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LAWYERS FOR PALESTINIAN
HUMAN RIGHTS



**TRADE JUSTICE
MOVEMENT**



c/o 66 Offley Road, London SW9 0LS

The Rt Hon Kemi Badenoch MP
Secretary of State for Business and Trade
Department for Business and Trade
Old Admiralty Building
Admiralty PI
London SW1A 2DY

Cc: The Rt Hon Lord Cameron, Secretary of State for Foreign, Commonwealth and
Development Affairs

12 March 2024

Dear Secretary of State,

Suspending trade agreements and negotiations in response to the ICJ ruling on Gaza

At the end of January, the International Court of Justice (ICJ) imposed provisional measures on Israel to prevent genocide against the Palestinian people. The ICJ found that the measures were necessary "to protect the rights claimed by South Africa that the Court has found to be plausible," including "the right of the Palestinians in Gaza to be protected from acts of genocide." In addition to this, there is mounting evidence of serious violations of international law. As a signatory to the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), the UK has an obligation to prevent genocide, and an obligation, ergo omnes, to cooperate to bring an end through lawful means to the serious breaches of peremptory norms of international law including crimes against humanity and war crimes.

In this regard, we believe that measures should be taken immediately to suspend trade privileges, agreements and negotiations with Israel, particularly as these agreements are premised on upholding human rights and international law, and they involve trade, investment and cooperation with sectors of the Israeli economy involved in human rights and international

humanitarian law violations¹. These are important points of leverage that the UK could and should utilise to try and bring an end to the ongoing serious violations of international law. We are asking what assessment your departments have made of these agreements in light of the ICJ's interim ruling and the conduct of Israeli authorities since the attacks of 7 October.

- What due diligence has the UK government conducted on the risks of it failing to comply with its obligations to prevent genocide under the Genocide Convention and fulfil its obligation, ergo omnes, to cooperate to bring an end through lawful means to serious breaches of peremptory norms of international law, as well as the risk of complicity in war crimes and crimes against humanity arising from its trading relationships with Israel?
- What advice has the UK government taken on the possibility of suspending its bilateral trade agreement with Israel?
- What assessment has the UK government made of the legality of continuing to allow imports from Israel's illegal settlements into the UK given that such imports help to sustain the settlement economy and further the eviction of Palestinians from their homes and land?
- What assessment has the UK government made of the risks of its ongoing, and enhanced security, defence, science and technology relationships with Israel under the 2030 roadmap?

We also call on the UK government to immediately suspend export licenses of military equipment to and destined for Israel, given the clear risk they might be used in the commission or facilitation of serious violations of international humanitarian law, including war crimes, in Gaza.

Yours sincerely,

Nick Dearden, Global Justice Now
Othman Moqbel, Action for Humanity
Sacha Deshmukh, Amnesty International UK
Hannah Bond, ActionAid UK
Eva Tabbasam, Gender Action for Peace and Security
Tareq Shrourou, Lawyers for Palestinian Human Rights
Tom Wills, Trade Justice Movement
Christina McAnea, UNISON
Asad Rehman, War on Want

¹ For example, Article 40 of the [Euro-Mediterranean Agreement](#), which is implemented in UK law by The Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, 18 February 2019, provides for Scientific and Technological Cooperation. It is well [documented](#) that Israel has utilised technology to commit serious human rights violations, including those that form part of the crime against humanity of apartheid in the Occupied Palestinian Territories. Chapter 4 (2) of The [UK-Israel Free Trade Agreement: Strategic Approach](#) also notes that among the top exports from the UK to Israel under the current trade agreement are mechanical power generators (such as turbojets used in aircraft). It is not clear whether these generators are exported for the manufacture of civilian, military or possibly dual-use aircraft, but if military or dual use, this could mean the UK is facilitating serious breaches of international humanitarian law carried out by the Israeli military in the Occupied Palestinian Territories.

Background

There are several different aspects of the UK's trade relationships with Israel, including a bilateral trade and partnership agreement which is effectively a post-Brexit continuity version of the EU-Israel trade agreements, and a series of agreements and negotiations towards a deeper trade agreement which are ongoing. The direction of these talks is laid out in the 2030 roadmap for UK-Israel bilateral relations¹ and in the UK's Strategic Approach to its Free Trade Agreement with Israel.²

The human rights dimension of the UK's trading arrangements with Israel has been set out in an Amnesty International briefing.³ There are multiple reasons why these agreements and talks should be suspended.

First, the agreements themselves are based upon respect for human rights. The UK's bilateral trade agreement with Israel⁴ incorporates the EU Association Agreement which states in the preamble that "the observance of human rights and democracy... form the very basis of the Association" and, in article 2, that "Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles."⁵ The 2030 roadmap is also clear that "democratic norms are the mainstay for maintaining a rules-based international system and respect for universal human rights."⁶

In light of Israel's ongoing violations of International Human Rights Law and International Humanitarian Law in the Occupied Palestinian Territories, the clauses in these agreements would appear to have been breached, providing grounds for termination. If these clauses are to have any meaning, the UK should consider terminating or suspending them on grounds of a material breach in accordance with Article 60 of the Vienna Convention on the Law of Treaties.⁷ Article 82 of the Euro-Mediterranean Agreement incorporated into the UK's bilateral trade agreement provides that "Each of the Parties may denounce the Agreement by notifying the other Party."⁸

Second, the 2030 roadmap for UK-Israel bilateral relations strengthens the UK's material support for Israel's defence and military activities. For example, the 2030 roadmap explicitly aims to strengthen security and technology ties with Israel, going beyond the already "extensive defence and security cooperation" which are said to represent, for both countries, "one of the most important defence and security relationships, encompassing a broad range of activities."⁹ These activities include bilateral defence cooperation and strengthening of military ties, force build-up, research and development and counter-terrorism dialogue.

These activities risk UK complicity in serious breaches of international human rights and international humanitarian law, including war crimes, and crimes against humanity being committed by Israel. Cooperation in science, technology and cyber security also present risks of complicity. More generally, the agreements will benefit sectors of the Israeli economy which are involved in violations of international human rights and humanitarian law - military, security and technology including cybersecurity.

Third, the interim judgement of the ICJ¹⁰ means that signatories to the Genocide Convention now have a duty to take measures to prevent genocide and an obligation, ergo omnes, to cooperate to bring an end through lawful means to the serious breaches of peremptory norms

of international law including crimes against humanity and war crimes. Experts have made clear that the duty to prevent Genocide is not a passive obligation, and that it “extends extraterritorially and applies regardless of whether any one state’s actions alone are sufficient to prevent genocide.”¹¹

What is more, previous ICJ rulings imply that “states with strong political links to the state concerned have a greater duty to use their influence in this regard, as the duty to prevent varies from State to State depending on its ‘capacity to influence effectively the action of persons likely to commit, or already committing, genocide. This capacity itself depends, among other things, on the geographical distance of the State concerned from the scene of the events, and on the strength of the political links, as well as links of all other kinds, between the authorities of that State and the main actors in the events.’”¹²

The ICJ also held that, “if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent, it is under a duty to make such use of these means as the circumstances permit.”¹³

The British government has stressed the closeness of its relationship with Israel. On signing the 2030 roadmap, former Secretary of State for Foreign Affairs James Cleverly said “The UK-Israel Bilateral Roadmap is a testament to the strength of our close and historic relationship”¹⁴, a theme reflected in the UK’s strategic approach to trade negotiations.¹⁵ This relationship includes sectors playing a direct role in Israel’s activities in Gaza.

It follows from the closeness of this relationship and the potential leverage and complicity arising from it that Britain has a duty to immediately assess its role and take action to prevent genocide. This includes abiding by international arms export obligations, and realising its human rights and Women, Peace and Security National Action Plan commitments, as the proliferation of arms contributes to a culture of violence against women and girls.

Finally, there are measures open to the government that would help prevent Israel’s ongoing violations of international law and address some of the root causes. Israel’s relentless expropriation of Palestinian land and the repeatedly stated intention of many Israeli leaders, including the current Prime Minister and most cabinet members, to take yet more land, and transfer part of Israel’s population into that land, is a key driver of the Israel-Palestinian conflict. Such transfer of the population of the occupying power into occupied land violates the Fourth Geneva Convention¹⁶ and is a war crime under the Rome Statute of the International Criminal Court.¹⁷ The UK government has been clear that Israeli settlements are a violation of international law and goods from those settlements do not enjoy privileges under current trade agreements.¹⁸ However, it remains the case that “The Government currently has no plans to ban the import of products from Israeli settlements or address UK business investment in the Occupied Palestinian Territories.”¹⁹

By allowing the importation of settlement goods, the UK is helping drive the settlement economy and contributing to the maintenance, development and expansion of Israel’s illegal settlements, which as the UK acknowledges presents an obstacle to peace and to a two-state solution,²⁰ and is a violation of international law.

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- ¹ UK government policy paper: 2030 roadmap for UK-Israel bilateral relations, 21 March 2023; <https://www.gov.uk/government/publications/2030-roadmap-for-uk-israel-bilateral-relations/2030-roadmap-for-uk-israel-bilateral-relations>
- ² Department for International Trade, UK-Israel Free Trade Agreement: Strategic Approach, July 2022; <https://assets.publishing.service.gov.uk/media/62d5786ce90e071e798d118a/uk-israel-free-trade-agreement-the-uk-strategic-approach.pdf>
- ³ Amnesty International, UK-Israel Free Trade Agreement – responding to human rights concerns in keeping with UK’s obligations and policies, May 2022; <https://www.amnesty.org.uk/files/2022-05/Briefing%20to%20DIT%20on%20UK-Israel%20FTA.pdf?VersionId=RLHFEKXZoeZR8LigkzuPM2q3yItgwXH>
- ⁴ The Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, 18 February 2019 and the Euro-Mediterranean Agreement, 21 June 2000; <https://www.gov.uk/government/news/uk-and-israel-sign-trade-continuity-agreement>
- ⁵ Article 2 of the Euro-Mediterranean Agreement; https://eeas.europa.eu/archives/delegations/israel/documents/eu_israel/asso_agree_en.pdf
- ⁶ UK government policy paper: 2030 roadmap for UK-Israel bilateral relations, 21 March 2023
- ⁷ Article 60 of the Vienna Convention on the Law of Treaties, 1969; https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf
- ⁸ Article 82 of the Euro-Mediterranean Agreement; https://eeas.europa.eu/archives/delegations/israel/documents/eu_israel/asso_agree_en.pdf
- ⁹ UK government policy paper: 2030 roadmap for UK-Israel bilateral relations, 21 March 2023
- ¹⁰ International Court of Justice, Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Order of 26 January 2024; <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-sum-01-00-en.pdf>
- ¹¹ International Commission of Jurists, Gaza/Palestine: States have a Duty to Prevent Genocide, 17 November 2023; <https://www.icj.org/gaza-occupied-palestinian-territory-states-have-a-duty-to-prevent-genocide/>
- ¹² Ibid
- ¹³ Ibid
- ¹⁴ UK Government, Press release, 21 March 2023; <https://www.gov.uk/government/news/uk-and-israel-to-sign-landmark-agreement-deepening-tech-trade-and-security-ties>
- ¹⁵ Department for International Trade, UK-Israel Free Trade Agreement: Strategic Approach, July 2022
- ¹⁶ Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), Article 49, para 6
- ¹⁷ Rome Statute of the International Criminal Court, Article 8.2
- ¹⁸ House of Commons Library, UK Israel trade negotiations, 18 January 2022; <https://researchbriefings.files.parliament.uk/documents/CDP-2022-0013/CDP-2022-0013.pdf>
- ¹⁹ Ibid
- ²⁰ UK Government Guidance, Overseas business risk: The Occupied Palestinian Territories; <https://www.gov.uk/government/publications/overseas-business-risk-palestinian-territories/overseas-business-risk-the-occupied-palestinian-territories>