

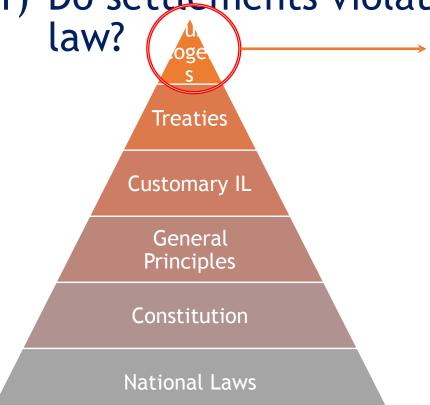
## Settlements in occupied territories and state obligations under international law



# Stopping trade with settlements is not a sanction



1) Do settlements violate peremptory norms of international



- = peremptory norms of International Law:
- Prohibition on genocide, slavery, apartheid, war crimes, acquisition of territory by the use of force
- The right to self-determination
- Fundamental norms of international humanitarian law

Goal: Protection of the fundaments of humanity & systemtic stability for a peaceful international communicty

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1) Do settlements violate peremptory norms of international law?

#### Yes:

- Obstruction of right to self determination
- Acquisition of territory by the use of force
- Violation of fundamental roles of fundamental norms of international humanitarian law
- Apartheid



- 2) Are there consequences for third states? Yes:
  - Duties of non-recognition and non-assistance
  - Confirmed in UN Resolutions & the International Court of Justice

"No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40 [violation of peremptory norms], nor render aid or assistance in maintaining that situation."



- 3) Does the duty of non-recognition include stopping trade? Yes:
  - Implicit recognition is not allowed.
  - EU does not grant settlement products preferential access because they are considered illegal under international law, but it does grant them regular market access = implicit recognition



- 3) Does the duty of non-assistance include stopping trade? Yes:
  - World trade law is clear that trade is aimed at raising standards of living and expanding the production of and trade in goods and services
  - Settlement trade does not only help maintain settlements, it helps expand them



## Stopping trade with settlements is not a sanction



#### Sanctions are:

- A 'positive' obligation
- Optional or in response to UN Security Council
- Intended to target a specific country
- Withdrawn after the violation has stopped

### Stopping trade with settlements is:

- A negative obligation (this trade should have never existed)
- An automatic and self-executing obligation of states
- Irrespective of country and time
- A general rule that does not stop after violation is halted



Evades responsibility by referring to:

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#### **Member States**

- Competence for customs and importation
- Even have the explicit right under EU law to stop imports based on public policy & public morale

### **European Commission**

- Competence for trade policy and internal market
- Has taken trade measures of relevance to territorial conflicts in the past, under its trade

competence

Obstructs the agency of

### European Council

- Competence for deciding on EU-wide sanctions
- Only relevant in case of sanctions toward the sovereign state of Israel; irrelevant for settlement trade

Obstructs the agency of



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