security Cabinet Decision](#), December 8, 2010
- “Agricultural exports have been expanded and exports of furniture and textiles to international markets have been approved. **Now the Gazans must develop their export markets abroad**”. - Report of the Government of Israel to the Ad Hoc Liaison Committee, September 15, 2011 (emphasis added)