PCHRO LETTER TO MAMA/COHOM ON EU'S HUMAN RIGHTS STRATEGY FOR ISRAEL

Dear representatives of the COHOM and MAMA council working groups,

As the European Union (EU) is about to adopt two new human rights strategies, one for the Occupied Palestinian Territory (OPT) and the other for Israel, the Palestinian Council of Human Rights Organisations (PCHRO) would like to encourage the EU to take this opportunity to integrate the 14 May Council Conclusions and the European Parliament Resolution on EU policy on the West Bank and East Jerusalem of July 2012. As such, we call on the EU to address Israel's international human rights and humanitarian law obligations towards the Palestinian people in its human rights strategy for Israel. We also call on the EU to recognise and prioritise the right to self-determination, including the right of the Palestinian people to exercise sovereignty over their natural resources, in the same strategy.

Addressing coherently Israel's legal obligations towards the Occupied Palestinian people

The EU has on several occasions affirmed Israel's international human rights and humanitarian law obligations towards the Palestinian people in the indivisible OPT, including East Jerusalem, the Gaza Strip and the West Bank. Israel's international legal obligations stem from its status as an Occupying Power in the OPT, and Israel is therefore the correct interlocutory with whom the EU should address these legal obligations. To this end, it is paramount that the MAMA and COHOM working groups approve a human rights strategy for Israel on the condition that it addresses Israel's international legal obligations towards the occupied Palestinian people.

We also take this opportunity to stress that the EU's human rights strategies should address both international humanitarian law (IHL) as well as human rights law. IHL and human rights both apply in times of armed conflict and during occupation, with IHL as *lex specialis*,[1] and should therefore be addressed by the EU as two complementary branches of international law. Such an approach is in conformity with the EU Guidelines on Promoting Compliance with International Humanitarian Law, which establishes that respect for IHL in conflict situations is a priority for the EU.

Should the EU fail to address Israel's human rights and humanitarian law obligations towards the occupied Palestinian people in its strategy for Israel, it would be inconsistent with its self-commitment to be guided by respect for the principles of the United Nations Charter and international law in its actions on the international scene,[1] member States' individual legal obligation as High Contracting Parties to ensure respect for the Geneva Conventions, and the EU's "Strategic Framework and Action Plan on Human Rights and Democracy" of 25 June 2012. Indeed, the latter instrument emphasises that "[t]he EU will place human rights at the centre of its relations with all third countries, including its strategic partners. While firmly based on universal norms,

the EU's policy on human rights will be carefully designed for the circumstances of each country, not least through the development of country human rights strategies"[2].

Prioritising the right to self-determination

As organisations committed to the promotion and protection of human rights in the OPT, we also call on the EU to include the right to self-determination of the Palestinian people as a human rights priority in its strategy for Israel for the coming three years. Palestinians have an inalienable right to self-determination, which includes the right to return and to exercise permanent sovereignty over its natural resources in accordance with their interests of national development and well-being.[3] However, from the outset of the occupation, Israel has appropriated vast expanses of Palestinian territory and implemented restrictive measures limiting Palestinian use of Palestinian natural resources such as land and water. By means of a manipulation of legal concepts, Israel is appropriating hundreds of thousands of square metres of land in contravention to the Fourth Geneva Convention, with the aim of expanding and establishing settlements, which are illegal under IHL. Of particular concern is Israel's *de facto* exercise of sovereign powers over the most fertile areas of the OPT located in Area C, including the Jordan Valley which contains the land reserves and water resources for the natural expansion of Palestinian towns and cities. Israel maintains control over this part of the Palestinian territory by denying Palestinians from accessing 70 per cent of Area C and imposing heavy restrictions on another 29 per cent.[4] In contrast, Israel has already placed more than 500.000 settlers in the OPT.

Whilst Israel consolidates its illegal annexation of Palestinian land in the West Bank, including East Jerusalem, it continues to isolate the Gaza Strip from the rest of the Palestinian territory. Israel's closure, amounting to collective punishment, has entered its fifth year and aggravates the denial of Palestinian self-determination.

Concurrently, Israel has taken total control over the water resources available in the OPT by fully integrating the water system of the OPT into the Israeli system and at the same time denying Palestinian access to this vital resource. These measures of control, including the demolition of Palestinian water structures such as wells and cisterns and allowing settlers to contaminate the water sources accessible to Palestinians, ensure that a vastly unequal allocation of water resources benefits Israeli citizens living in Israel and those residing in settlements in the OPT. Israel allocates water to settlements at an average of 300 litres of water per capita per day (lpcd) whilst Palestinians only have access to 70 lpcd. In Area C in particular 14,000 Palestinians have access to only 30 lpcd, well below the 100 lpcd recommended by the World Health Organisation.[5]

As the United Nations Special Coordinator for the Middle East Peace Process, Robert Serry recently stated in his briefing to the Security Council: "If the parties do not grasp the current opportunity, they should realize the implication is not merely slowing progress toward a two-state solution. Instead, we could be moving down the path toward a one-state reality" In the same vein, the EU itself has expressed "deep concern about developments on the ground which threaten to make a two-state solution impossible".

It is therefore crucial to include Palestinian right to self-determination as a priority in the human rights strategy for Israel as by doing so the EU addresses Israel's illegal

practices in the OPT aimed at appropriating land and water sources for the purpose of exercising sovereignty over the OPT.

In light of the above, we strongly believe that the EU will seriously address Israel's human rights and humanitarian law obligations, including those towards the OPT, in the strategy for Israel as well as prioritise Palestinian right to self-determination.

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[1] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,

(Advisory Opinion) I. C. J. Reports 2004, para. 106; *Legality of the Threat or Use of Nuclear Weapons,*

(Advisory Opinion) I.C.J. Reports 1996, para. 25.

[2] European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 2007/C 306/01, Article 21 (13 December 2007).

[3] See A/RES/3376 (XXX) of 10 Nov. 1975 and A/RES/3236 (XXIX) of 1974.

[4] United Nations Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Humanitarian Factsheet on Area C of the West Bank* (July 2011, updated through December 2011).

[5] United Nations Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *How Dispossession Happens, The Humanitarian Impact of the takeover of Palestinian Water Springs by Israeli Settlers*

(March 2012), at. 14*;* and World Health Organisation, *Technical Note No 9 – Minimum water quantity needed for domestic use in emergencies* (2011); and Amnesty International, *'Troubled Waters: Palestinians Denied Fair Access to Water'* (October 2009), at 4.