

Date: November 2, 2015

Our ref: 10010

To:

Maj. Gen. Yoav Mordechai

Coordinator of Government Activities in the Territories

By fax: 03-6976306

Re: Call for revocation of ban on the entrance of wood planks and related materials into the Gaza Strip

1. I am writing to you with an urgent call to revoke the blanket ban, signed by you, on the entrance of wood planks into the Gaza Strip. The ban, effectively enforced since April 2015, along with an additional ban on the entrance of lacquer and wood paint thinners into the Gaza Strip, is unreasonable and disproportionate. It causes disproportionate harm to the furniture manufacturing industry and to the civilian population of the Gaza Strip. It stands in the way of the efforts to rehabilitate Gaza's economy and private sector following Operation Protective Edge. It is incongruent with your own statements about your commitment to Gaza's rehabilitation and contradicts aid efforts made by various state authorities. This ban completely contradicts your statements regarding permitting large scale sales of Gaza-made and -produced goods in Israel beginning on October 7, 2015, which was to include furniture as well. In addition, your continued insistence on this ban amounts to a breach of Israel's humanitarian obligations toward the residents of the Gaza Strip.

Background

2. When Operation Protective Edge ended, the State of Israel announced it would ease restrictions on the sale of goods originating in Gaza in the West Bank, Israel and abroad, given the importance of reconstructing Gaza and assisting its civilian population. The entire security-political leadership recognized the importance of allowing the sale of Gaza goods as part of the reconstruction effort. The Minister of Defense said at the time: **"There is certainly a need to release the pressure and allow Gazans, not Hamas, to live in dignity. There are about 120,000 homeless following the Operation in Gaza. They paid a heavy price. We have to let them earn a living, and so, part of our interest is to allow these moves"**, (<http://news.walla.co.il/item/279331> (Hebrew)). Similarly, the Chief of the General Staff at the time, Lieut. Gen. Benny Gantz mentioned that Gaza's recovery was an Israeli interest, saying: **"This need for economic growth and recovery is an opportunity and a chance for us"**, and **"at the end of the day, there are 1.8 million Palestinians living there, and calm depends also on the continued trend toward producing economic hope there. There are people there who need to live"** (<http://maariv.oc.il/news/new.aspx?pn6Vq=E&Or9VQ=GGDDJ> (Hebrew)).
3. In keeping with these statements, and the state's commitment to Gaza's reconstruction, in November 2014, the sale of Gaza-made furniture in the West Bank and abroad was approved for the first time since 2007. Later, in February 2015, it was announced that the sale of

industrial goods from Gaza, such as textiles and furniture, would be expanded as part of “further civilian steps to help local residents and Gaza’s recovery”.

A copy of the announcement released by COGAT on February 17, is attached hereto and marked A.

4. In a surprising, and contradictory move, on **March 31, 2015**, a new directive was published on COGAT’s website, signed by you, whereby wood planks 5-cm thick and 20/25-cm wide would not be permitted to enter the Gaza Strip without an individually issued permit. On **August 9, 2015**, a further directive, with your signature, was sent to representatives of international organizations via e-mail. According to this directive, on August 3, 2015, 12 items were added to the list of items prohibited from entering Gaza other than by individual permit, including wood boards thicker than 1-cm and 20/25-cm wide. Copies of the directive were issued in English and Arabic only. According to the cover letter, the directive entered into effect on the morning of August 9, 2015 (hereinafter: **the directives** and **the ban**).

A copy of the March 31, 2015 directive in Hebrew is attached hereto and marked B.

A copy of the August 9, 2015 directive in English is attached hereto and marked C.

5. Israeli and West Bank suppliers, as well as suppliers and traders from the Gaza Strip reported that the ban on the entry of wood planks into Gaza **of any type and size**, had been effectively enforced by the authorities since the beginning of April 2015. It is noted that even applications for individual permits to bring in wood planks for the furniture industry have been denied. Permits to bring in wood planks and wood paint thinners have been issued in isolated cases. However, when the goods arrived at the Kerem Shalom crossing, they were not allowed into Gaza. Therefore, the correct conclusion is that **a full ban on the entrance of wood planks into the Gaza Strip has been in place since April 2015**.

We add that the March 2015 decision was accompanied by a ban on the entrance of **lacquer and wood paint thinners** into the Gaza Strip. This ban was not published or articulated in a COGAT directive and its source is unknown. However, talks with suppliers and traders reveal that these materials have effectively been denied entry into Gaza since April 2015, including by individual permit. These items are neither trivial nor negligible. Without them, Gaza’s furniture manufacturing industry cannot operate. Without lacquer and wood paint thinners, it is impossible to produce a finished product. Other than the fact that the publication and execution of the new ban on the entrance of wood planks into Gaza have been unlawful and ultra vires in our opinion, as the ban was not incorporated into the Directive on Defense Export Control (Monitored Dual Use Equipment Transferred to the Territories under Palestinian civilian control 5769-2008) and was not signed by the Minister of the Defense (see our letter to the Minister of Defense and the Military Advocate General on this issue dated **August 27, 2015**), and without prejudice to this position, we ask that you order the revocation of the ban for substantive reasons as well, as the ban is unreasonable and disproportionately harmful to the civilian population of the Gaza Strip and to the post Operation Protective Edge reconstruction efforts.

A copy of the letter to the Minister of Defense and the Military Advocate General dated August 27, 2015, and the response of the Minister of Defense Chief of Staff dated October 13, 2015 are attached hereto and marked D.

Serious harm to Gaza's furniture manufacturing industry

6. As is known, wood planks, along with lacquer and paint thinners are essential commodities for Gaza's furniture manufacturing industry. Over the years, Gaza furniture makers sold their goods in Israel, the West Bank and abroad and the industry was considered one of Gaza's best known, most prosperous and most profitable industries. To illustrate, in 2005, Gaza had some 600 furniture workshops and factories, with some 5,500 employees and an annual sales cycle estimated at 55 million USD for that year. About a third of the products were sold in Israel and abroad, and some 15% were sold in the West Bank. The sale of Gaza made furniture was highly profitable because in addition to the cheap prices offered compared to furniture made elsewhere, Gaza has a skilled labor force and product quality is considered very high.

For more information about Gaza's furniture industry, see Gisha's position paper A Costly Divide: Economic Repercussions of Separating Gaza and the West Bank, February 2015, http://gisha.org/UserFiles/File/publications/a_costly_divide/a_costly_divide_en-web.pdf.

7. Gaza's furniture industry has gradually weakened since the closure was imposed in 2007, to the point where little is left of it today. Factories have shut down. Thousands of people have lost their jobs and production dropped by dozens of percentage points. When news came out of the permission for renewed furniture sales in the West Bank after Operation Protective Edge, Gaza factories rehired employees and went back into operation. Opening the possibility of selling furniture in the West Bank put hope in the hearts of all those involved in the industry, and signs of recovery were seen in the early months of 2015.
8. The announcement on the ban on bringing in wood planks and its implementation since April 2015, along with the ban on the entrance of lacquer and wood paint thinners into Gaza have shattered the hopes of recovery and growth in the industry. The ban has led to sharp price increases and the development of a black market for wood products. The price of a cubic meter of Zan and Sweid wood has doubled, as have the prices of lacquer and wood paint thinners. With the ban in place, Gaza manufacturers rely on the stores of wood and lacquer available in the Strip, but these are dwindling. As a result, many suppliers have decided to stop receiving orders from West Bank suppliers. **If the ban is not lifted, manufacturing and operations capacity will be so severely damaged, that some 80% of Gaza's furniture manufacturers and carpentries will again have to shut down. Sales on the local market in Gaza and in the West Bank are expected to ground to a halt and hundreds of employees are expected to be added to the ranks of the poor and unemployed, which are already quite large, with unemployment rate reaching 41.5%.**
9. On this issue, I refer you to the latest report released by the World Bank, which states that poverty among Palestinians has been on the rise over the past three years. In Gaza, 60% of youths are unemployed and 39% of the residents live below the poverty line (http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/09/29/090224b08310e894/2_0/Rendered/PDF/main0report.pdf).

10. The fatal blow to Gaza's furniture industry is patently unreasonable. It is causing tremendous damage to a sector that has just begun recuperating after years of closure, damage that is difficult to justify. The impact is multi-systemic, hurting manufacturers and suppliers in Gaza, local employees and consumers, suppliers and consumers in the West Bank, importers abroad and more. **It signifies the obliteration of Gaza's furniture sector.**

Undermining the Gaza reconstruction effort

11. After Operation Protective Edge, the international community, including Israel, pledged to take real steps toward Gaza's recovery – the recovery of the economy, the industry and the welfare of the civilian population in Gaza. The blanket ban on bringing in wood planks is unreasonable as it seriously impedes reconstruction efforts. Physical and economic recovery is not possible if wood planks cannot enter Gaza. These materials are a necessity both for the routine lives of individuals, at home or in the work place and they are essential for organizations and agencies trying to build in Gaza and strengthen existing public structures. So, for example, the lumber shortage impedes the ability to reconstruct the many schools that were hit during Operation Protective Edge and later used as temporary shelters for residents. UNRWA has reported that no doors or basic school furniture can be produced as a result of the shortage and that the buildings have consequently remained with poor infrastructure ever since the fighting.

12. Note: The recovery of the Gaza Strip is not confined just to rebuilding and renovating private homes and public buildings that were destroyed during Operation Protective Edge. Recovery is not just confined to making up the immense shortage in the construction of new housing units, institutions and infrastructure throughout the closure years. As duly noted by top security officials in Israel, **recovery primarily means strengthening Gaza's economy** and giving its residents a real chance to earn a living, trade and market their goods to the rest of the world, increase the profitability of their factories and reduce the number of residents trapped in the cycle of poverty and unemployment. **Recovery means providing opportunities to rekindle civilian and economic ties with the West Bank and Israel, opening Kerem Shalom Crossing for the transfer of goods of all types to and from Gaza and increasing travel by individuals.** It follows that sealing the crossing to the entry of wood and related materials, as described above, undermines Gaza's recovery at the very core, and as such, it is patently unreasonable.

The ban contradicts Israel's statements and actions with respect to allowing sales from Gaza

13. Israel has said, on a number of occasions, that it is a partner in the recovery efforts in Gaza following Operation Protective Edge. As noted, this recovery is not just the interest of Gaza's residents, but it is also an Israeli interest. Therefore, in addition to the fact that the decision to ban wood planks from entering Gaza is extremely unreasonable given the damage it causes to the furniture sector and the Gaza recovery effort, **the decision is unreasonable also because it is completely contradictory to the actions and statements made by the State of Israel following Operation Protective Edge.**

14. As stated, not only has Israel declared its commitment to rehabilitating the civilian population in Gaza and strengthening its economy and industry, but immediately after the end of

Operation Protective Edge, Israel also took a series of practical steps toward promoting these goals, including permitting the sale of Gaza made furniture in the West Bank and abroad. Not only that, but the media has recently reported that beginning on October 7, 2015, textile and furniture from Gaza would be cleared for sale in Israel itself (<http://www.themarket.com/news/macro/1.2736262> (Hebrew)).

15. Given the above, it is easy to see that the prohibition on the entrance of wood planks into Gaza defeats the purpose of the policy of allowing the sale of Gaza furniture. The decision is absurd and nonsensical. How can furniture sales from Gaza be bolstered when the primary material for manufacturing furniture is not available? How can Gaza residents “live in dignity” as the Minister of Defense put it, and how can Israel give them “economic hope”, to use the words of the Chief of the General Staff at the time, if the very item required for jumpstarting the economy and renewing trade with the outside world is denied?
16. The State of Israel cannot speak of recovery and giving the civilian population of Gaza hope and allow the sale of Gaza made furniture in the West Bank and Israel (and take credit for sales figures) on the one hand, and, on the other, completely ban wood planks of any size and type along with lacquer and paint thinner from entering Gaza. The two are inextricably connected. **Keeping the ban on the entrance of wood planks into the Gaza Strip while announcing the opening of the Israeli market to Gaza made furniture is extremely unreasonable.**

Giving security considerations decisive weight

17. The reasonableness of the decision is also assessed in terms of the balance that was struck among all relevant considerations when it was made. In the present case, COGAT announcements do not indicate that any balancing was made before the injurious decision to ban wood planks from entering Gaza was reached. It appears, however, that the decision was motivated by a desire to prevent the entry of materials that could be used for building tunnels and other military purposes. While the security consideration is certainly legitimate, and the threat posed by the tunnels should be addressed by the security establishment, it is not reasonable for this consideration to receive decisive, overwhelming weight, compared with other relevant considerations, such as the welfare of the residents of the Gaza Strip.
18. Considering wood planks as a dual-use material barred from entering Gaza is extremely problematic given that this is an inherently civilian material. **The fact that almost any civilian material could be exploited for military purposes does not, and rightfully so, lead to a blanket prohibition on the entry of any material, good or commodity into the Gaza Strip.** The solution to this challenge is not placing blanket bans on civilian materials, but finding the correct balance between safeguarding civilian life, welfare, economy and the rights of Gaza’s residents and the security consideration which allegedly justifies denying the civilian population products and materials.
19. The ban on the entrance of wood planks into the Gaza Strip, along with lacquer and paint thinners is an extreme departure from this balance as the harm it causes to civilian life in Gaza is far reaching and irreversible. Wood is used for many different needs in everyone’s daily life. It is used for lighting fires (especially in areas bereft of electricity such as Gaza). It is found in

almost every room in the house in the shape of a chair, a desk, a pencil, a dresser, a closet and more. Sometimes entire homes are built of wood using wood beams and plywood ceilings. This is true everywhere in the world – and it is true in Gaza as well. The civilian, basic nature of this material is so obvious that classifying it as dual-use and preventing its entry into the Gaza Strip is unreasonable, even considering the legitimate security need.

20. We note that even if preventing the entry of wood into Gaza offers a security benefit, the damage caused to Gaza's civilian population would far outweigh any such benefit and therefore, the decision is disproportionate, certainly when the ban covers any type of wood plank over 1 cm thick. This blanket ban is inherently suspect as disproportionate. Additionally, there are many possible conceivable ways to address the security challenges posed by the Gaza Strip, measures that are less injurious to the civilian population. Such measures are already being used with respect to construction materials, as an example. Prohibiting the entry of wood planks for any use whatsoever is, undoubtedly, the most injurious conceivable measure.
21. Therefore, the decision to prohibit wood planks from entering Gaza is unreasonable and disproportionate because it exceeds the appropriate balance between the various relevant considerations. The decision affords exclusive, decisive weight to the issue of security, without considering the serious ramifications this step has on the lives of the residents, on the furniture industry and on Gaza's economy following Operation Protective Edge. The decision is also unreasonable, not to say absurd, considering the permission Israel has only recently given to sell furniture from Gaza in the West Bank and Israel, as part of its commitment to Gaza's recovery.

Breach of humanitarian obligations and human rights violations

22. Beyond requirement, we add that the decision runs counter to Israel's humanitarian obligations to ensure a basic standard of living for Gaza's residents – obligations that have been recognized by the Supreme Court of Israel. As noted above, wood as a basic material for many every day activities, and beyond the furniture industry which naturally relies on wood, all Gaza residents need wood for their basic needs. As is known, Gaza has no forests and is entirely reliant on wood imports from outside, via the Kerem Shalom crossing, which is controlled by Israel. The State of Israel may not completely prevent the entrance of such a basic material. The ban exacerbates the already precarious economic situation in the Gaza Strip and may increase unemployment and lead to the shutdown of entire manufacturing sectors. Its impact on life in Gaza is drastic and irreversible.
23. The prohibition on the entrance of wood violates the basic rights of many residents – manufacturers, traders, suppliers, workers and their families – all of whom make a living from the furniture industry and its satellite industries. In fact, almost every resident of Gaza is harmed by the impact of this decision, including students and teachers who need school furniture, as well as public institutions. As such, the decision constitutes collective punishment of Gaza's entire population, which is expressly unacceptable under customary international law. Moreover, the ban severely violates residents' freedom of occupation, their right to a

livelihood and their right to an adequate standard of living. These violations have not been properly balanced against the military need, important as it may be, and cannot be justified.

Conclusion

24. The ban on the entrance of wood planks, lacquer and wood paint thinners into the Gaza Strip is unlawful. Aside from the fact that it was not properly published and was implemented without the affected public being appropriately informed as required by law, the ban is unacceptable for substantive reasons as well. The harm it causes to Gaza's civilian population is extremely unreasonable and disproportionate. The ban runs counter to the recovery efforts to which Israel is party as well, causes fatal harm to the furniture industry and to Gaza's economy and violates residents' most fundamental rights. Even if it rests on legitimate security considerations, the blanket ban on this basic material cannot be justified.
25. For all the above reasons, we seek the immediate cancellation of the ban and the reinstatement of the ability to ship all types and sizes of wood planks to the Gaza Strip. Protecting the security needs that arise from the entrance of these items can be done using measures that are already in place, such as advance coordination (as is the case with respect to any goods entering Gaza), and security checks at the Kerem Shalom crossing.
26. We stress that conversations we have had indicate that Israel intends to allow wood into the Gaza Strip in the near future, albeit exclusively for the purpose of rebuilding homes and public institutions that were destroyed, as part of the Gaza Reconstruction Mechanism. This step, if implemented, will not help stop the injurious practice of disallowing wood planks to enter for the furniture industry and for everyday civilian needs, and therefore, will not reduce or mitigate the harm caused to Gaza's civilian population as a result of the ban. Thus, the need to lift the ban remains.
27. Given the urgency and importance of the matter, we appreciate receipt of your response within 30 days. Inasmuch as the unacceptable practice of refusing to allow wood to enter continues at the end of this period, we shall be forced to take legal action.

Sincerely,

[signed]

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