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What Can Pro-Democracy Activists in Arab Countries Expect from the European Union? Lessons from the Union's Relations with Israel

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In this article, we analyze the European Union's (EU) approach to the Israeli–Palestinian conflict, showing that there is a wide gap between its normative opposition to the occupation, Israel's expanding settlement project, and the EU's foreign trade policy. Our argument is not only that there is no evidence of norm diffusion from the EU to Israel, but that within the EU itself there is no diffusion from the normative political stance to the EU's economic interests. The Israeli case suggests that the pro-democracy activists of Tunisia, Egypt, and Syria should be aware that the trade interests of the EU Member States will ultimately trump the EU's political declarations.

Keywords: EU Foreign and Security Policy, EU–Israeli Relations, Israeli–Palestinian Conflict, Middle East Peace Process, Normative Power Europe

INTRODUCTION

The European Union (EU) considers itself a normative power that disseminates and helps uphold universal human rights norms and values and promotes global democratization. Within the context of the Arab Awakening, it is crucial to examine to what extent the pro-democracy activists in the Southern neighborhood can rely on the EU to provide political and economic support for their cause. In other words, can the Egyptian, Tunisian, and Syrian pro-democracy movements expect Europe to adopt a proactive stance that will help ensure

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democratic governance and the protection of human rights? Or will the EU prefer policies that encourage domestic stability and risk reduction in these Arab countries at the expense of processes that may be unstable but may also strengthen the democratization process?

In the following pages, we contend that the European Community's (EC)/EU's approach to the Israeli–Palestinian conflict can shed light on such questions. Examining two distinct spheres—political and economic—of EU foreign relations toward Israel, we show that there is discrepancy between what has been defined as Normative Power Europe (NPE) and foreign trade. On the one hand, an examination of political statements and declarations made over the years by the EU reveals a consistent and unequivocal stance toward Israel's occupation of Palestinian territories. Virtually all pertinent EU statements characterize Israel's occupation and settlement project as both illegal under international law and as obstructing a peaceful solution. On the other hand, Israel has a preferential trade agreement (PTA) with the EU, and regardless of the developments on the ground, trade between the EU and Israel has carried on unhindered. We accordingly maintain that if the Israeli case serves as any indication of what may come, then the peoples of Tunisia, Egypt, Syria, and elsewhere should be aware that the trade interests of the Union's Member States will ultimately trump the pro-democracy political declarations of the EU.

Following a brief summary of the scholarly literature dealing with NPE, we provide an overview of EC/EU declarations about the Israeli–Palestinian conflict over the past four decades, focusing on the Community's/Union's long-standing claim that Israel's settlement project in the West Bank contravenes international law and serves as an obstruction to peace. We then go on to show that these normative declarations have had no tangible impact on the expansion of the Israeli settlement project. Next, we outline the trade agreements the EU has signed with Israel over the years, showing that, on the whole, there is a dichotomy between the reproachful political declarations and the growth of the settlement project on the one hand, and the preferential and free trade agreements on the other. We then examine more closely two incidents in which the EU took extraordinary steps to convey its displeasure with Israel's policies in the Palestinian Occupied Territories but show that also these steps had no perceptible effect on trade. We conclude by arguing that NPE has little, if any, impact on foreign affairs, and that its role is, in essence, internal, i.e., to help with the European identity-building process in consolidating the collective identity of the 27 EU Member States. Therefore, those seeking change in the Southern neighborhood can depend on Europe's declaratory support, but not much more.

NORMATIVE POWER EUROPE

In the early 1970s, Francois Duchêne argued that Europe represented a civilian rather than a military power, defining *civilian* in social, normative, and

economic terms.¹ Thirty years later, Ian Manners coined the term *Normative Power Europe*,² arguing that the EU's role is to promote democratic and human rights values worldwide.³ Manners wanted to emphasize the ideational impact of the EU by underscoring "cognitive processes, with both substantive and symbolic components."⁴ The EU, he went on to argue,

has gone further towards making its external relations informed by, and conditional on, a catalogue of norms which come closer to those of the European convention on human rights and fundamental freedoms (ECHR) and the universal declaration of human rights (UDHR) than most other actors in world politics. The EU is founded on and has as its foreign and development policy objectives the consolidation of democracy, rule of law, and respect for human rights and fundamental freedoms (TEU, art. 6, art. 11, and TEC, art. 177).⁵

Manners's intervention has generated a fruitful debate. Whereas some scholars have argued that the EU effectively spreads values through its relations with states around the world,⁶ others have contended that the EU's normative potential is limited by a lack of consistency in EU foreign policy.⁷ Some studies have attempted to demonstrate how the promotion of norms and values is subordinate to material interests of Member States.⁸ Klaus Brummer argues, for example, that although norms have a significant role to play in the Union's sanctions policy, they are often undermined by strategic or economic interests, as the cases of China and Russia suggest.⁹

Along similar lines, other studies demonstrate that the EU's security interests trump its normative position. Tomos Powel Brieg¹⁰ has shown how potential actors in the Tunisian democratization process were ostracized by the EU in the name of stability, while George Joffé¹¹ has examined specific actions undertaken in cooperation with South-Mediterranean partners to show that normative objectives of the EU's policies turned out to be essentially rhetorical in nature and subordinate to the Union's security agenda. Others have argued that these contradictions weaken the effectiveness of the EU's policies on the ground.¹² Using the state-building process in the West Balkans as a case study, Gergana Noutcheva¹³ has maintained that the EU's inconsistency opens up political space for domestic actors in the Western Balkans who are reluctant to comply with the EU's conditions and allows them to contest the EU's policies on normative grounds.

Focusing on the Israeli–Palestinian context, Michelle Pace¹⁴ has argued that EU normative power has thus far been ineffective, while Nathalie Tocci¹⁵ has underscored the increasing divergence between EU's rhetorical normative goals and the Union's conduct on the ground. In what follows, we corroborate Tocci's¹⁶ assertions by focusing on the gap between the EU's political declarations and its trade practices. We go on to argue that although NPE is presented as a central component of foreign policy, it is actually directed toward the "EU's relations with its Member States"¹⁷ and has little impact on the EU's

external policy. Insofar as NPE's major function is to help fuse the collective European identity of the 27 Member States, and does not really influence on the rights-abusive practices of non-EU Member States, the pro-democracy activists in the Arab countries cannot depend on proactive EU support in the democratization process.

EU'S NORMATIVE POSITION TOWARD ISRAEL

Following the 1967 War, EC Member States strove to carve out a common stance toward the Middle East conflict, independent of the United States and the Soviet Union. The Middle East was high on the Community's agenda, and eventually led to the formulation of the so-called *Schuman Secret Report on the Middle East*. The Report, drafted in 1971, outlined six principles: (i) the establishment of demilitarized zones, in which international forces would be stationed; (ii) an overall Israeli withdrawal from occupied territories with minor border adjustments; (iii) the internationalization of Jerusalem; (iv) the postponement of conclusive solution regarding the sovereignty of East Jerusalem; (v) the choice for the Arab refugees of either returning to their home or being indemnified; (vi) the approval of the Gunnar Jarring Mission.¹⁸ The Schuman Secret Report became an important landmark, not only because it represented the Community's first effort to forge a common position on the Arab–Israeli conflicts but also because the principles that it laid out served as the framework for subsequent Community/Union declarations.

The first *public* European Political Cooperation (EPC) declaration on the Arab–Israeli conflict was issued on 6 November 1973, following the October War.¹⁹ In that declaration, the nine EC Member States underscored that a peace agreement should be based on the following parameters: the inadmissibility of the acquisitions of territory by force; the need for Israel to end the occupation; respect for the sovereignty, territorial integrity, and independence of every state in the area and their right to live in peace within secure and recognized boundaries; and recognition that in the establishment of a just and lasting peace account must be taken of the legitimate rights of the Palestinians. The 1973 War and the subsequent oil crisis also led to the launching of the Euro–Arab Dialogue (EAD). In statements made within the framework of the EAD, EC Member States called for a halt to the construction of Israeli settlements in the Occupied Territories and expressed their opposition to unilateral initiatives that would change the status of Jerusalem.²⁰

After Prime Minister Menachem Begin and his Likud party came into power in May 1977, the Community drafted a new declaration. Meeting in London on 29 June 1977, the nine Member States affirmed in language reminiscent of the November 1917 Balfour Declaration “their belief that a solution to the conflict in the Middle East will be possible only if the legitimate right of the Palestinian people to give effective expression to its national identity is

translated into fact, which would take into account the need for a homeland for the Palestinian people.” The Nine further declared that “it is not through the acquisition of territory by force that the security of the states of the region can be assured.”²¹

The Venice Declaration of 13 June 1980 took the London Declaration a step further, asserting that “The Palestinian people [. . .] must be placed in a position, by an appropriate process defined within the framework of the comprehensive peace settlement, to exercise fully their right to self-determination.”²² The Member States stressed that “they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the city’s status should guarantee freedom of access for everyone to the holy places.” In addition, the Nine noted that the Community “is deeply convinced that the Israeli settlements constitute a serious obstacle to the peace process in the Middle East. The Nine consider that these settlements, as well as modifications in population and property in the occupied Arab territories, are illegal under international law.”²³

The 1980s gave way to a stream of declarations on the conflict, which became more forthright in their endorsement of the right of the Palestinians to self-determination. With the demise of the Soviet Union in the early 1990s, Israel absorbed a massive wave of Soviet Jewish immigration. Many of these Soviet Jews were encouraged to move to Israeli settlements in the Occupied Territories. While the EC supported the right of Soviet Jews to immigrate to Israel, the now Twelve insisted that “this right must not be implemented at the expense of the rights of the Palestinians in the occupied territories.”²⁴

The EC’s position toward Israeli policies in general and the settlement project in particular rendered it suspect among Israeli decision makers. After the signing of the Oslo Accords in September 1993, the recently established EU signed Association Agreements (AA) with both the Israelis and the Palestinians. In so doing, it acquired a direct material interest in ensuring that progress was maintained in the Middle East Peace Process. As the Oslo Process unfolded, however, the EU became increasingly critical of Israeli policies, particularly of the ongoing construction in the settlements and the transfer of Israel’s citizenry to the Occupied Territories as well as of the economic restrictions imposed on the Palestinian territories.

Following the collapse of the peace process in 2000, the EU endorsed calls for the convening of an international conference to bring the Israelis and the Palestinians back to the negotiating table. The June 2002 Seville Council of Ministers detailed the Union’s position on the conflict: “The objective is an end to the occupation and the early establishment of a democratic, viable, peaceful and sovereign State of Palestine, on the basis of the 1967 borders, if necessary with minor adjustments agreed by the parties. The end result should be two States living side by side within secure and recognised borders enjoying normal relations with their neighbours.”²⁵

As we have shown, ever since the Schuman Document the EU has been consistent in its opposition to Israeli settlements, considering them illegal under international law and in contravention of the Fourth Geneva Convention, which prohibits an occupying power from transferring its citizens from its own territory to occupied territory. Along similar lines, EU Member States have never recognized Israel's annexation of East Jerusalem in 1967 and have consistently warned Israel against taking unilateral measures that would alter the character of the city. For the Union, the key to resolving the Israeli–Palestinian conflict lies in the establishment of a Palestinian state with Jerusalem as its capital.²⁶

ISRAEL'S SETTLEMENT PROJECT

Parallel to the EU's normative position regarding Israel's occupation of Palestinian territories, but in an inverse relation to it, the Israeli government set out to create facts on the ground that would preclude the withdrawal from the territories it captured in the 1967 War. Immediately following the war, Israel began moving military bases into the West Bank and Gaza Strip. While some of these bases were used for training, others were *Nahal* outposts. *Nahal* is the Hebrew acronym for *Noar Halutzi Lohem* (Fighting Pioneer Youth) and refers to military brigades that combine active military service with civilian service. Well before the occupation began, the *Nahal* introduced a practice whereby it erected military outposts on Israel's frontiers and gradually converted these outposts into civilian agricultural communities. Following the 1967 war, most *Nahal* outposts were built in the territories that had been occupied—the West Bank, Gaza Strip, Golan Heights, and Sinai Peninsula—and in due course, many of these were converted into civilian settlements.²⁷ Three military outposts of this kind were established in the Jordan Valley already in 1968—Argaman, Kalya, and Mehola—and later these outposts, just like several others, became civilian communities.²⁸

Simultaneously, the Labor government allowed religious Jews, whose desires and interests were shaped by the messianic ideology of a Greater Israel, to establish a few settlements. On 24 September 1967, just three months after the occupation began, it approved the establishment of Kfar Etzion, located south of Jerusalem on the road to Hebron.²⁹ A few months later, a group of religious Jews occupied a building in Hebron's Park Hotel in an attempt to establish a settlement in the midst of the Palestinian city. Although after several weeks, the government removed them from the hotel, the settlers were given weapons and allowed to reside in a military compound just outside the city, where they stayed until 1970, when a governmental committee decided to allow them to build the settlement Kiryat Arba on Hebron's outskirts, which is right in the center of the southern part of the West Bank. By the end of 1977, a decade after the occupation began and a few months after Labor lost

the national elections to Likud, there were already 38 settlements in the West Bank, which comprise one third of all the settlements today.³⁰

Shlomo Gazit, the first Coordinator for Government Activities in the Occupied Territories, describes the logic that informed Israel's policies during the early years.

From the first days of Israeli rule in the West Bank and the Gaza Strip, it was clear the Israeli settlements in the Territories in general, and especially in the densely populated areas, had far-reaching political implications. These settlements were designed to establish a new reality that would influence the future political solution [. . .]. It was clear that building civilian Israeli settlements was a political statement comparable to the Knesset decision in June 1967 to annex East Jerusalem: the settlements were built in places from which Israel had no intention of withdrawing.³¹

By 1991, when the Madrid talks began and Israel accepted the "land for peace" formula, there were 89,000 settlers in the West Bank (excluding East Jerusalem). Interestingly, twenty years later, this number more than tripled, reaching 311,000 in 2010. It is important to note that the major increase in population during this period was *not* the result of natural growth (births minus deaths), but rather the result of the migration of Jews across the Green Line. A study carried out by Gordon and Cohen³² reveals that about half the Jewish settlers (approximately 150,000) currently living in the West Bank either migrated or are the offspring of those who migrated to the region after peace negotiations began. For the EU, Israeli settlement building is creating the geography of a single state. Israel's continued construction in the settlements is accordingly viewed by EU leaders as a sign of its bad-faith and as undermining the prospects for peace.

Two points need to be emphasized. First, even though subsequent Israeli governments have tended to present the settlers as contrarians, in practically every single case the government and settlers have cooperated with each other, with the government actually providing assistance to the settlers.³³ Second, it is often assumed that the right-wing Likud government began the settlement project in order to preclude the possibility of withdrawing from the Occupied Territories. In reality, however, there has been little difference between Labor-led and Likud-led governments. According to Gordon and Cohen, Jewish net migration is not related to the government coalition in Israel, nor is the total settler population (see Fig. 1).³⁴

In sum, the EU's normative stance vis-à-vis the settlements has been both consistent and coherent even as Israel's settlement project has continued to expand unhindered. This fact puts into question Manners's claim³⁵ about norm diffusion, since there is no concrete evidence that EU norms have been successfully diffused toward Israel's policies in the West Bank. Just as interestingly, it appears that the EU has done nothing to bring these norms to bear on its

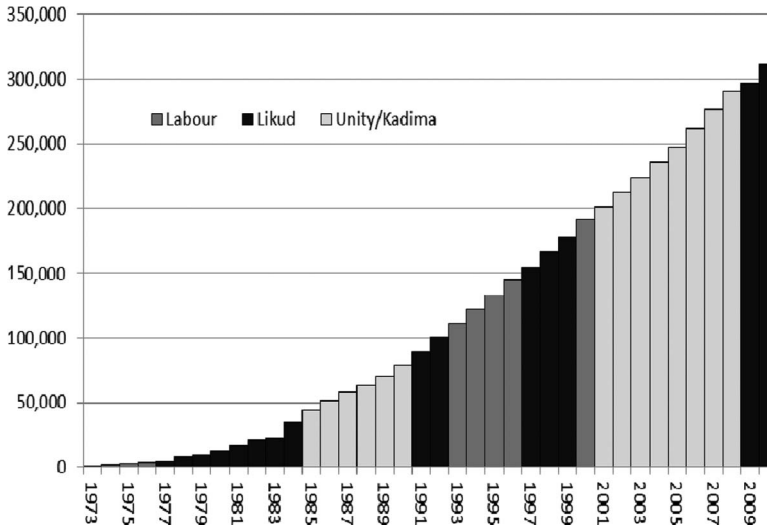


Figure 1: West Bank population growth and Israeli coalition governments.

own policy toward Israel and the Middle East Peace Process. This becomes apparent once one examines EU–Israeli trade relations and is a potentially extremely important for the Arab pro-democracy activists in Europe’s Southern neighborhood.

EU-ISRAELI TRADE

Examining the trade agreements between Europe and Israel reveals a closely knit relationship spanning half a century. The first trade agreement between the EEC and Israel was signed in June 1964.³⁶ It was a non-preferential one. Precisely three years after the 1967 War, in June 1970, a five-year preferential trade agreement was signed. This agreement was part of a more general Community Mediterranean policy that involved nine bilateral agreements with such countries as Cyprus, Egypt, Lebanon, Malta, Morocco, Portugal, and Tunisia. A year and a half after the November 1973 Declaration, in which the EC underscored both the national right of the Palestinians and the illegality of Israel’s settlement project,³⁷ the Community and Israel signed (May 1975) their first Free Trade Area (FTA) agreement.³⁸ Thus, during the first decade after the 1967 War, as Europe formulated its normative position vis-à-vis the Israeli–Palestinian conflict, it signed trade agreements with Israel that did not reflect Europe’s dissatisfaction with Israel’s policies in Occupied Territories.

The 1975 trade agreement remained in effect until the Euro-Mediterranean Partnership (EMP or Barcelona Process) was launched in 1995.³⁹ The fact that the EC did not upgrade the 1975 agreement for twenty

years has led some to attribute this lag to European disapproval with progress in the Middle East Peace Process, in general, and with Israel's settlement construction and rights-abusive policies, in particular. To buttress the claim, they point out that the agreement on the 1995 trade framework with Israel followed the 1993 Oslo Accords that marked a historic breakthrough in Israeli–Palestinian relations.⁴⁰ This claim has a certain normative appeal, but it would have been more compelling had the EC signed during this interval new trade agreements with other Mediterranean parties. But it did not. Indeed, it was only after the Maastricht Treaty entered into force and the EU was formed that negotiations for new trade agreements between the EU and its Mediterranean partners were initiated. And while the “Oslo spirit” may well have acted as a catalyst for the signing of the EC-Israel 1995 Association Agreement (AA),⁴¹ a comparative outlook reveals that this agreement was not an isolated event but rather part of the broader EMP process, a process that propelled and governed the upgrade of trade agreements with all Mediterranean partner countries at the time.⁴² In other words, the broader historical and political context suggests that progress in the Israeli–Palestinian relations, played at best only a tangential role in the upgrade of an EC-Israeli trade agreement.

An instrument of the Barcelona process, the AA created new provisions for the liberalization of services, adopted new rules for the movement of capital, simplified trade conditions, established the free movement of goods, and included Israel as a full member of the Union's Framework Programme for Research and Technological Development (FP).⁴³ The AA also put in place a framework for ongoing political and parliamentary dialogues and established an institutional structure that includes an Association Council at the Foreign Minister level, an Association Committee at Senior Officials level, 11 sub-committees, and a dispute settlement mechanism.

Simultaneously, peace negotiations formally continued through late 2000. But on the ground, as the EU was well aware, Israel was carrying out policies that contravened the “land for peace” formula, and which the EU has maintained constituted not only a grave violation of both international humanitarian and human rights law but also undermined any future peace agreement between Israelis and Palestinians. Nevertheless, the EU proceeded to advance the AA and deepened economic cooperation with Israel. Indeed, its EU normative position and declarations notwithstanding, the EU went ahead with deepening trade relations with Israel even in the absence of peace talks and the continued expansion of settlement construction.

In terms of numbers, from 2002 until the global economic crisis of 2008, exports from Israel to the EU surged from \$7.88 to \$17.79 billion while imports from the EU to Israel also rose from \$13.91 billion in 2002 to \$22.51 billion in 2008.⁴⁴ The steep growth can be explained in large part as resulting from the 2004 European Neighborhood Policy (ENP) and the adoption the EU–Israeli Action Plan (AP).⁴⁵ This is all the more remarkable since, in contrast to the

AA, the AP does in fact emphasize concrete political issues and calls on the two parties to intensify political and security cooperation, introduce a significant element of economic integration, boost socio-cultural and scientific cooperation, and share responsibility in conflict prevention and resolution.⁴⁶

NEGATIVE CONDITIONALITY

Over the years, scholars and politicians have claimed that the EU has adopted forms of negative conditionality designed to encourage Israel to change its policies in the Occupied Territories. Two cases that have been discussed in this context are the EU's decision to implement the rules of origin clause in the 1995 AA⁴⁷ and the suspension of the upgrade process following Israel's 2008–2009 winter campaign against Gaza.⁴⁸ A close look at these two cases reveals, however, that they have had no tangible impact on trade between the EU and Israel.

RULES OF ORIGIN

Rules of origin (ROO) concern the identification of the “nationality” of a product for customs purposes. ROO are divided into two types: non-preferential and preferential. While the former are connected to enforcing trade remedies of a general nature (such as anti-dumping and countervailing duties, as well as for compiling statistics on global trade flows), the latter are used exclusively within PTAs to determine which goods are eligible for a reduced tariff rate within a free-trade area. ROO appear in practically all PTAs and are used primarily to prevent trade deflection—a situation in which a third country not party to a PTA ships a product through a country which is benefiting from the lower tariff and thus illegally enjoys a custom reduction.

The Fourth Protocol to the 1995 EC-Israel AA specifies the origin criteria for different categories of products. Goods are considered originating in Israel if (1) they are “wholly obtained in Israel”; or (2) are products obtained in Israel which contain materials not wholly obtained in Israel, provided that these materials have undergone sufficient processing in Israel within the meaning of the Fourth Protocol.⁴⁹ Although the stipulations regarding ROO are well defined in the Fourth Protocol, the AA does not provide a specific definition as to what constitutes the “territory of the State of Israel.” The EU signatories to this agreement, however, consider the “territory of the State of Israel” as the area within the borders determined by the 1949 armistice agreements (this is the territory that Israel held before the 1967 war). Thus, in May 1998, the European Commission concluded that exports originating in Israeli settlements in the Occupied Territories did not qualify for preferential treatment under the terms of the AA and any origin certificates issued by Israel for

goods produced in Israeli settlements contravened the AA's protocol on rules of origin.⁵⁰

Israel initially rejected the application of the rules of origin on goods produced in West Bank settlements and Golan Heights. The discussions between Israel and the European Commission on the rules of origin dispute were often long-winded, and the nature of the dispute quickly transformed from an economic–legal issue into a high-profile political dispute. Nonetheless, in 2001, the Commission decided to ensure a proper implementation of the AA in order to protect the Union's customs revenues and clarified its 1997 first notice to European importers⁵¹ by publishing a second notice warning European importers that admitting products originating from Israeli settlements with preferential treatment into the Union's markets might give rise to a customs debt.⁵²

Israel finally succumbed to European pressure on this issue. Thus, in December 2004, following a proposal by then-Israel's minister for industry, trade, and labor, Ehud Olmert, the EU–Israel Joint Cooperation Committee adopted a “technical arrangement” to the rules of origin dispute that purported to draw a clear distinction between goods produced in Israel and those produced in the Occupied Territories. Under the terms of this arrangement, products from the Occupied Territories were to continue to be labeled as “made in Israel,” but Israel was now also obligated to indicate on all origin certificates the precise location of production of the goods, together with their postcode.

Accordingly, on 1 February 2005, a new notice was issued to customs operators, informing them that products produced in Israeli settlements would not be applicable for preferential treatment and that the full rate of customs duty should be applied on the concerned products.⁵³ More recently, this Union's normative stance on Israel's occupation policy acquired a legal foothold via the European Court of Justice (ECJ). In February 2010, in a landmark judgment—*Brita GmbH v. Hauptzollamt Hamburg-Hafen*⁵⁴—the ECJ held that Israeli products originating in Israeli settlements in the West Bank do not fall within the territorial scope of the AA. Therefore, those products could not be imported into the Union duty-free, unlike Israeli products manufactured within the pre-1967 borders.⁵⁵

In another paper,⁵⁶ we analyze the impact of the implementation of the ROO on the industry in the Occupied Territories as well as on Israel's economy, showing it to be negligible. Of the 136 companies that export goods from the Occupied Territories to the EU, only 35 have headquarters in the Occupied Territories, while the rest have headquarters in Israel and a few in Europe. Since many of the companies based in the Occupied Territories also have outlets or plants inside Israel (at times, in fact, the manufacturing process of the exported good takes place in both Israel and the Occupied Territories), they can use their Israeli address for purposes of exporting settlement goods to Europe and thus bypass the ROO. Furthermore, Israel has established a

compensation mechanism for Israeli exporters from the settlements whose exports were refused preferential status by the Union's customs authorities, and reimburses the seven percent customs duty, thus ensuring that none of the companies will incur additional costs due to the implementation of the ROO. In 2011, the money allocated to the fund was only \$3 million, which suggests that the exports from the Occupied Territories to the EU was slightly more than \$40 million. To put this number in perspective, Israel's total exports to the EU that year were just under \$13 billion excluding diamonds.⁵⁷

Another reason for the lack of impact of the ROO involves the specific "technical arrangement" the EU hammered out with Israel in December 2004, whereby the products originating from the Occupied Territories continued to be labeled "made in Israel." In this way, potential consumer boycotts on products was deflected. Given the above, it is not surprising that only two out of 136 Israeli companies in the Occupied Territories have actually moved back to Israel.⁵⁸ Hence, if negative conditionality was indeed part of the EU's objective in imposing the ROO, it does not seem to have been effective.

SUSPENSION OF THE UPGRADE PROCESS OF EU-ISRAELI RELATIONS

Another event that could have had an impact on trade relations was Israel's 2008–2009 winter offensive in the Gaza Strip and the EU's decision to suspend the intended upgrade process of EU–Israeli relations. In June 2008, a few months before Israel launched Operation Cast Lead in the Gaza Strip, the EU–Israel Association Council decided to intensify EU–Israeli relations within the framework of the ENP in three main areas: diplomatic cooperation; Israeli participation in European agencies, working groups, and programs; and Israel's integration into the European Single Market.⁵⁹ In December 2008, the EU External Relations Council in Brussels reaffirmed its determination to upgrade bilateral relations and issued the Brussels Guidelines for Strengthening Political Dialogue Structures with Israel.⁶⁰ In order to implement this political decision, the EU and Israel agreed to finalize negotiations reviewing the content of the AP, with the aim of adopting a new legal document to replace the original AP.

Two weeks after the Brussels meeting, however, Israel launched the military campaign. Europe was outspoken in its criticism both of the fighting and of Israel's subsequent economic blockade of Gaza, and led the international call for the end of the siege. Before too long, the upgrading of EU–Israeli relations was effectively frozen. The most formal reference to this development came at the ninth meeting of the EU–Israel Association Council in June 2009, when the EU declared that the upgrade process needed to be seen in the broader context of sustained progress toward a resolution of the Israeli–Palestinian conflict and

that “at this stage the EU proposes that the current Action Plan remain the reference document for our relations until the new instrument is adopted.”⁶¹ Recognizing the setback in its relations with the EU, Israel has since redefined its hopes for an “update”—rather than an “upgrade”—process. During the tenth meeting of the EU–Israel Association Council, the EU reacted positively to the Israeli “update process” proposal and declared that it “is prepared to further explore with Israel the opportunities still offered by the current action plan in a number of sectors and policy areas, on which progress can be achieved in 2011 [. . .] and pursue technical talks in order to identify areas for future potential cooperation.” During the eleventh meeting of the EU–Israel Association Council, held in July 2012, the parties “updated” and de facto upgraded their relations in 60 concrete activities and in over 15 specific fields.⁶²

From an economic standpoint, the suspension of the upgrade has been inconsequential. As Figure 2 shows, the ENP acted as a catalyst in boosting EU–Israeli trade relations until the 2008 economic crisis, which led to a sharp decline in trade. A comparison with other EU trading partners that have similar agreements and/or trade similar goods and services reveals a similar decline in trade in 2009, suggesting that Operation Cast Lead was not a factor.⁶³ Moreover, trade rebounded already in 2010. Since trade numbers always reflect a certain time lag, its rapid revival in 2010 corroborates the claim that Israel’s 2008–2009 winter offensive in the Gaza Strip had no influence on European trade relations with Israel.

In sum, the two instances of negative conditionality—often used to support claims about EU’s normative power—appear not to have had tangible effect on trade. This is all the more significant given that the EU is Israel’s largest source of imports and exports. In 2011, 34 percent of Israel’s imports (excluding diamonds) came from EU Member States and 33 percent of its exports (excluding diamonds) went to EU markets.⁶⁴ And while Israel ranks 26th among the EU’s trading partners, it is one of the EU’s strongest trading partners in the Euro-Mediterranean area.⁶⁵

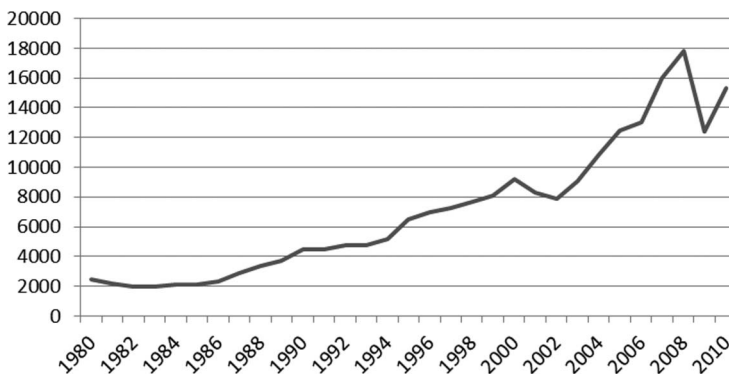


Figure 2: Israel’s exports to the EU (in millions of dollars). Source: Israel Central Bureau of Statistics.

Table 1: European donations to Israeli human rights NGOs by area of focus.

Total	Israel	Occupied Territories	Year
\$6,098,150 87%	\$3,851,510 76%	\$2,246,640 96%	2008
\$6,810,106 80%	\$4,390,743 65%	\$2,419,362 91%	2009

Note. The NGOs used for the sample are PCATI: Public Committee Against Torture in Israel; Rabbis for Human Rights; Physicians for Human Rights, Israel; B'tselem: The Israeli Information Center for Human Rights in the Occupied Territories; Adallah: The Legal Center for the Arab Minority in Israel; HaMoked: Center for the Defense of the Individual; Bimkom: Planners for Planning Rights; Women Lawyers for Social Justice.

SUPPORTING LOCAL HUMAN RIGHTS NON-GOVERNMENTAL ORGANIZATIONS

The one area in which there appears to be a link between the EU's normative position and economic relations is human rights non-governmental organizations (NGOs). In a sample of eight prominent Israeli human rights organizations (of a total population of 40), four of which focus on securing rights inside Israel and four on protecting rights in the Occupied Territories, we have found that EU Member States and non-governmental donors are by far the major funders of the human rights community in Israel (Table 1). According to the sample, in 2008 European donors provided 87 percent of all funding to human rights NGOs in Israel, and 96 percent of the funding to organizations that concentrate on Israel's rights abusive policies in the Occupied Territories. While the percentage of European donations slightly declined in 2009, according to the sample European donors nevertheless provided 80 percent of funding to all human rights organizations in Israel and 91 percent of the funding to NGOs focusing on the Occupied Territories.

These figures suggest that the human rights community in Israel is completely dependent on financial support from the EU and its Member States. They further indicate that the concrete manifestation of NPE lies in support for the field of human rights NGOs, a fact that provides some currency to Manners's claim regarding NPE. Moreover, the Israeli human rights organizations focusing on the Occupied Territories would be rendered non-existent if it were not for European financial support. One should keep in mind, however, that even though the work of these NGOs is commendable, they have not managed to stop the progress of the Israeli settlement project.

CONCLUSION

Europe's normative position regarding the Israeli–Palestinian conflict as well as Israel's settlement project has been consistent over four decades yet has had

no tangible impact on Israel's ongoing occupation and rights-abusive policies. Our argument, though, is not only that there is no evidence of norm diffusion from the EU to Israel, but that within the EU itself there is no diffusion from the normative political stance to the EU's economic interests. Hence, there is a striking gap between the EU's normative position and EU–Israeli trade relations. In a different paper, we maintain that NPE can only be upheld by and through this separation, since the separation is the reason all of the EU members are willing to subscribe to the normative standpoint and it enables the Union to speak with a single voice and uphold a clear message informed by principles of democracy and human rights.⁶⁶

The fact that NPE has had no perceptible influence on Israel's occupation and is divorced from EU–Israeli trade relations, and that, nonetheless, it continues to thrive—in the sense that the EU is insistent upon incessantly voicing its political standpoint about Israel's violation of international law while knowing full well that these declarations will have little if any influence on the ground—led us to conclude that NPE's primary role is *not* to change the situation in Israel/Palestine, but rather to influence the EU itself. The pervasive gap only makes sense once NPE is conceived as an inward operating power rather than an external one. The persistence of the EU's self-identification as a normative power despite the gap can be explained if the normative declarations' force is inward bound. We accordingly agree with Manners that the EU is committed to placing universal norms and principles *at the center of its relations* with its own Member States but disagree with his claim that this commitment extends to the world at large.

The idea that European foreign policy helps create a collective European identity is by no means new to European policy makers and scholars.⁶⁷ In December of 1973, the nine EC Member States drafted a “Declaration on European Identity.”⁶⁸ The foreign ministers underscore that Community policies with countries around the world are constitutive of European identity, pointing out that as Europe united it would take on new international obligations and define common positions toward other regions such as the Mediterranean, and that these positions would constitute its own identity as a distinct and unitary actor.⁶⁹ Thus, the nine foreign ministers vowed “to preserve their historical links with the countries of the Middle East and co-operate over the establishment and maintenance of peace, stability and progress in the region.”⁷⁰ In other words, the promotion of peace, stability, and progress in the Middle East is also part of an internal European identity-building process.

All of which leads to the pro-democracy activists in Europe's Southern neighborhood. What can they expect from the EU as they struggle to democratize their countries and to secure basic human rights for the population? The Israeli case underscores that EU foreign policy is not dictated by the Union's normative position, but rather by the trade interests of the Member States (and other factors like military concerns). Considering that repressive regimes have

been known to carry out extensive trade with Europe, it seems that the regime type as well as regime practices will have little, if any, impact on EU's policy toward it. Hence, the pro-democracy activists can expect clear and consistent statements about the need to ensure democracy and to protect human rights. They may also anticipate receiving financial support and aid for local human rights NGOs from the Member States and European non-governmental donors. Beyond this, however, they are on their own.

NOTES

1. François Duchêne, "The European Community and the Uncertainties of Interdependence," in Max Kohnstamm and Wolfgang Hager, ed., *A Nations Writ Large? Foreign Policy Problems before the European Community*, (London: Macmillan, 1973), 1–21.
2. Ian Manners, "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40(2): 235–58 (2002).
3. The idea of normative power in the international sphere was not new; indeed, as Manner's himself pointed out, it was informed by Edward Hallett Carr, who drew the distinction between economic power, military power and power over opinion. Edward Hallett Carr, *The Twenty Years' Crisis 1919–1939: An Introduction to Study of International Relations*, 2nd ed. (London: Macmillan, 1962); see also Duchêne, "The European Community and the Uncertainties of Interdependence"; Johan Galtung, *The European Community: A Superpower in the Making?* (London: Allen & Unwin, 1973).
4. The idea also followed Joseph Nye's notion of soft power, which (in contrast to Duchêne's concept of civilian power) hinges on the separation of the normative from the economic dimension. Joseph Samuel Nye, *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, 1991); Joseph Samuel Nye, *Soft Power: The Means to Success in World Politics* (New York: Public Affairs, 2004); Joseph Samuel Nye and Robert Keohane, *Transnational Relations and World Politics* (Cambridge, MA: Harvard University Press, 1972).
5. Manners, "Normative Power Europe: A Contradiction in Terms?," 239, 241.
6. Ibid.; Ian Manners, "The Normative Ethics of the European Union." *International Affairs* 81(1): 65–80 (2008); Sibylle Sheipers and Daniela Sicurelli, "Normative Power Europe: A Credible Utopia?" *Journal of Common Market Studies* 45(2): 435–57 (2007); Richard Youngs, "Normative Dynamics and Strategic Interests in the EU's External Identity." *Journal of Common Market Studies* 42(2): 415–435 (2004). See also Karen E. Smith, "Beyond the Civilian Power EU Debate." *Politique Européenne* 17(1): 63–82 (2005).
7. Simon Lightfoot and Jon Burchell, "The European Union and the World Summit on Sustainable Development: Normative Power Europe in Action?" *Journal of Common Market Studies* 43(1): 75–95 (2005); Elisabeth Johansson-Nogues, "The Non (Normative) Power EU and the European Neighborhood Policy: An Exceptional Policy for an Exceptional Actor?" *European Political Economic Review* 7: 181–94 (2007); Michelle Pace, "The Construction of EU Normative Power." *Journal of Common Market Studies* 45(5): 1041–1064 (2007); Michelle Pace, "Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean: Limits of EU Normative Power." *Democratization* 16(1): 39–58 (2009); Peter Seeberg, "The EU as a Realist Actor in Normative Clothes: EU Democracy Promotion in Lebanon and the European Neighbourhood Policy." *Democratization* 16(1): 81–99 (2009).

8. Steve Wood, "The European Union: A Normative or Normal Power?" *European Foreign Affairs Review* 14(1): 113–128 (2009); Hubert Zimmerman, "How the EU Negotiates Trade and Democracy: The Cases of China's Accession to the WTO and Doha Round." *European Foreign Affairs Review* 13(2): 255–280 (2008).
9. Klaus Brummer, "Imposing Sanctions: The Not So Normative Power Europe." *European Foreign Affairs Review* 14(2): 191–207 (2009).
10. Tomos Powel Brieg, "A Clash of Norms: Normative Power and EU Democracy Promotion in Tunisia." *Democratization* 16(1): 193–213 (2009).
11. George Joffé, "The EU, Democracy and Counter-Terrorism in the Maghreb." *Journal of Common Market Studies* 46(1): 147–71 (2008).
12. Gergana Noutcheva, "Fake, Impartial and Imposed Compliance: The Limits of the EU's Normative Power in the Western Balkans." *Journal of European Public Policy* 16(7): 1065–84 (2009); Asle Toje, "The Consensus-Expectations Gap: Explaining Europe's Ineffective Foreign Policy." *Security Dialogue* 31(1): 121–41 (2008); Pace, "Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean: Limits of EU Normative Power"; Alexander Warkotsch, "Non-Compliance and Instrumental Variation in EU Democracy Promotion." *Journal of European Public Policy* 15(2): 227–48 (2008).
13. *Ibid.*
14. Pace, "The Construction of EU Normative Power."
15. Nathalie Tocci "The Widening Gap between Rhetoric and Reality in EU Policy towards the Israeli–Palestinian Conflict" (Working Document #217, The Centre for European Policy Studies, 2005); Nathalie Tocci, "Firm in Rhetoric, Compromising in Reality: The EU in the Israeli–Palestinian Conflict." *Ethnopolitics* 8(3): 387–401 (2009).
16. *Ibid.*
17. Manners, "Normative Power Europe: A Contradiction in Terms?"; Michael Merlingen, Cas Mudde, and Ulrich Sedelmeier, "The Right and the Righteous? European Norms, Domestic Politics and Sanctions against Austria." *Journal of Common Market Studies* 39(1): 59–77 (2001).
18. Document 2/14 in Sharon Pardo and Joel Peters, *Israel and the European Union: A Documentary History* (Lanham, MD: Lexington Books, 2012), 101. Unless otherwise mentioned, all the documents appear in Pardo and Peters, *Israel and the European Union: A Documentary History*; Dr. Gunnar Jarring, the Swedish ambassador to the USSR, was appointed in November 1967 by the United Nations (UN) Secretary General to help Arabs and Israelis to reach an agreement based on UN Security Council Resolution 242. The mission failed for numerous reasons.
19. Document 2/20, 106–07.
20. David Allen, "The Euro–Arab Dialogue." *Journal of Common Market Studies* 16(4): 323–342 (1978); Haifaa A. Jawad, *Euro–Arab Relations: A Study in Collective Diplomacy* (Reading: Ithaca Press, 1992).
21. Document 2/38, 141–42.
22. Document 3/2, 156–58.
23. *Ibid.*
24. Document 3/16, 176–78.
25. Document 4/32, 274–75.

26. Document 5/48, 503–06.
27. For the use of military bases for civilian settlements and a historical account of the *Nahal* outposts, see Idith Zertal and Akiva Eldar, *Lords of the Land: The Settlers and the State of Israel 1967–2004* (Or Yehuda: Kinneret Zmora-Beitan, Dvir, 2004), 374–382.
28. *Ibid.*
29. The justification for this settlement, which was the first one, is that prior to 1948 Jews lived in Kfar Etzion and were massacred by the Jordanian Legion.
30. Neve Gordon, *Israel's Occupation* (Berkeley, CA: University of California Press, 2008).
31. Shlomo Gazit, *Trapped Fools: Thirty Years of Israeli Policy in the Territories* (London: Frank Cass, 2003).
32. Neve Gordon and Yinon Cohen, “Israeli Unilateralism and the Two-State Solution.” *Journal of Palestine Studies* 41(3): 1–13 (2012).
33. The settlers could not have built a single house and settled a family in it without government support, which has included providing infrastructure for the settlements and outposts (e.g., electricity, water, roads) and different kinds of subsidies and benefits to the settler population. Gordon, *Israel's Occupation*.
34. Gordon and Cohen, “Israeli Unilateralism and the Two-State Solution.”
35. Manners, “Normative Power Europe: A Contradiction in Terms?”
36. European Economic Community, “Accord Commercial Entre la Communauté Économique Européenne et l'État d'Israël, European Economic Community–Israel, 4 June 1964.” *Official Journal* 64: 1518 (1964).
37. Document 2/20, 106–07.
38. European Economic Community, “Agreement Between the European Economic Community and the State of Israel, European Economic Community-Israel, 11 May 1975.” *Official Journal* L 136: 3 (1975).
39. During these two decades, the EC/EU and Israel regularly updated their 1975 agreement and its protocols in a plethora of fields, but still there was no deep and comprehensive advancement of trade relations between the parties.
40. Søren Dosenrode and Anders Stubkjær, *The European Union and the Middle East* (London: Sheffield Academic Press, 2002); Sharon Pardo and Joel Peters, *Uneasy Neighbors: Israel and the European Union* (Lanham, MD: Lexington Books, 2010); Joel Peters, “Europe and the Middle East Peace Process: Emerging from the Sidelines,” in Stelios Stavridis, Theodore Coulombis, Thanos Veremis and Neville Waites, ed., *The Foreign Policies of the European Union's Mediterranean States and Applicant Countries in the 1990s*, (Houndmills: Macmillan Press, 1999), 295–316.
41. Document 4/23, 229–53.
42. Association Agreements were signed with Tunisia (July 1995), Israel (November 1995), Turkey (Customs Union, January 1996), Morocco (February 1996), Palestinian Liberation Organization for the benefit of the Palestinian Authority (February 1997), Jordan (November 1997), Egypt (June 2001), Algeria (April 2002), Lebanon (June 2002). Since May 2011, the signature of an AA with Syria has been put on hold.
43. Document 4/11, 205–10.
44. Israeli Central Bureau of Statistics Annual Reports.
45. Document 5/9, 347–73.

46. Raffaella A. Del Sarto, "Wording and Meaning(s): EU–Israeli Political Cooperation according to the ENP Action Plan." *Mediterranean Politics* 12(1): 59–74 (2007).
47. Moshe Hirsch, "Asymmetrical Factor Endowments, Progressive Rules of Origin and Commercial Cooperation in the Middle East" (Working Papers/Konrad-Adenauer-Stiftung, The Helmut Kohl Institute for European Studies – The Hebrew University of Jerusalem, 1998); Esa Paasivirta, "EU Trading with Israel and Palestine: Parallel Legal Frameworks and Triangular Issues." *European Foreign Affairs Review* 4(3): 305–326 (1999); Moshe Hirsch, "Rules of Origin as Trade or Foreign Policy Instruments? The European Union Policy on Products Manufactured in the Settlements in the West Bank and the Gaza Strip." *Fordham International Law Journal* 26: 572–94 (2002–2003); Christian Hauswaldt, "Problems under the EC–Israel Association Agreement. The Export of Goods Produced in the West Bank and the Gaza Strip under the EC–Israel Association Agreement." *European Journal of International Law* 14(3): 591–611 (2003); Lior Zemer and Sharon Pardo, "The Qualified Zones in Transition: Navigating the Dynamics of the Euro-Israeli Customs Dispute." *European Foreign Affairs Review* 8(1): 51–75 (2003); Elena Aoun, "European Foreign Policy and the Arab–Israeli Dispute: Much Ado About Nothing?" *European Foreign Affairs Review* 8(3): 289–312 (2003); Guy Harpaz, "The Dispute over the Treatment of Products Exported to the European Union from the Golan Heights, East Jerusalem, the West Bank and the Gaza Strip: The Limits of Power and the Limits of the Law." *Journal of World Trade* 38(6): 1049–1058 (2004); Guy Harpaz and Rachel Frid, "An Agreement Reached over the Treatment of Products Exported to the European Union from the Golan Heights, East Jerusalem, the West Bank and the Gaza Strip." *International Trade Law and Regulation* 10(6): 32–33 (2004); Tal Sadeh, "Israel and a Euro-Mediterranean Internal Market." *Mediterranean Politics* 9(1): 29–52 (2004); Lior Zemer and Sharon Pardo, "Justice and Foreign Affairs: Taking the European Neighbourhood Partner Countries to The European Court of Justice." *Cardozo Journal of International and Comparative Law* 14(1): 1–19 (2006); Guy Harpaz, "Mind the Gap: Narrowing the Legitimacy Gap in EU–Israeli Relations." *European Foreign Affairs Review* 13(1): 117–137 (2008).
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49. Article 2 Protocol 4, Document 4/23, 229–53.
50. Document 4/18, 222–23.
51. Document 4/16, 219.
52. Document 4/29, 269–70.
53. Document 5/12, 376–77.
54. Case C-386/08, Firma Brita GmbH v. Hauptzollamt Hamburg-Hafen, 2010 ECJ EUR-Lex LEXIS 63 (25 Feb. 2010).
55. Guy Harpaz and Eyal Rubinson, "The Interface Between Trade, Law, Politics and the Erosion of Normative Power Europe: Comment on Brita." *European Law Review* 35(4): 551–570 (2010); Sharon Pardo and Lior Zemer, "Bilateralism and the Politics of European Judicial Desire." *The Columbia Journal of European Law* 17(2): 263–305 (2011); Pieter Jan Kuijper, "The Court of Justice and Unrecognized Entities Under International Law." in *Trade and Competition Law in the EU and*

Beyond, ed, Inge Govaere, Reinhard Quick and Marco Bronckers, 257–77 (Cheltenham and Northampton, MA: Edward Elgar, 2011); Marc Maresceau, “The Brita Ruling of the European Court of Justice: A Few Comments,” in Govaere, Quick, and Bronckers, eds., *Trade and Competition Law in the EU and Beyond*, 278–289; Laura Puccio, “Understanding EU Practice in Bilateral Free Trade Agreements: Brita and Preferential Rules of Origin in International Law.” *European Law Review* 36(1): 124–134 (2011).

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60. Document 5/41, 482–85.

61. Document 5/46, 491–501.

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69. Article 9, *ibid.*

70. Article 13, *ibid.*