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His Excellency Mr. Jose Manuel Barroso  
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11 June 2008

**Re: EU-Israel Association Council**

Your Excellency Mr. Jose Manuel Barroso,

On the occasion of the meeting of the EU-Israel Association Council on 16 June 2008, the under-signed human rights and humanitarian organizations would like to bring to your attention a number of concerns regarding Israel's non-compliance with international human rights standards, international humanitarian law and therefore also the EU-Israel Association Agreement.

In its external actions, the EU must not breach the fundamental principles of the European Union, including human rights, as set out in the Treaty on European Union. The EU has committed itself to the highest possible respect for human rights, and concrete commitments in this area have been in a period of steady expansion for the past decade. Following the Treaty of Amsterdam, the Treaty on European Union was amended to include a new Article 6, setting out that the principles on which the Union is based include: "liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States". On 25 June 2001, the European Council, in its conclusions on the European Union's role in promoting human rights and democratisation in third countries stressed its strong commitment to "the mainstreaming of human rights and democratisation into EU policies and actions". It further stated that "human rights and democratisation should systematically and at different levels be included in all EU political dialogues and bilateral relations with third countries". Emphasising its commitment to human rights, the EU established a Fundamental Rights Agency in 2007.

We further note that Article 2 of the EU-Israel Association Agreement establishes that: "Relations between the parties, as well as all the provisions of the Agreement itself, shall be based on a respect for human rights and democratic principles, which guides their internal policy and constitutes an essential element of this Agreement." In the Barcelona Declaration of 1995, the Euro-Mediterranean Conference of Ministers of Foreign Affairs undertook to "respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms ... without any discrimination on grounds of race, nationality, language, religion or sex." Finally, the Advisory Opinion of the International Court of Justice regarding Legal Consequences of Construction of a Wall in the occupied Palestinian territory establishes that all states and international actors are obliged not to recognise, aid or assist the illegal situation resulting from Israel's actions in the occupied Palestinian territory and all parties to the Fourth Geneva Convention are bound to ensure Israel's compliance with this Convention. These obligations relate both to EU member states as signatories to the Geneva Conventions, and to EU institutions charged to ensure

that EU-Israel contractual relations are undertaken in respect of Community and international law.

We believe in the human rights of all. In matters both related to its treatment of Palestinians in the occupied Palestinian territory, as well as Palestinian citizens of Israel, Israel is currently not acting in conformity with international human rights law and, in relation to the occupied Palestinian territory, with international humanitarian law. Recent examples of such violations include:

- The blockade on Gaza is leading to denial of economic, social and cultural rights for Gazans, in particular their human rights to food, water, sanitation and health, and which the UN High Commissioner for Human Rights has described as constituting collective punishment.
- Palestinian citizens of Israel and the occupied territories continue to be denied equal access to services such as water, education, housing and land.
- Israel continues to forcibly evict and displace Palestinians in the West Bank and East Jerusalem, including through the construction of the Separation Barrier, as well as in the Gaza 'buffer zone'.
- Israel continues to deny Palestinian spouses of Israeli citizens, as well as spouses and family members from a number of other Arab states, from obtaining legal status in Israel.

The Annex to this letter lists reports on recent human rights violations of international human rights law and international humanitarian law by Israel.

Israel has failed to implement the observations of the UN human rights monitoring mechanisms, as well as human rights obligations established in the Advisory Opinion of the International Court of Justice and several United Nations General Assembly and Security Council resolutions. Examples of these are contained in the Annex to this letter.

Israel faces real security threats and attacks that violate the human rights of its civilians. Its reactions to such threats and attacks must be proportionate and must not violate Israel's obligations under international human rights law and international humanitarian law.

The undersigned organisations call upon the EU to require that, within the framework of the EU-Israel Association Agreement, specific conditionalities are established to ensure that without delay, Israel:

- 1) Ends the blockade on the Gaza Strip which is undermining the economic, social and cultural rights of Gazans.
- 2) Complies with all UN resolutions, the Advisory Opinion of the International Court of Justice and concluding observations of international human rights treaty bodies relating to the human rights of Palestinians, including the rights of Palestinian refugees.
- 3) Refrains from violations of the human rights of Palestinians in the occupied Palestinian territories which necessitates a swift end to the occupation, a recognition

of the right of Palestinians to self determination and the removal of the Separation Barrier from Palestinian land.

- 4) Ends discrimination against Palestinian citizens of Israel, including in relation to access to land, housing and public services and enact a legally binding prohibition against discrimination on the basis of ethnicity and religion.

We look forward to your response and an opportunity to meaningfully engage with you on these issues.

With highest regards,

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## **Annex**

### **1. Advisory opinion of the International Court of Justice regarding Legal Consequences of Construction of a Wall in the occupied Palestinian territory**

In July 2004, the International Court of Justice (ICJ), the primary judicial organ for the United Nations, issued an Advisory Opinion on the legal consequences of the construction of the wall (separation barrier) being built by Israel in the occupied Palestinian territory (oPt). Whilst the parties are not legally bound to enforce the judgment, it constitutes an authoritative interpretation of international law as it applies to this issue. Since 2004, both the General Assembly and the United Nations Human Rights Council have issued a number of resolutions calling upon Israel to comply with the ICJ's Opinion. The primary findings of the ICJ were:

- 1) Both international humanitarian law, including the Fourth Geneva Convention, and international human rights law are applicable in the oPt and Israel is obliged to comply with their provisions;<sup>1</sup>
- 2) The Palestinian people have the right to self-determination;<sup>2</sup>
- 3) The building of settlements in the oPt is illegal under the terms of the Fourth Geneva Convention;<sup>3</sup>
- 4) Israel's construction of the wall in the oPt, including in an around East Jerusalem, is contrary to international law and Israel is obliged to cease all construction, to dismantle the wall and to make reparation for all damage caused by the construction of the wall;<sup>4</sup>
- 5) The construction of the wall and its associated regime impede the liberty of movement of the inhabitants of the oPt (with the exception of Israeli citizens) and is therefore a violation of the International Covenant on Civil and Political Rights. It also impedes the exercise of the right to work, health, education and an adequate standard of living guaranteed by the International Covenant on Economic, Social and Cultural Rights.<sup>5</sup>
- 6) All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and all States Parties to the Fourth Geneva Convention are obliged to ensure Israel complies with international humanitarian law.<sup>6</sup>

### **2. Recommendations of UN Human Rights Treaty Bodies to Israel**

UN Treaty Bodies (Committees established to monitor State's compliance with the Human Rights Treaties they have ratified) issue concluding observations in their periodic review of States Parties to the relevant treaties. Whilst Concluding Observations are not legally binding

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<sup>1</sup> Advisory Opinion of the ICJ available at:

<http://www.icj-cij.org>, (click on 'Cases'> 'Advisory Opinions'). Paras 90-101 and 120-121.

<sup>2</sup> Para. 118.

<sup>3</sup> Paras. 120-121.

<sup>4</sup> Para. 163.

<sup>5</sup> Para. 134.

<sup>6</sup> Para. 163.

they are considered an authoritative interpretation of the level of compliance of State Parties to the treaties they have ratified which they are legally bound by. A number of UN Treaty Bodies have commented on human rights violations carried out by Israel in both the oPt and Israel. Some examples are given below.

### **The United Nations Committee on the Rights of the Child (2002)**

The Committee stated it was

... deeply concerned at the large-scale demolition of houses and infrastructure in the occupied Palestinian territories, which constitutes a serious violation of the right to an adequate standard of living for children in those territories.<sup>7</sup>

### **The United Nations Committee on Economic, Social and Cultural Rights (2003)**

The Committee stated it was:

...deeply concerned about the continuing difference in treatment between Jews and non Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the "excessive emphasis on the State as a 'Jewish State' encourages discrimination and accords second-class status to its non-Jewish citizens" ... This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, of higher unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity and health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination.<sup>8</sup>

The Committee continues to be concerned about the deplorable living conditions of the Palestinians in the occupied territories, who- as a result of the continuing occupation and subsequent measures of closures, extended curfews, roadblocks and security checkpoints-suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to work, land, water, health care, education and food.<sup>9</sup>

The Committee continues to be concerned about the situation of the Bedouins residing in Israel, and in particular those living in villages that are still unrecognized ... Despite measures by the State Party to close the gap between the living conditions of Jews and Bedouin in the Negev, the quality of living and housing conditions of the

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<sup>7</sup> United Nations Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Israel*, UN. Doc. CRC/C/15/Add.195 para. 50. [www.ohchr.org](http://www.ohchr.org) (click on "Treaty Bodies"> "Committee on the Rights of the Child"> "Sessions"> "Israel"> "Concluding Observations").

<sup>8</sup> United Nations Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*, UN. Doc. E/C.12/1/Add.90 (2003) para. 16. [www.ohchr.org](http://www.ohchr.org) (click on "Treaty Bodies"> "Committee on Economic, Social and Cultural Rights"> "Sessions"> "Israel"> "Concluding Observations").

<sup>9</sup> Ibid. Para. 19.

Bedouin continue to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, Bedouins continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building “illegally”, destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force them to resettle in “townships”. The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in “townships” is inadequate.<sup>10</sup>

### **The United Nations Committee on the Elimination of Racial Discrimination (2007)**

The Committee stated it was concerned:

... that the Israeli settlements in the Occupied Palestinian Territories, in particular the West Bank, including East Jerusalem, are not only illegal under international law but are an obstacle to the enjoyment of human rights by the whole population, without distinction as to national or ethnic origin. Actions that change the demographic composition of the Occupied Palestinian Territories are also of concern as violations of human rights and international humanitarian law.<sup>11</sup>

... about the denial of the right of many Palestinians to return and repossess their land in Israel ... The Committee ... urges the state party to assure equality in the right to return to one’s country and in the possession of property.<sup>12</sup>

.... that it has not received sufficient information from the State party on the status, mandate and responsibility of the World Zionist Organization, the Jewish Agency and the Jewish National Fund, as well as on their budgets and allocation of funds. It is concerned by information according to which these institutions manage land, housing and services exclusively for the Jewish population ... The Committee urges the State party to ensure that these bodies are bound by the principle of non-discrimination in the exercise of their functions.<sup>13</sup>

Further:

The Committee recommends that the State Party increase its efforts to ensure the equal enjoyment of economic, social and cultural rights by Arab Israeli citizens, in particular their right to work, health and education.<sup>14</sup>

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<sup>10</sup> Ibid. Para. 27.

<sup>11</sup> United Nations Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by States Parties Under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel*, UN Doc. CERD/C/ISR/CO/13 (2007), para. 14 . [www.ohchr.org](http://www.ohchr.org) (click on ‘Treaty Bodies’> ‘Committee on the Elimination of Racial Discrimination’> ‘Sessions’> ‘Israel’> ‘Concluding Observations’).

<sup>12</sup> Ibid. Para. 18.

<sup>13</sup> Ibid. Para. 19.

<sup>14</sup> Ibid. Para. 24.

### **3. Key UN General Assembly and Security Council Resolutions relating to Israel's human rights obligations**

#### **General Assembly Resolution 194, 11 December 1948**

“*Resolves* that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property, which under the principles of international law or in equity, should be made good by the Governments or authorities responsible.”<sup>15</sup>

#### **Security Council Resolution 242, 22 November 1967**

Calls for the “withdrawal of Israel armed forces from territories occupied in the recent conflict” as well as the “termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force”.<sup>16</sup>

#### **General Assembly Resolution 3236, 22 November 1974**

“1. *Reaffirms* the inalienable rights of the Palestinian people in Palestine, including:

- (a) The right to self-determination without external interference;
- (b) The right to national independence and sovereignty;”<sup>17</sup>

#### **General Assembly Resolution 146, 4 March 2008**

“*Reaffirms* the right of the Palestinian people to self-determination, including the right to their independent State of Palestine”<sup>18</sup>

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<sup>15</sup> All UN Resolutions on Israel and the occupied Palestinian territories are available at: <http://domino.un.org/unispal.NSF/UN%20resolutions!OpenPage>

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

#### **4. Selected reports by human rights and humanitarian organizations on Israel's human rights performance**

These reports provide further information on recent human rights violations by Israel listed in the letter:

Al Mezan Center for Human Rights, *Worst Year under Occupation: 2008 1<sup>st</sup> Quarter Report on IOF Violations of Human Rights in the Gaza Strip*, (2008) [www.mezan.org](http://www.mezan.org)

Al Mezan Center for Human Rights, *Report on IOF's Operation Warm Winter in the Gaza Strip 27 February- March 3*, (2008) [www.mezan.org](http://www.mezan.org)

B'Tselem, *The Gaza Strip: One Big Prison* (2007)  
[www.btselem.org/Download/200705\\_Gaza\\_Insert\\_eng.pdf](http://www.btselem.org/Download/200705_Gaza_Insert_eng.pdf)

Centre on Housing Rights and Evictions, *Hostage to Politics: Impact of the Sanctions and Blockade on the Human Right to Water and Sanitation in Gaza*, (2008) [www.cohre.org/opt](http://www.cohre.org/opt)

Centre on Housing Rights and Evictions, *Submission to the Goldberg Committee regarding violations of the right to water and sanitation in the unrecognized villages of the Negev/Naqab* (2008)  
[www.cohre.org/israel](http://www.cohre.org/israel)

Joint Agency Report (Oxfam, Amnesty International, Christian Aid, CAFOC, CARE, Medecins du Monde UK, Save the Children UK, Trocaire), *The Gaza Strip: A Humanitarian Implosion*, (2008)  
[http://www.oxfam.org.uk/resources/policy/conflict\\_disasters/gaza\\_implosion.html](http://www.oxfam.org.uk/resources/policy/conflict_disasters/gaza_implosion.html)

Human Rights Watch, *Off the Map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages*, (2008) [www.hrw.org/reports/2008/iopt0308/](http://www.hrw.org/reports/2008/iopt0308/)