

Fact Sheet

Summary of Violations of Palestinian Telecom and Post Sector Under the Interim Agreement – Annex III, Article 36

March 25, 2012

The purpose of this paper is to summarize the principles governing the telecom I sector in the Palestinian Authority; to highlight Israel's violations of the Israeli-Palestinian Interim Agreement as it pertains to telecom arrangements agreed to in Annex III, Article 36; and to explain the impact of Israel's actions on the development of the Palestinian telecom sector.

This paper is divided into four sections:

- Summary
- Main Principle of Article 36 of Annex III of the Interim Agreement
- Restrictions facing the Palestinian telecom sector and violations of Article 36
- Challenges facing the Joint Technical Committee ("JTC")
- Palestine's relations with the International Telecommunications Union ("ITU")

SUMMARY:

The main interest underlying the Israel-Palestinian negotiations and interim agreements is to end the Israeli occupation to the West Bank and the Gaza Strip – an occupation in place since 1967. The Palestinian Liberation Organization ("PLO") and the Government of Israel ("GOI") agreed to gradually end the occupation through staged Israeli withdrawals from the Occupied Palestinian Territory ("OPT") and undergo a transition of transferring responsibilities and control of land, underground and air space. At the same time, the PLO continued with its efforts to advance Palestine's international rights through membership at international organizations and committing to respect international laws and regulations. Despite the five-year time frame under the Interim Agreement which was intended to conclude in 1999, regrettably, Israel's occupation continues. The outdated agreement is exploited by Israel to justify unfavorable facts on the ground and used to interfere and block Palestine's relations with international organizations.

In practice and contrary to the clear provisions of Article 36 of Annex III of the Interim Agreement (see Annex A for the telecom provisions), Israel restricts Palestine's access to the electromagnetic sphere by

hindering deployment of new technologies, preventing infrastructure construction in the West Bank and the Gaza Strip (Areas A and C), destroying Palestinian broadcasting infrastructure, limiting the selection of equipment to be imported only when there is a benefit for Israeli telecom operators and equipment supply businesses, facilitating Israel's unauthorized telecom operations in Palestinian areas and intentionally undermining the Palestinian Authority's jurisdiction.

Considering the accelerating development of telecom technologies, the JTC was established to address growing Palestinian needs and challenges. Instead, the JTC has been used by Israel to veto Palestinian telecommunications development.

Furthermore, Israel has been trying to limit Palestine's relations with relevant international organizations such as the ITU, where Israel incorrectly claims that Palestine's relations with the ITU is a violation of the Interim Agreement. The argument is that all such matters are "bilateral" and do not concern the international community and by implication Israel concludes it as an exempt from applicable international laws and regulations. The Interim Agreement does not say anything to this effect and, moreover, Israel's actions amount to a fundamental breach of the bilateral agreement and are also contrary to international law. Such an approach cannot be used to justify Palestine's legitimate recourse to international organizations, particularly as it concerns the humanitarian dimensions of accessing telecom rights and development.

MAIN PRINCIPLE OF ARTICLE 36¹ OF ANNEX III OF THE INTERIM AGREEMENT:

The main principle of the telecom arrangements between the PLO and the GOI is to ensure Palestinian regulation of the telecommunications sector in the West Bank and the Gaza Strip. This principle is reflected mainly in points A2a, B1,B3 and B4 of Article 36.

"A.2.a. In Area C, although powers and responsibilities are transferred to the Palestinian side, any digging or building regarding telecommunications and any installation of telecommunication equipment, will be subject to prior confirmation of the Israeli side, through the CAC [Coordination and Cooperation Committee]."

B.1. Israel recognizes that the Palestinian side has the right to build and operate separate and independent communication systems and infrastructures including telecommunication networks, a television network and a radio network

B. 3. The Palestinian side has the right to establish its own telecommunications policies, systems and infrastructures. The Palestinian side also has the right to choose any and all kinds of communication systems (including broadcasting systems) and technologies, suitable for its future in, inter alia, basic and value added services (including cellular telephony).

¹ Article 36 is annexed to this document as Annex 1.

B.4. Operators and providers of services, presently and in the future, in the West Bank and the Gaza Strip shall be required to obtain the necessary approvals from the Palestinian side. In addition, all those operating and/or providing services, presently and in the future, in the West Bank and the Gaza Strip who wish to operate and/or provide services in Israel, are required to obtain the necessary approvals from the Israeli Ministry of Communications”.

In practice the GOI has not cooperated or acted as an equal party under the agreements. Instead, it has acted unilateral and in violation of the letter and the spirit of the agreements. The GOI has vetoed and overruled almost every deployment of new technologies, planning and construction of infrastructure and implementation of internal policies including the liberalization of the telecom market in the OPT.² Simply, **Israel has chosen a policy path to continue with its occupation rather than gradually ending it.** Palestine on the other hand has relied on the Interim Agreement as a tool to end the unlawful occupation. This process started long before the Madrid negotiations in 1991. The process to seek an end to the Israeli occupation through negotiations with Israel in parallel to continuing with gaining international rights started in 1974³.

RESTRICTIONS FACING THE PALESTINIAN TELECOM SECTOR AND VIOLATIONS OF ARTICLE 36⁴

1. Palestinian access to the Palestinian electromagnetic sphere EMS:

Palestinian use of its EMS is limited and hinders the development of cellular communications, the provision of internet services and full integration of the fixed and mobile telecommunications networks. The refusal to allow access to frequencies is contrary to points B3 and C2 of Article 36.

“B.3 The Palestinian side has the right to establish its own telecommunications policies, systems and infrastructures. The Palestinian side also has the right to choose any and all kinds of communication systems (including broadcasting systems) and technologies, suitable for its future in, inter alia, basic and value added services (including cellular telephony).

C.2. Future needs for frequencies shall be agreed upon by the two sides. To that end, the Palestinian side shall present its requirements through the JTC which must fulfill these requirements within a period not exceeding one month.

² The World Bank telecom Note of the year 2008 classified the impact of the Israeli practices on the development of the Palestinian telecom market and the implementation of Palestinians telecom policies.

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/294264-1166525851073/TelecomPaperFeb10final.pdf>

³ The PLO gained the Observer Status at the UN and its daughter organizations in the year 1974 .

⁴ A matrix of the history of Palestinian requests to remove Israeli restrictions is attached to this document as annex 2. This document was presented to the Israeli Ministry of Communications through the JTC in August 2010 upon their request but had never responder to it.

Frequencies or sections of frequencies shall be assigned, or an alternative thereto providing the required service within the same band, or the best alternative thereto acceptable by the Palestinian side, and agreed upon by Israel in the JTC.”

The refusal to release minimal amounts of frequencies requested has resulted in the following:

- a. Restraining the expansion and growth of the dominant cellular operator” Jawwal” in terms of the number of subscribers and diversification of services that could be deployed via mobile communications. Since 1998, when the first release of frequencies was made, Jawwal has been operating with exclusive 2.4MHz⁵ and shared 2.4MHz⁶ on the 900 MHz band. This portion of frequencies was intended to serve 120,000 subscribers. Jawwal now has more that 2 million subscribers with only voice and SMS services. Jawwal’s commitment to continue its operations has been implemented with huge efforts and fundamental cost in reusing the allocated frequencies through unprecedented investment in the network and in frequencies management to eliminate harmful interference within its network and with other operators.
- b. Delay and partial implementation of the release of frequencies for the second mobile operator “Wataniya”⁷.

Since the year 2000, the Palestinian Ministry of Telecommunications and Information Technologies (“MTIT”) requested the release of frequencies for the introduction of a second mobile operator in the Palestinian market. Israel frequently postponed or delayed the discussion of the release of the required frequencies with the claim, among others, of not having a licensed operator. In 2006, the MTIT moved ahead with its market liberalization policy, without available frequencies, and issued a tender for a second mobile operator. Since then and more intensively after the issuance of the Wataniya License in February 2007, the MTIT regularly requested the release of frequencies pursuant to Article 36. In July 2008 an agreement on the release of frequencies was concluded after intense engagement by the Office of the Quartet Representative and the U.S. officials. Partial release of the agreement was undertaken by Israel which allowed for a commercial launching in November 2009 short of industry standards visa vi the number of used frequencies. The amount that was released amounted 3.6 MHz on the 900MHz band and the 1800MHz band. Moreover, Israel

⁵ The exclusive portion of the allocation meant the exclusive use of these frequencies by Jawwal in the Occupied Palestinian Territory and in Israel.

⁶ The shared portion of frequencies has been shared between Jawwal and Orange where Jawwal uses this portion in the West Bank and Gaza Strip and Orange uses this same portion in Israel.

⁷ Wataniya is a partnership investment of Wataniya International and Palestine Investment Fund. The commercial operations of Wataniya were launched in November 2009 after two years of licensing of the company due to Israeli delay and bargaining over the release of frequencies.

refused to allocate these frequencies exclusively which means that the same frequencies could be allocated to other operators in Israel. This created other challenges for Wataniya to eliminate frequency interference especially with the intensive frequency reuse policy that Wataniya is undertaking to provide coverage to its customers. As of the date of this paper, the minimum agreed portion of frequencies for Wataniya has not yet been released.

Furthermore Wataniya operations were limited to the West Bank. Israel continues to insist on not dealing with or discussing the allocation of frequencies to Wataniya in the Gaza Strip, a discussion that Israel keeps delaying..

- c. Fragmented networks due to the limited numbers of microwave links: With all the Israeli restrictions on the construction of infrastructure, which is discussed below, Palestinian operators are forced to depend on integrating their systems with microwave links to connect the cities and villages. Israel has been limiting the number of the use of microwave links despite the decisive need for such frequencies. Contrary with article B.3 of Article 36, Israel has been arguing the need for the requested frequencies.
- d. Non-deployment of new technologies including:
 - i. Deployment of 3G technologies: Despite the continuous Palestinian requests for the release of 3G frequencies to be deployed by Wataniya and Jawwal, Israel continues to deny Palestinians the right to access the needed spectrum while at the same time Israel licensed five⁸ Israeli operators. The deployment of the 3G technology is important for Palestine to enable the deployment of data applications over cell phones. The only responses that Israel made to the Palestinian requests were that Palestinians do not need to deploy such technology and that there is no available spectrum for 3G technologies that could be allocated to Palestinians. In the world of 3.5G and 4G where 3G is considered “old technology” for data communications, nonetheless, Israel restricts the use of the frequencies and limits Palestinian access to 2G frequencies that are not even sufficient enough for voice communications.
 - ii. Deployment of Broadband technologies: To overcome the problem of data deployment due to the Israeli denial of access to 2G and 3G frequencies, MTIT, based on the interests of Palestinian investors, requested in 2005 the release of frequencies to deploy WiMax systems. Again, Israel claimed the non availability of the needed frequencies leaving Palestinian internet providers with the only wireless option -- WiFi technology. It should be noted here that WiFi technology

⁸ Two out of the five Israeli operators were allocated 3G frequencies after Palestine made its requests for the spectrum.

is usually utilized for indoor internet coverage. Palestinians were forced to invest in equipment to provide wider coverage but definitely much narrower than broadband, 2G and 3G coverage. Communications wise this meant low quality services, higher costs and a limited number of applications for subscribers. Due to the accelerating development of telecom technology, WiMax became “old” and unfeasible technology, where LTE presents now better solutions. Palestine has now updated its request from WiMax to LTE with the hope that Israel will cooperate and honour its obligations under the Interim Agreement and allocate before the LTE technology also become outdated.

2. Independence and integration of the Palestinian telecom networks –Construction of infrastructure and deployment of services in parts of the occupied Palestinian Territory:

Although it was clearly stated in Article 36 that the Palestinians have the right build their independent networks, Israel denies this right for Palestine and emphasizes its continuation of the occupation by increasing the dependency of Palestinian operators on Israeli companies.

“B.1 Israel recognizes that the Palestinian side has the right to build and operate separate and independent communication systems and infrastructures including telecommunication networks, a television network and a radio network”

The Israeli decision to deny Palestinians their right to the build their independent network was implemented through mainly:

- denial of access to the spectrum, which we highlighted earlier;
- import of equipment, discussed below;
- construction of infrastructure and;
- deployment of services in parts of the Occupied Territory

Construction of Infrastructure:

a) Construction of infrastructure in Area C:

Israel has abused its right to “confirm”⁹ digging and construction of infrastructure in Area C and, with no right, has been denying construction of Switches¹⁰ in Area A of the West Bank and Gaza. Although, Palestine has been utilizing the agreed channels for requesting the confirmation of the digging and the constructions in Area C, Israel only approved 7 sites (6 on roof tops and one in the green fields) for Jawwal out of 65 requested sites, 18 sites (all on roof tops) for Wataniya out of 55 requested sites. These numbers of sites only allowed for serving a limited number of

⁹ Point A.2.a of Article 36 of Annex III of the Interim Agreement

¹⁰ Switches are core equipments for mobile communications which allows for the control of the system [Abu Sameer to confirm the definition]

Palestinian subscribers in isolated villages. The main problem that continues to exist is the lack of coverage between cities and villages. This forced Palestinian operators to roam on Israeli networks while traveling between cities¹¹. Again this means fragmented networks, extra costs for Jawwal and Wataniya subscribers and good business for Israel unauthorized cellular operators.

Fixed telecommunications are in no better situation. Diggings for fiber optics are not allowed in Area C and all existing fiber optics connecting the Palestinian cities are controlled by Israel through the Israeli operator Bezeq. The Palestinian fixed telecommunication, similar to mobile communications, remain beholden to Israeli control and could be cut down at any time. This leaves Palestinians with an unreliable and insecure communications system.

b) Construction of infrastructure in Area A:

Since 2000, Israel has restricted the construction of switches for Palestinian operators even in Area A of the West Bank and the Gaza Strip. This refusal forced Palestinian operators to locate their switches out of the country or in Areas under Israeli control. In the case of Jawwal, it built its switches in England and in Jordan and in the case of Wataniya it located its switch in Jerusalem where Wataniya faces controlled access to its own switches by Israel. In practice, this Israeli measure meant extra operation costs, limited control over the system and long routing of calls¹².

c) Construction of a fiber optic to link the West Bank with the Gaza Strip:

To achieve an independent Palestinian telecommunications networks, it was agreed that Palestine have the right to establish telecommunications links to connect the West bank with the Gaza Strip. This was clearly stated in point D. 3.c of Article 36.

“D.3.c. Israel recognizes the right of the Palestinian side to establish telecommunications links (microwave and physical) to connect the West Bank and the Gaza Strip through Israel. The modalities of establishing such telecommunications connections, and their maintenance, shall be agreed upon by the two sides. The protection of the said connections shall be under the responsibility of Israel.”

Contrary to the Agreement, Israel refused to discuss independent links and allowed for only:

¹¹ If a Jawwal or Wataniya subscriber is travelling between Ramallah and Nablus for example, he/she would need to roam on one of the Israeli unauthorized networks to enable cellular communications.

¹² If a husband is calling his wife within Ramallah his call would be routed through London.

- A fiber optic that is rented from Bezeq and;
- Two microwave links

These Microwave links add extra costs for Palestinian operators and remains unreliable to handle call congestion between the two administrative areas of the Occupied Palestinian Territory. Paying for the rental of the fiber optic is another violation to point D.3.b of Article 36 as is the denial of the constructions of the fiber optics to integrate the cities within the West Bank and between the West Bank and the Gaza Strip.

“D.3.b The Israeli side shall enable the supply of telecommunications services to the geographically-dispersed areas within the West Bank and the Gaza Strip. This shall include provision, subject to the approval of the proper Israeli authorities, free of charge, of rights of way or sites in the West Bank for microwave repeater stations and cables to interlink the West Bank and to connect the West Bank with the Gaza Strip”

Deployment of services in parts of the occupied territory:

In harmony with Israeli restrictions to access to spectrum, Israel has been denying construction of infrastructure in the Gaza Strip. This has been enforced through denying the entry of the equipment to the Gaza Strip. Despite the PA’s decision to liberalize the mobile communications market in Palestine, through its measures on the ground, Israel eliminated the liberalization of the market in the Gaza Strip. The PA made a number of requests directly and through mediators, including the Office of the Quartet Representative, to enter Wataniya equipment to the Gaza Strip to enable the deployment of the services as soon as the frequency allocation is agreed. As of the date of this paper, the classified equipment is not cleared for entry.

3. Imports of telecommunications equipment:

Through its control over crossings, Israel has been utilizing its authority to control Palestinians use of spectrum and networks development. To allow Palestinian import of telecom equipment, Israel requests, contrary with Interim Agreement (point D.2 of Article 36 of Annex III of the Interim Agreement and point 9 of Article III of the Paris Protocol):

- Justification of the need,
- Full details of the quantities and the equipment specifications including their standards that should be according to Israeli standards and locations of constructions;
- Submission of the import request to COGAT, which refers it to the Israeli Ministry of Communications for approval and;

- Compliance with Israel's policy on import of "Dual Use Items"¹³ which was developed in the year 2007.

"D.2.of Article 36 of Annex III of the Interim Agreement, As long as the Palestinian network is integrated with the Israeli network, the Palestinian side shall use such telephonic equipment as is compatible with the standards adopted and applied in Israel by the Ministry of Communications, and will coordinate with the Israeli side any changes to the structure and form of telephone exchanges and transmission equipment. The Palestinian side shall be permitted to import and use any and all kinds of telephones, fax machines, answering machines, modems and data terminals, without having to comply with the above-mentioned standards (accordingly, lists A1 and A2 of Annex V (Protocol on Economic Relations) will be updated). Israel recognizes and understands that for the purpose of building a separate network, the Palestinian side has the right to adopt its own standards and to import equipment which meets these standards (accordingly, lists A1 and A2 of Annex V (Protocol on Economic Relations) will be updated). The equipment will be used only when the independent Palestinian network is operational"

"Point 9 of Article III of the Paris Protocol, Each side will issue import licences to its own importers, subject to the principles of this Article and will be responsible for the implementation of the licensing requirements and procedures prevailing at the time of the issuance of the licenses. Mutual arrangements will be made for the exchange of information relevant to licensing matters"

Not only do these requirements complicate the import of equipment, which eventually limits access to spectrum and development of an independent networks, it also strips the PA from its jurisdictional rights that were agreed in the Interim Agreement and make it irrelevant.

The Israeli responses for delaying and restricting Palestinian imports of telecom equipment varies from non compliance with Israeli standards to, advanced equipment that could allow for multi use of spectrum to a need for further security clearances, etc. All of these restrictions come to the benefit of Israeli importers, who present a mediator for importing from third parties or importing directly from them. All Palestinian operators are facing this problem, mobile operators, fixed telecommunications operator, internet providers, equipments providers and Radio and TV stations.

¹³ The Israeli policy on Dual Use Items come contrary to the main principle of the Agreement on Economic Relations for the Year 1994 "Paris Protocol" which introduce the concept of the customs envelop where the import policy of Israel applies to Palestinian and Israeli importers. The new Duel Use policy presents discrimination against Palestinian importers where it limits the import of a wide range of items. In the case of telecommunications, the Dual use policy applies to almost all telecommunications equipment.

4. Interruption of Radio and TV operations

History of the Palestinian –Israeli discussions on radio and TV broadcasting

In 1998, the ITU passed resolution 99 (“Minneapolis 99”)¹⁴, which gave Palestine the right to notify the ITU directly on issues relating to its use of frequencies.

“The provisions of the Administrative Regulations, and related resolutions and recommendations, shall be applied to the Palestinian Authority in the same manner as they are applied to administrations as defined in No. 1002 of the Constitution, and the General Secretariat and the three Bureaux shall act accordingly, in particular in relation to the international access code, call signs and the processing of frequency notification assignments”.

In practice this means that all frequencies registered by Palestine at the ITU internationally recognized as belonging to Palestine. The registration of the frequencies reserves the use of such frequencies to the notifying party and would require the coordination of any use by other parties with the notifying party. Accordingly and in the year 2004, Palestine registered its broadcasting radios and TVs at the ITU. The total number was 56 stations

In the year 2006 Palestine participated in the works of the ITU regional conference in setting the digital plan for radio and TV broadcasting. Palestine, in that event registered 225 sites in West Bank and the Gaza Strip and Israel registered its sites only in Israel. The Israeli request to requester some sites in the West Bank was rejected from the ITU. At Israel accepted the registration of Palestinian sites with no reservations.

Israel’s attempt to regain control over frequencies used by Palestinian radio and TVs relates to two main points which require further clarification:

- a. In 2000, MTIT proposed to Israel through the JTC that it should allocate eight FM channels exclusively for the PA, plus share some other channels with Israeli Radio stations. After a year of negotiation, Israel allocated spectrum for only four stations with a very low power amounting to 10Watts, which enables coverage of an area of only one kilometer square (1Km²). Only one station (Palestine Radio) was allowed to use a higher power of 100Watts. In response to this Israeli approach of limiting the Palestinian use of spectrum for radio and TV broadcasting, MTIT started to operate by direct notification of spectrum for radio and TV broadcasting to the ITU.
- b. In 2005, Israel proposed to the Palestinian side, through the JTC, that Palestine should coordinate with Israel before submitting notifications to the ITU. The Israeli proposal was submitted in writing as a draft Agreement in November 2005 based on the pretext that Palestinian radio transmission was interfering with aeronautical

¹⁴ A copy of the resolution is annexed to this document as annex 3

communications at Ben Gurion Airport. **It should be noted here that Israel has never claimed to the PA any interference from Palestinian TV broadcasting, which is undertaken on the UHF on bandwidths between 470MHz and 862MHz.**

The Israeli proposal was rejected by the Palestinian side on the basis that Article 36 of Annex III of the Interim Agreement does not disallow direct relations between the PA and the ITU. Accordingly, Israel does not have the right to involve itself in such direct relations.

Nonetheless, Israel continues to prevent Palestinian broadcasting. Many radio and TV stations were invaded by Israeli forces, which confiscated equipment, detained employees and closed down the stations.

The most recent incidents in this regard were the Israeli invasions of the Watan and Al Quds al Tarbawi TV stations on February 29th, 2012. The equipment of the two stations was confiscated and the TV stations were destroyed. Israel claimed “harmful interference” with Ben Gurion Airport’s operation from the broadcasting of the two stations. The Israeli invasion is a violation to the Interim Agreement and the ITU’s laws and regulations.

“B.5 of Article 36 of Annex III of the Interim Agreement, Both sides shall refrain from any action that interferes with the communication and broadcasting systems and infrastructures of the other side”

According to the arrangements of the JTC, any Israeli identification for harmful frequency interference from Palestine, Israel should notify the MTIT about any interference and its source. MTIT should take the needed measures¹⁵ to end the interference within an hour.

The Israeli side had never made any complaint of any interference from these two stations since their start 15 years ago. Moreover, the claim is tenuous due to the fact that TV stations broadcast on different band widths from civil aviation:

- Civil Aviation operations :
 - airports: **108-118MHz**
 - aircraft: **118-137MHz**
- Television broadcasting (UHF):**470-862MHz**

¹⁵ These measures usually include decreasing the transmission power of the radio or TV station that is causing interference and/or changing the angle of the transmission.

From an Internal law perspective, registered TV and Radio frequencies are the full responsibility of the registering party. Watan and Al Quds al Tarbawi broadcasting frequencies were registered by Palestine in the year 2004. Israel did not respect registration rights and has been acting contrary to international laws and regulations to try to regain control over the used frequencies. Israel, it seems, seeks to regain the control of the UHF spectrum. This became clearer when Israel submitted its Proposal for the Works of the ITU World Radio Conference in January 2012¹⁶. The Israel proposal was focused on accelerating the convergence of the analog broadcasting to a digital one to enable the use of the UHF frequencies for mobile communications. At the time that Palestine declared that it will not be able to convert its TV broadcasting from analog to digital due to capital limitations and economic situation, Israel decided to force Palestinian TV stations from evacuating the UHF spectrum by shutting down their operations.

Palestine had never denied harmful interference when it occurs and had always responded professionally in accordance with the JTC arrangements. Furthermore, Palestine continuously raises to the JTC the challenges that Palestinians radios and TVs face in their broadcasting. There are three main challenges that Israel has been refusing to address:

- *Restrictions on import of equipment*
Similar to most Palestinian economic activities, the radio and TV broadcasting sector has faced big problems importing the equipment necessary for conducting professional broadcasting in the PA. The only stations that were allowed to import sufficient equipment were those that were identified Schedule 5 of Articles 36 of Annex III of the Interim Agreement. According to Israel, those listed in Schedule 5 are the only ones authorized to broadcast in the PA. Beyond these no radio or TV station is authorized to operate and accordingly does not have the right to import equipment.
- *Import of equipment without filters from Israel (non standard equipment)*
Due to the high risk that Palestinian radio stations have of potential Israeli raids on their premises, and also the restrictions that Israel imposes on importing equipment from third countries, Palestinian radio and TV stations owners buy the equipment they need from Israel. Israeli equipment is relatively cheap due to its low quality¹⁷ and can be imported to the West Bank without any problems.

¹⁶ Revision 1 to Document 86-E, 9 January 2012

¹⁷ Most of the equipment imported from Israel does not include the filters that are required to eliminate spectrum interference.

Although importing from Israel in part solved the problem of establishing radio and TV stations, the equipment itself is a problem since the equipment is not fitted with proper filter systems. This creates interference in the broadcasting process and accordingly provides the pretext for Israel to request closing down these businesses and coordination on notification to the ITU.

- *Israeli restrictions on importing monitoring equipment to MTIT*
Certain equipment is supposed to enable the MTIT to monitor the use of the spectrum in the West Bank and the Gaza Strip and so identify any spectrum interference and its source. This identification is instrumental for MTIT to allocate spectrum for broadcasting and to act whenever interference occurs.

The ITU has showed continuous interest in donating this required monitoring equipment to the PA. Israel's continues to refuse to allow the entry of such equipment into Palestine.

5. Unauthorized and "Illegal" Israeli mobile operations in the West Bank and Gaza Strip

Despite the unambiguous agreement regarding telecom operations in the area of telecom jurisdiction of each party, Israel has been conducting unauthorized and illegal, mobile and internet operations in the West Bank and the Gaza Strip.

"B.4.of Article 36 of Annex III of the Interim Agreement, Operators and providers of services, presently and in the future, in the West Bank and the Gaza Strip shall be required to obtain the necessary approvals from the Palestinian side. In addition, all those operating and/or providing services, presently and in the future, in the West Bank and the Gaza Strip who wish to operate and/or provide services in Israel, are required to obtain the necessary approvals from the Israeli Ministry of Communications."

More than ,20% of the Palestinian mobile communications market goes to unauthorized Israeli cellular communications operators and more than 20% of the Palestinian internet market goes to Israeli internet providers. Israel claims that these operations are not intentional and are a result of the "coverage spillage" from the operations in the settlements and the military bases in the West Bank. This claim definitely does not justify:

- The full coverage that Israeli mobile operators have inside the Palestinian cities;
- The Israel restrictions on Palestinian coverage of Area C, which presents a good business for Israeli operators through the roaming arrangements and the.
- Provision of internet services to Palestinian subscribers without a license

Israel is requested to the stop all of its illegal operations in the West Bank and the Gaza Strip, cooperate in conforming telecom constructions in Area C and in allocation of requested frequencies.

EFFICIENCY OF THE JOINT TECHNICAL COMMITTEE:

The JTC was established to serve as the venue for implementing Article 36 of the Annex III of the Interim Agreement, to address Palestinian future needs and to discuss and present solutions to problems that face Palestinian-Israeli telecom relations.

“B.6 of Article 36, A joint committee of technical experts representing both sides shall be established to address any issue arising out of this section including the growing future needs of the Palestinian side (hereinafter referred to as "the Joint Technical Committee" or "JTC"). The JTC shall meet on a regular basis for the purpose of solving all relevant problems, and as necessary in order to solve urgent problems.”

Instead, and at the time that telecom technologies are developing with high acceleration¹⁸, the JTC has been used by Israel as a tool and venue to hinder the development of the Palestinian telecom sector. Israel has been using its “upper hand” to veto Palestinian planning and policy making and undermine Palestinian management and control of its telecom sector.

Meetings of the JTC are irregular and are subject to Israel’s spontaneous will and self-interest. From an Israeli perspective, the guiding principle of the meetings, when they do take place, is Israel’s security and not the mandate of the JTC which is technical and the professional consideration.

In November 2007 and under the auspices of the President of the World Radio Conference of the ITU, an agenda for solving all outstanding telecom issues was agreed. The agenda included 10 Palestinian items and 6 Israeli items. The time frame for addressing all items was agreed to be 3 months from date of setting the agenda. As of this day, and after five years of setting the agenda, the JTC did not finish item number one.

PALESTINIAN RELATION WITH THE INTERNATIONAL TELECOMMUNICATIONS UNION:

The ITU is a specialized agency of the United Nations and accordingly the status of Palestine at the UN is reflected in the ITU. This relation started in the year 1974 and continued throughout the years with a persistent¹⁹ Palestinian participation and effort to secure Palestine telecommunications rights, where access to telecommunication services is internationally considered as a basic right like water and electricity.

¹⁸ The time frame of the telecom generation is 5 years.

¹⁹ The participation of Palestine since its joining is documented in documents of the ITU conferences. An example of this participation is referenced in document number 528-F/E/S page 74 of the ITU Plenipotentiary Conference in 1989 which was convened in Nice- France.

In parallel to its effort to bring justice to Palestine and its people through negotiations with Israel, the PLO continued with its international track. In the year 1998 the ITU passed the first resolution governing Palestine's status and rights at the ITU (See Resolution 99 in Annex B). This resolution had international consensus and all members of the ITU, including Israel were requested to respect it and to implement it.

Palestine had always taken as a matter of policy that it should commit to and follows international laws and International customary laws in developing its policy and laws and in its international relations including the ones with Israel. Article 36 of Annex III of the Interim Agreement does not prevent Palestine's ability to utilize all venues to advance its international interests and rights.