

An Assessment of Progress in Improving Passages and Trade Facilitation

A. Background

1. The future economic viability of the Palestinian economy depends on the creation of a trade logistics system which permits the safe, reliable and competitively-priced movement of people and cargo. This system is described at length in the World Bank's December 2004 report to the AHLC, "*Stagnation or Revival? Israeli Disengagement and Palestinian Economic Prospects*"¹ ("the December report"), the conclusions of which were broadly endorsed by the international community, the PA and GOI in Oslo in December. The creation of a functional trade logistics system for the West Bank and Gaza will require addressing four inter-related movement domains:

- Movement across the Gaza/West Bank-Israel borders, either to Israel or through Israel to third countries via Israeli sea and air ports.
- Internal movement within Gaza and the West Bank.
- Movement between Gaza and the West Bank.
- Direct access to third countries, via land borders (to Egypt and Jordan), by sea and by air.

2. The December report indicates that Palestinian economic recovery "depends above all on a comprehensive Israeli approach to lifting closure. If GOI addresses only some components of the closure system, the impact of such initiatives will be muted by other remaining constraints. Economic life cannot recover if people and goods cannot move between cities and towns within the West Bank. If a truck carrying export goods from Hebron to Ashdod Port is delayed for an unpredictable periods of time en route to Tarkumiya, and is then subject to back-to-back unloading procedures, improved terminal layout and screening equipment will not make an appreciable difference. If goods produced in Ramallah cannot be transported through Israel to Gaza without long delays and multiple inspections, the feasibility of an otherwise attractive Gaza container port will be in doubt"².

3. This note concentrates on the first three movement domains, reflecting the focus of discussions between the parties and the donors in the period since the December report was published. Specifically, it comments on the following issues:

- (i) The reform of processes and management at Karni (as the critical gateway for Gaza's trade, and as an initial case-study in improved border management);

¹ See in particular *Overview* paragraphs 23-57, and *Technical Paper 1—Borders and Trade Logistics*.

² Paragraph 102, op. cit.

- (ii) Alternatives to the current back-to-back cargo handling system used at all the crossings;
- (iii) Re-establishing a dependable link between the economies of Gaza and the West Bank; and
- (iv) Ensuring that cargoes move without excessive delay through the supply chain, from the point of production to the point of market.

4. As an initial step, and consistent with the stipulations of Phase I of the Roadmap, the objective of such actions is a rapid return to the *status quo* pertaining on the eve of the *intifada*, i.e. on September 28, 2000. Creating a trade logistics system that will position the Palestinian economy to compete on an equal footing with other states in the region, though, will require considerable improvements over the system in place on the eve of the *intifada*, and actions taken now should be consistent with this medium-term objective.

B. Discussions with the Parties

5. The Bank, assisted by experts from Canada and USAID, and in coordination with the EC and the US Security Coordinator's Office (the "Donor Team") has held a series of intensive but separate discussions with the PA and GOI on the principles the Bank believes need to be applied to move from a security-dominated ethos of movement control to one based on trade and economic facilitation—without compromising Israeli security. This goal is consistent with paras. 34-47 of the Bank's December Report (see *Attachment*).

6. At the AHLC meeting in December 2004, donors expressed hope that the Palestinian Presidential election would be followed by a period of rapid bilateral engagement, a normalization of the security environment and a rolling-back of the movement restrictions that have crippled the Palestinian economy. To date, progress in these areas has not met those expectations---as will shortly be elaborated in the first World Bank/AHLC "*Quarterly Report*"³, due later this month.

7. The Donor Team is aware that neither GOI nor the PA is in full agreement with the proposals that have been presented to them. Both, however, have shown a strong understanding of the importance to Palestinian economic revival of addressing these topics---and an appreciation that the stability and security of both societies will depend to a great extent on a Palestinian economy much better able to provide for its people than is the case today.

8. The PA's reactions to the Donor Team's proposals as outlined below were shared with the Donor Team in writing in May.

³ In its Summary following the December 2004 meeting, the AHLC Chair requested the Bank to work with the parties and donors to translate the report's recommendations into a set of measures that need to be taken, and to monitor progress towards their implementation. These reports will be issued quarterly, to allow for meaningful change and to permit incorporation of quarterly economic data, with the first June report reflecting on developments in the First Quarter of 2005 (through May 15). Each Quarterly Report will form a judgment on the extent to which the preconditions for economic revival are being achieved. An important input will be an assessment of progress against a set of "indicators of economic recovery". These indicators have been developed by the Bank with special assistance from the EC and the US, and in consultation with GOI, the PA and key donors.

- The PA's Technical Team is broadly supportive of the main thrust of the Donor Team's recommendations as well as the principles for terminal restructuring proposed to them.
- The PA has, however, maintained that "back-to-back" cargo handling should be replaced by "door-to-door" transport, in the spirit of the quasi-Customs Union detailed in the Paris Protocol of 1994⁴.
- The PA also believes that the proposed commercial dispute resolution mechanism proposed by the Donor Team should be strengthened and agreement reached on introducing binding arbitration procedures into the operational protocols of the border terminals.
- With respect to the link between Gaza and the West Bank, the PA has maintained that the Safe Passage arrangements negotiated bilaterally in the context of the Oslo Accords should be immediately instated.
- The PA maintains that internal closure is motivated by political concerns, biases trade in favor of Israeli importers and should be lifted in its entirety without delay.

9. GOI's reactions to the Donor Team's proposals have been conveyed verbally in meetings in May and early June between the Donor Team and the GOI Passages and Access Team.

- GOI has indicated that its goal is to ensure quick and non-discriminatory movement of people and goods, with waiting time for people crossing border terminals reduced to no more than one hour, and for trucks at Karni initially to one day⁵---in both cases, assuming an absence of security incidents at or near the terminals. GOI has further indicated that by 2006, all border terminals should be managed on the basis of commercial principles.
- GOI has completed construction of a new terminal at Jalame in the northern West Bank and is actively engaged in terminal construction at Shar Efraim, near Tulkaram, and at Erez (see para. 13 below). GOI has indicated a willingness to build a new terminal, with a design to be agreed with the PA, on the Green Line near Tarkumiya. A special agricultural terminal is also being considered and might be located at Karni.
- GOI is also engaged in terminal construction at other locations inside the West Bank along the line of the Separation Barrier, but donors have indicated that they will not cooperate with this effort as doing so would contradict the Advisory Opinion of the International Court of Justice.
- As of the June 5 meeting, GOI had not proposed any changes in procedures or processes that would lead to the desired commercial outcomes mentioned above, other than lengthening terminal opening hours and the future introduction of terminal service standards. At this and previous meetings, GOI restated its intention to retain back-to-back cargo handling, and has embodied this

⁴ Door-to-door transport in this context means the cross-border transit of Israeli and Palestinian trucks rather than their interdiction at the border.

⁵ This would constitute a major improvement on current delays at Karni, which regularly amount to 7-10 days and sometimes extend to 3 weeks.

assumption in the layout at Jalame and the layout proposed for Shar Efraim. GOI has also proposed that short-term improvements at Karni would be addressed through the procurement of more scanners, cranes, and aggregate conveyors, but without committing to new procedures needed to ensure that this equipment will facilitate trade.

- In a meeting between Minister Mofaz and Quartet Special Envoy for Disengagement James Wolfensohn on June 17, however, and a subsequent trilateral meeting between Ministers Mofaz and Dahlan with Mr. Wolfensohn on June 19, Minister Mofaz accepted the principle of door-to-door movement in place of today's back-to-back system, and agreed that the parties should initiate discussions on how door-to-door movement could be introduced.
- GOI's proposed provisions for a viable connection between Gaza and the West Bank have focused on the construction of a rail link between Tarkumiya and Erez. This would require two dedicated spurs to connect the Israeli rail system to new terminals at each end of the link. For the interim period, Israel has indicated a willingness to consider the re-introduction of escorted convoys.
- As regards the extension of the supply chain throughout the West Bank, GOI has maintained that lifting internal closure cannot be divorced from improvements in the security environment, and that progress to date does not warrant a more rapid abolition of current restrictions and impediments.

C. Improving the Karni Crossing

10. Karni has evolved through a turbulent period in bilateral relations, from a gated gap in the Gaza perimeter to today's complex, haphazard and unsafe facility. Physically and procedurally, Karni is a cumulation of *ad hoc* responses to specific incidents and policy shifts. Remedying today's dysfunctionality requires thoroughgoing procedural and physical reform.

- Karni today represents a serious physical barrier to Palestinian trade, embodying a design that introduces unnecessary delays, inflicts damage on goods, and severely limits the throughput of cargo⁶.
- It acts as a significant non-tariff barrier to trade, as a result of GOI controls and processes which a) make it difficult for Palestinian exporters and importers to avoid using Israeli middlemen and traders⁷, b) discriminate against goods entering from the West Bank and exiting Gaza⁸, and c) oblige Palestinian importers and producers to pay Israeli truckers to sit idle for long periods at Karni.

⁶ Everything is offloaded and passed through an opening in the border wall, or placed on the ground in clearing rooms before being reloaded onto trucks on the other side of the wall. Moreover, all goods are handled in close proximity and without separation by cargo type---meaning that dirty cargoes (gravel for example) are handled where they can contaminate agricultural and consumer goods.

⁷ Many Palestinian producers have no dependable means of ensuring onward transport of goods once they cross into Israel, or of imported goods before they reach Gaza. To ensure market access, Palestinian producers and importers are thus heavily reliant on Israeli middlemen to clear landed goods and to ensure that exports leave Israel to third country markets.

⁸ Goods exiting West Bank and headed to Gaza have already undergone back-to-back inspection when leaving the West Bank and entering Israel. There does not appear to be a security-related reason to hold these cargoes at Karni before they enter Gaza (the trucks, drivers and cargoes have been free to move about inside Israel).

- It acts as a magnet for corruption on both sides of the border, as a consequence of a lack of clear and predictable procedures. This outcome should be expected in any situation in which the volume trade is heavily controlled, procedures are altered without notice and an advantageous position in the truck queue is essential if major income losses are to be avoided.
- It focuses all security efforts at one place, the border itself. This is unsafe: with the approaches obscured by a wall, deadly incidents can and have occurred⁹.
- It uses a “one size fits all” approach to inspection . This is incompatible with efficient cargo management.

11. The problems at Karni are related first and foremost to management and process. It follows, therefore, that purchase of additional scanners and other equipment (e.g. cranes) will not remedy the current situation unless they are deployed within a fully-managed system¹⁰. Nor would it be advisable to introduce additional product lines (aggregates, an agricultural terminal) into today’s Karni when the solution lies in reconstituting the whole facility (in the manner contemplated for Tarkumiya). Karni should be rebuilt as a modern, secure cargo terminal, on the basis of a differentiated, managed system of cargo handling. The Donor Team understands that Karni’s reconstruction is not contemplated in the immediate future, and urges GOI to revise its plans in favor of an immediate program of terminal reconstitution.

12. Elements of a new approach for Karni have been presented to the two parties by the Donor Team, and include

- A bilaterally- and cooperatively-managed security envelope, in which the PA assumes responsibility for cargoes approaching the Gaza side of the terminal¹¹.
- Channeling cargo according to risk, a fundamental principle in modern border management.
- Separation of cargoes by type (liquid and dry bulk, container and break-bulk, dirty and clean cargoes, agricultural goods, etc.).
- Separation of cargoes by direction. This has been instituted, but to the detriment of the flow of goods out of Gaza (i.e. Palestinian exports, as opposed to imports from Israel).
- The development of a layered inspection strategy, in which all cargo goes through a quick inspection, followed by more intrusive inspection for a subset identified as higher risk, and followed by a full inspection for a small percentage identified

Products loaded in Israel do not undergo any security inspection prior to reaching Karni, but are given preference on arrival there. .

⁹ In January 2005 a vehicle carrying militants drove up to the Palestinian side of the Karni wall. The militants blew it open and killed six Israeli civilian personnel.

¹⁰ The shortcomings of modern equipment operating in a procedural vacuum are demonstrated by the failure of the new truck scanner introduced at Karni several months ago to improve the flow of cargo. The scanner, financed by the PA, was installed on the Israeli side of Karni. Rather than using it to accelerate the secure clearance of trucks, it has been used to inspect empty containers exiting Gaza ---a process which could be done more quickly using less costly methods (i.e. laser technology).

¹¹ Palestinian trade associations in Gaza have organized a system of inspection of cargoes prior to their entry into Karni. This process includes the monitoring of packing by the producer as well as representatives from the private sector, the Ministry of National Economy and the Border Control Service.

as high risk. This strategy will obviously work best if based on close bilateral security cooperation, to include on-line information sharing¹².

13. GOI has indicated its willingness to provide “redundancy”---i.e. to offer more than one terminal alternative to ensure against instances of security-related and other terminal closures as well as to promote competition¹³. For Gaza, this useful proposal has fallen victim to a bilateral dispute about border demarcation. Israel is building a passenger terminal at Erez that could be expanded to handle container traffic. However, the parties disagree over the location of the northern Gaza border, with GOI claiming that the new Erez terminal is being constructed mostly outside Palestinian territory, and the PA claiming that it falls well inside Gaza. Unless this dispute can be resolved or set aside by mutual consent, it will be impossible for donors to become involved in work at Erez. In that instance, another option will need to be identified. One such possibility would be to develop the S’ufa crossing.

14. Another important component of a commercially-oriented system is the publication of service standards and procedures. GOI is willing to introduce and publish terminal service standards, but has yet to develop the full range of process changes needed to achieve them. Modern terminal management also requires that clear operating procedures be developed and shared between the cooperating parties, and work on this will be required as an early step in the cooperative process.

15. The December report also recommended that third parties be involved in two ways:

- The private sector—by participating in the establishment of a commercial dispute resolution mechanism.
- Independent experts---by measuring progress in improving the reliability and quantities of cargo flows.

These aspects of sound border cargo management have not received much recent attention, but need to be developed as part of a sound bilaterally-managed system. The seeds of a possible independent reporting approach can be found in a proposal by Paltrade to collect information on cargo flows at Karni. Paltrade is hoping to identify an Israeli partner to collect similar information on the Israeli side of Karni.

16. If these various measures are adopted, they will help create confidence among existing businesses, shippers and potential investors that Gaza’s trade regime is changing, and that commercial viability and international competitiveness are now a real possibility¹⁴.

¹² Such a system should combine information on manufacturers and shippers with specific security intelligence, thereby identifying threats and building histories of reliability. These systems are used by customs and port authorities worldwide.

¹³ Currently, Karni closes whenever a security issue is suspected at or near the crossing. Incidents range from serious incursions (such as the incident in January) to limited visibility (mist or fog).

¹⁴ Recent reports on the interest of the “Chicago Ten” to invest up to US\$500 million in Gaza stress the need for border regime change. In commenting on the Chicago Ten’s plans to establish a Chicago-Middle East Company to trade in Gaza, “Talat Othman, Chief Executive of Grove Financial, an investment group, said they would find buyers, but cautioned the at the timetable for any action would depend on the resolution of border control issues.

D. Simplifying Cross-Border Transport: Alternatives to Back-to-Back

17. The current back-to-back unloading/reloading system aims to ensure security by 100% inspection of cargoes through merchandise handling and sight-verification.

18. From a security perspective, the approach is questionable. Modern trade and security logistics no longer depend on faulty human attention-spans, and instead require a multilayered approach which focuses security personnel on the purposeful inspection of higher risk cargoes (the example familiar to all travelers is the system at Ben Gurion Airport for outgoing passengers).

19. From a commercial perspective, moreover, the back-to-back system as currently implemented constitutes a virtually insuperable impediment to competitive cargo movement. Problems include:

- Increased handling costs, delays and cargo damage, which place Palestinian producers at a significant competitive disadvantage relative to other exporters (including Israeli exporters).
- Excessive trucking costs, as a result of delays at the border.
- Increased delays and further uncertainty in the delivery of exports (compounded by delays in the arrival of inputs). This makes it impossible for many Palestinians to guarantee delivery dates in a global market increasingly attuned to just-in-time contracts.

20. Much of the world has moved to more sophisticated methods of secure cargo transfer between trucks¹⁵. Modern, efficient and secure alternatives to the current back-to-back system include:

- Movement of the trailer across the border, with an exchange of tractor and driver.
- Movement of the container across the border, onto a different trailer.
- Use of “smart containers”¹⁶ and sealing technology to secure the contents of the container, and thereby reducing the need for multiple inspections.
- Use of stripped-down, or “standard” trailers, to better allow for ‘clean’ scanning.

21. All of these alternatives include the use of scanning and a layered inspection strategy. Properly integrated into a holistic management approach, scanners will both increase the security of inspections and accelerate throughput.

22. Despite the existence of safe and efficient alternatives, GOI has until recently not confirmed its willingness to dispense with back-to-back procedures for containers and/or

“No amount of investment will be of value unless Israel lifts the checkpoints so they can get merchandise through. If that doesn’t happen, this doesn’t work.” From *Financial Times.com*, June 18, 2005.

¹⁵ Back-to-back processes were once common, dating back at least as far as the medieval border exchanges along the Silk Route. They have now been replaced in almost all parts of the world by transit arrangements---with some exceptions in Asia (Borneo, Bangladesh) and on the US-Mexican border,

¹⁶ This technology, which has become inexpensive and widely available, uses WIFI technology to give detailed information on what is loaded into the container and whether it is has been tampered with during transport.

trailers. In presenting construction plans for a new border terminal in the area of Tulkaram to the Donor Team on June 5, the GOI Borders and Access Team described a unilaterally-managed site similar in some key respects to Karni, and including back-to-back offloading areas plus a security wall for the passing-through of goods. It was also implied that the scanners GOI wishes to procure for the facility would be adequate for customs inspection, but not for security purposes¹⁷. It is also worth noting that the Donor Team learned from its GOI counterparts of significant resistance from Israeli trucking interests to Palestinian trailers being hauled in Israel, suggesting that official support for the current approach may be based in part on commercial considerations.

23. However, in the trilateral meeting of June 19 between Ministers Mofaz and Dahlan and the Quartet Special Envoy on Disengagement, James D. Wolfensohn, Minister Mofaz accepted the principle of door-to-door movement in place of today's back-to-back system, and agreed that the parties should initiate discussions on how door-to-door movement can be put in place. This is a very significant adjustment in GOI policy and, if implemented, would represent a quantum step towards reconstituting a commercially viable logistics management system.

24. In the light of this major development, the Bank will shortly share with the parties “*A Schematic for Cross-Border Terminal Operations*” which will illustrate how door-to-door operations can be established in the Israeli/Palestinian environment, on the basis of best international practice.

E. Establishing a Secure and Efficient Link Between West Bank and Gaza

25. GOI has presented a proposal for a rail link for passengers and cargo between Gaza and Tarkumiya in the West Bank, to include the construction of 31 km. of dedicated track..

26. The obvious point to make is that no rail alternative substitutes for the short-term reconnection of Gaza and the West Bank using road transportation. GOI sources have indicated that under the most optimistic assumption, a West Bank-Gaza rail link would probably take at least three years to build.

27. For the near-term, the PA has made it clear that it wishes to see traffic move between Gaza and the West Bank according to the modalities of the Safe Passage arrangements. The December report proposes that as an interim measure an escorted convoy system accompanied by improved border management procedures could provide secure movement within acceptable time-frames, and should be reinstated without prejudice to the question of “a return to the provisions of previous agreements”¹⁸. In the June 19 trilateral meeting between Ministers Mofaz and Dahlan with Mr. Wolfensohn, both parties agreed to implement a convoy system forthwith. This system should not be limited to cargo, but should permit the movement of passengers as well.

¹⁷ If so, it is not clear how such scanners would expedite the clearance of fully loaded containers, nor how their cost would be justified.

¹⁸ *Overview*, paragraph 56. A convoy system might be managed most efficiently by a private sector security contractor, and could use tracking equipment to assure against deviations from route.

28 For the medium-term, it seems unlikely that rail can offer a competitive economic alternative to road. A preliminary estimate by the World Bank of the cost of a sunken road connecting Gaza to the southern West Bank suggests a number of advantages over rail.

- Establishment costs would be cheaper, or comparable. The pure construction and equipment costs appear to be less; the all-in establishment cost would depend on a) the cost of acquiring the right of way, b) the protective infrastructure put in place above the roadway), and c) whether or not any kind of terminal was needed at the Gaza end of the road. The construction cost of a sunken road depends on the design parameters---but a 42 km, 4-highway road sunk to a depth of 5 meters would cost c. US\$123 million. This compares to a railway capital cost (track, equipment, two terminals) estimated by GOI at US\$175 million.
- Transit would be faster than via rail, which involves two off-loadings—from truck to rail at one end, and rail to truck at the other.
- The unit costs of truck transport over this distance are likely to much less than for rail.
- There would be no need for a terminal at Tarkumiya. Although the cost estimates provided above provide for inspection facilities at the Gaza entry/exit, this would only be justified if there were solid reasons to believe that the Rafah border and the sea and air approaches to Gaza were insecure.

29. Bank Staff have prepared a brief note on the issue in a June 19 paper entitled “*The Gaza/West Bank Link—Rail vs. Road*”. Further detailed analysis of the Erez-Tarkumiya railway proposal is warranted, and a more careful comparison should be made between rail and road. The Bank has been asked by both parties to undertake such a study and will do so in the coming months.

F. The Supply Chain: Movement from Point of Production to Final Market

30. The Donor Team’s approach to the restoration of Palestinian economic viability involves assessing cargo movement from the point of production or value-added to its final market. For this reason, it is not enough to focus on border terminals alone since they are only part of a trade corridor which involves internal movement within the West Bank or Gaza, cross-border movement, and movement through Israel and beyond Israel’s borders.

31. While Israel’s disengagement from Gaza will leave Gaza free from internal closure, the same is not true of the West Bank. Israel’s Disengagement Plan envisages “Palestinian territorial contiguity” in the northern parts of the West Bank, but details on this remain scarce. The future status of the system of checkpoints and roadblocks in the rest of the West Bank also remains unclear¹⁹. As reported by OCHA, the number of fixed obstacles has been reduced in

¹⁹ On the eve of the *intifada*, there were approximately one dozen checkpoints in the West Bank (most of them around Jerusalem); by 2003, the number of obstacles of all kinds exceeded 700. This resulted in the severe fragmentation of the West Bank. As the maps prepared for the December report show, these obstacles also block access to many of the main roads in the West Bank, which are now partially or wholly restricted for use by Israelis (the military and settlers). With the Separation Barrier slated for completion in 2006, a drastic reduction in the number of checkpoints might be envisaged---but GOI clarified to the Bank in 2004 that the rationale for internal closure relates to protection of settlers and settler access as well as to the interdiction of terrorists intent on attacking Israel. Evidence that GOI intends to maintain internal closures beyond the completion of the Barrier is

recent months, from 680 in November 2004 to 605 by mid-April 2005. The sheer quantum of remaining obstacles, combined with the frequent use of “flying” (temporary) checkpoints constitutes a formidable constraint to free movement of both people and goods. Nor do quantitative reductions in fixed obstacles of themselves address the issue of access along main trade routes and into specific areas, something which is not captured by current OCHA data.

32. The Bank’s work clearly recognizes the connection between Palestinian security actions and the dismantling of the internal closure regime, as stipulated in the Roadmap²⁰.

33. A focused bilateral dialogue is now needed on the issue, since a failure to come to grips with internal movement restrictions in the West Bank will cripple efforts to revive trade and overall Palestinian economic activity. The Quartet Special Envoy for Disengagement has identified the restoration of free movement between Palestinian towns and villages along existing roads in the West Bank as essential to the recovery of the Palestinian economy. While appreciating the relationship between the removal of internal movement restrictions and security, he has indicated that much more needs to be done than has been in recent months. At the trilateral meeting on June 19, it was agreed to establish a bilateral working group to review this crucial question.

34. Any dialogue on internal movement in the West Bank should be mindful of the fact that donors have made it clear they are not prepared to finance any network of alternative roads and underpasses, and that they perceive the solution to internal movement constraints in the West Bank to lie in the progressive removal of obstacles and the re-opening of the roads along which Palestinian movement is currently restricted.

arguably found in GOI’s 2004 proposal that donors finance 52 roads and 16 under/overpasses for Palestinian use (see *Stagnation and Revival?* for further analysis of GOI’s “alternative roads” proposal).

²⁰ “Israel takes all necessary steps to help normalize Palestinian life. Israel withdraws from Palestinian areas occupied from September 28, 2000 and the two sides restore the status quo that existed at that time, as security performance and cooperation progresses.” *A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict*, April 2003.

Attachment

From the Overview Volume of “Stagnation or Revival?” World Bank, December 2004

II – Borders and Trade Facilitation

Border Crossings

34. **The economic objective in reforming today’s border regime is to permit the market to once again determine import and export flows.** The Bank’s June 23 report states that “there are a number of steps which can be taken to maintain or even enhance Israeli security while greatly improving cross-border security while greatly improving cross-border cargo management”¹, a position that the INSC/MOFA team accepted.

35. **The safe and efficient operation of border crossings² is, by definition, a cooperative effort.** The difficulty of proposing improvements to two parties in conflict is obvious. While a neutral, technical analysis of options has its place, it is no substitute for the renewal of shared understandings, their translation into transparent operating procedures, and a mutually supportive effort to monitor and enforce them. With this caveat, the following conclusions can be drawn from the donor team’s extensive interaction with GOI and the PA on the subject. A fuller treatment of the issues is to be found in **Technical Paper I**.

16. **Israel is proposing to upgrade the border crossings. This could make a significant contribution to restoring cargo movements to pre-*intifada* levels, and laying a basis for future expansion.** The potential benefit from the proposed upgrades, though, may be significantly undermined if a number of key issues are not adequately addressed.

37. **As detailed in Technical Paper I, needed improvements are of two types – i)** physical improvements, specifically terminal reconfiguration and expansion, the introduction of up-to-date security technologies, and the expansion of the Israeli railway network; and ii) procedural reforms, featuring the introduction and monitoring of sound commercial management methods.

38. **The PA welcomes “efforts to guarantee a steady volume and flow of cargo”³, but has emphasized that any enhancements should be consistent with the provisions of the Paris Protocol and other applicable bilateral agreements, and should not detract from the Roadmap’s call for a normalization of Palestinian life and return to the September 28, 2000 *status quo ante*.** The PA has in particular stressed that security incidents need to be handled in a manner both proportional to the event, and coordinated between the two parties⁴. The PA also advocates the use of published principles and rules for border crossings, and the introduction of binding dispute settlement mechanisms⁵.

Proposed Physical Improvements

39. **GOI is proposing to reconstruct/upgrade several terminals located between West Bank/Gaza and Israel**, to improve traffic flow and berthing facilities as well as the facilities for travelers. The program would include the relocation of the Erez terminal to the Israeli side of the border and its expansion to accommodate cargo as well as people, with a planned completion date of August 2005. Initial estimates suggest that these enhancements would cost about US\$59 million⁶.

40. **An unresolved issue relates to the number and location of border crossings between the West Bank and Israel**⁷. The Oslo Accords do not specify border crossings for persons and goods between Israel and the West Bank⁸, but refer only to movement being controlled by applicable laws and regulations. Israel is proposing five border crossings (see **Map 5b**); of the five, however, three are situated on the alignment of the Separation Barrier where it deviates east from the Green Line. Neither the PA nor the majority of donors will support these proposed locations, particularly in view of the International Court of Justice's Advisory Opinion⁹. An alternative that would satisfy both the PA and the donor community would be to locate all five crossing terminals on the Green Line. The ongoing realignment of the Separation Barrier, pursuant to the Israeli High Court's decision on the petitions filed by residents of Beit Sourik contesting the route of the Separation Barrier north-west of Jerusalem¹⁰, should facilitate this.

41. **GOI is proposing to introduce major technological upgrades**, to include the purchase and installation of modern electronic systems that would permit much faster and more secure scanning of cargoes and people passing through the border crossings. The menu of technologies would vary in accordance with the projected usage of a particular crossing and the funds available. Initial estimates for an optimal technology upgrading of the 9 crossings and terminals under consideration by GOI¹¹ amount to some US\$76 million.

42. **GOI is also considering two railway projects.**

- The first would be a 4 km. spur to link Erez with the national grid and thereby connect to Ashdod and Haifa ports. The project would likely take about two years to complete¹². The estimated cost of the rail line, a terminal in Erez and the train would be approximately US\$ 21 million¹³.
- The second project would connect Sha'ar Efraim (near Tulkaram) to the Israeli national railway grid via a spur to join the Eastern Railway. A short rail link and a tunnel would be needed once the main line is built (at present the Eastern Railway is planned for construction only after 2010). This, it is intended, would permit a cargo connection to Ashdod and a passenger connection between the northern West Bank and Gaza. The project's anticipated cost is around US\$18 million.

43. **The PA has indicated that it would in principle welcome the two railway projects, while noting that this new mode of transport should complement, not replace existing**

modes¹⁴. The Bank agrees with this position, since this would help foster competition. The PA has indicated that it would also welcome this project as an alternate transport mode.

44. **Israel is seeking an external financing contribution to the capital costs of the terminal infrastructure/equipment program**, currently estimated at US\$135 million¹⁵.

New Procedures

45. **While reconstructing and re-equipping border terminals paves the way for secure, rapid and predictable cargo handling, this will not occur without a significant adjustment in facility management policies; without them in fact, the net result could be higher levels of restriction.** GOI has proposed four significant improvements:

- **Extending terminal operating hours.**
- **Adoption of the “redundancy principle”.** The INSC/MOFA team stated that “an alternative passage will be made available if a primary passage is closed”¹⁶. This position acknowledges a need to avoid imposing blanket closures in response to specific incidents or threats, and is evidenced in plans to reconfigure Erez and Karni to handle both people and goods¹⁷ – though its meaning and application in the West Bank have yet to be worked out. It will be important to clarify GOI’s policy position to transport operators; a clear written statement would have a significant impact on investors’ and shippers’ risk perceptions¹⁸.
- **The application of service standards.** The introduction of published norms has improved border cargo management in many countries¹⁹. Under such a program, an individual shipper is made aware of the procedures applicable to his shipment, and the terminal agrees to abide by a set of performance measures (such as average time per inspection, and the percentage of shipments subjected to various levels of inspection). Service standards should be applied to both security and customs inspections, and to both Israeli and Palestinian terminal managers. The INSC/MOFA team shared with the donor team a set of service standards which have been agreed for Israeli terminals (see **Technical Paper D**); this is promising evidence of a new approach to managing Palestinian cargo²⁰. It is proposed that these service standards be further refined in discussion with Israeli and Palestinian commercial operators, and that they be invited to help GOI monitor their implementation.
- **GOI is considering placing the management of all terminals in the hands of civilian contractors.**

46. **An important unresolved issue is GOI’s position that “at this time, the ‘back-to-back’ regime will continue to apply with regard to the movement of goods”**²¹. The back-to-back system involves the transfer of goods from one truck/container to another, and results in extensive delays, damage and additional cost; it is motivated in part by a prohibition on Palestinian trucks from entering Israel, and on Israeli trucks from entering Gaza (though not, at present, the West Bank²²). The application of this system is incompatible with an efficient flow of imports and exports. The Bank’s view is that a combination of the following measures will

allow GOI to do away with mandatory back-to-back transfer without appreciable additional security risk.

- **Containerization/sealing.** With the exception of bulk cargoes such as sand and building aggregates (which are not especially time-sensitive), all cargoes should be transported in containers or trailers that can be sealed. This can be facilitated by establishing consolidation areas on the Palestinian side of border crossings.
- **Scanners.** Full truck/container scanners would be used to perform inspections with subsequent physical inspections limited to situations where anomalies are observed during the scanning.
- **One-Stop Inspection.** Containers can be fitted with tamper-proof seals at the point of shipment or the entry port (for imports), or at the border terminal (for exports). Once sealed, subsequent inspections would be limited to ensuring the seals are intact.
- **Trailer Circulation.** Back-to-back procedures can be avoided if container trailers are permitted free circulation between Israel and West Bank/Gaza, exchanging tractors and drivers in the process. Scanning of the container would be combined with a simple chassis inspection. New trailer chassis could be custom-built without compartments or other features that can be used for illicit purposes. GOI has indicated that it is willing to test this concept.
- **Order and Selectivity in the Inspections System.** The number of inspections can, as a result of the measures listed above, be reduced to a combination of risk-driven and random interventions. Systematizing this reduced inspection regime will require that GOI introduce an on-line cargo risk management system (combining basic information on manufacturers and shippers with specific security intelligence) in order to identify threats and build histories of reliability. Such risk management systems are commonly used by customs and port authorities worldwide.

47. **Another issue for further discussion is the institution of a commercial dispute resolution mechanism²³.** To ensure full commercial confidence, a system for mediating claims made by shippers against unreasonable delay and/or cargo spoilage, subject to impartial and binding resolution, is the international norm. The PA believes such a mechanism is necessary (see paragraph 38), though GOI has indicated this may be impractical in today's security context²⁴. In an improving bilateral environment, however, the subject should be reviewed once again. Models that can provide indicative guidance include the WTO Agreements and the TIR Convention²⁵.

Piloting Change

48. **The combination of commitments, intentions and possible solutions related to border crossings should now be tested in the field.** It is therefore recommended that integrated cargo management programs be developed as a matter of urgency at Karni Terminal (Gaza) and Jalame Terminal (northern West Bank). These pilots, it is suggested, should feature i) terminal infrastructure upgrades on both sides of the border; ii) the introduction of electronic and biometric security equipment on the Israeli side; iii) the development of on-line information systems, with data links between GOI and the PA; iv) the abolition of back-to-

back procedures for containers; and v) the development, in consultation with Israeli and Palestinian shippers, of terminal service standards and recourse methods. The pilot should be closely coordinated between GOI and the PA. It is further proposed that an independent service provider with recognized international credentials observe the progress of the pilot and report on it to the two parties and to interested donors. An early and successful implementation of this pilot program would be very important in demonstrating to investors and to donors that a border regime responsive to the needs of the Palestinian economy is under development, and merits consideration of donor financial support.

Gaza Sea and Air Connections

49. The Palestinian economy needs direct access to international markets. In this context, sea and air facilities in Gaza assume significant importance.

50. GOI has shown interest in supporting the early construction of a Roll-On, Roll-Off (RoRo) cargo port in Gaza, but has not made any commitments so far. In view of uncertainties about how quickly commercial demand for a Gaza port will grow, the RoRo approach offers a relatively rapid and cost-effective way to initiate the development of a full-service seaport. GOI has suggested that this project may not after all need to await Israeli withdrawal from Philadelphi²⁶. For its part, the PA would “welcome a RoRo facility with Port Said which will lead to the opening of a fully functional Gaza port in the near future”. The RoRo concept is described in more detail in **Technical Paper I**.

51. Air services are also important, and preference should be given to reconstruction of the airport and a resumption of fixed-wing air services. The Bank has suggested beginning the restoration of Gaza’s air services with a helicopter connection to Amman²⁷, again arguing that this offers a rapid first step in enabling business connections. The PA insists that the airport should be reopened quickly, since a helicopter service alone is not considered adequate for Gaza’s current air transport needs²⁸. For its part, GOI has indicated that it is not in favor of fixed-wing services on security grounds, but has said it would consider a helicopter service with Amman²⁹.

52. For sea and air services to proceed, credible security arrangements need to be in place in Gaza. The Government of Egypt has indicated that it is willing to receive vessels and cargoes from Gaza³⁰, and would perform security inspections on incoming and outgoing cargoes. This would not insulate a vessel against interference on the high seas, however. Since Israel is committed to evacuating all Israeli citizens from Gaza, and since PA security inspections alone are unlikely to satisfy Israeli requirements at this time, rapid development of the RoRo initiative and of air services would require a third party security involvement. One potentially workable approach would combine the use of a specialized border security firm and the active sponsorship of one or more concerned countries. The PA would not in principle be averse to this, as long as the third party works in partnership with the PA³¹. For Israel, third party involvement in matters pertaining to Israeli security would break new ground, and requires further consideration.

Linking Gaza and the West Bank

53. **Building a strong transport connection between Gaza and the West Bank is vital – but finding a mutually acceptable solution has not been possible to date.** An unfettered flow of people and goods between Gaza and the West Bank is needed to link the two territorial elements of the Palestinian economy, and to lay the basis for viable statehood. A functioning link would create a larger effective internal market, help trigger price and income convergence between Gaza and the West Bank (by directing factors of production more efficiently), and provide a pathway from the economy of the West Bank to a future seaport in Gaza. Both GOI and the PA have taken strong positions on the issue. GOI is not willing to re-instate the “safe passage” arrangements provided for in the Oslo Accords³². For its part, the PA has indicated that “in the immediate term, a territorial link (TL) must be devised which will address the immediate economic (and other) needs of the Palestinians, without prejudicing any permanent arrangements regarding the TL. Also key is that any arrangements made must safeguard the spirit of the safe passage arrangements in Oslo”³³.

54. **Today’s arrangements do not even satisfy minimal economic requirements.** The number of trucks crossing between the West Bank and Gaza is far fewer than in the pre-*intifada* period and cargoes are subject to long en-route inspection delays and low priority status at Karni, disadvantaging them relative to cargoes from Israel³⁴.

55. **International experience in establishing and maintaining an efficient passage for people and goods has increased dramatically in recent years.** Significant progress has been made in the design of protocols, procedures and protection to facilitate the movement of goods and people through such corridors. Such experience could be brought to bear in the local context.

56. **The link between Gaza and the West Bank should permit flexible and low-cost transport compatible with improved Palestinian market competitiveness.** A simple road connection offers the best solution. Border security can be assured using a combination of container scanning and sealing technologies, combined with vehicle tracking devices to monitor movement across Israel³⁵. As a practical measure, it is proposed to pilot such an arrangement on one designated route as soon as the Karni and Tarkumiya border crossings have been equipped with the required technology. In the meantime, and without prejudice to a return to the provisions of previous agreements, an escorted convoy system could be reinstated³⁶.

57. **Options for a dedicated link are technically problematic.** These would require the construction of permanent infrastructure; rail connections, elevated roads, fenced roads and tunnels have all been suggested. GOI has proposed a rail connection, initially for people, between Tulkaram and Ashdod (see paragraph 42). The short distances and limited volume of bulk cargo would likely make this more costly and less convenient than road transport, however. An elevated road or tunnel would be expensive to build because of the civil works involved; furthermore, the traffic volumes under the most optimistic recovery scenario may make such an investment hard to justify. A structure of this kind could also be vulnerable from a security perspective.

¹ *Disengagement, the Palestinian Economy and the Settlements*, op. cit. paragraph 34.

² These are of five kinds – i) between West Bank/Gaza and Israel, ii) transit gateways (Ashdod, Haifa, Ben Gurion Airport); iii) between West Bank/Gaza and third countries (Gaza and Egypt, West Bank and Jordan), iii) sea and air connections from Gaza; and v) between Gaza and the West Bank.

³ *Border Regime: Response to World Bank Presentation*, PA/Negotiations Support Unit, August 6, 2004, informal paper.

⁴ “Any response to a specific and actual threat [should] be dealt with in an individualistic, proportional, and transparent fashion based on necessity. We insist that any such response not ever result in the closure of an entire crossing point, and any partial closure must be regulated, coordinated and not exceed a specific time agreed between the two parties in advance as appropriate for the specific threat posed.” *Border Regime: Response to World Bank Presentation*, op. cit.

⁵ *Principles Guiding Palestinian Perspectives*, Negotiations Support Unit, remarks on August 16 meeting with the donor team, informal paper.

⁶ INSC note, November 30, 2004.

⁷ For Gaza, Israel proposed retaining Erez and Karni, but closing Sufa and Rafah in favor of a combined terminal at Kerem Shalom on Israeli soil in the Egypt/Israel/Gaza “triangle”. GOI argued that relocation away from Rafah, which is violence-prone and therefore risky for Israeli terminal operatives, and thus subject to frequent closure, would offer the prospect of much-increased flows of cargo and people; after disengagement, it would then be up to the PA and the Government of Egypt to agree border arrangements. The PA pointed out to the donor team that the Gaza border crossings were agreed bilaterally, and that any new arrangements should also be subject to bilateral agreement. The PA specifically objected to the Kerem Shalom proposal out of concern that this move would perpetuate Israeli control over Gaza by reducing Israel’s motivation to evacuate Philadelphi (“After the creation of the tri-point crossing point, Israel would have no incentive to cede control, and as such the tri-point is likely to perpetuate such control.” *Border Regime: Response to World Bank Presentation*, op. cit.). The Government of Egypt also informed the World Bank in September 2004 that it was opposed to moving the terminal to Kerem Shalom. On November 14, the INSC/MOFA team informed the donor team that the Kerem Shalom idea had been dropped for now.

⁸ Other than in the “safe passage” context – for which the crossing points from the West Bank to Gaza are Tarkumiya and Mevo Horon.

⁹ “The Advisory Opinion of the ICJ has particular implications for donors, as it specifically declares that all States are under an obligation not to recognize the illegal situation resulting from the construction of the Barrier and that they are under an obligation not to render aid or assistance in maintaining the situation created by such construction. . . . Such a declaration by the ICJ is most likely aimed at assistance that would directly aid Israel in maintaining the Barrier in operation, for instance contributing to the construction or servicing of the Barrier within the West Bank.” *Impact of Israel’s Separation Barrier on Affected West Bank Communities: Economic Impacts and Legal Developments. Follow-Up Report to the Humanitarian and emergency Policy Group (HEPG) and the Local Aid Coordination Committee (LACC)*, December 2004.

¹⁰ *Beit Sourik Village Council vs. 1. The Government of Israel and 2. Commander of IDF Forces in the West Bank*, The Supreme Court of Israel Sitting as the High Court of Justice, H CJ 2056/04 (February 29, 2004; March 11, 2004; March 17, 2004; March 31, 2004; April 16, 2004; April 21, 2004; May 2, 2004). In this case the Court ruled that a certain portion of the Separation Barrier (30-40 kilometers) violated international humanitarian law on the basis that it resulted in disproportionate harm to Palestinians in the area, and that construction should be halted until a new route is proposed. The reasoning provided by the Court included the following: more than 13,000 farmers would be cut off from land, which is the source of their livelihood; no attempts were made to provide the farmers with alternative land; and the system of gates would create considerable difficulties for farmers trying to tend to their land. This would compound the already difficult situation, in particular the high rate of unemployment, of residents of the area; thus the proposed route violates their rights to property and freedom of movement. The Court noted that an alternate route that does not separate residents from their land, or which separates them to a lesser degree, would provide proportionality.

¹¹ Gaza: Karni, Rafah, Sufa, Erez; West Bank: Jalame, Sha’ar Efraim, Tarkumiya, Allenby; Israel: Ashdod Port.

¹² This extension would be added to a larger project (the Ashdod – Yad Mordechai rail link) which is currently planned for 2008.

¹³ Or NIS 95 million. This consists of NIS 80 Million for 4km of rail, the terminal and security technology (including scanners), plus NIS 15 million for the train. Source: INSC.

¹⁴ *Notes on the Territorial Link*, PA/Negotiations Support Unit, 16 September 2004, informal paper.

¹⁵ “Israel will not be able to bear the full costs associated with such improvements. To meet the desired goals, there would have to be some other form of sharing of the financial burden.” *Economic Aspects of the Israeli Disengagement Plan, Meeting with the World Bank*, INSC, op. cit. Incremental operating costs associated with managing these various expansions and upgrades, including the costs associated with extra shifts, total some US\$5 million per annum; these would be borne by GOI.

¹⁶ *Israeli Disengagement Plan – Dialogue with the World Bank – Status Report*, INSC, op. cit.

¹⁷ Currently, Karni handles goods alone, and Erez only people. Under the Oslo Accords, passage between Gaza and Israel is provided through Erez (persons and vehicles, not goods) and Nahal Oz, Sufa and Karni (for commercial goods, not people).

¹⁸ This is not to imply that sensitive security information should be shared with commercial operators.

¹⁹ The World Bank’s Trade and Transport Facilitation for South Europe project features the use of performance standards; such standards have measurably benefited border cargo management in a number of Eastern European and Central Asian countries.

²⁰ “The setting of standards of service, together with the dedication of alternative passages, reflect the goal of enabling the efficient and continuous operation of the passages, but for exceptional security concerns.” *Economic Aspects of the Israeli Disengagement Plan, Meeting with the World Bank*, INSC, op. cit.

²¹ *Israeli Disengagement Plan – Dialogue with the World Bank – Status Report*, op. cit.

²² At present, Israeli-registered trucks are not allowed into Gaza, and it is understood that this restriction would be extended to the northern West Bank after disengagement.

²³ The dispute resolution mechanisms envisioned under the Oslo Accords deal with disputes arising from the implementation of the Accords, and are thus not directly applicable to commercial disagreements.

²⁴ Conversation between the donor team and the INSC team, November 14, 2004.

²⁵ General Agreement on Tariffs and Trade. GATT’s 1994 integrated dispute resolution procedures, as revised and strengthened by the Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes, provides a possible model, as does Article 8.9 of the Free Trade Agreement Between the Government of Canada and the Government of the State of Israel (January 1, 1997). The latter provides for binding arbitration.

²⁶ “If and when the conditions permit the evacuation of [the Philadelphi Route], the State of Israel will be willing to consider the possibility of setting up an airport and a seaport in the Gaza Strip, subject to arrangements agreed upon with the State of Israel.” See *Israel’s Modified Disengagement Plan*, Annex 1 of *Disengagement, the Palestinian Economy and the Settlements*, op. cit.

²⁷ These proposals are discussed in detail in Annex 2 of *Disengagement, the Palestinian Economy and the Settlements*, op. cit. Proposed security and customs procedures at these international Palestinian gateways are described in **Technical Paper I**.

²⁸ *Border Regime: Response to World Bank Presentation*, op. cit.

²⁹ “Israel objects to arrangements for fixed-wing services.” *Israeli Disengagement Plan – Dialogue with the World Bank*, INSC, op. cit.

³⁰ Discussions with the World Bank, August-September 2004.

³¹ *Border Regime: Response to World Bank Presentation*, op. cit.

³² Under the Accords the safe passage of goods and persons was supposed to take place on designated routes during designated times. Permits were to be provided to persons and vehicles, and even those denied permits could travel via escorted public vehicles. While GOI has restricted safe passage for security reasons, the PA is arguing for changes in the safe passage regime that would permit less restrictive movement than that provided under the Oslo Accords. In particular, the PA has recommended that persons be presumed to access safe passage unless the Israelis provide specific security concerns, as opposed to persons having to first apply for permits. The PA has proposed a possible role for third party involvement in ensuring and administering safe passage in order to help address Israeli security concerns.

³³ “The spirit of the safe passage arrangements in the Oslo Agreements provide for movement which is a) guaranteed to all people at all times, irrespective of their security status, b) safe from Israeli arrests/attacks, c) for public and private Palestinian vehicles, d) for goods and people, e) by multiple routes.” *Notes on the Territorial Link*, op. cit.

³⁴ Bank interviews with exporters and importers in Gaza indicate that cargoes from the West Bank are often subject to extensive delays, sometimes up to 3 weeks, when entering Gaza. With daily costs for Israeli trucks of US\$150 per day, such delays make West Bank goods being sold in Gaza significantly more expensive than equivalent goods coming from Israel.

³⁵ Properly equipped tractor-trailers could travel on their own initiative rather than in convoy. This could be accomplished using a GPS system or transponder to monitor movement along fixed routes. These systems are costly and data intensive, however, and given the short distance and transit time an alternative would be to record the times of departure and arrival, and to sanction shippers that exceed acceptable norms. Since the vehicles would be security inspected when departing and then sealed, there is no reason to perform more than a cursory examination of the transit documents and seals at the other end of the journey.

³⁶ Prior to the *intifada*, escorted truck convoys made daily runs between the West Bank and Gaza. Although there were delays associated with organizing the vehicles, with the back-to-back transfers to the special-purpose vehicles that operated within Israel, with securing escorts and traveling at the speed of the slowest vehicle, the convoys provided reliable movement. Transit times, on the order of one day, were greatly superior to today's times.