

STOP THE WALL CAMPAIGN



الحملة الشعبية الفلسطينية
جدار الفصل العنصري لمقاومة

Democratic South Africa's complicity in Israel's occupation, colonialism and apartheid

Endorsed by:

The Palestinian Boycott, Divestment and Sanctions Committee (BNC)

The current members of the BNC are:

Palestinian Non-Governmental Organizations Network (PNGO)
Occupied Palestine and Golan Heights Advocacy Initiative (OPGAI)
Grassroots Palestinian Anti-Apartheid Wall Campaign (Stop the Wall)
Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI)
Council of National and Islamic Forces in Palestine
Palestinian General Federation of Trade Unions (PGFTU)
General Union of Palestinian Workers
Global Palestine Right of Return Coalition
Federation of Unions of Palestinian Universities' Professors and Employees
General Union of Palestinian Women (GUPW)
Charitable Organizations Union
Independent Federation of Unions – Palestine (IFU)
Palestinian Farmers Union (PFU)
National Committee for the Commemoration of the Nakba
Civil Coalition for Defending the Palestinians' Rights in Jerusalem
Coalition for Jerusalem
Union of Palestinian Charitable Organizations
Palestinian Economic Monitor
Union of Youth Activity Centers - Palestinian Refugee Camps (UYAC)

Website:

The website of the BNC: www.bdsmovement.net

The Palestinian civil society call for Boycott, Divestment and Sanctions:
<http://www.bdsmovement.net/?q=node/52>

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- Zandwijk Wines (Kleine Draken)

Partial listing of Israeli and international companies involved in Israeli occupation, colonialism and apartheid: www.whoprofits.org

"More than twenty years ago we in the United Nations took the lead from civil society when we agreed that sanctions were required to provide a nonviolent means of pressuring South Africa to end its violations. Today, perhaps we in the United Nations should consider following the lead of a new generation of civil society, who are calling for a similar non-violent campaign of boycott, divestment and sanctions to pressure Israel to end its violations."

Father Miguel D'Escoto Brockman, President of the UN General Assembly, November 29 2008)

1. Preliminary considerations:

- This report focuses exclusively on South African relations with Israel in the post-apartheid era, in an understanding that, within a context where on the ground the only deal offered to the Palestinian people are Bantustans, South African support to the Palestinian people can never offset its support to Israeli occupation and its apartheid regime. It The latter rather risks contributing to the Bantustanization of Palestine. Further, complicity and support in violations of international and humanitarian law cannot be mitigated by mostly charitable support to the victims.
- This report discusses South African economic relations with Israel as well as the related political and institutional framework.
- This report is based on the basic assumptions of the Palestinian Call for Boycott, Divestment and Sanctions (BDS) issued in 2005, which has been largely inspired by the struggle of South Africans and their international supporters against apartheid. It represents a consensus of over 170 Palestinian political and social forces and organizations, including all Palestinian parties.
- This report is not an investigative effort but the simple compilation of publicly available information and data. Yet, this does not detract from its importance as its troubling findings may potentially be only the tip of the iceberg. It hopefully will stimulate further research and investigation.

2. Summary:

The research on economic ties between South Africa and Israel allows for the following conclusions:

- **Complicity with Israeli occupation, colonialism and apartheid:** South African trade relations with Israel necessarily require involvement in or complicity with Israeli violations of human rights and international law, including assistance to Israeli occupation, colonialism and apartheid. Trade relations benefit Israeli companies or involve South African investments in Israeli companies that:
 - **Operate in, construct or bring services to the illegal colonies (settlements)**
 - **Help to build or maintain the Wall and its associated regime of checkpoints, both declared illegal by the International Court of Justice in 2004**
 - **Illegally exploit natural resources located in occupied Palestinian land and/or illegally appropriate water resources to the detriment of the Palestinian people.**
 - **Strengthen the Israeli military and homeland security intelligence sector**
- **Infringing on Palestinian rights:** Involvement in the above policies makes post-apartheid South Africa a partner in the violation of Palestinian rights, including the right to self-determination.
- **Putting South African national security at risk:** South African contracts given to Israel even include companies that have been repeatedly investigated by foreign intelligence agencies and risk to harm South Africa's national security (or at the very least the privacy of its citizens) by handing over to foreign agents information gathered during their operations in South Africa.
- **South Africa's trade with Israel is not only a decision of the private sector but is actively supported by the government through:**
 - **The Spier Initiative.** The initiative was launched in 2002 by President Mbeki to convey to Palestinian and Israeli politicians the South African experience. Just like any other initiative of 'constructive engagement' with apartheid in South Africa or Israel, the Spier Initiative has not achieved any of its professed objectives. When it collapsed in 2006, no tangible political results in terms of Palestinian/Israeli negotiations had been achieved. However, it has opened the doors for Israel to the markets and investment opportunities in South Africa and the wider region and has improved Israel's position in South African diplomacy. The consequences today are increased South African involvement in Israeli occupation, colonialism and apartheid.

- **Trade and investment agreements.** The existing body of agreements, which regulate economic relationships between South Africa and Israel promote trade and investment without taking into account the reality of Israeli occupation, colonialism and apartheid and the obligations for South Africa deriving from this. They facilitate trade and investments involving violations of human rights and international law.
 - **Public enterprises.** South African public enterprises have allocated large contracts to Israeli companies involved in violations of human rights and international law and investigated for espionage.
 - **Trade promoting events.** A number of events promoting trade with Israel have been held with the sponsorship of the South African government. They have targeted sectors of Israeli economy which are particularly deeply and involved in grave violations of human rights and international law and have included the direct participation of a number of South African and Israeli companies in actions that promote, support and maintain Israeli occupation, colonialism and apartheid.
 - **Leadership training.** Governmental support to Israeli projects of cooperation and leadership training, which in many cases are only thinly veiled propaganda efforts to shift South African foreign policy in the long term .
- **This brings South Africa into clear contradiction with its obligations according to:**
 - **Its constitution**, which states that the Republic of South Africa is founded on the enhancement of Human Rights.
 - International law, including the conventions and resolutions that ban colonialism and apartheid, such as the International Convention on the **Elimination of all forms of Racial Discrimination**, the International Convention on the **Suppression and Punishment of the Crime of Apartheid**, the Declaration on the **Granting of Independence to Colonial Countries and Peoples**, the UN General Assembly Resolution 1514 (1960) and other relevant Security Council and General Assembly resolutions.
 - **The IV Geneva Convention**, according to which the settlements, the Wall and much of Israeli military actions against Palestinian civilians are considered war crimes.

The IV Geneva Convention, as much as the conventions banning colonialism and apartheid, obliges all signatories of the Convention to enforce its precepts. However, with its policies on trade with Israel, South Africa effectively supports grave breaches of the IV Geneva Convention and as well as Israeli colonialism and apartheid.

- **This brings South Africa into contradiction with its stated foreign policy, which:**
 - Has clearly shown in its 2004 submission to the International Court of Justice regarding the legal consequences of the construction of the Wall that **it is aware of Israeli violations of human rights and international law, which amount to occupation, colonialism and apartheid.**
 - Aims to **strengthen Human Rights enforcing mechanisms globally.**

The report clearly shows that:

- **It is virtually impossible to keep up and facilitate trade with Israel without infringing South African and international laws and values and abetting Israeli occupation, colonialism and apartheid.**
- **The persistent refusal of the South African government to act in accordance with its obligations and to heed the calls from Palestinian and South African civil society to end its economic relations with Israel. In light of the mass of evidence of Israel's violations of international law and human rights, this leads South Africa to a position of conscious complicity with Israeli occupation, colonialism and apartheid.**
- Trade with Israel directly affects Palestinians and infringes their rights enshrined in international law and UN resolutions, including their right to self-determination. Palestinian civil society effectively resents and feels betrayed by the South African government's support of the South African government for growing economic ties with Israel.
- 'Constructive engagement', such as in the Spier Initiative, does not foster justice but protracts and supports ongoing injustice. South Africa's own experience should be a clear example that concrete pressure, not 'constructive engagement' will bring about a peaceful and sustainable settlement based on international law and the inalienable rights of the indigenous people of Palestine.

3. Recommendations:

Cognizant of South Africa's legal obligations and global moral leadership acquired during the decades long, principled struggle of its people against apartheid, Palestinian civil society calls upon the South African government to join the growing movement for Boycott, Divestment and Sanctions against Israel, starting with:

At national level:

- A full ban on all products, investments and services related to the settlements, the Apartheid Wall or other Israeli policies of occupation, colonialism and apartheid;
- Cancellation of existing contracts between Israeli firms and South African public enterprises, based on the former's involvement in grave violations of international law;
- An end to governmental trade- promoting activities;
- Immediate freeze of any ratification process of agreements and annulling their signature, especially where related to trade and investment.

Internationally:

- Promotion of and support for international calls for a comprehensive arms embargo on Israel;
- Enforcement of the 2004 Declaration on Palestine of the Non Aligned Movement Summit in Durban on the ban of products and services from the settlements;
- Promotion of the global movement for Boycott, Divestment and Sanctions against Israel until it fully complies with its obligations under international law.

The above represent **some elements for regulations which limit trade with Israel as concrete and immediate steps towards full sanctions against Israel**. They would ensure that the South African government and its business community gradually end aid and assistance to Israeli occupation, colonialism and apartheid and fall in line with South Africa's obligations under international law, its foreign policy and its exemplary constitution.

These measures are to be upheld until Israel respects international law and human rights, in particular:

1. Ends its occupation and colonization of all Arab lands and dismantles the Wall;
2. Recognizes the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
3. Respects, protects and promotes the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.

4. South African constitutional and international legal obligations

4.1. The Constitution

Chapter one of the South African constitution states that:

- *“The Republic of South Africa is one, sovereign, democratic state founded on the following values:
a) Human dignity, the achievement of equality and the advancement of human rights and freedoms. [...]
c) Supremacy of the constitution and the rule of law.”*
(Chapter 1, section 1)
- *“This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.”*
(Chapter 1, section 2)

Trade and investment relations with Israel are not only permitted but actively supported by the South African government and in many respects clearly violate the values of “human dignity” and “the advancement of human rights and freedoms,” at an international level.

Furthermore, the constitution clearly states the overriding rule of the constitution and its values as opposed to business or other political interests.

The current trade agreements as well as trade and investment as such in Israel call into question the commitment of the South African Government to the founding values of the Republic of South Africa as expressed in the Constitution.

4.2. South Africa’s obligations under international law

The Human Sciences Research Council of South Africa, governed by the HSRC Act, No. 17 of 2008, published in May 2009 the outcome of a fifteen-month collaborative process of intensive research, consultation, writing and review which involved a number of internationally respected experts of human rights and international law¹. This groundbreaking study has analyzed the applicability of the international conventions on

¹ Human Sciences Research Council of South Africa, Middle East Project of the Democracy and Governance Programme, *Occupation, Colonialism, Apartheid? A re-assessment of Israel’s practices in the occupied Palestinian territories under international law*. May 2009, Cape Town, South Africa. <http://www.hsrc.ac.za/Document-3227.phtml>

colonialism and apartheid in the case of Israeli policies in the West Bank and Gaza as well as the legal consequences for Israel and third parties.

The study demonstrates that the implementation of a colonial policy by Israel is systematic and comprehensive, as the exercise of the Palestinian population's right to self-determination has been frustrated in all of its principal modes of expression. It further finds that the State of Israel exercises control in the OPT with the purpose of maintaining a system of domination by Israeli Jews over Palestinian Arabs and that this system constitutes a breach of the prohibition of apartheid.

The prohibitions of colonialism and apartheid are both established as *jus cogens*, and their breach gives rise to obligations *erga omnes*. The findings of this report thus imply legal obligations on *all* States in relation to the internationally wrongful acts committed by Israel in the OPT.

Accordingly, States are legally bound to pursue the following policies:

- Not to recognise as lawful the illegal situation created by Israel's practices of colonialism and apartheid in the OPT;
- **Not to render aid or assistance in maintaining that illegal situation;**
- To cooperate with a view to bringing the illegal situation to an end;
- **Not to render themselves complicit in the internationally wrongful acts in question by failing to fulfil the above obligations.**

The following extracts from the report's Executive Summary are of particular importance:

*"Breaches of peremptory norms, which involve a gross or systematic failure by the responsible State to fulfil the obligations they impose, generate **obligations for States and intergovernmental organisations of cooperation and abstention.***

"States and intergovernmental organisations must cooperate to end any and all serious breaches of peremptory norms. This obligation of cooperation imposed upon States may be pursued through intergovernmental organisations, such as the United Nations, should States decide that this is appropriate, but must also be pursued outside these organisations by way of inter-State diplomacy. One possible mechanism is that States may invoke the international responsibility of Israel to call it to account for its violations of the peremptory prohibitions of colonialism and apartheid. All States have a legal interest in ensuring that no State breaches these norms and accordingly all States have the legal capacity to invoke Israel's responsibility. Above all, however, all States and intergovernmental organisations have the duty to promote the Palestinian people's exercise of its right of self-determination in order that it might freely determine its political status and economic policy.

"The duty of abstention has two elements: States must not recognise as lawful situations created by serious breaches of peremptory norms nor render aid or

assistance in maintaining that situation. In particular, States must not recognise Israel's annexation of East Jerusalem or its attempt to acquire territory in the West Bank through the consolidation of settlements, nor may they bolster the latter's economic viability. Should any State fail to fulfil its duty of abstention, then it risks becoming complicit in Israel's internationally wrongful acts and thus independently engaging its own responsibility, with all the legal consequences of reparation that this entails.

"In short, for States the legal consequences of Israel's breach of the peremptory norms prohibiting colonialism and apartheid are clear. When faced with a serious breach of an obligation arising under a peremptory norm, all States have the duty not to recognise this situation as lawful and have the duty not to aid or assist the maintenance of this situation.

"Further, all States must cooperate to bring this situation to an end. If a State fails to fulfil these duties, axiomatically it commits an internationally wrongful act. If a State aids or assists another State in maintaining that unlawful situation, knowing it to be unlawful, then it becomes complicit in its commission and itself commits an internationally wrongful act.

"States cannot evade these obligations through the act of combination. They cannot claim that the proper route for discharging these obligations is combined action through an intergovernmental organisation and that, if it fails to act, then their individual obligations of cooperation and abstention are extinguished. That is, States cannot evade their international obligations by hiding behind the independent personality of an international organisation of which they are members. (emphasis added)"

While the study by the Human Science Research Council has focused exclusively on the West Bank, including East Jerusalem, and Gaza, many other authors have argued that **Israeli policies of apartheid and colonialism cannot be reduced to the Palestinian territories occupied in 1967 but inform all of Israeli policies.**

The Palestinian Boycott, Divestment and Sanctions Committee (BNC) has extensively analysed Israeli policies of institutionalized racial discrimination and apartheid in its strategic position paper in preparation of the UN Durban Review Conference. It has pointed out that:

*"Since 1948, Israeli legislators and governments, in conjunction with the Zionist organizations and their subsidiaries, have established and developed a regime of institutionalized racial discrimination that caters to the interest and advantage of the dominant group (see below) and maintains the inferior status of the indigenous Palestinian people and oppresses them systematically. By means of this regime, the State of Israel continues to assert control over a maximum amount of Palestinian land with a minimum number of Palestinians through colonization, denial of refugee return and more forced population transfer."*²

² http://bdsmovement.net/files/English-BNC_Position_Paper-Durban_Review.pdf

5. South African Foreign Policy guidelines

5.1. South Africa's submission to the International Court of Justice regarding the illegality of the Wall

South Africa's legal position regarding the case of Palestine has been clearly presented in the written statement submitted by the government of the Republic of South Africa (30 January 2004) regarding the legal consequences of the construction of the Wall in occupied Palestinian territory³.

The Republic of South Africa clearly pointed out that it considers the Wall and settlements illegal. It has further underlined the applicability of international humanitarian and human rights law to the case of Palestine and therefore implicitly accepted the obligations that spring from these laws, in particular the obligation of enforcement of these laws by third parties.

The submission went further underlining Israel's repeated and systematic refusal to comply with the relevant UN resolution and quoted Judge Lauterpacht in the case of Voting Procedures on Questions relating to Reports and Petitions concerning the Territory of South West Africa.

The judge stated that such a state:

"which consistently sets itself above the solemnly and repeatedly expressed judgement of the Organization, in particularly in proportion as that judgement approximates to unanimity, may find that it has overstepped the imperceptible line between impropriety and illegality, between discretion and arbitrariness, between the exercise of the legal right to disregard the recommendation and the abuse of that right, and that it has exposed itself to the consequences legitimately following as a legal sanction.

(Voting Procedures on Questions relating to Reports and Petitions concerning the Territory of South West Africa, Advisory Opinion, ICJ Reports 1955, p 67 at p. 120)

5.2. The Declaration on Palestine of the XIV Ministerial Conference of the Non-Aligned Movement

In line with its position regarding the legal consequences of the construction of the Wall, the South African government supported the Declaration on Palestine of the XIV Ministerial Conference of the Non-Aligned Movement that it hosted in Durban from August 17 - 19, 2004.

³ <http://www.icj-cij.org/docket/files/131/1597.pdf>

The Conference participants noted in this declaration the immediate negative reaction of the government of Israel to the ICJ advisory opinion of the government of Israel and declared, inter alia, that:

- *“With regard to Member States, the Ministers called upon them to undertake measures, including by means of legislation, collectively, regionally and individually, to prevent any products of the illegal Israeli settlements from entering their markets consistent with the obligations under International Treaties, to decline entry to Israeli settlers and to impose sanctions against companies and entities involved in the construction of the wall and other illegal activities in the Occupied Palestinian Territory, including East Jerusalem.”*
- *“With regard to the High Contracting Parties to the Fourth Geneva Convention, the Ministers called for them to adhere to Article 1 common to the four Geneva Conventions and to undertake measures to ensure compliance by Israel with the Convention. They reaffirmed in this regard the obligations of the High Contracting Parties regarding penal sanctions, grave breaches and responsibilities of the High Contracting Parties. (emphasis added)”*

It is worth mentioning that some Israeli government ministers, including the foreign minister, Avigdor Lieberman, are settlers to whom the above sanctions should apply.

5.3. The Department of Foreign Affairs

The Annual Report of the South African Department of Foreign Affairs of for the years 2004/5 states that:

- *“South Africa continues to be a major and influential player in the development of international human rights law. South Africa is one of the leading countries at the United Nations who continually evaluate the effectiveness of existing human rights treaties and propose additional instruments in a process of setting norms and standards with the view to updating and strengthening such treaties. South Africa strongly believes that international human rights law, like other bodies of law, is a dynamic law, which is in a state of progressive development. It should constantly be updated to ensure maximum protection of victims as well as adequate remedies to victims in cases of actual violations.”*
- *“The contribution to the formulation of international law and the enhancement of respect for the provisions thereof remain strategic objectives of the Department. South Africa’s enhanced role as a major player in international relations further emphasises that respect for and adherence to international law underpins the Government’s foreign policy.”*

It is clearly contradicting South Africa's self conception as a state that promotes instruments of human rights law, that in the case of Palestine no action has been taken to effectively promote their application; on the contrary, several actions directly conflict with this self-declared mission.



The expansion of settlements and their related infrastructure requires the dispossession of Palestinians. Here, trees are uprooted in Wadi ar-Rasha, in the Qalqilya district.

6. Most common forms of support to Israeli occupation, colonialism and apartheid through trade and investments

Whether one is to accept that Israel's policies of apartheid and colonialism apply to all the Palestinians and territory under its control or reduces the applicability of the relevant conventions to the West Bank and Gaza, Israel has subsumed and rendered Palestinian economy in the West Bank and Gaza completely dependent on its own economy. The Israeli economy further acts throughout all of the territory the government of Israel controls. **Involvement in and trade with the Israeli economy as such therefore contributes to the sustainability of Israeli occupation, apartheid and colonialism.**

Yet, even in the most conservative understanding of the reality in Palestine and its legal consequences, i.e.

- not recognizing the applicability of the conventions relative to apartheid and colonialism outside the West Bank and Gaza
- not recognizing the applicability of the conventions on apartheid and colonialism to Israeli policies at all

The South African government and business are deeply involved in violations of international humanitarian and human rights law.

A staggering number of business interests, whether South African firms with Israeli subsidiaries, Israeli firms operating in South Africa, or multinationals operating in Israel and South Africa, are actively involved in supporting ongoing and egregious violations of human rights and/or international law. Private or public business involvement in this system generally conforms to main patterns:

- **Active involvement in the construction, maintenance or technology used by the Wall and its associated regime of military checkpoints**
- **Involvement in the construction, maintenance or industry of illegal West Bank settlements.**

Additionally, there are a number of companies that, while not directly involved in ongoing human rights abuses, are linked to and directly benefit from the Israeli occupation. and are:

- **Inextricably linked to Israeli military and intelligence services.**

What follows is a detailed description of the violations of human rights and international law related to these aspects of trade with Israel, in an understanding that these are only some of the most egregious examples of South Africa's overall support to what is the Israeli colonial, apartheid system.

6.1. The Wall and checkpoints

There are a number of companies involved in South Africa whose products are used to build, secure and maintain the Wall and checkpoints in the West Bank and Gaza. This relationship involves Israeli companies, active in homeland security and other industries, with large contracts in South Africa as well as large South African firms with Israeli subsidiaries.

The Wall and checkpoints are both key in maintaining apartheid, in a proper legal sense, in the West Bank according to Article 2(c) of the Apartheid Convention.⁴ The HSRC note the importance of the Wall and checkpoints in doing so, stating, "Restrictions on the Palestinian right to freedom of movement are endemic in the West Bank, stemming from Israel's control of checkpoints and crossings, impediments created by the Wall and its crossing points, a matrix of separate roads, and obstructive and all encompassing permit and ID systems that apply solely to Palestinians. Palestinians living in the West Bank and Gaza Strip are not allowed to visit the other territory and are not allowed to enter East Jerusalem with[out] a pass."⁵ The Wall and settlements also conform to Article 2(d) of the Apartheid Convention,⁶ insofar as "the Wall and its infrastructure of gates and permanent checkpoints suggest a policy permanently to divide the West Bank into racial cantons."⁷

Further, "by thus partitioning contiguous blocs of Palestinian areas into cantons, Israel has violated the territorial integrity of the OPT in violation of the Declaration on Colonialism."⁸

The ICJ found the restrictions on movement created by the Wall and its associated regime to be in violation of the International Covenant on Civil and Political Rights and also consequently responsible for violations of the rights to work, health, education and

⁴ Article 2(c) states, that measures calculated to prevent a racial group from participation in the political, social, economic and cultural life of the country and to prevent the full development of a group through the denial of basic human rights and freedoms. See: *Occupation, Colonialism, Apartheid?*, p. 18

⁵ Ibid p. 19

⁶ Article 2(d) "relates to division of the population along racial lines, has three elements, two of which are satisfied [in the oPt]" See: *Occupation, Colonialism, Apartheid?*, p. 19

⁷ Ibid p. 19

⁸ Ibid p. 16

an adequate standard of living, guaranteed by the International Covenant on Economic, Social and Cultural Rights.

6.1.1. The Apartheid Wall in the West Bank

The **Wall has been deemed illegal by the International Court of Justice (ICJ)**. In its 2004 Advisory Opinion, the ICJ ruled that Israel's construction of the wall in the occupied West Bank, including in an around East Jerusalem, is contrary to international law and that Israel is obliged to cease all construction, to dismantle the Wall and to make reparation for all damage caused by its construction.⁹

The Wall is a primary means of land theft and snakes through Palestinian land, cutting deep into the occupied West Bank to annex land and vital water resources. Together with the settlements, military zones, ditches and bypass roads, it will *de facto* annex nearly 50% of West Bank land, and divides the territory into six ghettos.

The path taken by the Wall has and continues to destroy land and trees while isolating thousands of dunums for the use of settlements. In 2007 alone, 3,143 dunums of land were confiscated, and over 2,480 olive trees were uprooted.¹⁰

The Wall also serves as a pretext for home demolitions. Demolition orders can be issued to any family whose home is in the path of the Wall or is deemed to be too close to the Wall, regardless of the fact that most of these homes were built long before the Wall was constructed. Since 2002, some 3,270 military demolitions have been carried out, meaning Palestinian homes were arbitrarily destroyed by Israeli forces for purposes such as clearing a piece of land for the Wall or its associated regime.¹¹ As such, **the Wall leads to gross violations of the fundamental human right to housing**¹² as well as breaches of Israel's obligations as an occupying power under the Fourth Geneva Convention to ensure the welfare of the civilian population and refrain from destroying real or personal property belong to private persons.¹³

Finally, the Wall acts, together with the checkpoints and terminals, to seal off East Jerusalem from the rest of the West Bank, which is the economic, social and cultural heart of the West Bank. It has become virtually impossible for Palestinians living in the West Bank to obtain permits to enter Jerusalem, while those living in Jerusalem are

⁹ Advisory Opinion of the ICJ regarding legal consequences of the Construction of a Wall in the occupied Palestinian territory, available at: <http://www.icj-cij.org>, (click on 'Cases' > 'Advisory Opinions'). Paras 90-101 and 120-121

¹⁰ <http://www.stopthewall.org/downloads/pdf/FS07.pdf>

¹¹ ICAHD Statistics on House Demolitions (1967-2007)

¹² International Covenant on Economic, Social and Cultural Rights (1966), Article 11 (1).

¹³ IV Geneva Convention, Article 53

forced into ever-shrinking ghettos. This practice is in violation of Article 2(c) of the Apartheid Convention¹⁴ and also, as an “act based on colonial intent”, is in violation of international law.¹⁵

Due to the above impacts, the Wall functions as a **tool for inducing forced displacement of Palestinians**. Currently, 257,265 people living in 60 localities across the West Bank are completely isolated by the Wall and the settlements from the rest of the West Bank and face eventual displacement if the Wall is not immediately dismantled.¹⁶ As the Wall serves to displace Palestinian communities from their lands and incorporate the majority of illegal settlements, this amounts to the forcible transfer of the Palestinian population and a creeping **ethnic cleansing**, which are gross violations of international human rights law which may amount to crimes against humanity.

Israel has so far ignored the 2004 ICJ opinion and related UN resolutions. The construction of the Wall is ongoing, with some 500 km of the total length of 790 km having been completed so far. The gross violations of international human rights and serious breaches of humanitarian law are thus steadily continuing, as dozens more villages and hundreds of thousands more people will have their property, lands and livelihoods destroyed if construction is not halted.

The International Court of Justice advisory opinion on 9 July 2004 confirming the illegality of the Wall further **binds all states not to recognize the illegal situation created by the Wall or to render aid or assistance in maintaining it**. All States Parties to the Fourth Geneva Convention are obliged to ensure Israel complies with international humanitarian law. This lays clear obligations on international states and actors.



The Wall runs through the Palestinian community of Abu Dis, isolating it from Jerusalem.

¹⁴ Ibid p. 18

¹⁵ Ibid p. 16

¹⁶ <http://stopthewall.org/activistresources/1583.shtml>

6.1.2. Military Checkpoints

There are 634 physical obstacles, including 93 staffed checkpoints and 541 unstaffed obstacles (earth mounds, roadblocks, road barriers, etc) across the West Bank.¹⁷ Combined with “closed military zones” and “nature reserves,” which serve to close 28% of the West Bank to Palestinian use, **checkpoints are vital in fragmenting the West Bank into isolated enclaves.**¹⁸

In addition to the checkpoints and other military obstructions to movement that exist inside the West Bank, there are 34 fortified terminals along the path of the Wall, where Palestinians are regularly beaten, detained and humiliated.

Construction work, including the pavement of roads, insertion of concrete barriers, building of terminals, etc. is ongoing across the West Bank at various checkpoints, further entrenching the system across the West Bank and making fragmentation permanent.¹⁹ As noted previously, this system is in violation of several articles of the Apartheid Convention.

The checkpoints have led to the complete degradation of the Palestinian economy, itself a violation of Article 2(c) of the Apartheid Convention²⁰, and result in ongoing violations of basic human rights. According to the Palestinian human rights organization, al-Haq, in one of its updates on the human rights situation in the West Bank and Gaza:

“Checkpoints and various types of roadblocks, remained one of the most widespread forms of human rights violation. [...] These restrictions greatly hindered Palestinians’ access to family, education, health, places of employment or worship, agricultural lands and markets.

“The manned checkpoints located throughout the West Bank not only prevent Palestinians from moving freely, but they also constitute a recurrent setting for ill-treatment. Al-Haq received new reports of Palestinians being subjected to delays, abuse and humiliating treatment by Israeli forces at checkpoints.”²¹

Former UN Special Rapporteur on human rights in the occupied Palestinian territory, John Dugard, confirmed these accounts in his reports on checkpoints, concluding,

*“The absence of a satisfactory security explanation for these checkpoints leads to the inevitable conclusion that **they are principally designed to humiliate and harass the Palestinian people.**”²²*

¹⁷ UN OCHA, *West Bank Movement and Access Update*, May 2009, p. 2

¹⁸ Ibid p. 2

¹⁹ Ibid p. 5

²⁰ Ibid p. 18

²¹ Al-Haq, Monitoring and Documentation Department, April – June 2007, June 2007, p. 3

²² <http://www.unhchr.ch/hurricane/hurricane.nsf/0/0478C20910151B14C12571940058247A?opendocument>

6. 2. Settlements, roads and related industry

It is hardly worth reiterating that **settlements are considered illegal under international law and the greatest obstacle to peace in the region**. Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Person in Time of War explicitly prohibits the transfer of the Occupying Power's civilian population into the occupied territory. The illegal status of Israeli settlements has been confirmed by the United Nations Security Council (Resolution 466 of 22 March 1979) and the International Court of Justice (Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, of 9 July 2004). They further violate the Declaration on Colonialism. Through the theft of "natural resources of the OPT, Israel has further breached the economic dimension of self-determination, as expressed in the right of permanent sovereignty over natural resources."²³

Settlements also violate the Apartheid Convention. Private Palestinian land comprises about 30 percent of the land annexed for Jewish settlement in the West Bank, in violation of Article 2(d).²⁴ Furthermore, Palestinians living in the OPT are subjected to "legal systems and courts which apply standards of evidence and procedure that are different from those applied to Jewish settlers living the OPT and that result in harsher penalties for Palestinians"²⁵. This two-tier legal system represents a clear violation of Article 2(a).

In addition to the settlements, Israel has created a network of roads to facilitate access to and movement between the settlements. Today, Israeli-only 'apartheid' roads across the West Bank have become a defining feature of the Israeli apartheid policies. In addition to violating Palestinians' freedom of movement and access, with serious repercussions for health, education and livelihoods, the apartheid roads have consolidated and strengthened the presence of Israeli settlements across the West Bank, ensuring superior access for settlers at the expense of the indigenous Palestinians. The consequences include an inability to access core services and increased forced displacement pressures for Palestinians. The UN Office for the Coordination of Humanitarian Affairs has pointed at the fact that "Palestinian vehicular access into these roads is either restricted or prevented and ultimately diverted. Consequently, these roads have become barriers." The impact of the apartheid roads extends beyond their humanitarian consequences as they destroy both the economic and political prospects of the Palestinian people. In fact, although Israel's occupation policies have led to analogies being drawn with South African apartheid, as a number of commentators have noted, the presence of these roads represents a situation much worse than the apartheid in South Africa.²⁶

²³ Ibid p. 16

²⁴ Ibid p. 20

²⁵ Ibid p. 18

²⁶ 'Apartheid Roads – promoting settlements, punishing Palestinians', Ma'an Development Center, December 2008, [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/3F7C82A59691A351C125754A00529842/\\$file/Apartheid+Roads+Web.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/3F7C82A59691A351C125754A00529842/$file/Apartheid+Roads+Web.pdf)

Companies operating in the settlements are in no way exempt from the provisions of international law, and mounting pressure has recently been forcing firms operating in settlements to close their operations. Unilever announced that it will sell its 51% stake in the Beigel & Beigel factory in Ariel settlement. Similar actions by multinational corporations include: the Swedish company Assa Abloy, which removed its Mul-T-Lock factory from the Barkan settlement; the Barkan Winery company, which divested from its branch on the Barkan Industrial Park after entering a partnership with the Dutch beer manufacturer, Heineken; and Harrod's department store, which cleared its shelves of Beigel & Beigel products in August 2008.²⁷

Companies who continue to operate in settlements or are involved with their construction have been facing lawsuits and divestment. For example, the Palestinian village of Bil'in has taken on two Canadian companies, Green Park International Inc. and Green Mount International Inc., charging them with war crimes. The case has been filed in the Quebec Superior Court in Montreal, Canada on the grounds that the companies have violated both international law and Canadian domestic law by acting as agents of Israel, illegally constructing residences and other buildings in the West Bank.²⁸

6.3. Ties with Israeli intelligence and military

Involvement with companies whose technology is based on the Israeli military and intelligence services is politically indefensible for a country such as South Africa, as they tap directly into a network of mutual support and involvement, including the sharing of personnel, technology and the like between private firms, official government and military institutions, and Israeli universities. With experience garnered from past wars as well as the ongoing occupation, military officers and engineers are able to build successful private companies following the official end of their military service.

As such, it is not surprising that **telecommunications, technology and homeland security firms come directly from Israeli intelligence circles.** One famous example is Unit 8200, which is responsible for "worldwide eavesdropping in Israel"²⁹ and exemplifies the links between technology, military, and commercial success. According to *Foreign Policy*, "it is the most important driver behind the success of Israel's high-tech business sector. Veterans of the unit have spun off some 50 tech start-ups worth billions of dollars in the past decade."³⁰ This is corroborated by an interview with a former Israeli intelligence officer who stated, "This correlation between serving in the

²⁷ <http://www.badil.org/al-majdal/2008/autumn-winter/bds-update.htm>

²⁸ <http://www.bilin-village.org/english/activities-and-support/Support-Bilin-s-historic-court-case>

²⁹ Bamford, James, *The Shadow Factory*, New York, 2008, p. 243

³⁰ http://www.foreignpolicy.com/users/login.php?story_id=3951&URL=http://www.foreignpolicy.com/story/cms.php?story_id=3951

intelligence unit 8200 and starting successful high-tech companies is not coincidental. Many of the technologies in use around the world and developed in Israel were originally military technologies and were developed and improved by Unit [8200] veterans.”³¹

As such, the **telecommunications, surveillance, and computer technology firms benefit from the perpetuation of occupation and apartheid, testing and fine-tuning their methods on the Palestinians, continually developing more effective techniques and systems that not only facilitate the colonization of the West Bank, but that also have a healthy market value abroad.**



Israeli soldiers attack a demonstration in Ni’lin. Telecommunications is key in maintaining control over the West Bank, and is often developed by soldiers through their experience with military communications and technology.

³¹ *The Shadow Factory*, p. 243

7. Trade of South African private companies assisting Israeli occupation, colonialism and apartheid

7.1. Companies involved in the construction and maintenance of the Wall and checkpoints as well as in the construction of settlements and related industry

7.1.1. On Track Innovation (OTI)

OTI is a key developer of smart card technology, which is used extensively in Israel's checkpoint system where it gains the field experience necessary to turn it into a valuable export. This technology is also used in other non-security markets.

In 2000, OTI Africa, a wholly owned subsidiary of OTI, signed a three year agreement with BP Africa to extend the FuelMaster network throughout the southeastern portion of the continent. South Africa was an important part of this contract, which utilizes the OTI's smart card technology.

Involvement with military checkpoints

- OTI's SmartID was deployed at the Erez checkpoint in 1999 to better control Palestinian movement under the aegis of the Basel Project. Checkpoints around Gaza are now used to hermetically seal the territory, letting in just enough aid to allow the people to survive³².
- OTI's smart card system has been extended and is now used at major checkpoints in Bethlehem and Sha'ar Ephraim in the West Bank³³.
- As such, OTI technology is a vital part in maintaining the occupation of the West Bank and Gaza.

³² <http://www.contactlessnews.com/2003/08/20/otis-smart-id-product-to-power-israel-palestinian-border-crossing>

³³ <http://whoprofits.org/Company%20Info.php?id=642> and <http://www.smartcardalliance.org/articles/2005/04/19/the-basel-border-crossing-project-utilizing-otis-smart-id-product-is-extended-to-more-border-crossings>

7.1.2. Yehuda Welded Mesh

Cape Gate Ltd. is a South African company that manufactures and delivers steel and wire products (fencing, barbed wire, construction materials, etc.). Cape Gate has ties in Israel and owns Yehuda Welded Mesh.

Involvement with military checkpoints, the Apartheid Wall and settlements

- **Built the fence around the Gaza Strip** and supplied fences for the seam-line expanse separation project **and the Apartheid Wall around Jerusalem** and in the area of Mahola junction (Gilbo'a).³⁴
- **Supplied fences for the fencing of apartheid roads**, including the Cross Shomron road (road no. 5), which leads to the settlement of Ariel, and the Tunnels Road, which connects the settlements of Gush Etzion and Jerusalem.
- **Yehuda Welded Mesh fences are also used in the industrial zone of the settlement of Barkan, and in Ariel and Karnei Shomron settlements** in the West Bank, as well as in the Gush Katif settlements before the disengagement from the Gaza Strip (see the following section about the settlements).

7.1.3. Phoenicia America-Israel (Flat Glass)

Phoenicia America-Israel is Israel's sole producer of float and pattern glass, as well as a wide variety of derived products including laminated safety glass, bullet resistant glass, tempered glass and mirrors. More than 70% of Phoenicia's production is exported to Greece, Italy, the United Kingdom, Australia, Turkey, Cyprus, South America, Egypt and South Africa³⁵.

Involvement with military checkpoints and settlements

- **The company provides bullet and blast proof glass windows for the Qalandiya checkpoint**, which is key in the isolation of Jerusalem.
- Phoenicia America-Israel also **provides bullet proof windows for residential structures in the Gilo settlement**

³⁴ <http://whoprofits.org/Company%20Info.php?id=492>

³⁵ http://www.export.gov.il/Eng/_Articles/Article.asp?ArticleID=9409&CategoryID=990&Page=2



Phoenicia America-Israel supplies Gilo settlement, located on Bethlehem area lands, with material.

7.1.3. Emblaze Group

Emblaze Group, holder of Emblaze Ltd., is an Israeli investment group that holds investments in a variety of companies dealing with telecommunications, software and IT.

In 2006, Emblaze Mobile Ltd., the handset design and manufacturing house and member of the Emblaze Group, announced at GSM Africa an exclusive distribution agreement with Blue Tech Africa, a mobile device and connectivity technology distribution company, which will see its handsets introduced to key African markets during 2006. In 2007 Pinnacle AV Solutions South Africa signed a contract to with Emblaze-VCON, to market, distribute and support Emblaze-VCON's full line of products. Pinnacle AV Solutions has offices throughout South-Africa and the African Continent.

Involvement in settlement industry

- **Emblaze Group holds controlling stake in Matrix, a company that operates an off-shoring software services center in the illegal settlement of Modi'in Illit in the occupied West Bank.³⁶ Modi'in Illit is built on Palestinian land and is expanding, expropriating more Palestinian land from six local villages: Bi'lin, Ni'lin, Deir Qadis, Kharbata, al-Midya, and Saffa. In the past year, the Israeli military has killed six people, among them three children, during protests against the confiscation of land and the building of the Wall in Ni'lin and Bil'in.**

³⁶ <http://whoprofits.org/Company%20Info.php?id=623>

- **Emblaze also owns controlling stake in Visual Defence Ltd., a firm offering communication technologies for various sectors including the military and homeland security markets.** Given their work with the Israeli military³⁷ (including having former Chief of the General Staff of the Israeli Defense Force (IDF), Amnon Lipkin-Shahak serving on the board of directors), as well as their products, **it is highly likely that Visual Defence technology is used in surveillance systems and military equipment in the West Bank.**

7.1.4. Distek

Distek is a provider of chemicals and equipment for metal surface treatment. In 2005, Distek opened Distek Africa, based in Spartan, which specializes in the thermal-diffusion zinc coating of steel to prevent corrosion.

Involvement in settlement industry

- **The Distek factory is located in the industrial zone of Barkan, which is a settlement in the West Bank.**³⁸ **Several multinational companies have already removed their operations from Barkan industrial zone** on account of its illegality.
- Barkan is one of the biggest settlement industrial zones in the West Bank. **80 factories from Barkan industrial zone discharge 0.81 million cubic meters of wastewater per year into nearby valleys.** The wastewater has formed a river through the agricultural lands of the villages of Kifr al-Dik and Bruqin. These poisonous streams have led to the destruction of trees and crops of the Palestinian farmers and threaten the health of their communities.³⁹

7.1.5. Beigel and Beigel and Soda Club

Both companies are food and drink manufacturers. Beigel and Beigel is a baked goods' company, manufacturing pastries, pretzels and mini cracker snacks, while Soda Club produces carbonating equipment for soft drinks. Both firms export their products to the South African market.

Involvement in settlement industry

- **Beigel and Beigel's company plant is also located in the Barkan industrial**

³⁷ http://www.cbronline.com/news/visual_defence_aims_to_raise_37m

³⁸ <http://www.whoprofits.org/Company%20Info.php?id=730>

³⁹ <http://imeu.net/news/article007134.shtml>

zone.⁴⁰ As previously noted, Harrod's department store cleared its shelves of Beigel & Beigel products in August 2008.

- **Soda Club's main plant is located in the industrial zone of Mishor Edomim,** which is an Israeli settlement in the West Bank.⁴¹ It has been pressured since 2008 to remove the operation.

7.1.6. Hishtil

Hishtil is the largest producer of young plants in Israel. It also develops and operates advanced biological and mechanical nursery technologies. In 2007 Hishtil opened a large operation in South Africa. With an investment of \$8 million Hishtel SA will produce 200 million vegetable seedlings annually to growers in South Africa.⁴²

Involvement with settlement industry

- **Hishtil has a plant nursery in the settlement of Susia, south of Hebron. The settlers in Susia are responsible for some of the most horrendous attacks on Palestinian farmers and shepherds.** Last summer, witnesses managed to film these attacks, during which masked settlers wielding bats and clubs attacked a family grazing their sheep. Settlers attacked the family, beating all four of them to the ground, hitting them on their heads and backs. The older of the women, Tamaam, received such bad blows to her head and face that she lost consciousness.⁴³
- **Hishtil also distributes plants which are grown in settlements in the Jordan Valley.** These settlements are built on Palestinian land and steal vast quantities of water from Palestinian communities to feed the massive agro-business sector that has developed in the settlements. Produce from settlements has faced boycotts across Europe, leading sellers to attempt to disguise its origin.⁴⁴

⁴⁰ <http://www.whoprofits.org/Company%20Info.php?id=578>

⁴¹ <http://www.whoprofits.org/Company%20Info.php?id=577>

⁴² <http://www.ynetnews.com/articles/0,7340,L-3418350,00.html>

⁴³ <http://www.eappi.org/en/news-events/ea-reports/r/browse/6/article/4837/settler-attack-in-susiya.html>

⁴⁴ <http://jewssansfrontieres.blogspot.com/2009/03/sweet-news-from-ireland-cyprus-refuses.html>

7.2. Companies with ties with Israeli intelligence and military

7.2.1. Comverse Technology

Comverse technology was founded by a former Israeli intelligence officer in 1984 and is focused on wireless technology, voice-mail software, and other areas of the telecom sector. Comverse is built on providing systems for data mining and other intelligence technology. In the early nineties the firm developed a surveillance device called AudioDisk which ended up bringing in half of the company's revenues in 1993.⁴⁵ This was further developed by a subsidiary called Comverse Infosys that was renamed Verint Systems⁴⁶ Comverse is effectively an arm of the Israeli government: 50 percent of its R&D costs are reimbursed by the Israeli Ministry of Industry and Trade.⁴⁷

In South Africa, Comverse is contracted to provide call return service to Vodacom of South Africa. Vodacom, with a customer base of 5 million, is part of the Vodafone Group. The value of the deal was not disclosed.

Involvement with Israeli intelligence and military

- **Comverse is built on Israeli intelligence technology with close ties to the government:** former officer Kobi Alexander founded the company and Dan Bodner, a former Israeli army engineer, is the current head.⁴⁸ Comverse's main product is based on Unit 8200.⁴⁹ There are further ties to the Israeli intelligence community and the firm's reliance on the state.
- **These ties have led to problems with other intelligence agencies in the past.** According to a former CIA official, "Phone calls are intercepted, recorded, and transmitted to U.S. investigators by Verint, which claims that it has to be 'hands on' with its equipment to maintain the system," meaning that Verint may have access to information picked up by the system through use of trojan imbedded in Verint wiretap software.⁵⁰ Similar issues arose in Australia, when government was aiming to get rid of Verint on account of the fact that while the company could access data at all times, the government itself had difficulty getting access.⁵¹

⁴⁵ *The Shadow Factory*, p. 239

⁴⁶ *Ibid.* p. 240

⁴⁷ http://www.alternet.org/audits/130891/breaking_the_taboo_on_israel%27s_spying_efforts_on_the_united_states/?page=entire

⁴⁸ *The Shadow Factory*, p. 238

⁴⁹ *Ibid.* p. 243

⁵⁰ http://www.alternet.org/audits/130891/breaking_the_taboo_on_israel%27s_spying_efforts_on_the_united_states/?page=entire

⁵¹ *The Shadow Factory*, p. 242

- **Top executives from the company are facing charges for fraud, money laundering and other crimes.** 32 charges have been brought by US prosecutors against Kobi Alexander, who founded the Comverse, along with other company officers, who backdated stock options and set up a slush fund of options to pamper disgruntled company officers, sometimes registering allocations to fake employees. Alexander is currently in Namibia, fighting extradition to the United States where he could face up to 25 years in prison.⁵²

7.2.2. Baran Group Ltd.

Baran is a global provider of engineering, technology and construction services and works in a wide range of sectors, such as: manufacturing, industrial process, power, petroleum, water supply, sewerage & hazardous waste, general building, transportation and telecommunications.

In 2007, Baran became a subcontractor for GE Water & Process Technologies, a unit of General Electric Company, which in turn was contracted to design and construct a reverse osmosis seawater desalination plant in South Africa. According to Nellie Swanepoel, Managing Director of GE -- Water and Process Technologies in South Africa, "We are furthermore working with world-class partners in the construction of the facility, namely Baran Engineering from Israel and Group 5 which is well-known to the South African market."⁵³

Involvement with Israeli intelligence, military and possibly settlements

- **Baran has been involved with the Israeli military.** Baran was involved in building an advanced dry storage base for the armed division of the Israeli army as part of the Nachshonim Project.⁵⁴
- **Baran may be contributing to the expansion of settlements in the West Bank.** Baran has been involved in two projects with cellular phone companies. One was with Orange, to set up the company's GSM network.⁵⁵ The second was with Cellcom, to set up its TDMA, GSM & UMTS networks.⁵⁶ Cellular network infrastructure which serves the military is often used as a first step in establishing settlements in the West Bank.⁵⁷

⁵² <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=768737&contrassID=2&subContrassID=2>

⁵³ <http://www.thefreelibrary.com/GE+To+Build+Desalination+Plant+and+Recover+Salt+from+Wastewater...-a0164164671>

⁵⁴ http://www.barangroup.com/project_page.asp?project_id=64

⁵⁵ http://www.barangroup.com/project_page.asp?project_id=37

⁵⁶ http://www.barangroup.com/project_page.asp?project_id=52

⁵⁷ Weizman, Eyal, *Hollow Land: Israel's Architecture of Occupation*, New York 2007, p. 1 – 3

8. Public Enterprises

Public enterprises are owned and managed by the Department for Public Enterprises⁵⁸. A series of other enterprises in South Africa see the government as a major shareholder.

Seven of the public enterprises have been operating for years, while South African Express Airways and Broadband Infraco were to be constituted in 2007/8. Out of the seven public enterprises only South African Airlines and the PBMR (Pebble Bed Modular Reactor, nuclear energy) seem not to have relations with companies involved in Israeli violations of human rights and international law.

All other public enterprises have contracted or sold assets to companies that are directly involved in Israeli violations of human rights and international law, supporting directly the viability of the Israeli economy and Israeli policies of colonialism and apartheid.

South African public enterprises are the backbone for national sustainable development and the Department for Public Enterprises has the oversight mandate for the enterprises. **It is crucial that the Department ensures that core development projects within South Africa are not directly linked and involved in the Israeli policies of occupation, apartheid and colonialism.**

To do so, the Department needs to develop clear guidelines that keep Israeli companies out of the procurement processes. What follows are examples of South African Public economic ties with Israeli firms. (Denel will be discussed under section 9. 4.)

8.1. ESKOM

Eskom is South Africa's major electricity utility and is responsible for 95% of electricity supply, involving the generation, transmission and distribution and retail⁵⁹.

The South African government urges through the homepage of the South African embassy in Israel to invest in Eskom. Eskom is listed at the only sector of opportunity for Israeli investors⁶⁰.

ESKOM has ties with at least two Israeli companies directly supporting Israeli occupation, colonialism and apartheid.

⁵⁸ <http://www.dpe.gov.za/home.asp>

⁵⁹ <http://www.dpe.gov.za/home.asp?id=22>

⁶⁰ http://www.safis.co.il/info1_4.asp

8.1.1. Israeli Electric Company

According to Maj. Gen. Fumanekile Fumie Gqiba, in a speech given to the Israeli Knesset on South Africa Freedom Day Speech, “One of our largest government corporations, ESKOM, plans to spend about R343 billion to expand capacity over the next five years, with 73% of this amount being allocated to building new power plants. [...] The Israel Electric Corporation is participating in the design of one of the new power stations.”⁶¹

The Israeli Electric Company is the sole electric utility in Israel, where it is 99% state-owned and responsible for the production and distribution of electricity. In addition, the IEC is the main supplier of electricity to the West Bank and Gaza. The West Bank receives nearly all of its electricity from the IEC, which supplies 30% directly and 70% indirectly through JDECO.⁶² The IEC also has access to Gaza, which is connected to the Israeli power grid at 11 points along the border.⁶³

Involvement with settlements

- **The IEC has historic and long-running support for settlements.** Prior to the 2005 pullout of the evacuation of settlements, the IEC was providing and maintaining electrical power for the settlements of Gush Katif as well as the Kfar Darom.⁶⁴ The IEC is and has historically been the sole provider of electricity to the West Bank settlements.⁶⁵
- **The IEC actively assists in the creation of new settlements, connecting so-called “outposts” to the power grid.** Providing utilities to these nascent settlements solidifies their position on Palestinian land and facilitates the expansion of their populations. Maigon is an example of a new settlement that has been hooked up to the IEC grid.⁶⁶ In June of 2008, a new settlement called Maskiyot was also approved for establishment.⁶⁷ In the Hebron area, the establishment of a new settlement called Sansana was also approved in 2008.⁶⁸ Overall, during 2008 1,518 new structures were constructed in settlements and outposts, as compared with 898 structures in 2007; this represents a 60% increase

⁶¹ <http://www.safis.co.il/news1.asp>

⁶² World Bank, *West Bank and Gaza Energy Sector Review*, May 2009, p. 14

⁶³ Ibid p. 15

⁶⁴ Gaza-Jericho Agreement, Annex II, 1994.

<http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Gaza-Jericho%20Agreement%20Annex%20II>

⁶⁵ The Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, Annex III: Protocol Concerning Civil Affairs, Article 10: Electricity, 1995

<http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/THE+ISRAELI-PALESTINIAN+INTERIM+AGREEMENT+-+Annex+III.htm#app-10>

⁶⁶ Cook, Jonathon, “Creating a fact on the ground” *Electronic Intifada* 2008.

<http://electronicintifada.net/v2/article9779.shtml>

⁶⁷ <http://peacenow.org/policy.asp?rid=&cid=5214>

⁶⁸ <http://www.peacenow.org/updates.asp?rid=0&cid=5887>

in settlement construction.⁶⁹

- The IEC, in its support for nascent-settlements, plays a role in ensuring that settlement expansion will continue, in violation of international and humanitarian law and to the detriment of the Palestinian population.

8.1.2. Alstom

Alstom is a world leader in transport and energy infrastructure and has a subsidiary Alstom South Africa. Alstom South Africa employs in excess of 6,000 people and has an annual order intake in excess of R5bn. It has 27 operating units, 22 production facilities and 25 distribution centres throughout South Africa.

Alstom has become a major partner for ESKOM:

- In May 2009, ESKOM has signed a contract with Alstom Distribution Transformers to supply the lion's share of the distribution transformers required by Eskom Distribution over the next two years. The company, which has more certifications for Eskom spec distribution transformers than any other supplier, was one of four companies awarded two-year national contracts by the utility. The contract, which came into effect from the beginning of February this year, is worth R425m, accounting for approximately 40 per cent of the total.⁷⁰
- In August 2006, Eskom and Alstom signed a R823-million deal, which will see the company upgrading the boilers and turbines at Eskom's Arnot power station. The total value for the project is R1,48-billion.⁷¹
- Eskom's return-to-service project also has Alstom among the contractors. The project involves the demothballing of three coal-fired stations – Camden, Grootvlei and Komati for a cost of 16 billion Rand.⁷²
- Alstom is among the main contractors for Coega Industrial Development Zone (IDZ), Eastern Cape. The public sector investors are the Eastern Cape Government (Coega IDZ infrastructure), the NPA (deepwater port of Ngqura), Eskom and Transnet Freight Rail. The total value of the project is to reach up to 20 billion Rand.⁷³

⁶⁹ Ibid

⁷⁰ http://www.alstom.co.za/home/loader.asp?main=../news/news_show_article.asp?id=3203:type=Newsroom:owner=Alstom&left=../news/leftmenu.asp?type=Newsroom:owner=Alstom

⁷¹ http://ltnw.creamermedia.co.za/articles/attachments/08069_pip2007second.pdf

⁷² Ibid

⁷³ Ibid

Involvement with settlement infrastructure

- Alstom won the construction bid for a light rail that will connect the ring of illegal Jewish settlements in the West Bank with Jerusalem, for which Palestinian land is being confiscated, on top of other violations of international law. **The light rail project plays a key role in sustaining the settlements and ensuring that they become a permanent fixture upon Palestinian land.**
- The tram links these colonies into the central areas of the city, ethnically cleansed in 1948, and provides them with a vital transport link to make further settlement expansion viable. **The path of the light rail in Jerusalem almost entirely bypasses the Palestinian population and completely disregards their needs.**
- **The construction of the tramway in East Jerusalem is in violation of international law**, according to Article 49 of the Fourth Geneva Convention, wherein an occupying power is forbidden from transferring its population to the territory it occupies.
- **Alstom and Veolia (another firm involved with the light rail), were taken to court** by Association France Palestine Solidarite (AFPS) with the support of the Palestinian Liberation Organization (PLO), invoking French Civil Code as well as international law, which renders the contracts illegal under French law.

8.2. SAFCOL

SAFCOL in at least one instance has sold assets to a company that actively supports Israeli colonialism and apartheid and is directly involved in violations of international law.

In 2001, SAFCOL has sold 22,000 hectares of commercial forestry assets in KwaZulu Natal to the Siyaqhubeka Consortium. The transaction is valued at close to R100 million. The Consortium is comprised of Mondi Limited and its empowerment partner Imbokodvo Lemabalabala Holdings (I.L. Holdings), with Mondi holding an initial 65 per cent⁷⁴. Mondi is a global player in paper production and has an Israeli subsidiary, Mondi Hadera.

⁷⁴ <http://www.dpe.gov.za/home.asp?id=160>

Involvement with settlement industry

Mondi Hadera was founded at the end of 1999 as Neusiedler Hadera Paper, a company jointly owned by the Austrian paper company Neusiedler (50.1%) and American Israeli Paper Mills Ltd. (49.9%). In 2008 the company was renamed Mondi Hadera. American Israeli Paper Mills has as subsidiary **Carmel Container System** and **T.M.M. Onyx**⁷⁵

- Carmel Container System's⁷⁶ major customers include:
 - **Keter Plastics** - Manufactures plastic furniture, household and garden products. **The company has a plant in the Barkan industrial zone**, which is a settlement in the occupied West Bank⁷⁷.
 - **Agrexco** - **Exports fruits, vegetables and flowers, some of which are grown in Israeli settlements in the West Bank**. The company has a regional office in the occupied Jordan Valley. In a court case in November of 2006, the General Manager of Agrexco UK at that time, Amos Orr, testified that Agrexco markets 60-70% of the agricultural produce grown in Israeli settlements in the occupied territories.⁷⁸
- **TMM Onyx operated an illegal landfill in the West Bank**. The Tavlon landfill is located in the West Bank and is mainly used as a dump for solid waste from Israeli municipalities and the illegal settlements of Ariel, Maale Efrayim, the Regional Councils of Megilot, Biqat Hayarden and Shomron as well as the Barkan Industrial Park.⁷⁹

8.3. TRANSNET

Transnet is the custodian of port and rail infrastructure in South Africa⁸⁰.

The Israeli company NICE systems⁸¹ that provides IP video surveillance systems is providing video surveillance in two sectors of transnets business.

- In 2008 Transnet Freight Rail decided to standardize on NICE, undertaking a multi million-dollar project to implement NiceVision Net, NICE's end-to-end

⁷⁵ <http://www.aipm.co.il/odot.html>

⁷⁶ <http://www.carmelccs.com/>

⁷⁷ <http://whoprofits.org/Company%20Info.php?id=679>

⁷⁸ <http://www.whoprofits.org/Company%20Info.php?id=584>

⁷⁹ <http://electronicintifada.net/v2/article10027.shtml>

⁸⁰ <http://www.dpe.gov.za/home.asp?id=26>

⁸¹ <http://www.nice.com/>

solution for IP video surveillance. The NICE intelligent security solution will enable Transnet Freight Rail to monitor and record images from thousands of IP video surveillance cameras located throughout 670 sites across the country⁸².

- In 2009 Transnet Port Terminals expanded NICE's IP video surveillance environment at Durban Car Terminal and Ngqura, for a total of five port terminals. The NICE solution enables Transnet Port Terminals to monitor and record images from approximately 800 IP video surveillance cameras stationed at five of their busiest port terminal⁸³. The new project is part of a national security upgrade initiative designed to improve security at South Africa's commercial ports and ensure compliance with the government's Key Points and Strategic Installations regulations for the security of national critical infrastructure sites.

Further contracts of NICE in South Africa include:

- NICE video surveillance technology is used in casinos run by the Akani Group in South Africa.
- In 2005 a leading cellular operator in South Africa ordered NICE's VoIP contact center solution, which will be utilized in two separate sites with a total of 1800 channels, providing VoIP-based liability recording with quality management capabilities.

Another Israeli firm, Orsus Solutions, provides security solutions to Transnet:

- In 2008, Orsus was contracted to connect three nerve centers in Johannesburg, Richard's Bay and Cape Town, South Africa, with thousands of surveillance cameras, digital video recorders, access control systems, fire systems, and electrical fence sensors deployed across 34,000 Kilometers of rails at more than 1,000 remote sites. Transnet sites include terminals, depots, office buildings and other remote facilities throughout South Africa.

Involvement with Israeli intelligence and military

NICE Systems is a large Israeli firm also engaged in wiretapping and surveillance systems for both private and government clients. Their wiretapping products include "Nice Perform, [which] 'provides voice content analysis with features such as: word spotting, emotion detection, talk pattern analysis, and state-of-the-art visualization techniques.' [...] Nice Log offers 'audio compression technology that performs continuous recordings of up to thousands of analog and digital telephone lines and

⁸² http://www.nice.com/news/show_pr.php?id=743

⁸³ http://www.nice.com/news/show_pr.php?id=809

radio channels.' And Nice VoIP "can use both packet sniffing and active recording methods for recording VoIP sessions (both by telephone and Internet)."⁸⁴

- **Like Comverse, Verint, NICE is built on Israeli intelligence technology with close ties to the government.** The company was formed in 1986 by seven veterans of Unit 8200.⁸⁵
- **NICE Systems has on at least one occasion shown up on the radar of U.S. counterintelligence.** During 2000-2001, when agents at the FBI and the CIA began investigating allegations that Israeli nationals posing as "art students" were in fact conducting espionage on U.S. soil, one was discovered to be an employee with NICE Systems.⁸⁶

Orsus is part of the homeland security section mentioned previously and:

- The Orsus contract with Transnet is meant to provide 'security and safety' to Transnet Freight Rail through the installation of surveillance cameras, digital video recorders, access control systems, fire systems, and electrical fence sensors. **This technology is an example of the type of high-tech 'security systems' that are regularly deployed against, and often tested on, the Palestinian people under occupation.**

8.4. ALEXKOR / State Diamond Trader

The core business of Alexkor is the mining of diamonds on land, along rivers, on beaches and in the sea along the north-west coast of South Africa.⁸⁷ Alexkors primary source of revenue is the income generated from the sale of rough, gem quality diamonds, which it sells on The South African Diamond Exchange so that the market determines the prices of the diamonds.⁸⁸ The State Diamond Trader was established in 2005 to buy up to 10% of South Africa's diamonds and to resell them to local cutting and polishing industries.

Israel is the world's largest importer of rough diamonds. A significant part of the rough diamonds sold on The South African Diamond Exchange end up in Israel. Also, Israel is

⁸⁴ *The Shadow Factory*, p. 244

⁸⁵ Ibid

⁸⁶ http://www.alternet.org/audits/130891/breaking_the_taboo_on_israel%27s_spying_efforts_on_the_united_states/?page=entire

⁸⁷ <http://www.alexkor.co.za/>

⁸⁸ Annual Report for period ended 30 March 2008, p 8.

the worlds largest exporter of cut, polished diamonds. In February 2009 Israel exported USD 106.4 million in diamonds, the highest in the world.⁸⁹

The South African diamond production and market are deeply involved with Israeli companies, many of them with long track records of human rights violations in Palestine or in Africa. The extent to which the diamond trade affects Israel's trade balance and the key role South Africa plays as a supplier have lead to direct relations between the Israeli government and South African private companies, such as De Beers.

Not surprisingly, the State Diamond Trader (SDT) dealt since the beginning with two main interest holders – Lev Leviev and De Beers – both deeply involved in Israeli interests and violations of international law.

8.4.1. Lev Leviev Group

Lev Leviev is an Israeli billionaire and head of Africa Israel Investments Limited:

- In South Africa Lev Leviev set up a **joint venture Khadima Mining** together with a South African "black empowerment" consortium dominated by businesswoman Khapametse Maleke and Diliza Mji, a former official with the ANC. "Abetting Government and Cosatu is Khadima Mining, on the surface an empowerment firm but 75% owned by Ukraine-born Israeli billionaire Lev Leviev"⁹⁰ to take advantage of the SDT. Plans were made to open a \$116m diamond polishing factory.⁹¹
- Lev Leviev is the worlds largest private diamond manufacturer with a polishing plant in South Africa⁹² The company is an affiliate of the Lev Leviev Mining Corporation.
- **Lev Leviev is involved in the construction of Israeli settlements in the West Bank.** Leviev's Danya Cebus company, a subsidiary of Africa-Israel, subcontracted the construction of Mattityahu East to Shaya Boymelgreen. Danya Cebus is also building part of Har Homa and Maale Adumim. In 1999, Leviev's company Danya Cebus announced plans to build new homes in the settlement of Ariel through another subsidiary, LIDAR, Leviev appears to be the sole realtor/developer of the settlement of Zufim.

⁸⁹ <http://www.export.gov.il/Eng/Articles/Article.asp?ArticleID=10510&CategoryID=803>

⁹⁰ <http://www.miningmx.com/diamonds/505212.htm>

⁹¹ <http://www.miningmx.com/diamonds/505212.htm>

⁹² <http://www.fjc.ru/AboutUs/leader.asp?AID=103512>

- For his role in settlement construction, **Leviev has been boycotted by the UK government** who have refused to rent property from him for the British embassy in Tel Aviv.⁹³

Another company which is part of the Lev Leviev empire and involved in the diamond business in South Africa is the Israeli company Samicor⁹⁴

8.4.2. De Beers Group

De Beers has itself historical ties with Israel, its state institutions and private enterprises.

- Today, De Beers is centrally involved in the management of the SDT.
- Already during the era of apartheid in South Africa, De Beers kept excellent trading connections with Israel, its banks and its authorities.
- "The South African diamond marketing cartel De Beers alone mines about half the world's annual diamond output. It also controls as much as 80 per cent of global diamond sales through its Central Selling Organization."⁹⁵
- De Beers' Diamond Trading Company (DTC) counts just below 80 sight-holders, among them numerous Israeli companies, including Lev Leviev's LLD. They all rely heavily on De Beers rough diamonds.
- Not surprisingly, DTC Managing Director Varda Shine is the only woman in the history of Israel Diamond Exchange to receive Honorary Membership."⁹⁶
- Interest of the Israeli Diamond Institute in South African decisions regarding diamonds has lead the Institute to prepare a seminar in Tel Aviv in the wake of the formation of the SDT where the two main opponents at the time, the government and De Beers were represented to discuss the issue, respectively through the South African ambassador to Israel, Fumanekile Gqiba, and the Managing Director of DTC, Varda Shine ⁹⁷.
- De Beers keeps direct relations not only with Israeli companies but with the Israeli state authorities. Regular meetings between the DTC and the Israeli ministry of trade and industry take place⁹⁸.

⁹³ <http://www.guardian.co.uk/commentisfree/2009/apr/28/israel-boycott-leviev>

⁹⁴ <http://www.sakawe.com/ownership.html>

⁹⁵ <http://www.un.org/ecosocdev/geninfo/afrec/vol14no4/hm/diamonds.htm>

⁹⁶ <http://www.israelidiamond.co.il/English/NEWS.aspx?boneID=1735&objID=4298&SearchS=de+beers+israel>

⁹⁷ <http://www.israelidiamond.co.il/English/NEWS.aspx?boneID=918&objID=1021&SearchS=>

⁹⁸ <http://www.allbusiness.com/government/government-bodies-offices/7351045-1.html>

The diamond trade is of utmost importance to the Israeli economy and sanctions from the South African government towards export of diamonds to Israel would have a big impact on Israeli political decision making, hopefully translating into a greater compliance with international law and respect for human rights.

Several South African unions and private foundations have urged the South African government to take action⁹⁹

8.5. TELKOM

Telkom is a wireline and wireless telecommunications provider in which the government of South Africa is the majority shareholder. Telkom has long-standing ties, going back to 1999, with the Israeli company Amdocs.

Amdocs Ltd. is the world's largest billing service for telecommunications, with some \$2.8 billion in revenues in 2007 and offices worldwide.

Although Amdocs has established a headquarters in Missouri, USA it is based in Israel. It is one of Israel's largest and most important software companies. Amdocs' central offices are located Ra'anana, Israel and the majority of its employees are Israeli. The firm is heavily funded by the Israeli government, with connections to the Israeli military and Israeli intelligence (Amdocs has a long history of board memberships dominated by current and former Israeli military and intelligence officers).

In 1999, Telkom began a relationship with Amdocs, deploying the latter's "Ensemble" system for all local and long distance operations, using the system to provide rating, billing services, and error management. Amdocs is also contracted to provide ongoing maintenance.

In 2004, Telkom gave Amdocs a contract to automate and link customer relationship management, billing, and order management processes, extending Amdocs involvement.

The following year, Amdocs' trouble-ticketing software was integrated to deal with problems and reduce the amount of time customers spend on the phone with customer service representatives.

Most recently, in 2007 Telkom signed a major five-year services extension agreement with Amdocs. Under the agreement, Amdocs will continue to provide maintenance and

⁹⁹ <http://www.jai-pal.org/content.php?page=374>

support services for the Amdocs customer experience systems.

Involvement with Israeli intelligence and military

There is considerable controversy surrounding Amdocs and its ties to the Israeli state and intelligence apparatuses. This has been most notable in the United States, where Amdocs' clients include the top 25 phone companies in the United States that together handle 90 percent of all call traffic among U.S. residents¹⁰⁰:

- **As of 1999, the National Security Agency (NSA) issued a warning that records of U.S. government telephone calls were ending up in foreign hands – Israel's, in particular.**
- **It is possible that Amdocs was and is using its billing records as an intelligence-gathering exercise.** According to the American Federal Bureau of Investigation's (FBI) Foreign Economic Collection and Industrial Espionage report, Israel is second only to China in stealing U.S. business secrets, often through computer intrusion.
- **Since the 1990s, federal agents have reported systemic communications security breaches at the Department of Justice, FBI, DEA, the State Department, and the White House. Several of the alleged breaches, these agents say, can be traced to two hi-tech communications companies, Verint Inc. (formerly Comverse Infosys), and Amdocs Ltd., that respectively provide major wiretap and phone billing/record-keeping software contracts for the U.S. Government.**
- **As such, Amdocs has been the target of several investigations looking into whether or not individuals within the company shared U.S. government data with organized crime groups and Israeli intelligence.** Starting in 1997, the FBI conducted a wide-ranging investigation into alleged spying by an Israeli employee of Amdocs who worked on a telephone-billing program purchased by the CIA.

8.6. Industrial Development Corporation

The Industrial Development Corporation of South Africa Ltd (IDC) is a self-financing, national Development Finance Institution (DFI). The IDC promotes entrepreneurship

100 For the Amdocs scandal, see: <http://www.counterpunch.org/ketcham09272008.html>

through the building of competitive industries and enterprises based on sound business principles.

The IDC, together with Eskom has expressed interest in entering into a 15% partnership with Alcan to develop the Coega aluminium smelter project in the Eastern Cape. One of the main contractors is Bateman. The entire project has a value of 20 billion Rand.¹⁰¹

Bateman has been awarded a series of other major contracts in South Africa:

- Dominion reefs uranium project, Klerksdorp, North West province. The start-up construction capital is \$152 million (R1-billion). Bateman has been awarded an EPCM contract by Uranium One.¹⁰²
- Blue Ridge platinum-group metals (PGMs) project, Bushveld Complex, South Africa. Bateman has been awarded the contract for the process plant design by Ridge Mining. The value of the project is estimated at \$143-million.¹⁰³
- Sishen Expansion Project (SEP), Northern Cape., Bateman has entered in a joint venture with Murray&Roberts and has been awarded a contract by Kumba Iron Ore (KIO) in a project of the total value of 5,1 billion Rand.¹⁰⁴
- Richards Bay Coal Terminal (RBCT) expansion and coal line, KwaZulu-Natal. Bateman has won the main contract in the project involving as well Transnet Freight Rail. The total value of the project amounts to 1.2 billion Rand and is managed by RBCT.¹⁰⁵
- PPC cement capacity-expansion project, South Africa. This PPC Cement project has awarded Bateman the contract for the provision of raw materials, clinker handling and storage. The total value of the project is 1.23 billion Rand.¹⁰⁶

Involvement with Israeli intelligence and military

Bateman is incorporated in the Netherlands and has operational centres in India, South Africa, Australia, Russia, Botswana and China. In Israel, the company's activities focus mainly on EPCM (Engineering, Procurement, Construction and Management) of projects and contributes to the viability and expansion of the settlements and the construction of the Wall. Among Bateman's major clients are:¹⁰⁷

¹⁰¹ http://lnw.creamermedia.co.za/articles/attachments/08069_pip2007second.pdf

¹⁰² http://lnw.creamermedia.co.za/articles/attachments/08069_pip2007second.pdf

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ <http://www.israexport.co.il/091.pdf>

- **Israel Electricity Company** (see 8.1.1).
- **Nesher Industries:** Manufacture cement, has the monopoly over the Israeli cement market. **Since the company sells more than 85% of all cement in Israel it is safe to assume that the Wall, checkpoints and terminals, West Bank settlements and Israeli infrastructure in the West Bank were all built using cement purchased from the company.**¹⁰⁸



The construction of a concrete section of the Wall around Jerusalem.

¹⁰⁸ <http://www.whoprofits.org/Company%20Info.php?id=637>

**"Constructive engagement is an abomination,
an unmitigated disaster"**

(Archbishop Desmond Tutu, 1984)

9. Governmental aid and assistance

9.1. South Africa's 'constructive engagement' with Israel

9.1.1. An overview

South African relations with Israel at the economic level have been promoted by the SA government all the way through the post-apartheid period. As early as September 1995, Foreign Minister Alfred B Nzo paid an official visit to Israel and signed an Agreement establishing a Joint Commission of Co-operation with the Israeli Government. Additionally, the South African embassy in Tel Aviv hosts one of only 44 foreign offices of the Department of Trade & Industry. The office promotes South African exports, foreign investment in South Africa and encourages technology transfers between South Africa and other countries.

Not surprisingly, trade has been growing on average at a steady 5% per annum through the post-apartheid era.¹⁰⁹ In 2003, Israel was the biggest Middle East destination for South African exports.¹¹⁰ The South African Ambassador to Israel said in 2008: "We are also pleased to see that our exports to Israel increased by 14% last year [2007], while Israel's exports to South Africa increased by 24%.¹¹¹"

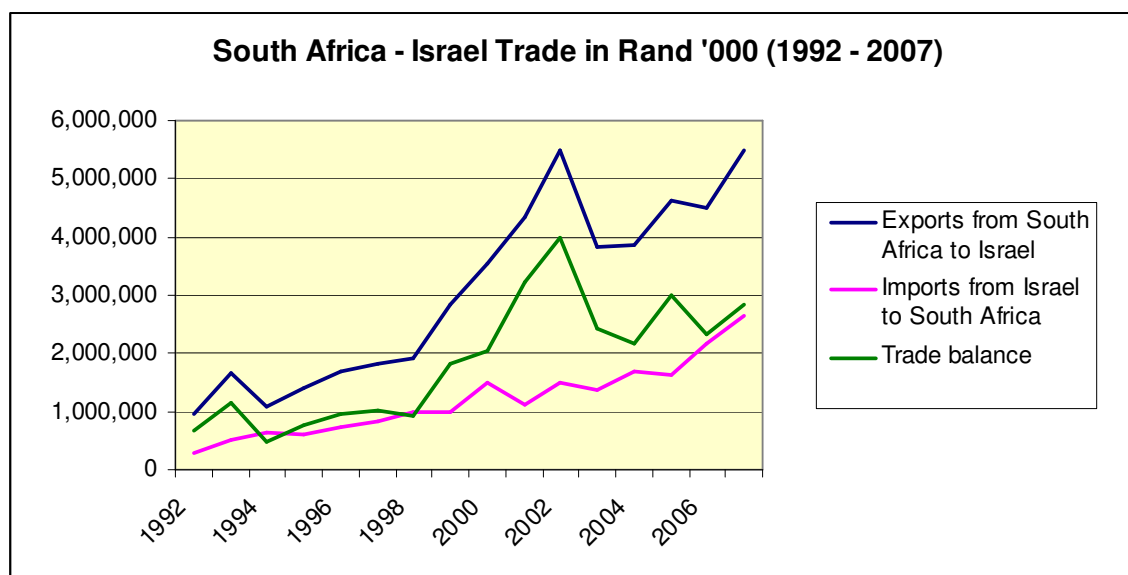
As we will see below, the start of the second Intifada, the end of the Oslo process and the brutal re-invasion of the West Bank, including the massacre in Jenin, have not stopped but reinforced South Africa's approach to pro-actively seek economic relations with Israel. The massacre of 1400 Palestinians in Gaza and the ongoing siege of the Strip have not elicited any significant policy change either. Finally, the declaration of the Palestinian call for BDS also fell on deaf ears.

¹⁰⁹

<http://pretoria.mfa.gov.il/mfm/web/main/document.asp?SubjectID=32007&MissionID=59&LanguageID=0&StatusID=0&DocumentID=-1>

¹¹⁰ <http://www.southafrica.info/business/trade/relations/trade-middleeast.htm>

¹¹¹ <http://www.safis.co.il/news1.asp>



	Exports from South Africa to Israel	Imports from Israel to South Africa	Trade balance
1992	961,069	288,885	672,183
1993	1,672,557	514,329	1,158,228
1994	1,089,373	622,828	466,546
1995	1,402,634	620,933	781,701
1996	1,682,933	739,956	942,977
1997	1,830,622	822,578	1,008,044
1998	1,923,648	990,885	932,763
1999	2,828,731	1,004,259	1,824,473
2000	3,551,824	1,505,520	2,046,304
2001	4,344,822	1,119,933	3,224,889
2002	5,504,842	1,507,795	3,997,047
2003	3,823,738	1,384,500	2,439,237
2004	3,862,515	1,679,370	2,183,144
2005	4,640,822	1,640,161	3,000,661
2006	4,493,802	2,176,968	2,316,834
2007	5,485,610	2,633,555	2,852,055

Source: Trade data by South African Department of Customs & Excise.¹¹²

¹¹² <http://www.thedti.gov.za/econdb/raportt/R100413.html>

9.1.2. The Spier Initiative

At the political level, relations have been kept relatively low key and diplomats have even reminded their Israeli counterparts of the fact that Israel's continuous support for the apartheid regime in South Africa has still political consequences.

However, this changed with the start of the Spier Initiative, launched in 2002. The initiative was officially promoted by President Mbeki to share South Africa's experience in overcoming apartheid and to strengthen its own position at the international diplomatic level to gain a place at the table with the EU and the US. The years 2003 – 2005 have seen a dramatic increase in official visits.

Israel's interests in South Africa have been throughout the years of economic nature. Israel sees South Africa as a market for its high tech, homeland security and telecommunications and a gateway to Africa.

At the "Mondial 2010 and Beyond" trade fair for Israeli companies, Eliyahu Yishay, the Israeli Minister of Industry and Trade, highlighted that South Africa is a "a highly-important trade partner of Israel, and I acknowledge its importance as the economic powerhouse of Africa. Reciprocal visits of business and governmental delegations during the last years from both countries are evidence of the major efforts taken by the parties to exploit the vast potential and to improve trade relations". The Israeli Ambassador to South Africa, Ilan Baruch, announced on the same occasion the opening of a new trade office, which is to become "the thrust of our embassy work". He further pointed out that "since the day I arrived, I have been working on economic relations. I insisted that 2010 was a business opportunity but beyond there is a vision."¹¹³

Political overtures, instead, have fallen on deaf ears, and South Africa's reputation in Israel is probably well expressed in the analysis piece carried by Haaretz, Israel's English speaking mainstream newspaper catering to a liberal, intellectual elite, introducing Jacob Zuma after he has been sworn in as South African president as an "uneducated Zulu shepherd" dancing "wrapped in tiger skins and a loincloth."¹¹⁴

The Spier Initiative collapsed with the Israeli siege on Gaza and the war on Lebanon. Looking back at the outcomes of the initiative, it seems the key results can be summarized as:

- **no benefit at political level for the Palestinian people or the region**
- **no recognition of the South African position on Palestine/Israel by Israel**
- **furthering Israeli business interests in South Africa**

¹¹³ *ANC to tackle crime head on, vows Phosa*, SA Jewish Report, 14-21 March 2008, p.4

¹¹⁴ <http://www.haaretz.com/hasen/spages/1085473.html>

- **embroiling South African business and government deeper in Israeli violations of human rights and international law**
- **re-establishment of military relations between both states for the first time since the end of apartheid in South Africa**

South Africa insists that Israel cannot influence its relations with the Palestinian people. However, it refuses to recognize or admit that its relations with Israel adversely affect Palestinians and thus South African relations with the Palestinian people.

Its policies of 'constructive engagement' in times when the Palestinian people collectively call upon the international community to impose sanctions on Israel and its growing economic engagement with the apartheid state ensure that South Africa refrains from taking up its historic responsibility to offer the Palestinian people the same solidarity the South African people received from international civil society, and the PLO in particular, during their struggle against apartheid.

9.1.3. Official visits and delegations during the Spier Initiative:

The years 2002 and 2003 saw largely Israeli civil society delegations, while 2003 – 2005 brought a significant rise in official relations and a turn in economic relations.

- 1) On 23-25 August 2004, D Ayanda Ntsaluba, Director General of the South African Department of Foreign Affairs, paid an official visit to Israel.
 - Economic relevance: Issues on the agenda included bilateral political and economic relations between SA and Israel.¹¹⁵
- 2) In September 2004, a delegation of Likud politicians made Likud's first ever visit to the post-Apartheid state, signaling a mending of bridges.
 - Economic relevance: The delegation was led by Israeli Deputy Trade and Industry Minister David Ratzon.
- 3) October 2004 marked a historic point in Israel - South Africa relations with the official visit to South Africa of Ehud Olmert, Israel's Deputy Prime Minister and Minister of Trade, Industry and Communications, accompanied by a large trade delegation. At the time, Olmert was the highest-ranking Israeli official to visit South Africa since 1994.¹¹⁶
 - Economic relevance 1: Olmert signs with South African Minister of Trade and Industry Mandisi Mphahlela the Agreement on Protection and Promotion of

¹¹⁵ SA Foreign Ministry D-G visits Israel, Newsletter of the South African Embassy in Israel, No.7, Winter 2005 http://spirit.tau.ac.il/government/media_southafrica.fh8.pdf

¹¹⁶ <http://pretoria.mfa.gov.il/mfm/web/main/document.asp?SubjectID=32007&MissionID=59&LanguageID=0&StatusID=0&DocumentID=-1>

Investments (for more, see below.). On this occasion Mphahlwla calls the signing of the agreement an event that moves the relationship between South Africa and Israel “to a different level” and calls for the “enormous trade and investment potential [...] to be unleashed through closer strategic co-operation”¹¹⁷.

- *Economic relevance 2:* As a sequel to the visit to South Africa of Deputy Prime Minister Ehud Olmert and the Israeli business delegation, the South African Embassy in Israel has initiated a business mission from South Africa and a seminar on the theme of “Doing Business with South Africa: Israel’s Gateway into Africa.”¹¹⁸ (For more, see below.)

4) In November 2004, David Ratzon, the then Israeli Minister of Trade, Industry and Communications, visited South Africa.

- *Economic relevance:* At a function organized by the South Africa-Israel Chamber of Commerce, Ratzon announced that the two countries have agreed to start negotiations on a trade agreement to reduce customs duty on a limited number of products, and set mid-2005 as the target date for completion. South Africa and Israel also agreed to start talks on agricultural cooperation with the aim of signing a Memorandum of Understanding within a year. The agricultural accord was to deal with developing arid regions and export of Israeli technology to South Africa.¹¹⁹

5) In June 2005, Israel and South Africa are reported to have resumed security cooperation after a hiatus of almost 15 years, with a senior delegation from the South African defense ministry traveling to Israel for the first time since the fall of the apartheid regime.

- *Economic relevance:* The delegation included representatives of South Africa's defense industries and was hosted by Defense Ministry Director General Amos Yaron. The trip included visits to Israel's defense industries.¹²⁰

6) Israeli Foreign Ministry Deputy Director-General for Africa, Ms. Miriam Ziv, met with Dr. Ntsaluba and other senior Foreign Affairs officials during March 2005 in Cape Town¹²¹.

7) Minister of Trade and Industry Mr. Mandisi Mpahlwa visited Israel in November 2005.

¹¹⁷ <http://www.thedti.gov.za/article/articleview.asp?current=0&arttypeid=2&artid=758>

¹¹⁸ Newsletter of the South African Embassy in Israel, No.7, Winter 2005

http://spirit.tau.ac.il/government/media_southafrica.fh8.pdf

¹¹⁹ Ibid

¹²⁰ *Israel, South Africa revive defense ties after 15-year hiatus*, Democraticunderground.com, May 31 2005, http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=124x92669

¹²¹ Annual Report of the Department of Foreign Affairs, 2004/2005

- *Economic relevance:* The minister lead a business delegation of about twenty business people from the following sectors: telecommunications, diamond, agriculture, high tech industries, coal beneficiating companies and infrastructure development.¹²²

9.2. Promotion of international cooperation and leadership training

Israeli foreign relations with countries in the global south are strongly based on development cooperation promoted through Israel's agency for international cooperation, MASHAV, and through other forms of leadership training. More than mere cooperation, these projects are highly ideological and prepared to create a solid base of supporters of Israeli policy and business interests within the countries.

In the case of South Africa, the two outstanding Israeli programs operating under the cover of international cooperation to influence political and economic leadership are the MASHAV projects and the leadership trainings in cooperation with Negev Institute for Strategies of Peace and Development (NISPED).

At least a dozen Israeli leadership trainings have already been held since the end of the 1990s in cooperation with Negev Institute for Strategies of Peace and Development NISPED and MASHAV. Many of them are facilitated by He'Atid, the South African Mizrahi Organization, and at least partially supported by the South African government through Ntsika (Enterprise Promotion Agency).

MASHAV itself was established in 1958 as the Israeli center for international cooperation. The agricultural research and development programs and activities of the center are part of the wider Israeli diplomatic mission to strengthen its influence in the developing world and it currently has projects in more than 140 countries. Projects are generally well aimed at leadership capable to promote Israeli interests at home. At the core of this propaganda effort are the "Shalom Clubs" of former MASHAV trainees which stay in constant contact with the Israeli embassy.

The courses and projects are advertised to serve mainly two purposes:

a) Promotion of Israel as a model country among South African leadership:

- *Example 1: The training course held from 7-21 November 2004 for South African leaders from the political, economic, administrative, and other sectors,*

¹²² Minister Mandisi Mpahlwa to visit Israel and Palestine,
<http://www.thedti.gov.za/article/articleview.asp?current=0&arttypeid=1&artid=1018>

mainly from the ANC. The main theme of the seminar was an introduction to Israel, its history and geography, structure and economy. The second theme was an introduction to Israel's development experience, the path of development that was adopted by Israel and its relevance for the South African context.¹²³ The South Africa ambassador to Israel, H.E Fumi F. Gqiba, met the group upon arrival and participated in the official opening sessions.¹²⁴

It's doubtful whether Israeli development based on the exploitation of resources of occupied land and the displacement of millions of people should be a relevant lesson for South Africa. However, **the ideological and political aims, more important than developmental purpose, of the 'training' course are indisputable.**

- *Example 2: The MASHAV Shalom Clubs.* In July 2006, the Israeli Ambassador to South Africa Ilan Baruch officially launched the South African Shalom Club at his home. Approximately 80 MASHAV course graduates gathered there and one of the speakers explained: "We are determined to make a difference in our respective countries. We have to work as a family. [...] We have a way to address all these [challenges] through networking with the Israeli Embassy."¹²⁵

b) Promotion of trade relations with Israel

- *Example 1:* The month-long training course "Future Growth Through Expertise", organized by MASHAV and He'Atid. Young South African executives were called to Israel to receive a training "custom-made for each individual participant. [...] Each participant spends a couple of days in meetings with their professional counterparts in Israel."¹²⁶
- *Example 2: MASHAV projects open the doors for Israeli agricultural technology based on ethnic cleansing.* Both Mashav projects, the TIPa and the African Market Garden, are specialized horticultural production systems for small landholders, making use of the Family Drip Irrigation System, developed in cooperation with the Israeli irrigation manufacturer Netafim.¹²⁷ Netafim is a classic example of Israeli agricultural development. The company is founded and run by kibbutzim Hatzerim. Hatzerim was established by the Palmach, special commando units responsible for numerous massacres during the Nakba. Palmach founded settlements for the Nahal, its pioneer combatant youth, to fund its military operations and to enlarge its recruitment capacity. After 1948, the

¹²³ http://spirit.tau.ac.il/government/media_southafrica.fh8.pdf

¹²⁴ http://www.israaid.org.il/story_page.asp?id=422

¹²⁵ <http://mashav.mfa.gov.il/mfm/Data/119422.pdf>

¹²⁶ <http://www.mfa.gov.il/MFA/Mashav%20%E2%80%93%20International%20Development/Publications/1999/Future%20Growth>

¹²⁷ <http://mashav.mfa.gov.il/mfm/Data/158503.pdf>

members of the ex-Palmach continued the establishment of several other kibbutzim to colonize the recently ethnically cleansed Palestinian land. On this land, Netafim has developed its drip irrigation. Netafim has established a South African subsidiary.

9.3. Promotion of trade and investments

The “**Doing Business with South Africa: Israel’s Gateway to Africa**” conference was one of the outstanding initiatives of South African – Israeli trade relations. It was an integral part of the Spier Initiative momentum. It is a telling example on how **trade with Israel inherently entails grave violations of human rights and international law**.

Following the visit of Deputy Prime Minister Ehud Olmert and the Israeli business delegation to South Africa in October 2004, Omega Investment Research has been appointed by the South African Embassy in Israel to organize this seminar and business mission, held from January 22 - 27 2005 in Tel Aviv.¹²⁸

Six out of the nine South African and Israeli corporate sponsors of the conference are clearly involved in violations of human rights and international law.¹²⁹ The sponsors included:

- 1) **Capegate Ltd.** – The company owns Yehuda Welded Mesh, which built the fence around the Gaza Strip and supplied fences for the seam-line expanse separation project and the Apartheid Wall around Jerusalem and in the area of Mahola junction (Gilbo'a). The fences are equipped with electronic sensors, supplied by Alper. It further supplied fences for the fencing of apartheid roads, including the Cross Shomron road (road no. 5), which leads to the settlement of Ariel, and the Tunnels Road, which connects the settlements of Gush Etzion and Jerusalem. Yehuda Welded Mesh fences are also used in the industrial zone of the settlement of Barkan, and in Ariel and Karnei Shomron settlements in the West Bank, as well as in the Gush Katif settlements before the disengagement from the Gaza Strip.¹³⁰
- 2) **Zandwijk Wines (Kleine Draken)** – The company is fully owned by the Cape Gate group.¹³¹
- 3) **Macsteel** – Macsteel acquired Middle East Tubes Company Ltd. (Metco) in 2004/5.¹³²

¹²⁸ http://www.omegaconferences.com/OIBC_MiddleEast04_230105ar.htm

¹²⁹ Only ABSA Bank seems not to have clear connections in this sense.

¹³⁰ <http://www.whoprofits.org/Company%20Info.php?id=492>

¹³¹ <http://www.jewishweb.co.za/pages/food/kleine-draken.htm>

- Middle East Tubes Company, in cooperation with the Jordan Valley Water Association, has laid a network of 50 km of various diameters pipes throughout the occupied southern Jordan Valley. These pipes convey water for irrigating the date growing areas and the extensive agriculture in the Valley operated by the settlements.¹³²
 - METCO has been the main supplier of pipes to the Israel National Water Company - "Mekorot" – since its establishment. Nowadays, METCO supplies coated and lined steel pipes Diameter, 80", for the Eastern National Water Transmission Project. Mekorot provides the water network for the settlements in the West Bank and provides water largely stolen or unilaterally deviated from Palestinian resources.
 - Mekorot often supplies settlers and Palestinians through the same water network, yet, the pipes serving the settlements are 2 inches wide while the pipes to Palestinian communities are half an inch wide.
 - METCO with all likelihood supplies pipes for the Israeli national water carrier which unilaterally diverts the waters from the headway of the Jordan river which has caused it to dry up, with the result that the Palestinians now have no access to the Jordan river.
 - Today, the controlling shareholders in Metco are Gaon Agro Industries Ltd, a member of the Gaon Holdings Group, and Mr. Sami Chamoun. Gaon Holdings is one of the owners of, among others, Ahava, Ace Hardware, Arava Export Growers, Hamashbir Holdings, Field Produce. Through these companies, Gaon is involved in Exploitation of Occupied Production and Resources, production in settlements and services to settlements.¹³⁴
- 4) **Netcare Ltd.** - A health care company, which less than a year after the conference was involved in an ugly scandal of illegal sales of kidneys, transplanted in South African hospitals to mainly Israeli clients. Doctors, Netcare staff and Hebrew translators knew about the dirty business. The donors and recipients were reportedly instructed, advised or incited to falsely declare that they were blood relatives. The accused stood charged on 109 counts of fraud, contravening the Human Tissues Act and 109 counts of assault with intent to do grievous bodily harm.¹³⁵
- 5) **Kramer Group** - The operations of the group are rather dubious. The company strategy, however, is explained on the group's website: "Look around the Kramer Group War Room for a strategic document and you won't find one. When Raymond Kramer holds his 'war sessions' he does so with the idea that all

¹³² <http://forward.msci.org/articles/0205strength.cfm>

¹³³ <http://www.metco.co.il/Metco/Templates/showpage.asp?DBID=1&LNGID=1&TMID=84&FID=337>

¹³⁴ <http://www.whoprofits.org/Company%20Info.php?id=613>

¹³⁵ <http://www.sundaytribune.co.za/index.php?fSectionId=160&fArticleId=2890040>

planning should be dynamic, fluid, amorphous.”¹³⁶ Not surprisingly, Raymond Clive Kramer, the founder and owner of the Kramer Group, appears in various reports on blood diamond business with the Revolutionary United Front in Sierra Leone where he signed a contract to 'represent the Commission [the CMRRD, of which Sankoh was Chairman] in all areas relating to mining & mineral resources, included but not limited to strategic minerals & precious stones'.¹³⁷

- 6) **Mizrahi Tefahot Bank** - The bank delivers services to the settlements and contributes to the maintenance and expansion of the settlements through its branches in the West Bank settlements of Alon Shvut, Karnei Shomron and Kedumim.¹³⁸

The latest big trade promotion event co-sponsored by the South African government, “**Mondial and Beyond 2010**”, was held March 2008 in Johannesburg. It was the first South Africa – Israel Hi-Tech Cooperation Forum, focusing on homeland security and information and communication technology.

There is a lack of accessible information on the Israeli and South African participants . However, South African governmental involvement is clear through the presence of public sector senior officials at the opening ceremony and the facilitation through the South African embassy in Tel Aviv. Matthews Phosa, treasurer general of the ANC underlined that South Africa is “seeking partnerships with [Israel] in different fields.[..] The ANC would be offering support to Israeli companies wanting to enter other countries on the continent. “South Africa is the gateway to the rest of Africa and Africa needs the Israeli expertise.”¹³⁹

Having seen across the board involvement in violations of human rights and international law of Israeli companies operating in the conference’s focus sectors, it is more than likely that the ANC’s offer has been expanded to a series of Israeli companies involved in war crimes and breaches of international law, involving South Africa even further in the complicity in the Israeli occupation, colonialism and apartheid.

9.4. Military ties

South African guidelines regarding military ties and arms transfer are clearly delimited by the Cabinet Memorandum of 1998 and the **Cabinet Memorandum No 3 of 2003**. The

¹³⁶ http://www.kramergroup.co.za/assets/what/what_intro.htm

¹³⁷ <http://www.sjcite.info/covact.html> ;

<http://www.vanityfair.com/politics/features/2000/08/junger200008?currentPage=6>

¹³⁸ <http://www.whoprofits.org/Company%20Info.php?id=468>

¹³⁹ *ANC to tackle crime head on, vows Phosa*, SA Jewish Report, 14-21 March 2008, p.4.

2003 Cabinet Memorandum was prepared on the NCACC's instruction. The Memorandum recommended that the Department of Defense

“should initiate a process to terminate its dependence on Israel for equipment, spares and technology in all respects excluding the following defence systems:

- a. Maintenance of Cheetah Aircraft.*
- b. Strategic in-flight refueling.*
- c. The V4 Air -to-Air Missile.”*

The exemption on the defence systems indicated above was to the extent of the life cycle of these systems. The recommendations, which were later endorsed by Cabinet as a Cabinet decision, were informed by the continued unstable political situation in the Middle East where Israel was one of the main actors.¹⁴⁰

Though even this Memorandum seems extremely weak, it is not clear how the following military relations and arms trade deals are to be explained within this framework:

- The Annual Report of the Department of Defense 2003/2004 notes the presence of non-resident Israeli Military Attachés or Advisor Corps in South Africa.¹⁴¹
- In 2003 over 10,496 000 Rand of generic "military weapons" were imported from Israel.¹⁴²
- Explosive detonators were sold to Israel in 2003, 2006 and 2007.¹⁴³
- Israel ranks second as export destination for “other aircraft (for example, helicopters, aeroplanes); spacecraft (incl. satellites) and suborbital and space launch”. Between 2004 and 2007, 420 935 000 Rand worth of airspace and air force vehicles have been sold to Israel. Further exports to Israel include spare parts and equipment for the vehicles.¹⁴⁴
- In June 2005, a senior delegation from the South African defense ministry traveled to Israel for the first time since the fall of the apartheid regime. The delegation included representatives of South Africa's defense industries and was hosted by Defense Ministry Director General Amos Yaron. The trip included visits to Israel's defense industries. (May 31 2005, delicious SA-Israel revive defense ties...)

It is unclear whether Denel has been involved in the arms export to Israel.

These defense ties clearly go beyond the stipulations of the 2003 Cabinet Memorandum and clearly support the Israeli military machine that has repressed and killed Palestinians for sixty years.

¹⁴⁰ <http://www.pmg.org.za/docs/2005/050802nacc.htm>

¹⁴¹ <http://www.info.gov.za/view/DownloadFileAction?id=68564>

¹⁴² <http://www.labournet.net/world/0706/sais03arms.html>

¹⁴³ <http://www.labournet.net/world/0706/saisarms1.html>

¹⁴⁴ <http://www.labournet.net/world/0706/sais07miss.html>

9.5. Agreements on Trade and Investments

The framework of governmental agreements regulating trade and commercial relations, including investments, with Israel, is essentially given by the 1995 Agreement for the Establishment of a Joint Committee on Cooperation, the only agreement today in force, which is directly related to economic relations.

In 2004, the signing of the Agreement for the Reciprocal Promotion and Protection of investments has been hailed as a milestone of South African – Israeli relations. Largely an outcome of the Spier Initiative, the agreement has not been ratified until to date.

9.5.1. Agreement for the Establishment of a Joint Committee on Cooperation (1995)

The agreement outlines the establishment of a joint committee headed by the ministers of Foreign Affairs of Israel and South Africa. Its mandate is extremely wide and includes negotiations on important international questions, implementation of agreements and promotion of commercial, economic and industrial cooperation.

Aspects of the Agreement that recognize or support Israeli policies of occupation, colonialism and apartheid:

1. Implicit recognition of Jerusalem as the capital of Israel:

The text clearly contradicts UN resolutions and South African foreign policy statements when it states that:

“The Joint Commission shall meet at least once every year in an ordinary session, alternately in Pretoria and Jerusalem, ...”

Implicitly, the text and the meetings recognize the annexation of Jerusalem as the capital of Israel - a fact that is opposed by the provisions of international law as well as South African foreign policy.

2. No limitations avoiding violations of international law and human rights.

The text of the agreement does not establish any limitations or definitions for these bilateral negotiations and hence leaves large space for abuse from the Israeli side.

3. No transparency

Another worrying fact is that although the text of the agreement states that at the end of each session of the Joint Committee a final communiqué has to be signed and presented to the media, only the first meeting is mentioned among the online available documents of the foreign office. The first meeting of this Joint Commission took place in June 1996. On this occasion, five bilateral agreements were negotiated for co-operation in the

following spheres: Agriculture, Tourism, Culture, Environment and Science, as well as Nature Conservation. All of them were agreements already signed during the apartheid era and de facto, while the agreement on the conservation of nature had already been ratified, none of the other four has since come into force.

It is not clear which other initiatives have been taken by the Joint Committee but it is likely that it was well involved in the negotiations of the Agreement for the Reciprocal Promotion and Protection of investments.

9.5.2. Agreement for the Reciprocal Promotion and Protection of investments (2004)

The agreement aims to increase economic cooperation between Israel and South Africa and to create favorable conditions for and ensure reciprocal promotion and protection of investments. The agreement has been signed in 2004, however, it is until to date not ratified.

The agreement includes serious flaws, which bring South Africa in contradiction with its obligations under international law and its own constitution.

The text of the agreement defines:

- *Investments*: as comprising “any kind of assets implemented in accordance with domestic legislation of the Party in whose territory the investment is made”
- *Investor*: as for the state of Israel as "a natural person who is a national or resident of the State of Israel" or a legal person "that was incorporated or constituted under the domestic legislations of the Home Party" or "that is controlled, directly or indirectly, by persons who are nationals or residents of the Home Party and it fulfills one of the following conditions": a) hold a registered office or center of management in the territory of the home party ; b) a substantial part of the operations are in the territory of the home party; c) the company is incorporated under the legislation of the Home party
- *Territory*: with respect to the state of Israel, as the “territory of the state of Israel including territorial sea, as well as the continental shelf and exclusive economic zone over which the State of Israel exercises sovereign rights or jurisdiction in conformity with international law”.

A preliminary analysis of the text shows that the definition of ‘territory’ excludes the possibility to consider settlements as part of the Israeli territory. The provisions of the agreement would in theory allow Israel not to protect and promote South African direct investment in the settlements. Yet, Israel has clearly no interest in doing so.

The provisions in the agreement render obligatory the promotion and protection of, among others:

- Investments within South Africa of any Israeli company whether or not incorporated within the '48 Armistice Line or in a settlement, whether or not it operates in or offers services to the settlements or provides equipment and services to the Wall and its associated regime of checkpoints
- Investments in Israeli companies that provide the military equipment used by the Israeli army to conduct war crimes
- South African investments within the '48 Armistice Line in Israeli companies, though these companies have operations or provide services to the settlements.
- Setting up of branches of SA companies within the Green Line that operate or provide services or engage in trade with the settlements or help to maintain the Wall and its associated regime

All the above investments run counter to South Africa's obligations under the IV Geneva convention and the ICJ decision. It clearly contradicts South Africa's constitutional principle of the enhancement of Human Rights and its foreign policy based on the enforcement of human rights mechanisms. It clearly amounts to assistance to and complicity with Israeli occupation, colonialism and apartheid.

9.5.3. Other agreements

Other agreements on trade and investment, such as the **Agreement on Trade and Industrial cooperation (1992)** and the **Agreement on Agricultural cooperation (1992)** similarly bring South Africa in a position of support and complicity with Israeli occupation, colonialism and apartheid. Both agreements have been signed before the end of apartheid in South Africa and are until to date not ratified. It is unlikely they will be ratified any time soon and therefore a detailed discussion of the texts seems superfluous. It suffices to say that they are clearly the matrix for the two later agreements discussed above and contain the following grave flaws:

- The texts include no definitions or restrictions based on international law.
- They refer to the establishment of working groups and a Joint Committee, yet the mandate given by the text is not to define the text of the agreement but to implement it and expand trade.

The agreements would clearly buttress South Africa's support and complicity in Israeli occupation, colonialism and apartheid.