

# **EU-Palestinian Trade Relation towards a Viable Palestinian State<sup>1</sup>**

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## **Introduction:**

The European Union (EU) is keen to have a trade agreement with Occupied Palestinian Territory, despite the fact that; "occupied Palestinian Territory is not yet a fully independent and sovereign state".<sup>2</sup>

The EU's trade relations with the Palestinian Authority (PA) started in the context of the Barcelona process of 1995<sup>3</sup>, whereby the EC and the Mediterranean countries sought to establish a common area of economic and political stability,<sup>4</sup> a zone of shared prosperity through an economic, financial, social and cultural partnership.<sup>5</sup> Moreover, the Euro-Mediterranean Interim Association Agreement on trade and cooperation (IAA) between the European Community and the Palestinian Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and Gaza Strip (WBGS) was signed in February 1997.<sup>6</sup> The IAA aimed to provide a suitable framework for cooperation and development of relations between European countries

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<sup>2</sup> Euromed Gender Quality Programme, National Situation Analysis Report: Women's Human Rights and Gender Equality, Occupied Palestinian Territory. Available online at [http://www.enpi-info.eu/files/publications/Situation%20Analysis\\_Report\\_OPT.pdf](http://www.enpi-info.eu/files/publications/Situation%20Analysis_Report_OPT.pdf), accessed on October 15, 2011, p . 13

<sup>3</sup> The Barcelona Process was launched in November 1995 by the Ministers of Foreign Affairs. See, European Union External Action. Available online at [http://www.eeas.europa.eu/euromed/barcelona\\_en.htm](http://www.eeas.europa.eu/euromed/barcelona_en.htm), accessed on October 10, 2011.

<sup>4</sup> R. J. Ahearn, Europe's Preferential Trade Agreements: Status, Content, and Implications, Congressional Research Service, 2011, p. 6.

<sup>5</sup> N. Kanafani, Associating Palestine with the European Union: The Present Framework and the Way a Head, Palestine Economic Policy Research Institute, 2000, p.7.

<sup>6</sup> Official Journal L 187, 16.7.1997, p. 3-135.

and Palestine in terms of liberalization of trade. Furthermore, the agreement has encouraged regional cooperation to encourage political and peaceful coexistence.<sup>7</sup>

In this context, the paper uses Putnam's two-level game theory<sup>8</sup> in order to "analyse the interaction between domestic and international factors on international bargaining",<sup>9</sup> in particular the IAA negotiation process between the EU and the PLO. It is necessary to adapt this approach into a three-level game, comprising the international level (level I), the EU level (level II) and the level of the EU Member States (level III). Furthermore, the paper illustrates the win-sets of both parties, the EU and the PLO. In addition, the paper explains the role of the EU's trade relation toward Palestinian state-building process.

### **Analysis of the Palestinian Territory's Win-set:**

The Palestinian win-set has been relatively large as the IAA is expected to have political and economical impact on the Palestinian Territory. From political point of view, while the Palestinians were – and still are – struggling to have their own state, the EU has dealt with Palestine as a state.<sup>10</sup> It should be noted at this point that Article 133 of the EC treaty<sup>11</sup> emphasized that the EC should conclude agreements only with states or organization of states. Hence, the EU concluded the IAA on the evident assumption that the PLO represented the Palestinian state.<sup>12</sup> From economical point of view, the IAA is considered one of the most important agreements for economic and social development of the Palestinian Territory and in achieving liberalization of trade.<sup>13</sup> According to the IAA, Palestinian products were granted free

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<sup>7</sup> E. Rubinson, *More than Kin and Less than Kind: The Status of Occupied Territories under the European Union's Bilateral Trade Agreements*, Hebrew University of Jerusalem, Jerusalem, 2010, p. 17.

<sup>8</sup> R. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-level Games", *International Organization*, vol. 42, no. 3, 1988, pp. 427.

<sup>9</sup> A. Young, "What Game? By Which Rules? Adaptation and Flexibility in the EC's Foreign Economic Policy", in M. Knodt & S. Princen (eds.), *Understanding the European Union's External Relations*, London, Routledge, 2003, p55.

<sup>10</sup> C. Hauswaldt, "Problems under EC-Israel Association Agreement: The Export of Goods Produced in the West Bank and the Gaza Strip under the EC-Israel Association Agreement", *EJIL*, vol. 14, no. 3, 2003, p.597.

<sup>11</sup> European Union, "Consolidated Versions of the Treaty on European Union and of the Treaty Establishing the European Community of 26 February 2001", *Official Journal of the European Union*, C321E, 29 December 2006.

<sup>12</sup> J. Quigley, *The Statehood of Palestine: International Law in the Middle East conflict*, Cambridge University Press, New York, USA, 2010, p. 179,180.

<sup>13</sup> Palestinian International Business Forum, Working paper on Trade Policy-Detailed Analysis of the different Trade arrangement Scenarios, 2007, p. 64.

access into the European markets, as well as being free of taxes or limitation on quantities.<sup>14</sup> Furthermore, the PA had the right to impose some taxes on imported goods from EU.<sup>15</sup>

Generally, the PA reaps the benefits of the agreement specially when the EU is seeking to ensure 'the emergence of an economically viable Palestinian state',<sup>16</sup> despite the fact that the Palestinian Authority is the EU's smallest trading partner,<sup>17</sup> with total trade in 2009 amounting to € 56.6 million, where the EU exports (€ 50.5 million) and the EU imports (€ 6.1 million) of agricultural products, predominantly strawberries and cut flowers.<sup>18</sup>

In a nutshell, there is no doubt that the lion's share of the IAA accrued to the PA, especially as the EU is considered as the second largest export market for Palestinian's products.<sup>19</sup> The EU is also the biggest donor of assistance to the PA<sup>20</sup> providing around €500m each year from the EU budget and from bilateral EU Member State funding to the PA.<sup>21</sup>

### **Analysis of the European Union's Win-set:**

As the largest trade actor in the world,<sup>22</sup> the EU is eager to make use of its trade policy instruments in the Mediterranean region, which is of strategic importance for the EU member

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<sup>14</sup> Article 6 of the EC-PLO Agreement.

<sup>15</sup> O. Abdel-Razek, *Evaluation of Palestinian Economic and Trade Agreement*, Palestinian Economic Policy and Research Institute, Palestine, 2002, p. 15.

<sup>16</sup> G. Escribano, *Promoting EU-Israel Trade Integration: The Bilateral And Regional Dimensions*, 2005, p. 1. Available on line at <http://www.uned.es/deahe/doctorado/gescribano/eu%20israel%20gescribano%202.pdf>, accessed on October 17, 2011.

<sup>17</sup> European Commission Trade, *European Union opens up its market to Palestinian exports*. Available on line at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=699>, accessed on October 18, 2011.

<sup>18</sup> European Commission, "Proposal for a Council Decision on the conclusion of an Agreement in the form of an Exchange of Letters between the European Union and the Palestinian Authority", COM(2011) 89 final 2011/0042, Brussels, 3.3.2011, p. 5.

<sup>19</sup> Al-Mustakbal, *Reaching Economic Viability for a Palestinian State: A Solution Oriented macro Assessment*, AlMustakbal Foundation for Strategic and Policy Studies, Palestine, 2007, p.16

<sup>20</sup> M. Asseburg, "The EU and the Middle East Conflict: Tackling the Main Obstacle to Euro-Mediterranean Partnership", *Mediterranean Politics*, vol. 8, no. 2-3, 2003, p. 157.

<sup>21</sup> Communication From The Commission To The Council And The European Parliament: "EU-Palestinian cooperation beyond disengagement - towards a two-state solution", COM(2005) 458 final, Brussels, 5.10.2005, p.2

<sup>22</sup> O. Brown, "EU Trade Policy and Conflict", *International Institute for Sustainable Development*, Canada, 2005, p. 2. See also, S. Meunier & K. Nicolaidis, "The European Union As A Trade Power", in C. Hill and M. Smith (eds.), *The International Relations of the European Union*, Oxford University Press, USA, 2011, (2nd edn), p. 276.

states, as they seek to pursue political and economical objectives<sup>23</sup> through creating an area of peace and stability<sup>24</sup> around the EU's border,<sup>25</sup> and creating an area of shared prosperity,<sup>26</sup> as well as to 'become the world's biggest market place'.<sup>27</sup>

In order to determine the EU's win-set, meaning the "possible negotiating that are acceptable to the domestic constituencies",<sup>28</sup> it is important to understand the impact of the size and the nature of the EU. The distribution of power and preferences among (EU) political institutions (level II) and Member States (level III) play a crucial role in enhancing the EU's win-set.<sup>29</sup> Therefore, the conclusion of the IAA with the PLO (level I) occurred with the Council's authorization of the Commission to conduct negotiations on behalf of the EU after having the assent of the European Parliament (level II). Hence, the ratification of the IAA occurred after approval from the Member States (level III).<sup>30</sup>

Both levels, the EU Member States -particularly France and Spain-<sup>31</sup> and the EU institutions, emphasized their strong intention by engaging in the Barcelona Process<sup>32</sup> with Mediterranean

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<sup>23</sup> D. Allen & M. Smith, "External Policy Development", *Journal of Common Market Studies*, vol.37, 1999, p.97.

<sup>24</sup> M. Pace, "The Euro-Mediterranean *Partnership* And The *Common* Mediterranean Strategy? European Union Policy From A Discursive Perspective", *Geopolitics*, vol.9, no. 2, p. 295.

<sup>25</sup> L. Winters, "EU's Preferential Trade Agreements: Objectives and Outcomes", in by P. van Dijck and G. Faber (eds.), *The External Economic Dimensions of the European Union*, Kluwer Law International, the Netherlands, 2000, p.202.

<sup>26</sup> M. Montanari, "The Barcelona Process and the Political Economy of Euro-Mediterranean trade Integration", *JCMS*, vol. 45, no. 5, 2007, p. 1014.

<sup>27</sup> Including EU Member States and the Mediterranean countries with 600 to 800 million customers. See, Oxfam, *The Euro- Mediterranean Agreements: Partnership and Penury ?*, Oxfam Briefing Paper, 2003, p. 2.

<sup>28</sup> M. Larsén, "Principal-Agent Analysis with one Agent and two Principals: European Union trade Negotiations with South Africa", *Politics & Policy*, vol. 35, no. 3, 2007, p.859.

<sup>29</sup> Putnam, *op.cit.*, p.442, 448.

<sup>30</sup> V. Aggarwal and E. Fogarty, "Between Regionalism and Globalization: European Union Interregional Trade Strategies", in V. Aggarwal & E. Fogarty (eds.), *European Union Trade Strategies: Between Globalism and Regionalism*, London, Palgrave, 2004, p. 28.

<sup>31</sup> Allen & Smith, *op. cit.*, p.97.

<sup>32</sup> The PA has been a full participant in this partnership from the beginning.

countries and concluding the IAA with the PLO in order to project the EU's own values, secure peace and to establish a comprehensive partnership.<sup>33</sup>

It should bear in mind that the EU's readiness to reinforce and promote trade relations between the Mediterranean region and the EU is part of a policy to maintain stability in the Middle East.<sup>34</sup> The EU believes that a political solution in the Middle East will not endure without the establishment of economic stability.<sup>35</sup>

### **The EU's Trade Relation and State-Building Role:**

Despite the fact that the IAA has had minimal impact on the Palestinian economy as a result of Israel's refusal to recognize the validity of the IAA, aiming to pressure the PA into making political concessions regarding products<sup>36</sup> from the Illegal Settlements,<sup>37</sup> EU-PA trade relations have continued in the context of European Neighborhood Policy,<sup>38</sup> which aims to complement the commitments that have been made in the framework of IAA. On this basis, the EU-PA Action

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<sup>33</sup> P. Cardwell, "EuroMed, European Neighborhood Policy and the Union for the Mediterranean: Overlapping Policy Frames in the EU's Governance of the Mediterranean", *JCMS*, vol. 49. n. 2., 2011, p.225-226.

<sup>34</sup> R. Al-Fattal, *The Foreign Policy of the EU in the Palestinian Territory*, Centre for European Policy Studies, 2010, p.4.

<sup>35</sup> Speech by Peter Mandelson EU Trade Commissioner. Available on line at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/05/288&format=HTML&aged=1&language=EN&guiLanguage=en>, accessed on October 10, 2011.

<sup>36</sup> N. Abedel Karim, "The EU- Palestinian Relation: The European Economic Role", Al-Zaytouna Centre for Studies & Consultations, Conference on the European Foreign Policy towards the Palestinian Issue, 2010, p.15. See, N. Kanafani, "Trade: A Catalyst For Peace?", *The Economic Journal*, vol. 111, 2001, p. F284.

<sup>37</sup> The EU succeeded in stopping importing products from Israel that originated in occupied territory or settlements which EU did not recognize. See, ECJ Case C-386/08, *Brita, GmbH v. Hauptzollamt Hamburg-Hafen*, 2010. See, Allen & Smith, *op. cit.*, p.98.

<sup>38</sup> O. Begka & L. Russo, *The Euro-Mediterranean Partnership as a foreign policy tool Assessing EU's involvement towards the Israeli-Palestinian Conflict*, Working Paper, 2007, p.13.

Plan was adopted in 2005 in order to build Palestinian institutions and achieve a democratic and viable Palestinian state.<sup>39</sup>

It should be noted that, on 12 April 2011, the EU signed a new trade agreement with the PA that entailed further liberalization of agricultural, fish and fishery products and amended the previous IAA between the EC and the PLO.<sup>40</sup> On this topic, Catherine Ashton said on behalf of the European Union: "Facilitating Palestinian trade is a crucial element of the state building process which the EU is supporting both politically and financially".<sup>41</sup>

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<sup>39</sup> The European Union Committee, *The EU and the Middle East Peace Process, Volume I: Report*, Authority of the House of Lords, London, 2007, p. 40.

<sup>40</sup> Official Journal of the European Union L 104/2, 20.4.2011.

<sup>41</sup> European Commission, *European Union opens up its market to Palestinian exports*. Available at <http://trade.ec.europa.eu/doclib/press/index.cfm?id=699>, accessed on October 11, 2011.

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