BRIEFING PAPER ON PROPOSED UK BANS ON TRADE BETWEEN THE UK AND AREAS OF ISRAELI SETTLEMENT IN THE WEST BANK

Introduction

1. In July 2025 the House of Commons Foreign Affairs Committee published its first report of Session 24/25, in which it called on the government to "take immediate steps to prepare a comprehensive ban on the import of goods from the illegal settlements in the West Bank."[1]

2. More recently, on 7 June 2026, some 140 Labour MPs wrote an open letter to the then Foreign Secretary, Yvette Cooper MP, calling for an end to trade with Israeli settlements in the West Bank and East Jerusalem.[2]

3. On 9 June 2026, the Foreign Secretary made a statement on the Middle East in the House of Commons announcing that the government had "strengthened" its business risk guidance on trade with illegal Israeli settlements, making it "clear and unambiguous that British citizens and businesses should not conduct any economic or financial activities in illegal Israeli settlements".[3] She added that "we must continue to distinguish and protect trade with people and businesses across the state of Israel, trade that reflects long-standing and important ties between our countries and communities."

4. Then, on 24 June 2026, Liberal Democrat MP, Layla Moran, introduced a Bill "to make provision about the prohibition of trade in goods and services with persons in Israeli settlements in the Occupied Palestinian Territory."[4]

5. On 9 July 2026, the House of Commons held a Backbench Business Committee debate on "Israeli Settlements: Trade Ban", led by Abtisam Mohamed MP (the

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1 https://committees.parliament.uk/publications/49045/documents/257724/default/
2 https://bsky.app/profile/liambyrnemp.bsky.social/post/3mnrpew6mxz2n.
3 https://hansard.parliament.uk/Commons/2026-06-09/debates/17B7E328-FC55-496D-839C-1AD698698BE6/MiddleEast#contribution-F9A5A063-4159-4A5C-BE31-D3490473177D.
4 https://bills.parliament.uk/bills/4252.

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"**Backbench debate**").[5] In the course of that debate and related parliamentary proceedings, the then Minister for Trade, Chris Bryant MP indicated that the Government is "actively considering" measures "to stop trade with settlements in a way that balances that with enabling British businesses and citizens to benefit from a strong trading relationship with Israel and with Palestine."[6]

6. Mr Bryant referred to "four key things that we could do and are seriously considering", including bans on the import of goods from settlements, the export of goods to settlements, the export of services to settlements, and the import of services from settlements. The justifications given for banning trade with settlements in these ways were as follows: "the settlements are illegal. There is therefore a legal obligation on us as a Government not to aid or assist the occupation. The immediate corollary of that is that we need to stop UK businesses providing economic support and legitimacy to illegal settlements."[7]

7. Mr Bryant noted that to take steps to implement any of the proposed measures, the Government would need to determine how to overcome certain "challenges", including the fact that "there is no properly verifiable means of determining the real source" of goods imported from Israel and that "goods move in and out very freely between the illegal settlements and green-line Israel". He also indicated that the Government does not want to ban trade in goods and services legitimately originating from within green-line Israel, nor does the Government want its measures to inadvertently lead to a ban on all trade with Israel, "which is a powerhouse in many sectors including high tech, pharmaceuticals and so on".[8]

8. While no measures have yet been taken, Mr Bryant confirmed on 9 July 2026 that the Government had "asked officials to produce advice on how we might proceed".[9]

9. We explain below that the UK Government has no legal obligation to ban trade with businesses operating in the vicinity of Israeli communities established or re-established outside the 1949 armistice lines ("the green lines"); and, on the contrary, the measures under discussion, if implemented, would be liable to breach the UK's legal obligations under:

    9.1. the Trade and Partnership Agreement between the UK and the State of Israel (the "**UK-Israel TPA**");

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5 Hansard, vol. 789 col. 536. See also Research Briefing of 8 July 2026.

6 Ibid., cols. 573-574.

7 Ibid.

8 Ibid.

9 Ibid., col. 575.

9.2. the Protocol on Ireland/Northern Ireland to the Brexit Agreement (as continued under the Windsor Framework); and

9.3. the General Agreement on Tariffs in Trade (“**GATT**”) and the General Agreement on Trade in Services (“**GATS**”).

10. In addition, compliance with such measures would expose companies operating in the UK to potential sanctions under US Federal and State laws, and such measures would also be liable further to promote antisemitism in the UK.

The UK does not have a legal obligation to stop UK businesses from trading with Israeli businesses in or in the vicinity of areas of Israeli settlement in the West Bank

11. The following analysis proceeds on the footing that it is unlawful for the Israeli government to organise the development of Israeli communities in East Jerusalem, Judea or Samaria or to encourage Israelis to live there. This premise is contested: those who dispute it say it ignores basic rules of international law applied elsewhere in the world as well as distorting the meaning of relevant international agreements.[10] Nevertheless, the discussion below assesses the position even if the Israeli government’s role in developing Israeli settlements in the West Bank is contrary to international law.

12. It is important at the outset to appreciate that nearly all of the trade which is proposed to be banned is not with “Israeli settlements” as entities, but rather with private businesses operating in or in the vicinity of areas of Israeli settlement in East Jerusalem, Judea and Samaria (the West Bank). Use of shorthand terms such as “settlement goods”, “settlement services” and “trade with settlements” can therefore be misleading: in the main, the goods and services are not produced, sold, supplied or traded by or to settlements.

13. Operating a private business is, in principle, lawful and can be beneficial to the inhabitants, even if the territory is illegally occupied (which is disputed). Many of the Israeli businesses in the West Bank employ Palestinian as well as Israeli staff and make a significant contribution to the Palestinian economy, as explained further below.

14. It is also fundamental to recognise the distinction between States and non-State entities. Non-state entities are typically not subject to the same legal obligations as States under international law. This distinction has frequently been elided in political discussions in this area.

[10] Some of these points are set out in our Written Statement to the International Court of Justice (ICJ) under Practice Direction XII in Case No. 186 and the dissenting Opinion of Vice President Julia Sebutinde in that case.

The UK's non-assistance duties are not triggered by continued trade with businesses in or in the vicinity of areas of Israeli settlement in the West Bank

15. Chris Bryant MP has stated that the justification for the proposed measures is the legal obligation on the UK not to "aid or assist the occupation" which creates an "immediate corollary" obligation to "stop UK businesses providing economic support and legitimacy to illegal settlements." This appears to assume that that a failure by the UK Government to prevent trade with Israeli businesses in the West Bank would constitute a violation of the UK's non-assistance duties under international law.

16. The UK's non-assistance duties derive from the rules of customary international law codified in Articles 16 and 41(2) of the International Law Commission's Articles on State Responsibility for Internationally Wrongful Acts ("**ARSIWA**") and elucidated in its Commentaries on them.[11]

17. Article 16 is triggered where a State provides aid or assistance to another State, *with a view to facilitating* the commission of an international law violation, and with *knowledge or intent* that the conduct of the State it is assisting constitutes an international law violation.[12]

18. If the assisting or aiding State is "unaware of the circumstances in which its aid or assistance is intended to be used by the other State, it bears no international responsibility."[13] The provision requires that "the aid or assistance must be given with a view to facilitating the commission of that act, *and must actually do so*."[14]

19. Article 41 of the ARSIWA prohibits State aid and assistance to the maintenance of situations created by a serious breach of a peremptory norm of international law. Article 41(2) provides that "no State shall recognize as lawful a situation created by a serious breach [of a peremptory norm], nor render aid or assistance in maintaining that situation."[15] Moreover, "as to the elements of 'aid and assistance', article 41 shall be read in tandem with Article 16"[16] – thus, the requirements of knowledge and intent apply equally to Article 41.

20. The concept of aid or assistance in international law is generally considered to require a *positive action*.[17] It must in any case be "clearly linked" to the

[11] https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.

[12] PILPG, *What Responsibility Do States that Supply (I) Weapons or (II) Other Assistance to Russia Have Under International Law?* (8 October 2024).

[13] ARSIWA, article 16 and commentary.

[14] Ibid.

[15] Ibid, article 41 and commentary.

[16] Ibid.

[17] Chatham House, *Aiding and Assisting: Challenges in Armed Conflict and Counterterrorism*

internationally wrongful conduct or the maintenance of a situation created by a serious breach of a peremptory norm, and must "contribute significantly" to it.[18] As explained by the International Law Commission ("**ILC**") in relation Article 16, "the assisting State will only be responsible to the extent that its own conduct has caused or contributed to the internationally wrongful act. Thus, in cases where that internationally wrongful act *would clearly have occurred in any event*, the responsibility of the assisting State will not extend to compensating for the act itself."[19]

21. In this case, the supposed "assistance" provided by the UK State consists of *not* prohibiting UK businesses from continuing to trade with Israeli businesses operating in Judea, Samaria and East Jerusalem. This, it is suggested, assists the State of Israel to "transfer" part of its population to East Jerusalem, Judea and Samaria (which is alleged to be an "internationally wrongful act") and/or to maintain the situation created by this alleged serious breach of a peremptory norm.

22. Even if the State of Israel has "transferred" or is "transferring" part of its population to the West Bank and even if this is considered unlawful (all of which is strongly disputed), it does not follow that the UK is "assisting" this alleged breach within the meaning of the rules mentioned above by not prohibiting trade with Israeli businesses operating in the West Bank.

23. In the first place, since the conduct of the UK in question is an omission, at least on the conventional view, it does not fall within the scope of ARSIWA Articles 16 or 41 at all. An acceptance by the UK Government that these provisions extend to omissions would have very broad implications, going far beyond the issue of trade with businesses in the vicinity of areas of Israeli settlement in the West Bank.

24. Moreover, aid or assistance provided to another State is not wrongful unless it assists internationally unlawful conduct by the receiving State or the maintenance of a situation created by a serious breach of a peremptory norm by that State.[20] While States are prohibited by Article 49(6) of the 4th Geneva Convention from transferring part of their population into occupied territories, this does not prohibit the *operation of businesses* in occupied territories. Even if Article 49(6) applies to acts carried out by the State of Israel that encourage the voluntary settlement of Israelis in Judea, Samaria and East Jerusalem (which is itself disputed), this does not make it illegal to operate a business employing Israelis in this area, as the UK

(November 2016), para. 20, referring to James Crawford, *State Responsibility: The General Part*, Cambridge Studies in International and Comparative Law (CUP 2013) pp. 403-05. The Chatham House paper notes that this is the traditional view, though some scholars have given examples of where aid or assistance might be given by omission, such as the non-application of mandatory sanctions.

[18] ARSIWA, article 16, commentary, para. 5.

[19] Ibid., para. 1.

[20] Ibid., para. 11.

Supreme Court observed in *Richardson v DPP*,[21] or for Israelis to provide certain services there, as the Court of Appeal of Versailles held in *AFPS and OLP v Alstom and Veolia*.[22]

25. Even if it is accepted that ARSIWA Articles 16 and/or 41 apply to omissions as well as positive actions by States, and that conduct by the State of Israel encouraging voluntary settlement of part of its population in the West Bank is and has been a serious breach of a peremptory norm of international law, in order for the UK to be obliged to prevent trade with Israeli businesses in the West Bank, the continued trade would also have to contribute significantly to the further "transfer" by Israel of Israeli population to the West Bank or the maintenance of the existing Israeli population there. If any further "transfer" and the maintenance of the existing Israeli population would occur in any event, the UK would not be responsible for assisting it. Additionally, if movement of Israelis to Judea, Samaria and East Jerusalem has multiple causes, any case for the UK having responsibility for assisting "transfer" by the State of Israel would be further weakened.[23] In this regard, the UK Supreme Court observed in *Richardson v DPP* that operating a business in the West Bank did not necessarily aid or abet any transfer of population by Israel to the West Bank.[24]

26. No evidence has been produced that preventing trade between UK entities and businesses in the West Bank would have any significant impact on the settlement of Israelis in Judea, Samaria and East Jerusalem or on the continued residence of those already living there. In the absence of such evidence the UK has no legal obligation to prevent such trade, even if all of the other points made above are ignored.

The legal position is not altered by opinions and resolutions that are not legally binding

27. In the Backbench debate, considerable reliance was placed on the majority Advisory Opinion of the International Court of Justice ("**ICJ**") of 19 July 2024 (the "**2024 Advisory Opinion**"),[25] on resolutions of UN organs, and on reports of UN commissions of inquiry, as the asserted legal foundation for the proposed measures.

28. Members of Parliament variously described the majority Advisory Opinion

[21] *Richardson v DPP* [2014] UKSC 8 §17.

[22] Case 11/05331 *AFPS and OLP v Alstom and Veolia*, Cour d'Appel de Versailles, 22/3/2013.

[23] Ilias Plakokefalos, *Causation in the Law of State Responsibility and the Problem of Overdetermination: In Search of Clarity* (2015) 26(2) *EJIL* 471, p. 480 and sources cited therein.

[24] *Richardson v DPP* [2014] UKSC 8 §17.

[25] https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf

28.1. as imposing “an obligation not to aid or assist the illegal occupation, and to take steps to prevent trade and investment relations that sustain it”,[26]

28.2. as establishing that “all states have an obligation to ‘abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory’”,[27] and

28.3. as having “stated that other countries, clearly including us, have obligations not to support or assist in the maintenance of the unlawful situation created by the settlements”.[28]

It was further said that a ban would “ensure that Britain is not contributing to an unlawful situation that the world’s highest court has concluded all states have a duty not to support”.[29]

29. These propositions misstate both the legal status of the majority Advisory Opinion and the content of what the Court in fact said.

30. In the first instance, advisory opinions of the ICJ, including those addressing the legal consequences of an occupation or territorial situation, do not constitute binding sources of law capable of directly authorising domestic enforcement measures. Under the ICJ’s Statute, advisory opinions requested by UN bodies are formally non-binding and serve to clarify and interpret international legal questions rather than to impose enforceable obligations on States. While such opinions may carry significant interpretative authority and may inform the content of international obligations, such as pre-existing duties of non-recognition or non-assistance in relation to unlawful situations, they do not themselves prescribe specific regulatory measures to be taken, nor do they displace applicable domestic or international treaty constraints on competence and action.

31. This is an important distinction. The proposition advanced in the Backbench debate was not that the 2024 Advisory Opinion informs the content of pre-existing duties, but that it is itself the source of an enforceable obligation on the UK: that the Court “stated that other countries, clearly including us, have obligations not to support or assist”; and that it “concluded all states have a duty not to support” the situation in question. An advisory opinion delivered under Article 65 of the Statute of the Court does not have that effect. It was rendered at the request of the General Assembly

[26] Hansard, vol. 789 col. 539 (Abtisam Mohamed MP).
[27] Ibid, col. 557 (Jeremy Corbyn MP).
[28] Ibid, col. 559 (Gareth Thomas MP).
[29] Ibid, col. 555 (Jeff Smith MP).

and is not a judgment inter partes; it binds no State, and it creates no obligation which did not exist independently of it.

32. Moreover, conclusions in an advisory opinion based on factual premises are only as valid as the factual information on which they are based. Israel did not participate in the 2024 Advisory Opinion case and the conclusions in the majority opinion were based on false and one-sided information. For example, the majority supposed that “Israel’s measures in East Jerusalem create an inhospitable environment for Palestinians”.[30] Yet according to a poll carried out by a Palestinian news agency, 93% of Arab residents of East Jerusalem prefer a continuation of Israeli rule of the united city[31] and a survey by Israel’s Central Bureau of Statistics found that 86% of Arab residents of Jerusalem are satisfied with their lives.[32] When giving advisory opinions the ICJ relies primarily on UN documents, which reflect an inherent prejudice against Israel, making them and conclusions drawn from them unreliable in matters relating to Israel.[33]

33. Likewise, non-binding reports or resolutions of the UN organs do not constitute a source of binding legal obligations. Such instruments primarily reflect political assessments and advocacy positions rather than impartial legal or judicial determinations.

34. In the Backbench debate, one Member suggested as follows: “One of the excuses we repeatedly hear from the Government is that the opinion is only advisory, but we have UN resolutions and UN commissions of inquiry that state that there is a clear legal obligation on the UK Government to do everything possible to not provide material support to illegal occupation.”[34] That answer does not assist, because it substitutes for one non-binding instrument a category of instruments which are likewise non-binding.

35. General Assembly resolutions are recommendatory; Security Council resolutions adopted otherwise than under Chapter VII of the Charter are not binding decisions within the meaning of Article 25 of the Charter; and the reports of Commissions of Inquiry are not judicial determinations.

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[30] https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf at para. 77

[31] Palestine News Network SHFA, إستطلاع رأي : 93% من العرب في القدس يفضلون بقاء الحكم الإسرائيلي, 13 December 2021. The 95% confidence limits are +/-1.5%.

[32] Israel Central Bureau of Statistics, Selected Data on the Occasion of Jerusalem Day 2024, page 2

[33] For further analysis, see Written Statement of UK Lawyers for Israel and the European Leadership Network in ICJ Case 196, 23 April 2025, paras. 8-9 and 15-24; Written Statement of the European Leadership Network and UK Lawyers for Israel in ICJ Case 186, 29 September 2023, paras. 10-33. Prejudices of the ICJ’s Judges further undermine the reliability of its conclusions in matters relating to Israel: see Written Statement of UK Lawyers for Israel and the European Leadership Network in ICJ Case 196, 23 April 2025, paras. 10-11.

[34] Hansard, vol. 789 col. 550 (Dr Ellie Chowns MP).

Paragraph 278 of the 2024 Advisory Opinion

36. Even if the 2024 Advisory Opinion is (incorrectly) treated as binding, it does not impose on States a specific obligation to ban trade with Israeli businesses in the West Bank. Paragraph 278 of the Opinion, referenced repeatedly in the Backbench debate,[35] refers to an obligation on Member States to "abstain from entering into economic or trade dealings with Israel … which may entrench its unlawful presence in the territory". This applies to new economic or trade dealings between other UN Member States and the State of Israel, not to dealings between private parties. Trading in goods and services originating in the West Bank or East Jerusalem would not involve the UK entering into economic or trade dealings with the State of Israel unless the goods or services were *sold by* the State of Israel and *purchased by* the UK.

37. Paragraph 278 of the 2024 Advisory Opinion also advises that states should, *inter alia*, "take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory."[36] However, as discussed above, there is no evidence that continuing trade with businesses in the West Bank or preventing it would have any effect on the maintenance of any Israeli settlements there.

The Namibia exception

38. Moreover, where normal commercial activities benefit the protected inhabitants of a territory, they are "regarded as untainted by the illegality of the administration".[37] This is known as the *Namibia* exception.[38] Thus, where a company operating in the West Bank employs Palestinian workers and benefits the Palestinian population, purchasing its products and importing them into the UK do not constitute assistance in the maintenance of an illegal situation.

39. According to the Palestinian Central Bureau of Statistics ("**PCBS**"), in the second quarter of 2026 about 17,600 Palestinians were employed in areas of Israeli

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35 Hansard, vol. 789 cols. 536-576.

36 2024 Advisory Opinion, para. 278.

37 James Crawford, *The Creation of States in International Law* (2nd edn., Oxford, 2007), p. 167, referring to the *Namibia* case (note 43 below): "There is thus implicit in both majority and minority views a distinction between acts in pursuance of the illegal administration, and acts which, either by their nature ('ministerial acts') or because of the benefit involved to the inhabitants were to be regarded as untainted by the illegality of the administration". See also *Carl-Zeiss-Stiftung v Rayner and Keeler Ltd and Others* (No 2) [1967] 1 AC 853, 954: "where private rights, or acts of everyday occurrence, or perfunctory acts of administration are concerned…the courts may, in the interests of justice and common sense, where no consideration of public policy to the contrary has to prevail, give recognition to the actual facts or realities found to exist in the territory in question".

38 *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276* (1970) (Advisory Opinion) [1971] I.C.J. Rep. 16, para. 125.

settlement in the West Bank (not including Jerusalem), on average salaries twice as high as average salaries paid by Palestinian employers.[39] Prior to October 2023, the PCBS reported that 25,000 Palestinians were employed in these areas.[40]

40. Israeli NGOs have estimated higher numbers. A report by the Israeli Human Rights NGOs, Gisha, LEAP and Kav LaOved, in May 2025 stated that Israel was then allowing 32,000 Palestinians to work in areas of Israeli settlement in the West Bank, down from 48,000 prior to the Hamas invasion.[41]

41. While the UK government has expressed deep concern regarding disgraceful conduct by a tiny minority of Israeli residents of Judea and Samaria, these have nothing to do with the many reputable businesses employing Palestinian staff in this territory.

42. Israel initially suspended all permits for Palestinians to work in Israel or in areas of Israeli settlement in Judea and Samaria following the Hamas invasion of Israel in October 2023,[42] since Hamas had used information obtained from Palestinians employed in Israeli communities to plan its attacks and atrocities. Since then, increasing numbers of permits have been restored, particularly in areas of Israeli settlement in the West Bank, but less so in Israel within the green line. According to the PCBS, only 35,000 Palestinians were employed in Israel within the green line in the second quarter of 2026,[43] compared with 147,000 prior to October 2023.[44]

43. The loss of employment in Israel since October 2023 has had a very serious impact on the Palestinian economy in the West Bank. In 2022 22.5% of employed Palestinian residents of the West Bank were employed in Israel or in areas of Israeli settlement in the West Bank.[45] Moreover, as mentioned above, the average salaries of these employees were twice those of employees in Palestinian businesses. In many cases, large extended Palestinian families relied on the salaries of employees working in Israel or in areas of Israeli settlement in the West Bank.[46] These

[39] PCBS, *The Results of the Labour Force Survey, in the West Bank Second Quarter (April – June, 2026) Round*.

[40] PCBS, *On the occasion of the International Workers' Day, presents the current status of the Palestinian labour force in 2023*

[41] Gisha, LEAP and Kav LaOved, *Back to Work – The Implications of the Ban on Access by Palestinian Residents of the West Bank to Work in Israel*, April 2025, page 3

[42] Ibid., page 2

[43] PCBS, *The Results of the Labour Force Survey, in the West Bank Second Quarter (April – June, 2026) Round*.

[44] PCBS, *On the occasion of the International Workers' Day, presents the current status of the Palestinian labour force in 2023*

[45] Gisha, LEAP and Kav LaOved, *Back to Work – The Implications of the Ban on Access by Palestinian Residents of the West Bank to Work in Israel*, April 2025, page 3. See also page 5, reporting that in 2023 18.4% of the total Palestinian Workforce (including unemployed) were employed in Israel or in areas of Israeli settlement in the West Bank.

[46] Ibid., page 2

employees' salaries also provided or contributed substantially to the livelihoods of other Palestinians providing goods and services to them (the multiplier effect). Largely as a result of the loss of jobs within Israel, the unemployment rate of Palestinians in the West Bank was 27.9% in the second quarter of 2026[47] compared with 13% in the third quarter of 2023.[48]

44. In these circumstances, retaining the employment of Palestinians in areas of Israeli settlement in Judea and Samaria and restoring it at least to the level prior to October 2023 are all the more important to preserve a viable Palestinian economy. Productive employment of Palestinians alongside Israelis also contributes to reducing conflict and promoting peace and reconciliation".[49] The case for applying the Namibia exception could hardly be more compelling.

45. Palestinian residents of Jerusalem do not require permits to work in Jerusalem. Large numbers of them work for Israeli businesses throughout the city. The operation of these businesses also falls within the Namibia exception; trading with them is lawful and should be encouraged.

The UK-Israel Trade and Partnership Agreement

Goods

46. The UK-Israel Trade and Partnership Agreement (the "**UK-Israel TPA**")[50] is one of the continuity agreements concluded as the UK left the EU. Pursuant to its Article 3, it incorporates, by reference, the text of the EU-Israel Association Agreement,[51] *mutatis mutandis*, subject only to the modifications in its Annex II. Annex II disapplies Articles 18, 84 and 85, part of Article 21(2) of the EU-Israel Association Agreement, and substitutes a new Protocol 4. However, Articles 16 and 17 of the EU-Israel Association Agreement are incorporated intact.

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47 PCBS, *The Results of the Labour Force Survey, in the West Bank Second Quarter (April – June, 2026) Round*.

48 PCBS, *On the occasion of the International Workers' Day, presents the current status of the Palestinian labour force in 2023*

49 See Dan Diker (ed), *Defeating Denormalization – Shared Palestinian and Israeli Perspectives on a New Path to Peace*, Jerusalem Center for Public Affairs, 2018, particularly the chapters by Daniel Birnbaum, *Sodastream as a Model of "Economic Peace",* Nabil Basherat, *Palestinian-Israeli Normalization in the Workplace*, Rami Levy, *Palestinian-Israeli Equality and Normalization: The Case of Rami Levy Supermarkets,* and Nadia Aloush, *A Palestinian Woman's Perspective on Working for an Israeli Company* in *Defeating Denormalization*; and 4il, *Islands of Peace: Barkan Industrial Park Co-Existence* (video, June 2017)

50 https://assets.publishing.service.gov.uk/media/5c75095fe5274a0ec2ff6b5e/CS_Israel_1.2019_Trade.pdf 18 February 2019

51 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, 20 November 1995.

47. Article 16 of the EU-Israel Association Agreement provides that "[q]uantitative restrictions on imports and all measures having equivalent effect shall be prohibited" between the Parties. Article 17 prohibits quantitative restrictions on exports and all measures having equivalent effect in identical terms.

48. A national prohibition on imports or exports constitutes the most extreme form of restriction, as the European Court of Justice held in Case 34/79 *R v Henn and Darby*,[52] in relation to the materially identical wording of what is now Article 34 of the Treaty on the Functioning of the EU (TFEU). The measures currently under consideration by the UK Government would therefore be *prima facie* inconsistent with Articles 16 and 17.

49. The UK Government's position that settlement products are ineligible for preferential tariff treatment is a proposition about Protocol 4 as substituted, which supplies the concept of 'originating products'.[53] Articles 16 and 17 do not employ that concept. Nor do they carry any origin qualifier. Ineligibility for preference and freedom from quantitative restriction are distinct obligations, and the Government's settled position on the former does not bear on the latter.

50. Indeed, the decision of the EU Court of Justice ("**CJEU**") in Case C-386/08 *Brita*,[54] which is the legal basis for the EU's position that products originating in areas of Israeli settlement are ineligible for preferential tariff treatment under the Association Agreement, was concerned with whether the German authorities could apply preferential treatment to goods originating in the West Bank upon a certificate of origin issued by the Israeli authorities, rather than one issued by the PLO. It did not limit the *entirety* of the Association Agreement to Israel's pre-1967 borders and neither did the Court find that settlement goods fall outside *every* provision of the Association Agreement.

51. In addition, implementation of an import ban necessarily results in consignment-level screening, supplementary declarations, verification, delay, seizure risk and consequential liability exposure, which would in practice fall upon goods of unquestionably Israeli origin. These would constitute measures having equivalent effect to quantitative restrictions prohibited by Article 16 of the EU-Israel Association Agreement and hence the UK-Israel TPA.

52. Article 27 of the EU-Israel Association Agreement permits prohibitions and restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security and certain other heads, provided that they

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52 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:61979CJ0034

53 Association Agreement, art. 28: "The concept of 'originating products' for the application of this title and the methods of administrative cooperation relating to them are set out in Protocol 4."

54 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62008CJ0386

do not "constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties".[55]

53. The UK is party to an Association Agreement with the Kingdom of Morocco concluded on 26 October 2019, a continuity agreement of the same character as the Israel-UK TPA. Western Sahara has been listed by the United Nations as a Non-Self-Governing Territory since 1963.[56] While it considers Morocco's 2007 autonomy plan for Western Sahara to be the most credible way forward, the UK has not endorsed Moroccan sovereignty over Western Sahara and continues to regard its status as "undetermined". The UK has also stated that the "only viable and durable solution will be one that is mutually acceptable to the relevant parties, and is arrived at through compromise".[57]

54. Yet the UK has not merely declined to prohibit imports of Western Saharan produce, it affirmatively extended to products originating in Western Sahara and subjected to Moroccan customs control the same tariff preferences it accords to Moroccan products, a position upheld domestically in *Western Sahara Campaign*.[58] Discrimination of this character, as between situations the Government itself characterises in materially comparable legal terms, is "arbitrary" within the meaning of the proviso to Article 27 of the EU-Israel Association Agreement and therefore impermissible, even if it could otherwise be justified on any of the specified grounds.

55. In any case, similar provisions to Article 27 of the EU-Israel Association Agreement in other Association Agreements, EU Regulations and Articles 36, 45, 52 and 65 of the TFEU (or their predecessors) have been interpreted restrictively by the CJEU. By incorporating the terms of the EU-Israel Association Agreement into the UK-Israel TPA, save where stated otherwise, the parties to the UK-Israel TPA must be taken to have incorporated EU case-law relating to its interpretation. In particular, the CJEU has repeatedly held that recourse to public policy to justify restrictions "presupposes, in any event, the existence, in addition to the perturbation of the social order which any infringement of the law involves, of a genuine and sufficiently serious threat to the requirements of public policy affecting one of the fundamental interests of society".[59] It is difficult to see how the strict test

[55] For further analysis on the issue of arbitrary discrimination, see the section on the UK's obligations under GATT and GATS below.

[56] See https://press.un.org/en/2026/gacol3399.doc.htm.

[57] See https://commonslibrary.parliament.uk/research-briefings/cbp-9906/.

[58] *Western Sahara Campaign UK v Secretary of State for International Trade* [2022] EWHC 3108 (Admin), paras. 2, 25.

[59] Case 30/77 *Bouchereau* at para. 35. For further citations and analysis, see Jonathan D. C. Turner and Thomas Howard, *Occupied Territories and the Exceptions to WTO and EU Rules on grounds of Public Morality, Public Order and Public Policy* (2023) EBLR 695, 715-718 and notes 101-104, 114-121; Jonathan Turner, *An Assessment of the Legality under EU Law of the Control of Economic Activity*

established by the CJEU can be satisfied in relation to trade with reputable businesses in Judea, Samaria and East Jerusalem given the points made above and in the documents cited in note 59 below.

Services

56. As to services, incorporated Article 30(1) of the EU-Israel Association Agreement provides that each Party "reaffirms its obligations under the GATS", and in particular the most-favoured-nation obligation in Article II GATS: to accord to the services and service suppliers of any other Member treatment no less favourable than that accorded to like services and service suppliers of any other country.

57. The proposed prohibition on the importation of services engages that obligation directly. An Israeli company is a service supplier of Israel by reason of its incorporation under Israeli law and its substantive business operations there.[60] Where services are supplied through commercial presence or the presence of natural persons, Article XXVIII(f)(ii) determines the nationality of the service by reference to the supplier rather than the place of supply.[61]

58. A measure excluding such suppliers from the UK market by reference to the location of part of their operations would therefore accord them treatment less favourable than that accorded to like suppliers of other countries. The proposed prohibition on the export of services would in addition modify the conditions of competition against Israeli suppliers by denying them access to UK services available to their competitors.

Mandatory reference to Joint Council

59. Finally, if any proposed ban is framed as a response to alleged Israeli conduct, as suggested by Chris Bryant MP's comments in the Backbench debate, Article 79(2) of the EU-Israel Association Agreement, in tandem with Article 7 of the UK-Israel TPA, provides that before taking any measures, the UK would need to engage the Joint Council. It would need to supply the Joint Council with all relevant information with a view to seeking a mutually acceptable solution, giving priority to measures "which least disturb the functioning of the Agreement". A unilateral ban adopted outside that procedure would breach the TPA, regardless of the merits

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(Occupied Territories) Bill 2018, 4 January 2021; Jonathan Turner, *Comments on new legal opinion re the 'Occupied Territories' Bill*, 23 September 2024; Ireland Israel Alliance and UKLFI, *Written Submission to the Oireachtas Joint Committee on Foreign Affairs and Trade*, 8 July 2025

[60] Article XXVIII(m) GATS.

[61] Article XXVIII(f)(ii) GATS.

60. Israel would itself be entitled to refer the dispute to the Joint Council under Article 75 of the EU-Israel Association Agreement as incorporated into the UK-Israel TPA and thereafter to binding arbitration.

The Protocol on Ireland/Northern Ireland to the Brexit Agreement

61. Article 5(5) of the Protocol on Ireland/Northern Ireland to the EU-UK Withdrawal Agreement provides: "Quantitative restrictions on exports and imports shall be prohibited between the Union and Northern Ireland". This substantive prohibition has not been affected by any developments under the Windsor Framework.

62. A ban on the import into the UK of goods produced in areas of Israeli settlement in Judea, Samaria and East Jerusalem would restrict the import of such goods from EU States into Northern Ireland if it applies to Northern Ireland. This would contravene Article 5(5) of the Protocol.

63. The prohibition in Article 5(5) would be breached even if the ban on imports were to affect minimal quantities or no goods at all. The CJEU has consistently held that there is no de minimis exception to the corresponding TFEU Article 34 (and its predecessors) on which Article 5(5) of the Protocol is based.[62] The CJEU's standard formulation of the scope of TFEU Article 34 (and its predecessors) is that it applies to any national rules capable of hindering trade within the single market "directly or indirectly, actually or *potentially*" (emphasis added).[63] Under Article 12(4) of the Protocol, the CJEU retains full jurisdiction over Article 5 of the Protocol and under section 7A of the European Union (Withdrawal) Act 2018 the Protocol (as interpreted by the CJEU) takes precedence over any contrary UK law.[64]

64. The prohibition in Article 5(5) of the Protocol would still be breached even if Ireland and/or other EU member states implement unilateral national legislation banning the import of goods produced in areas of Israeli settlement in the West Bank. Such bans are illegal and invalid under EU law since they are incompatible with the EU's exclusive competence for the Common Commercial Policy under Articles 2(1), 3(1)(e) and 207 of the TFEU; and, in the case of agricultural products, with Article 194 of Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products.

65. As regards agricultural products, the CJEU held in Case C-399/22 *Confédération paysanne*[65] that EU member states have no power to ban imports from third

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62 Cases 177 and 178/82 *Van de Haar*; Case 67/97 *Bluhme*
63 Case 8/74 Dassonville
64 *Allister* [2023] UKSC 5
65 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62022CJ0399, paras. 46-55.

countries unilaterally on grounds of public policy; such a measure can only be adopted through an EU procedure under Article 194 of EU Regulation 1308/2013.

66. As regards other products, Article 24(2)(a) of EU Regulation 2015/478 permits EU member states to adopt prohibitions and quantitative restrictions measures justified on grounds of public policy. However, as discussed above, this is to be interpreted strictly and in line with the similar provision in TFEU Article 36,[66] probably requiring "a genuine and sufficiently serious threat to the requirements of public policy affecting one of the fundamental interests of society". It is difficult to see how this test can be satisfied in relation to trade with reputable businesses in Judea, Samaria and East Jerusalem in the light of the points made above and in the documents referenced in note 59.

67. These prohibitions of unilateral national measures under EU law are directly applicable. In accordance with the settled principle of the primacy of EU law,[67] national legislation imposing such unilateral bans must be disapplied by all national courts and must not be implemented by government officials. On that footing, goods imported from Israeli businesses in the West Bank or East Jerusalem remain lawfully able to enter and circulate in the EU and from the EU to Northern Ireland. UK courts and authorities must similarly disapply any UK legislation to the contrary.[68]

68. Any person with a sufficient interest, including a relevant NGO, would be entitled to challenge any measures by the UK government in breach of the Ireland/Northern Ireland Agreement by judicial review.

Contravention of the UK's GATT/GATS obligations

Are areas of Israeli settlement in the West Bank part of Israeli territory for the purpose of WTO rules?

69. A preliminary question, particularly in relation to the GATT, is whether areas of Israeli settlement in Judea, Samaria and East Jerusalem are treated as part of Israel's territory for the purpose of WTO Agreements.

70. The WTO applies a "functional approach to territory", tied to the actual exercise of customs and tariff authority, rather than to questions of underlying sovereign title under public international law.[69] Therefore, the classification of a particular

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[66] Case C-399/22 *Confédération paysanne* at para. 52

[67] Case 106/77 *Amministrazione delle Finanze dello Stato v Simmenthal*, paras. 13-24

[68] See the last sentence of para. 63 above

[69] See e.g. Olia Kanevskaia, *WTO Rules for Trade with Disputed Territories* (2023) 26 Journal of International Economic Law 397, 398-399.

territory "under international law has little relevance to the application of the WTO Agreements and, in particular the [GATT]".[70]

71. Academic commentary on this precise question has observed that Israel's administrative control over the settlements, including their customs and trade administration, "does not contradict the understanding of territory under WTO law," even if that same control were disputed under general international law.[71]

72. Moreover, specifically regarding the GATT, its Article XXVI:5(a) provides that "[e]ach government accepting this Agreement does so in respect of its metropolitan territory and of the other territories for which it has international responsibility, except such separate customs territories as it shall notify…".[72] The provision is silent on when such international responsibility arises and whether it is "linked to the notion of jurisdiction or, in the case of an occupation, the notion of effective control". However, "[o]ne may suggest… that given the WTO's functional approach to the notion of territory, it is the control over the trade and customs administration that matters for the purpose of this provision".[73]

73. While the interpretative notes to earlier versions of this provision had initially suggested that they did not cover territories under military occupation, the provisions were subsequently amended, and the interpretative notes deleted, in 1957.[74] There is therefore nothing in WTO law that would suggest that areas of Israeli settlement in the West Bank or Area C generally do not form part of the territory of Israel for the purpose of WTO Agreements. On the functional approach normally applied, they do. Thus there is a strong argument that the GATT applies to these areas as Israeli territory.

74. As explained in paragraphs 5658 above, territory is less of an issue in relation to the application of the GATS since the GATS requires its member states to accord "most-favoured-nation" treatment to service suppliers of other member states.[75] A company qualifies as a supplier of a particular member state if it is constituted under the law of that state and is engaged in substantive operations in the territory of that state or of another member state.[76] Therefore even if (despite the points made

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[70] Ibid.

[71] Ibid, 405.

[72] GATT Art. XXIV.5(a). See also Art. XXIV(1), which provides that "[e]ach such customs territory shall, exclusively for the purposes of the territorial application of this Agreement, be treated as though it were a contracting party…". In other words, separate customs territories can become WTO Members through the governments that hold international responsibility over them.

[73] Olia Kanevskaia, op. cit. (note 69), 404-405.

[74] See the WTO Analytical Index on GATT 47, Art. XXVI §II.A.5(1)(e) and §III. See also Eugene Kontorovich, *Some State Practice Regarding Trade with Occupied Territories* in Antoine Duval and Eva Kassoti (eds), *The Legality of Economic Activities in Occupied Territories* (Routledge, 2020).

[75] GATS, Art. II

[76] GATS, Art. XXVIII(m)(i)

above) the West Bank is not treated as Israeli territory for the purpose of the GATS, the benefit of most-favoured-nation treatment must be provided to Israeli companies engaged in substantive operations within the green line, whether or not they also engage in operations in the West Bank.

The prohibitions

75. Article XI of the GATT prohibits quantitative restrictions on imports of products of the territory of any other contracting party or on exports of any products destined for the territory of another contracting party. Article I further requires most-favoured nation treatment for products originating in or destined for the territories of other contracting parties. These provisions prohibit restrictions on imports into the UK from areas of Israeli settlement in Judea, Samaria and East Jerusalem and exports from the UK destined for these areas if they are regarded as Israeli territory for the purpose of the GATT.

76. As mentioned above, Article II of the GATS requires the UK to accord most-favoured-nation treatment to Israeli companies if they are engaged in substantive operations within the green line, even if the West Bank is not regarded as Israeli territory for the purpose of the GATS. Article II further requires the UK to accord most-favoured-nation treatment to services of another member state, defined as services supplied from or in the territory of that other state or through a service supplier of that state.[77] Bans on the supply of services from or to areas of Israeli settlement are likely to be prohibited by this provision.

Exceptions to the prohibitions

77. However, there are exceptions to these provisions. In particular, article XX(a) of the GATT provides: "Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: (a) necessary to protect public morals…". GATS contains a near identical provision in its Article XIV(a), which also extends to measures necessary "to maintain public order".

78. The protection of public morals has been broadly interpreted in various decisions of WTO Panels and Appellate Body. In *EC – Seal Products*, the WTO Panel and Appellate Body accepted that a ban on the import of products made from seals could be justified in principle under Art. XX(a) of the GATT.[78] Significantly, the

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[77] GATS, Art. XXVIII(f) and (d)

[78] DS401, *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products,* Panel (2013), §§7.379-7.384, 7.418-7.420, 7.630-7.632, Appellate Body (2014), §§5.194-

justification for the ban was not based on any risk that the sale of the products might corrupt the morals of people in the importing countries, but rather on the ground that their production in the exporting countries offended the moral views of citizens of the importing countries.

79. In *Brazil – Taxation*, despite acknowledging that the degree of discretion of WTO Members in defining the scope of public morals "is not boundless", the WTO Panel held that a measure exempting national producers of digital television transmission equipment from taxes could fall within it, on the basis that the objective was to ensure that appropriate equipment was available in Brazil to implement a switchover from analogue to digital television as part of a policy of bridging the digital divide and promoting social inclusion.[79]

80. The conduct of occupations of territory, and particularly the development of "settlements" of citizens of the occupying power in occupied territory, is undoubtedly a matter of concern to some citizens of countries where restrictions on trade with occupied territories have been proposed. Even if this concern has been created or boosted by inaccurate or unbalanced reporting, its existence cannot be denied. On this basis, it seems that such restrictions would be regarded as falling within the broad scope of the public morals and public order exceptions as interpreted in the decisions discussed above.

81. However, whether a measure is "necessary" to protect public morals requires a balancing between the measure taken and possible alternative measures. As the Appellate Body observed in *Colombia – Textiles*, the assessment of the "necessity" of a measure "entails a more in-depth, holistic analysis of the relationship between the measure and the protection of public morals" which "involves a process of 'weighing and balancing' a series of factors, including the importance of the societal interest or value at stake, the contribution of the measure to the objective it pursues, and the trade-restrictiveness of the measure". The Appellate Body added that "[i]n most cases, a comparison between the challenged measure and possible alternatives should subsequently be undertaken".[80]

82. In *EC – Seal Products*, the WTO Panel (upheld by the Appellate Panel) found that the ban on seal products contributed materially to seal welfare and that an alternative measure allowing products from seals killed humanely was not practicable. It was therefore a necessary measure to protect public morals.[81] By

5.203.

[79] DS472, *Brazil – Certain Measures Concerning Taxation and Charges,* Panel (2017), §§7.551-7.568 (not challenged on appeal).

[80] DS461, *Colombia – Measures Relating to the Importation of Textiles, Apparel and Footwear*, Appellate Body (2016), §5.70.

[81] DS401, *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products,* Appellate Body (2014), §§5.204-5.290.

contrast, in *Colombia – Textiles*, the Appellate Body concluded that there was a "lack of sufficient clarity regarding the degree of contribution of the measure at issue to the objective of combating money-laundering and the degree of trade-restrictiveness of the measure". It was therefore not considered necessary.[82]

83. Consideration would therefore have to be given to whether the proposed import and/or export ban would be likely to have any impact on any supposed "transfers" by Israel of its civilian population to the West Bank, if this is the basis on which the ban is said to be necessary to protect public morals. Since the connection between the ban and any impact on the supposed transfer of population by Israel is at best tenuous, the UK may well be unable to show that it is "necessary" to protect public morals, as in the *Colombia – Textiles* case.

84. In addition, the analysis of whether the measure is necessary must consider the availability of less restrictive alternatives addressing the concern. One obvious alternative to a ban on the import of goods is to require labelling to identify the origin, enabling consumers to make an informed choice; this is the approach that has so far been followed by the UK in relation to goods produced in disputed territories administered by Israel. The UK may fail to show that a full ban is "necessary" also on this ground.

Proviso to the exceptions

85. In any case, there is an important proviso to the exceptions in Art. XX of GATT and Art. XIV of GATS, that the measure is not "applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail".[83]

86. Discrimination within the meaning of this proviso "results … when countries in which the same conditions prevail are differently treated" and "the analysis of whether discrimination is arbitrary or unjustifiable… 'should focus on the cause of the discrimination, or the rationale put forward to explain its existence'".[84]

87. The Appellate Body held in *EC – Seal Products* that "only 'conditions' that are relevant for the purpose of establishing arbitrary or unjustifiable discrimination in the light of the specific character of the measure at issue and the circumstances of a particular case should be considered under the chapeau".[85] On this basis, it

[82] DS461, *Colombia – Measures Relating to the Importation of Textiles, Apparel and Footwear*, Appellate Body (2016), §§5.101-5.117.

[83] GATT 1947 as amended and incorporated into GATT 1994, Art. XX.

[84] Ibid, §5.303, citing DS58, *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body (1998), §165; Ibid, citing DS332, *Brazil – Measures Affecting Imports of Retreaded Tyres* Appellate Body (2007), §226.

[85] DS401, *European Communities – Measures Prohibiting the Importation and Marketing of Seal*

concluded that conditions prevailing in Canada and Norway (where most seal hunts were commercial) were not relevantly different from those prevailing in Greenland (where most seal hunts were indigenous community hunts), since the same animal welfare considerations prevailed in all countries where seals were hunted and the same animal welfare concerns exist in indigenous community hunts as arise in commercial hunts.

88. The Appellate Body went on to find that the EU's general ban on the sale of seal products, coupled with exceptions for products from seals killed in indigenous community seal hunts, constituted arbitrary and unjustified discrimination against Norway and Canada by comparison with Greenland. In the view of the Appellate Body, the EU's explanation, that the exemption mitigated adverse effects on indigenous communities, was not rationally related to the moral concern regarding the welfare of seals.[86]

89. In accordance with this decision, in so far as the concern addressed by the proposed trade bans targeting areas of Israeli settlement in the West Bank is Israel's supposed "transfer" of its population into "occupied territory", it would seem that the same conditions prevail for this purpose in all occupied territories where there has been significant settlement of nationals of the occupying power. Nevertheless, as mentioned above,[87] the UK does not appear to have put in place or to be planning any similar measures with respect to such occupied territories other than the West Bank. This appears to be arbitrary or unjustified discrimination between countries where the same relevant conditions prevail, thereby preventing recourse by the UK to the exception for the protection public morals.

90. Accordingly, it appears that there would be a strong case that the proposed trade bans would breach Articles I and XI of the GATT and Article II of the GATS. It would be open to Israel to pursue proceedings against the UK under the WTO dispute settlement machinery.

Exposure under US Federal and State Laws

91. Extensive US Federal[88] and State laws[89] prohibit or sanction participation in boycotts of businesses in territories governed by Israel. The potential penalties include criminal fines, imprisonment, administrative penalties, loss of tax relief,

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Products, Appellate Body (2014), §5.299.

86 DS401, *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products,* Appellate Body (2014), §§5.318-5.

87 See above, paras. 53-54.

88 US Department of Commerce, Bureau of Industry and Security, Export Administration Regulations, *Part 760 - Restrictive Trade Practices or Boycotts*; US Code *Title 26 – Internal Revenue Code §999*

89 Israel Legal Advocacy Project, *US State Anti-BDS Legislation*; Lara Friedman, *Anti-BDS Laws*; JustVision, *Anti-Boycott Legislation Tracker*

divestment, exclusion from procurement and claims for damages.[90] Businesses and their personnel may face conflicting requirements of UK legislation requiring them to participate in the UK's boycott and US legislation penalising them for doing so.

92. The effects of some of the State laws were demonstrated by the case of Airbnb. When Airbnb announced the withdrawal of its service for properties in Israeli settlements in the West Bank, Florida adopted sanctions against the company,[91] Illinois[92] and Texas[93] initiated procedures for implementing sanctions, and legal actions were brought in Delaware,[94] California[95] and Jerusalem.[96] The litigation in Delaware was settled on the basis that Airbnb would resume service to these properties.[97]

93. There is also a risk that an unpredictable US Administration may take further steps.

Impact on Antisemitism

94. Organising boycotts against Jews has frequently served as a tool to mobilise, normalise and intensify antisemitism. By demonising Jews, boycott campaigns have successfully shifted social attitudes from latent prejudice to open hostility and violence. Historical examples include Karl Lueger's economici campaigns in late 19th century Vienna, the Limerick boycott and pogrom in 1904, and the Nazi boycott from 1933 which set in train the persecution that culminated in the Holocaust.

95. Extensive modern research by the Amcha Initiative at US campuses has found close associations between BDS activity and hostility towards Jewish students and staff.[98] As one report concluded, "The best statistical predictor of anti-Jewish hostility, as

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90 The Lawfare Project, *Laws in Various Domestic and International Jurisdictions Deplore and Attach Liability for Discriminatory Commercial Conduct Related to the Boycott of, or Divestment From, the State of Israel*, 4 April 2019, and *ADDENDUM to Memorandum entitled "Laws in Various Domestic and International Jurisdictions Deplore and Attach Liability for Discriminatory Commercial Conduct Related to the Boycott of, or Divestment From, the State of Israel"*, 23 May 2019;

91 JNS, *Florida takes action against Airbnb amid its boycott of West Bank properties*, 29 January 2019

92 Michael Wilner, *Illinois board finds Airbnb in breach of state law over settlements move*, Jerusalem Post, 13 December 2018

93 Adi Pick, *Airbnb Faces Sanctions in Texas Over Settlements Ban*, Calcalist Tech, 3 April 2019

94 *Jewish-Americans sue Airbnb in Delaware, citing religious discrimination*, Jerusalem Post, 28 November 2018

95 Tovah Lazaroff, *Airbnb faces civil rights suit in U.S. over West Bank settlement boycott*, Jerusalem Post 24 January 2019

96 *Israeli Sues Airbnb Over West Bank Settlement Listing Ban*, US News, 22 November 2018

97 *Airbnb reverses ban on West Bank settlement listings*, BBC, 10 April 2019

98 https://amchainitiative.org/reports

measured by actions that directly target Jewish students for harm, is the amount of BDS activity."[99]

96. Adopting the suggested trade bans will escalate still further the already highly elevated levels of antisemitism in the UK.[100] As well promoting hostility against British Jews, this new boycott will further undermine confidence of Jews in Britain. Whether justifiably or not, it will remind many of them of the Nazi slogan, "Kauft nicht bei Juden".

97. The existence of support for such measures by a small minority of Britain's Jewish communities does not negate their propensity to promote antisemitism, nor their alarming impact on the majority of British Jews.

98. Those taking any decisions regarding the proposed boycotts must comply with the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, which requires them to have due regard to the need to eliminate discriminate, harassment, victimisation and other conduct prohibited by this Act and to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In relation to Northern Ireland, they must also comply with section 75 of the Northern Ireland Act 1998. In relation Scotland, additional ancillary requirements are imposed by the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

99. Particularly in the circumstances, the PSED is not a formality. If carried out properly it should lead to the abandonment of the proposals, since it will reveal that the further damage which will be done to community cohesion in the UK will far exceed any actual foreign policy benefits.

Conclusions

100. We conclude:

    100.1. The UK has no legal obligation to ban trade with businesses or consumers in areas of Israeli settlement in Judea, Samaria and East Jerusalem. Acceptance of such a legal obligation would moreover endorse an expansion of State responsibility that may come back to haunt the UK in other contexts.

    100.2. The proposed bans would be liable to breach and/or give rise to penalties under

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[99] Amcha Initiative, Report on Antisemitic Activity in 2015 at U.S. Colleges and Universities With the Largest Jewish Undergraduate Populations at page 19

[100] CST, *Antisemitic Incidents January-June 2026*

100.2.1. the UK-Israel TPA;

100.2.2. the Protocol on Ireland/Northern Ireland to the Brexit Agreement;

100.2.3. the GATT and the GATS;

100.2.4. US Federal and States' counter-boycott legislation and possibly further US measures.

101. If the UK proceeds with the proposed bans:

101.1. Israel could refer breaches of the UK-Israel TPA to the Joint Council and thereafter to binding arbitration;

101.2. Any persons with a sufficient interest could apply for judicial review of breaches of the Protocol on Ireland/Northern Ireland to the Brexit Agreement;

101.3. Israel could pursue proceedings against the UK under the WTO dispute settlement machinery;

101.4. Companies operating in the UK that comply with the bans could be exposed to penalties under US counter-boycott legislation, which might result in them reducing or ceasing operations and investment in the UK;

101.5. If inadequate consideration is given to the impact of the proposed bans on discrimination, harassment and victimisation of and hostility towards Jews, Israelis and Zionists in the UK, the bans could be challenged by judicial review for non-compliance with the Public Sector Equality Duty.

102. We respectfully invite the Government to take the matters set out in this Note into account before proceeding with the measures under consideration.

Jonatham D. C. Turner

22 August 2026