Ramallah, Wednesday, December 19th 2019: The Palestine Economic Policy Research Institute (MAS) hosted a Roundtable meeting titled “How can the 1994 Economic Agreement be Amended with the Aim of Gradual Disengagement from Economic Dependence on Israel?” The session is part of MAS’ systematic follow-up on new and current economic trends, or commercial and economic repercussions of current political realities (such as the Israeli withholding of clearance revenue funds, or the blocking of entry of Palestinian imports). The question of revising the economic and trade relations with Israel, and how to achieve gradual disengagement, remains a priority on the Institute’s agenda. Therefore, the paper presented at the roundtable discusses the aforementioned issue, beginning from the legal avenues available to address the economic agreement as a first stage of gradual disengagement. Participants of the session were from the public and private sectors, as well as specialists and experts, and political leaders.

Mr. Raja Khalidi, Director General of the Institute, opened the session, emphasizing the background of the roundtable series, and its importance in discussing important economic and social issues of priority to Palestinian decision-makers. Khalidi pointed out that the quality of participation shows the importance of the issue, as well as MAS being a platform for economic dialogue based on accurate information and balanced scientific analysis. He also added that this is the eighth session held in 2019.

In cooperation with legal advisor Ms. Hiba Husseini, the Institute had prepared a background paper on the topic, which was presented by Husseini. The main comments of the session were
presented by Dr. Bassem Khoury, Chairman of the Board of Directors of Dar Al-Shifa'a for the Manufacturing of Medicines and Cosmetics and former Minister of National Economy, Mr. Samir Hulilieh, economic expert and former Chair of the Board of MAS, and Mr. Azmi Abdelrahman, Director General of Policies and Economic Studies in the Ministry of National Economy.

Husseini mentioned that the system of agreements and understandings between the Palestinian and Israeli sides, starting with the 1993 Declaration of Principles, the 1994 Economic Agreement, the 1995 Palestinian-Israeli Interim Agreement, and the subsequent agreements (“Oslo Agreements”), are not obligations that could realize Palestinian national, political, and economic interests, as they are temporary, interim, and deny Palestinian sovereignty. The “Protocol on Economic Relations” (referred to here as the Economic Agreement), followed by the Interim Agreement of 1995, regulate the economic relationship between the two sides, and determines autonomous Palestinian economic policy space on a small scale, over a 5-year transitional period. In light of the obstruction of the political horizons outlined in the framework of the Oslo Agreements and the adverse effects on the development of the Palestinian economy arising from the design of the Economic Agreement, especially after 25 years of its unilateral implementation and application by the Israeli side, there have been calls for the agreement to be revised, amended, or completely replaced. In August 2017, the Palestinian Central Council adopted resolutions explicitly calling for “economic disengagement” from Israel, but without specifications on how to accomplish this, whether by implementing a sectoral time-based program, or outlining aspects related to disengagement.

At this stage, and until the details of the economic disengagement program and its extent are clear, the Palestinian Minister of Civil Affairs announced in September 2019, that within the new understandings with Israel on solving the issue of withholding the clearance funds, the Israeli side has agreed to study Palestinian demands on amending certain items in the Economic Agreement. This will take place within the framework of technical committees affiliated with the Joint Economic Committee, which met in December 2019, its first meeting in many years. Regardless of the extent of actual Israeli willingness to deal with Palestinian financial, commercial, or other demands, amendments to the terms of the economic relationship are required, and the possibility for amendments depends primarily on the legal means available for that. Al-Husseini also mentioned that the paper does not touch on the strategic challenge inherent in replacing the existing customs union with an alternative trade system (free trade or a separate trade system), but rather reviews various legal approaches to amend or change the items in the Economic Agreement that entail imposition of colonial economic dependency. The amendments would also enhance the current aims of gradual economic disengagement, and strengthen the foundations of a productive and independent Palestinian economy. In other words, whatever the future Palestinian visions and aims may be, be it improving the conditions of the customs union by converting into a free trade area, or even separating it from the joint customs envelope and establishing an independent Palestinian trade system, the Palestinian choice must be based on sound, legal foundations and a realistic strategy.
The paper concluded that direct bilateral methods to amend the Economic Agreement, or to resolve disputes related to it, are the fastest and most effective, if available. Waiting for Palestine to join international organizations such as the World Trade Organization (WTO) and the subsequent negotiations with neighboring and regional states, assumes imposing Palestinian sovereignty over crossings and borders, and Israeli approval of usage of international ports and crossings. But the Palestinian economy cannot withstand the long time these steps would take. The paper also concluded that the absence of explicit provisions regarding dispute settlement and arbitration make holding Israel accountable or demanding it to implement or amend the Economic Agreement through international arbitration almost impossible. Demanding Israel to implement and amend the Economic Agreement through regional and international pressure may achieve Palestine’s endeavors, by exposing Israel before international public opinion. Additionally, the paper concluded that Palestinian acceptance of giving preference to the economic track over the political (as has been suggested by Israel) is risky and inconsistent with the official Palestinian position of rejecting “economic peace”. Moreover, separating from one side or moving towards developing an alternative economic system (away from the unequal customs union that restricts development, and that does not allow for sovereignty over crossings, borders, imports, exports, and other legal policies) is unrealistic today without a political solution. Therefore, the most realistic alternative currently is to pursue gradual steps of disengagement.

Following this, Dr. Bassem Khoury indicated that Israel’s practices on the ground ended the Paris Protocol by emptying it of its content, wherein the essence of this agreement is supposed to be a customs union with unified terms of imports, exports, and free exchange of goods and services, capital, and labor, but the application on the ground is far away from that. The truth is that the Paris Agreement did not allow the Palestinians the privilege of “buying time”, as since 1996, under the first government formed under the leadership of the late Yasser Arafat, the Netanyahu government issued instructions that Palestinian importers must sign a pledge agreeing not to sell what they import in Israel, and limit their sales to the Palestinian territories. This ban was not matched by the prevention of Israeli goods from entering the Palestinian market. In the labor market, Israel placed great restrictions on the flow of Palestinian workers into Israel, reaching its peak during the Intifada with a complete closure, and only allowing it now due to economic necessities in Israel.

Khoury added that the successive Israeli governments have all worked on the one principle of robbing the Palestinians of any function of economic sovereignty, as that would inevitably be reflected in political sovereignty. Therefore, Israel has been careful to not allow any economic achievements that Palestinian citizens might feel any real improvement in their lives. The main issue, in Khoury’s view, is that we are still living an illusion, and that there is an absence of awareness and strategy on what could contribute to changing reality. He stated there are two frameworks possible to work in. The first is international action, where through activating Palestine’s efforts to join the WTO, this accession can help us pressure Israel to change its trade and economic policy with Palestine. Additionally, there is a rise of different economic powers in the world, and Palestine must look at these changes to determine how we can be players with these forces on the world stage and create new agreements, and not limit interest in developing trade partnerships to ensuring the implementation of the Paris Protocol.
The second framework comes at the local level available, namely controlling what is sold locally, placing specific standards for these goods, compatible with the specifications of Palestinian products, and limiting other goods imported by the principle of reciprocity, which does not contradict WTO agreements.

Samir Huleileh affirmed that shortly before the signing of the Paris Protocol, the Palestinian negotiators succeeded in adding a clause indicating that disputes are to be referred to the Joint Committee, making it the venue for revision of the agreement. He pointed out that the decision to convert the Paris Agreement into a Protocol left the arbitration of disputes to basic agreement. Therefore, political and security agreements are the main structure, and amending the Protocol alone is not sufficient, in light of the breaches to the basic agreement. In 1995, one amendment was agreed on the issue of customs and taxes through negotiating with Israel and accepting the 3% service charge Israel collects until today. Israel realized then that it could revoke many items of the agreement that were not entirely satisfactory to them, so they took advantage of this possibility by forming technical-subcommittees as a substitute for the Joint Committee, which meets at Ministerial level.

Poor decision making continued, as neither party demanded that the Joint Committee meet formally on a regular basis. According to Huleileh, this was due to Palestinian negligence, rather than Israeli refusal. Additionally, the idea of a customs union, with the exception of import lists A and B, existed at the time due to lack of control over Palestinian borders, to which Israel has yet to agree. Therefore, Huleileh believes that the discussion of the possibility of vetoing the Paris Protocol must begin with exposing Israeli violations of the basic agreement, including: the security closure imposed on the areas of jurisdiction the Palestinian National Authority (PNA) after the Oslo agreement, the prevention of Palestinian cars from entering Israel after a unilateral decision by the Israeli Minister of Transport, etc. In particular, the agreement stipulates that Israel is obligated to notify the PNA in advance of all amendments it intends to operate in its commercial system. Additionally, it also stipulates that employment must be carried out through Palestinian labor offices, but in actuality it takes place through intermediaries. Israel has also failed to comply with the provision stating that no party is allowed to adversely affect the industries of the other, such as by flooding the Palestinian market with goods of low prices and low quality. Israel also failed to follow the commitment to not confiscate tourist sites whose arrangements were specified with the agreement (Sebastia, Joseph’s Tomb, and Rachel’s Dome), and has not allowed Palestinian tourist buses from entering Israel, as specified in the Protocol.

Negotiations were also not completed, as the agreements indicated they should have been, regarding trademarks, their registration, settling the accounts of other parties for each party (such as corporations), in addition to placing barriers to trade, and not reviewing the quantities imported through the three merchandise lists, that remained estimated on Palestinian consumption at the time of the signing of the agreement, which was inaccurate due to the absence of statistics at the time. Huleileh added that Palestine needs a dry-port in Jenin and in Hebron whereby imported goods could reach the Palestinian territories, instead of being stocked
in the Haifa or Ashdod ports. The Palestinian customs would be in charge of this, which would alleviate much of the disputes around clearance revenues. Finally, the merchandise lists (A and B) allow Palestine to trade with Arab and Islamic countries, and Israel agreed to it, but the Lists have not been updated or amended. Huleileh also proposed a Palestinian initiative to convene a free trade committee with Arab and Islamic countries, especially those with trade relations with Israel, in order to study the possibility of importing from them, based on the lists, and benefit from their interests in exporting their products to Palestine.

Azmi Abdelrahman added that defining the meaning of economic disengagement would categorize different demands based on the intention. Is the intention rejecting what is specified in the Paris Protocol and negating it? Is it coexistence with the Protocol, while exploiting the available margins? Is it amending the Protocol to be ready for what is to come? As for joining the WTO, Abdelrahman stated that the application to join the organization was studied in 2014, in consultation with all partners, and the file for submitting the application was referred by the Ministry, though there was no subsequent movement on this file. Abdelrahman also added that one of the basics of gradual disengagement from the Protocol and the current economic relations, is finding parallel policies to support local products and strengthen the foundations of the Palestinian economy. Therefore, expanding lists A and B is insufficient to meet Palestinian needs, and may not constitute a possible alternative in light of relatively high prices in global markets. Abdelrahman also pointed to the importance of forming a joint national technical economic committee to discuss addressing the gaps currently in the agreement, provided that it acts as a national umbrella for this purpose.

He added that coexistence with the Paris Protocol is one of the options, referring to several matters that can be done from it, such as expanding lists A and B that include items no longer used in the Palestinian market. One of the untapped items is the issue of oil, which the current government has realized and has been heading to Iraq and other countries to find an alternative source of oil for Israeli oil. Moreover, taxes on companies working in Area C must return to the Palestinian treasury, which can be exploited in light of the existence of the Paris Agreement. The agreement also does not prohibit the use of Jordanian ports as an alternative for Israeli ports, which could aid in avoiding the complications that raise the transportation costs by more than half. Abdelrahman also touched on the item of dual-use goods which have effects in terms of increasing Palestinian output, which Israel continues to prevent importing, except upon the provision of lengthy paperwork. There is also the issue of building on the understandings that have been recently made on the PNA’s receipt of fuel taxes directly and not through clearing, which reduces dependency.

As for promoting disengagement in light of the current situation, Abdelrahman emphasized the importance of focusing on national products and prioritizing them as an alternative to imported products in general, and Israeli products in particular. Disengagement starts from promoting productive sectors and linking and these sectors together, as well as spreading awareness among the Palestinian consumer of the importance of the national product and not underestimating the importance of this matter.
A number of those present agreed on the feasibility of a number of steps towards gradual disengagement, through promoting local alternatives and strengthening national industry, as well as preventing imports that harm them, i.e. gradually reducing dependency without direct confrontation. They also stressed the importance of moving towards the popular base, and directing it towards local consumption, as well as changing the existing consumer culture regarding the necessity to stay away from Israeli products. Although there are many problems, there are also many solutions, with a focus on international and domestic frameworks. However, experience shows that there is an issue with the Palestinian economic decision-maker. It was possible in the past 25 years to establish a more autonomous trade policy and demanding the expansion of the list of goods mentioned in the agreement, but this was not done. This is in addition to other Articles in the Protocol that could have been better exploited, especially as the Protocol allows for the expansion of Palestine’s commercial relations with the Arab hinterland, a matter that has been sorely neglected.

To download a copy of the Background Paper (currently available in Arabic. English version will be available soon) here.