



March 3, 2021

To

Minister of Defense

**Mr. Binyamin Gantz**

By email

Head of the National Bureau for Counter Terror Financing

**Adv. Paul Landes**

By email

Dear Sirs,

**Re: The immediate suspension of the decision to strengthen enforcement measures against truck drivers transporting goods considered to be “controlled dual-use items” to the Gaza Strip via Kerem Shalom Crossing**

It has recently come to our attention that on January 21, 2021, the Ministry of Defense and the National Bureau for Counter Terror Financing issued notice that beginning March 1, 2021, the security agencies will step up enforcement vis-à-vis freight companies transporting controlled dual-use items to the Gaza Strip via Kerem Shalom Crossing [herein 'the decision']. In this letter, we wish to express our grievance and to state our objection to the decision, which was adopted without consulting the freight companies or other relevant stakeholders, and may cause severe harm to the livelihoods of truck drivers and to freight companies' viability, as well as to the living standards of Gaza's population as a whole:

#### **The decision harms truck drivers' livelihoods and sets them up for failure**

- The list of controlled dual-use items is vague and includes broad, general definitions that are only published in Hebrew. Your decision, which is derived from the Counter-Terrorism Law, is unrealistic, and the many requirements listed within it are structurally designed to fail, as detailed below.
- Enhancing enforcement measures specifically towards the freight companies, or in other words, towards truck drivers and their trucks, will create a **chilling effect**. There is substantial concern that following the decision, truck drivers will refrain altogether from transporting goods to Kerem Shalom Crossing, even if they are presented with the required permits for the items in the shipment; due to fears that the agencies conducting screening at the crossing could claim that the goods being transported include dual-use items. This could result in the seizure and confiscation of their transport vehicles, generating high costs for their release. The notice states that: “Pending a decision in the hearing against the seizure, the truck may be released in return for payment of a guarantee in the sum noted in the seizure order... [unofficial translation by Gisha]”. However, the law on which this decision was based does not specify the timeframes for holding such hearings, as well as for filing objections and receiving responses. Therefore, even if a truck driver were able to pay the guarantee immediately, which is not to be taken for granted, the time that would elapse until a hearing is held, and subsequently, until the guarantee is paid, would result in the loss of multiple work days, or even months, for the driver.

- According to the language of the decision, in order to avoid truck seizure, “freight companies are required to check and ensure that the cargo being transported to Kerem Shalom Crossing in their trucks does not contain controlled dual-use items lacking the legally required permit [*unofficial translation by Gisha*].” It is unclear how the Ministry of Defense and the National Bureau for Counter Terror Financing expect the truck drivers, even if they are in possession of the long list of items Israel considers to be controlled dual-use items, to be able to determine whether their cargo contains such items, which include, among others, chemical compounds that cannot be identified by the naked eye.
- Your notice also reads: “As part of the examination, freight companies must review the cargo documentation and make sure that the items in the cargo match those listed in the documentation. Freight companies must also conduct **physical screening** to make sure that the cargo does not contain controlled dual-use items lacking a transport permit... [*unofficial translation by Gisha*].” This, too, is a disproportionate requirement, given that goods are shipped in appropriate conditions, and physical screening of the cargo may compromise said conditions and, as a result, damage the goods. In addition, as noted in the previous section, physical screening by the truck driver, who lacks the appropriate tools and training to examine the goods, serves neither the persons to whom this letter is addressed, nor the traders buying/selling the relevant goods, nor the freight companies.

### **The decision impedes the proper functioning of Gaza’s economy**

- All goods needed by Gaza’s two million residents that are not produced locally are purchased outside the Strip, mainly in Israel. This applies to basic goods, industrial inputs, medical equipment, processed foods, fruit, mechanical parts, temporary structures, fuel, construction materials, and more. For years, these goods have largely entered Gaza through one gateway: Kerem Shalom Crossing. The list of dual-use items requiring a special permit to enter Gaza is neither short nor uniform. As noted above, some of the items on the dual-use list are specific chemical compounds (such as ammonium chloride), while others are described in vague and general terms (for instance, 'communications equipment'). Any disruption of the regular entry of goods, including goods defined as dual-use items, which are intended for civilian use and have received the appropriate permit, will harm normal life in the Strip and impede the proper functioning of Gaza's economy, which is already struggling due to the closure imposed by Israel.
- Since Israel closed the Karni, Nahal Oz and Sufa commercial crossings between Israel and Gaza, the cost of moving goods to Kerem Shalom, located at the southernmost crossing point between Gaza and Israel, has risen dramatically. The decision you have released could lead to a further increase in the already prohibitive cost of shipping goods to Gaza.
- The list of dual-use items is only growing longer with time and its damage more extensive and apparent. Its impact is felt throughout Gaza’s healthcare system, its education and culture sectors, as well as in business and industry. Your decision to increase enforcement runs counter to the professed interests of Israel’s security establishment, which recognizes the reinforcement and restoration of Gaza’s economy as a strategic interest. The decision also damages the livelihoods of Israeli freight companies, and it is liable to cause harm and suffering to Gaza’s residents, half of whom are children.

In conclusion, every day, hundreds of Israeli trucks travel to Kerem Shalom Crossing. Normal economic activity in Gaza depends on the crossing's routine operation and entry of goods. The requirements arising from your decision dated February 21, 2021, could result not only in harm to freight companies’ viability and to drivers’ livelihoods, but may also curtail the supply of goods

to the Gaza Strip, since, from now on, truck drivers will be forced to treat any cargo they transport to Kerem Shalom as suspicious and potentially financially risky. In so doing, the decision could fundamentally harm not only Gaza traders but also the Strip's entire population.

For the combined reasons cited above, **we ask that you issue an immediate notification on the suspension of your decision to increase enforcement vis-à-vis freight companies**, at least pending a reexamination of the expected harm to freight companies and **to Gaza's economy**, and of the feasibility of the many requirements listed in the decision.

Sincerely,

Gabi Ben Harush,  
Director of the Israel Road Transport Board

Tania Hary,  
Gisha Executive Director