

EU Trade with Israeli Settlements

The transfer by an Occupying Power of parts of its own civilian population into the territory it occupies constitutes a grave breach of the 1949 Fourth Geneva Convention and violates the 1998 Rome Statute of the International Criminal Court. Such acts are war crimes under international law. Yet this has been the policy of the Government of the State of Israel since the beginning of its occupation in 1967. Forty-six years later, the Israeli settlement enterprise in the Occupied State of Palestine is a profitable undertaking based on the theft and colonization of Palestinian land and natural resources with seemingly no political, legal, or diplomatic cost for Israel. This must change.

The European Union (EU) is Israel's largest import and export market. In 2011, trade between Israel and the EU amounted to €29.4 billion (USD 38.7 billion), of which €12.6 billion (USD 16.6 billion) came from Israeli exports. These figures include trade with Israeli settlements, all of which are illegal according to international law.¹ While official import and export statistics do not reveal the exact volume of exports from the Israeli settlements to the EU, the most recent estimated value is €229 million (USD 300 million) per year.²

Agricultural products, mostly grown in the Jordan Valley, are one of the main exports of Israeli settlements. Fresh fruits, such as grapes and dates, as well as vegetables, make up a high proportion of the settlement goods exported to the EU. For example, more than 80% of dates and approximately 70% of grapes produced by the illegal Jordan Valley settlements are directed for export.³

The EU – Israel Association Agreement, which gives Israel a number of trade benefits, but from which Israeli settlements are supposed to be excluded due to the fact they are situated illegally in the occupied State of Palestine, is conditioned upon progress in the Peace Process and Israel's respect of human rights norms. Israel is in blatant violation of these conditions but faces no consequences beyond condemnatory statements.

In fact, in 2012, despite Israel's ongoing settlement construction, the EU-Israel Association Council, one of two bodies established to monitor the implementation of the Association agreement, approved 60 concrete activities in over 15 specific fields, including cooperation with a number of EU agencies.

Settlements and International Law

ISRAEL VIOLATES:

- Geneva Convention(IV) Relative to the Protection of Civilian Persons in Time of War (1949), Article 49, Article 147
- UN Resolutions, including Security Council Resolutions 252, 267, 298, 446 ,452,465, 471, 476, 478, 605, 1515
- International Court of Justice Advisory Opinion on the Wall in the OPT
- Rome Statute of the International Criminal Court, Article 8

¹ European Commission. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/israel/>

² Trading Away Peace: How Europe helps sustain illegal Israeli settlements', October 2012, available from: www.christianaid.org.uk/Images/Trading%20Away%20Peace%20October%202012_tcm15-63607.pdf

³ 'Feasting on the Occupation: Illegality of settlement produce and the responsibility of EU member states under International Law', available from: org/publications/Feasting-on-the-occupation.pdf

EU developments regarding settlement products

The EU's position on settlements is very clear. EU High Representative Catherine Ashton has stated on countless occasions that "all settlement construction is illegal under international law and constitutes an obstacle to peace".⁴

The EU Heads of Mission voiced a number of serious concerns in their 2012 report on East Jerusalem, in which they condemned settlement building and recommended that EU member states place economic sanctions on settlements. The report calls on the EU to "prevent, discourage and raise awareness about problematic implications of financial transactions (...) in support of settlement activities, infrastructure and services".⁵

A 2010 judgment by the European Court of Justice strengthened the EU's stance against Israel's settlement policy in the occupied Palestinian territory, by permitting member states to refuse to grant preferential treatment to settlement products and confirming that member states are not bound by proofs of origin supplied by Israel, if there is insufficient evidence of a product's origin.⁶ The European Parliament also discussed the issue of properly labeling the exact origins of products noting its "concern that goods from Israeli settlements in the Occupied Palestinian Territories (OPT) may be sold in Europe labelled as 'Produce of the West Bank' or as produce of Israel" and calling on member states "to ensure, through their enforcement of EU labelling law, that Israeli settlement products are clearly distinguished from Israeli goods and Palestinian products".⁷

In April 2013, 13 EU foreign ministers sent a letter to High Representative Ashton stating that they are in full support of the introduction of EU-wide guidelines on the labeling of settlement produce: "This is an important step to ensure correct and coherent application of EU consumer protection and labeling legislation, which is in fulfillment of our previous commitments and is fully consistent with long-standing EU policy in relation to Israeli settlements in the Occupied Palestinian Territories".⁸ The 13 foreign ministers also requested "enhanced efforts" towards the "full and effective implementation of existing legislation" regarding this issue.

The labeling of settlement products is undoubtedly a positive and important first step, but the EU and individual member states can still do more by enforcing a complete ban on all trade with the illegal Israeli settlements under Article 215 of the Treaty on the Functioning of the European Union.⁹

⁴ Ashton: Israeli Government Intention on Settlements Illegal, December 2012, <http://www.neurope.eu/article/ashton-israeli-s-government-intention-expand-settlements-west-bank-illegal>

⁵ EU Heads of Mission Jerusalem Report 2012. http://www.eccpalestine.org/wp-content/uploads/2013/02/EU_Homs_Jerusalem_Report_2012-1.pdf

⁶ <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30db5ddfd9fffb94d1cb219e0d629d54a77.e34KaxiLc3qMb40Rch0SaxuLaxr0?text=&docid=72406&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1002679>

⁷ European Parliament (6th September 2010) Written Declaration 0064/2010 On the labelling of goods from the Occupied Palestinian Territories, available from: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+WDECL+P7-DCL-2010-0064+0+DOC+PDF+V0//EN&language=EN>

⁸ EU Working on Plan to label settlement Products. <http://www.jpost.com/Diplomacy-and-Politics/EU-working-on-guidelines-to-label-West-Bank-products-310760>

⁹ Consolidated Versions of The Treaty On European Union and the Treaty On The Functioning of The European Union, available from: <http://www.consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf>

Why should the EU ban imports of settlement products?

The production of settlement goods is made possible as a result of Israel's violation of international humanitarian law. They are cultivated using land and natural resources illegally seized from Palestinians. The Fourth Geneva Convention and the Hague Regulations do not permit an Occupying Power to exercise its authority to further its own interests or meet the needs of its own population. Similarly, an Occupying Power may not exploit the inhabitants, the resources or other assets of the territory under its control for the benefit of its own territory or population. Yet this is precisely what Israel does. Trading with settlements helps to sustain the expansion of these settlements and their related infrastructure, and amounts to tacit support for these serious breaches of international humanitarian law.

States have responsibilities when confronted with serious breaches of international law, even if they are not directly party to it. Specifically, all states are obliged not to recognize as lawful a situation arising from a breach to international law, not to render aid or assistance in maintaining the illegal situation, as well as a duty to respect and promote the right to self-determination. By permitting the entry of settlement produce into their markets, EU member states are implicitly recognizing a situation arising from Israel's violations of international law, effectively rendering aid or assistance in maintaining an illegal situation, and in the process contributing to the denial of the right of the Palestinian people to self-determination.

Trade with Israeli settlements is inconsistent with the EU's own policy of halting settlement expansion. As the EU has repeatedly stated, settlements completely undermine the viability of the internationally endorsed two-state solution and constitute a major obstacle to peace. EU member states should therefore give effect to their long-standing positions and pressure Israel to halt ongoing violations of international human rights law and humanitarian law.

Most importantly, trade with illegal settlements means that Israel continues to benefit from its illegal and oppressive occupation of Palestine with complete impunity, thus giving the Israeli government no incentive to change its behavior, end the occupation and work towards peace. This situation must not be allowed to continue.