

## NEW REALITIES IN THE EASTERN MEDITERRANEAN: THE CHALLENGES FOR THE FUTURE OF EU-ISRAEL ECONOMIC RELATIONS

Annual EU Meeting of the Israeli European Policy Network (IEPN),  
co-organized by the European Institute of the Mediterranean (IEMed)

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### Background

Since 1975, the free trade agreements between Israel and the EU have generated intensive trade and economic relations. Following the entry into force of the Association Agreement in 2000, EU-Israel trade has increased dramatically to reach historical highs in recent years (amounting to approximately €36.2 billion in 2017). Currently, the EU is Israel's main trading partner, accounting for one-third of its total trade.

However, political relations have significantly worsened. Over the last decade, differences over the Middle East Peace Process, the intensification of Israel's settlement policy in the Occupied Palestinian Territory, as well as the recent outbreak of violence in May 2021, have led to growing tensions with the EU, which is formally committed to the two-state solution and international law.

Despite the centrality of its economic ties with the EU, Israel has increasingly looked elsewhere both for economic and political support. The diversification of its privileged relations has included individual European countries, including members of the Visegrád group, in an attempt to fragment the EU political positions regarding the Middle East Peace Process. In addition to the long-standing alliance with the US, Israel has also cemented ties with key Arab countries, sealing several normalization deals with a number of them, including the United Arab Emirates and Morocco, increasing security and, above all, attaining energy cooperation in the context of the Eastern Mediterranean.

In the short-term and in the context of Israel's rapid post-COVID reopening of its economy, these multiple

alignments have proven tenable and useful to Israel's own national interest. However, in the medium-term several conundrums could expose the intrinsic frailty of these tactical shifts.

In the framework of its annual EU meeting, the Israeli-European Policy Network (IEPN), in cooperation with the European Institute of the Mediterranean (IEMed), provided a suitable platform to analyze and debate the challenges of EU-Israel economic relations, situating them in the overarching environment of the Eastern Mediterranean. The meeting explored the extent to which Israel has increasingly diversified its economic strategies by fostering relations with Asian and Arab countries, as well as energy cooperation with neighboring countries. The meeting assessed the impact of this strategy on EU relations in the context of Eastern Mediterranean sub-regional cooperation. Finally, the interlinked character of economic and political relations was questioned, as well as the conditions and opportunities under which improved and sustainable relations can be built between Israel, its neighbors, and the EU.

### Minutes and Conclusions from the Conference

Three sessions were held during the IEPN conference. The first session dealt with Israel's economic portfolio, and the changes that have taken place in it over the years. The discussion focused mainly on the influence of those changes on European-Israeli relations. The second session focused on European and Israeli relation on the topic of energy cooperation. In recent years, Israel has become far more independent in the energy field, as a result of the gas deposits it discovered in the



Mediterranean Sea. These discoveries have changed the dependency of Israel on other countries to provide energy, while also raising the climatic problem, because gas deposits are fossil fuels. This, in turn, has changed the economic relationship between Israel and Europe. The third session was devoted to the conditions and opportunities that are presenting themselves to Israel, enabling her to move forward, regarding European relations. Moreover, the session also focused on the political changes in the Mediterranean, emphasizing the importance and breakthrough of the Abraham Accords, and how they are likely to encourage other countries to follow suit. Lastly, there were discussions about the military assistance Israel provides to certain countries in the EU, focusing on Spain, and the current Israeli and European cooperation in combating the Covid-19 pandemic.

### **Beyond Europe: Diversification of Israel's economic relations**

"In the 1980s, Israel had a traditional economy relying on industries, such as textiles and agriculture. It was an infant industry that had to be protected from foreign competition. This structure has gone through an enormous change from the 80s to the 90s, up to 2000. Today, Israel is a start-up nation relying on high-tech, knowledge, innovation, and new initiatives. The high-tech and knowledge sectors represent 40% of Israeli exports, and Israel has access to many markets and new economic opportunities." This describes the first diversification that occurred in Israel.

Shortly thereafter, a different diversification occurred, influenced largely by countries with which Israel decided to develop economic relations. Israel has opened new channels with markets in South-East Asia, China, Africa, and India. Geopolitical changes in the Eastern Mediterranean, the Gulf War in 1991, the Madrid conference and its effects, the Oslo Accords, and the peace treaties with Jordan all played a role in the diversification. By expanding its economic influence, Israel's economic development has been shaped in part by the new economic ties. It has also helped create stability in the event that any country should try to boycott Israeli products.


In contrast to the prior statements, some claim

there has been little diversification in Israel's economic relations. They add that Israel has developed new partnerships in the last decade, but has not fundamentally changed the structure of its foreign trade. While this might be true, it should be clarified that diversification requires a long-term perspective to reach a full understanding, and the main diversification that was referred to took place in the late 1980s and the early 90s.

The evidence can be gleaned from the Israeli Central Bureau of Statistics data. "The data shows that foreign trade with countries' groups remained fairly stable. Between 2014 and 2020, trade with Japan rose from \$2.3 billion to \$3 billion; with South Korea from \$2 billion to \$2.3 billion; with China from \$17 to \$18 billion, while with India trade dropped from \$4.5 billion to \$3.1 billion." Additionally, the Israeli government has failed to develop strong economic relations with Africa. Trade with Africa fell by about \$0.6 billion dollars between 2009 and 2019, while new directions with the Arab States are being developed, thanks to the Abraham Accords signed in 2020. Trade volume with the UAE has reached 500 million US dollars, while Turkey remains an important trade partner of Israel, despite the political conflicts between the two countries.

Referring to the newly changed position of Israel in the Middle East, an expert explains, "The Palestinian situation is very negligible considering the economic position of Israel." Recently, Israel has had the highest number of exports since its establishment, while exports from the Occupied Territories account for less than 1% of the total exports. The reality is that, to some extent, the Palestine situation matters and there are consumers who will put a product back on the shelf after learning it was made in Israel. With the Abraham Accords, it seems that the notion that, for Israel to have economic relations with the other Arab States it must first solve the Palestinian conflict, has come to an end.

The EU will remain an essential trade partner for Israel, but it is unknown how important Israel will be to the EU in the future. The EU is Israel's biggest trade partner (accounting for 30% of its exports in 2020) but Israel is the 24th largest trade partner for the EU (accounting for 0.9% of exports in 2020). Israel is a



small country with no other choice but to adapt to a changing world. Israel is trying to sign agreements with South-East Asia because its countries are seen as the future of international markets as well as with China, which counts as a major player, and is likely to continue to be one in the future.

### **EU-Israeli relations in the context of the Eastern Mediterranean energy cooperation**

Traditionally, Israel did not give much thought to the Eastern Mediterranean. This changed after the discovery of substantial gas deposits in the Eastern Mediterranean. An expert explains how The Eastern Mediterranean Gas Forum is the most significant multilateral organization in a geopolitical space often associated with conflicts and competition. The EU extended support to the Forum and entered the organization as an observer. From 1999, several gas fields were discovered in Israel's exclusive economic zone in the Mediterranean and, by 2020, some 64% of Israel's energy was derived from its sea-based gas.

This in turn, explains why the situation in the Eastern Mediterranean is unique. Many opportunities arise from those countries that have a share in the gas field. It is beneficial for those countries to cooperate in exploiting it. Additionally, because gas is a fossil fuel, cooperating countries should work towards finding sustainable resources that will help reduce overall emissions. European countries may be able to assist in helping Israel find such sustainable resources.

Europe has strong ties to Israel, and it contributes to the spread of demographic diversity, cultural values, political ideals, and other values. Israel enjoys a full free trade agreement with the EU, in addition to the free trade zone that it has with the USA. In addition, EU programs cover fields such as research, culture, science, and academia. Israel has gotten as close to the EU as it can get without becoming an actual member. In recent years, many European countries have looked to Israel as a source of technology innovation and inspiration for start-ups. Furthermore, they have seen it as a significant ally and a role model for fighting the Covid-19 pandemic. The image of Israel has changed in the eyes of many Europeans. Yet, there is still much suspicion between Israel and the EU.

Since the Venice declaration of 1980, the Palestinian


issue has been a contentious subject between Israel and Europe. The Israeli position varies with changes in its government. However, the Israeli parliament's vision of the two-state solution is very similar to that of most European countries. The two-state solution is the only viable solution to keep Israel a democratic country.

An expert stated how the "Israel-Europe relationship is rich, complex, and broad". The present developments in the East Mediterranean stem from three major issues: the discovery of a new energy source, the implications of the Arab "Spring", and the cool relations between Israel and Turkey. With respect to the energy discoveries, they do not constitute a breakthrough, but they are a potential for Europe to diversify energy resources. The energy discoveries allowed Israel to become energy independent and increased Israel's manoeuvrability. Renewable energy sources and gas are part of EU-Israeli cooperation. There are many more geopolitically based external relations and benefits of using renewable energy. Being a gas exporter is not working anymore. Israel needs a policy package, a deal that could be sustainable for both Israel and the EU.

### **Political dialogue and economic cooperation: Conditions and opportunities for improved and sustainable relations between Israel, the Eastern Mediterranean Region, and the EU**

For a while, some believed that the Western Mediterranean was more stable than the Eastern Mediterranean. The sub-regional cooperation currently under way in the Eastern Mediterranean is disproving this notion, with recent events showing that the future of overall Mediterranean cooperation is unclear. Some believe, that Israel currently in an era of opportunity. The Eastern Mediterranean has become a hotspot for fostering new bridges between countries. In addition, it is a great opportunity to assist in the rebuilding of Gaza and to establish transportation networks to the West Bank. Israeli assistance could create better conditions for future negotiations with the Palestinians. The Palestinian conflict has been an obstacle in upgrading Israel's relationship with the EU and this could be a large step in the right direction.

With respect to the Israeli-Palestinian conflict,



“peace will take much longer to achieve than what the European Union believed decades ago”. Twenty years ago, whenever the EU offered anything to Israel, it offered it to Palestine as well. The EU treated the two as equals. Through unexpected Israeli advances, including new economic relationships and technological advancements, the EU’s strategy of treating Israel and Palestine as equals failed. So far Palestine does not have a presence in the Abraham Accords.

The Abraham Accords created an environment where cooperation is encouraged and provided a means to develop “traditional peaceful neighbours”. Covid created a multiplicity of problems, including economic issues and challenges for each country’s health services. A forum made up of eight member states, located around the Mediterranean, was created to discuss how to combat Covid in the most effective way.

An expert states, “The EU and Israel signed an agreement of mutual recognition of vaccination documents and removed barriers for travel. It is crucial for Israel to be an asset to Europe.” In talks concerning energy security with Europe, Israel would like to include energy renewables, storage, and standards, in addition to fossil fuels.

One country that is playing an important role in the EU involvement in the Mediterranean is Spain. It is the main bilateral mediator between countries and the EU in an association agreement. There are many issues in the world affecting international markets including the Covid-19 pandemic, environmental changes, international conflicts, financial crises, energy tensions, and migratory pressures. Also, there exist high risks of radicalization and terrorism.

“The role of Israel in regional prosperity, peace, and security, including multilateral efforts, is essential. Israel is the number one country on the southern shore, and is well above average in income capacity, R&D, academic networks, etc. In the security field, it is a dependable partner for European countries, including Spain, with regular exchanges of information and products, and it is crucial in fighting terrorism. It is bound to be one of the leading countries where we have challenges that cannot be addressed regionally or bilaterally between a few countries”.

The Euro-Mediterranean is a region with little integration. The economic and social costs of the pandemic have been very high in the southern Mediterranean countries, in addition to the direct effects of the Covid-19. There has also been a fall in foreign direct investment (FDI). The drop in FDI as well as a severe drop in tourism are some of the causes for the decline in growth. People in the informal sector have suffered economically as well. In some MENA countries “The percentage of people working in the informal sector is well above 50%, and the Covid pandemic has pushed many workers into extreme poverty.”

### **“Europe and Beyond: Diversification of Israel’s economic and political relations”**

*Dr. Patrycja Sasnal, Polish Institute of International Affairs, College of Europe, and the United Nations Human Rights Council*

#### **Executive summary**

This paper argues that “even if such attempts have been made politically – so far there has been little substantive change in the economic relations of Israel”. Additionally, the EU will remain Israel’s primary trading partner for years to come. Dr. Patrycja Sasnal then goes into detail laying out 4 hypotheses analysing Israel’s political and major economic relations in the past decade.

The first claim is that “In the last ten years Israel has not diversified its economic relations substantively”. Although Israel developed new trade partnerships in the last decade, the structure of its foreign trade remained consistent. “Israel’s most important Asian trading partners are China (including Hong Kong), India, Japan, and South Korea.” In most cases, there was a stable increase in trade volume from 2014-2020.

On the other hand, Israel, under the leadership of Benjamin Netanyahu, failed to develop strong economic partnerships in Africa. In fact, trade between the two fell from \$1.1 billion to \$0.6 billion from 2009-2019. Israel has pursued trade agreements with non-EU countries in recent years, including South





Korea (signed in 2021), Vietnam (negotiated), Ukraine (launched in 2021), UK (negotiated post-Brexit), Colombia (launched in 2020), India (negotiated), and China (negotiated). These partnerships have the potential to significantly, but not substantially, change Israel's trade.

The second claim is that "Economic relations with Arab states are only beginning to take shape, while two problems loom". Trade between the UAE and Israel has already reached \$0.5 billion and is expected to grow to more than \$10 billion by 2030. The potential of Israel's relationship with Arab states is increasingly difficult to gauge due to the newness of their relations as well as the Covid-19 pandemic. Even with economic cooperation, the social attitude toward Israel is still negative in the region and will take longer to change.

From a European viewpoint, the Abraham Accords are a very positive development. However, there are two potential problems. First, the Abraham Accords have the potential to turn into an anti-Iranian group and exacerbate regional conflicts. "Second, incommensurately strong cooperation in military and surveillance technologies at the expense of other sectors could add to instability in the broader Middle East." If neither of these two situations arise, it would be interesting to watch Israel create genuine new paths of economic cooperation and societal interaction with the Arab states.

The third claim is, that "in Israel's relations with the V4 states (Czech Republic, Hungary, Poland and Slovakia) there seems to be little correlation between the political and economic realms". Israel, under Benjamin Netanyahu, sought to diversify its political relations within the European Union, strengthening ties with governments which have similar goals – Hungary and Poland – as opposed to traditional European partners such as Germany, France, United Kingdom and EU institutions. However, stronger political ties with the V4 have not yet resulted in significantly tighter economic cooperation.

Hungary gave Israel diplomatic support because assisting Israel served Hungarian foreign and domestic policy goals. Although diplomatic support transpired, trade has not increased in the same years and remains insignificant. Israel and Poland have had

"strong and vibrant ties since 1990s", but they have stagnated since 2018. This is primarily due to The Act on the Institute of National Remembrance in Poland. However, economic relations between the two grew.

The correlation between the political factors is not noticeable: worse diplomatic relations with Poland do not translate into lower trade volume, just as close cooperation with Hungary has not brought a substantial increase in economic terms. Another effect of the V4-Israel relations has been a less effective Middle East policy from the EU.

The final claim is, that "the EU will remain an essential economic partner for Israel". In the eyes of the EU, Israel is seen as being among the world's strongest economies, steadily growing from 2002, until the Covid-19 pandemic. Additionally, EU member states are Israel's main trading partners accounting for 30% of its trade in 2020. Changes in the share of trade are small despite significant changes to Israel's trade with other regions.

Israel suffers from significant asymmetry in its relationship with the EU. It is only the EU's 24th largest trade partner, which ultimately makes Israel substantially less significant for the EU, than the EU is for Israel. The Israeli-Palestinian conflict is significant because it exclusively hurts Israel's image in Europe. "In a Bertelsmann Stiftung poll, 61% of Israelis expressed positive opinions about Europe, while about 20% of Europeans showed a positive attitude toward Israel." Another poll found that younger generations of Europeans tend to hold negative opinions about Israeli policies more frequently than older ones. This does not bode well for the future opinion of Israel in the EU.



## **Israel and the European Union: Discoveries of Energy and the New Regional Architecture in the Eastern Mediterranean - A Strategic Window of Opportunity for Expanding Cooperation**

*Michael Harari, former Israeli ambassador in Cyprus*

### **Executive summary**

The topic of energy adds an additional angle to the complex and extensive relationship between Israel and the European Union. The recent discovery of natural gas in the Eastern Mediterranean Basin has created many new possibilities, including cooperation in the Eastern Mediterranean and the export of gas to Europe. Europe uses imports to satisfy most of its energy needs, so it is natural for countries to think of a way to serve both economic and political interests.

In recent years, the EU's energy policy has ranged between two strategies that challenge each other. The two strategies, adopted in May 2014, are the European Energy Security Strategy and the European Green Deal. The Green Deal of Europe has set an ambitious goal to eliminate greenhouse gas emissions by 2050.

The largest example of gas exports from the Eastern Mediterranean is the East Med Pipeline, designed to enable gas exports to Europe, although, a number of challenges have presented themselves. The current path is long and has a complicated marine topography which immensely increases the project's cost. Volatile gas prices due to the Covid-19 pandemic and changes in the global energy market make the costs rise even more. The limited quantity of gas from the Eastern Mediterranean will make up a small percentage of European energy consumption and the interests of some of the key countries in the Eastern Mediterranean are not the same. However, the practicality of alternative exportation to Europe from the Eastern Mediterranean basin is not clear and may not be feasible.

The European Energy Security Strategy stated that the main security challenge for the European energy economy is the growing dependence on imports from a small number of suppliers, with an emphasis on

Russia, so the diversity of energy sources in Europe should be a priority. The natural gas in the Eastern Mediterranean, including Israel, creates a new opportunity for Europe to diversify its energy sources, while, in the process, giving strategic importance to the region.

The gas discoveries do not satisfy all of Israel's energy needs, but they have contributed enormously towards Israel's energy independence. In addition to interests from abroad, regional interests have also developed. Israel signed agreements with Egypt and Jordan to export natural gas, although Egypt also has a strong interest in becoming a regional hub in gas exportation.


The triangular model has become a role model due to its recent successes, including the relationship between Israel, Greece, and Cyprus, as well as the relationship that was formed between Egypt, Greece and Cyprus. In addition to tripartite relationships, The Regional Gas Forum was established in January 2019 and has 8 members – Israel, Egypt, Greece, Cyprus, Italy, Jordan, the Palestinian Authority, and France – with 2 observers – the EU and the United States. The forum showcases mutual interests between the members.

The new regional structure, shaped most significantly by The Regional Gas Forum, is still in its formative stage. However, the common interests of the forum members are already visible. The cooperation does not have a connection to the Israeli-Palestinian conflict, which has played a role in nearly all, if not all, frameworks established in recent years between countries in the region and Europe.

At the same time, considerable challenges and obstacles still stand at the doorstep of all the countries in the region and for Europe.

One of the challenges is Turkey; most of the countries involved in the Mediterranean cooperation don't have a tranquil relationship with Turkey's leadership. Input from the European, American, and regional systems are required for critical thinking, with the goal of integrating Turkey into regional action. Also, tensions between Turkey, Greece, and Cyprus have the potential to escalate.

Lebanon also has the potential to threaten stability in the region. "The involvement of many external



actors in Lebanon makes it difficult". The maritime border between Israel and Lebanon is in an ongoing dispute that has the potential to escalate.

The final challenge, and the country causing a significant amount of the instability in the region, is Libya. The external players which have a hand in Libya's future include Egypt, Turkey, Russia, the United Arab Emirates, and potentially others. "The Libyan-Turkish agreement, signed at the time to demarcate the economic waters between them, well illustrates the potential for explosiveness that exists".

Moving past the looming challenges, Israel and the EU need to determine how to contend with the Mediterranean. It is important to internalize the expanding importance of the Eastern Mediterranean. The EU should view the regional system as it is, without necessarily trying to include it in other existing systems (Barcelona Process, Union for the Mediterranean). One of the most fascinating details of the cooperation growing out of the region is the lack of an existing mechanism bringing the countries together.

The possibility of natural gas exports from the Eastern Mediterranean to Europe remains in the form of the Eastern Med Pipeline project. This project has the potential to benefit all the players involved but for practical reasons may not become a reality.

Utilizing as many channels as possible for dialogue with Turkey is important in an attempt to create a peaceful, quiet region that will grow trust between all parties.

Lastly, the global climate crisis requires new avenues for cooperation between Israel and the EU. "The European Green Deal creates extensive potential for cooperation through innovative green technologies, and also can be used as a diplomatic channel to promote stability and security in the region."

## **What Goes Up Must Come Down? The Prospect of Israel-EU Relations in Light of the Psagot Case (C-363/18)**


*Prof. Nellie Munin, Law School,  
Zefat Academic College*

### **Executive summary**

Israel and the EU have complex relations, involving security, economic, regional, and international facets. The asymmetry of their expectations and political controversy arising from the Israeli-Palestinian conflict adversely affect their strong economic ties. Israel's focus, regarding the EU, is to enhance economic and trade links. Israel is isolated in an "unfriendly neighbourhood". Israel also has a large market of more than 445 million people about 300 KM from its borders. Even with the large market relatively close by, mutual trade plummeted from roughly \$49 billion to \$41.803 billion from 2018 to 2020. Although, according to 2021 data up to August, the significant drop can be explained, to some extent, by the COVID-19 pandemic (Israeli Bureau of Statistics, 2021).

Israel is a relatively small trading partner in the eyes of the EU, despite the fact that it has a few fields where it maintains a comparative advantage, including R&D ventures, aviation, space navigation, as well as the security industries. It is fairly clear that some of the interest the EU harbours in Israel is political interest. The EU wants a permanent solution to the ongoing Israeli-Palestinian conflict as part of its aspirations to become a major political player in the Mediterranean region.

The EU uses Israeli economic interest as leverage for political advancements, relying on the 2000 Israel-EU Association Agreement, which ties economic and political actions together, furthering political dialogue (arts. 2-3). In 2010, the Brita case (C-386/08) gave the prior political position a mandatory legal interpretation, with the EU exclusion of goods exported from the territories Israel captured during regional wars. Later the interpretation grew broader to include regulation on agriculture, research and development, education, sports, and other activities taking place in the territories (European Commission



2011, 2013, 2013a, 2014, 2015). There is potential for the EU to eventually move towards excluding some goods and services originating in the undisputed territory of Israel. This poses a much larger risk to Israel's economy.

Case C-363/18, the Psagot judgment was decided by the CJEU (Court of Justice of the European Union) in November 2019. It was referred to the CJEU after a preliminary ruling by the French Conseil d'Etat, which defended the French Minister of Economy and Finance's decision to require businesses based in the Occupied Territories to indicate on the labels attached to their products that they originate in Israeli settlements. The judgement of both Advocate General Hogan and the CJEU reinforced the French Minister's interpretation of Regulation 1169/2011, which supported the French demand to label products that originate in Israeli settlements.

The CJEU has the legal authority to interpret EU law, so the judgement made by the CJEU effectively turned the French practice into a mandatory practice for all EU Member States. The Psagot judgement explains the legal reasoning behind the ruling in 3 respects. First, "expanding the excluding approach to customer protection issues and deepening the origin indication to include social and ethical considerations." Second, "justifying the excluding approach on customer protection grounds." And third, "relying on non-mandatory decisions of international forums to establish the public international law status of the territories."

The Psagot case is the first time a linkage between the EU's approach towards the territories and its consumer protection regulation has been established. Links may be established either by EU legislation or by CJEU judgments. Following the Brita judgment, the EU applied its approach by explicit regulation, but not to consumer protection. Israeli applicants attempted to challenge the approach of labelling goods originating in the territories, but were ultimately unsuccessful as handled by the CJEU. After Brita, the EU decided to gradually apply legislation. This allowed the EU to select specific fields in which it wants to make a statement, avoiding areas of economic interest that are sensitive enough to endanger the entire alliance. Additionally, this approach ensures repetitive political

and media attention each time EU policy is applied to a new field. (Munin, 2015).

The CJEU and its Attorney General rejected the traditional perception regarding consumer protection regulation's role of informing customers about the link between certain qualities of the food and its origin, with a focus on health and safety information. Instead, the CJEU opted to require more information from the producer including "economic, environmental, social and ethical considerations" of the goods and services (European Court of Justice, 2019, AG Hogan, para. 38).

The economic danger implied by objecting to goods originating in the Occupied Territories is that it may potentially be extended to all Israeli products, aiming not only to exclude products from the territories but to put economic pressure on Israel to change its political position.

"Public international law rules are established either by mandatory decisions/treaty provisions or by customary law." International customs become mandatory after they have been proved to be a general practice already treated as a law (North Sea Continental Shelf Cases, 1969). The CJEU, however, doesn't have the official authority to define the international status of its territories. There is no precedent in this case because no international forum has ever given a binding decision on a similar issue. Through the Psagot judgement, the CJEU and AG are continuing to develop a method whereby they establish the international status of territories by relying on a sequence of non-binding United Nations decisions and the ICJ advisory opinion concerning the Construction of a Wall in the Occupied Palestinian Territory (ICJ, 2004).

Even without explicitly expressing the intention to establish an international custom, it is obvious that the CJEU and AG refer to the non-binding decisions "as evidence of a general practice accepted as law". If this analysis is correct, it may be very troublesome for Israel in the future. This is currently a limited initiative on the part of the EU, but other countries have acted similarly toward Israel, with less publicity.

The US-Israel Free Trade Area Agreement and the South Korea – Israel Free Trade Area Agreement exclude goods and services from the Occupied





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Territories. However, the US administration declared the “circumstances surrounding the labelling requirement are suggestive of anti-Israel bias”, additionally noting that the judgement serves the same goals as the BDS initiative, believing that “the path toward resolving the Israel-Palestinian conflict is through direct negotiations” (US Department of State, 2019). If an international custom is established, a broader international condemnation of Israeli presence in the territories could follow. Additionally, the possibility of broad economic exclusion of Israeli production from export destinations looms. This would be devastating to Israeli industries, which rely on international trade for the small domestic market and to overcome regional isolation (Eichner, 2019a; Kofman, 2014).

The Psagot judgment should concern Israeli decision-makers primarily for its long-term implications. The Psagot judgment’s effects aren’t severe, however, it could function as a stepping stone for additional challenges presented by the EU against Israel’s policy and practice regarding the Occupied Territories. The global trend of demanding greater corporate responsibility in terms of social and ethical questions is apparent in EU efforts, and the Psagot judgment presents a long-term threat to Israeli producers situated in the territories as well as to the entire Israeli economy.

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