

Action Fiche for the West Bank and Gaza Strip

1. IDENTIFICATION

Title/Number	Land development and basic infrastructure in Area C <i>(ENPI/2012/023-776)</i>		
Total cost	<i>EU contribution: EUR 7,000,000</i>		
Aid method / Method of implementation	Project approach: Direct centralised management & Joint management.		
DAC-code	16000 Infrastructure and social services	Sector	Infrastructure

2. RATIONALE

2.1. Sector context

The window for a two-state solution is rapidly closing with the continued expansion of Israeli settlements and access restrictions for Palestinians in Area C, the only contiguous area in the West Bank surrounding Area A and B. Area C comprises crucial natural resources and land for the future demographic and economic growth of a viable Palestinian state. State building efforts in Area C, by the Palestinian Authority (PA) and the EU, are therefore of utmost importance in order to support the creation of a contiguous and viable Palestinian state.

Israel has de facto assumed full and sole responsibility for planning and issuing building permits in Area C using the Oslo Agreements as their prime political and legal argument. The Israeli practice is based on different laws and regulations partly originating back to the Ottoman law from 1858 and the British Mandatory Plan from 1946. The present Israeli practice mainly builds on the Jordanian Towns, Villages and Building Law from 1966 amended by Israeli Military Order No. 418 in 1971.

The Israeli planning and permit system, as well as its application in Area C, is not in line with International Humanitarian Law and International Human Rights Law. By Military Order No. 418, the Palestinians were excluded from participation in the planning authority process. Decisions on plans are being made by the Higher Planning Council and its sub-committees, organs where only Israelis are present including settlement representatives.

Past experience shows that it has been almost impossible for Palestinians and international actors to obtain building permits in Area C. Further, Israeli authorities are regularly demolishing private and community buildings as well as essential basic infrastructure like rainwater harvesting cisterns in Area C.

Endorsed in mid 2011, the EU report on "*Area C and Palestinian State Building*" proposes a rationale for EU interventions in Area C while shifting the general approach from a purely humanitarian response to longer-term and development-

oriented activities. The programme proposed in the present Action Fiche would be the first concrete –and major- step in this regard.

2.2. Lessons learnt

Despite several requests by the Quartet (the European Union, the United States of America (USA), the United Nations (UN)) to Israel to stop the expansions of the settlements, constructions continue.

The EU Report *Area C and Palestinian State Building* warns that the window for a two-state solution is rapidly closing with the continued expansion of Israeli settlements and access restriction for Palestinians in Area C, the only contiguous area in the West Bank surrounding Area A and B.

The present action proposes measures to support Palestinian presence in and development of Area C with the view to accomplish the creation of a viable contiguous Palestinian state.

On the operational level, lessons were learned from previous EU interventions in Area C. For the present action the following recommendations can be made:

- (a) Before engaging in any intervention it would be essential to undertake a risk assessment which would analyse the status of land (ownership) which is considered for activities, assess the vulnerability of the communities to legal actions by the Israeli Civil Administration, take existing stop-work and demolition orders into consideration, inform about the frequency of settler harassment and check whether the community is already assisted by a lawyer.
- (b) For land reclamation programmes a joint needs assessment and mapping exercise is currently in preparation by the Office of the European Union Representative in East Jerusalem (EUREP) and other donors, to identify the priorities of new land reclamation/land development programmes and to inform about the geographical risks and the status of land. Information from the Consolidated Appeal Process (CAP) and Office for the Coordination of Humanitarian Affairs (OCHA) will be used for this needs assessment.
- (c) Another lesson learned is that each project should include a legal component which would help the beneficiaries to get legal assistance in case of demolition or stop-work orders issued during duration of the project. For legal assistance after the implementation phase of the project a system should be established by the NGOs and the International Community to guarantee legal assistance for the beneficiaries after the end of the project.
- (d) Reduction of cost and visibility of the interventions by using only light machinery and equipment.

2.3. Complementary actions

EU funded Interventions:

Two EU funded projects which contained land reclamation activities in Area C have been completed. The first one **Rural People produce their Food in the North West**

Bank (January 2008 – July 2010) was implemented by the Palestinian NGO Agricultural Development Association (PARC). The project was supported with EUR 1.54 million. It contained a component of land reclamation of 80 ha, of which 30 ha were located in Area C in Northern West Bank (regions of Jenin, Tulkarem and Qalqilia). The second project **Protecting Vulnerable Palestinian Agriculture-Based Livelihoods in Southern West-Bank** (January 2008 – December 2010) was implemented jointly by Oxfam Belgium and the local NGO Union of Agricultural Work Committees. The project was supported with EUR 1.74 million. It contained a component of land reclamation of 170 ha, of which approximately 52.5 ha were located in Area C in Southern West Bank (regions of Bethlehem and Hebron). The projects included activities of land cleaning and ploughing, and the construction of retaining walls, terraces, rainwater cisterns and agricultural roads.

In the framework of the thematic programme Food Security it is planned to launch a call for proposals to support **vulnerable Bedouin and herder communities**, which are mainly located in **Area C**. During the first phase of the programme EUR 3 million will be allocated for activities starting in 2012.

Furthermore, the Commission is currently working on the design of the **Direct Financial Support (DFS) Assistance to Agricultural Private Sector in West Bank (AAWB)** programme in co-ordination with the Ministry of Agriculture and other stakeholders. Financial support to West Bank agro-businesses/farmers will also be channelled via the PEGASE¹ DFS mechanism. This programme will give special attention to agri-businesses and farmers located in Area C.

The Commission has also been addressing basic needs of the vulnerable population residing in Area C, supporting humanitarian interventions such as livelihood, food and psychosocial assistance, access to water and health, legal aid and emergency response to displacements, as well as coordination and information management.

Interventions by other stakeholders

Area C Activities by the Office of the Quartet Representative (OQR)

The OQR has facilitated the rehabilitation of 14 schools and 5 clinics in Area C, and the construction of one school. Those projects were approved in negotiations between OQR and the Co-ordinator of Government Activities in the Territories (COGAT) which is part of the Israeli Ministry of Defence, and implemented by the United States Agency for International Development (USAID) and the United Nations Development Programme (UNDP). The OQR is currently preparing another package of schools and clinics infrastructure projects to be negotiated with COGAT.

UNDP Community Resilience & Development Programme for Area C and East Jerusalem

UNDP aims at creating a fund for recovery and development interventions in Area C. The fund foresees a budget of between USD 10 million and USD 41 million, depending on the success of fund raising. The budget will be allocated for the implementation of three types of interventions: i) interventions identified and

¹ French acronym for *Mécanisme "Palestino-Européen de Gestion et d'Aide Socio-Economique"*.

prioritised by local communities as part of their engagement in local planning processes; ii) sectoral nation-wide or regional interventions developed and agreed upon with the respective Palestinian line ministries (e.g. land reclamation); iii) recovery interventions needed by local communities to lessen the risks of forced displacement. This programme is in the design phase.

2.4. Donor co-ordination

Donor co-ordination for humanitarian interventions in Area C is well organised in the framework of the Friday group, chaired by the ECHO² office, and an Ad Hoc Humanitarian Donors Group.

On the development side co-ordination is also well advanced in many sectors. The specific issue of Area C is now being tackled during the weekly EU co-ordination meetings at Heads of Co-operation level, which are organised and chaired by EUREP. EUREP has also been organising a series of workshops at which the EU Member States interested in supporting development initiatives in Area C have been invited as well as the Norwegian and Swiss Co-operation.

In February and March 2012, EUREP organised two workshops with the participation of the EU Member States and other stakeholders (PA, UN, US, Sweden and relevant NGOs) to start up a common discussion on operational interventions in Area C. In this context, EU Member States (in separate sessions) have been informed of the EU approach on Area C in the context of the Annual Action Programme 2012. Subsequently EUREP set up an EU Interest Group for Area C. The purpose of the group is to create operational synergies, based on the Foreign Affairs Council (FAC) conclusions of 14 May 2012, to promote social and economic development of Palestinian populations in Area C.

Encouraged by the EU operational engagement in Area C, several EU Member States became involved in supporting the planning exercise for Area C. The French Consulate and the Belgian Technical Cooperation are providing funds for additional master plans for communities in Area C and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) seconded a geographic information system planner to the Ministry of Local Government. The UK's Department for International Development (DFID) is also considering supporting the Ministry of Local Government's planning activities, and the Swedish Consulate is planning to support interventions by the civil society in Area C.

3. DESCRIPTION

3.1. Objectives

Building on the political momentum of the EU Report on Area C and as a first concrete step in its implementation, this **EUR 7 million action** aimed at supporting the Palestinian presence and to promote social and economical development in Area C, in view of the EU supported two-States solution.

The specific objectives are:

³ EU Council Conclusions, 13 December 2010 and 23 May 2011.

- Enhance planning support to Palestinian communities in Area C;
- Develop strategic planning capacity of the Ministry of Local Governance;
- Provision of access to basic services;
- Mitigate the risk of forced displacements of people living in seam zones;
- Protection of Palestinian land, property and livelihood;
- Support Palestinian presence in Area C and ensure continuity of land.

3.2. Expected results and main activities

Component 1: Planning Support scheme

Activities:

- Technical assistance to the Ministry of Local Governance to develop capacity in strategic planning.
- Support to local communities in Area C in their zoning and planning exercise.

Expected results:

- Enhanced capacity in strategic planning in the Ministry of Local Governance.
- Enhanced capacity in zoning and planning of local communities in Area C.

Component 2: Implementation of Basic Infrastructure

Activities:

- Implementation of small-scale infrastructure projects.

Expected results:

- Provision of improved access to basic services.
- Support Palestinian presence in Area C.

Component 3: Land Reclamation and Rehabilitation Programme

Activities:

- Land reclamation and rehabilitation interventions.

Expected results:

- Providing food security and supporting income generation of Palestinian farmers.
- Promote continuity and integrity of Palestinian Land.

- Protect farmer's land from settlement expansion and land expropriation.

3.3. Risks and assumptions

The EU has to undertake a financial risk of having 10 % to 20 % of demolition orders issued by the Israeli authorities. In order to mitigate such risk it is proposed:

- to ensure co-ordination and information vis-à-vis the Israeli authorities;
- to extend the implementation period of all infrastructure projects after provisional acceptance from the Israeli authorities has been obtained;
- to establish an EU systematic response mechanism in case of stop work or demolition orders in infrastructure projects.

Considering the volatility of the political situation in the occupied Palestinian territory (oPt) and the risk to undertake infrastructure interventions in Area C, it is possible, in case that one component cannot be implemented, that funds from one component will be allocated to another component, throughout the duration of the programme and according to the applicable rules.

3.4. Cross-cutting issues

Environmental sustainability, impact on climate change, gender equality, good governance and human rights will be taken into account during the design of the action and its evaluation. Special attention to those areas will be given during the collection of the baseline data to ensure that change or impact can be measured during evaluation.

Special attention will be given to the social impact of the Land Reclamation and Rehabilitation component (in terms of gender and power relations within families and communities).

3.5. Stakeholders

The main stakeholders in that action will be the PA with its Ministry of Local Government, its Governorates and its Joint Service Councils. Other stakeholders will be international and local NGOs, and International Organisations.

Beneficiaries will be the Palestinian communities in Area C, the village councils, and the PA as the action will contribute to its state building. Ownership will be very high as the action will fund the implementation of master plans which were developed by the Palestinian communities in Area C under supervision of the Ministry of Local Governance and with technical assistance provided by an international organisation. Those master plans will hence be fully aligned to the needs of the Palestinian people in Area C. Special attention will be given to the needs of the vulnerable Bedouin communities.

4. IMPLEMENTATION ISSUES

4.1. Methods of implementation

Direct centralised management mode and joint management mode.

Component 1: Planning Support Scheme

Joint management will apply through the signature of a contribution agreement with an international organisation, in accordance with Article 53d of the Financial Regulation. The relevant international organisation will comply with the criteria provided for in the applicable Financial Regulation.

UN Habitat is considered as a suitable partner for the implementation of this component for the following reasons:

- UN Habitat expertise in planning and in capacity development.
- UN Habitat assisted the Ministry of Local Governance in the development of the Strategic Action Plan "Planning Support for Palestinian Communities in Area C 2012-2014".
- Ministry of Local Governance Strategic Action Plan foresees a role for UN Habitat in almost all activities.

Component 2 – Implementation of Basic Infrastructure & Component 3 – Land Reclamation and Rehabilitation Programme

Direct centralised management will apply through the signature of a Financing Agreement between the EU represented by the Commission and the Palestinian Authority.

The change of management mode constitutes a substantial change except where the Commission "re-centralises" or reduces the level of tasks previously delegated to the beneficiary country, international organisation or delegated body under, respectively, decentralised, joint or indirect centralised management.

4.2. Grant award procedures

For component 1:

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the relevant international organisation.

For components 2 and 3:

1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by

the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the European Neighbourhood and Partnership Instrument (ENPI) Regulation (EC) 1638/2006. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in Article 21(7) of the above mentioned Regulation.

2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the General Budget of the European Union. When derogation of these principles are applied, they shall be justified, in particular in the following areas:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80 % of the total accepted costs of the Action. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the General Budget.

4.3. Indicative budget and calendar

The budget of the operation amounts to EUR 7,000,000 (EU contribution).

The indicative breakdown of the overall amount is as follows

Component	Management mode, (type of contract foreseen)	Amount (EUR)
1. Planning support scheme	Joint management Contribution Agreement	1,000,000
2. Implementation of basic infrastructure	Direct centralised management Grant contracts	2,000,000
3. Land reclamation and rehabilitation programme	Direct centralised management Grant contracts	3,600,000
4. Communication and visibility	Direct centralised management Service contracts	100,000
5. Audit, evaluation	Direct centralised management Service contracts	100,000
6. Contingencies		200,000
TOTAL		7,000,000

The foreseen operational duration is expected to be 72 months as from the signature of the Financing Agreement, including a phase of operational implementation of 60 months and a closure phase of 12 months. Indeed, the formulation phase of actions in such a politically sensitive environment requires time, careful planning and thorough consultations prior to implementation.

Indicative timetable for grants:

For component 2: One grant is foreseen to be awarded in the first semester of 2013.

For component 3: A call for proposals is foreseen to be launched in the first semester of 2013. It is expected that 3 to 5 grants will be awarded under this call.

4.4. Performance monitoring

- (a) Continuous technical and financial monitoring is the Beneficiary's responsibility. The Beneficiary shall establish a technical and financial, monitoring system to the project, which will generate progress reports and safeguard internal control.
- (b) The Commission may carry out Results Oriented Monitoring via independent consultants, starting from the sixth month of project activities, which will be finalised at the latest 6 months before the end of the operational implementation phase.

The results indicated in 3.2 will be monitored during the implementation of the action.

4.5. Evaluation and audit

An external final evaluation, covering all the activities of the action, will be carried out in accordance with European Commission procedures. Where appropriate, external audits of specific projects will be undertaken.

4.6. Communication and visibility

The action will follow the visibility guidelines of the European Commission. Each contractor will be responsible for implementing those guidelines in line with the relevant templates.