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PROPOSAL FOR

# STOPPING EU TRADE WITH ISRAEL'S ILLEGAL SETTLEMENTS

## HOW TO ALIGN EU TRADE WITH INTERNATIONAL LAW AND STOP ECONOMICALLY SUSTAINING THE ILLEGAL SITUATION IN THE OCCUPIED TERRITORIES

*8 JULY 2026*

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# 1. INTRODUCTION

For many years, the European Union has maintained a clear and unified position: Israeli settlements in the occupied territories are illegal under international law and undermine the possibility of a two-state solution. Yet the EU has allowed continued trade with these settlements, providing them with their largest export market and contributing to their economic viability.

In its landmark 2024 Advisory Opinion, the International Court of Justice (ICJ) made clear that states are obliged under international law "to take steps to prevent trade or investment relations" that help sustain the illegal settlements.[1] Together with the alarming developments on the ground, the Court's Opinion has galvanised calls to change the policy status quo.

There is now a growing momentum across Europe to bring policy in line with international law by ending trade with the settlements. Several Member States are advancing national import bans for settlement goods, citing the ICJ findings.

In recent months, an increasingly large number of Member States have also called for an EU-wide measure to restrict such trade – and for the Commission to table a legislative proposal to that effect. The Commission, however, has yet to act.

**This paper shows how such an EU-wide measure can be concretely designed and implemented – and why doing so is necessary.**

The proposal is based on extensive legal and technical research conducted by EuMEP and CIDSE, civil society organisations committed to promoting international law, human rights and a just peace between Israelis and Palestinians. It draws on consultations with European trade and constitutional lawyers, EU-specialised law firms, customs experts, and former and current European Commission officials.

**The paper does not propose sanctions, but a Regulation under the EU's Common Commercial Policy prohibiting trade with settlements as a matter of compliance with international law.** It shows that such a measure is not only possible but also legally necessary and operationally feasible. The proposal addresses the legal basis, objectives, scope, rules of origin, implementation and enforcement. It also explains why the existing EU policy allowing trade with settlements is untenable both in its design and in practice. The aim is to provide a practical, enforceable and legally grounded blueprint for bringing EU trade relations in line with international law.

# 2. LEGAL AND FACTUAL CONTEXT

## 2.1 LEGAL NECESSITY OF EU ACTION

***International law: obligation to take steps to prevent trade with illegal settlements***

- For many years, the EU has been unequivocally clear that Israeli settlements in the territories occupied since 1967 are illegal under international law.
- **In July 2024, the International Court of Justice concluded in an Advisory Opinion that Israel's very presence in the Occupied Palestinian Territory (OPT) is unlawful.**[2] The Court found that Israel's policies in the OPT constitute annexation, violate the Palestinian people's right to self-determination, and breach the prohibition of racial segregation and/or apartheid.
- The ICJ confirmed that third states are bound by obligations not to recognise the unlawful situation and not to render aid or assistance in maintaining it. The ICJ further established that third States

[1] ICJ, Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Advisory Opinion) [2024]. https://www.icj-cij.org/node/204160
[2] ICJ, Advisory Opinion OPT.

must *"abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the territory"*, and *"take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation"*.[3]

- **The EU's continued trade with Israeli settlements helps sustain these illegal entities.** The EU's existing policies allowing such trade to continue are clearly inconsistent with the obligations identified by the ICJ. (see sections 2.2 and 2.3)

***EU law: obligation to align EU trade with international law***

- **The obligations identified by the ICJ also apply to the EU.** ICJ advisory opinions provide an authoritative interpretation of international law and the EU Court of Justice (CJEU) has relied on them to determine international law obligations binding upon the EU.[4]

- **The EU is bound by its treaties and by CJEU case-law to adhere to international law.** According to Articles 3(5) and 21 TEU, the EU's action on the international scene, which includes its trade policy, shall be guided, inter alia, by respect for the principles of the United Nations Charter and international law and contribute to their strict observance. The EU shall also ensure consistency between the different areas of its external action. Article 207 TFEU further provides that the EU's trade policy "shall be conducted in the context of the principles and objectives of the Union's external action", which include respect for international law.
- **Taken together, these provisions require the EU to ensure that its trade policy complies with international law, as interpreted in the 2024 ICJ Advisory Opinion.** Therefore, preventing EU trade that helps entrench the illegal situation in the OPT is not merely desirable, but a legal obligation.

***The need for an EU trade measure and the European Commission's role***

- **To fulfil this obligation, the EU should adopt a trade measure on the basis of Article 207 TFEU prohibiting trade with the illegal settlements.** Such a measure would take the form of an EU regulation proposed by the European Commission and adopted jointly by the Council and the European Parliament.
- **The Commission, as the "guardian of the EU treaties"[5], has a particular responsibility to ensure legal consistency of its trade policy and, accordingly, to propose such a measure.** By failing to do so, the Commission would prevent the Council and the European Parliament from the possibility to comply with a legal obligation deriving from EU treaties and international law.
- **The required measure on trade with settlements is entirely separate from the Commission proposal of September 2025 to suspend the trade provisions of the EU–Israel Association Agreement.** Suspension of the Agreement would not affect trade with settlements because the Agreement applies only to the "territory of the State of Israel", which does not include the occupied territories. A settlement trade measure is therefore necessary irrespective of whether the Agreement remains in force or is suspended and could co-exist with either scenario. The existence of the suspension proposal cannot justify Commission's inaction on trade with settlements.
- **In case of Commission's continued inaction, any Member State or the European Parliament can challenge the Commission before the CJEU for failure to act (Article 265 TFEU).** The first step would be a letter of notice inviting the Commission to adopt the requested legal measure, after which it would have two months to reply.

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[3] Ibid [278].
[4] Gleider Hernández and Ramses A Wessel, 'Expert Legal Opinion on the Implications for the European Union of the July 2024 International Court of Justice Advisory Opinion regarding the Policies and Practices of Israel in the Occupied Palestinian Territory' (European Parliament, 2025) https://research.rug.nl/files/1332760520/Hernandez-Wessel_Expert-Legal-Opinion-on-ICJ-AO-19-July-2024-and-the-EU.pdf
[5] Article 17 of the Treaty of the European Union.

## 2.2 EU TRADE WITH ISRAELI SETTLEMENTS

In 2012, the World Bank estimated the value of settlement goods exported to Europe at $300 million (€230 million) per year, corresponding to around 2% of total Israeli exports to the EU.[6] This is about 15 times more than average annual EU imports of Palestinian goods in the same period (Figure 1).[7] In other words, **imports from illegal Israeli settlements make up around 90% of EU imports from the Occupied Palestinian Territory** (OPT) (Figure 2). This trade occurs without Palestinian consent, despite using land and natural resources of a territory over which the Palestinian people hold the right to self-determination.

**Claims that the volume of settlement trade is small represent a misconception.** The relevant point of comparison is not EU trade with Israel, but EU trade with the occupied territories. This follows both from the EU's position that the settlements are not part of Israel under international law and from the fact that the purpose of a trade measure would be to regulate trade with the occupied territories rather than to exert economic pressure on Israel. In addition, new research by Global Echo suggests that settlement exports to the EU may be larger than earlier estimates suggested.[8]

**Trade with the EU is crucial to sustain the settlements' economic viability.** The EU is Israel's largest external market, accounting for 29% of its exports.[9] For fruit and vegetables, the EU accounts for a full 63%.[10] Given the high share of fresh agricultural produce in settlement exports, the EU's share in settlement exports is probably even larger than for overall Israeli exports.

**Figure 1: EU imports from OPT (2012)[11]**

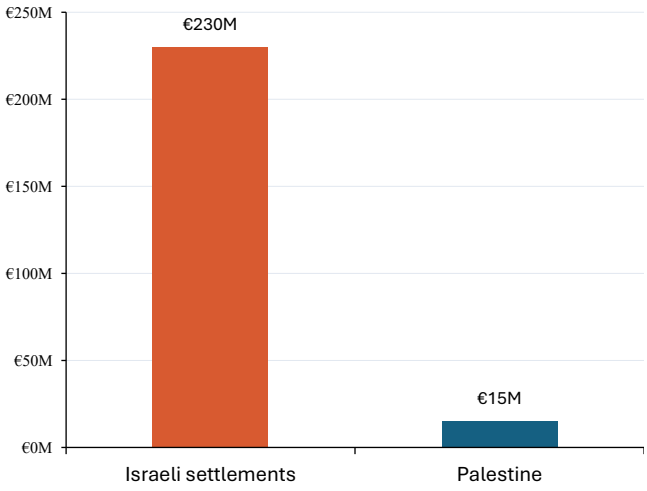
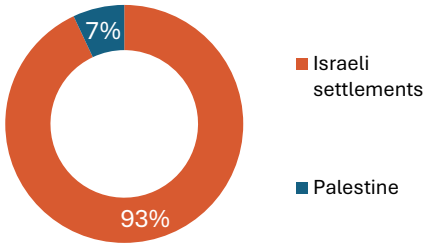



**Figure 2: EU imports from the OPT (2012)**




**The EU's severely distorted trade relationship with the OPT is a direct result of the Israeli policies underpinning the illegal occupation.** On one hand, Palestinians are unable to develop their economy or trade independently, hampered by Israel's sweeping restrictions on movement, control over water

[6] World Bank, Fiscal Crisis, Economic Prospects: The Imperative for Economic Cohesion in the Palestinian Territories (Economic Monitoring Report to the Ad Hoc Liaison Committee, 2012) https://documents1.worldbank.org/curated/en/350371468141891355/pdf/760230WP0GZ0AH02Box374357B00PUBLIC0.pdf

[7] Average annual value of Palestinian imports for 2007-2011 was €15m. Aprodev and others, Trading Away Peace: How Europe Helps Sustain Illegal Israeli Settlements (2012) 20 https://actalliance.eu/wp-content/uploads/2012/09/20120901_trading-away-peace.pdf

[8] Global Echo analysed 5,187 shipments of Israeli agricultural products to the EU; of them, 19.2% contained settlement products. Global Echo, Importing Occupation: Europe's Complicity in Palestinian Dispossession through Settlement Agricultural Trade (June 2026) https://www.globalecho.law/importingoccupation/

[9] European Commission, 'EU Trade Relations with Israel', https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/israel_en.

[10] Data for 2024 retrieved for the import of fruits and vegetables (HS codes 07 and 08) by the EU from Israel at UN Comtrade Database https://comtradeplus.un.org/

[11] World Bank, Fiscal Crisis Economic Prospects; Aprodev and others, Trading Away Peace.

resources, and confiscation of Palestinian land for settlement activity. On the other hand, the settlement economy benefits from heavy government subsidies ranging from cheap land leases to export tariff compensation.[12]

**Settler agriculture has served as a key means of takeover of Palestinian land.** In the West Bank, at least twice as much land has been taken over by settler cultivation than by the built-up areas of the settlements themselves.[13] Since 2023, dozens of Palestinian communities have been forced off their land, primarily by means of settler violence, with some of these areas subsequently converted into vineyards for settler wine industry.[14]

**Agricultural exports from the settlements to the EU include fresh fruits (dates, avocados, citrus, mangoes) and vegetables (potatoes, carrots, peppers) and wine.** Industrial exports include textiles, carpets, plastic and rubber products, bathroom appliances ranging from faucets to toilet brushes.

**The above facts demonstrate the extent to which EU trade assists in the maintenance of the illegal situation in the occupied territories.** They underscore the need to bring the EU's trade policy into line with international law and to safeguard the integrity of the EU's legitimate trade relations with the occupied territories by preventing trade with the illegal settlements

### 2.3 INADEQUACY OF CURRENT EU POLICY

**The EU's current policy on settlement products is clearly insufficient to meet the international law obligations established in the 2024 ICJ Advisory Opinion.** In particular, the existing policy measures fall short of the duty to "take steps to *prevent* trade or investment relations" that help maintain the illegal situation in the OPT. Under the EU's so-called differentiation policy, settlement goods are excluded from preferential tariff treatment under the EU–Israel Association Agreement but can still enter freely on the standard Most Favoured Nation (MFN) tariffs. Settlement products must also be correctly labelled as such, rather than as products of Israel – but this is a consumer information tool, not a step to prevent trade. [15]

- **The existing EU measures are evidently designed to continue and regulate trade with settlements, rather than to prevent these commercial flows** as required by international law according to the ICJ.[16] The European Commission's claim that the current policies are in line with the ICJ Opinion is not tenable.

- Moreover, the differentiation in tariff treatment of settlement products is limited in practice. **For the majority of Israeli exports to the EU, there is no tariff differentiation between products from Israel proper and from settlements (Figure 3).** According to the European Commission, 58% of imports of Israeli goods already enter the EU on a 0% MFN tariff and are therefore not eligible for preferential treatment.[17] Since the same MFN rates apply to settlement goods, many of them enter the EU on the same 0% MFN tariffs as goods produced within Israel proper. For other goods, the difference between MFN and preferential tariffs is often very small. In addition, trade in services, which constitutes 41% of Israeli exports to the EU,[18] is not subject to tariffs and is therefore unaffected by differentiation measures. Thus, in total, there is no tariff differentiation between settlements and Israel proper for 75% of total Israeli exports (goods and services) to the EU.

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[12] Peace Now, 'Billions for Settlements in the 2024 Budget' (22 February 2024) https://peacenow.org.il/en/billions-for-settlements-in-the-2024-budget

[13] Peace Now and Kerem Navot, The Bad Samaritan: Land Grabbing by Israeli Settlers in the Occupied West Bank through Grazing (2024) https://peacenow.org.il/wp-content/uploads/2025/03/The_Bad_Samaritan_ENG.pdf

[14] Marta Vidal and Meriem Laribi, 'The Theft at the Heart of Israel's Booming Wine Industry' +972 Magazine (30 January 2026) https://www.972mag.com/israel-wine-industry-west-bank-settlers/

[15] EuMEP, Waiting for Enforcement: Origin Indication of Israeli Settlement Wines on Sale in the EU (2020) https://eumep.org/wp-content/uploads/EuMEP_research_settlement_product_origin_v2.pdf

[16] Hernández and Wessel, Expert Legal Opinion, 40-41.

[17] Maroš Šefčovič, Remarks at Press Conference (17 September 2025) https://audiovisual.ec.europa.eu/en/media/video/I-277241.

[18] European Commission, 'EU Trade Relations with Israel' https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/israel_en.

**Figure 3: Share of Israeli exports to the EU affected by differentiation[19]**

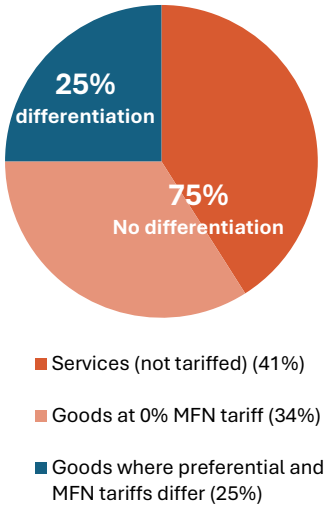
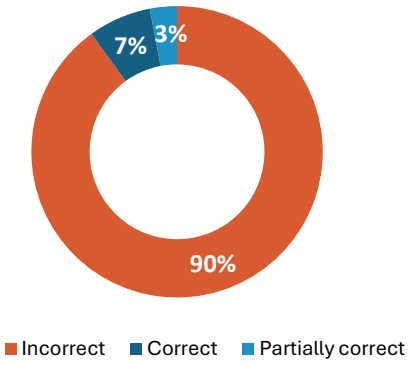



**Figure 4: Origin labelling of settlement wines sold in the EU (2020)[20]**




Furthermore, where the existing differentiation measures do apply, they largely do not work in practice:

- **The Israeli government compensates exporters of settlement products for EU tariff payments**, through a budget programme set up in 2004 specifically for that purpose. This effectively nullifies the effect of the existing EU policy excluding settlement goods from preferential tariff rates. Israel has annually handed out over €3 million on average in these compensation payments.[21]

- **The arrangement for excluding settlement products from preferential EU tariffs is cumbersome and unreliable.** Under the 2005 EU-Israel Technical Arrangement, Israeli exporters are obliged to indicate the name and postal code of the place of production in the documents used to claim preferential EU tariffs.[22] However, the exporters and Israeli customs authorities routinely continue to declare Israel as the country of origin for settlement products and claim preferential EU tariffs for them, despite their ineligibility under EU rules.[23] The burden therefore falls on EU importers and customs authorities to identify settlement origin by checking the postal codes against an EU-compiled list of settlement postal codes and to exclude such goods from preferential treatment. Given the large volume of goods entering the EU, Member States' customs authorities only check the documents with postal codes in a small share of cases based on risk assessment.[24] Altogether, this raises significant doubts about the reliability of the arrangement. In addition, Global Echo documented instances of settler exporters concealing the true origin of their products by using false Israeli addresses or by commingling agricultural produce from settlements and from Israel.[25]

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[19] Based on remarks by Maroš Šefčovič (17 September 2025) and European Commission, 'EU Trade Relations with Israel'
[20] EuMEP, Waiting for Enforcement, 4.
[21] Figure based on information in Global Echo, Importing Occupation, 121, 124.
[22] European Commission, 'EU-Israel Technical Arrangement', https://taxation-customs.ec.europa.eu/eu-israel-technical-arrangement_en
[23] In its research, Global Echo found that 42% of analysed shipments of agricultural settlement products for the EU market were accompanied with documents stating Israel as the country of origin and claiming preferential treatment. Communication with Global Echo. June 2026.
[24] While all customs declarations are processed electronically, the accompanying proofs of origin with the postal codes are only checked on a sample basis. According to Dutch government answers to parliamentary questions, only 2.8% of shipments of Israeli goods to the Netherlands claiming preferential treatment between 2017 and 2021 underwent documentary checks, and just 0.4% were subject to physical inspections. Answers to questions of MP Kuzu, 21 October 2022; https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2022Z16157&did=2022D43213
[25] Global Echo, Importing Occupation,164-7.

- **The rules for labelling of settlement products are widely disobeyed.** The rules were issued by the European Commission in 2015 and confirmed by the EU Court of Justice in 2019.[26] However, according to EuMEP's 2020 research, less than 10% of settlement wines sold online in the EU had correct origin indication.[27] Recent monitoring and media investigations confirm that settlement products are still labelled as products of Israel.[28]

- **Invalid certificates:** According to the Global Echo research, the EU accepts settlement products with phytosanitary or organic certificates issued by Israeli authorities, although the EU does not recognise their authority to certify products outside Israel's sovereign territory.[29]

**In sum, the current EU measures on settlement products are inadequate both in their design and in their practical implementation.** Even if the measures were fully complied with, they clearly do not meet the standard articulated by the ICJ. The fact that they also fail in practice underlines the need for a new EU policy to fully prevent trade with the illegal settlements.

**Only an import ban can allow resolving the above-described implementation challenges and ensure genuine differentiation**. Unlike tariffs, an import prohibition cannot be neutralised through Israeli government compensation payments. It will also make it significantly riskier for businesses to conceal settlement origin through incorrect or false declarations. When companies face the risk that goods may be returned, seized or destroyed (rather than merely paying a tariff that can subsequently be reimbursed), this will undercut the economic rationale for shipping such goods into the EU while mis-declaring their origin. Higher penalties triggered by breaches of an import ban will further disincentivise mis-designation of goods. See section 3.9 on enforcement for more detail.

## 2.4 NATIONAL MEASURES

This proposal builds on elements of (draft) laws recently adopted or advanced in several European countries (Table 1). **In the absence of common EU action so far, four Member States (Spain, Ireland, Belgium and the Netherlands) have already decided to prohibit trade with settlements at the national level and more may follow.** Spain has already adopted and implemented a national law, while the other governments are in advanced stages of the process and most have tabled draft laws. Outside the EU, the Norwegian government has also published a draft law. In addition, draft bills to prohibit trade with settlements have recently been tabled in the Italian and French parliaments.

**The Member State initiatives reinforce the need for EU-level action in order to ensure uniform rules for the internal market and avoid divergence between national legal frameworks.** An EU-level regulation would also have a greater impact than a patchwork of national measures. However, if efforts to achieve an EU regulation fail or fall short of a full trade ban, more Member States can be expected to - and should - take unilateral action to fulfil their obligations under international law.

[26] Commission, 'Interpretative Notice on Indication of Origin of Goods from the Territories Occupied by Israel since June 1967' [2015] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015XC1112(01); Case C-363/18 *Organisation juive européenne and Vignoble Psagot Ltd v Ministre de l'Économie et des Finances* EU:C:2019:954 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62018CJ0363

[27] EuMEP, *Waiting for Enforcement: Origin Indication of Israeli Settlement Wines on Sale in the EU* (2020) https://eumep.org/wp-content/uploads/EuMEP_research_settlement_product_origin_v2.pdf

[28] Vidal and Laribi, The Theft at the Heart of Israel's Booming Wine Industry.

[29] Global Echo, Importing Occupation, 189-148.

| Country | Stage | Date | Scope |
|---|---|---|---|
| Spain | Law adopted by parliament | 23 Sep 2025 | Import of goods; advertisement of goods and services |
| Netherlands | Draft law tabled by government | 22 May 2026 | Import and sale of goods; brokering services; further consideration of options on services at large and investment |
| Ireland | Draft law tabled by government | 26 May 2026 | Import of goods |
| Belgium | Draft law prepared; advanced stage of government negotiations | TBC | Import of goods |
| Norway | Draft law tabled by government | 19 Jun 2026 | Import and export of goods; provision of services related to construction and real estate; purchase of real estate; acquiring of settlement businesses |
| Italy | Draft bill tabled in parliament | 14 May 2026 | Import of goods and services; advertisement of goods and services |
| France | Draft bill presented by MPs | 23 June 2026 | Import and sales of goods; brokering services; provision of services that benefit and sustain the Israeli settlements; advertisement of goods and services |

# 3. PROPOSAL FOR A TRADE REGULATION

## 3.1 LEGAL BASIS

As explained above, the EU is bound by its treaties to ensure that its trade relations with the territories occupied by Israel comply with international law, including the obligations identified in the 2024 ICJ Advisory Opinion. Therefore, **the EU should adopt a regulation prohibiting trade with Israel's illegal settlements on the basis of Article 207 TFEU, i.e. the EU's Common Commercial Policy (CCP).**

**The primary objective of such a regulation would be to ensure consistency of EU trade with international law** and, thus, to prevent trade that contributes to the economic viability of illegal settlements.

**Such a measure is distinct from sanctions adopted under the Common Foreign and Security Policy (CFSP; Articles 29 TEU and 215 TFEU).** Its purpose would be to fulfil the EU's international obligations of non-recognition and non-assistance. These are negative obligations, requiring states to refrain from certain conduct and to stop contributing to an unlawful situation. By contrast, sanctions are discretionary, coercive measures whose purpose is, according to the Council of the EU, to "bring about a change in policy or activity" by the target country, entities or individuals.[30]

EuMEP and CIDSE commissioned two legal expert memos, one by Thomas Verellen (University of Utrecht) and the other by Jacquelyne Veraldi (The Good Lobby) to assess whether the CCP or the CFSP constitutes the appropriate legal basis for a measure prohibiting EU trade with Israeli settlements for the purpose of aligning EU trade policy with international law.[31] Both memos examine relevant CJEU case-law and apply the Court's "centre of gravity" test, under which the choice of the legal basis depends on the predominant

[30] Council of the European Union, Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy (4 May 2018).
[31] Jacquelyn Veraldi, Legal Memorandum on the EU Legal Basis for a Draft Regulation Banning Trade with Israeli Settlements (The Good Lobby, April 2026) https://eumep.org/wp-content/uploads/TGL_Memo_Veraldi.pdf; Thomas Verellen, Legal Assessment of the EU Legal Basis for Measures Concerning Trade with Israeli Settlements (28 April 2026). https://www.thomasverellen.com/blog/the-legal-basis-for-eu-measures-restricting-trade-with-israeli-settlements-a-constitutional-analysis

aim and content of the measure. **Both memos conclude that the CCP provides the more appropriate legal basis for such a measure.**

A recent letter by more than 100 legal scholars makes the same point: "Article 207 TFEU is … the appropriate legal basis to prohibit EU trade with the unlawful Israeli settlements, consistent with both CJEU case law and recent legislative practice."[32]

The Council Legal Service has reportedly also advised that measures restricting trade with Israel's illegal settlements could be adopted on the basis of Article 207 TFEU.

### 3.2 PRECEDENTS

The EU has adopted a number of trade-restricting measures under Article 207 TFEU that are not purely commercial in nature and have some CFSP aspects or implications, but nevertheless fall within the scope of the CCP because their centre of gravity lies in the regulation of trade. Relevant thematic precedents include EU regulations banning products made with forced labour (2024) and goods used for torture (2019), as well as regulations restricting trade in conflict minerals (2017), dual-use items (2021) and firearms (2024). **Similar to the proposed measure, these regulations are mostly aimed at aligning EU trade with international commitments and human rights principles.**

Geographic precedents include EU regulations prohibiting imports of Russian gas (2026) and imposing high tariffs on Russian and Belarusian agricultural goods and fertilisers (2025). The Anti-Coercion Instrument (2023), which allows for restrictions on trade in goods and services, foreign direct investment, and banking and financial services, is another relevant example of a measure adopted under Article 207 TFEU despite its clear foreign policy relevance.

| Regulation | Legal basis | Key restrictions |
|---|---|---|
| Forced labour products (2024/3015) | 114 + 207 TFEU | Ban on market placement and export |
| Goods used for torture (2019/125) | 207(2) TFEU | Ban on import, export, brokering services, advertising |
| Conflict minerals (2017/821) | 207 TFEU | Due diligence obligations for importers |
| Dual-use items (2021/821) | 207(2) TFEU | Authorisation required for export & brokering services |
| Firearms and ammunition (2025/41) | 33 + 207 TFEU | Authorisation required for import & export |
| Anti-Coercion Instrument (2023/2675) | 207 TFEU | Allows for restrictions on trade in goods and services, FDI, banking and financial services, etc. |
| Russian gas (2026/261) | 194(2) + 207 TFEU | Import ban |
| Russian and Belarussian agricultural goods and fertilisers (2025/1227) | 207(2) TFEU | High tariffs |

[32] Open Letter to Ursula von der Leyen, Kaja Kallas and Maroš Šefčovič by 109 legal scholars [24 June 2026] on the 'Legal Basis for a Regulation Prohibiting Trade with the Unlawful Israeli Settlements (Article 207 TFEU)' https://drive.google.com/file/d/1sD1fHawTukMgiyXnx34uLdLUDfYysL3o/view?usp=sharing

Article 207 TFEU has also been used to partially suspend the EU-Syria Cooperation Agreement (2011)[33] and in the Commission's proposal to suspend the trade component of the EU-Israel Association Agreement (September 2025)[34], in both cases justified by grave violations of human rights and international law. While these measures relate to existing agreements, the choice of CCP over CFSP as the legal basis - despite the clear foreign policy dimension - is also relevant to the present case.

**Taken together, these precedents strongly support the possibility of using Article 207 TFEU for a measure prohibiting trade with Israeli settlements**. Indeed, more clearly than some of the above precedents, such a measure is necessitated by the EU's treaty-based obligation to ensure that EU trade policy adheres to international law, including the obligations identified in the ICJ Advisory Opinion.

Finally, the proposed measure is different from EU prohibitions on economic relations with Crimea (2014).[35] and other Russian-occupied areas of Ukraine (2022)[36], which were adopted as CFSP sanctions. Whereas those measures were designed to defend the territorial integrity of Ukraine, respond to Russian aggression and formed part of broader sanctions packages called for by the European Council, the proposed regulation would aim to ensure that EU trade policy complies with international law and to pursue additional trade-related objectives set out in the next section.

It is worth adding that the European Commission has consistently promoted a broad interpretation of EU trade policy powers under Article 207 TFEU when pleading cases at the CJEU.[37]

### 3.3 FORM AND PROCESS

The proposed regulation should be adopted as a standalone trade measure in line with Article 207(2) TFEU. It would take the form of a Regulation of the European Parliament and of the Council, based on a proposal by the European Commission. Following the Commission proposal, the text would be negotiated and adopted by the Council and the EP under the ordinary legislative procedure. In the Council, a qualified majority of Member States would be required.

**In order to table the proposal, the Commission does not need prior approval by a qualified majority of Member States or any other Council authorisation**. Tabling a proposal without a stable qualified majority in advance is normal practice. The Commission has the right of initiative and bears a particular responsibility to ensure EU trade compliance with international law as required by the Treaties. In addition, Member States may request a Commission proposal by simple majority (Article 241 TFEU).

Throughout Council and EP negotiations on a proposal, which usually take several months, a qualified majority is often secured gradually as Member State positions evolve and amendments are made to the text. Given that Commission proposals are often watered down in such negotiations in order to reach a compromise, **the Commission should start the legislative process with a strong proposal that provides full alignment with the ICJ Advisory Opinion**.

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[33] Council Decision 2011/523/EU of 2 September 2011 partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52025PC0890

[34] Commission, 'Proposal for a Council Decision on the Suspension of Certain Trade-Related Provisions of the Euro-Mediterranean Agreement Establishing an Association between the European Communities and their Member States, of the One Part, and the State of Israel, of the Other Part' COM(2025) 890 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52025PC0890

[35] Council Regulation (EU) No 692/2014 of 23 June 2014 concerning restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0692

[36] Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022R0263

[37] For example in cases C-414/11, C-114/12, C-137/12, Opinion 2/15, and Opinion 3/15.

## 3.4 OBJECTIVES

The objectives of a Regulation prohibiting trade with Israeli settlements under Article 207 TFEU, articulated in its recitals, should primarily relate to trade. There are a number of such objectives, which support the use of Article 207 TFEU, and include the following:

1) **Ensuring that EU trade policy is fully consistent with the principles and objectives of the EU's external action,** including respect for the principles of the UN Charter and international law, as required by EU Treaty Articles 3(5) and 21 TEU and Article 207(1) TFEU.

2) **Preventing EU trade from contributing to the maintenance of an unlawful situation**, in accordance with the obligations identified in the 2024 ICJ Advisory Opinion.

3) **Ensuring effective differentiation between Israel and the settlements given the inadequacy of existing EU measures** due to, inter alia, the Israeli authorities' practice of compensating exporters of settlement products for EU tariffs and continued declaring of Israel as the country of origin for such products which makes it difficult for EU authorities to ensure their exclusion from preferential tariff treatment and their correct origin indication.

4) **Safeguarding the integrity of EU trade relations with the territories occupied by Israel since 1967**, including under the EC-PLO Interim Association Agreement, which are compromised by trade with illegal settlements and distorted through Israeli government subsidies for settlements and restrictions imposed on the Palestinian economy.

5) **Ensuring coherence of EU trade policy and proper functioning of the internal market in light of national measures adopted or planned by several Member States** to prohibit trade with settlements, while no such restrictions exist in other Member States, which leads to divergence in national provisions and warrants harmonisation at EU level.

6) **Ensuring that the EU market does not serve as a destination for goods or services derived from serious breaches of international law.**

7) **Protecting the right of peoples under occupation to self-determination and to permanent sovereignty over their natural resources** by avoiding trade arrangements that facilitate the commercial exploitation of the occupied territories without their consent.[38]

8) **Addressing public moral concern regarding availability on the EU market of products and services originating from illegal settlements** and the associated human rights implications.

9) **Ensuring consistency of EU trade policy with the EU's external policy positions**, including opposition to Israeli settlement policy and support for the two-state solution.

## 3.5 ECONOMIC SCOPE

The economic scope of an EU measure prohibiting trade with Israeli settlements can range from a narrow option limited to banning imports of goods to a comprehensive option that also covers exports, trade in services and foreign direct investment (FDI) linked to settlements.

**There are several reasons why the European Commission should opt for the comprehensive approach:**

[38] Cf. CJEU judgment Joined Cases C-778/21 P and C-798/21 P *European Commission and Council of the European Union v Front populaire pour la libération de la Saguia-el-Hamra et du Rio de oro (Front Polisario) and Others* EU:C:2024:849, judgment of 4 October 2024. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CA0778

- From the perspective of international law, it would provide closer alignment with the ICJ Advisory Opinion which refers to preventing "trade or investment relations" without distinguishing between imports and exports or between goods and services.
- From the perspective of EU treaties, restricting services, exports, and FDI would be defensible under Article 207 TFEU, which covers all trade as well as FDI – as argued in the two legal expert memos cited above.[39]
- There is currently no differentiation between Israel and settlements in services trade, which is not subject to tariffs, and this would remain so if services were excluded from the measure.
- The European Commission should begin the legislative process with a strong and comprehensive proposal, given the possibility that the initial proposal will be diluted in further negotiations, as pointed out in Section 3.3.

**While the narrow option may be politically more feasible, it would constitute a compromise that falls short of full compliance with international obligations.**

The recent national measures prohibiting trade with settlements (draft and adopted) include several precedents for restricting specific categories of services:

- The Spanish decree bans advertising of goods and services related to settlements, including online platforms offering tourist accommodation in settlements.[40]
- The Dutch draft decree bans brokering services related to settlement products. The Dutch government argues that restricting services and investment more broadly is legally more difficult at national level given the EU's exclusive competence, implying that services and investment should be addressed at EU level. The government nevertheless adds that it continues examining options regarding services and investment.
- Norway's draft law bans services related to construction and purchase or sale of real estate in settlements.

At EU level, the regulations prohibiting products made with forced labour and goods used for torture also cover brokering services, investment, and, in the latter case, advertising. The Anti-Coercion Instrument allows for restricting trade in services, FDI as well as banking, insurance, access to EU capital markets and other financial service activities.[41]

### 3.6 TERRITORIAL SCOPE

**The Regulation should apply to Israeli settlements in the territories occupied since 1967, i.e. the Occupied Palestinian Territory and the occupied Golan Heights.** This is consistent with the EU's position on the non-recognition of Israel's sovereignty over these territories and on the illegality of Israeli settlements therein,[42] as well as with all existing measures under the EU's differentiation policy, which apply to both the OPT and the Golan Heights in the same way.[43]

While the ICJ Advisory Opinion's scope is limited to the OPT, this reflects the mandate given to the Court by the UN General Assembly and does not limit the scope of the underlying obligations themselves. The obligations of non-recognition and non-assistance flow from the peremptory character of the norms violated, including the prohibition of the acquisition of territory by force.

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[39] This argument is made in the expert memos by Veraldi and Verellen cited above.
[40] The Spanish government has subsequently requested seven multinational companies to remove 138 advertisements for tourist accommodations located in settlements. https://www.dsca.gob.es/es/comunicacion/notas-prensa/consumo-exige-siete-multinacionales-retiren-su-oferta-alojamiento
[41] In Annex 2, the Anti-Coercion Instrument sets out rules on the origin of services and on the nationality of service providers and of investment, which could be relevant for defining provisions on services and FDI in a comprehensive EU measure on settlements.
[42] UN Security Council Resolution 497 declared Israel's 1981 annexation of the Golan Heights "null and void". The UN General Assembly has repeatedly reaffirmed the illegality of Israeli settlements in the Golan Heights, including in Resolution 80/81 of 5 December 2025. Further, UNSC Resolution 2334, cited in the ICJ Advisory Opinion, calls on states to distinguish between Israel and all territories occupied by it since 1967.
[43] See also CJEU Psagot judgment.

## 3.7 DEFINITION OF SETTLEMENTS

The Regulation could define Israeli settlements as "Israeli cities, communities, industrial zones, agricultural areas or other localities established as part of Israel's presence in the territories occupied since 1967".

**The EU list of settlement postal codes ("List of non-eligible locations")[44] should be used as an implementation tool, but not as a legal definition of the settlements.** The list also includes Palestinian neighbourhoods of East Jerusalem and Syrian communities in the Golan Heights, as well as postal codes that straddle the pre-1967 border. While the list is updated by the EU annually, the settlement geography changes continuously and the legal delimitation should not depend on (potentially delayed) updates. The customs authorities and economic operators should continue to use the list as an operational tool, but the determination of what is a settlement should ultimately – for example in disputed cases – follow the definition incorporated in the Regulation in order to clearly distinguish illegal settlements from the occupied population.

If deemed necessary, the Regulation could include an explicit exemption for Palestinian and Syrian producers.[45] In addition, the EU list of non-eligible locations could be amended to distinguish between Israeli settlements and occupied population communities in East Jerusalem and in the Golan Heights.[46]

## 3.8 RULES OF ORIGIN

The choice of rules of origin is important because many products linked to settlements undergo further processing in Israel before being exported to the EU. **The origin rules determine which of these mixed-origin products fall within the scope of the Regulation** (in addition to products wholly obtained or produced in settlements). There are essentially three options:

***Non-preferential rules of origin:***

This is the default and narrowest definition, based on the EU Customs Code. Non-preferential origin is obtained where the product underwent the "last substantial transformation". Products partially obtained or produced in a settlement that underwent the last substantial transformation in Israel thus qualify as products of Israel and would therefore fall outside the scope of the Regulation. Consequently, many goods originating in settlements that are further processed in Israel (such as wine made in Israel from grapes grown in settlement vineyards) would likely not be captured by the import ban.

***All products that do not acquire preferential Israel origin:***

Under this definition, the Regulation would apply to all products partially obtained or produced in settlements unless they qualify for preferential Israel origin under the EU-Israel Association Agreement. Preferential origin is conferred where the product underwent "sufficient processing or working" – a higher threshold than "last substantial transformation", specified for each product category in Protocol 4 of the Agreement.[47] This would capture a broader category of goods than the first definition. Wine produced in Israel from settlement grapes would likely fall within the scope of an import ban under this definition. It is

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[44] European Commission, 'List of Non-Eligible Locations (Postal Codes) under the EU–Israel Association Agreement' (October 2025) https://taxation-customs.ec.europa.eu/document/download/7b0df9b7-cbdb-48aa-a98f-172ae9513336_en?filename=Settlements%20Zipcodes%20Oct25.pdf

[45] Norway's draft law provides an exemption for economic activities "that have a sufficient Palestinian connection", further defined in an explanatory part of the Norwegian proposal. Belgium's draft law exempts "goods that originate from a Palestinian economic operator". Likewise, the EU's 2013 Guidelines excluding settlements entities and activities from EU funding contain an exemption for activities that "aim at benefiting protected persons under the terms of international humanitarian law who live in [the occupied] territories". Further, a distinction between settlement products and Palestinian products is made in the EU's 2015 guidelines for labelling of settlement products and in the 2019 CJEU Psagot ruling.

[46] Of the 52 postal code ranges for the Golan Heights in the EU list, five represent occupied population communities and 47 Israeli settlements. Of the 758 listed postal code ranges for East Jerusalem, approximately 52% represent Israeli settlements, 39% Palestinian neighbourhoods, and 9% are unclear, mixed or other, according to a background analysis.

[47] The reference to the rules of origin in the Association Agreement would remain legally valid even if trade provisions of the Agreement were suspended.

also the approach chosen in the Dutch government's draft decree prohibiting trade with settlements. The stated aim is to cover "as many goods as possible that are in an economically significant way linked to the illegal settlements" and to "prevent economic activities from contributing" to the illegal situation.[48]

***Any inputs:***

This is the broadest definition, covering all goods that contain any inputs, materials or components originating in settlements or that have undergone any stage of production there. This approach is similar to that in the EU regulation on products made with forced labour.[49] While this would also affect some products that qualify for preferential Israel origin under the EU-Israel Association Agreement, this could be justified through the public morality and public policy exceptions contained in Article 27 of the Agreement and through similar exceptions in WTO rules (GATT Article XX).

While the non-preferential rules of origin provide the default, baseline option, they could leave some scope for circumvention through final processing in Israel. **The second and particularly the third option align more closely with the logic of non-assistance articulated in the 2024 ICJ Advisory Opinion**. The Court referred not merely to preventing trade with settlements as such, but to preventing trade "that assists in the maintenance of the illegal situation" created by Israel in the OPT. That rationale logically extends to products incorporating inputs or materials from settlements. Even under the broadest definition, however, the import ban would still apply only to a small share of Israeli exports to the EU.

# 4. IMPLEMENTATION AND ENFORCEMENT

**This part of the proposal shows how a Regulation prohibiting trade with settlements can be effectively implemented and enforced, despite the challenges of identifying settlement products.** It builds on the current arrangements using settlement postal codes, while introducing additional measures to address the shortcomings of the existing system, enable more effective customs controls, and incentivise private sector compliance. The additional measures are partly based on models introduced by Member States that have or are planning to prohibit trade with settlements at the national level.[50]

## 4.1 CURRENT SYSTEM

The existing system, aimed at excluding settlement products from preferential treatment while allowing them to be imported on non-preferential (MFN) terms, is based on the 2005 EU-Israel Technical Arrangement. It requires Israeli exporters seeking EU preferential tariff treatment to indicate the name and the postal code of the place of production conferring preferential origin on documents accompanying their goods (EUR.1 certificates or invoice declarations). EU importers are, according to the 2012 Notice to Importers of Israeli goods, "advised to consult" the EU list of settlement postal codes before lodging customs declarations and thus to refrain from claiming preference for goods originating from settlements.[51] Member State customs authorities conduct controls on a sample basis to check declared postal codes against the EU list and refuse preferential treatment to settlement goods. Since May 2023,

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[48] Dutch Ministry of Foreign Affairs. (2026, May 22). Besluit van, houdende tijdelijke economische beperkingen voor het tegengaan van het in stand houden van de onrechtmatige nederzettingen in de door Israël bezette gebieden (Tijdelijk sanctiebesluit onrechtmatige nederzettingen in de door Israël bezette gebieden) [Draft decree submitted for advice to the Advisory Division of the Council of State]. p10, 22 Tweede Kamer der Staten-Generaal. https://www.tweedekamer.nl/kamerstukken/detail?id=2026D24318&did=2026D24318

[49] The regulation defines products made with forced labour, which are banned from the EU market, as follows: "Product for which forced labour has been used in whole or in part at any stage of its extraction, harvest, production or manufacture, including in the working or processing related to a product at any stage of its supply chain."

[50] This section focuses on implementation and enforcement of a prohibition of import of goods. If the EU opts for a comprehensive version of the Regulation (including exports, services, FDI) and/or applies the broadest definition of origin for goods ("any inputs"), this will require additional implementation measures.

[51] Commission, 'Notice to Importers — Imports from Israel into the EU' [2012] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0803(02); European Commission, 'List of Non-Eligible Locations (Postal Codes) under the EU–Israel Association Agreement'.

importers of Israeli goods seeking preferential treatment must also enter the TARIC code Y864 into the customs declaration, thereby legally declaring that the goods do not originate in the settlements – a technical measure introduced by the Commission to support compliance with the rules.[52] Once placed on the EU market, settlement products are subject to EU labelling rules whose enforcement is the responsibility of consumer protection authorities.[53]

The shortcomings and questionable reliability of the system have been addressed in Section 2.3. Israeli exporters and customs authorities continue to declare settlement goods as products of Israel and to claim preferential EU tariffs, leaving EU importers and customs authorities to detect settlement origin by checking postal codes. In some cases, exporters of settlement goods use false addresses inside Israel or mix produce from settlements and from Israel.

## 4.2 IMPORT BAN AS A DETERRENT OF MIS-DESIGNATION AND FRAUD

**An import ban will fundamentally change the economic calculus for both Israeli exporters of settlement products and EU importers**. If they bring settlement goods into the EU mis-declared as products of Israel, they will face the risk of their goods being returned, seized or destroyed – instead of merely paying a relatively small tariff duty for which the exporters can get compensated by the Israeli government. It will also likely lead to higher penalties for the importers, as a circumvention of a trade prohibition is generally regarded as a more serious customs offence than incorrect tariff preference (penalties vary considerably across Member States). Even with imperfect controls, the risk for economic operators and the resulting deterrence effect of a ban regulation will be substantially higher than under the current policy. This should significantly disincentivise the current practices of mis-designating settlement products, even if it does not eliminate all evasion risk. To further reduce it, additional measures suggested below should be taken.

**Further effects of an import ban:**

- **The labelling rules will no longer be relevant** as no settlement products will be legally available on the EU market.
- **The Technical Arrangement will remain in place** as long as the Association Agreement stays in force. Israeli exporters will still be obliged to provide the place of origin and postal code when claiming EU preferential treatment. The Arrangement will support enforcement of the import ban by helping making sure settlement goods do not enter the EU on preferential terms. As the ban's deterrent effect reduces mis-designation practices, the current shortcomings of the TA should become less significant.
- **Non-preferential imports will require attention.** Importers of Israeli goods on MFN terms currently do not need to provide the name and postal code of the production place or enter the Y864 code. This leaves the customs authorities with fewer means to detect the settlement origin of such goods and exclude them under an import ban. This can be addressed through additional measures building on the Spanish and Dutch models.

## 4.3 SPANISH AND DUTCH MODELS

***Spanish model***

As part of its national decree banning import of settlement products, Spain introduced a requirement for importers of all Israeli goods to enter the name and postal code of the place of origin into the customs declarations.[54] This is different from the EU's Technical Arrangement, under which the postal codes are

[52] The Y864 code states: "The proof of origin indicates that the production conferring originating status has not taken place in a location within the territories brought under Israeli administration since June 1967.
[53] Commission, 'Interpretative Notice on Indication of Origin of Goods from OPT' [2015].
[54] Spanish Tax Agency, 'New Validations on Import' (24 September 2025) https://sede.agenciatributaria.gob.es/Sede/en_gb/aduanas/novedades/2025/septiembre/24/nuevas-validaciones-importacion.html

only provided on accompanying documents for goods claiming preferential treatment, which are only checked on a sample basis. The Spanish measure requires entering the postal codes into the customs declarations which are processed electronically for every shipment. The requirement applies to all Israeli goods – both preferential and non-preferential, thus also addressing the latter.

***Dutch model***

The Dutch government's draft decree banning settlement products obliges importers of non-preferential Israeli goods to declare that the goods do not originate in settlements by entering a code into the customs declarations. This is similar to the EU's Y864 code for preferential goods and meant to complement it by addressing non-preferential imports. According to the Dutch government, these declarations will facilitate enforcement by the customs authorities but also ensure that importers are aware of the import ban and that they have supporting documents in their records in advance to prove that the goods do not originate in settlements. Should a subsequent inspection find that the importer provided an incorrect declaration, they would be subject to penalties. The Dutch decree prohibits both intentional and unintentional breaches and specifies penalties for both based on existing national legislation.[55]

## 4.4 PROPOSED ADDITIONAL MEASURES

***Declaring non-settlement origin and postal codes in the customs declarations***

Building on the Spanish and Dutch measures and the EU's existing Y864 code, **the EU should require importers of all Israeli goods to declare that the goods do not originate in the settlements and to submit the name and the postal code of the place of origin.** This would work through two new TARIC codes that importers enter in the customs declarations:

- *Y* code (compliance declaration):* By entering this code, the importer declares the goods do not originate in the settlements. This is similar to the existing Y864 code and to the Dutch requirement, but should apply to all Israeli goods, both preferential and non-preferential ones. Failure to provide the code means automatic refusal of entry to the goods.
- *N* code (supporting data):* Importers would enter this code followed by two data elements: the name and postal code of the place of origin. If the postal code or name matches the EU list of settlements, or is left blank, the goods would be refused entry. This follows the Spanish model and should also apply to both preferential and non-preferential imports.

The point of having two codes is that the Y* code provides the legal declaration while the N* code supplies the supporting data. The combination of the two codes reminds importers of their legal obligation, prompts them to check the postal codes, helps avoid errors and strengthens their liability for breaches. If necessary, the two codes could be split for non-preferential and preferential imports.

The Y* code should be mandatory not only for goods declared as originating in Israel, but also for any goods exported from Israel even when the country of origin is different. This would close a potential circumvention route whereby importers could declare settlement products as 'PS' (Palestine, for the West Bank), 'SY' (Syria, for the Golan Heights), or 'QW' (other origin) and bring them in on non-preferential terms under that origin.

***Importer obligation to verify origin***

Importers of Israeli goods should be subject to a light-touch due diligence obligation requiring them to take appropriate steps to verify the goods' origin and prevent import of mis-declared settlement products. Such steps should be proportionate to the level of risk and could include:

- incorporating binding provisions into contracts with Israeli suppliers
- verifying that supporting documents are internally consistent

[55] Dutch Ministry of Foreign Affairs. Besluit van houdende tijdelijke economische beperkingen voor het tegengaan van het in stand houden van de onrechtmatige nederzettingen in de door Israël bezette gebieden, 13-14, 40.

- checking that the declared place of production is consistent with the nature and characteristics of the goods
- taking publicly available information into account
- paying particular attention when the exporter or the type of product is known to be associated with settlements
- seeking additional evidence where there are reasonable grounds to doubt correctness of the origin information

An importer who submits an incorrect declaration of origin without having taken these steps would be held liable and face appropriate penalties, even if they did not act intentionally to circumvent the prohibition. **This measure should assist EU importers in passing responsibility upstream to their Israeli suppliers so as to ensure correct origin designation at source.**

The importer obligations should be reflected in an updated EU Notice to Importers.

***Common risk management***

The Regulation should provide for Member State customs authorities and the Commission to exchange risk information and risk analysis results in relation to settlement products (including product information, trade routes and exporters/importers) and to establish common risk criteria and standards, control measures and priority control areas, in accordance with Articles 46 and 47 of the EU Customs Code Regulation.[56] This process should be managed within the wider EU Customs Risk Management Framework (CRMF) and facilitate proper enforcement of the Regulation throughout the whole EU.[57]

**Together, the above measures would help customs authorities identify settlement products more efficiently and reduce opportunities for circumvention and fraud through false origin declarations.**

***EU customs reform***

The recent reform of the EU customs framework, politically agreed in March 2026, offers a prospect to further strengthen enforcement of the proposed Regulation in the coming years. The new EU Customs Authority and EU Customs Data Hub are intended to improve EU-wide risk management, data sharing and customs controls. Greater harmonisation of Member State customs practices and enhanced automated risk analysis should facilitate more effective enforcement of EU trade rules in the near future.

[56] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code. https://eur-lex.europa.eu/eli/reg/2013/952/oj/eng

[57] European Commission, 'Customs Risk Management Framework (CRMF)' https://taxation-customs.ec.europa.eu/customs/customs-risk-management/customs-risk-management-framework-crmf_en

## 5. CONCLUSION

1. **The EU is legally obligated to prevent trade that sustains Israel's illegal settlements**. This is not merely desirable but an obligation stemming from EU treaties and international law, as interpreted in the 2024 ICJ Advisory Opinion. The European Commission has a duty to table a proposal to this effect and could be challenged at the EU Court of Justice if it fails to act.

2. **EU trade with settlements is contributing significantly to their economic viability**. The EU's trade relations with the territories occupied by Israel are severely distorted through the trade with settlements, which takes place without the consent of the occupied people. **To ensure the integrity of these trade relations, the EU needs to stop trading with the settlements**.

3. **Current EU policy on settlement products is inadequate both in its design and in its practical implementation**. Excluding settlement goods from preferential tariffs while allowing them to enter on standard MFN rates does not meet the duty to prevent such trade. Israeli government policies, including compensation of settlement exporters for EU tariffs, undermine the existing EU policy in practice. **Only a prohibition of trade with settlements can ensure effective differentiation between Israel and the settlements.**

4. **National measures adopted or planned in several EU Member States underline the need for EU-level action to ensure uniform rules for the internal market.**

5. **To meet its obligations, the EU should adopt a Regulation banning settlement trade under Article 207 TFEU – i.e. not as a sanction**. Such a trade measure is not only possible but also legally more appropriate than a foreign policy sanction.

6. **To qualify as an Article 207 measure, the Regulation's primary goal should be to ensure consistency of EU trade policy with international law.** In addition, there are a number of other trade-related objectives that also support the use of Article 207.

7. **The Regulation could be designed narrowly, as an import ban for settlement-origin goods, or more broadly to also cover exports, services and investment.** The latter option would be more consistent with international law duties as articulated by the ICJ.

8. **The treatment of mixed-origin goods, partially produced in settlements and processed in Israel, depends on the definition of origin. Three options are available.** While the non-preferential rules of origin provide the default option, two broader definitions would align more closely with the goal of not contributing to the settlements.

9. **An import ban will significantly disincentivise origin mis-designation and fraud.** The risk of goods being returned, seized or destroyed, coupled with higher penalties linked to a trade prohibition, will undercut the economic rationale for current origin obfuscation practices.

10. **Enforcement can build on existing arrangements using settlement postal codes but should be improved through proposed additional measures.** Evasion risk can be driven down by introducing new TARIC codes in the customs form based on Spanish and Dutch models and a light-touch due diligence obligation for European importers.