Information provided in response to queries from the DfID Select Committee

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1. **Preamble**

This document is a response to queries raised by the DfID Select Committee in discussion with HE Ambassador Daniel Taub and in subsequent correspondence with the Embassy of Israel. *Since many of these issues need to be addressed within the framework of final-status peace negotiations, it is difficult to address them in isolation and outside the broader context of Israeli-Palestinian relations.* Nonetheless, in light of the Committee's interest, we are pleased to provide the information requested, and look forward to continuing to work with the Committee in the future.

2. **Construction and Demolition Orders in Area C**

In recent years, Israel has approved **over 300 development plans for Palestinians in Area C**. These include medical facilities, water and electricity lines, roads, wastewater treatment plants, garbage disposal, among others. Israel is also in the process of approving **19 master plans for the construction of Palestinian communities in Area C**, through coordination with the local population. Three of these master plans have already been approved. A further five of these master plans are currently in the process of being published for consultation. The remainder are currently on hold as a result of the Palestinian Authority's unilateral decisions to seek recognition by UN bodies and establish a unity government with Hamas, in violation of the terms of the peace negotiations with Israel.

Many Palestinian construction projects in Area C **do not require building permits from Israeli authorities**. On sites for which there is a master plan for construction, Israeli authorities do not need to approve every building. In such cases, construction proceeds according to the plans and capabilities of Palestinian residents, **without any Israeli interference**.

Disputes arise only in relation to **sites for which there is no master plan** for construction, particularly **when residents commence building without requesting approval**. Sites on which construction has taken place without a general blueprint for construction are predominantly inhabited by **nomadic populations (Bedouin), who have never had permanent dwellings**. These residences have never been defined or recognised by governmental authorities—neither by British, nor Jordanian, nor Israeli administrations.

When an unauthorised building is constructed, the authorities issue an order either to halt construction or to demolish the building. On receipt of such an order, interested parties may apply to supervisory sub-committees to **present their case and appeal the decision**. In certain cases, **the authorities will authorise construction retroactively**. If the interested parties do not exercise their right to appeal or if the appeal is declined, a demolition order will be sent to those in charge instructing them to dismantle the unauthorised structure. If this order is not carried out, and no appeal has been submitted, then the authorities will send a demolition crew.
Israel enforces the laws on construction on all populations in Area C. Since the beginning of 2014, several dozen illegal buildings, including permanent homes, built by Israeli settlers have been demolished in Yitzhar, Ma'aleh Rehavam, Kidah, and Givat Asaf.

It is important to note that international law regarding construction in Area C is complex. Many areas in the territories are categorised as agricultural lands because of a British master plan, which remains legally valid (see section 7.) In addition, during the Jordanian occupation (1948-1967), Jordanian authorities failed to complete an organized land registration for the majority of the southern section of the territories, especially in Judea. As a result, proof of land ownership is often lacking. This complicates the approval of construction requests. Israel is currently engaged in efforts to resolve this problem.

In response to the Committee's query, the Israeli Ministry of Foreign Affairs is further investigating the precise number of construction requests submitted by Palestinians and the number approved by Israeli authorities between 2009 and 2012, and will report back as soon as possible.

The Committee should note that in addition to the 300 Palestinian development plans approved in recent years, 100 Palestinian construction requests have been granted since the beginning of 2013.

3. Availability of 3G & 4G

Six months ago, the Joint Civil Affairs Coordination and Cooperation Committee (CAC) renewed the Joint Technical Committee (JTC) meetings on communications, after a long hiatus, resulting from the failure by the Palestinian Authority (PA) to fulfil obligations agreed at previous JTC meetings. Following these meetings, two implementation committees were established.

The first committee is responsible for transferring equipment owned by the "Wataniya" Company to Gaza in order to operate a second generation cellular network, GSM, and has begun to transfer the equipment successfully.

The second committee is responsible for allocating frequencies to the PA on behalf of the JTC in order to operate the mobile network. Committee discussions remain ongoing and plans have not yet been finalized.
4. Access to Water

All water and sewage issues handled by Israel and the PA are managed in accordance with the "Water Agreement" (Interim Agreement, Annex 3, §40).

Under the terms of the Interim Agreement, it was agreed that the Palestinian allocation of fresh water would amount to 227 million cubic metres (MCM). This total comprises 196 MCM of self-extracted water and 31 MCM supplied by Israel.

In practice, Palestinian access to water currently exceeds their entitlement under the Interim Agreement. The Palestinians currently have access to 265 MCM of fresh water. This comprises 213 MCM of self-extracted water, of which 17 MCM from unapproved wells in the Northern and Western basins, and 52 MCM supplied by Israel. Therefore, Israel is exceeding the amount of fresh water it is mandated to provide to the Palestinians by 21 MCM per annum.

Israel subsidizes the water it provides to the Palestinians, selling it to Palestinian municipalities at below the market price:

**Price of water for Palestinian municipalities:** 2.57 NIS/m³

**Price of water for Israeli municipalities:** 4 NIS/m³

Total Palestinian water consumption amounts to 190 MCM/year. Several factors account for the discrepancy between legally available supply (248 MCM) and total consumed:

1. The PA fails to make use of 30 MCM of allocated water per year by refusing to use treated water for field irrigation. (50% of all cultivated fields are irrigated with treated water in Israel.)
2. Not all of the 248 MCM available has been extracted from the ground.
3. Some of the available water falls under Palestinian "future needs," as defined by the Interim Agreement, and requires deeper wells to be accessed.
4. Construction of deeper wells has been postponed due to lack of funding and internal management issues.
Cooperation in the arena of water is hindered by serious violations of the Water Agreement committed by the Palestinian side. These include:

1. The drilling of 300 wells that have not been authorized by the Joint Water Committee and which are jeopardising the sustainability of the Mountain Aquifer.
2. Water theft through illegal connections to Israeli water infrastructure.
3. Water contamination and environmental damage from untreated sewage, arising from the PA's failure to fulfill its obligation to establish water treatment plants: only 1 of 25 sewage projects intended for the exclusive use of Palestinian villages in the West Bank is being constructed.

Israel is implementing several initiatives to improve water provision for the Palestinian population. Construction is underway to improve waste water infrastructure and treatment in Palestinian towns and cities. In addition to providing 5 MCM of water to Gaza, Israel facilitates the transfer of water equipment to Gaza, and holds water and sewage training sessions for Gazan professionals.

In addition, Israel is pursuing the Red-Dead Canal Project, recently agreed by Israel, Jordan, and the PA, under the auspices of the World Bank, which will provide an additional 30 MCM of fresh water to the PA. Although Jordan is fulfilling its obligation to construct a desalination plant in Aqaba, the PA has prioritised political considerations over the realisation of the project.

5. Electricity Generation in Gaza

Israel continues to supply 127 MW of electricity to Gaza, through 10 electrical lines, accounting for 63% of Gaza's total electricity. Israel has also invested in upgrading the Grizim power line, which accounts for 10% of Israel's electricity supply to Gaza. The upgrade of Grizim has provided a more stable supply of electricity for 70,000 residents in the Gaza Strip's northern region.

Israel also enables the unlimited transfer of fuels such as diesel for the power plant in Gaza, which provides 60-70 MW of Gaza's energy, via the Kerem Shalom crossing.

The fuel crisis in the strip stems from two causes:

1. The tunnels from Egypt were blocked and so cheap, subsidized Egyptian fuel is no longer available.
2. There is a dispute between Hamas and the PA about who should pay for and tax the fuel. This has made the import of fuel into Gaza inconsistent, and even caused the power plant to stop working for certain periods of time.
6. **Situation in E1**

E1 forms part of Area C, and therefore falls under Israeli civil and military control, as per the Interim Agreement.

A particular problem arises in E1, which is public land, from several hundred Bedouin, who are living in unauthorised communities. Some of the residences established by these communities are located in problematic areas, often in close proximity to waste sites and major highways. **These communities have not gone through the legal process of authorisation, which includes consideration of their environmental and human impact. (See section 1 above.)** Some of these communities are currently engaged in legal proceedings at the High Court of Justice.

**No significant demolitions have been carried out in E1**, beyond the seizure of illegal mobile homes—some of which were recently supplied by international organizations. **There is no Israeli construction in E1.**

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7. **Addressing Acts of Settler Violence**

Israel views the sometimes violent "price tag" incidents with grave concern, and has increased law enforcement and preventative measures to counter them. Pursuant to an executive decision by the Israeli government, the Israeli Police established the **National Crime Unit in Judea and Samaria** in 2013. The unit currently consists of 30 police officers and is planned to expand to 80 officers. During 2013, 165 files related to "price tag" incidents were opened, 76 people were arrested, and 31 indictments were submitted. "Price tag" has been defined as an illegal organization and, accordingly, administrative restraining orders are being used.

Actions that have been taken to combat "price tag" attacks:

**Operations:**

1. Establishment of a special police task force (80 positions).
2. Reinforcement of regular police in Area C.
3. Establishment of the "Nationalist Crimes" desk.
4. Reinforced coordination between the Shin Bet, the Police, IDF, and the Ministry of Justice.
5. Increased surveillance through use of advanced technology and expansion of IDF documentation forces.
6. Deterrence of participation in "price tag" attacks through collaboration with education system.

Legal:
1. Categorisation of these attacks as "unauthorized gatherings".
2. Decision to create legal and judicial tools to target the offenders effectively.
3. Greater use of restraining orders to ban offenders from the West Bank.
4. Decision to introduce harsher sentences for offenders.
5. Use of IDF arrest and detention authority.
6. Increase in number of investigation teams.
7. Implementation of procedures that will withhold government funding to organizations and institutions who support these acts.
8. The possibility of opening courts dedicated to this topic is being considered, in order to quicken the judicial process and increase deterrence.

8. **Continuing validity of Jordanian & Ottoman Law**

The legal framework applied in the territories comprises various layers of different legal regimes, including: the legislation that was in effect before Israel took control of the Area in 1967; the *de facto* application of the law of belligerent occupation; and the bilateral agreements that were signed between Israel and the Palestinians. It should be emphasized that **Israeli law does not apply to these territories**, since Israel has not annexed them.

**Ottoman Law** was preserved in the Area during the British mandate and during the subsequent Jordanian occupation (1948 to 1967). While both powers introduced modifications to this legal regime, there are specific Ottoman Laws still in place today, such as the *categorization of land* in accordance with its ownership status.

Under the **British Mandate**, various changes were made to existing laws in the Area, such as the division of the Area into districts (this division has since been modified twice) and the establishment of Regional Outline Plans, which are still in force today.

**Jordanian Law** was applied to the Area by the Hashemite Kingdom of Jordan during the Jordanian occupation of the Area in the years 1948 to 1967, and remains in force today in force today except in cases where the Military Commander has amended or abolished the existing law. **Jordanian law regulates most legal aspects of civil life**, such as labour, property, water, communication etc.

**Israeli Military Law** was introduced to the Area following the 1967 Six Day War, in which the Israeli Defence Forces gained effective control of the Area. In accordance with the relevant provisions of the Law of Armed Conflict, the Israeli Military Commander published a Military Order immediately after the Area came under
Israel's control, stating that the law in place on the eve of the Six Day War would remain in force unless amended or abolished by a military order. All amendments that have been adopted since 1967 have been enacted in accordance with the security legislation published by the Military Commander.

9. Travel Guides in the West Bank

Palestinian tour guides work in areas under the jurisdiction of the Palestinian Authority (including Bethlehem), without any interference from Israel. In addition, Israel has provided 44 Palestinian tour guides with entry permits to Israel and tour-guide licenses in order to work in Jerusalem. Israel is one of many countries to insist that only government-licensed tour guides operate in its territory.

10. Waiting Times at Checkpoints

There are 12 checkpoints in the West Bank, all of which remain "normally open," and are only activated in accordance with the security evaluation. As a result, Palestinians can now travel from one end of the West Bank to the other freely, which was not possible during the Second Intifada.

There are 14 crossings into Israel that serve the Palestinian population, 8 for pedestrians, 2 for commercial goods, 4 for both pedestrians and goods. Since the improvement in the security situation, crossing operations have expanded significantly, the number of entry permits to Israel issued has been increased, and crossing times have been reduced. The Israeli Civil Administration and the Israeli Land Crossing Authority (ICA) have undertaken a multi-annual, 10 million NIS renovation project to improve infrastructure at various crossings.

The number of Palestinian pedestrians crossing into Israel has risen from 7,320,661 in 2010 to 9,320,113 in 2012. 3,244,606 Palestinians passed through ICA crossings between Israel and the West Bank in the first half of 2013, representing a 15% improvement on the same period in 2012.

Approximately 30,000 Palestinians enter Israel on a daily basis.
The average processing time for a Palestinian worker at an ICA crossing is 7 minutes.

1,600 commercial transfers take place at ICA crossings on a daily basis.
The average transfer duration is 45 minutes.
11. Blockade of Gaza

Since 2001, more than 12,800 rockets and mortars, an average of 3 attacks every single day, have landed in Israel in Gaza. Hamas, which exercises *de facto* but not *de jure* control over Gaza, is recognised as a terrorist group by the US and the EU. Hamas is ideologically committed to Israel's destruction and continues to commit acts of terror against Israeli civilians.

Building supplies admitted to Gaza are often used for the construction of underground tunnels for the purposes of terror attacks against Israeli soldiers and civilians, such as the abduction of Gilad Shalit in 2006. In October 2013, the IDF discovered a *tunnel that stretched 1.7km and used 500 tons of cement earmarked for civilian building*. In March 2014, the IDF discovered a tunnel stretching 2.5km, the longest to date. Hamas spends 20-30 percent of its military budget on the development of its underground infrastructure.

Israel has implemented a restricted civil policy toward Gaza in order to protect its citizens and because direct relations with Hamas are impossible.

Nonetheless recent stability in the security situation has permitted an expansion in civil policy, and an increase in traffic at both the pedestrian crossing into Israel (Erez) and the commercial crossing (Kerem Shalom).

The Erez crossing is in operation 365 days per year, 24 hours per day. An average of 350 people enter Israel from Gaza via Erez every day. There was a 238% increase in Palestinian entries into Israel between 2009 and 2012. In April 2014, 11,867 people crossed through the Erez terminal.

As a result of an **80 million NIS investment by Israel**, the Kerem Shalom crossing can accommodate **450 trucks per day**. Currently, **300-350 trucks enter per day**, in response to current Palestinian demand. All civilian items are allowed into Gaza with the exception of weapons and "dual use" items (items that could be used for terrorist purposes).

Israel does its utmost to facilitate medical treatment for Gazan residents when such care is not available in the Gaza Strip. In cases of dire need, **Israel issues medical permits to Gazan patients in order for them to receive medical care in Israel**. In 2013, **13,734 permits for healthcare in Israel were granted**. Of these, 4,519 required specialized medical transport, which was provided for them. 44% of those requiring medical transport were treated in Israeli hospitals. In 2013, **1,189 ambulances requested permits to enter Israel and 1,188 received permits**; only one was refused. In addition, Israeli authorities coordinated the entry of **2,311 truckloads of medical supplies**, carrying thousands of tons of medical equipment, into Gaza in 2013.

Many restricted items are approved for use in projects funded by the international community. Between 2010 and 2012, 30,201 trucks entered Gaza carrying
construction materials for international projects. **277 international projects have been approved since 2010** (see appendix for details).

The export of all produce from Gaza has been approved for sale abroad. From July 2012 to July 2013, **over 842 tons of fruit, vegetables, and spices** and **over 12.2 million flowers** were **exported from Gaza** via Israel.

### 12. Illegal Outpost Settlements

Several decades ago, the Israeli Supreme Court ruled that **privately owned Palestinian property could not be seized for Israeli settlement building**. This ruling is in accordance with international law, which forbids the seizure of privately-owned land by an occupying power for non-military purposes.

This ruling has since been enforced, most notably in the 2007 High Court of Justice ruling, which ordered the demolition of 23 illegal settlements. In 2009, the buildings in question were demolished in one day.

On the 14th of May 2014, **Israel demolished and evacuated ten structures in the Ma'aleh Rehavam outpost**, after the High Court rejected claims by settlers that the land in question had been purchased legally.

**As with the demolition of unlawful Palestinian structures, Israeli settlers are entitled to contest demolition by making use of the legal recourses at their disposal.**
13. **Addenda**

I. **General**

[http://www.knesset.gov.il/process/docs/heskemb4_eng.htm](http://www.knesset.gov.il/process/docs/heskemb4_eng.htm)

II. **Access to Water**


III. **Electricity Generation in Gaza**

Admission of the role of Hamas obstruction and corruption in causing Gaza's energy crisis by Palestinian diplomat in London:  
[https://www.youtube.com/watch?v=RYKNE4TWmHs&feature=youtube_gdata](https://www.youtube.com/watch?v=RYKNE4TWmHs&feature=youtube_gdata)  

IV. **Waiting Times at Checkpoints**


V. **Blockade of Gaza**

Civil Policy in the Gaza Strip 2012-2013: [http://www.the Israeli administration.idf.il/Sip_Storage/FILES/7/4207.pdf](http://www.the Israeli administration.idf.il/Sip_Storage/FILES/7/4207.pdf)


Hamas tunnels: