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The EU Draws a Red Line on Israeli Settlements

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In atypical fashion, four EU member nations that are also members of the UN Security Council – Great Britain, France, Germany, and Portugal – joined forces, and on December 19, 2012 issued a statement criticizing the Israeli government decision to accelerate settlement construction in "the occupied territories." According to their statement, issued after the Security Council debated the matter earlier that day but failed (due to American opposition) to issue a joint statement of condemnation, Israel's decision sends a "devastating message." Their statement is the latest development in the current campaign that began when EU members voted in the UN to upgrade the status of the Palestinian Authority, recognizing it as a non-member observer state. This decision was met by an Israeli government announcement on expanded construction in East Jerusalem and the West Bank, leading – not surprisingly – to criticism from the EU.

Israeli government decisions on the settlements that in turn spark automatic declarations by the EU collectively and by a growing number of individual member states (that, like Germany, avoided doing so in the past) have become a familiar ritual. To date, EU members have sufficed themselves with declarations and have avoided taking any painful punitive measures (the decision about labeling products made across 1967 lines is not necessary a painful step). Israeli governments, long used to the EU response, have not been impressed or disturbed by these developments, out of the sense – based on many years of experience – that behind the declarations there is no intention to translate them into any operational substance. Thus, from the government's perspective, it is worth paying the price for its actions, namely, continued construction, meant in its view to serve the country's strategic national interests. However, given the heightened severity in the recent EU declaration and among the growing number of member states, the question arises whether there is a change in the EU's fundamental position. Considering its position that continued construction, especially in East Jerusalem, precludes a two-state solution, does the EU intend to draw red lines on the Jewish settlements that, if crossed, will result in punitive measures and real costs?

A statement issued by EU foreign ministers on December 10, 2012 emphasized: the two sides must avoid taking steps undermining trust and the feasibility of the two-state solution; the EU is deeply disappointed and strongly opposed to the Israeli plan to expand settlements in the West Bank and East Jerusalem, especially construction in the E1 area; the implementation of the plan will seriously undermine the chance for settling the conflict via negotiations; the plan endangers the chances for establishing a sustainable Palestinian state with territorial contiguity and Jerusalem as the future capital of both states; construction is liable to lead to the forcible transfer of civilian populations; as the two-state solution is a European core interest, the EU will closely follow the situation and act accordingly; the EU expresses its commitment that, in accordance with international law, all agreements between Israel and the EU are not applicable to areas conquered by Israel in 1967; and the EU stresses its commitment to ensure the full and effective implementation of EU legislation and bilateral arrangements regarding products made in the settlements.

Further on, in the first formulation of its kind, the EU expressed its fundamental commitment to Israel's security, also in the context of vital threats in the region. In the context of opposition to continued construction in the territories, the EU is trying to make the following distinction: the EU doesn't view the settlements (which it sees as threatening Israel's security because they undermine the two-state solution) as part of its commitment to Israel's security, unlike its commitment to Israel in the context of regional threats. Though not specifically mentioned, chief among these threats is presumably the Iranian military nuclear program.

A message similar in tone and content was issued by the four members of the Security Council in the name of the EU. But unlike the foreign ministers' statement, this statement focused almost exclusively on the settlements. Coming on the heels of other Israeli decisions to expand construction, the statement refers specifically to construction permits for thousands of residential units in Ramat Shlomo and Givat Hamatos and the reports of expected construction permits for Givat Ze'ev and Har Homa. Announcements on the acceleration of construction, the statement said, send a negative message and undermine the belief in Israel's willingness to conduct negotiations. At the same time, the statement contained a reference to the EU's deep commitment to Israeli security, also in the context of vital threats in the region.

The EU decision to give practical expression to its policy opposing Jewish settlements across the 1967 lines is not new. The decision by the foreign ministers at their summit in May 2012 repeated the EU's commitment to apply existing legislation and bilateral arrangements with Israel on labeling West Bank products. Nonetheless, thus far it does not seem that all the members will act on this. Some of the members are (so far) reluctant to implement a step liable to lead to a boycott of Israeli products. Talks with German

government officials have indicated that Germany has no intention of implementing the May decision. Historical considerations undoubtedly play a key role in the German decision. However, it would be a mistake to view Germany's reluctance (and the hesitancy of other EU members) as condoning the Israeli government's settlement policy. Evidence of the deep disagreement between Chancellor Merkel and the Israeli Prime Minister emerged during Netanyahu's most recent visit to Berlin for consultations. The Chancellor made no effort to hide the differences of opinion when she said that the two had agreed to disagree over the settlements. This was an unusual statement on her part, but she no longer seems to bother to hide her displeasure and frustration with Netanyahu's policy on the Palestinian issue in general and the settlements in particular.

It would seem that the foreign ministers' statement is drawing a red line that, if crossed, will result in an operative decision from the EU's perspective, namely, an Israeli government decision to proceed from a declaration of intent to build in the E1 area to the actual start of construction. As the decisions and statements issued by the EU have made clear, such a step on Israel's part would mean obstructing the EU interest of the establishment of a sustainable, contiguous Palestinian state with East Jerusalem as its capital. The EU has not spelled out the nature of the step it would take and has made do with saying that "In the light of its core objective of achieving the two-state solution, the EU will closely monitor the situation and its broader implications, and act accordingly." Talks with EU officials indicate that so far no formal discussions have been held either at the working or the political echelon about the nature of the response, should Israel realize its intentions and start construction in the E1 area.

In conclusion, despite the repeated declarations on the subject, there is no correlation at this point between the worsening tone and contents on the one hand and punitive steps on the other. An Israeli decision to start building in E1 will undoubtedly be viewed as crossing a red line and will force the EU, which clarified the strategic meaning of this step, to take action that goes beyond its responses to date, such as labeling products manufactured across the Green Line or freezing the status of the EU-Israel relationship. The Israeli political leadership would do well not to assume that the "moral minority/majority" repeating its displeasure and criticism of Israel's political conduct will continue to suffice itself with declarations. Israel would be wise to reduce points of friction as much as possible instead of expanding them.