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**Palestine and EFTA:
Trade and Cooperation**

Raimo Luoma

September 20-25, 1997

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Report and Follow-up

**MISSION TO THE
WEST BANK**

Raimo Luoma

**Palestine and EFTA:
Trade and Cooperation**

October, 1997

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The Economic Policy Programme is funded by the European Community (EC) and coordinated by the Ministry of Economy and Trade in collaboration with the London School of Economics and Political Science. The two-year project is an initiative launched as part of the European Community's programme of assistance to the Palestinian population of the West Bank and Gaza Strip. The objective is to provide the Palestinian Authority (PA) with policy support that will both assist it in clarifying and shaping trade policy and strengthen its capacity to negotiate with current and potential trading partners on economic and trade policy issues. The programme, which was launched in May 1996, works with a team of leading international experts - economists, political scientists and trade lawyers - in support of the ministry's policy agenda, and has held in collaboration with the ministry a number of roundtables on trade-related issues.

Economic Policy Programme

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Introduction

This report was prepared by Raimo Luoma, a former adviser to the prime minister of Finland, following his mission to the West Bank on September 20-25, 1997. The purpose of the mission, undertaken at the request of the Ministry of Economy and Trade, was to assist ministry staff in preparing for forthcoming negotiations with EFTA - in 1996 the EFTA member states and the Palestinian Authority (PA) signed a joint declaration of intent to start negotiations on a free trade agreement as soon as possible. The mission forms part of the two-year **Economic Policy Programme (EPP)**, which is funded by the European Community (EC) and coordinated by the London School of Economics and Political Science in collaboration with the Ministry of Economy and Trade.

The main results of the three-day mission, as outlined in the report, are as follows:

- 1) A summary of the proposed negotiation positions was prepared (Annex I). The summary reflects a number of key issues discussed with ministry officials:- a Palestinian approach towards the principle of parallelism, according to which EFTA seeks to obtain from its negotiating partners at least as good conditions as the partner has granted to the EC; the likely EFTA approach to trade in agricultural products; ways in which the EFTA States might facilitate direct exports of agricultural products from Palestine; the likely scope of technical assistance that EFTA will be willing to offer the PA; Palestinian needs with regard to industrial development; ways in which EFTA might support export promotion and an export guarantee system (para 2.3).
- 2) A paper on technical assistance options available to the PLO/PA from the EFTA States (Annex II);
- 3) A paper on the various alternatives for EFTA support to the industrial development of Palestine (Annex III).

Recommended action

The summary of the negotiation positions incorporates a number of recommendations made by Raimo Luoma during the discussions. He recommended that i) the PA might consider asking the EFTA states for separate **tariff quotas** for exports of agricultural products (para 2.1(i)); ii) the PA might explore the possibility of the EFTA States providing financial assistance for a **guarantee facility** to cover any losses incurred by Palestinian exporters as a result of Israeli-imposed closure (para 2.1(ii)); iii) at the start of negotiations, the PA suggest setting up an **ad hoc group** to consider rules of origin and diagonal cumulation issues (para 2.1(iii)); and iv) the Ministry of Economy and Trade send a team to the EFTA Secretariat in Geneva to discuss, *inter alia*, possibilities for technical assistance (para 2.3(v)).

Following Raimo Luoma's mission to the West Bank and in response to an invitation from the EFTA Secretariat, a three-member team of trade experts from the Ministry of Economy and Trade were preparing in early October to travel to Geneva to meet EFTA Secretariat officials.

The **Economic Policy Programme**, in collaboration with the Ministry of Economy and Trade, has embarked on a second year of policy support activities. In the coming months the **EPP** plans to invite a number of senior trade economists to the West Bank and Gaza Strip and to informal meetings in the region to share their expertise on issues relating to the development of Palestine's trade relations with third parties.

Valerie Yorke
Programme Coordinator
London School of Economics,
October, 1997

**PALESTINE AND EFTA
TRADE AND COOPERATION
Mission of Raimo Luoma to the West Bank
September 20-25, 1997**

Report and Findings

1. Terms of Reference and other introductory remarks

1.1 On December 16, 1996 the PLO/Palestinian Authority and EFTA signed a declaration on their willingness to establish an interim free trade agreement as soon as possible (Annex IV). The negotiations are likely to start before the end of 1997. Preparations for these talks by the Palestinian side will need to take into account the nature of Palestine's economic and trade relations with Israel, embodied in the 1994 Paris Protocol (PP). The mission's objective was to work with the Palestinian Authority (PA) for the purpose of engaging in discussions with and assisting the staff of the Ministry of Economy and Trade in preparing for negotiations with EFTA. According to the Terms of Reference I was to:

- Engage in three days of informal discussions with officials of the Palestinian Ministry of Economy and Trade (and with other Ministry officials as arranged by the Ministry of Economy and Trade) to develop the Palestinian negotiating position and demands vis-à-vis EFTA. As likely issues to be addressed during the talks, the Terms of Reference mention trade in agricultural products, rules of origin and cumulation issues, protection of infant industries, political and economic cooperation and technical assistance.
- Explain the EFTA's position on the topics set out above and on any other area/issues which Palestinian officials should take into consideration.
- Assist the Palestinian team, as required, with the writing of briefs and action plans based on the discussions held.

1.2 During the mission, I met and exchanged views with senior officials at the Ministry of Economy and Trade and met briefly with the Minister of Economy and Trade, Mr Maher Masri. I also met Mr Thierry Béchet, EC Representative to the West Bank and Gaza Strip, and his deputy, Mr Gavin Evans (Annex VI).

1.3 The discussions with officials at the Ministry of Economy and Trade lasted for three days and covered in detail most of the issues that are likely to be raised either by the Palestinians or by the EFTA side in the course of negotiations.

1.4 At the introductory meeting with ministry officials Mr Saeb Bamiyeh stressed that while the PA is happy to enter into a contractual arrangement with the EFTA States, it does not want to sign yet another agreement which it cannot implement. The PA believes that agreements with third parties should include elements which are designed to ensure that such agreements work in practice. The PA wants to achieve in its negotiations with EFTA at least as much as it achieved with the European Union (EU), and to win concessions that are not less favourable than those that EFTA has granted to Morocco.

1.5 I described briefly my understanding of EFTA as an organisation and negotiating partner, and the individual EFTA States, stressing especially the differences between the EU and EFTA as organisations. EFTA is a free trade organisation only, which means that the scope of agreement with EFTA has to be narrower than the scope of the agreement with the EU. Another major difference is that EFTA does not have an institution like the EC Commission. All decisions are taken by unanimity by the Member States. However, in the negotiations EFTA will speak with one voice (usually the Member State holding Presidency). EFTA does not conclude agreements that cover trade in agricultural products. Instead, the Member States, in their separate capacities, negotiate bilateral protocols. It is likely that the EFTA side will wish to table a draft agreement early in the negotiation process.

1.6 In my view there is much good will in EFTA towards the PA, which should make negotiations easier. However, EFTA is traditionally cautious in all issues that have a foreign policy connotation. Therefore, the PA should not be surprised if, for example, EFTA in spite of its individual Member States' political support towards PLO/PA, is unwilling to agree on a large technical assistance or industrial development programme.

2. The Results

2.1 Attached as **Annex I** is a summary of the proposed negotiation positions developed during the Mission ("Forthcoming negotiations with EFTA: Preparatory Notes") which was prepared by a team consisting of officials at the Ministry, Valerie Yorke and myself. The Preparatory Notes incorporate a number of recommendations I made during the discussions with regard to approach and content. The main recommendations were as follows:

- (i) The PA should ask for separate **tariff quotas** for exports of agricultural products. Such quotas would make it easier to identify Palestinian exports to the EFTA States and would also enhance the possibility of ensuring, jointly with the EFTA side, that the products exported to the EFTA States as Palestinian products truly are of Palestinian origin;

- (ii) To facilitate exports to the EFTA States the PA should ask whether it would be possible to open, with financial assistance from the EFTA side, a **guarantee facility** which could be used to cover the possible losses incurred by Palestinian exporters as a result of the impediments imposed on foreign trade by the Israeli authorities (closure, delays in shipping, denial of use of airports and harbours and other hindrances that can be characterised as *force majeure*);
- (iii) **Rules of origin**, and especially the question of **diagonal cumulation** with Israel, are of crucial importance in the negotiations and in establishing the identity of Palestinian exports. I suggested, therefore, that the Palestinian side could suggest that a sub-committee or an ad hoc group be set up at the start of negotiations to analyse the situation as it is. This would also provide an opportunity for the Palestinian side to draw EFTA's attention to the problems that Palestinian industry constantly suffers from when exporting through Israeli territory.

2.2 In addition to the Preparatory Notes, I drafted, following my return to Finland, proposals for two Annexes to the Preparatory Notes, namely an **Annex** describing technical assistance options perhaps available to the PLO/PA from the EFTA States, and an **Annex** regarding various alternatives for EFTA support to the industrial development of Palestine. These documents are attached as **Annexes II and III** to this Report.

Key issues in the negotiations

2.3 During our discussions the following issues were preliminarily identified as central in the forthcoming negotiations:

- (i) **Parallelism:** When negotiating agreements with third countries, EFTA seeks to follow the so-called principle of parallelism, according to which EFTA should obtain from its negotiating partners at least as good conditions as the partner has granted to the European Community. The EU-PLO/PA Interim Association Agreement on Trade contains certain very strict provisions, for example, transitional periods (until year 2001) for the protection of infant industries. Also provisions on trade in agricultural products are very strict.

In spite of this, I recommended to the Ministry that the PLO/PA should adopt the principle of parallelism as its own starting point and to deviate from it only in cases where it can expect to gain specific and tangible benefits from EFTA. Such questions could be trade in agricultural products, direct trade, rules of origin (especially diagonal cumulation) and technical assistance while issues like the transitional period for opening up the market to EFTA imports, the protection of infant industries and balance of payments clauses could well be formulated on the basis of the interim agreement between the PA/PLO and the EC.

- (ii) **Rules of origin:** The free trade agreement is likely to contain rules of origin identical with those annexed to the Interim Agreement concluded with the EC. The Ministry identified diagonal cumulation with Israel as a key question to be analysed further before the negotiations. While it would seem that from the economic point of view diagonal cumulation would be beneficial for Palestine, the PA also needs to analyse the question from a purely political point of view.
- (iii) **Trade in agricultural products:** Although EFTA is likely not to want to include agricultural products within the product coverage of the agreement, the Member States of EFTA usually conclude simultaneously separate bilateral Protocols on trade in agricultural products with their free trade partners. The PA is likely to ask for tariff quotas covering several agricultural products. The work done in preparation for negotiations with the EC serves as a good basis for defining products and quantities. The Palestinian side (the Ministry of Agriculture) should adjust its requests so that they are reasonable in relation to the markets of individual EFTA States.
- (iv) **Direct trade possibilities:** The Palestinian industry suffers continuously from the difficult conditions of export trade. The closure imposed by the Israeli government is a major impediment on trade. In addition, the Israeli government often acts on the external borders and at ports and airports in a way which adversely affects the Palestinian industry's trading opportunities even further. As a result of these circumstances, much of Palestine's exports are in the hands of Israeli trading houses, which means that much of the profit goes to these middlemen rather than to Palestinian exporters.

The PA is actively looking for ways and means to open new trading routes and mechanisms. I recommended that the PA could propose to the EFTA side that in connection with granting tariff quotas for certain agricultural products, EFTA should also facilitate the direct export of these products from Palestine. The support could take, e.g., the form of a guarantee to Palestinian exporters for losses, resulting from *force majeure* situations emanating from the action of the Israeli government.

- (v) **Technical assistance:** EFTA is likely to be willing to include in the agreement a clause on technical assistance which covers the scope of agreement, i.e. customs matters, public procurement, competition law, state aid, intellectual property, etc. The time reserved for the Mission did not allow deeper analysis of the Palestinian needs in this respect. Instead, I have obtained from the EFTA Secretariat a provisional agreement to finance a visit of two Palestinian trade experts to visit EFTA headquarters in order to discuss, *inTer alia*, the possibilities for technical assistance. The costs of the visit, which should take place before the opening of

negotiations, would be carried by EFTA.

- (vi) **Industrial development of Palestine:** The issue was raised during discussions at a very general level. While the EFTA States are not likely to be willing to include in the free trade agreement wide-ranging provisions regarding economic assistance to Palestine, I propose that the issue be taken up in the opening session of the negotiations anyway. Annex III contains certain ideas in this regard.

Raimo Luoma
Helsinki
October, 1997

Raimo Luoma

Raimo Luoma was European Affairs adviser to the Prime Minister of Finland in 1995-96. He has held a number of posts with Finland's Ministry of Trade and Industry since 1986, in particular Government Counsellor in 1991-94, and Chief Counsellor to the Minister in 1996-97. In 1989-91 he was legal adviser at the European Free Trade Association in Geneva.

Mr Luoma opened his own law offices, Raimo Luoma Law Oy, in Helsinki in September 1997. A Finnish national, he holds masters degrees in Law and in International and Comparative Law.

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