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COUNCIL OF THE EUROPEAN UNION
THE SECRETARY GENERAL / HIGH REPRESENTATIVE

Brussels, 30-09-2009

3359/11682

Sirs,

In your letter of 1 September, you raised a number of issues regarding the EU's reaction to the military operation conducted by Israeli forces in Gaza last December and January. Specifically, you wished to know what steps the EU has taken or intends to take vis à vis Israel, including in particular the possible adoption of measures under the EU-Israel Association Agreement.

I would point out first that the EU took a series of initiatives during the Israeli operation in Gaza, with a view to achieving an immediate and permanent ceasefire and the urgent provision of humanitarian assistance. On 30 December, three days after the operation began, a meeting of the Member States' Ministers for Foreign Affairs as well as myself and the Commission was convened in Paris. The EU issued a statement after this meeting, emphasising that it was conscious of the suffering and anguish of the civilian populations and calling for an immediate and permanent ceasefire, as well as immediate humanitarian action to deliver food, urgent medical aid and fuel to the Gaza Strip, the evacuation of the injured and unhindered access by humanitarian workers through the opening of crossing points.

This was followed by a visit of the EU 'troika' to the Middle East from 4-6 January, with the participation of the Czech Presidency's Minister for Foreign Affairs as well as myself, the European Commissioner for external relations and the Foreign Ministers of the future and previous Council Presidencies (Sweden and France).

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Equally, the heads of State or Government of the Czech Republic, France, Germany, UK, Italy and Spain attended a Summit meeting arranged by Egypt at Sharm el Sheikh on 18 January, in order to help establish the conditions for ensuring a sustainable ceasefire in Gaza and to discuss how to ensure that humanitarian aid reached Gaza's civilians. They continued their mission with a visit to the Israeli Prime Minister in Jerusalem.

Following the cessation of hostilities in Gaza and the withdrawal of Israeli troops, the Council adopted conclusions at its meeting of 26 January, in which it welcomed the cessation of hostilities and expressed its full support for the above-mentioned Egyptian initiative and efforts to achieve a lasting ceasefire. At the same time, it stated that *"The European Union deeply deplores the loss of life during this conflict, particularly the civilian casualties. The Council reminds all parties to the conflict to fully respect human rights and comply with their obligations under international humanitarian law and will follow closely investigations into alleged violations of international humanitarian law."* These conclusions also stated that, *"Gravely concerned by the critical humanitarian situation on the ground, the EU calls for the unimpeded provision and distribution of humanitarian assistance to the suffering people of Gaza. The European Union is ready to step up its already substantial emergency aid contribution and it will continue to strongly support the United Nations Relief and Works Agency and other international agencies in their efforts."*

Following this meeting of the Council, I visited the Middle East region from 26-29 January, where I met with the principal actors concerned (the Egyptian President and Foreign Minister, the Secretary-General of the Arab League, the Israeli President, Prime Minister and Foreign Minister, the King of Jordan, the Palestinian President and Prime Minister and the US Special Envoy Senator Mitchell).

In view of the above, I consider that the EU made the most intensive and strenuous efforts throughout the crisis in Gaza, in order to achieve a ceasefire and to alleviate the humanitarian situation of the civilian population.

With regard to your question concerning the possibility of taking measures pursuant to the EU-Israel Association Agreement, Article 2 of that Agreement provides that: *"Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement."*

Article 79(2) of the Agreement provides that: *"If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties."*

In the selection of measures, priority shall be given to those which least disturb the functioning of the Agreement.

These measures shall be notified immediately to the Association Council and shall be the subject of consultations within the Association Council if the other Party so requests."

A decision by the EU as to whether to take measures pursuant to the above-mentioned provisions, which could include the suspension of trade concessions under the Agreement and/or of programmes for technical and financial assistance, is a matter of political assessment in which a series of complex factors would have to be weighed up. In particular, it would be necessary to consider whether having recourse to such measures would be more effective in achieving the EU's objectives than relying instead on other means of exerting pressure such as the above-mentioned political initiatives which the EU took during the crisis in Gaza.

Yours sincerely,



Javier SOLANA