



Economic Policy Programme
Initiative of the European Union

**Palestine and regional trade:
Prospects for future trade relations
with Israel**

December 2-4, 1996

Workshop Report
January 1997

Report and Follow-up

WORKSHOP

**Palestine and regional trade:
Prospects for
future trade relations
with Israel**

January 1997

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United Kingdom

The Economic Policy Programme is funded by the European Community (EC) and coordinated by the Ministry of Economy and Trade in collaboration with the London School of Economics and Political Science. The two-year project is an initiative launched as part of the European Community's programme of assistance to the Palestinian population of the West Bank and Gaza Strip. The objective is to provide the Palestinian Authority (PA) with policy support that will both assist it in clarifying and shaping trade policy and strengthen its capacity to negotiate with current and potential trading partners on economic and trade policy issues. The programme, which was launched in May 1996, works with a team of leading international experts - economists, political scientists and trade lawyers - in support of the ministry's policy agenda, and has held in collaboration with the ministry a number of roundtables on trade-related issues.

Economic Policy Programme

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Introduction

This report, *Palestine and Regional Trade: Prospects for future trade relations with Israel*, was prepared following a workshop held in Ramallah on the West Bank on December 2-4. It is based on the proceedings of that workshop which Palestinian officials and private-sector representatives and the consultants attended. Both the workshop and the report form part of the two-year **Economic Policy Programme** which is funded by the European Community (EC) and coordinated by the Ministry of Economy and Trade in collaboration with the London School of Economics and Political Science.

Economic Policy Programme

The Economic Policy Programme is an initiative launched as part of the European Community's programme of assistance to the Palestinian population of the West Bank and Gaza Strip. The objective is to provide the Palestinian Authority (PA) with policy support that will both assist it in clarifying and shaping trade policy and strengthen its capacity to negotiate with current and potential trading partners on economic policy issues.

The programme, launched in May 1996, is designed to bring Palestinian officials and businessmen together with international experts in a series of consultative workshops. These workshops target specific trade-related issues, in line with Palestinian needs. They thus provide a regular forum to which Palestinian representatives may turn for expert analysis.

The first workshop addressed the issue of Palestinian-European trade, focusing on the opportunities and problems that the proposed Interim Agreement on Trade and Cooperation might present for the Palestinians. The aim was to provide a means for the Palestinians to explore the mechanisms for exporting to the European Union and the options open to them. Sessions were held on agricultural exports to the EU, cumulation of origin, non-tariff barriers to trade and infant industries.

The December workshop, which addressed the broad area of Palestine's trade relations with Israel, was the first of two planned to look at Palestine's regional trade options.

The workshop

The workshop was timely, coming as it did when the Palestinians are debating their trade policy against the background of protracted Israeli-imposed closure.

As before, a number of consultants, with practical expertise and negotiating experience in trade and customs and selected with the help of the PA and the EC, were invited to participate in the workshop: Thomas Cottier from the Institute of European and International Economic Law, Berne, Ishac Diwan from the World Bank, Nu'aman Kanafani from the Royal Veterinary and Agricultural University (Denmark), Hanspeter Tschaeni, a senior advisor with the Swiss Trade Initiative Middle East and North Africa (STIMENA), Allan Waight from the UK's Customs and

Excise and Marianne Laanatta, an advisor to Sweden's Ministry of Foreign Affairs, who works regularly with the Ministry of Trade.

During a day of useful preparatory discussions on December 7 a team from the PA's ministry of economy and trade and the consultants identified the agenda for the main workshop and the topics to be addressed: the workability of the 1994 Economic Protocol, the case for Palestine moving towards a free trade arrangement, and future Palestinian-Israeli trade relations within the regional and global context.

The formal workshop on December 8-9 was opened by the minister for economy and trade, Maher Masri, while the deputy minister of finance, Atef Alawneh, chaired the first session. The sessions were well attended by officials from the PA's ministries of agriculture, economy and trade, finance and industry and by private sector representatives. The main substantive results of two days of serious, uninhibited debate were as follows:

* a recognition of the need to distinguish between addressing short-term problems and a longer term vision for trade relations. In this regard recurring themes during the two days were the need for the PA to explore fully i) the mechanisms within the Paris Protocol, in particular the Joint Economic Committee channel, as a means to address some of the major problems posed by Israeli actions, ii) practical steps that can be taken now to ease conditions and iii) ways of meeting both Palestinian trade/economic concerns and Israeli security considerations.

* An initial evaluation from the point of view of Palestinian interests of the pros and cons of three trade policy options - the status quo (the Paris Protocol as currently implemented), full customs union and free trade arrangements - according to a number of criteria (labour movement, budget revenue, exports to Israel, trade with other countries and services). There was a broad consensus that labour movement would not be much affected in the case of either a properly implemented customs union or a free trade arrangement; that Palestine's exports to Israel would be likely to be less and trade with other countries greater under the latter. The discussion, extended to a second day, indicated that a thorough assessment could only be achieved on the basis of further study of the likely levels of exports to Israel, trade with third parties and fiscal revenue under the three trade regime options.

* On the issue of the WTO the consultants were able to offer very useful observations and hands on expertise on ways in which the PA might develop its relations with the organisation and use its rules to its advantage.

Report and follow-up

Following the workshop this report was assembled. It comprises:-

* a rapporteur's report, which has been read and amended by the consultants. The report provides a detailed aide-memoire of what was said during the two days of formal discussions and in its final section a series of recommendations for follow-up work, as proposed by the workshop's participants. It is not a verbatim report. The intention is to provide a guide through the main issues discussed during the two-day

workshop and a tool for those who wish to take matters forward.

* two background briefs - the first providing an overview of the EU rules of origin by Allan Waight and the second a survey of existing customs unions and free trade agreements to demonstrate the multiplicity of set-ups under each of these instruments. This was written by Hanspeter Tschaeni. It is hoped that these two studies will serve as useful references on these complex issues for all participants in the programme's workshops.

* a collection of appendices containing the texts of relevant documents, which is attached to this report as a second volume.

Following the workshop, a number of ideas for follow-up activities were discussed. and several activities, to be supported by the **Economic Policy Programme** during the Spring period, were identified. They include: i) a week-long mission by Allan Waight of HM Customs and Excise to the West Bank and Gaza Strip at the end of February. Mr Waight will meet PA officials and private sector representatives in the West Bank and Gaza to discuss the consequences of EC rules of origin for Palestinian exports; and ii) ongoing study of the options open to the PA for acquiring knowledge and expertise on the international context of Palestinian trade policy.

Following the programme's second meeting, all are agreed that the workshop format provides a useful vehicle for bringing Palestinian officials, private sector representatives and trade experts together for the purpose of discussing highly technical issues. The mix of ministry officials and business interests also provided a balanced Palestinian representation, enabling the consultants to deepen their understanding of the very real problems the Palestinians face as a result of closure. Interministerial contacts around trade issues were consolidated. With a degree of continuity built into the representation on both the Palestinian and consultant sides, the participants have now formed a core group. The intention is to hold further workshops and meetings in the coming months to discuss other aspects of Palestinian economic and trade policy.

Apart from the inter-workshop activities underway, plans are proceeding for the third workshop in April, which will again look at regional trade, this time *Palestine and regional trade: prospects for future trade relations with the Arab world*.

Grateful thanks are due to the EC's representative, Thierry Bechet, and to his staff for their continuing support, to the staff of the Ministry of Economy and Trade for their organisational role and participation, to Nabil Kassis for permission to hold the workshop at the Palestine Economic Policy Research Institute (MAS), and to all those who participated in the two days of discussions. The programme would like to express its appreciation to the visiting consultants for sharing their expertise and for the time they put into their mission to the West Bank and writing contributions for this report.

Valerie Yorke
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London School of Economics
January 1997

Rapporteur's Report*

1: Presentation and Workshop Framework

Opening remarks

1.1 Maher Masri, the minister of economy and trade, opened the workshop meeting. He pointed out that the 1994 Economic Protocol with Israel has been under scrutiny since it was first signed. Palestine's future economic relations with the rest of the world depend on whether the existing agreement evolves and is developed or is renegotiated. Certain problems are already evident. The Protocol's restrictive articles set impediments to trade relations with both Israel and the rest of the world, while its basic principles are being violated by the Israeli side on the pretext of security considerations. The workshop needs to examine the question of whether Palestine should keep to the notion of a customs union with Israel or move in the direction of a free trade area. Either option must not violate existing agreements with the rest of the world or the principles evolved and evolving within the framework of the World Trade Organisation (WTO). And under either option Israel will remain Palestine's main trading partner.

1.2 Geoffrey Haley, of the European Commission Technical Assistance Office, then addressed the meeting. He affirmed the EC's aim of developing the circumstances in which Palestinians can discuss specific topics and issues with experts, both academics and practitioners, from Europe and elsewhere. Trade policy is evidently a major issue and one that will be a continuing focus for concern. It is a very complex field. Moreover trade relations with neighbours tend to be the most uncomfortable as well as the most important. One example is that represented by Ireland and the UK.

1.3 Samir Huleileh, assistant under secretary at the Ministry of Economy and Trade, first remarked that the preparatory meeting on the day before, between the consultants and representatives of the ministry, had revealed differing views on future trade relations with Israel. He explained why the workshop is being held now by tracing the evolution of the situation since the 1994 Economic Protocol was signed.

1.4 At the time of the Protocol's negotiation, the aim had been that a whole set of agreements be reached to bring Palestine towards statehood through a process of empowerment - the aim was both implicit and explicit. Under the economic/trade heading the expectation was that *at least* the existing flow of goods and people across borders would be guaranteed, while there was a prospect of this flow increasing and markets being diversified.

**This report has been written in the style of an aide memoire; it is not a verbatim report. The intention is to provide a guide through the main issues discussed during the two-day workshop and a tool for those who wish to take matters further. In the interest of manageability not all interventions have been recorded. Where participants requested this, their remarks have been omitted.*

1.5 But as the Protocol has been implemented, this expectation has not been realised. There had been border closures at the time of the Gulf War and even during the negotiations, but these had not been systematic. Since the Protocol was signed closures have become full for Gaza (beginning in March 1995) and have become institutionalised; under the Labour government there had been discussion of extending separation to the West Bank, with 11 entry points only permitted. There have been other violations of specific provisions of the Protocol. These were listed as:

i) Israel has prevented both the entry of Palestinian agricultural goods at various times (citing phyto-sanitary reasons) and the movement of these goods between the West Bank and Gaza.

ii) Similarly industrial goods have not been free to move between the West Bank and Israel.

iii) The movement of labour has been severely restricted, with average employment of Palestinians in Israel now down to 15,000-20,000 - a tenth of past levels.

iv) Under the fiscal heading, the VAT clearance system has been functioning satisfactorily but there have been problems in securing the proceeds of the import duties on goods whose final destination is the West Bank/Gaza. A system has been devised to capture these revenues (via regulations requiring the use of Palestinian agencies) but the penalties have tended to deter declaration. Thus while revenue receipts have been doubled from the \$mill registered in 1993, they still run below the amounts properly due.

1.6 Palestine has made requests through the Joint Economic Committee (JEC) for a revision of the Protocol, to take account of the closures. Israel has not been prepared to re-negotiate the terms, but has offered amendments, in the form of extensions to the A1 and A2 lists. Recently, Mr Arafat has called for full implementation of the Protocol but - because of the violations - now wants revision.

1.7 Against this background, the present workshop is a means of bringing external technical expertise into the internal discussions in the Palestinian Authority (PA) and helping the evolution of a consensus within the PA. It is proposed that the analysis within each session be structured along the following lines:

i) What are Palestine's interests - political, fiscal and economic/trade?

ii) What are Israel's interests - in particular security?

iii) What is the workability of any trade option considered?

iv) What are the implications for third parties?

1.8 Mr Huleileh finally raised the question of the role of the European Union (EU) - a question which has implications both for the immediate region and the Mediterranean region overall. The EU is already a major donor to Palestine and it is due shortly to sign an Interim Agreement on trade and cooperation, as a preliminary to an

association accord. The workshop will therefore have to look at the longer term and the wider context of any trade policy option.

2: Is the Prevailing Economic Protocol Workable?

The session was chaired by Atef Alawneh, deputy minister at the Ministry of Finance. He presented the essential question as: if the existing Economic Protocol with Israel is to be maintained, what should Palestine now do?

1. The consultant's presentation

1.1 The session was opened by a presentation from Nu'aman Kanafani (henceforth NK). He stressed the need to have a vision for the future, looking beyond the current, admittedly severe, difficulties. Three basic assumptions underlay his argument:

i) Vulgar chauvinistic, nationalistic slogans" are things of the past. The political legitimacy of any government will derive from the improvements in the people's standard of living that it provides.

ii) The Palestinian economy cannot be other than as open as possible. It needs to be competitive, using its comparative advantages; it needs to have access to external markets; it needs to answer the aspirations of its people - and are they to the east (Jordan, with a per head income of around \$1,300) or the west (Israel, with a per head income of \$13,000)?

iii) Palestine's economic future depends on free access to the Israeli market (because of its closeness and familiarity) on a fair basis.

1.2 The core argument is that equal relations with Israel are Palestine's first best choice, owing to the *dynamic* effects of integration with a large, sophisticated economy. However the effects could be adverse if Palestinian policies are not correctly geared.

1.3 The central question then arises - are fair relations possible? NK argued that they will not be easily or quickly achieved, but they are possible. For pragmatic reasons they should be the objective of Palestinian trade policy. Why possible? NK cited the following: it is in the Israeli interest in the long term; and Palestine has a good starting point in the form of the Paris Protocol (henceforth PP). NK admitted that there are many faults and shortcomings in this accord, but there are also positive elements:

i) It provides for free access for agricultural products (with some exceptions due to be phased out), where the current comparative advantage lies with Palestine.

ii) There is scope for the deployment of Palestinian labour.

iii) The Israeli customs code is not totally unfavourable to Palestine, in that it applies higher tariffs on traditional Palestinian exports and lower tariffs on traditional Palestinian imports.

1.4 A major problem with the PP - fiscal leakage- has become an obsession with policy makers. But stemming the leakage cannot represent a *target for trade policy*. It is essentially a matter of procedures. Abandoning the PP on this basis is to throw the baby out with the bath water.

1.5 To visualise the challenge NK referred to a recent study by the United Nations Conference on Trade and Development (UNCTAD). This constructed a model of the Palestinian economy which showed that if Palestine adopts policies of profound structural change and receives a total of \$bill in external resources to the year 2010, its income per head will then be \$2,430 (constant prices).

1.6 NK then cited other reasons not to abandon the Paris Protocol:

i) Policy consistency. The Paris Protocol is the legitimate child of Oslo I and II. The question of its workability therefore relates also to Oslo. Yet Palestine is now insisting that the terms of the Agreement with Israel be kept to in relation to Israeli withdrawal from Hebron.

ii) As a response to the border closure this would be inappropriate since it is extremely short-sighted to see closure as permanent. And opting for a free trade agreement as a solution to closure is fundamentally mistaken since trade policy cannot be an instrument to solve an essentially political problem.

iii) If a problem with the PP has been the lack of co-ordination with Israel, this would be an even greater problem in a free trade arrangement which requires constant and more intensive co-ordination.

iv) A customs union would give greater opportunities for Palestinian labour in Israel.

v) A Free-Trade Area may indirectly create an even more difficult problem - that of the relations between the West Bank and Gaza (the precedent of Bangladesh and Pakistan was cited)

vi) It would relieve the pressure on Israel to share the effort with regard to Palestine's development. And Israel should bear its responsibility for the circumstances in which Palestinians find themselves.

1.7 NK's conclusion was therefore that the Palestinian Authority should do everything in line with the longer-term vision - for example developing a port in Gaza, improving access to Egypt and diversifying trade - all in compliance with the PP. It should not let the reaction to short-term constraints kill the economy's potential in the long term.

2. General questions and discussions

2.1 The chairman, Atef Alawneh, expressed his agreement in principle with NK's argument, but pointed out that implementation of the Protocol as yet has been very far from expectations, and everything remains dependent on Israeli approval.

2.2 Odeh Shehadah stressed the gravity of the difficulties currently being faced by Palestinians. He could detect no practical, quick solution in NK's presentation. For example, Gaza products cannot currently get to the West Bank - the exact trading system under which they operate is not that important. He looked to the EU to help relieve the situation.

2.3 NK admitted that he has no immediate answers to the current crisis . But even so, and keeping an eye to the longer term, some measures are possible within the framework of the Protocol - for example opening up more export routes to Egypt and Jordan.

2.4 Peter Carr noted the inadequate external awareness of what is happening on the ground in Palestine. His point was supported by Bettina Muscheidt, who said that the problem tends to be seen in abstract terms in the outside world, with no recognition of the intricacy of the restrictions on Palestinian activity.

2.5 Lily Habash cited the need for more figures and information on the prospects for the Israeli economy.

2.6 Saeb Bamyeh pointed out that the experience with Israel both before and after Oslo needed to be borne in mind. While the PA had good relations with the Labour government, relations on the ground were difficult. The 1993 Oslo Accord has not changed the essential mentality of the Israelis - their refusal to accept the Palestinians as partners. They see Palestine merely as a source of cheap labour and are trying to kill any possibility of economic development there. In this situation the only option for Palestine lies in participation in the regional economy.

2.7 Samir Huleileh took up the question of whether it is in the *interest of Israel* to help the Palestinian economy. More than economic factors come into play here. But he had some doubts about this being seen as in Israeli interests in the short or medium (to ten years) term. The Israeli interest now is not in the collapse of the Palestinian economy, but in its *control*.

2.8 What then of the *Palestinian interest*? It may have to pay an economic price for a political gain - associating with the Arab/Islamic world so as to maintain its political support.

2.9 He then raised the closure issue. This reflected a change in Israeli perceptions. During the early 1970s there had been a high level of attacks on Israeli targets, yet Israel did not resort to border closures; in the 1990s there have been fewer attacks, but closure has been imposed. The closure of Gaza by the Labour government was essentially a political instrument, and the Israeli government refrained from such action in the West Bank because it was working for a shared responsibility with Jordan and the Palestinians. The new government in Israel sees no future in such sharing, and so has now used closure on security grounds. As Mr Huleileh saw no likelihood of any change in Israeli perceptions over the next 7-10 years, and closure is not a marginal feature of Palestinian life, it must be dealt with through economic instruments. Otherwise the PA could not retain its political legitimacy.

2.10 The next argument related to the diversification of economic partners. Free trade arrangements with other countries will attract political alliances, widening the options available to Palestine.

2.11 Finally merely reconsidering trade relations is a valuable negotiating tool. The PP provides only for a partial integration of the Palestinian economy into the Israeli economy; the two are not partners since there is an absence of consultation and mutual respect. Proposing free trade arrangements for Palestine will induce Israel to recognise the value of the customs union.

2.12 NK replied. First in relation to Mr Huleileh's argument, this was based on political objectives, whereas NK was arguing on economic grounds. But it was necessary to identify the economic costs of politically-based decisions. Second, on the request for more figures, NK pointed out that traditional economic analysis of trade integration concentrates on static costs and benefits while the major benefits for Palestine would be dynamic.

2.13 Thomas Cottier commented that the problem is what to do in the short term. He asked whether all the possibilities that exist within the PP had been explored. An initiative should be considered, along the following lines: formulate a number (say ten) of specific major problems, and request specific action on these; *at the same time* build up international pressure in support of the initiative, by publicising the situation abroad. Then, if nothing happens, there are grounds for a policy shift.

2.14 NK concurred, pointing out that Palestine already has international support on the Hebron issue, where Israel is clearly not complying with the terms of the agreements with the Palestinians. This could be taken as the pattern, for publicising the lack of compliance with the PP.

2.15 Muhammad El-Rayyes stressed that the first need was free trade between the West Bank and Gaza. He considered NK's analysis to be too optimistic, citing the problem of Israeli subsidies to its farmers which means that the Palestinian product (for example bananas) has a higher price and so cannot be sold in the local market. And it is difficult to export to Arab markets, because agricultural prices there are much lower.

2.16 Ishac Diwan pointed out that the customs union versus free trade area debate relates only to trade with essentially marginal partners, as there is already free trade with Israel, the USA and the EU. Arab countries do not trade much between themselves - only around 6% of their total trade - so free trade arrangements with them are unlikely to have much impact on Palestine's trade pattern. There are other trade policy options that might be considered, for example Most Favoured Nation (MFN) terms on trade with Israel, while there is a strong argument for some type of preferential trade regime under which large preferences would be accorded to Palestinian products.

2.17 But the current situation is an anomalous one, in that closures mean that Palestine is not open to products from either the USA or the EU, while exports to all

markets are constrained - particularly perishable products. The whole issue of *access* is essentially a political one, and in the political situation in which Palestine finds itself its external borders (ie other than with Israel) could potentially be more open than its internal borders. This represents an argument for free trade with more countries.

2.18 Nabil Kassis argued that the risks identified by NK (in the sense of the economic costs of politically-oriented policies) could be reduced by appropriate policies. He pointed out that the hardships suffered by Palestinians had led to the peace process, and it will be some time before this process is completed - even five years seems optimistic. But a political settlement is indeed the *first* requirement, for without it a fair economic deal with Israel cannot be secured.

2.19 Marianne Laanatza pointed out that the US interpretation of the Paris Protocol is completely different to the one of the EU, and to decide who is right or wrong could be a legal case for an international court (either the ICJ or the WTO). The American interpretation is much more advantageous compared to the one of the EU which stands out as a misinterpretation of the protocol.

While Palestinian agricultural products cannot compete with the Egyptian or Jordanian product on the Israeli market, Palestinian workers have a comparative advantage in Israel against (non-Jewish) immigrants since they do not pose the problem of integration.

2.20 Bettina Muscheidt said the assumption must be made that Israel sees no advantage in any improvement in the Palestinians' situation. So one appropriate option might lie in the Tripartite Action Plan (which groups Palestine, Israel and the donors), whose re-animation is now being considered. She pointed out that the large inflow of aid funds to Palestine - the highest level per head in the region - has not yet achieved very much.

2.21 Hanspeter Tschaeni picked up the remark by NK that political problems have to be solved by political means, and trade problems by trade means. He considered this too stark a distinction, for there is also a grey zone - where negotiations are possible with the aim of striking a balance between the needs for security on one side (Israel) and unhindered trade and passage of people on the other (Palestine). The EU might propose or take the initiative for such negotiations because it has trade agreements with both sides.

2.22 On the customs union v free trade area question, Mr Tschaeni commented that these are rather loosely defined and flexible terms, which can be used for different purposes and in different contexts. He suggested an appropriate tactic would be first to define Palestine's needs, and then to assess which trade mechanism is most appropriate to satisfy those needs.

2.23 Peter Carr reverted to the earlier comment about world opinion, which he saw as not yet having been adequately mobilised by the Palestinians. It could prove very powerful - as the case of South Africa had shown.

2.24 NK then made an overall response to the discussion. It seemed to him that the polarised tone (customs union versus free trade area) stemmed from the current situation, where a momentum is building up among Palestinian policy-makers for a revision of the Protocol. Free trade for Palestine - as conceived by Palestinian politicians - was essentially a means of securing statehood by roundabout means.

2.25 The chairman then made his closing comments, in the form of a list of the questions which had arisen out of the session. These were:

- i) Are there to be economic relations with Israel?
- ii) If so, what kind? (Customs union, free trade area arrangement, other types of arrangement)
- iii) What will be the guarantees by Israel for the implementation of any agreement (old or new)?
- iv) What is the role of international bodies in enforcing implementation of any agreement?
- v) Which receives priority - Palestine's political or economic interests? Under the economic heading which has priority - trade or fiscal considerations?
- vi) What can Palestine do to explore the possibilities/full potential within the Paris Protocol?
- vii) What short-term practical steps can be taken to ease conditions for the Palestinian producer and consumer now?
- viii) Can the Palestinian product compete with that of other Arab countries?
- ix) Is Israel interested in furthering Palestinian economic development in either the short or the long term?
- x) Is there a way of meeting both Israeli security concerns and Palestinian trade/economic concerns?

3: Moving gradually towards a free trade regime

The session was chaired by Nasser Tahboub, director general of VAT in the Ministry of Finance.

1. The first consultant's presentation -

1.1 Ishac Diwan (henceforth ID) made the presentation. He pointed out that any movement from the present agreement/set-up risks a deterioration in Palestine's economic/trade position. Yet there are many non-economic considerations that are in play. He identified two good options:

- i) a customs union where the border is open and the system works well;
- ii) a trade regime which does not discriminate.

1.2 The most important goal for Palestine is an opening of all its borders. And it is easier to open the external borders (ie those not abutting Israel) than the internal borders, because of Israeli security considerations. Moreover, it chimes with free market ideology, which is espoused by Israel. Once the external borders are open, the internal borders will be more fluid, since Palestine can threaten its own closure against Israel - which will be an effective weapon because of the impact on Israeli exporters to Palestine. And to secure Jordan and Egypt as alternative supply source, Palestine must accord them equal rights (to those currently given to Israel) to its market.

1.3 ID recognised the great risks such a policy ran:

- i) By restricting trade with Israel, it would narrow the opportunities for Palestinian producers who make a limited value added addition to Israeli intermediates.
- ii) Freeing external borders might encourage the setting of high tariffs (to protect the domestic producer).

In relation to the second, it is essential that tariffs be zero or very low. One effective way of binding Palestine into the latter would be to express a formal intention to join the WTO. And Palestine could look to benefit from cumulated origin in the EU market (ie attracting zero import tariff) by bringing in Egypt-originating materials within a free trade framework. For this it is essential that Palestine have good institutions for the certification of origin.

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2.1 Allan Waight (henceforth AW) then made a supplementary presentation, focusing on the specific issue of EU rules of origin:

2.2 The EU's agreements with all its Mediterranean partners (ie including both Israel and Palestine) will in future contain a new feature - diagonal cumulation of origin - which applies between the signatories of EU agreements who comply with EU rules of origin. The long-term intention is the creation of a single Mediterranean free trade area by the year 2010; diagonal cumulation is designed to further this process.

2.3 Under the present agreements with Mediterranean countries only *bilateral cumulation* is available; under this, products originating in the EU may be processed in the partner country and then returned to the EU under zero tariff. *Diagonal cumulation* differs from this in that products originating in other signatory countries and processed by the signatory also bear zero tariff. There is a third tier - *full cumulation*- which is currently reserved for the top level of preferential agreements (ie with the other members of the European Economic Area:EEA); under this all working and processing in all signatories are added together to attain origin status.

This has not featured in the recently negotiated agreements with Eastern European countries and it is not planned for Mediterranean countries.

2.4 Another aspect of EU trade policy which is not likely to be changed in the foreseeable future is the rule attaching origin to the country adding the highest proportion of *materials* (ie the labour component is not recognised).

2.5 The EU's stance is that individual partnership agreements should first be signed, and then improvements can be negotiated collectively.

3. General questions and discussion

3.1 Marianne Laanatza noted that in its agreement with the EU Israel did not sign up to the harmonisation of rules on competition and state aid; the reason was that Israel has its own legislation as well as a free trade agreement with the USA, where these aspects had another interpretation.

3.2 Saeb Bamyeh took up the issue of access. He pointed out that Palestine is merely seeking fairness - an opening of its borders to the exterior. As the PP is currently being implemented, Israel gets all the benefits and Palestine none. The opening of its borders will not be obtained without EU pressure on Israel.

3.3 Thomas Cottier asked what was the nature of the free trade envisaged. It seems there would be a separate unit (the West Bank and Gaza) with border controls and an external tariff applicable to Israel. Historically, external tariffs are initially set very high (and domestic pressure will certainly be for a high wall). So the implications for Palestine's trade with Israel need to be considered, as well as the cost of putting border controls in place.

3.4 ID commented that it would not be impossible to set up a border with Israel, since there already is a "security" border. He asked whether it would in fact be necessary to renegotiate the PP to move to a free trade regime.

3.5 Thomas Cottier noted that there was presently no guarantee that trade with Israel would have a zero-tariff base.

3.6 Samir Huleileh responded to these questions with an explanation of the free trade regime envisaged. At present Palestine and Israel have trade agreements with the USA, Canada and Turkey, and as members of the customs union apply the same (zero) tariffs to these countries. A trade agreement is currently being finalised between Palestine and the EU - which already has an agreement with Israel. The problem arises from the fact that Israel has no trading agreements with East and South-East Asia, Africa or the Middle East. Palestine would like to apply zero tariffs to its imports from this group; it would obtain fiscal revenue from the purchase and excise taxes applicable. But as Israel is not prepared to give preference to the countries in this group (for political reasons), Palestine cannot offer it, under the terms of the Paris Protocol.

3.7 Peter Carr pointed to the example of Ireland - a small country with a very heavy trade dependence on its large neighbour, the UK - which has greatly reduced that dependence since it joined the multi-nation grouping of the European Community.

3.8 Thomas Cottier sounded two warning notes:

i) Most countries in the target group mentioned have high tariffs, which they will not lower without negotiation;

ii) As the free trade proposed will cement border closure (by setting up a tariff border against Israel), it is essential that the West Bank and Gaza secure a free trade corridor.

Samir Huleileh then set out a schema for considering the economic pros and cons of customs union and free trade, under the following categories:

- * Labour movement
- * Budget revenue
- * Exports to Israel
- * Trade with other countries
- * Services

3.10 The meeting agreed that *labour movement* would not be directly affected by the choice of trade regime.

3.11 On the *exports to Israel* item the chairman pointed out that, despite current problems, industrial products are being shipped to Israel.

3.12 Ishac Diwan stressed that Palestine needs to have incentives to offer potential free trade partners.

3.13 Nu'aman Kanafani asked what constituted "fair" when the Palestinian economy is one-twentieth the size of the Israeli economy.

3.14 Ishac Diwan argued that security is the motivation for Israel's actions: as it moves out of Palestinian cities, it is using border closure as a security measure.

3.15 Odeh Shehadah commented, in relation to export markets, that Palestine is currently losing the Israeli Arab market, while its products are generally not up to the standards demanded in the European market. So it must look to other export markets.

3.16 Saeb Bamyeh pointed out that, whatever the trade regime, Israel is currently able to close Palestine's external borders.

3.17 Ishac Diwan stressed that the only effective external pressure can be in relation to the external borders.

3.18 Saeb Bamyeh argued that Israel is using security as a means of dominating the Palestinian economy.

3.19 The discussion of the *budget revenue* item evolved as follows. The chairman, Nasser Tahboub, first referred to the substantial tax leakage through Jerusalem and the

Jewish settlements. It would be worsened by free trade. To clarify the analysis Mr Huleileh distinguished between the following revenue categories:

- * VAT
- * Import duties
- * Purchase tax/excise taxes

It was agreed that the choice of trade regime had no direct relevance to VAT receipts.

Under the import duties category, there was disagreement. The chairman considered that Palestine would gain more from the current customs union set-up (properly implemented), while Mr Huleileh argued that a free trade regime - where Palestine was fully responsible for collecting tariffs on the goods it imported - would yield more.

On the latter grounds Palestine would also secure more from purchase and excise taxes, even as it lost the proceeds on petroleum which it currently gains under the customs union set-up.

3.20 The consensus was that, under the import duties category, there were offsetting effects which made the outcome indeterminate in the present state of knowledge. It was agreed that this topic merits detailed studies and estimation. But Ishac Diwan reminded the meeting that revenue should not be the determinant consideration in trade policy.

3.21 Returning to the consideration of the implications for *exports to Israel*, as well as trade with other countries, Nu'aman Kanafani pointed out that free trade can reduce trade diversion - as against the situation under a customs union - if the tariff applied is lower than the existing tariff wall around the customs union.

3.22 Thomas Cottier noted the trend recently evident for trade liberalisation to go beyond merchandise to services and capital flows. Meanwhile a free trade deal poses the risk of Palestine losing the concessions it currently has on agricultural goods under the present customs union. In addition, within a customs union, product standards are usually harmonised; such harmonisation is much less developed in a free trade regime.

3.23 Ishac Diwan noted that Palestine is in a good negotiating position vis-à-vis Israel because of the export asymmetry.

3.24 Nu'aman Kanafani warned that introducing a free trade arrangement, as envisaged above, would probably be unacceptable to Israel, because of the presence of the settlements in the West Bank. Moreover it might hinder industrial development in Palestine because of the competition it would bring in from lower-cost producers, such as Egypt.

3.25 Marianne Laanatza reminded the meeting that all EU agreements with Mediterranean countries involve standardisation.

(This session spanned two days, and was interrupted at this point.)

Wednesday, December 4

3.26 On the resumption of the session Samir Huleileh summed up the conclusions to date under the categories defined earlier in the discussion:-

- i) Fiscal revenue: there are leakages, which can be fixed under both customs union and free trade. Further study is needed.
- ii) Exports to Israel: they are likely to be less under free trade, and at best equal. Further study is needed.
- iii) Trade with other countries: free trade will bring gains. Further study is needed.
- iv) Services: open to negotiation under both options.

3.27 Mr Huleileh said that there are in effect three trade policy options :-

- i) The status quo - ie the Paris Protocol as currently implemented.
- ii) Full customs union - either through amending/ expanding the customs union aspects of the current arrangement or through renegotiation.
- iii) A free trade area, with a zero tariff between Israel and Palestine and tariffs with the rest of the world which are either equal to, or lower than, the current Israeli external tariff. This could be obtained either through amending the free trade provisions in the PP or by negotiating a new agreement.

3.28 Under the exports to Israel heading, Mr Huleileh explained that Palestinian *agricultural goods* currently encounter non-tariff barriers (NTBs); this will be a greater problem under a free trade regime. At present agricultural trade between Palestine and Israel is in broad balance.

3.29 Thomas Cottier commented that moving to free trade would engender the growth of separate institutions to monitor flows of *agricultural goods* (in the EU countries such institutions were already in place beforehand). The customs union, on the other hand, already provides the opportunity for a joint inspection/monitoring authority, and hence is lower-cost.

3.30 Samir Huleileh responded that the PP does provide for phyto-sanitary inspection by the Palestinian authorities at two locations, but Israel has in practice resisted the arrangement. Its behaviour is in line with its underlying attitude - that the two parties are not equal.

3.31 On a second major export category, *marble and stone*, Palestine suppliers currently face no competition within Israel, but Jordan is a viable alternative source and a free trade arrangement would expose them to enhanced competition.

3.32 Thomas Cottier clarified the WTO framework. Palestine ranks as a third party to Israel's obligations. Under the provisions of the General Agreement on Tariffs and Trade (GATT: the precursor to WTO) all tariffs and quantitative restrictions on substantially all trade are to be removed: any agreement may not enhance trade restrictions on a third party. The interpretation of substantially is contested, but the GATT disputes system can deal with such questions. In his view that for future agreements, substantially all trade will also need to cover agricultural goods. If not, a third party will be in a position to claim the same rights as those accorded to the signatory of the free trade agreement under its MFN rights. Israel therefore will likely have to include agricultural goods in order to comply with WTO law.

3.33 The third major export category considered was *textiles and shoes*. As the Palestinian value added in the former is currently some 40%, EU rules on origin are significant. Allan Waight explained the operation of the rules of origin proposed by the EU as they would apply to a shirt made up in Palestine from imported materials. If only the yarn is non-originating (say imported from the USA), the shirt will be accorded preferential (ie zero tariff) treatment in the EU. If the non-originating (US) yarn is made up into fabric in Israel (or some other country in the proposed regional group, eg Egypt) and this fabric is used in Palestine to make the shirt, that shirt will attract the full EU tariff (currently 12%). This is because Palestine and Israel (and Egypt) are treated as separate countries and *full cumulation* of origin is not proposed by the EU. Under the *diagonal cumulation* proposed by the EU fabric imported into Palestine from Israel (or Egypt) must be originating fabric. In general this means that it must be manufactured from the pre-yarn stage. (For a more detailed summary of the proposed EU rules of origin and cumulation see Background Brief.) To allow diagonal cumulation to work, trade between the countries of the regional group must be based on rules of origin which are identical to the rules of origin in trade between each of those countries and the EU.

3.34 At present, under the customs union, no distinction is made in practice by the EU on Palestinian and Israeli origin goods, because the documentation is not there. This would change if Palestine opted for free trade, since an internal border would then be put in place.

3.35 Thomas Cottier commented that the USA has a very sophisticated regime for the re-importation, on preferential terms, of garments which have US-origin components.

3.36 Samir Huleileh reported that this issue is to be discussed with the USA next week. Currently Palestine is treated by the USA as part of Israel; the situation under the free trade set-up is unclear. As far as Arab and other export markets are concerned, the free trade arrangement would make clearer the origin of the Palestinian product.

3.37 Allan Waight pointed out that while eligibility for diagonal cumulation depends on the countries applying the same rules of origin as the EU, this is only vis-à-vis the EU. So countries may apply other rules for other markets.

3.38 Samir Huleileh then turned to the issue of *imports*. The critical consideration for

Palestine is the scope for imports from the "other countries" category in Israeli customs (the two others are the EU and the USA). At present there are around 30 countries in Africa and Asia, with which Israel has no trade agreement - and hence no imports from these countries reach the Israeli customs area (ie Israel and Palestine). Moreover, de facto, Israel applies a significant NTB, justified on phyto-sanitary grounds, but unwritten: it will not import goods from countries under 32 degrees latitude, although there are exceptions (for example Argentina and Australia).

3.39 Thomas Cottier commented that this NTB was in effect an abuse of WTO rules. He then set out options for the treatment of imports in a customs union that would permit differing terms of access: there could be special provision for religious categories (Mr Huleileh had quoted the case of lamb slaughtered for Palestinian pilgrims to Mecca, which had been refused access to Israel); there could be two separate inspection units, handling the imports for each member. In any event Palestine must have transit rights for sealed items going between the West Bank and Gaza. A useful tactic might be to approach the exporting countries effectively excluded by this NTB, so that they can present a complaint before the WTO.

3.40 Samir Huleileh quoted one import item from the "other countries" group which is of great interest to Palestine - raw materials from Saudi Arabia for plastics manufacture, which would serve as the base for internationally competitive production. Palestine has requested an addition to the list, but progress has been slow.

3.41 Under the *services* heading, Thomas Cottier pointed out that selective sectoral agreements are no longer allowed under GATT/WTO: any liberalisation accorded must be universal.

3.42 Samir Huleileh said that the Paris Protocol (which does not define a whole economic relationship, but merely covers specific sectors) accords freedom to the banking sector and insurance (although the latter has not been implemented by Israel). Certain restrictions apply: Palestinians cannot set up companies alone in Israel, and vice versa.

3.43 Hanspeter Tschaeni identified two main aspects in services liberalisation: providing services by setting up a commercial presence (agency, affiliate company) in the other member, and the provision of services across borders (for example, tourism, transport, insurance). They require different solutions but both of the aspects need to be taken into consideration in an eventual discussion.

4: The longer-term regional and global context

Valerie Yorke, coordinator of the programme, chaired the session.

1. The consultant's presentation

1.1 Hanspeter Tschaeni (henceforth HT) made a presentation. He stressed that it was important to take a longer-term view, not the least in order to avoid taking decisions now-when relations between Palestine and Israel are at an interim stage - that will

make decisions in the future more difficult.

1.2 There are a number of recent developments in world trade policy, which are a result of economic globalisation and which will continue to exert their influence for some time to come:

- i) the harmonisation of instruments;
- ii) the development of a common language;
- iii) the extension of harmonised policy instruments to more transborder activities;
- iv) near-universal membership of WTO.

1.3 The abundance of regional preferential arrangements might seem to run counter to this trend, but in fact WTO provisions cover these too.

1.4 The result of all this has been a decrease in autonomous trade policy options - and hence a narrowing in the room for manoeuvre for an individual state. This development has a number of consequences for the relationship between Israel and Palestine:

- i) The initial step that each country needs to take is to look at its own domestic capacity in the face of economic globalisation. The policy package that has been adopted by many countries has involved: the trimming of the public/state - owned sector; the encouragement of investment and exports, as growth leaders; and the freeing of competition. At the present stage, the process of globalisation poses difficult questions for Israel and Palestine, yet it is urgent that the two respond.
- ii) Israel is a long-standing member of GATT/WTO, but as the state of Israel - not the Israeli customs territory. The position of Palestine is in fact unclear. Nevertheless, as a WTO member, Israel must apply its rules. While Palestine has no such obligation, it might be wise to apply the rules - both because it is currently dealing with WTO-member states and also in the longer-term perspective. Its status vis-à-vis the WTO, and if the current customs union arrangement with Israel is maintained also the status of that union, should be clarified.
- iii) Also the relations between Israel and Palestine should be WTO-compatible, even before the political settlement is finalised. The major distinction as between customs union and free trade regime under the WTO rules lies in the requirements they establish for external relations. At present the provisions of the PP relating to the internal relations between Israel and Palestine appear to be WTO-compatible. But there are question marks over the external aspects. Some provisions concerning consultation in case of changes in the import policy are built into the PP but it is unclear to what degree they are utilised. Furthermore, tariffs vary for specific products/countries/quantities, which moves the arrangement away from a customs union proper. Whatever the arrangement adopted for the future, it should be more fully compatible with WTO rules and in line with international practice.

1.5 HT then took up the issue of regionalisation. The Middle East does not currently form a regional bloc, such as that represented by the North American Free Trade Area (NAFTA), Mercosur (in South America) or the Association of South East Asian Nations (ASEAN). The trend has rather been for independent deals by individual countries, giving preferential terms to partners outside the region, and this phenomenon has been exacerbated by the Euromed process. There are, however, signs of a counter-reaction in the Arab world. The crucial question in any regional setting is, however, the place of Israel. Connected with this is the position of Palestine, which so far has been in an anomalous situation. It has been unable to integrate into the Arab region, because of the boycott and the hesitancy among Arab countries while Israeli-Palestinian relations remain unclear.

1.6 HT's conclusion was that future trade relations between Israel and Palestine should be such as to allow either both or at least one of them fully-fledged membership in a regional set-up.

2. Questions and general discussion

2.1 Odeh Shehadah raised the problem of the disparity between Israel and Palestine as members of any regional partnership.

2.2 HT responded that various scenarios could take this into account. For example there could be an initial sub-regional arrangement as between some Arab countries, who would later conclude some deal with Israel. Or if Israel is to be a member at the outset, there could be different commitments by the participants, allowing some phasing of the terms and the products covered, on the pattern of the EU's deal with the Baltic states (Lithuania, Latvia and Estonia) (asymmetric liberalisation of market access).

2.3 Samir Huleileh argued that Palestine is part of the Arab world, not the Middle East, which is a European classification. But the Arab world/region is not so far an economically viable concept. The Palestinian interest lies in closer relations with Jordan and the Gulf states, and possibly also Iraq and Syria. Currently it is building up its relations with Europe (and Turkey as an EU associate), but this does not yet represent an alternative to Israel.

2.4 Thomas Cottier referred to the situation of high-and low-income countries sharing a border, in the context of the global phenomenon of industrialised countries coming under pressure from high domestic wage levels. This has stimulated a process of outsourcing, notably in garments but now extending to many other activities, including services. The difference in salary levels as between the two densely-populated countries of Palestine and Israel would tend to encourage a similar trend. It could become an element of mutual interest in future trade relations.

2.5 Samir Huleileh suggested follow-up studies on the compatibility of the PP with the WTO, and on the question of whether Israel can negotiate for the customs territory in the WTO.

2.6 Thomas Cottier took up the question of WTO and the future trade arrangement between Israel and Palestine as an independent state or separate customs territory. If the latter is not WTO compatible, then other WTO members could claim MFN status. Moreover, even at the present stage, while not yet qualifying as a negotiating partner within the WTO, Palestine could still quote WTO rules in order to remind Israel of commitments vis-a-vis other Member states of the WTO and possibly mobilise such countries that suffer from Israeli non-compliance (e.g. in the field of agricultural subsidies not in line with WTO commitments).

2.7 He also suggested that Palestine might explore the possibility of observership at the WTO. But more is possible. Mr Cottier pointed out that a free trade arrangement would at least entail the status of an autonomous customs territory for Palestine, and GATT allows membership for a non-state under these conditions. While the current set-up does not represent a real customs union, since it lacks co-decision, under a real customs union Palestine would have a separate identity and so could have either its own representative at WTO or a joint-representation with Israel. There is a menu of options in this situation.

2.8 Samir Huleileh said that the dilemma for Palestine is that the current customs union is merely an extension of the pre-existing set up, while a full customs union would entail greater integration with the Israeli economy.

2.9 Nu'aman Kanafani asked whether an extension of lists A1 and A2 would increase the PP's incompatibility with WTO.

2.10 HT replied that under Article XXIV of GATT "substantially" the same duties and terms must be extended by the two members (ie Palestine and Israel) to other countries. So an extension of the lists, representing a further movement away from a common external tariff, would be against the GATT provision.

2.11 Nu'aman Kanafani then asked whether an expansion in the two lists, but with the rates made equal to the external tariff, would still run counter to GATT. Both HT and Thomas Cottier were not sure.

2.12 Thomas Cottier commented that the present set-up is a hybrid, reflecting the historic situation (ie the Arab boycott), and over the longer term the Arab trade ban cannot be maintained.

2.13 Samir Huleileh said that the Palestinian interest is that the opening of Arab trade is on terms that benefit Palestine. Mr Cottier pointed out that this is not really within Palestine's power to determine, since these countries will be opening out on an MFN basis as they join the WTO in accordance with requests placed by other WTO members in accession negotiations. Possibilities to achieve preferential trade today are generally reduced due to the fact of relatively low MFN tariffs and obligations to refrain from non-tariff restrictions.

5: The option of a free trade zone for Gaza

This discussion of a specific policy proposal was chaired by Samir Huleileh, assistant undersecretary at the Ministry of Economy and Trade.

1. The consultant's presentation

1.1 The presentation was made by Ishac Diwan (ID). He identified the attraction of transforming the whole of Gaza into a free trade zone as the following:

- i) There would be little fiscal leakage.
- ii) Unemployment in Gaza is particularly high.
- iii) There is little in the way of economic activity in Gaza that would need to be protected.
- iv) Outside investors would be attracted by the potential for free access to the EU and the USA.
- v) The initiative would be concrete evidence of the PA's business-mindedness.
- vi) It would signal and be part of a longer-term movement by the Palestinian economy towards free trade.
- vii) The Gaza border would be easy to monitor to prevent leakages to Israel.

1.2 The immediate question the proposal raises is that of political cost. But ID argued that other countries contain free trade zones (notably Eilat in Israel), and so there is a precedent for this to be introduced.

2. Questions and general discussion

2.1 Nu'aman Kanafani concurred with the positive arguments presented by ID, pointing also to the relative ease of implementation and the scheme's utility as a means of getting round current constraints. He argued that the zone could be managed by a private company, on the pattern of that at Shenzhen in China and many others. He also identified two complications: relations with the West Bank, which would be under a different regime; and the substantial loss of power to the PA.

2.2 Samir Huleileh cited the example of Singapore's transformation within a very few years from a situation of high unemployment to one of labour shortage. One question which would need to be tackled is that of the exact size of the revenue loss.

2.3 Nu'aman Kanafani pointed out that the physical infrastructure that would need to be installed could be funded by private interests (through build-operate-transfer contracts), while ID cited the example of Beirut where private funds have flowed into such investment.

2.4 Odeh Shehadah asked why a free trade zone could not be developed jointly with Jordan

in Jericho. His suggestion was backed by Mazen Sinnokrot, who pointed to the residential capacity already in place around Jericho, its closeness to Amman and the availability of both water and land.

2.5 Lily Habash commented that the Gaza proposal represents the setting up of a sovereign area.

2.6 Nu'aman Kanafani said that a free trade zone must have sea access.

2.7 Samir Huleileh then raised the question of the taxes levied. Would shipments by Palestinian suppliers to Gaza have the VAT refunded, thus giving Gazan consumers goods free of VAT?

2.8 Nu'aman Kanafani responded that the company administering the free trade zone would determine whether or not VAT were paid. There are other means of securing revenue for the government authority; for example at Shenzhen a percentage of salaries paid is remitted to the government. Saeb Bamyeh said that at Jebel Ali import tariffs are paid, and are refunded when an export is made. The chairman concluded that there are in fact a number of means of taxing activity in a free trade zone.

2.9 Samir Huleileh then pointed out that Israel has repeatedly expressed opposition to such an idea.

2.10 Hanspeter Tschaeni raised the issue of the political context for the zone's operations. Potential investors would need to have some guarantee of continuing operation and easy access by air, sea and land.

2.11 The chairman concluded that this option needed further study.

(Two private-sector representatives from the Palestinian side asked that, for reasons relating to commercial sensitivity, their remarks be omitted from the record.)

6: Studies and follow-up needed

1.1 The workshop participants were invited by Samir Huleileh to make recommendations for follow-up work to be conducted in the coming months.

1.2 Nu'aman Kanafani suggested the following subjects:

- * rules of origin: effect of any scheme proposed on Palestinian industry and manufacturing sectors;
- * the WTO: pros and cons of joining - including joining individually or with Israel.
- * the option of a free trade zone in Gaza (Jericho)

1.3 Nesreen Haj Ahmed proposed a study of the possibility of WTO observer status for Palestine.

1.4 Marianne Laanatza agreed with Nesreen's proposal. She recommended looking at the EU-Turkey Customs Union (Turkey looks to the other ECO member countries too, so parallel to Palestine and other Arab countries).

1.5 Hanspeter Tschaeni proposed that the PA explore possibilities of benefitting from training programmes run by the WTO or seek other ways of making available expertise in WTO rules.

1.6 He also recommended that the results of the discussion during the workshop, in particular concerning the various categories defined for assessing the pros and cons of a customs union and a free trade regime, be used as a basis for a position paper by the PA.

1.7 Allan Waight proposed a position paper on rules of origin on a sector (ie industry by industry) basis. Odeh Shehadeh supported the need for a study on the consequences of EU rules of origin for the sectors.

1.8 Ishac Diwan suggested that more analysis was needed of free trade area arrangements and of the international context.

1.9 Marianne Laanatza proposed exploration of possibilities of access to Jordan and Egypt.

1.10 Lily Habash called for more research on Israel's overall trade policies and its policy toward Palestine and the region.

1.11 Bettina Muscheidt called for an examination of Israeli barriers to trade and an assessment of those instruments that have not yet been exploited by the Palestinians.

Proposal for follow-up on rules of origin

On my return to the UK I received information from the European Commission about the latest position with regard to the proposed agreement between the EC and the West Bank and Gaza. It would appear that the earlier optimism - that agreements that would permit cumulation of origin between the countries of the region could be concluded quickly - has proved unjustified. It has become clear in recent weeks that agreements that would permit diagonal cumulation will take some time to conclude. Meanwhile the European Community is anxious to demonstrate its commitment to Palestine by establishing a relationship with West Bank/Gaza based on a trade agreement to replace the present autonomous preferential regime. To this end the EC proposed an interim agreement based on a simple bilateral cumulation. The PA agreed to this proposal, and the agreement has been initialled.

This is seen by the Community as a stop-gap measure and a helpful first step towards the recognition of Palestine as an independent entity. It should not stop preparation for diagonal cumulation with other countries of the region which the Community is still firmly committed to achieving.

Cumulation with Israel, which has been an effective feature of Palestinian-Israeli trade for some years, although strictly outwith the provisions of the EC's trading relations with either country, must of necessity continue. The new EC interim agreement with the PA may further highlight the irregular nature of this cumulation but I detect a willingness in the Community to turn a blind eye to this trade whilst agreements are being sought which will place such a cumulation on a proper legal footing.

I therefore propose that I prepare a series of brief papers designed to explain in plain language how the EC's rules of origin, with particular regard to diagonal cumulation, will impact on each of the following industries - textiles, footwear, pharmaceuticals, processed foodstuffs and plastics (made up articles). I would suggest that each industry sector should then examine these documents and identify both current and potential sources of supply of materials. In this way each sector will be able to identify how the Community's proposals might impact on their present and future trading patterns.

Allan Waight
UK Customs (December 17, 1996)

Background Briefs

1. An overview of the EU rules of origin

The European Community grants preferential tariff treatment (often nil rates of duty) to goods which meet certain rules of origin. The main elements of these rules of origin are set out below:-

The origin criteria

The origin criteria contains two basic elements. The first identifies those goods which meet the rules of origin by virtue of having been **wholly obtained**. This is a simple concept of origin to understand. It covers such things as fresh produce eg fruit and vegetables grown and harvested in the country of exportation, or mineral products mined there. Note, however, that the concept of wholly obtained does not necessarily mean the total exclusion of any imported element. For example the rule says 'vegetable products harvested there'. That does not preclude the use of imported seed.

The second element deals with all products which cannot meet the rule of wholly obtained. In other words, it identifies how a product made from 'non-originating' materials or parts (often, but not necessarily always, imported materials or parts) can nevertheless become an originating product. The EC legislation describes this element in terms of non-originating materials or parts undergoing **sufficient working or processing**.

The sufficient processing requirement is divided into three basic elements. The first says that non-originating materials or parts are considered to have been sufficiently worked or processed if the end product (known in the legislation as the 'product obtained') is classified in a four figure tariff heading which is different from the heading of any of the non-originating materials or parts used. (This is often referred to as the Change of Tariff Rule.)

Unfortunately, relatively few goods are allowed to satisfy the rules of origin by application of a simple change of tariff heading. For the rest, therefore, the origin protocol contains an Annex which lists, on a product-by-product basis, specific rules that have to be met. These rules fall into two broad categories, **processing** requirements and **value** requirements.

A processing requirement says how the product should be manufactured to acquire origin. For example the rule for a shirt of heading 6205 requires the manufacture from the yarn stage. Some rules say what process does **not** confer origin. For example the rule for footwear of Chapter 64 allows manufacture from materials of any tariff heading except for assemblies of uppers affixed to inner soles or to other sole components of heading 6406. This means that if a shoe manufacturer in the West Bank and Gaza (WBG) imported (say from Taiwan) all the materials already cut and formed into assemblies of uppers affixed to inner soles for final assembly then the finished shoe would not be regarded as an originating product for the purposes of obtaining tariff relief on entry to the Community.

A value requirement says what percentage of the value of the finished product can be made up on non-originating materials or parts. For example a motor car engine of heading 8407 will qualify if the value of the non-originating materials or parts used does not exceed 40% of the ex-works price of the finished engine. This rule introduces two new concepts - 'value' and 'ex-works price'.

'Value of materials' here means the customs value at the time of importation, or if this is not known, the first ascertainable price paid for the materials.

'Ex-works price' on the other hand is a concept unique to rules of origin. It is defined as the price paid to the manufacture. It is intended to be a factory gate price, not fob or cif. But often 'the price paid to the manufacturer' is not a factory gate price. The ex-works price is therefore very rarely the same as the commercial invoice price. The ex-works price is the bench mark against which percentage value rules are judged.

A rule, which sets out to determine what constitutes sufficient working or processing, invites the question what is **insufficient working or processing?** Each origin protocol therefore contains an article which lists a number of minor processes which are regarded as insufficient to confer origin eg making-up of sets of articles, washing, painting, sorting, placing in bottles, fixing marks or labels and simple assembly.

The insufficient or minor processes enter into the origin equation when applying the cumulation rules.

Cumulation

There are three types of cumulation. All the Community's preferential rules of origin now include a provision allowing **bilateral** cumulation. This allows goods of Community origin to be processed in a partner or beneficiary country as if they were goods originating in that partner or beneficiary country, on condition that the processing goes beyond minimal (insufficient). Where the preference is reciprocal, eg the proposed Agreement between the EC and WBG, the provision operates in exactly the same way in reverse.

The cumulation provisions, therefore, encourage the use of materials and parts originating in the EC or partner country rather than materials and parts of, say, Japanese or US origin. For example, WBG does not produce poly/cotton fabric but wishes to manufacture poly/cotton shirts for export to the EC. The origin rule for such shirts requires production from non-originating materials that are at no later stage of manufacture than yarn. If WBG imports fabric from the USA its shirts will not satisfy that rule. That would not be the case if EC originating fabric were used. The EC fabric would be treated as originating in WBG (the making-up of a shirt from fabric being more than a minimal process) and the shirts would qualify for entry into the EC at a nil rate of customs duty (in 1997 a saving of 12%).

The second type of cumulation is known as **diagonal** cumulation. Diagonal cumulation operates within a preference group eg the group proposed by the EU comprising certain Mediterranean countries (including WBG). Here materials or parts originating in one or more countries within the group may be further processed (provided it is more than minimal)

in another country within the group as if the materials or parts were of the origin of the country in which they are processed. For example, shoes assembled in Palestine from components originating in Israel and the EC. The commercial benefits of using cumulation can also be clearly demonstrated using the textile industry. Trousers made-up in Palestine from fabric imported from the Far East would be subject to 12% import duty on entry into the EU. But the same trousers made from fabric of Egyptian (Israeli etc) origin would attract a zero rate of duty.

All diagonal cumulation provisions contain a provision for determining the origin of the end product. In the case of the provisions governing the proposed Agreements between the EC and each of the Mediterranean Countries, the rule envisages that the product will take the origin of the country of final processing if the value added there exceeds the value of the materials originating in any one of the other countries of the regional group. If this is not so, then the origin is attached to whichever country supplies the originating materials or parts representing the highest value.

Full cumulation provides additionally for the working or processing carried out in one country to be carried forward to another and be counted as if it were carried out in the country of production of the final product. It applies in the most advanced agreements (eg the EEA). Taking again the example of the poly/cotton shirt where the rule requires manufacture from yarn. This time the shirt is made up in Norway from fabric supplied from the EC. Under bilateral cumulation rules that fabric would have to be EC - originating fabric (the rules require manufacture from the pre-yarn stage) if the shirt made in Norway is to qualify as an originating product. However, under full cumulation the fabric produced in the EC can be produced from non-originating yarn and the processing from yarn to fabric (not in itself a process conferring origin) can be counted as if it took place in Norway. Thus the shirt will have been manufactured from the yarn stage and qualify as an originating product.

In agreements containing full cumulation provisions, the allocation of origin - when goods are produced from materials or parts coming from two or more countries within the group - is simple. The product obtained is deemed to have originated in the country of final processing, provided that is more than minimal.

Background Briefs

2. Customs union and free trade agreements: some general remarks from a trade policy point of view¹

Parallel with the development and deepening of the GATT, there has been a tremendous increase in regional integration agreements (RIAs). Between 1948 and today, more than 140 were notified to the GATT.² With more than 60 agreements notified since 1990 the rise has been especially significant in the last few years, both in the number of agreements concluded and the economic and political weight of the participating members.

Most RIAs have been established in the form of customs unions and free trade agreements. Of the two, the latter form has been resorted to much more frequently, however.

1. RIAs and the GATT and WTO agreements

a) *The principle: General Most-Favoured Nation Treatment (MFN)*

One of the key principles of the GATT 1947 has been that "any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties" (Article 1, General Most Favoured-Nation Treatment).

b) *The major exception: Article XXIV of GATT*

By definition, RIAs do not comply with the MFN rule because they accord one set of countries (the members of the agreement) a better treatment than others. However, the GATT contracting parties explicitly recognised "the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements" (Article XXIV)(4).

In Article XXIV, however, certain conditions were laid down concerning the form of the agreements, their notification to GATT and the verification to be followed by the GATT contracting parties, and the economic consequences for third countries.

(i) The following forms are mentioned and loosely defined: a customs union, a free-trade area, or an interim agreement necessary for the formation of a customs union or a free-trade area (Paragraph 5):

* A customs union consists of one customs territory composed of several constituent territories. Between these territories, "duties and other restrictive regulations" (with some exceptions) "are eliminated with respect to substantially all the trade...or at least with respect to substantially all the trade in products originating in such territories". Concerning trade with third countries, "substantially the same duties and other regulations of commerce are applied by each of the members of the union" (Paragraph 8 (a));

- * The definition of a free-trade area only covers the internal relations between members, which have to follow approximately the same rules as in the customs union. Relations with third countries are left, by implication, to the discretion of the members (Paragraph 8 (b));
- * An interim agreement has to contain "a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time" (Paragraph 5 (c)).

(ii) The formation of a customs union or a free-trade area shall not result in higher duties or other commercial regulations for third countries (Paragraph 5 (a) (b)). If rates of duties need to be increased by a GATT contracting party as a result of the formation of a customs union, the procedure set out in Article XXVIII shall apply (Paragraph 6).

(iii) A "contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area" has to notify the other GATT parties, which shall follow a certain verification procedure (Paragraph 7).

c) *The exceptions for developing countries: Part IV and the Enabling Clause*³

The discussion in UNCTAD and the GATT on the rights and privileges accorded to developing countries, which had already started in the 1950s and 1960s, included the question whether preferences could be given to developing countries without observing the conditions laid down in Article I of the GATT (General MFN). The results of these discussions were Part IV and especially the so-called Enabling Clause.

Part IV on "Trade and Development" (Articles XXXVI-XXXVIII) was added to the GATT in 1965. It introduced the principle of non-reciprocity in trade negotiations between developing and developed countries and committed the latter to take concrete actions to further imports from developing countries. In some cases, these provisions were invoked by developed countries to justify preferential, non-reciprocal agreements with developing countries. This line of reasoning was contested by other GATT contracting parties, however.⁴

The rights and privileges of developing countries were further developed in the Enabling Clause, which was put in force by a decision of the GATT contracting parties at the end of the Tokyo Round in 1979.⁵ It has served as the legal basis for according developing countries special and differential treatment under the Tokyo Round Codes and for preferential agreements not conforming to Article I, both between developing countries⁶ and between developed and developing parties.⁷ Furthermore, the Clause has allowed for special treatment of the least developed countries. Arrangements based on the Enabling Clause have to observe certain conditions (Paragraph 3) and are to be notified to the GATT for verification (Paragraph 4).

The decision of 1979 does not contain any reference to Article XXIV. As a result, views among GATT members have differed as regards the relationship between the two provisions and whether a given agreement should be examined under one or the other set of rules.

Between 1979 and 1994, eleven agreements were notified under the Enabling Clause, including the MERCOSUR Agreement between Argentina, Brazil, Paraguay and Uruguay.⁸

d) *The WTO rules*

During the Uruguay Round of Negotiations, clarifications were added to Article XXIV in order to remove some ambiguities and to submit "any matters arising from the application of those provisions of Article XXIV relating to customs unions, free-trade areas or interim agreements" to the regime of the Dispute Settlement Understanding, which is part of the WTO agreements. Further changes concern paragraphs 5,6 and 12 of Article XXIV and the review procedure of agreements. They include a clarification that the "reasonable length of time referred to in paragraph 5(c) of Article XXIV should exceed 10 years only in exceptional cases".

The General Agreement on Trade in Services GATS, which also resulted from these negotiations, contains an Article V on Economic Integration that is modelled after Article XXIV of the GATT. See the relevant text below. On the other hand, the Agreement on Trade-Related Aspects of Intellectual Property Rights TRIPS contains certain exemptions from the MFN treatment (Article 4) but no general exception of the type provided for in Article XXIV of the GATT.

2. Some examples of customs unions and free trade areas

The above description makes it evident that the rules concerning RIAs in the GATT/WTO agreements are rather general and in some cases incomplete. Accordingly, the review procedure has resulted in different interpretations of the GATT provisions and the necessary consensus to either approve or disapprove an RIA notified to the GATT has hardly ever been achieved.⁹ This might explain why so many diverse arrangements exist under either of the two main forms of RIAs, i.e. the customs union and free-trade area.

a) *Customs unions*

Five examples of customs unions have been chosen to demonstrate the variety, without going into very much detail concerning the respective governments, however. As points of comparison their scope, the degree of supra-nationality built into the agreement, the internal decision-making mechanism for concluding agreements with third countries and the mode of conducting negotiations with such countries have been selected:

(i) The Rome Treaty and the subsequent agreements establishing the EU are much more than trade agreements. In addition to having achieved an integrated internal market on the basis of the four freedoms (free circulation of goods, services, capital and persons) and flanking and horizontal policies in a number of related areas, whose rules are implemented, supervised and enforced by an independent body with supranational powers (the Commission) and a Court, the EU has as its expressed objective the achievement of a political union.

With regard to trade agreements with third parties the member states decide on a negotiating mandate for the Commission and approve and, in some cases, ratify the negotiated

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agreement. The agreement is laid down in one document valid for all EU member states and the respective partner. Negotiations and implementation of the agreement fall on the Commission. Over the years, the EU has concluded with its partners agreements on customs unions, free-trade areas and non-reciprocal preferential treatment.

(ii) The Southern Common Market (MERCOSUR) Agreement of 1991¹⁰ has the objective of establishing a common market between the member countries, involving inter alia free movement of goods, services, and factors of production, as well as the establishment of one external tariff and the adoption of a common trade policy in relation to third countries.

The member states take all decisions by consensus. No supranational body has been provided for. The chief executive organ (the Common Market Group), which is supported by an administrative secretariat, consists of representatives of the member states. The Common Market Group is also in charge of negotiating agreements with third parties.

(iii) The Czech Republic and the Slovak Republic decided to remain in a customs union upon dissolving their common state in 1993. A Council of Customs Union was created, which is composed of representatives of both sides. The Council is supported by a secretariat without supranational authority. Trade agreements are negotiated in parallel but concluded separately. They result in two different agreements. Coordination both during the preparations and the course of the negotiations is ensured through direct contacts between the two administrations and the customs union secretariat.

(iv) Switzerland and the Principality of Liechtenstein have been in a customs union since 1924, which in essence covers trade in goods. The two countries also have the same currency and closely cooperate in many other fields. There are no customs checkpoints between them whilst the external border around both countries is patrolled and serviced by Swiss customs officials. A Joint Committee is in charge of implementing the various agreements and to coordinate common activities under the customs union.

The customs treaty originally contained a provision according to which Liechtenstein delegated to Switzerland the right to conclude trade agreements on its behalf. In the meantime the customs treaty has been amended to enable Liechtenstein to become a party to international trade agreements alongside Switzerland or even independent of it. In the latter case, an explicit agreement between the two countries is necessary, however, to sort out the possible consequences for the customs union.

The customs treaty originally contained a provision according to which Liechtenstein delegated to Switzerland the right to conclude trade agreements on its behalf. In the meantime the customs treaty has been amended to enable Liechtenstein to become a party to international trade agreements alongside Switzerland or even independent of it. In the latter case, an explicit agreement between the two countries is necessary, however, to sort out the possible consequences for the customs union.

In line with these changes, Liechtenstein became a member in its own right of the European Free Trade Association EFTA and of the GATT/WTO. On the basis of a special agreement it

was even possible for the Principality to become a party to the EEA Agreement (see below) although Switzerland had decided not to take this step.

(v) The Southern African Customs Union¹¹ exists since 1910 but its modified form dates from 1969. Trade between the members with regard to "goods grown, produced or manufactured in the common customs area" is unrestricted, save for some specified exceptional circumstances. Concerning trade relations with third parties, the South African tariff, duties and the sales tax are valid for the entire customs union. South Africa is to give the other members adequate time for consultations before it changes duties and charges. Customs revenues are pooled and distributed to its members. In the distribution formula a certain surcharge has been built in for the partners of South Africa to compensate them for accepting the latter country's tariffs and charges.

b) *Free trade areas*

Also the variety of free-trade areas is considerable. As already indicated, contracting parties in such areas are normally free to determine their own outer tariff and thus to decide independently about their foreign trade policy. However, voluntarily and often as a consequence of the degree of harmonisation achieved within the area, the members decided in some cases jointly to conclude trade agreements with third countries. The following examples of free-trade areas could be given:

(i) The European Economic Area EEA¹² of 1994 extends the EU internal market legislation to the contracting partners of the European Free Trade Association EFTA, establishes a mechanism of coordination for continuously integrating new EU legislation, and provides for surveillance of the implementation and enforcement of the rules by two independent bodies and courts (one each for the EU and the EFTA side). Agricultural products are dealt with in bilateral agreements between each EFTA country and the EEC. While third-country relations in principle do not fall under the agreement, the close integration achieved required special solutions in some cases where arrangements by one EEA party with a non-member might have consequences for the other EEA partners.¹³ In addition, a general consultation requirement was included in the agreement in some areas.

(ii) The North American Free Trade Agreement NAFTA¹⁴ of 1992 covers trade in goods (industrial and agricultural), investments, cross-border trade in services, competition policy, procurement, intellectual property rights and related trade matters. The implementation of the rules is supervised by the Free Trade Commission, comprising cabinet-level representatives of the member states. It is supported by a secretariat. In addition, the agreement contains extensive dispute settlement rules. No provision appears to be included in NAFTA concerning the possibility of concluding agreements with third countries. On the other hand, any other country or group of countries may accede to NAFTA on such terms as may be agreed upon with the existing member countries.

(iii) The agreement establishing the European Free Trade Association EFTA¹⁵ covers trade in goods, processed agricultural and fishery products but leaves trade in agricultural goods to bilateral arrangements between the members. The decision-making body of the organisation is the Council, in which all members participate as equals. The Council is supported by a

In order to avoid competitive disadvantages in markets of countries with whom the Union has concluded preferential agreements, the EFTA states began to negotiate jointly Declarations of Cooperation and free-trade agreements with a number of third countries. The result of the negotiations is one document binding all EFTA countries and the respective partner, which contains, however, in some places different obligations for the EFTA countries.

(iv) The free-trade agreements concluded by the EU and the EFTA countries, respectively, with states from Central and East Europe and from the Mediterranean Basin normally aim at eliminating tariffs for industrial goods (subject to quotas in some cases) and the industrial element of processed agricultural products. Special regimes are usually negotiated with regard to fishery and agricultural products. In the case of the EU, the trade part of the agreement is complemented by cooperation in other sectors and often includes a financial package. The agreements concluded by the EFTA countries are entirely of a trade nature. The agreements are implemented by a joint body composed of representatives of the contracting parties (in the case of the EU the Commission) and contain a dispute settlement mechanism. These agreements are of a bilateral nature and normally do not include possibilities for being extended to third parties. The only third country element is provided by the possibility of cumulating origin with material from third countries if certain conditions are fulfilled.

c) *General conclusions*

Although being brief and incomplete this examination nevertheless allows the following general conclusions.

(i) It is not easy to extract from these examples an inventory of characteristics which can be clearly assigned to either a customs union or a free-trade area. This is especially the case as regards the internal relations between the members of the union or the area:

- * The necessity to have origin rules is normally cited as *the* decisive distinguishing element between a free-trade area and a customs union, although origin rules are not mentioned in the definition for these two forms in Article XXIV of the GATT. In the case of established customs unions and free-trade areas, origin rules indeed play this role. However, in an interim agreement leading towards a customs union the necessity to have origin rules will persist until all the members have the same tariff. This might require several years from the conclusion of the agreement.
- * The scope of the agreement does not seem to be related to its form. As proof can be cited that the customs union Switzerland-Liechtenstein essentially only covers trade in goods while the EEA (a free-trade area) is a very comprehensive agreement. Also the NAFTA covers a wide ground.
- * Also the criterion of supranationality does not permit a clear distinction between the two forms. Both the EU (a customs union) and the EEA have supranational bodies while

none of the other examples cited above have provided for them.

(ii) The situation is clearer with respect to relations with third countries. A common foreign policy is a logical consequence of a common external tariff, which is a basic element of a customs union.¹⁶ However, also in this case a different arrangement needs to be found for the transitional period in an interim agreement leading to the establishment of a customs union. On the other hand, also the partners in some free-trade areas have found it useful and in their interest to conclude together trade agreements with third countries.

(iii) In all cases cited above, an internal consultation or coordination mechanism is provided for with regard to relations of the partners to an RIA with third countries. Where a party is not expected to co-decide on such questions on a basis of equality (e.g. in the case of the Southern Africa Customs Union) it is at least compensated for delegating this prerogative.

Hanspeter Tschaeni
January 1997

Notes:

1. The following cannot claim to be a comprehensive and complete presentation of this complex topic. Rather, some key information and selected examples of agreements are given to illustrate both the common parameters contained in the GATT/WTO agreements and the variety of regional integration agreements existing all over the world. A useful and informative presentation of the wider issue of the trade implications of regional agreements is contained in "Regionalism and the World Trading System", published by the WTO Secretariat in April 1995.

2.. This number should not indicate that all of them are still in force. Some agreements have ceased to exist while others were superseded or modified. These changes were again notified and are thus included in the overall number.

3.. In addition to the exceptions discussed in more detail in this note, the possibility of obtaining a waiver to depart from obligations of the GATT (Article XXV) should be mentioned for completeness' sake. On occasion, this provision has also been resorted to for

authorising RIAs, e.g. the European Coal and Steel Community in 1952, the Fourth Lomé Convention in 1994 (see below).

4.. For example, the EU based itself on Part IV as a justification for its so-called First Lomé Convention with African, Caribbean and Pacific countries. Since some GATT members never accepted this argument, a way out was found for the Fourth Lomé Convention by granting their members in 1994 a waiver until the year 2000. See "Regionalism and the World Trading System", published by the WTO Secretariat in April 1995, p.14/15.

5.. The full title of the decision is "Differential and more favourable treatment, reciprocity and fuller participation of developing countries", Decision of 28 November 1979(L/4903).

6.. See e.g. the Protocol Relating to Trade Negotiations Among Developing Countries concluded in 1971 under the auspices of the GATT and the Agreement on the Global System of Trade Preferences among Developing Countries concluded 1988 under the umbrella of UNCTAD.

7.. In this case, preferential treatment could be accorded autonomously by the developed countries or by way of an agreement between a developed and one or several developing countries. The most important example of the autonomous approach is provided by the Generalised System of Preferences (GSP) regimes of developed countries, which operate under the umbrella of UNCTAD. Examples for the contractual approach are provided by the EU e.g. in the case of its agreements with Jordan and Egypt, respectively, of 1977.

8.. See "Regionalism and the World Trading System", published by the WTO Secretariat in April 1995.

9.. So far, a consensus among all GATT members that a notified agreement was in full conformity with GATT has only been obtained in six cases. On the other hand, in no case have all members agreed that an agreement was not in line with GATT provisions. As a result, the majority of the agreements in force today exist without the explicit blessing of the GATT. This may change as a result of the fact that matters with regard to customs unions, free-trade areas, etc. are now subject to the (stricter) WTO dispute settlement procedure.

10.. Members are Argentina, Brazil, Paraguay, and Uruguay.

11.. Members are South Africa, Lesotho, Swaziland, Botswana and Namibia.

12.. Parties are the 15 EU members, the EEC and the ECSC as such and the EFTA countries Iceland, Liechtenstein and Norway.

13.. An example would be the conclusion of a mutual recognition agreement by an EEA member with a third country that entails the use of a mark. If that mark cannot be distinguished from the one used in the EEA, the products of the third country might also gain access to the rest of the EEA. It was thus considered necessary that such agreements would

be concluded by all EEA members.

14.. Members are the USA, Canada and Mexico.

15.. The Stockholm Convention of 1960. The membership of the organisation fluctuated considerably over time, reaching from a high of eight countries to its current level of four, i.e. Iceland, Liechtenstein, Norway and Switzerland.

16.. However, the customs union between the EU and Turkey can be cited as a case that leaves some room for an independent foreign trade policy of the two parties.

Workshop on Palestine and regional trade: Prospects for future trade relations with Israel, December 3-4, 1996

Programme

Tuesday December 3

09.30-10.00	Workshop registration Maher Masri/Minister of Economy & Trade Geoffrey Haley/ Representation of the European Commission
10.00-11.00	Presentation of workshop framework Samir Huleileh/Assistant Under Secretary
11.00-11.15	Coffee
11.15-13.00	Is the Prevailing Economic Protocol Workable? Chair: Atef Alawneh/Deputy Minister - Ministry of Finance Presenter: Nu'aman Kanafani
13.00-14.30	Lunch: Flamingo/Ramallah
14.30-15.45	Moving Gradually Towards a New Trade Regime Chair: Nasser Tahboub/D.G. Ministry of Finance Presenter: Ishac Diwan
15.45-16.00	Coffee
16.00-17.00	Continuation of session
20.00-	Dinner - Miami Pansion/Ramallah (Limited number)

Wednesday December 4

09.15-11.00 Future Palestinian-Israeli relations within a
 Regional and Global Context

Chair: Valerie Yorke

Presenter: Hanspeter Tschaeni

11.00-11.15 Coffee

11.15-13.00 Continuation of session

13.00-14.30 Lunch

14.30-15.45 Findings and Conclusions

Chair: Samir Huleileh

15.45-16.00 Coffee

16.00-17.00 Farewell remarks

Workshop on Palestine and Regional Trade: Prospects for future trade relations with Israel, December 3-4, 1996

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Workshop on Palestine and regional trade: Prospects for future trade relations with Israel, December 2-4, 1996

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Workshop on Palestine and regional trade: Prospects for future trade relations with Israel, December 2-4, 1996

Curriculum Vitae

Thomas Cottier

Thomas Cottier, a Swiss national, was educated at the University of Bern Law School, where he obtained a Doctorate in Law. He then became a research fellow at the University of Michigan Law School (1980-82), and visiting fellow, Wolfson College, Cambridge (1984-86).

Between 1986-1993 Professor Cottier was a member of the Swiss negotiating team at the GATT Uruguay Round and, from 1989-1992, on EEA negotiations. He also held the posts of Legal Officer and Head of legal services of the GATT Division, Department of Foreign Economic Relations, Bern (1986-89), and Deputy Director General, the Swiss Federal Intellectual Property Office. Responsibilities included negotiations on dispute settlement, subsidies, services, and in particular intellectual property, both in GATT and in EEA negotiations. He has been a member of various dispute settlement panels in WTO/GATT, chairman of panels EC v. USA on US automobile taxes (1994), Costa Rica v. USA on textile restriction (1996), USA v. EC on Measures concerning Meat and Meat Productions (Hormones) (1996).

Professor Cottier has held the posts of lecturer in European and International Law at the University of St.Gallen (1986-89) and Associate Professor of European Law at the University of Neuchatel (1992-96).

In 1994, he became full Professor of European and International Economic Law at the University of Bern and Director of the Institute of European and International Economic Law.

Ishac Diwan

Ishac Diwan, Lebanese/Canadian national, graduated in Mathematics from the University of Paris in 1977 and holds a PhD in economics from the University of California, Berkeley 1984. Dr Diwan joined the World Bank in 1987, moving to the Middle East and North Africa Department in 1992, where he worked on a number of reports including the six-volume *Occupied Territories: An Investment in Peace*, the Jordan Poverty Report and the Egypt Public Investment Review. In 1993-94 he led a number of missions to the West Bank and Gaza and to Tunisia to evaluate technical assistance needs. Since 1995 Dr Diwan has been principal economist with the Middle East and North Africa Region at the Economic Development Institute of the World Bank.

Dr Diwan has written and published extensively on topics of international finance and trade, and on aspects of the economies of the Middle East. Before joining the World Bank he taught international finance at New York University.

Nu'aman Kanafani

Nu'aman Kanafani holds a BA in Economics (Aleppo University) and a Ph.D in Economics (University of Lund, Sweden).

He is Professor of Economics at the Department of Economics and Natural Resources at the Royal Veterinary and Agricultural University of Denmark (1988-). Since 1990 he has also held the post of Professor at the Carsten Niebuhr Institute of Near Eastern Studies, University of Copenhagen.

Professor Kanafani has participated in a number of international and Scandinavian research and evaluation missions to the Middle East and North Africa. Most recently he conducted a study on the costs and benefits of a customs union versus a free trade area between the West Bank, Gaza and Israel. He has held visiting professorial posts at the Universities of Montpellier and Barcelona.

Professor Kanafani's teaching and research interests are in the areas of macroeconomic policy, the European Common Agricultural Policy and development economics. He has written extensively on these broad areas and on the Palestinian economy.

Marianne Laanatza

Marianne Laanatza (Swedish national) holds a Masters degree in Economics, Political Science and History (Sweden).

Dr Laanatza has held posts with the National Labour Market Board (1977-79) and the National Board of Trade (1979-95) where she specialised in trade policy of Middle East and North Africa states, with responsibilities covering EFTA free trade agreements with Turkey and Israel (1990-95) and the EU's trade policy towards developing countries (1992-94).

In 1995 she became special adviser on Middle Eastern affairs at the Ministry for Foreign Affairs where she has been involved in a number of international projects on the Middle East and North Africa.

Since 1981 Dr Laanatza has been a lecturer on the economics and politics of the Middle East and North Africa at the Universities of Lund, Stockholm and Uppsala. She has been a guest lecturer at several universities in the USA, the UK and France, as well as in the Middle East.

Hanspeter Tschaeni

Mr Hanspeter Tschaeni, Swiss national, is holder of a degree of Master of Arts in Political Science (USA) and a Doctorate of Law (Switzerland).

Mr Tschaeni joined the services of the Swiss federal government in 1981, working

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primarily with political and economic questions related to European integration. In 1982, he was appointed legal advisor to the Swiss Integration Office, dealing also with non-tariff barriers to trade. From 1986 to the end of 1994, he occupied the post of Director of Trade Policy Affairs in the Secretariat of the European Free Trade Association EFTA in Geneva. He was closely associated with negotiations between the EFTA countries and the European Union on the Agreement on the European Economic Area (EEA), being both a member of the High-Level Steering Group and co-ordinating the substantive work in the field of trade in goods. From 1991-1994, Mr Tschaeni was in charge of the Secretariat work during the negotiations and implementation of free trade agreements between the EFTA States and several Central and East European countries, Israel and Turkey. During 1994, he was also consultant to the Liechtenstein government for the EEA negotiations.

In autumn 1994, Mr Tschaeni resumed his work in the European integration field with the Swiss federal administration in Berne. As Head of Unit in charge of economic integration, he was associated with the bilateral negotiations between the Switzerland and the EU.

In August 1995, he joined the Swiss Trade Initiative for the Middle East and North Africa (STIMENA) team.

Allan Waight

Mr Allan Waight joined HM Customs and Excise in 1959. He has served in headquarters directorates covering Personnel, Value Added Tax and Customs matters. From 1974-1980, Mr Waight served in the Tariff Preference branch of the Customs Directorate dealing mainly with imports into the UK.

In 1989, he was promoted to Senior Executive Officer, Customs Policy Directorate Duty Liability Group and is now responsible for implementing EC legislation in the UK in relation to customs aspects of all the European Community's preferential trading arrangements with other countries. This includes issuing guidance to customs officials at local offices and to commercial operators on matters relating to the preferential origin of goods and carrying out post importation verification of claims to originating status.

Mr Waight also has extensive experience in handling appeals which challenge the Departmental interpretation of the law governing the granting of preferential status.

Since 1990, Mr Waight has attended, as the UK Customs delegate, meetings in Brussels of the EC's Customs Code Committee - Origin Sector, the legislative committee responsible for drafting European Community legislation covering origin aspects of preferential trade.

Programme Coordination

Edith Hodgkinson

Edith Hodgkinson, a British national, holds a Bachelor of Arts (Honours) degree from Oxford University and a business administration diploma from the American College in Paris.

Ms Hodgkinson has been a contributor to the Country Analysis and Forecast division of the Economist Intelligence Unit since 1963, specialising in developing economies in Asia and the Caribbean and, for a time, energy in Western Europe. Since 1988 she has also been a senior editorial consultant for the full range of the EIU's Country Reports. Her other employment has included the post of commissioning editor for political and economic studies with a US publisher (1970-72) and head of public outreach at the Overseas Development Institute in London (1973-76). She has contributed to or edited numerous publications in the broad area of public policy and international economics.

Most recently (1994-95) she cooperated as consultant editor and workshop participant in the *Peace Media* project of the EU.

Valerie Yorke

Valerie Yorke, a UK national, holds a Master of Arts (Honours) degree from the University of Edinburgh. She is a senior research fellow at the London School of Economics and project coordinator of the EU-funded Economic Policy Programme for the Palestinians also based at the LSE. Previously she was a senior Middle East editor with the Economist Intelligence Unit, going on to become coordinator of the EIU's *Peace Media* project, funded by the EU. She has held research posts at the International Institute of Strategic Studies, the Royal Institute of International Affairs, the World Security Trust, and the Foreign and Commonwealth Office.

Valerie Yorke's research has focused on the domestic politics and foreign policies of Jordan, Syria and Israel, the Arab-Israeli peace process and the relations of outside powers with the Middle East and Gulf. She has written extensively on these broad themes.

Economic Policy Programme

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