

## Ireland Palestine Solidarity Campaign

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# The Gaza Blockade, Operation Cast Lead, Freedom Flotilla Massacre & Ongoing Occupation: The Case for the Suspension of Israel from the Euro-Med Agreement

Ireland-Palestine Solidarity Campaign (IPSC) Briefing Document for the Joint Committee on European Affairs - 21/06/2010

**Israel does not react to international condemnation; however it has reacted and will react to international action, to sanctions and the threat of sanctions. Our government needs to take credible action to ensure that the siege is lifted entirely**

In the wake of the killings of international aid activists by Israel, this briefing document will give background information on the aid convoy to Gaza and attacks on it by Israeli forces, as well as the IPSC's critique of and Israel's 'internal inquiry' into the attack, and a critique of Israel's announcement that it will 'liberalise' the illegal blockade of Gaza. It will also outline how Israel has breached its human rights obligations under the Euro-Med Agreement. It will describe the necessity of bringing aid to Gaza, and finish by offering a solution to this crisis.

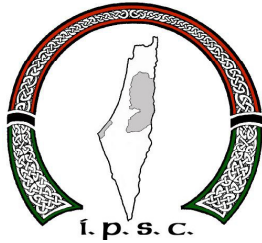
The IPSC is aware that Israel does not react to international condemnation; however it has reacted and will react to international action, to sanctions and the threat of sanctions. Our government needs to take credible action to ensure that the siege is lifted entirely, not simply to avert future political crises and the ongoing humanitarian crises, but also as a necessary precondition for peace in Israel/Palestine.

## Overview of the present crisis

Between 3.00 and 4.00 AM on 31st May, the elite Israeli naval unit Flotilla 13 stormed the *MV Mavi Marmara*, the Turkish flagship of an international flotilla bringing humanitarian aid to the besieged people of Gaza. The attack took place in international waters, some 80 nautical miles from the coast of the Gaza Strip. The attack killed at least 9 unarmed Turkish peace activists, and left several dozen injured, some of them seriously.

Accompanying the *Mavi Marmara* was the *Challenger I* with three Irish activists among its passengers: Dr Fintan Lane, Fiachra O Luain and Shane Dillon. Israeli commandos boarded this ship and forced it to divert to the Israeli port of Ashdod, offering considerable violence to the passengers who offered no resistance.

The *MV Rachel Corrie* followed with several days' delay in the wake of the *Mavi Marmara* and *Challenger I*. On board were five Irish passengers: Nobel Peace Prize-winner Mairead Maguire, former UN Assistant Secretary-General Denis Halliday, Derek and Jenny Graham, peace activists



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from County Mayo, and Fiona Thompson, a film maker from Dundalk. This ship was boarded by Israeli commandos in international waters on 4th June and similarly diverted to Ashdod.

Eventually all Irish passport-holders - including Esam Bin-Ali and Al-Mahdi Alharat, two Libyan-born Irish citizens who were on other ships in the flotilla - were returned safely. All reported that their mobile phones and cameras had not been returned - which is to say that they were stolen - and Mr O Luain's passport was retained by the Israelis.

### The attack on the *Mavi Marmara*

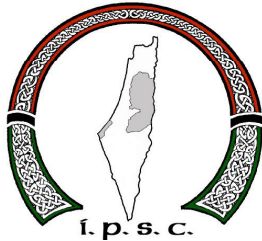
The Israeli Foreign Ministry has claimed that violence against their soldiers was "premeditated", citing statements by Bulent Yildirim of the IHH (the Turkish Foundation for Human Rights and Freedom and Humanitarian Relief, a UN-linked charitable organisation that was one of the sponsors of the flotilla) that Israeli soldiers boarding the ship would meet resistance. However, Mr Yildirim said nothing about armed resistance, and Israel has produced no evidence that any of the peace activists on board the ship bore arms. Indeed had there been arms aboard they would have been found by Turkish customs officials who subjected the ship and its passengers to a stringent search prior to embarkation. According to a Turkish customs official in Antalya: "Forty-two passengers boarded in Istanbul and 504 passengers got on the ship here. We spotted no weapons and there is no such record in our logs. We did not notice anything suspicious about the *Mavi Marmara*. Had our officers had any suspicions they would have reported it".

Israel has sought to present a narrative of its soldiers boarding the *Mavi Marmara* with the sole intention of taking charge of the ship, but being met by a violent surprise assault from armed activists to which they responded in self-defence. This overlooks the fact that the descent of heavily-armed Israeli elite commandos in the middle of the night from a number of helicopters onto the deck of a ship in international waters, in violation of international law and maritime law, is itself a criminal act of some considerable violence.

***"For Israel, regardless of your religion or your nationality, if you help the people of Gaza you will be declared a terrorist." - IHH spokesman Serkan Nerkis***

Given that Israel has confiscated all film and photographic evidence from passengers and crew, the sole visual evidence of what happened on board the *Mavi Marmara* was an absurd Israeli video-clip that had obviously been heavily edited. Even from this "evidence" it was clear that the passengers were unarmed, although they had defended themselves against their attackers with whatever objects came to hand.

Israeli deputy foreign minister Danny Ayalon has mischievously claimed that there were Al-Qaeda operatives aboard the ship, referring to the members of IHH. However, IHH has impeccable credentials as a consultative member of the United Nations Economic and Social Council. Down the years Israel has consistently sought to demonise the organisation because of its Islamic nature, and because it has provided relief to the victims of Israeli violence in Palestine and Lebanon.



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Nonetheless, the USA has never placed the IHH on its list of terror organisations. IHH spokesman Serkan Nerkis has significantly commented that "for Israel, regardless of your religion or your nationality, if you help the people of Gaza you will be declared a terrorist." It is clear that the presence of IHH personnel was used by Israel as a pretext to justify its assault on the *Mavi Marmara*, and that the true motivation for the assault was the brutal deterrence of any future attempts to breach Israel's unilateral and illegal blockade of Gaza.

The Free Gaza Movement, one of the organisers of the flotilla and the one with most Irish involvement, defines its aims as follows:

*"We want to break the siege of Gaza. We want to raise international awareness about the prison-like closure of the Gaza Strip and pressure the international community to review its sanctions policy [against Hamas, which governs Gaza] and end its support for continued Israeli occupation. We want to uphold Palestine's right to welcome internationals as visitors, human rights observers, humanitarian aid workers, journalists, or otherwise. We have not and will not ask for Israel's permission. It is our intent to overcome this brutal siege through civil resistance and non-violent direct action, and establish a permanent sea lane between Gaza and the rest of the world."*

Note the emphasis on "civil resistance and non-violent direct action". The organisation has further stressed that its members "agree to adhere to the principles of nonviolence and nonviolent resistance in word and deed at all times."

### The fox investigating the hen house massacre

On Monday, 14 June 2010, the Israeli Cabinet approved the establishment of a committee charged with investigating Israel's 31 May attack on the Freedom Flotilla. On 1 June 2010, the UN Security Council issued a presidential statement condemning the attack and calling for "a prompt, impartial, credible and transparent investigation conforming to international standards."

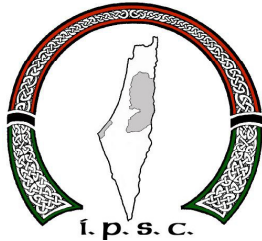
**The Israeli "Independent Public Commission" [into the Flotilla attack] is not an official commission of inquiry. It is a government appointed, non-statutory body, which in practice will enjoy only nominal power**

The commission established by Israel fails to conform with these standards. Indeed, given Israel's failure to carry out any thorough investigation into its 'Operation Cast Lead' attack on Gaza in 2008/09 as it was required to do by the *Goldstone Report*, one can hardly expect this particular inquiry to be in any way impartial.

The Israeli "Independent Public Commission" is not an official commission of inquiry. It is a government appointed, non-statutory body, which in practice will enjoy only nominal power. According to Human Rights Watch, "the Israeli government has undermined the credibility of the panel ... by preventing it from questioning Israeli soldiers or compelling the military to provide evidence."

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Indeed, the Israeli government handpicked the committee's members, and they do not include anyone with clear expertise in the specific relevant fields, such as international maritime law or the laws of war. Only one committee member, Prof. Shabtai Rosenne, has any expertise in international law. It also remains to be seen whether the committee's sessions will be held in public or in camera.

As a sop to international demands, Israel appointed two 'international observers' – Former Northern Ireland First Minister David Trimble and Brig. Gen. (Ret) Ken Watkin of Canada – to the commission. Aside from the fact that they will not have voting rights in relation to the proceedings and conclusions, and will have only a limited right to participate in the hearings and deliberations, the partiality of Mr. Trimble must be questioned given that he co-launched a campaign called the 'Friends of Israel Initiative' on the very day that the attack on the Flotilla took place.

The Ireland Palestine Solidarity Campaign agrees with the following assessment of this Committee by the Palestinian Center for Human Rights (PCHR) in Gaza:

*"PCHR believe that this committee's real purpose is to divert international attention, waste time, and ultimately frustrate the pursuit of justice. It is essential that the international community take immediate action to uphold victims' legitimate rights to the equal protection of the law and an effective judicial remedy.*

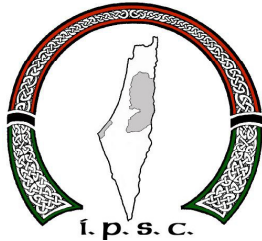
*Therefore, in accordance with the requirements of the UN Security Council, an international investigative committee must be promptly appointed. The committee must be empowered with the necessary tools in order to be capable of identifying and prosecuting those responsible for the operation that caused the deaths, injures and damages to the members of the humanitarian flotilla.*

*Concurrently, States should exercise the jurisdiction of their national criminal systems to investigate the facts of the events of 31 May 2010, and refer the situation to the Prosecutor of the International Criminal Court in accordance with Article 13(a) of the Rome Statute."*

### The necessity of aid

Israel has maintained that the flotilla is unnecessary, since Israel already allows humanitarian goods into Gaza, and that it is merely a publicity stunt and a provocation. This is incorrect.

Participants in the flotilla saw and see their actions as both humanitarian and political in nature. In common with other pro-Palestinian activists, they are concerned that the "international community" has engaged in ignoring and at times facilitating the criminality of Israel's policies towards the Palestinian people, whether in the Occupied Territories or within the Israeli state. Of late the population of Gaza has suffered most from this criminality, as documented most



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eloquently by the Report of the UN's Goldstone Commission after Israel's war against Gaza in December 2008/2009.

John Ging, Head of United Nation's Relief and Works Agency (UNRWA) in the Gaza Strip, has asked the international community to "bring us the supplies we need to rebuild schools and run them, bring us the equipment we need for hospitals and health centres. Everybody knows how desperate the situation is in the Gaza Strip after almost three years of blockade. We need action now." According to the most recent report of the United Nations Development Programme, more

***"The idea is to put the Palestinians on a diet but not to make them die of hunger." - Dov Weisglass, senior Israeli government advisor, speaking of the blockade in 2006.***

than 16 months after the latter onslaught 75% of damaged buildings and infrastructure in the coastal strip remain unrepaired as a result of Israel's embargo. According to the United Nations Relief and Works Agency, the goods permitted by Israel suffice for only one quarter of the people's needs.

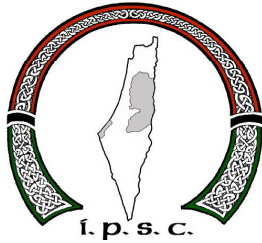
This is a clear case of collective punishment, and violates the 4th Geneva Convention relative to the Protection of Civilian Persons in Time of War.

The IPSC welcomed the statement by Minister for Foreign Affairs Micheál Martin that Israel's recent actions "constitute a totally unacceptable response by the Israeli military to what was a humanitarian mission attempting to deliver much needed supplies to the people of Gaza." However, we believe that the European Union and hence the Irish government cannot be absolved of some responsibility for Israel's evident conviction that it is above the law. We have in the past heard stern condemnations of Israel's actions by Irish politicians followed by steps to upgrade the considerable trading privileges that Israel enjoys under the Euro-Mediterranean Association Agreement; most recently we have seen Ireland express its "reservations" about Israel's accession to the Organisation for Economic Cooperation and Development (OECD) before voting in favour of that accession.

Repeated calls for the suspension of the Association Agreement based on its "human rights clause" (Article 2), including a call from the European Parliament itself in April 2002, have fallen on deaf ears. This failure to take all available action was one of the factors that led to the EU's condemnation at the opening session of the Russell Tribunal on Palestine in Barcelona last March. Given the repeated assertion by successive Irish governments that they reject sanctions of any kind against Israel, is it any wonder that that state, intent on completing its project of seizing as much land as possible inhabited by as few Palestinians as possible, considers itself to be above the law and the Palestinians (and indeed everyone else) to be beneath the law?

### **The Euro-Med Agreement – Israeli breaches and EU failures**

In November 1995, Israel signed an Association Agreement with the EU under the Euro-Mediterranean Partnership. This is commonly known as the Euro-Med Agreement. It gave Israel



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privileged access to the EU market from 2000. Today, about 33% of Israel's exports are to the EU and 37% of its imports are from the EU (amounting to €9.8 billion and €13.8 billion, respectively, in 2006).

The Euro-Med Agreement also contains human rights obligations. Article 2 of the Agreement states: "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."

That states plainly that human rights compliance by Israel is an "essential element" of the Agreement – not an optional element, nor a desirable element, but an essential element.

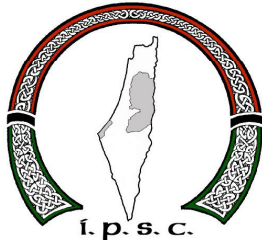
There isn't the slightest doubt that Israel has continuously failed to live up to these obligations, the most recent example being the attack on the Gaza Freedom Flotilla and the ongoing economic strangulation of the people of Gaza. Of the blockade of Gaza, John Holmes, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, told the Security Council on 26 February 2008: "... the effective Israeli isolation of Gaza is not justified, given Israel's continuing obligations to the people of Gaza. It amounts to collective punishment and is contrary to international humanitarian law."

Collective punishment is contrary to Article 33 of the Fourth Geneva Convention, which states: "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

The EU itself has described the economic strangulation of Gaza as "collective punishment", External Relations Commissioner Benita Ferrero-Waldner saying on 21 January 2008: "I am against this collective punishment of the people of Gaza. I urge the Israeli authorities to restart fuel supplies and open the crossings for the passage of humanitarian and commercial supplies."

The Irish Foreign Minister, Dermot Ahern, agreed, telling Dail Eireann on 11 March 2008: "I remain deeply concerned about the worsening humanitarian situation in Gaza. It is unacceptable that Israel should isolate the people of Gaza and cut off essential supplies in order to exert pressure on them to reject Hamas. I agree with the United Nations that this constitutes collective punishment and is illegal under international humanitarian law."

The UN, the EU and Ireland are of the firm opinion that, by its blockading of Gaza, Israel has violated international humanitarian law. And it is not as if this economic strangulation of Gaza is a momentary lapse from an otherwise unblemished record of human rights compliance. On the contrary, the collective punishment of the people of Gaza is the openly acknowledged policy of the Israeli Government that has been in operation, to a greater or lesser extent, for years. Famously, when Israel limited commercial shipments of food into Gaza in 2006, a senior government adviser,



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Dov Weisglass, explained that “the idea is to put the Palestinians on a diet but not to make them die of hunger”.

There is not the slightest doubt that, by its blockading of Gaza over the past three years, Israel has severely breached its human rights obligations under Article 2 of the Association Agreement, obligations that are stated to be an “essential element” of the Agreement.

Furthermore, in the light of the Goldstone Report, the case for the suspension of the Euro-Med Agreement is overwhelming. The report calls for “a firmer and principled stance by the international community on violations of international humanitarian and human rights law and long delayed action to end them” and warns that if “the international community does not live up to its own legal standards, the threat to the international rule of law is obvious and potentially far-reaching in its consequences”.

This warning was echoed by a coalition of Palestinian human rights organisations in their response to the *Goldstone Report*:

*“If the rule of law is to be relevant, it must be upheld. As long as individuals and States are allowed to act with impunity, they will continue to violate international law and civilians will continue to suffer the horrific consequences. Individual States and the United Nations must fulfil their legal obligations, and their moral duty, to save succeeding generations from the scourge of war and to establish conditions under which justice and respect for international law can be maintained.”*

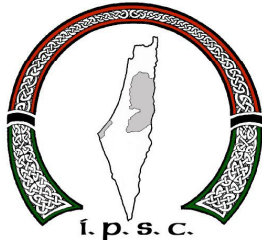
It now falls to the Irish government and its EU partners to heed these injunctions. Unless the Euro-Med Agreement is suspended in response to Israel’s grave violations of the principles which form its “very basis”, no commitment to human rights and international law by the European Union will carry any credibility.

If Article 2 is to be taken seriously, then the Agreement should be suspended. But thus far, the EU has turned a blind eye to Israel’s contravention of obligations under this agreement. The time for action on this vital issue is now.

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### **‘Easing’ the blockade does not equal lifting the illegal siege**

On 20th June, as a tentative response to international pressure, Israel announced that it is to “liberalise” the blockade of Gaza by allowing the import of strictly “civilian” goods to Gaza, but will restrict “problematic dual-use” items. The IPSC believes that this is a cynical PR stunt, a purely



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cosmetic *hasbara* response designed for domestic and international consumption and to appease its own constituency of supporters in the USA and EU. Israel will still define, according to its own cynical criteria, what is and is not "problematic".

While any easing of the siege - that has caused so much misery for the people of Gaza – is to be welcomed in purely humanitarian terms, the fact remains that any Israeli blockade of Gaza is illegal. As UN Relief and Works Agency (UNRWA) spokesman Chris Gunness said: "The siege must be ended, not just eased. Otherwise Israel continues to be in breach of international law."

It remains to be seen exactly what form this so-called easing will take. For example, Israel has said it will publish a list of prohibited items "limited to weapons and war materiel, including problematic dual-use items". As the Israeli government statement goes on to clarify that these "dual-use construction materials" will be allowed in only for approved PA and UN authorised rebuilding projects, it looks likely that general construction materials will remain on the banned list. This is unacceptable - the people of Gaza must be masters of their own destiny and not subject to the whims of those authorities in Israel that decide what are 'acceptable' and 'unacceptable' construction projects.

Furthermore, we believe that it is unacceptable to praise Israel - as President Obama and EU foreign policy chief Catherine Ashton have done - for drawing up a list of prohibited items, when Israel has no right whatsoever to decide what necessities may be conceded to or withheld from the long-suffering people of Gaza.

In addition, Israel did not mention allowing the importation and exportation of normal trading goods to and from Gaza. This would appear to indicate that Israel is still intent on preventing Gaza from establishing trading links with the rest of the world.

As John Ging, head of UNRWA in Gaza, said: "What's missing from the statement yesterday is any reference to commercial activity. This is not about just keeping people alive... it's about giving them a life". While Chris Gunness of UNRWA made the following statement:

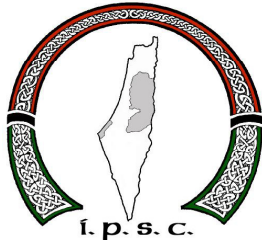
***"We have to get exports out of Gaza because people in Gaza are dignified, they are entrepreneurial, they are industrious. They can help themselves" – UNRWA spokesperson Chris Gunness***

*"I want to talk about materials coming out of Gaza, i.e. exports, because Gaza is 80 per cent aid dependent and logically by sending in more aid you make it more aid dependent. What we want to do is make it less aid dependent and that means getting exports out. There is an international agreement which foresees 400 trucks a day of exports. That's the direction in which we need to move. We have to get exports out of Gaza because people in Gaza are dignified, they are entrepreneurial, they are industrious. They can help themselves. We need to stop complaining about all this money we throw at the Palestinians, about how aid dependent they are, and all we need to do is get the Israelis to*

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*stop this illegal blockade and allow exports to come out, and we can begin to go down that road."*

Israel is strangling Gaza and is entirely responsible for the humanitarian crisis in the area. As many as 80 per cent of Gazans currently live below the poverty line and the economy has been emaciated. What is required is an immediate and complete end to the illegal siege of Gaza. This must be a short-term objective for the international community – including the Irish government and EU - and we should not allow ourselves to be fooled by Israel's alleged 'easing' of one aspect of the blockade. Gaza should have an autonomous sea port and airport so that it can have unfettered access to the international community. The people of Gaza must be allowed to export goods and rebuild on their own terms.

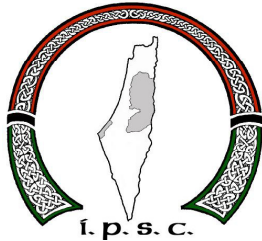
Finally, regardless of whether or not we see a significant improvement in the import and export of items from Gaza, the very fact that Israel is making noises in that direction begs the following question: what exactly was the point of the blockade in the first place? It would appear that Israel is tacitly accepting the viewpoint of politicians, public figures and human rights agencies the world over – that the cruel and illegal blockade Gaza was nothing more than a collective punishment inflicted upon the people of Gaza for electing the 'wrong' leaders.

### Suggestions for future actions

In view of this most recent atrocity on the high seas which itself was a direct result of the ongoing blockade of Gaza, it has become clear that the Irish government's failure to advocate robust EU sanctions against Israel may have consequences for Irish passport-holders who find themselves at the receiving end of Israel's rough justice. If it is the first duty of a state to protect its citizens, then such protection is incompatible with turning a blind eye to the crimes of a rogue state that believes – not without reason - it has impunity whatever it does.

More long-term: given that Israel still intends to maintain its maritime blockade of the Gaza strip even if it somewhat alleviates the land blockade, Palestinian solidarity activists - including a projected flotilla of German Jews - will continue to organise convoys to relieve the siege of Gaza, and will continue to risk their lives on the high seas because their governments are unwilling to compel Israel to abide by international law. The Irish government has the options of belatedly reacting to a fresh crisis and perhaps fresh tragedy, or of acting now to avert it. The only way to avert this and to stop the humanitarian crisis in Gaza is to lift the siege of Gaza completely; the IPSC urges the Irish government to encourage its EU partners to work tirelessly towards this end.

The IPSC believes that Israel should be subject to immediate sanctions for its recent actions and indeed for the ongoing blockade of Gaza. If Israel is not sanctioned for its behaviour it will continue to act as it has. Strong words are not enough. They need to be backed up with actions.



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We propose the following steps for the Irish government to take.

***(1) End its arms trade with Israel, e.g. the purchase of helmets and bullets from Israeli firms***

***(2) Support the suspension of the Euro-Mediterranean Association Agreement until Israel complies with international law***

***(3) Ensure that the 'silent upgrade' of EU-Israeli relations is halted until Israel complies with international law***

***(4) Work to reverse Israel's premature accession to the OECD***

***(5) Withdraw its ambassador from Tel Aviv as other countries have done, and expel the Israeli ambassador to Ireland. "Symbolic" actions such as the expulsion of a minor security official from the Israeli Embassy are insufficient.***

***(6) Oppose Israel's plan to hold an "internal" inquiry into its own actions against the Gaza Flotilla, and support the holding of a genuinely impartial international inquiry.***

***(7) Exercise pressure on Irish multinational CRH to divest from its Israeli subsidiary that is engaged in building the Separation Wall deemed illegal by the International Court of Justice in 2005.***

In conclusion, the Ireland Palestine Solidarity Campaign firmly believes that the tragedy that is the blockade of Gaza – and indeed Israel's ongoing occupation of Palestine and associated crimes - can be ended, but only if the international community takes robust action. There is now a window of opportunity to take that action. We urge members of this committee to seize it.

**Ireland-Palestine Solidarity Campaign**

**21st June 2010**

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