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2025/0890 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the suspension of certain trade-related provisions of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

On 7 October 2023, the EU immediately condemned in the strongest possible terms the multiple and indiscriminate attacks across Israel by Hamas and stood in solidarity with Israel.

Following 7 October 2023, in reaction to these horrifying attacks, a new and dedicated sanctions regime against Hamas and the Palestinian Islamic Jihad was set up in January 2024.

The EU has consistently called for an immediate ceasefire in Gaza and the unconditional release of all hostages, leading to a permanent end to hostilities. This position remains unchanged.

Since the onset of the Israel/Hamas conflict in Gaza in October 2023, the humanitarian situation in the Gaza Strip has deteriorated, with insufficient aid entering to address the needs of the population. From 2 March to 18 May 2025, Israel imposed a full blockade on humanitarian aid into Gaza causing a significant deterioration of the humanitarian situation to an unprecedented and unsustainable level. Israel's ongoing military operation has led to repeated mass displacements and the collapse of basic services. Over 88% of the Gaza Strip is under evacuation order or direct military control<sup>1</sup>.

Based on UN reports, 90% of households face severe water insecurity, and malnutrition rates are rising sharply. Severe shortages of medicine, equipment, and medical staff indicate an urgent need for humanitarian assistance. On 22 August 2025, the Famine Review Committee (FRC) determined that famine (IPC Phase 5) is currently occurring in Gaza Governorate (North Gaza).

The High Representative presented to the Foreign Affairs Council of 23 June 2025 a review of Israel's compliance with Article 2 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part (hereinafter referred to as "the Agreement"<sup>2</sup>). The review concluded that there are indications that Israel would be in breach of Article 2 of the Agreement, which establishes respect for human rights and democratic principles as an essential element of that Agreement. The High Representative subsequently presented to EU Foreign Ministers an inventory of potential actions the EU could take to put pressure on Israel.

The EU has been consistently urging Israel to improve the catastrophic humanitarian situation in Gaza. As a result of this outreach, Israel agreed in July 2025 to expand humanitarian access to Gaza.

Since the beginning of the crisis the EU has allocated significant human and financial resources to address the humanitarian situation in Gaza. All major partners have been mobilised and provided with EU funding, to be able to cater the needed humanitarian assistance to the people of Gaza and of the West Bank.

The EU has also established a dialogue with the Israeli Authorities to facilitate the delivery and distribution of aid. However, the quantities allowed to be effectively distributed to the people in need remained insufficient to prevent a humanitarian crisis of catastrophic proportions.

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<sup>1</sup> <https://www.ochaopt.org/content/humanitarian-situation-update-307-gaza-strip>.

<sup>2</sup> OJ L 147 21.6.2000, p. 3, ELI: [http://data.europa.eu/eli/agree\\_internation/2000/384/oj](http://data.europa.eu/eli/agree_internation/2000/384/oj).

In light of the humanitarian situation, the President of the European Commission announced on 10 September 2025 in her 2025 State of the Union address that the European Commission considers that there is a case for the suspension of certain trade-related provisions of the Agreement.

Respect of human rights is an essential element on which the Agreement is based. More specifically, Article 2 of the Agreement provides that “[r]elations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement”. Violation of Article 2 of the Agreement amounts to a serious material breach of that Agreement which justifies its unilateral suspension by the EU. The European Union has therefore the right to respond to such a breach in a way that is proportionate and in view of promoting the end of the violations.

Article 79(2) of the Agreement provides that “[i]f either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures.” According to the same provision, those measures may be taken without further consultation in cases of special urgency. This is the case in the present circumstances, given the fast-deteriorating humanitarian situation in the Gaza Strip and the widespread famine following the military intervention of Israel, the continued blockade of humanitarian aid and the violations of human rights.

Article 60 of the Vienna Convention on the Law of the Treaties between States and International Organizations or between International Organizations provides that a “material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part. (...). 3. A material breach of a treaty, for the purposes of this article, consists in: (...) (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty. .../...”

In view of this situation, the proposed act is for the Council to adopt a Decision regarding the suspension of certain provisions of the Agreement, based on Article 218(9) TFEU. In accordance with Article 79(2) of the Agreement in conjunction with customary international law as codified in Article 60(1) and (3)(b) of the Vienna Convention on the Law of the Treaties between States and International Organizations or between International Organizations (VCLT). The Council Decision should be adopted to allow to partially suspend the Agreement on account of a material breach by Israel of Article 2 of the Agreement. The suspension should take place as a matter of special urgency, with immediate effect determined by the rapidly deteriorating humanitarian situation on the ground and the widespread famine following the military intervention of Israel, the blockade of humanitarian aid and the violations of human rights.

The trade-related provisions to be suspended comprise Title II [Free movement of goods], III [Right of establishment and supply of services] and Chapter 2, Chapter 3 and Chapter 4 of Title IV [Public procurement, Competition and intellectual property] of the Agreement, as well as all relevant Annexes and Protocols set out in the Annex to the proposed decision.

Suspending those trade-related provisions of the Agreement is an appropriate and proportionate measure in light of the humanitarian crisis in the Gaza Strip.

Once the Decision is adopted by the Council, the Union will notify the Association Council about the partial suspension of the trade-related provisions of the Agreement in writing, in compliance with Article 79(2) of the Agreement in conjunction with Article 60 of the VCLT.

- **Consistency with existing policy provisions in the policy area**

The proposal is consistent with Article 2 of the Agreement, which establishes respect for human rights and democratic principles as essential elements of that Agreement.

The proposal is, furthermore, consistent with the European Commission's proposal to partially suspend the participation of Israel in the Union programme Horizon Europe.

Finally, this proposal is consistent with Article 207(1) of the Treaty on the Functioning of the European Union (TFEU), which provides that the common commercial policy is to be conducted in the context of the principles and objectives of the Union's external action, including the universality of human rights and fundamental freedoms, rule of law and the principles of international law.

- **Consistency with other Union policies**

This initiative is consistent with the EU's external relations (including considerations of human rights and fundamental freedoms). More specifically, this proposal is consistent with Article 21(3) of the Treaty on European Union (TEU), which provides that the Union is to ensure consistency between the different areas of its external action, including the consolidation and support of human rights.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

### **Procedural legal basis**

Article 218(9) of the Treaty on the Functioning of the European Union provides for decisions "suspending the agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement."

In the present case the Commission proposes a Council decision for the suspension of certain trade-related provisions of the Agreement and hence Article 218(9) is the appropriate procedural legal basis.

### **Substantive legal basis**

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

The main objective and content of the envisaged act relate to the common commercial policy.

Therefore, the substantive legal basis of the proposed decision is the first subparagraph of Article 207(4) TFEU.

### **Conclusion**

The legal basis of the proposed Council decision should be the first subparagraph of Article 207(4) TFEU in conjunction with Article 218(9) TFEU.

- **Proportionality**

The present proposal does not go beyond what is necessary to achieve the objective pursued, namely, to [partially] suspend certain trade-related provisions of the Agreement.

Suspending those trade-related provisions of the Agreement constitutes an appropriate and proportionate measure responding to the severe breaches of Article 2 of the Agreement.

- **Choice of the instrument**

The objectives of this proposal can only be achieved by an act that suspends partially the application of the international agreement concerned. Therefore, a Council decision partially suspending the Agreement is needed.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

n.a.

- **Stakeholder consultations**

n.a.

- **Collection and use of expertise**

n.a.

- **Impact assessment**

n.a.

- **Regulatory fitness and simplification**

n.a.

- **Fundamental rights**

n.a.

### **4. BUDGETARY IMPLICATIONS**

n.a.

### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

n.a.

- **Explanatory documents (for directives)**

n.a.

- **Detailed explanation of the specific provisions of the proposal**

n.a.

Proposal for a

## COUNCIL DECISION

### **on the suspension of certain trade-related provisions of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union condemns Hamas' terrorist attacks on Israel, which have triggered a spiral of violence in the region and calls for an immediate ceasefire in the Gaza strip, and the unconditional release of all hostages, leading to a permanent end to hostilities.
- (2) The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part ("the Agreement"<sup>3</sup>) has been applied since 21 June 2000. The Agreement aims to provide an appropriate legal and institutional framework for political dialogue and economic cooperation between the Union and Israel.
- (3) Article 2 of the Agreement states that "Relations between the Parties, as well as the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement".
- (4) Article 79(2) of the Agreement provides that it is possible for a Party to that Agreement to take appropriate measures if it considers that the other Party has failed to fulfil an obligation under that Agreement and may act without further consultation in cases of special urgency and that, in the selection of measures, priority shall be given to those which least disturb the functioning of the Agreement.
- (5) As is the case with the previous Commission proposal for suspension in the context of this Agreement, these measures may be taken without further consultation in cases of special urgency, as the present one, given the fast-deteriorating humanitarian situation in the Gaza Strip following the military intervention of Israel, the blockade of humanitarian aid and the violations of human rights.
- (6) The High Representative of the Union for Foreign Affairs and Security Policy presented to the Foreign Affairs Council of 23 June 2025 a review of Israel's compliance with Article 2 of the Agreement. The review has concluded that there are indications that Israel would be in breach of its human rights obligations under Article 2 of the Agreement.

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<sup>3</sup> For greater certainty, all references to this Agreement in this Decision are references to the Agreement (OJ L147/4 of 21/6/2000) as last amended.

- (7) The Commission proposed, on 29 July 2025, the partial suspension of the Agreement between the Union, of the one part, and Israel, of the other part, on the participation of Israel in one of the Union programme Horizon Europe – the Framework Programme for Research and Innovation (European Innovation Council (IEC) Accelerator program referred to in Article 48 of Regulation 2021/695 of the European Parliament and of the Council (the ‘EIC Accelerator’).
- (8) The European Parliament has, on 10 September 2025, adopted a resolution on Gaza entitled “Gaza at breaking point: EU action to combat famine, the urgent need to release hostages and move towards a two-state solution”<sup>4</sup>.
- (9) With its intervention in the Gaza Strip and the ensuing humanitarian catastrophe, including tens of thousands of civilian deaths and rapidly rising numbers of extreme malnutrition specifically of children, Israel is violating human rights and international humanitarian law and thus is in breach of an essential element of the EU-Israel cooperation under the Agreement.
- (10) It is appropriate, in accordance with Article 79(2) of the Agreement, read in conjunction with customary international law as codified in Article 60 of the Vienna Convention on the Law of the Treaties between States and International Organizations or between International Organizations, to partially suspend the Agreement on account of a material breach by Israel of Article 2 of the Agreement, and as a matter of special urgency.
- (11) In accordance with Article 21(3) of the Treaty on European Union (TEU), the Union is to ensure consistency between the different areas of its external action. Pursuant to Article 207(1) of the Treaty on the Functioning of the European Union (TFEU), the common commercial policy is to be conducted in the context of the principles and objectives of the Union’s external action.
- (12) Suspending certain trade-related provisions of the Agreement appears as an appropriate and proportionate measure responding to the breaches of Article 2 of the Agreement. Specifically, those provisions comprise Title II [Free movement of goods], Title III [Right of establishment and supply of services] and Chapters 2 - 4 of Title IV [Public procurement, Competition and Intellectual Property] of the Agreement, as well as all relevant Annexes and Protocols set out in the Annex to the present decision,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The application of Title II [Free movement of goods], Title III [Right of establishment and supply of services] and Chapter 2, Chapter 3 and Chapter 4 of Title IV [Public procurement, Competition and Intellectual Property] of the Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part as well as all relevant Annexes and Protocols set out in the Annex to this decision shall be suspended.
2. The suspension referred to in the first paragraph shall take effect thirty days from the date of its notification to the Association Council established by the Agreement.

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<sup>4</sup> 2025/2852 (RSP).

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council  
The President*