

## **Summary of Completed Project**

The project consists of professional articles on

(a) Exceptions to WTO and EU free trade laws on grounds of public policy or public morality and their inapplicability to restrictions on trade in products produced wholly or partly by Israelis in East Jerusalem, Judea, Samaria and the Golan

and

(b) The legality of businesses operating in or in the vicinity of Israeli communities in East Jerusalem, Judea, Samaria and the Golan

### **Topic (a): Public Policy Exceptions to Free Trade Law**

Author: Jonathan Turner, assisted by Thomas Howard

WTO and EU rules prohibit restrictions on free trade, but there are exceptions for measures justified on the grounds of public policy or public morality. Proponents of BDS claim that restrictions on trade in products produced wholly or partly by Israelis in the West Bank or Golan Heights are justified on these grounds. The article shows that these claims are not correct.

As regards WTO rules, the article shows that such restrictions are unlikely to satisfy the criterion of necessity in accordance with established case-law, and that if they discriminate against products made in territories administered by Israel as compared with territories occupied by other States, they are incompatible with the proviso in the chapeau to the WTO exceptions which precludes arbitrary discrimination.

As regards EU rules, the article shows that restrictions imposed unilaterally by an EU member state on imports into the EU contravene the exclusive competence of the EU in respect of foreign trade policy, and restrictions on cross-border trade within the EU conflict with the fundamental requirement of free movement of goods in the EU's internal market and do not fall within the scope of the exceptions for public policy and public morality as narrowly interpreted by the EU Court of Justice.

### **Topic (b): The legality of businesses operating in or in the vicinity of Israeli communities in East Jerusalem, Judea, Samaria and the Golan**

Author: Jonathan Turner assisted by Nicole Hausdorff

Proponents of BDS argue that businesses operating in Israeli settlements in the West Bank and Golan are illegal under International Law and that their products should therefore be boycotted.

This article demonstrates firstly that it is not illegal for Israelis to live in these areas and secondly that even if it is, this does not make the operation of a business in the vicinity of an Israeli community illegal. The article discusses the (non)-applicability to the operation of such businesses of Article 49(6) of the 4<sup>th</sup> Geneva Convention as well as various other provisions of International Agreements that have been invoked against the legality of Israeli settlements, taking into account decisions of British and French appellate courts.