

T.C
MARMARA UNIVERSITY

AVRUPA BİRLİĞİ ENSTİTÜSÜ
AB SİYASETİ VE ULUSLARARASI İLİSKİLER ANABİLİM DALI

EU - Israel Relations
(2009-2016)

MASTER'S DEGREE THESIS

AMANI ASENWAR

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MARMARA ÜNİVERSİTESİ
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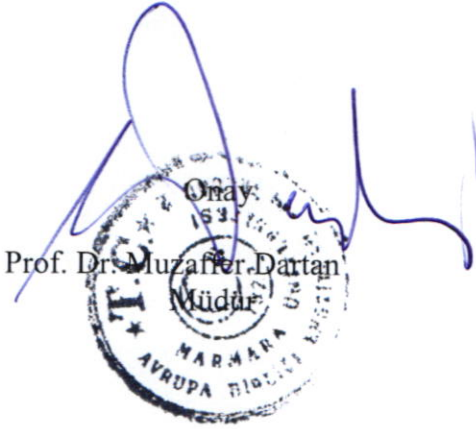
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LIST OF ABBREVIATIONS

ARIJ: Applied Research Institute in Jerusalem

AA: Association Agreement

BDS movement: The boycott, divestment and sanctions movement.

BJC: British Jewish Community

CFSP: Common Foreign and Security Policy

COREU: (In French) Correspondance Européenne

CCC: Customs Code Committee

CU: Customs union

DG TAXUD: The Taxation and Customs Union Directorate General

EC: European Community

EPC: Economic Policy Committee

EU: European Union

AP: Action Plan

EMP: Euro-Mediterranean Partnership; or Barcelona Process

ECSC: European Coal and Steel Community

ECJ: European Court of Justice

EIB:European Investment Bank

ENP: European Neighbourhood Policy

EP: European Parliament

ESS: European Security Strategy

ESM: European Single Market

FTA: Free Trade Area

GDP: Gross domestic product

GH: Golan Heights

GL: Green Line

IMF: International Monetary Fund

MCPS: Mediterranean Charter for Peace and Stability

MEPP: Middle East Peace Process

MEQ: Middle East Quartet

OPTs: Occupied Palestinian Territories

OLAF: The European Anti-Fraud Office

OPP: Oslo Peace Process

PA: Palestinian Authority

PCEC: Palestinian Central Elections Commission

PLO: Palestinian Liberation Organisation

PF: Polisario Front

RELEX: Foreign Relations Counsellors Working Group

ROO: Rules of Origin

TCU: Taxation and Customs Union

TEU: Treaty of European Union

CFSP: the Common Foreign and Security Policy

EEC: the European Economic Community

HC: The High Court

WHO: the World Health Organisation

UN: United Nations

UNGA: United Nations General Assembly

UNHCR: United Nations Human Rights Council

OCHA: Office for the Coordination of Humanitarian Affairs

UNSC: United Nations Security Council

UNCTAD: United Nations Conference on Trade and Development

UfM: Union for Mediterranean

UNRRA: United Nations Relief and Rehabilitation Administration

WMD: Weapon of Mass Destruction

WB: World Bank

ÖZET

Bu tez, AB İsrail'in yerleşimci siyasetine karşı sözel yanıtlarının ötesine geçmesi sebebiyle, AB'nin İsrail'e karşı olan politikasında yeni kaymanın olduğunu araştırmayı hedeflemektedir. AB - İsrail ilişkilerinin modelini analiz ederek, ikili ilişkilerin 2009 - 2016 yılları arasındaki gerilmesini inceleyerek, AB'nin 2015'te İsraili yerleşmelerin mallarını etiketleme kararı Tel Aviv'deki sağcı politikalara şiddetli bir ret mesajı göndermek için alınan siyasi bir karar olarak değerlendirilebilir.

Bu tez, AB'nin dış politikanın araçlarının teoresine dayanarak, ve onun işgal edilmiş veya tartışmalı/kavgalı bölgelerin malları ile alaklı ticari anlaşmalarını analiz ederek, yerleşmelerin mallarını ayırmanın AB'nin Orta Doğu'daki rolünü kurtarmayı hedefleyerek AB'nin çıkarlarını koruduğunu ve güvenlik önceliklerine hizmet ettiğini teyit etmektedir. Bu tez Avrupalı seçkinlerin AB'nin dış politikasındaki karar verme süreçlerindeki rolünü inceleyerek, etiketleme kararının AB'nin ve İsrail'in Orta Doğu'daki çıkarlarının çeliştiğini iddia etmekte. Bu kanaat anlamlı Avrupalı seçkinler arasında büyüyüp İsrail ile çelişen çıkarlar ile ele almanın şeklinde, şiddetli eleştiriden (söylem) dış politika araçlarını aktifleştirmeye (eylem) doğru, bir değişmeyi zorlamıştır.

ABSTRACT

This thesis endeavours to elaborate that there is a new shift in European foreign policy towards Israel, when the EU decided to go beyond rhetoric against Israeli settlement policy to take action. By analysing the pattern of EU-Israel relations, and studying the regression of the two sides' relations between 2009-2016, the EU decision to label Israeli settlement products in 2015 could be evaluated as a political position aimed to send a serious refusal message to the right-wing policies in Tel Aviv.

Relying on theorising on European foreign policy instruments, and analysing European trade treatments of products originated in other occupied or disputed territories, the study affirms that distinguishing settlement goods were of European interest in order to rescue its role in the Middle East, and its security priorities. By studying the role of European elites in driving the decision making process in EFP, the study claims that the labelling decision reflects the deep divergence between European and Israeli interests in the Middle East. This convention has been raised among considerable sectors of European elites in a way pushed forward to create a shift in the way they deal with interests that clash with Israel, from hard criticism (rhetoric) to activating FP tools (action).

INTRODUCTION

In November 2015, the European Commission issued new guidelines for the labelling of products that originated in illegal Israeli settlements on occupied land since 1967; namely, in the Golan Heights (GH) and the West Bank (WB), which includes East Jerusalem. This decision has angered Israel and is considered a sign of regression in EU-Israel relations. It was not the only sign, but it was an obvious one after decades of unique, advanced relations.

A few years ago, and particularly in June 2008, the EU responded positively to new Israeli requests to upgrade the two sides' relations. In December, the Brussels Council of Ministers meeting presented a series of proposals to achieve this goal (Pardo & Peters, 2010). Attempts towards upgrading relations were a further step to emphasise the already unique relations between the two sides. While Israel and the EU were preparing for an upgrade, the tension in the Gaza Strip heightened. On December 27th, Israel launched a 22-day military operation against Gaza to release its soldier Gilad Shalit, who had been detained by Hamas. The harsh Israeli military operation left more than 1,400 Palestinians dead. The EU criticised Israel for targeting civilians and the UN facilities in Gaza, and decided to suspend the upgrading talks. As a result, the two sides' relations entered a phase of regression.

Between 2009 to 2016, right-wing and far right-wing parties have dominated Israel's governments, which added a new reason for tension in EU-Israel relations. Basically, the root cause of this tension was the clash of interests between the EU and Israel in the Middle East, particularly between the EU vision in the Middle East and Israel's policies in the occupied Palestinian territories (OPTs). And it is important to mention that EU-Israel relations are composite and multidimensional and cannot grow separately from the effects and repercussions of the Middle East conflict. Thus, the Israeli-Palestinian conflict has cast a shadow over EU-Israel relations, especially in the last few years when the right-wing and far right-wing parties dominated Israeli governments and undermined hopes for peace. The policies of Netanyahu's governments since 2009 have become an obstacle to the EU's two-pillar vision in the MEPP; the two-state solution and the respect for international law.

The dominance of right-wing parties in Tel Aviv, the harsh Israeli military operation on Gaza, the extreme rise of settlement policy in the West Bank and the freeze of peace talks with the Palestinians, reflect the Israeli denial of the two-state solution, which is the main pillar of the EU vision in the Middle East. With the ongoing violence in both the Gaza Strip and the West Bank, one can say that the second European pillar was endangered too.

This study characterises the clashes in visions and interests between Israelis and Europeans as the gap widens with time. This gap emerges between EU goals and roles in the MEPP from one side, and the EU-Israel bilateral relations from the other side. It is also exacerbated by the pattern of EU-Israel bilateral relations being built on the model of a “carrot without a stick” relations. In other words, the EU grants Israel many privileges without imposing any kind of political conditionality, or commitments to respecting the EU’s role and goals in the MEPP. Therefore, this pattern undermined the European capacity to pressure Israel to sit at the negotiation table with the Palestinians or going forward with the two-state solution. Thus, the gap between EU roles and goals in the MEPP and EU-Israel bilateral relations has widened significantly. Starting with this argument, the study tries to analyse European foreign policy behaviour towards Israel in the last few years, including the 2015 labelling decision. The study argues that the labelling decisions were a shift in EU foreign policy towards Israel, in order to tighten the alleged gap. Although this shift, besides other European situations, are slight they are worthy studying as they reflect a singular European behaviour towards Israel. For the first time in the two sides’ relations, the EU shifted from rhetoric against settlement policy to action, when it decided to use foreign policy instruments in order to send a refusal message to Israel’s settlement policy. Even this decision had been issued by the Commission, the responsible body for legislation. The labelling decision was a political step rather than technical.

The European elite’s significant players in EU foreign policy making played a considerable role in order to issue the labelling decision. This is obvious by looking at the elite’s efforts and prompting Catherine Ashton and Federica Mogherini to urge them to adopt the decision. Pro-Palestinian interest groups played a role too, by building contacts with EU officials and providing reports and information on settlement policy and its effects on the MEPP.

Informational lobbying used by pro-Palestinian groups like MATTIN Group helped EU officials construct reliable knowledge about the consequences of settlement policy on the European role and presence in the region. Informational lobbying could be considered the most influential lobbying on EU foreign policy making, as it does not challenge EU legislations but pressures towards correcting its implementations and putting them in favour of EU goals.

The study adopts the liberal intergovernmental theoretical framework in analysis of EU foreign policy making process towards Israel. And following the reasons, circumstances and players behind the labelling decision that dedicated the European shift from rhetoric against settlement policy to action. The theoretical framework of liberal intergovernmentalism is a proper model to study the EFP, as it argues that the decision making process in the EU happens in a two-level game (Moravcsik, 1998, 2004). This theoretical framework paves the way to study wide variants of actors that affect EFP actions and positions at both a local and institutional level. In this framework, one can find several correlations with analytic heuristic models that theorise the EFP, and how actions and decisions are taken in EFP. In other words, one can find the similarity in classifying the EFP decision making process into two main levels of governance. Lower (or national) level within which domestic actors seek to influence the forming of national EU policy, and national decision makers, who sit at the confluence of domestic and EU currents (Bulmer, 1991). Second is the upper (or EU) level where collective decisions based on interstate negotiations are made (Bulmer, 1991). LI theory argues a similar explanation of two levels of governance. First is the domestic level within the national preference formation, which happens through dynamic interactions between domestic actors and domestic decision makers (Moravcsik, 2004). Second is the EU's level within domestic preferences , which are carried from the domestic level to the international level, and each national government tries to overcome its domestic interest during negotiations as much as it possibly can (Moravcsik & Schimmelfennig, 2004:70-71).

Proponents of liberal intergovernmentalism and rationalism could be criticised saying they underestimate the role of NSAs in the EU decision making process (Voltolini, 2012). However, other theoretical frameworks, such as constructivism, provide a more convincing view of the impact of NSAs on EFP, especially through the constructivist argument on the mutual constitution between agents (NSAs) and structures (institutions) (Rosamond, 2000). Thus, it raises the value of the socialised elites' role in the EU decision making process and particularly in adopting the 2015 labelling decision.

Chapter one analyses LI theory as a main theoretical framework of this study. It also explains some concepts of rationalism and constructivism. It tries to apply these theoretical hypotheses in the case of European foreign policy towards Israel. The chapter also analyses European foreign policy (EFP), by focusing on the two-level game model of the decision making process. It studies the instruments of EFP, and the significant actors and players in the EFP decision making process. During the theoretical explanations, the study links theoretical principles into our case study by focusing on the time period between 2009-2016.

Chapter two elaborates on EU-Israel relations and theorises the singularity and the unique pattern of their bilateral relations. It explores the bases of the two sides' relationship built up on mutual agreements and EU programs. It focuses on: The EU-Israel association agreement, European Neighbourhood Policy (ENP), the Euro-Mediterranean Partnership (EMP) and the Union for Mediterranean (UfM). The chapter clarifies Israel's preference for concentrating its relations with the EU under the umbrella of the ENP in order to benefit from the ENP nature of gaining more advantages. By this preference, Israel guarantees being free of any political conditionality regarding the MEPP, and having a tailor-made model of relations and privileges.

Concentration of EU-Israel relations under the umbrella of the ENP enhanced the "carrot without a stick" model of relations between the two sides in contrast with other EU partners. Thus, this model contributed in stripping Europeans of any pressure tools on Israel, in order to save European roles and goals in the Middle East. The dilemma of the absence of European pressure tools on Israel started to hurt and threaten the future of the European presence in the Middle East. And it became clear that European rhetoric and political

criticisms are no more effective to recuse the European role in the MEPP and the whole region. And that has been realised by considerable categories among European elites.

The third and final chapter elaborates on how Israel's policies threatened the EU role in the Middle East in the last few years. I focus on Netanyahu's policies in the OPTs and their rough effects on the EU two-pillar vision in the MEPP. Particularly, how the Israeli government kept preempting the two-state solution and violating international law in the occupied land since 1967.

The chapter also analyses European elites' conviction of the need to tighten the widening gap between EU roles and goals in the Middle East and EU-Israel bilateral relations, by making a change in the EFP towards Israel. The study argues that considerable categories among European elites pushed towards a change in the EFP regarding settlement policy. It also claims that the elites have chosen settlement policy to be the axis of the FP shift for its disastrous effect on the European role. The chapter underlines European elites' efforts to push forward the 2015 labelling decision. It also explores the efforts of MATTIN Group, as an example of interest groups role in informational lobbying among the EFP decision making process.

The study ends by highlighting that the 2015 labelling decision was a shift in EU foreign policy towards Israel, as the decision converts the European behaviour from rhetoric against settlement policy into action. In other words, the decision shifts the European concerns regarding settlement policy from the harsh criticisms (rhetoric) to threats of isolating settlements (action) not just in economic terms, but political and cultural terms. Even the 2015 labelling decision has a trivial economic impact on the settlement economy, but it has significant political and cultural effects that contribute in isolating Israel's settlement policy. The decision also clearly indicates the changes among the general mode of European elites, the most significant driver of EFP.

1. THEORETICAL FRAMEWORK: LIBERAL INTERGOVERNMENTALISM AND EUROPEAN FOREIGN POLICY

In a much talked about discussion more than fifteen years in the making, the European Commission issued new guidelines in November 2015 for the labelling of products that have been originated in illegal Israeli settlements on occupied land since 1967; namely, in Golan Heights (GH) and the West Bank (WB) which includes East Jerusalem. Issued by the Commission, the purpose of the guidelines are to “ensure the respect of EU positions and commitments in adherence to international law regarding the non-recognition of the Union of Israel’s sovereignty over those territories which have been occupied by Israel since June of 1967” (European Commission, 2015). This thesis studies the history of the labelling decision as a case study on new shifts in the EU foreign policy towards Israel. It focuses on the roots of this decision rather impact, arguing that it was an indicator to a new conviction embedded among European elites, encouraged by some interest groups then developed to an endeavour to using regulatory foreign policy instrument as a political tool to pressure Israel. It also analyses the role of non-state actors (NSAs) in this matter, from policy agenda-setting to implementations.

This chapter studies the situational and historical context of what are allegedly recent shifts in EU foreign policy towards Israel since 2009¹, by way of theoretical approaches and empirical observations. These shifts are manifested in a series of slight changes to actions, positions

¹ During the eighth Meeting of the EU-Israel Association Council which took place in June 2008, the EU responded positively to Israel’s request to upgrade their relations (General Secretariat of the Council, 2008). In the December 2008 Council meeting in Brussels, the EU reaffirm its commitment to upgrade its relations with Israel, and presented a series of concrete proposals to achieve this goal (Council of the EU, 2008). Within days, Israel has launched its operations against Gaza Strip which left more than 1,400 Palestinians dead (Washington Institute, 2014). As a result, the EU condemned disproportionate use of force by Israel, then tension between the two sides has been boosted after the election of a new Likud government in Tel Aviv which denied a future Palestinian State (CJPME, 2009). Since that time, all talks of an upgrade by the EU of its relations with Israel have been frozen (Pardo & Peters, 2010).

and declarations in bilateral EU-Israel relations, including particularly the freeze on upgrading relations between Israel and the Union, which was supposed to take place in 2009. The study focuses on the issue of labelling products which come from the Israeli settlements in the occupied territories (GH and WB) as a case study. Labelling settlement products could be an ideal case study because settlement policy is the most criticised Israeli policy by the Europeans and the international society, and it also negatively affects the EU's vision in the Middle East; especially, the viability of the two-state solution. As Israel's settlement expansion challenges EU goals and roles in the Middle East Peace Process (MEPP), Europeans have wanted to send a refusal message with a clear reference to Israel's settlement policy.

Considering that bilateral EU-Israel relations cannot be studied separately from the effects and repercussions of the conflict in the Middle East, literature on EU-Israel relations has attained relatively little attention outside of the context of the conflict and the MEPP (Pardo & Peters, 2010). This is also why this chapter mentions facts and events related to the conflict as a means to defend its stance regarding the new shifts in EU policy as they are surely and closely linked to the conflict.

This chapter first elaborates on liberal intergovernmentalism (LI) as a theoretical framework. LI is considered as one of the best theories which explains and predicts the external behaviour of the EU (Pollack, 2001). As the study lies within the area of EU foreign policy, LI provides considerable analysis of European Political Cooperation (EPC) and foreign policy (FP); relevant in part, because EU foreign policy is regarded as the most intergovernmental dimension of the EU (Zainul Abidin, 2006). Important concepts and assumptions such as the two-level system of governance, preference formation, elite socialisation, interest groups, intergovernmental bargains, domestic actors and domestic decision makers are all employed in this chapter in such a way which takes into account the linking of liberal intergovernmental assumptions with EU-Israel relations as a means to defend this thesis' arguments.

The chapter also explores several concepts for analysing EU foreign policy. It argues that evaluating EU role in the Middle East requires a "tailor-made" concept. This need has been

boosted because of the European entanglement between EU goals and roles in the Middle East on one side, and bilateral EU-Israel relations on the other. The study also relies on the “capabilities-expectations gap” argued by Hill (1993), which stated that there is a gap (i.e. contrast) between the expectation of a collective foreign policy, and the capability of common institutions to meet that expectation. It also relies on Tocci’s (2005) rhetoric-reality gap, which focuses on the contrast between EU declaratory diplomacy that criticised Israel heavily on a side, and the advanced EU-Israel relations on the other side. Accordingly, from Hill’s and Tocci’s two concepts, the study derives a new concept that refers to the widening gap between EU goals and roles in the MEPP, and bilateral EU-Israel relations. It can be argued that as this gap widens, the Union will not be able to play an effective role in the Middle East any longer. This chapter also attempts to pursue this argument. Finally, the chapter argues that the 2015 labelling decision comes as a response to the European annoyance with regard to the unprecedented widening of this gap. Given that the EU lacks the willingness or readiness to resort to “hard” policies to pressure Israel, the Union decided to use a “soft” EFP regulatory instrument.

1.1. Liberal Intergovernmentalism

The EU’s relationship with Israel is mainly conducted through the Common Foreign and Security Policy (CFSP), which was established under the Maastricht Treaty² and which succeeds the European Political Cooperation. The CFSP is regarded as the most intergovernmental dimension of the EU (Zainul Abidin, 2006). To analyse European-Israeli relations and study the new shifts in the EU foreign policies towards Tel Aviv, this study adopts Liberal Intergovernmentalism (LI) theory as its theoretical framework.

According to Andrew Moravcsik, Liberal Intergovernmentalism seeks to modernise integration theory. It is inspired by traditional schools in European integration studies that

² Maastricht Treaty or the Treaty on European Union (TEU) was signed in Maastricht on February 1992, entered into force on November 1993. It represents a new stage in European integration since it created the European Union (EU) and opens the way to political integration.

consider the EU as a unique or *sui generis* actor, particularly, by neo-functionalism³ (Moravcsik & Schimmelfennig, 2004:67). LI is considered to be more rigorous and advanced than other European Integration studies, and, Moravcsik thinks that this feature allows it to specify the motivations of social actors, and predict behaviours or dynamic effects looking at their interaction, which can be subjected to empirical tests (Moravcsik, 1998:13-14). Moreover, Moravcsik describes LI as a “grand theory” that seeks to explain the broad evolution of regional integration. It is a theoretical framework, not a narrow theory of a single political activity. It argues that one cannot explain integration with just one factor, and instead seeks to link together multiple theories and factors into a coherent approach. (Moravcsik & Schimmelfennig, 2004:68). Pollack considers LI as the most important and influential liberal theory to study European integration, and it is the best theory to study interstate cooperation (Pollack, 2001). One can also generalise the rule to the cooperation between the EU and other states.

Andrew Moravcsik (1998) divides Liberal Intergovernmentalism theory into two pillars. First, states are actors. In the case of the European Union, Moravcsik argues that the Union, like any international institution, can be studied by considering its member states as critical actors which operate in the anarchical international system. States aim to achieve their interests and gains by carrying them to the level of intergovernmental negotiations and bargaining. They protect their interests by bargaining because there is no high authority to distribute the gains by binding power or enforcing orders (Moravcsik & Schimmelfennig, 2004). In the EU, member states are the “masters of the treaty” because they enjoy high-level decision making power and political legitimacy. (Moravcsik & Schimmelfennig, 2004:68)

³ The theory of neo-functionalism emerged in 1950s. It is a theory of regional integration, for a long time it was seen as the most suitable theory to explain and predict European integration. The core of the theory is the use of the concept “spill-over”. The process of “spill-over” refers to situations when an initial decision by governments to place a certain sector under the authority of central institutions creates pressures to extend the authority of the institutions into neighbouring areas of policy, such as currency exchange rates, taxation, and wages. Later, neo-functionalism’s father Ernest Haas declared the theory obsolete after the process of European integration started stalling in the 1960s, when Charles de Gaulle’s empty chair policy paralysed the European institutions. (Rosamond, 2000:50-75).

Second, liberal intergovernmentalists argue that states are rational actors. In other words, states struggle to maximise their gains through negotiations and bargaining (Moravcsik & Schimmelfennig, 2004: 68). They calculate all the possible opportunities, study all available circumstances, and predict the expected outcomes for several alternatives, before planning their strategy accordingly. In doing so, they achieve the maximum benefit.

In other words, it is possible to explain the practical application of LI in the current context as follows: when states decide to cooperate with other actors, they define and determine their own preferences according to their interests and domestic needs. Social groups, political parties, lobbies, pressure groups and economic figures contribute to the process of forming these preferences, and then the governments arrange these demands and bring them to the international level to bargain and/or negotiate with other parties to adopt agreements, cooperate, and ensure satisfaction. These agreements create institutions or bodies that are responsible for implementation. According to Moravcsik (1998), the EU is the result of such a process. It is also possible to observe a similar process in the case of European-Israeli relations.

Moravcsik refers to the EU's liberal intergovernmental standing as follows:

EU integration can best be understood as a series of rational choices made by national leaders. These choices responded to constraints and opportunities stemming from the economic interests of powerful domestic constituents, the relative power of states stemming from asymmetrical interdependence, and the role of institutions in bolstering the credibility of interstate commitments.

(Moravcsik, 1998: 18)

According to Moravcsik's approach in LI, the core idea of LI claims that decision-making process has two different levels, and this is the core idea of LI. The first level reflects the demand side and the second level reflects the supply side (Rosamond, 2014:137). Demand side symbolises the process of forming states' preferences, and supply side symbolises international bargaining or negotiations and its tools are the outcomes of the demand side (Rosamond, 2014). As mentioned, each happens at a different level: domestic and international, respectively (Rosamond, 2014).

1.1.1. The Domestic level: Preference formation

In the domestic arena there is a wide range of domestic actors involved in the process of preference formation. However, LI treats the state as a unitary actor and focuses on the final decision made (Moravcsik & Schimmelfennig, 2004). As Moravcsik argues “state preferences are neither fixed nor uniform” (Moravcsik & Schimmelfennig, 2004:69). These preferences could vary among states and within the same state across time and according to issues according to issue-specific societal interdependence and domestic institutions (Moravcsik, 2008). This assumption explains well how recent trends in Europe created slight shifts in EU foreign policy towards Israel. These shifts are discussed below.

This theory claims that state preferences vary according to the issue at hand (the driver of the preferences). In other words, they are “issue-specific” and are shaped according to the states’ political, economic, social and cultural characteristics and interests. For example, in economic issues, the standard that drives state preferences is how to create a balance between producers’ interests and taxpayers’ interests. The economic dimension is softer in non-economic issue areas such as foreign policy. In the case of the EU, where the project is based initially on economic policies, we can notice a significant role for economy-specific issues (Moravcsik & Schimmelfennig, 2004:70). Such preference is clear in the case of relations with Israel due to the advanced economic relations between Europe and Israel. While European integration has responded to the economic interests, we can notice some types of failure in simulating European norms and ideals in the EU foreign policy. In the case of the Israeli-Palestinian conflict, this is reflected in the EU’s support for and advanced relations with Israel, which does not abide by the UN Resolutions on the conflict and which does not observe the 1967 borders. On the other hand, the Union also criticises Israel’s violations in occupied territories since 1967 (Cronin, 2011). Moravcsik’s empirical analysis confirms that the preferences of national governments of the EU member states reflect their economic interests rather than other general concerns like security or European ideals (Moravcsik & Schimmelfennig, 2004:70) which is clear in relations with Israel.

However, it is commonly thought that Israel’s close relationship to Europe is based on ideological similarities (Shaker, 2010). The theory and such tangible signals such as the

determinants of EU foreign policy, that are discussed in this chapter, tell us that economic reasons, rather than geopolitical, cultural and ideological motivations drive this relationship. It explains how mutual relations have been developed over years and how the EU became the first economic partner and the second largest market for Israeli exports (26.1 % of the export market), only excelled by the United States. Considering the EU's trade balance with Israel, one can observe that both imports and exports followed an increasing trend till 2012 (Eurostat, 2013).

While the EU's relationship with Israel's neighbours usually take the form of humanitarian or development aid, Europe treats Israel more as a partner. If one looks into GDP per capita in states of European Neighbourhood Policy (ENP) countries⁴, Israel has maintained the highest numbers by more than 27 points (Eurostat, 2013). One can notice a huge gap between Israeli numbers and the numbers of its neighbours, such as Jordan with (3.874) point, Egypt (2.283) and Palestinian Authority with (2.253) (Eurostat, 2013). That makes the EU eager to develop its relations with Israel sometimes, interpreting politics in such a way to serve economic interests, and turning a blind eye on Israel's human rights violations in the Occupied Palestinian Territories (OPTs). This shows that there is a gap between the EU policies and the European public opinion which evaluates Israel as the "country that presents the greatest threat to world peace" according to the Euro barometer poll commissioned by the EU Commission in 2003 (Eurobarometer, 2003).

⁴ ENP is a European project to work with the EU's Southern and Eastern neighbours to achieve the closest possible political association and economic integration. These goals build on common interest and values of democracy, the rule of law and human rights. ENP is regarded as a key part of the EU's foreign policy. Today there are 16 countries which are in the (ENP), 12 of the 16 are fully participating as partners: Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Palestine, Tunisia, Ukraine, Algeria (is currently negotiating an ENP action plan). Belarus, Libya and Syria remain outside most of the structures of ENP.

1.1.2. The Role of domestic politics:

On the rationality of states in LI, Moravcsik argues that rational behaviour does not emerge from “fixed preferences” but rather from “dynamic political process” in the domestic polity (Rosamond, 2000). Many factors affect this dynamic process, including the public (via the polls), political parties, interest or lobby groups, and bureaucracies. These parties’ views are transmitted, directly or indirectly, through domestic institutions and practice of political representations. The outcomes of these forked interactions are the national interests or goals that states bring to international bargaining. Understanding domestic politics is a precondition for the analysis of strategic interaction among states (Moravcsik, 1993a: 483). Specifically, Moravcsik sees that national interests emerge through three main local interactions:

1. Domestic conflict as societal groups compete for political influence.
2. National and transnational coalitions.
3. New policy alternatives recognised by governments. (Moravcsik,1993: 481).

In other words, there are a various number of players including: individuals, political parties, non-governmental organisations, big companies, public figures, political elites and other pressure groups. All of them compete in the national level for political influence. To achieve the maximum level of influence, they conclude national or transnational coalitions with other actors that share the same aims and interests. In this sphere of domestic competitive, governments keep the right of the final word, by creating policies and putting alternatives for domestic actors’ choices.

Moravcsik argues that there are three theoretical variants that formulate the nature of domestic actors and the demands they make in international politics, the nature of states and the international system (Schieder, 2014:112). Moravcsik argues that there are three theoretical variants that formulate the nature of domestic actors and the demands they make in international politics, the nature of states and the international system (Schieder, 2014:112). Those theoretical variants are: ideational liberalism (which reflects identity), commercial liberalism (which reflects interests, particularly economic interests), and

republican liberalism (which focuses on the role of institutions) (Moravcsik, 1997). These variants lead to different factors and mechanisms which impacting national preference formation and affecting a state behaviour (Moravcsik, 1997).

The first variant is social identity, which considered as a source of state preference formation. It comprises state-internal conceptions of social order and social identities. Moravcsik defines social identity as:

“the set of preferences shared by individuals concerning the proper scope and the nature of public goods provision which in turn specifies the nature of legitimate domestic order by stipulating which social actors belong to the polity and what is owed them”. (Moravcsik, 1997:525).

Liberals highlight national identity and political ideology as significant sources of legitimacy of state internal social orders (Moravcsik, 1997:525). Depending on how these political and ideational identities develop and interact within a state, one may derive hypotheses about how states behave towards each other. In other words, converging state preferences regarding ideational interests foster cooperation with other states, while divergent preferences lead to international tensions (Schieder, 2014). Here, it is important to mention how the political and social sphere after World War II (WWII) and the consensus on criminalising Hitler and Nazism influenced the European identity and led to expand this consensus to defend and support the Jewish case with high levels of sympathy and guilt towards the Jewish nation as Nazi victim. Accordingly, because EU economic and geopolitical interests with Israel converged with European ideational identity, that made it easier to embrace Israel, as a way to handle Europe’s burden of guilt (Kemp, 2014). Thus, the mutual privileged relations have developed over years. This thesis puts the impact of ideational or ideological interests in the right place, not as a stimulus itself, but as a factor which facilitates cooperation and a state foreign policy when political and economic interests converge with the ideational identity.

The second theoretical variant that formulates domestic politics according to Moravcsik (1997) is commercial liberalism, which reflects economic interests as a key source of preference formation. Liberals see that individual and collective conduct of states depend on the market incentives (Moravcsik, 1997). How states behave towards the rest of the world is

dependent on the gains and losses of social actors as result of transnational economic exchange relations (Moravcsik, 1997). Thus, national actors respond to economic demands and design politics in such a way to serve economy; because they realise that wars, sanctions, and coercive military policies are more costly than transnational exchange of goods and services. By exploring world development indicators in the case of Israel and its neighbours⁵, one can clearly see the huge disparity between them which makes Israel, in a way, the favourite partner to an economic project, in the first place. This is because, the EU seeks to access sources in the Middle East through a strong partner.

While the previous two theoretical variants of preference formation (ideational and commercial liberalism) consider preference formation process as the outcome of specific patterns of social identities and economic interests, the third theoretical variant; republican liberalism focuses on studying the initial procedures of state-internal representation (Moravcsik, 1997:530). It determines which social groups are able to incorporate their interests into the process of foreign policy preference formation, and examines the ways in which social interests are aggregated through the political institutions that are responsible of decisions making (Schieder & Spindler, 2014:113). Moravcsik determines the most political influential groups by two features: first, being the more represented within the key decision making bodies, second, being sealed off from other influences (Moravcsik, 1997). He refers to the great influence groups in which certain groups “capture” the state (Moravcsik, 1997:530) or dominant its foreign policy choices.

1.1.3. Players in the domestic EU policies

In order to understand how preferences are formed at the national member states' level, it is important to define the foreign policy actors in this arena, and understand the distribution of power and decision making between them. This study takes Bulmer's (1991) model of two-

⁵ Israel has a GDP per capita which is more than 10 times larger compared to the poorest neighbours (e.g. In 2014\ Israel's GDP per capita: 37,208.0 \ Egypt: 3,198.7\ Morocco: 3,190.3 \ Jordan: 5,422.6) (World Bank, 2014)

level bargaining⁶, as a base model to define domestic politics players and the distribution of power between them. By explaining Bulmer's model and elaborating on its weak points and criticisms, the study will focus on its own model to contribute to an increased understanding of the role of domestic players of the EU policies⁷ in the case of EU-Israel relations.

Bulmer's model of two-level bargaining supposes two levels of governance regarding the EU foreign policy making process, in each level there is a category of players; first, the lower or national level with domestic actors such as: domestic interest groups, political parties, individuals, public figures, non-governmental organisations (NGOs), etc. (Bulmer, 1991). Each of them seeks to influence national EU policy making as well as national decision makers, sitting at the confluence of domestic and EU currents. Second, the upper level or EU level which consists of national decision makers, and particularly national governments (Bulmer, 1991). At this level, collective decisions based on interstate negotiations are made (Bulmer, 1991). Bulmer (1991) sees member states and heads of governments as the masters or guardians of the foreign policy decision making process in the EU, and this is might be a reasonable hypothesis as the process is a two-level governance process (Moravcsik & Schimmelfennig, 2004:68). However, a new class of actors started to socialise into the system of the EU and compete with national governments in foreign policy decision making process. Smith E. (2000) named the appearance of this class as the process of "elite socialisation". The role of socialised elites in pushing towards labelling decision could be clearly seen in receiving information and reports on settlement products cause, arranging meetings with interests groups and experts and urging the Commission to correct the unfair implementations of EU legislations regarding settlement products.

According to Smith (2004:746), the formation of political elites in the EU decision-making process requires institutionalised networks within the EU, and the passage of time. What encourages supremacy of elites is the fact that EU member states, and even national governments are not unitary actors in the realm of foreign policy (Peterson, 1995). This raises

⁶ Bulmer (1991) uses the phrase two-tier bargaining.

⁷National EU policy refers to the national preferences in member states, related to what a member state wants to achieve at EU level.

the importance to distinguish between the two categories of super decision-makers, so to speak, which are: temporary governments, and entrenched EU officials (Smith, 2004). The absence of the second category could be regarded as a shortcoming in Bulmer's model (Smith, 2004).

A return to the categories shows that national governments and their permanent representations in EU bodies deal with high level of decisions, and typically over very general procedural and substantive goals, while entrenched lower officials (or socialised elites) prepare decisions and communicate with their EU partners on a regular basis in numerous institutionalised settings. The source of supremacy of political elites over governments comes from elites' role in the gradual internalisation of habits and common views within the structure of member states, which persist beyond individual governments (Smith, 2004).

Ginsberg (1999) also sees that the EU foreign policy's administrative structure develops in a way to limit the abilities of national governments to dominate everyday FP decision making. Hill and Wallace (1996:6) see that the establishment of the "COREU telex network⁸, EPC working groups, joint declarations, joint reporting, even staff exchanges among foreign ministers and shared embassies" had moved the conduct of national foreign policy away from the old nation-state national sovereignty model towards a collective endeavour, and this new status, relegated national governments in favour of a "cartel" of political elites (Smith, 2000:619).

Although Smith puts member states' permanent representations with national governments, sometimes these officials abandon national loyalties in favour of European interests as they realise that their interests are best served in supranational institutions rather than domestic ones (Mikkelsen, 1991:5). The same happens since political elites realise that they gain more privileges in the supranational institutions (Smith, 2000). Indeed, they transfer parts of their

⁸ Through COREU networks, EU member states exchange secure messages related to CFSP. While the assumption is generally that it issued for exchanging information, the system has allowed member states to go beyond that and to perform a vast array of functions, including decision making and monitoring of its implementations.

loyalty to a new centre at expense of national loyalty (Smith, 2000). Haas (1958) argues that this loyalty transfer leads to the establishment of umbrella organisations and puts pressure on national governments to harmonise with EU political cooperation. Lewis (2005) argues that even permanent representations follow their national policies, but they are in a different environment from the national capitals and can be subject to socialisation effects⁹. In other words, EU foreign policy outcomes can be based on the cumulative long-term impact of domestic actors and political elites rather than the results of closed deliberations of the heads of governments.

With the passage of time, the entrenched EU officials or political elites became far more familiar with competitors' positions regarding foreign policy, and they learned to value political cooperation as a way to enhance their capabilities (Smith, 2004). Despite the conventional gap between elites and public opinion, elites as a closed narrow-range of actors prevail public opinion and win in the FP decision-making competition. Unlike the case of public opinion, elites' attitudes are much more homogeneous since most of their members share a common educational and socio-economic background, and almost similar interests (Sojka & Vazquez-Garcia, 2013).

European elites seek to keep equilibrium status between two significant standards (Weiler & Wessele, 1988). The first is sharing commitment to the maintenance of the EU system and the improvement of its cohesion, functionality and stability. The second is understanding the dangers of political fragmentations (Weiler & Wessele, 1988). Since, the gap between bilateral EU-Israel relations and EU goal in the Middle East Peace Process (MEPP) has been widened, and since this gap disrupts EU efforts in the Middle East, one can argue that a political willingness will arise to tighten this gap through a new approach. This approach had been evaluated as a new shift in EU foreign policy towards Israel, as it will be discussed in the third chapter. This shift remained modest as a result of the equilibrium status that European elites try to keep.

⁹ The effects of socialised knowledge and interest among EU institutions, or the so-called entrenched EU officials (Smith, 2011) and elite socialisation (2004).

1.1.4. EU Level: Intergovernmental bargaining

The second level of decision process adopted by LI is intergovernmental bargaining. At this level, domestic interests\preferences are carried from the domestic level to the international level, in our case, to the EU level. Intergovernmental bargaining reflects interstate negotiations over a case or further cooperation (Moravcsik, 1998). LI adopts bargaining theory of international cooperation¹⁰ to explain substantive outcomes of international negotiations among states. Given that states are rational actors (Moravcsik, 1998) they overcome their domestic interests during negotiations as possible as they can (Moravcsik & Schimmelfennig, 2004:70-71).

Moravcsik (1993:498) marks three main assumptions about the particular bargaining environment in the EU. First, that interstate bargaining is a non-coercive process and member states enter into it voluntarily. It can be clearly seen that the major foreign policy decisions in the EU are taken by unanimity rather than qualified majority voting. Regarding the issues falling under the common foreign and security policy (CFSP), even if the EU member states have agreed to cooperate in the CFSP; such cooperation requires unanimous agreement of the 28 member states. Other major decisions such as decisions related to amendment of treaties, enlargement, etc, also require unanimity. The Lisbon Treaty brought several exceptions to the use of unanimity on CFSP but they are still very limited. Issues which fall into the supranational realm such as economic and social policies are decided by qualified majority.

¹⁰ Bargaining theory is a case of game theory especially when the situation is about cooperation. It seeks to answer the questions: “who gets what, where, when and how”?. The theory covers many fields of study like economy, social science, politics and international relations. The core of the theory is that the players in a bargaining situation need to reach an agreement over exactly how to cooperate. The players seek an agreement that is as favourable to them as possible. During bargaining, the players make flow of offers and counter-offers to each other, this makes the process take long time. Thus, it is expectable that the players will strike an agreement only after costly delay, or fail to reach any agreement. The theories of bargaining focus mainly on the efficiency and distribution properties of the outcomes of bargaining and this is determined by the so called actor’s relative power (Muthoo, 2000).

Second, intergovernmental bargaining takes place in an “information rich” environment, the environment is supposed to be rich of information if there is a wide knowledge about technicalities of the EU policy making, and the states have a clear idea about the preferences and the constraints on other states (Moravcsik, 1993). Given that creating an information rich environment is a prior stage of intergovernmental bargaining, it happens in the domestic level in the stage of preferences formation. Thus, it can be clearly seen how the role of interest groups that supply information is important and sensitive, not just in preparing states for bargaining but in formulating their behaviour and intention during negotiations (Bowen, 2002).

In negotiations, state behaviour is characterised by two features. First, states seek to gain suboptimal outcomes and achieve coordination or cooperation for mutual benefit. This conduct reflects the rational feature of states according to LI (Moravcsik & Schimmelfennig, 2004:71). Second, states decide how the mutual gains of cooperation are distributed among the involved states (Moravcsik & Schimmelfennig, 2004:71). Conflict over distributional gains often happens because of the conflict over collective and individual interests. In this case, states’ willingness and ability to cooperate is affected negatively (Moravcsik & Schimmelfennig, 2004:71).

Bargaining theory marks that the outcomes of international bargaining depend on the relative power of actors. LI argues that two key points play crucial role in maximising the states’ bargaining power in the EU context; First, asymmetrical interdependence, that is, the uneven distribution of benefits of a specific agreement; second, information about preferences and agreements. In other words, the actors that are least in need of a specific agreement are the best able to threaten the others and force them to make concessions (Moravcsik & Schimmelfennig, 2004). Also, the actors that have more and better information about others’ preferences and the workings of institutions are able to manipulate the outcomes to their advantage (Moravcsik & Schimmelfennig, 2004:71). Sometimes, states drift to hard bargaining processes, in this situation, powerful actors may use tools of pressure to affect negotiations and manipulate the sphere to their benefits. They can veto proposals, withhold financial aid payments and form alternative coalitions excluding insurgent governments

(Moravcsik, 1998). At the end of the negotiations, the states which end up with high gains start to compromise to realise their gains, while the states which end up with lower gains try to get some clout to impose conditions (Moravcsik, 1998:3).

Intergovernmental bargaining in the EU arena happens in both domestic and EU level (Voltolini, 2013). Moravcsik (1998) adopts the concept of the two-level games, and argues that a member state's representatives have to bargain at both the domestic and the international levels. In the context of domestic preference, member states seek to pursue their goals and get close to their preferred outcomes. Thus, the final outcomes are heavily influenced by the preferences of the most powerful states. Thus, Moravcsik's arguments lead to affirming that labelling decision was a political preference of EU member states, rather than technical arrangement. This preference also has not been adopted without the acceptance of the powerful countries in the Union, including the most pro-Israeli member states like Germany, United Kingdom and the Netherlands¹¹. And this highlights the importance of the labelling decision as a shift of EU foreign policy.

1.1.5. Informational lobbying

As Moravcsik (1993:498) claims, intergovernmental bargaining should happen in an information-rich environment, and the significant duty of EU institutions is to collect and organise information. That highlights the role of non-state actors (NSAs) such as business groups, NGOs, solidarity movements, think tanks and the media, in providing EU institutions with the required information, statistics, reports, etc. As an exchange happens when NSAs offer EU institutions certain "goods" and have access to the policy making process in exchange, given that the main exchanged goods is information, lobbying in the EU level is generally defined as informational lobbying (Bowen, 2002) (Chalmers, 2011a).

The majority of research on lobbying in the EU rests on rational-choice assumptions (Voltolini, 2013), because lobbying in this arena is understood as a relation based on an

¹¹ Germany, United Kingdom and the Netherlands almost support the Israeli positions in the UN and several international votes. Recently, they opposed a controversial decision adopted by UNESCO considering Al-Aqsa Mosque as an Islamic heritage that has no connection to Judaism.

exchange between two parties (i.e., NSAs and EU institutions) as both of them seek to achieve their demands (i.e., lobbying FP making in case of NSAs, and legitimate and satisfactory institutional tasks in case of institutions). One can argue that focusing on the rationalist approach, it is not the ideal approach to capture the role of NSAs in lobbying EU foreign policy, not just because the rationalist approach sees limited or null lobbying in this arena (Voltolini, 2013:38), but also because the idea of fixed preferences is pursued by rationalists (Rosamond, 2000), and this is completely contrary to the idea of a two-level governance in the EU policy making process. Moreover, according to the rationalist view, the influence of NSAs is exercised by the provision of information to EU policy making bodies, and the capacity to provide information is linked to the material sources that NSAs have (Klüver, 2012). For example, Klüver (2012) considers staff and money as the two determinants of the capacity of supplying information, and the NSAs with high degrees of specialisations and professionalism and flexibility granted by a decentralised structure are more likely to provide further information, and hence more likely to influence. However, it is not that simple and technical, because it is worth underlining here that EU officials would not simply adopt or “copy-paste” what NSAs provide them, and it must be a mutual relationship. This shortcoming, so to speak, sheds light on constructive perspective to help in understanding lobbying in EU foreign policy, especially in elaborating the relation between NSAs and EU officials.

Constructivism maintains that agents and structures are mutually constituted, and social interactions are a significant key to understand how actors act and create knowledge (Rosamond, 2000). In the same meaning, the interaction among NSAs and EU institutions shape the identities and preferences of both sides (Voltolini, 2013). This leads to a constructivist second assumption, as knowledge is not a result of individual cognitive processes, but develops and emerges from social interactions among actors (Rosamond, 2000). This opens the door to a notable role that NSAs would play. Finally, the third assumption states that preferences are not fixed and immutable, but socially defined by the ideas and knowledge resulting from social interactions (Rosamond, 2000), and this could be applied to the impact of NSAs lobbying on the EU.

Overall, constructivism provides an equitable view of the impact of NSAs on EU foreign policy while the rationalist approach underestimates their role. Finally, it is worth elaborating that NSAs' role in foreign policy in the EU arena has three features. The first is that it is a long-term mutual process among NSAs and EU institutions, as interest groups attempt to lobby EU officials by providing information and constructing knowledge, EU officials would not simply "copy and paste" passively what interest groups tell them, but information and knowledge would become the object of discussion, dialogue and re-construction by the parties (Voltolini, 2013). Secondly, NSAs are also influenced through interaction with EU officials, as they would adapt their strategies to harmonise with the rules and practices of EU institutions (Coen & Richardson, 2009). In other words, interest groups' behaviours and tools differ depending on which EU institution they work with¹². Thirdly, lobbying at the EU level is not a zero-sum game, whether in the context of interaction among interest groups and EU institutions or in the context of lobbies working in the same arena and adopt opposing political views (Saurugger, 2009). In the case of the Israeli-Palestinian conflict, and unlike the case of US foreign policy, the pro-Israeli lobby does not monopolise EU foreign policy, nor do the pro-Palestinian lobby.

1.2. Theorising European foreign policy

EU foreign policy may have improved and broadened over the years, yet it remains controversial in EU studies literature. The theoretical debate over EU foreign policy mainly revolves around the complex nature of the EU – as it is neither a nation state, nor an intergovernmental organisation (Sbragia, 1992:257). An empirical debate also emerged over the effectiveness of EU foreign policy and created several notions and measures to test the efficiency of the EU's international role, such as the EU's "actorness" (Sjostedt, 1977) and "presence"¹³ (Allen & Smith, 1990).

¹² This adaptation is elaborated on chapter 3.

¹³ "Actorness" and "presence" are concepts used to evaluate the effectiveness of the EU's role internationally. The study elaborates on these two concepts later in this chapter.

According to Brian White (2001) there are at least three distinct views on the possibility and desirability of an EU foreign policy in the EU's literature and among European politicians. The extreme view insists that there is no common EU foreign policy, there never will be and never should be, the moderate view argues that searching for a common EU foreign policy does not matter much now, but it should be studied if EU member states want to achieve common foreign policy goals and realise them together (White, 2001:37). A more academic view sees that EU foreign policy exists, although that term is not frequently used (White, 2001:37), Bindi and Shapiro (2010) agree with this argument and see that Europe's leaders often avoid using the term "EU foreign policy" because they fear that this will frighten their public or reduce their influence. If one looks at these views they find that the third is little more subtle, as the EU operates in various policy areas at the international level. The EU has a foreign policy as it has an area of politics which is directed at the international level with the objective of influencing that level and the behaviour of actors at that level (Keukeleire & MacNaughtan, 2008). These attempts to influence globally aim to pursue interests, values and goals (Keukeleire & MacNaughtan, 2008).

Given that one of the broadest definitions of the foreign policy considers it as "the strategy or approach chosen by a national government to achieve its goals in relation to external entities" (Bindi & Shapiro, 2010: 340), the EU, no doubt, has a foreign policy. However, the confusion comes from the complexity in the nature of the EU itself. Most analysts assert that the EU is "unique in its institutional structure, it is neither a state nor an international organisation" (Sbragia, 1992:257). This unique status, raises question over the process of foreign decision-making, and interest-based bargaining within the member states that leads to the common FP.

This part of the study elaborates on the European foreign policy (EFP) decision making process through the lens of the liberal intergovernmentalism, and it links the theoretical part to the case of the recent shifts in EU foreign policy towards Israel, and the role of NSAs in this matter. The study also explores EFP capabilities and instruments in the context of EU-Israel relations, which is necessarily influenced by the Israeli-Palestinian conflict and the future of the MEPP. Finally, it studies the EU's new shifts in the light of EFP outputs in the

Middle East and particularly the falling between EU roles and goals in the Middle East and the EU bilateral relations with Israel.

1.2.1 European foreign policy instruments in the Middle East Peace Process

Over years, the EU has developed its foreign policy tools and instruments as “patchwork” with little thought to overall strategy (Bindi & Shapiro, 2010:340). Moreover, Stephan Keukeleire and Jennifer MacNaughtan (2008) see that the network of relations of the EU do not alone constitute EFP. Rather it is important to study how the manner in which the EU uses its relations and instruments to pursue a foreign policy, and how foreign policy looks like and how effective it is (Keukeleire & MacNaughtan, 2008). This raised the importance of studying the EFP tools and instruments over the external relations or EFP broad strategies.

David Baldwin (1985: 8-9) defines foreign policy instruments as those means “used by policy makers in their attempts to get other international actors to do what they would not otherwise do”. Baldwin (1985) and Karen E. Smith (1998:86) suggest four types of policy instruments associated with a nation state foreign policy: propaganda including verbal symbols, diplomatic or the reliance on negotiations, economic instruments and military capabilities. Brian White (2001) argues a model of three types of European foreign policy instruments: political diplomacy, economic diplomacy and a mix of political and economic diplomacy. Keukeleire and MacNaughtan (2008) consider that EU foreign policy instruments include: trade, association and cooperation agreements, development, crisis management, conflict prevention, and the promotion of human rights and democracy.

This chapter focuses on association and cooperation agreements and trade as instruments relative to the case study of the thesis. It explores these instruments briefly whereas they will be discussed in details in the second and third chapters.

According to Brian White (2001), European foreign policy political diplomacy contains two instruments: EU declarations (including other official statements), and structured dialogues with third parties. Keukeleire and MacNaughtan (2008) elaborated political instruments under the umbrella of association and cooperation agreements established by the EU. These

agreements could be (i) pure trade agreements, (ii) trade and economic cooperation agreements, (iii) association agreements (Keukeleire & MacNaughtan, 2008). Even those agreements are often based on economic instruments, they have become increasingly political rather economic (Keukeleire & MacNaughtan, 2008).

The EU aims to cooperate with states and organisations whose partnership is valued, while it further aims to deal with the growing number of supplicants who want to access the EU's market and privileges (Hill, 1992). The EU has different motivations to engage in a relation with states and organisations, in a different scope and content of engagement (Keukeleire & MacNaughtan, 2008). The EU uses economic privileges obtained in agreements as a tool box of foreign policy to struggle for power (Cattaneo, 2015: 44-45). Agreements offer the Union several stages of power; whether through negotiations over agreements, conditionality obtained in agreements, or political dialogues emerged after agreements. Indeed, agreements are used as a part of EU tools to react to specific conflicts or crisis, allowing to put pressure on third states (Keukeleire & MacNaughtan, 2008). This pressure could be harsh as sanctions, or soft as withdrawing of privileges (Portela, 2010). In our case study, the EU used soft pressure by excluding Israeli settlement products from FTA privileges.

According to Keukeleire & MacNaughtan (2008), there are two kinds of political instruments embedded in agreements: (i) conditionality and (ii) political dialogue. There are two kinds of conditionality embedded in agreements; *ex ante* conditionality and *ex post* conditionality (Fierro, 2003). *Ex ante* conditionality refers to conditions which must be met before an agreement will be concluded, and it is related to EU candidate countries, and considered as the most sophisticated form of conditionality (Fierro, 2003). However, *ex post* conditionality is more common and it is related to non-candidate countries. *Ex post* conditionality refers to conditions or essential elements which must be met after an agreement has been concluded (Keukeleire & MacNaughtan, 2008). Naturally, *Ex post* conditionality faces several difficulties in applying its measures, in a way makes it more “static rather dynamic, and symbolic rather substantial” (Fierro, 2003: 377-378). This deficiency is obviously observed in the case of EU-Israel agreements, as the EU has never apply any kind of political

conditionality in its relations with Israel (Tocci, 2005), and this matter has been elaborated in details in the next chapter.

The other EFP political instruments embedded in agreements is political dialogue (Keukeleire & MacNaughtan, 2008), as the EU tends to incorporate political dialogue into its agreements. Political dialogues could be considered as the key of EU persuasion as it used as a “carrot” (Smith, 1998). Generally, agreements establish political dialogues on ministerial, senior official and expert levels (White, 2001). Political dialogues could be bilateral, or regional in order to encourage regional cooperation (Smith, 1998).

Almost each EU agreement creates a foreign policy machinery through the provisions for new institutions created by the agreement, as well as the regular meetings for political dialogue (Keukeleire & MacNaughtan, 2008). However, political instruments embedded in agreements tend to be selective and symbolic, and then have a limited impact in promoting and obtaining EFP goals (Fierro, 2003). Keukeleire and MacNaughtan (2008) see that the EU is eager to declare a positive joint statements and optimistic declarations following meetings to give the appearance of a positive results of its foreign policy. However, sensitive or controversial issues (such as conflict or human rights abuses) are mentioned by the EU as a passing formality, or are not mentioned at all if the partner is too powerful (Keukeleire & MacNaughtan, 2008). Moreover, the EU priorities trade and cooperation issues over other considerations, as the Union prefer not to disturb its interests by talks on problematic foreign policy issues (Keukeleire & MacNaughtan, 2008). This behaviour could be clearly seen in the absence of political conditionality in the pattern of EU-Israel relations (Tocci, 2005), and through the usual symbolic and soft condemnations of Israel’s human rights violations (Youngs, 2014). After several Israeli airstrikes, the EU reacted by commending what it calls “disproportionate use of force by Israel”, while those airstrikes have killed dozens of civilians (Ynet, 2006) (Ynet, 2008).

The second group of EFP instruments, according to White (2001) is economic diplomacy. It is called as trade instrument according to Keukeleire and MacNaughtan (2008). Economic or trade diplomacy is a powerful instrument as the EU is a economic community in the first

place, and as the EU is the biggest exporter and importer in the world (The Commission, 2014).

Keukeleire and MacNaughtan (2008) see that EU trade has never been apolitical, and EU's trade and foreign policy are inextricably linked. On the one hand, trade policy provides essential instruments for foreign policy (including through: support measures, sanctions and embargo), on the other hand, the EU's trade policies can undermine foreign policy (Keukeleire & MacNaughtan, 2008). Moreover, Redmond (1992) sees that EU trade policy pushes the EU to define its relations with the world, and sometimes create expectations in third countries that the EU has a major economic interests. In other words, EU trade interests gradually entailed foreign policy choices (Keukeleire & MacNaughtan, 2008). If one looks to the pattern of EU-Israel trade relations, she\he could easily find how free of charge privileges provided for Israel (Tocci, 2005), make Israel free of any commitments related to the MEPP. This situation negatively affected EU role in the MEPP and undermined its foreign policy goals in the region. This gives a well-fitting example of Keukeleire and MacNaughtan's argument on how the EU's trade policies may undermine EFP.

The EU tries to overcome the shortcomings of trade policy by activating economic diplomacy instruments (Portela, 2010). These instruments could be classified into three types: framework, coercion and regularity, even there are not wholly distinctive categories (White, 2001:56). Framework instruments deal with EU cooperation, association and partnership agreements that provide a set of frameworks that organise EU relations with other states and organisations through aid, economic concession and privileged relationships (Hill, 1992). Keukeleire and MacNaughtan (2008) see that trade relations and frameworks led the EU to develop an international role, and then foreign policy, accordingly, trade frameworks have been influential factor in shaping the nature and tendency of EU foreign policy. In other words, the decision to conclude a trade agreement with a third country, as well as the depth and scope of this agreement, is considered as a foreign policy action (Keukeleire & MacNaughtan, 2008). Similarly, the allure of concluding a trade agreement with the EU, as well as expanding or upgrading the agreement, is used by the Union as a tool to pursue foreign policy objectives (Smith, 1998).

The second type of economic diplomacy instruments is coercion instruments (White, 2001) or sanctions (Keukeleire & MacNaughtan, 2008). Since Maastricht Treaty, the EU has devoted interest to sanctions targeting countries, economic sectors, individuals and entities under the Article of TEU (The Commission, 2015d). The contexts in which sanctions are used can be diverse ranging from the protection of human rights to crisis management (Giumelli, 2013), besides the implementation of sanction imposed by UNSC resolutions (Portela, 2010). The EU imposed several kind of sanctions on thirteen states till 2013, none of them were related to EU-Palestinian conflict (EP, 2013). In general, trade sanctions are used only in limited cases, while non-trade sanctions (such as targeted financial restrictions or freezing funds) are more common (Keukeleire & MacNaughtan, 2008). Regarding EU role in the MEPP, the Union used freezing funds strategy against the Palestinian Authority after Hamas victory in general elections in January 2006.

The third economic diplomacy instrument is regularity instruments which refer to a set of trade policy instruments developed, by the Commission, in order to stop unfair trading with third parties (White, 2001). The Commission is responsible to monitor EU trade agreements and cope with commercial disputes and a variety of instruments such as anti-dumping regulations and Rules of Origin (ROO), according to Article 113 in TEU (Smith,1997). In these cases, the Commission is acting “as the member states’ mouthpiece” (Keukeleire & MacNaughtan, 2008:), which underlines the importance of regulatory instruments as a foreign policy tool rather than technical arrangement. Accordingly, one can argue that the 2015 EU decision to label settlement products dues to regularity economic diplomacy. The EU has decided to correct wrong implications of the Rules of Origin (ROO) in EU-Israel Association Agreement, which led to indicate Israeli settlement products with a label mentions that they originated in occupied territories (The Commission, 2015a), besides excluding settlement products from the advantages of the Free Trade Area (FTA) (European Community, 2005). The study argues that these European steps has been taken under the umbrella of EU economic diplomacy, in order to send a refusal message of Israeli settlement policy. Obviously, the 2015 labelling decision was a political rather technical, and it is a foreign policy action rather ordinary arrangement. According to Keukeleire and

MacNaughtan (2008), the EU would not rely so heavily on trade instruments, through which the Union provides preferential trade treatment, if it was not a strong partner in the trade. This issue increases the value and political impact of the 2015 labelling decision, as the EU is the biggest trading partner of Israel (Europa, 2016c).

1.2.2. European foreign policy deadlock in the Middle East

Studying the pattern of EU-Israel relations (as the thesis does in chapter 2) reveals that the 2015 labelling decision was an atypical and unusual step. The decision was a sign of European foreign policy deadlock in the Middle East, which has been presented by Del Sarto and Tovias (2001) and others (Tocci, 2005; Youngs, 2014; Alfattal, 2010). One can argue that the main aspect of this deadlock is the widening gap between EU roles and goals in the region, and bilateral EU-Israel relations. This gap becomes constantly as an obstacle in front of EU goals and aspirations of being a vital actor in the region.

If one wants to evaluate this European foreign policy deadlock, she\he should rely on a theoretical concept measuring the effectiveness of EFP, or how the EU may be viewed internationally. Sjostedt (1977) introduced the concept of “actorness” to chart the EU’s changing role in the world. Later, Caporaso and Jupille (1998) proposed four criteria for evaluating the EU’s actor capacity in the international platform (i.e. EU actorness). They suggest that for actor capacity, and thus for purposes of evaluating EU “actorness”, the EU needs: (i) recognition (outsider acceptance of EU competence), (ii) authority (the legal competence to act), (iii) autonomy (distinctiveness and independence from other actors) and (v) cohesion (the extent to which it acts in a unitary way externally) (Caporaso&Jupille, 1998). The EU needs these four factors as it is not international actor in the conventional sense (Howorth, 2010). That because the EU lacks political and constitutional unity, and it does not enjoy the traditional sovereignty like states (Howorth, 2010), rather member states delegate EU institutions some parts of their sovereignty. Thus, the EU is an influential actor almost around the margins and as a civilian power through the deployment of normative instruments (Howorth, 2010; Smith K., 2008; Telo, 2006; Laïdi, 2008).

The other concept that helps evaluate the role conception of the EU in its foreign policy is “presence”. Allen and Smith (1998) introduced the notion of presence to explain the growing international salience of the EU in the 1990s. This concept was useful in avoiding the debate over the definition of an international actor that is not a state, like the EU. The EU is regarded as having the most tangible presence in the economic sphere, medium presence in international politics and no significant presence in the military sphere (Ginsberg, 1999). It matches with a famous quote made by Belgium’s former Foreign Minister Mark Eyskens, a few days before the Gulf War, who said: “Europe is an economic giant, a political dwarf and a military worm” (The NYT, 1991). In the case of EU involvement in the MEPP, this description fits well, as the EU is the biggest trading partner of Israel (Europa, 2016c), first donor to the Palestinians (Europa, 2016d), but at the same time it lacks readiness to play a larger role though it has a strong willingness (Baroud, 2008). This combination of a lack of readiness to affect Israel’s actions and a lack of political will to resort to “hard” policies such as enforcing economic sanctions or downgrading the commercial relations (Nye, 2005) contributes to Israel’s apathy towards the demands of the EU and international community (Al-Fattal, 2010). Israel’s apathy, as a result, undermines the EU’s role and goals in the MEPP and in the region alike.

Both of actorness and presence are two important concepts to help evaluate the EU’s role and effectiveness. However, in the case of EU-Israel relations, one can argue that the case is rather complex to be solely evaluated by these concepts. It is obvious that bilateral EU-Israel relations cannot be studied separately from EFP towards Israeli-Palestinian conflict. This need has been raised because of the advanced and multidimensional nature of EU-Israel relations, especially in the last years with the collapse of peace process, the rise of violence in the OPTs and the dominance of right-wing parties in Tel Aviv. This situation led the EU to being caught between its endeavour to be a part in resolving the conflict and its interests with regard to Israel. This correlation between EU-Israel relation, and EU multilateral relations with a region seethes under a long-lasting conflict, needs a tailor-made concept to evaluate EU role.

The study derives a new concept in order to evaluate EFP towards Israel relying on “capabilities - expectation gap” argued by Hill (1993, 1998). Hill (1993, 1998) sees that there is a gap (i.e contrast) between the expectation of a collective foreign policy, and the capability of common institutions to meet that expectation. During years, this gap began to narrow as scholars moved their focus from testing the existence of the EU as an international actor, to testing the effectiveness of EFP (Ginsberg, 1999). In our case, EU engagement in the MEPP is obvious, but the question is how much this engagement is effective. Searching answers emerges the gap; on the one hand, the EU offers a well-defined vision of resolving the Middle East conflict built on the two-state solution and respect to international law (Tocci, 2005), its declaratory diplomacy reflects strong refusal of the both sides’ violations in this regard. On the other hand, the EU is in a semi-permanent upgrading of its bilateral relations with Israel (Pardo & Peters, 2010), and it has never applied political conditionality on Israel regarding the peace process (Tocci, 2005). Tocci (2005: 29) conceptualised this status a glaring gap between the EU’s rhetoric and reality towards the Israeli-Palestinian conflict. This study argues that the gap, primarily, is not between rhetoric and action, rather between the EU’s goals and roles in the MEPP and EU-Israel bilateral relations. This re-definition of the gap dues to the characterising of EFP ineffectiveness in the MEPP, as a direct result of the European toleration of Israeli human rights abuses in the OPTs, rather than the lack of instruments (Cronin, 2010). In other words, the EU has been caught between willingness to resolve the conflict, as a strategic security priority (Council of the EU, 2003), and its advanced bilateral relations with Israel. Europe has political and economic instruments could be used to pressure Israel, a political willingness to play a larger role in the Middle East, but it has not the willingness or readiness to resort to “hard” policies to pressure Israel (Nye, 2005) (Al-fattal, 2010). Thus, one can argue that the EU, by adopting the 2015 labelling decision, decided to use a “soft” EFP instrument (i.e. regulatory instruments) to send a refusal message to Israel, in order to narrow the widening gap between EU goals and roles in the MEPP and EU-Israel bilateral relations. This gap became a stimulus to budge or shift EFP slightly, as elaborated in the next chapters.

2. THE PATTERN OF EU-ISRAEL RELATIONS: PRIVILEGED ECONOMIC PARTNERSHIP, NO POLITICAL CONDITIONALITY

To analyse new shifts in EU foreign policy towards Israel in the last few years, it is necessary to explore the relations between Israel and the Union and understand their historical context and roots. Analysing the fixed pattern of the relations helps to realise the recent alleged shifts even if they are slight, and explains the reasons of the gap between EU goals and roles in the MEPP, and EU-Israel bilateral relations.

The Middle East conflict is a significant determinant that affects the EU-Israel relations given that Israel is a party to the conflict. Palestinians, as the second party to the conflict, are linked with the EU in economic, political and security ties under the umbrella of the ENP and the Union for Mediterranean (UFM), as well as other programmes and initiatives. Besides that the EU itself is an involved party in the Middle East peace process. The EU-Israel relations is composite and multidimensional and cannot be studied separately from the effects and repercussions of the Middle East conflict. Moreover, the new shifts in EU foreign policy towards Israel are closely linked to the conflict and to the European despair from Israeli undermining of the European vision on peace, particularly regarding the two-state solution.

The aim of this chapter is to analyse the pattern of the EU-Israel relations, and how the Union has refrained from any conditionality on Israel, giving Israel instead a privileged partnership model. This chapter also mentions how the EU undermined itself to the extent of abandoning its pressure tools and bending its own norms and rules to accommodate illegal Israeli practices (Tocci, 2005). Indeed, this pattern contributes in widening the gap between EU goals in the Middle East, and the Union's realistic role in a way that pushed the EU to adopt new "soft" shifts in its policies towards Israel.

This chapter starts with exploring the historical correlation between Europe and the creation of the state of Israel, in order to analyse the European ideational identity which socialised over decades with the grasp of the Jewish problem. The concept of ideational identity helps in explaining and predicting how and why states behave towards each other, which helps in realising the pattern of European-Israeli relations

Then the chapter explores the official relations between the EU and Israel that are governed by several agreements. The EU-Israel (AA)'s analysis gives an idea how the EU granted Israel many privileges and credits much more than Israel's counterparts or neighbours such as Jordan, Egypt and Morocco. In the economic context, the agreement sees Israel's economic place in Europe and pushes towards this model rather than encouraging Israel to integrate within the Mediterranean market, as is the case with other Mediterranean states (Pardo & Peters, 2010). It also shows how the updates and facilities on Rules of Origin Protocol, included in EU-Israel AA, led to the question of labelling of settlement products, which ended up with the 2015 labelling decision.

The chapter also focuses on Israel's position in ENP. As ENP's Action Plan is a "tailor made" agreement for each partner (Del Sarto & Schumacher, 2005), Israel has been offered privileges and favourable chances. That is due to Israel's level of economic development which exceeds those of the rest of its Mediterranean neighbours. However, the partiality of the ENP for Israel was not just in providing extra economic privileges, but in not committing Israel to its political and human rights responsibilities, like the rest of EU partners. The language used in Israel's Action Plan (AP) to cover political issues and European "shared values" is extremely vague and lacks political commitments. Unlike the case of the Palestinian Authority (PA), this chapter argues that the EU has never applied political conditionality on Israel.

By going to Euro-Mediterranean Partnership (EMP\Barcelona Process) as the third official framework of EU-Israel relations, this chapter illustrates how the EU launched the process with the hope of integrating Israel into positive relations within its neighbourhood. The Barcelona Process focused on bringing development and economic prosperity to the region in order to solve the status of instability and insecurity caused by the Israeli-Palestinian conflict. Twenty years so far, the chapter elaborates how the process failed in achieving that. This is due, in the first place, to the European failure in evaluating the root causes of the Middle East conflict and Israel's involvement in the instability of the region, this chapter argues.

Then the chapter shows how Israel does not care if its participation in the Union for Mediterranean (UFM) is effective or not, because it depends on the bilateral model of

relations with the EU which was granted by ENP. Israel still considers ENP, not UFM or other programmes, as where the real content of its relation with Europe is, as it is almost independent of regional political influence. Thus, the chapter explains how the EU attempt to provide a new political motive to the EMP almost failed, so far, in adding an assistant factor to the Union's engagement in the Middle East, especially in the context of a resolution to the Middle East conflict.

2.1. Introduction to the European-Israeli relations

There is notable correlation between Europe and the creation of the state of Israel, related to the Jewish problem that appeared in Europe in the late of nineteenth century, then exploded during the Nazi era. Jewish problem¹⁴ has contributed significantly in rising Zionist propaganda over establishing Jewish state in Palestine though Palestine was not in the list of favourite destinations for Jewish immigration till the end of World War II (WWII) (Shafir, 1995). The second key reason of correlation between European history and the creation of the

¹⁴ The 'Jewish problem' or 'Jewish question' is a term first used in Great Britain in around 1790. It was a name given to the wide debate in European societies about the status and treatment of Jews. The debate includes the civil, legal and national status of Jews as a minority, especially with the rise of nationalism and the idea of nation state in Europe (Dawidowicz, 1986). European keenness on nationalism was not the only factor that created the Jewish question but it had been fed by Jewish quotas and segregation in ghettos and as small communities (Bauman, 1989). Later, the expression of Jewish question was used by antisemitic movements since the 1880s, other expressions had appeared in the same era like the Nazi phrase "the final solution of the Jewish question" which was defending and encouraging the establishment of an autonomous Jewish homeland or a sovereign state for Jews, this idea have been developed by Nazis to kill thousands, or millions of Jewish population in Europe (Browning, 2004). From around the 1860s, anti-semitism increased dramatically till World War II, thus the Nazi "final solution" had been presented as a salvation (Browning, 2004). In other words, While Jews were described as a stumbling block to the identity and cohesion of European nations and as enemies within some European countries like Germany and Austria, the creation of a sovereign Jewish states became the perfect solution for the unsolvable racial problem (Bauman, 1989). This idea gathered momentum during WWII, few years before the establishment of Israel on lands annexed from historic Palestine.

state of Israel is related to the fact that the Zionist movement which created Israel, is an European movement in emergence and development (Sachar, 1976).

This correlation raises the importance of studying the historical context of the relation between Europe and the creation of Israel, not just for elaborating this correlation or overlap, but for analysing the European ideational identity which socialised over years with the faith of Jewish problem. This faith has shaped for decades before WWII, then it has embedded after the War as a Holocaust guilt and commitment to support Israel as a way to close the account of Holocaust, and transfer Jewish problem to a remote place outside Europe (Bauman, 1989). Thus, the presence of Israel and Jewish problem in European ideational thought influences the modern European-Israeli relations, and contributes in forming its pattern, as Moravcsik (1997) argues that ideational identities explain how and why states behave towards each others.

2.1.1. Cultural and historical ties between Europe and Israel

During the 1940s, and before the establishment of the state of Israel in 1948¹⁵, Europe was neither remote nor separated from the circumstances that had paved the way for the creation of Israel. Europe was a significant player in creating the conducive climate that pushed to solve Europe's Jewish problem at the expense of the Middle East (Bauman, 1989). There are many factors, roles and interactions to mention.

At the outset, one cannot study the history of Israel without mentioning Zionism. Zionist theses are regarded as the core of the Jewish movement that created the state of Israel as a homeland for Jews. Basically, Zionism is a European movement in emergence and development, it has been established in the late 19th century in central and eastern Europe

¹⁵ On May 14th, 1948, David Ben-Gurion, the head of the Jewish Agency, announced the establishment of the State of Israel. Six Arab nations then sent armies to the former Palestinian mandate immediately following the announcement. The troops were from Egypt, Jordan, Syria, Iraq, Lebanon and Saudi Arabia. Most of Arab military groups were defeated by Israeli gangs which allowed Israel to annex the area allotted to Israel by the UN Partition Plan and to occupy 50% of the area allotted to the potential Arab state (Tal, 2004)

(Sachar, 1976). Zionism's founder, Theodor Herzl was an Austrian-Hungarian journalist and political activist. In 1897, Herzl formed the world Zionist organisation that held its first congress in Basel, Switzerland, and issued the so-called "Basel Programme" which was the first official document recommending the establishment of a Jewish state in Palestine (Laqueur, 1972) which at the time was a part of the Ottoman Empire. Palestine was the only place to get the approval of all Zionists for migration after the failure of other European suggestions, for example, a tentative British offer to settle Jews in Uganda had been rejected (Reinharz, 1985).

While Basel Programme ended the controversy about the territories of the potential Jewish homeland, the so-called Balfour Declaration made it actual. On 2 November, 1917, United Kingdom's Foreign Secretary Arthur James Balfour sent a letter to Walter Rothschild, a leader of the British Jewish Community giving him a promise to "be in favour and use the best endeavours to facilitate Jewish state in Palestine" (Laqueur, 1972). The letter was published in the press a week later, and it was not an ordinary promise or support, as it was sent by the state that would win the authority of mandating and controlling Palestine three years later¹⁶.

The majority of historical sources agree that Jewish immigration to Palestine was an ongoing process since the eighteenth century, which is the starting point for modern historians interested in Jewish affairs. Jewish immigration had been affected by two main factors, elaborated in the next paragraph, while the religious motive was not of significance. In the whole, around 25,000 Jews settled in Palestine before 1897, the year in which Jewish immigration acquired a nationalist dimension (Gurevich & Gertz & Bachi, 1944). In other words, not more than 0.3 per cent of world Jews migrated to Palestine for religious reasons, and at that time, Jews made up 5 per cent of Palestine's populations (Shafir, 1995). Moreover,

¹⁶ After World War I, the so-called mandate system was established under Article 22 of the Covenant of the League of Nations (UNHCR, 2015). The mandate system was developed to regulate the legal status for certain territories transferred from the control of one country to another following World War I ; Palestine was one of the involved countries as a former part of the Ottoman Empire (UNHCR, 2015). The mandate for Palestine officially came into effect on September 29th, 1923, following the ratification of the Treaty of Lausanne. It ended at midnight on 14 May 1948 (Tal, 2004)

between 1882 and 1914, of more than two million Jewish emigrants, only a little less than 3 per cent chose Palestine as their destination (Shafir, 1995:405) ¹⁷.

The first significant motivation that pushed Jewish immigration to Palestine was the climate in Europe during and after (WWII) when anti-Jewish sentiment and practices rose (Bauman, 1989). In response to Adolf Hitler's assumption of power, close to 200,000 Jewish immigrants arrived to Palestine, between 1933 and 1936, mostly from Europe, where the United Nations Relief and Rehabilitation Administration (UNRRA)¹⁸ failed in achieving its mission to re-settle the majority of displaced Nazi victim Jews. After WWII, around 500,000 displaced Jews returned to their countries of birth to find their communities and homes destroyed (Shafir, 1995). As a result, a huge pressure and congestion happened in displaced persons' camps in the American zone in Germany in a way that made refugees' life miserable (Sachar, 1976). In response, Zionist bodies and institutions in Europe organised a series of risky and overcrowded boats to transfer Jews to Palestinian shores as a step to put pressure on the British mandate to facilitate legal Jewish immigration (Medoff, 2014). This pressure of illegal immigration, concurrently with the United Nations partition plan for Palestine in 1947, led to the abolishment of all restrictions on Jewish immigration to Palestine (Medoff, 2014).

The second significant factor was the British legalisation of Jewish immigration and later the nascent state of Israel (Shafir, 2015). A dramatic change in the legal status of immigration occurred after Balfour's Declaration that acquired European and international recognition (London, 2000) thus increasing the Jewish population in Palestine from 56,000 before 1918

¹⁷ Some political sociological theses argue that only a small minority of Jews believed in the Zionist movement before 1933 (the year in which Hitler came to power) (Bauman, 1989). They explain that the idea of territorial nationalism in the Zionist theses contradicts the religious and ethnic Jewish way of life and their religious holy texts. (Gurevich & Gertz & Bachi, 1944). That raises questions over anti-semitism and Nazi persecution of the Jews, and how it gave a boost to the Zionist idea (Schneer, 2010).

¹⁸ The United Nations Relief and Rehabilitation Administration (UNRRA) was an international relief agency, founded in 1943. It became part of the United Nation in 1945, and it ceased its operations in 1947. It represented 44 states and was in charge of temporarily housing and aiding people driven from their homes because of WWII and Nazi violations (UN, 2015).

to more than 649,600 in 1948, 87% of which were from Europe (Gurevich & Gertz & Bachi, 1944). The sole Jewish member of the UK's government at that time, Edwin Montagu, strongly opposed the Balfour Declaration because he thought it would encourage the idea of expel Jews from their countries, and he warned that "Palestine will become the world's ghetto," (Schneer, 2010). And he was right, as in the midnight of 14 May 1948, the minute Britain declared the ending of its mandate for Palestine, the executive head of the Zionist organisation David Ben-Gurion declared the establishment the state of Israel, and called on Jewish people to migrate to the new state. This succession between the British mandate and the establishment of Israel created a certainty in the Arab World that the United Kingdom transmitted Palestine to Jewish military forces which later became the core of the Israeli Army (Shaker, 2010), that committed mass murders against Palestinian civilians during the 1948 war according to historian and human rights reports (Simons, 2006).

2.1.2. The EU-Israel official relations:

Soon after Israel's declaration of independence in 1948, the United Nations admitted the newly established country into the United Nations as a member state. The six co-founders of European Coal and Steel Community (ECSC) recognised Israel in the first three years of its establishment¹⁹, while Germany recognised Israel unofficially in 1952 (the so-called de facto recognition²⁰). In 1959, the European Economic Community (EEC) started diplomatic relations with Israel (Terpan, 2010).

As will be made clear in this chapter, Israel enjoys a privileged relationship with the European Union. David Cronin (2011) contends that Israel is considered a member state of the Union in all but name i.e. it is not a member of the EU officially, but a partner in all the EU programs. This unique relation can be explained by several historical, cultural and ideological factors and interests. Historically, a good percentage of the first generation of

¹⁹ France and Italy recognised Israel in 1949. Luxembourg and the Netherlands did officially in 1950 after a year of de facto status. Belgium also did in 1950.

²⁰ Germany's de facto recognition of Israel was in 1952. In 1965, it became official. (Belkin, 2003)

Israeli leaders came from European origins, including Theodor Herzl²¹, the past prime ministers (PMs) David Ben Gurion, Golda Meir, Simon Peres, Ehud Barak, and the present PM Benjamin Netanyahu. Today, more than 36% of Israeli citizens have Western roots (Americans and Europeans)²². This shows clear commonalities between Israeli society and most European societies, including identity, culture and thought, and this may help explain why Europe evaluates Israel as a close partner in the Middle East.

Israel was one of the first countries to hold talks with European Economic Community (EEC) even before the Treaty of Rome that enacted the European Community (EC) (Pardo & Peters, 2010). The EEC established its first official diplomatic relations with Israel in 1959. Israel was the third country after Greece and U.S to have a diplomatic mission in Brussels. In 1975, the EC and Israel signed first cooperation agreement that enhanced trade, economic, political and cultural cooperation (Tovias, 2003). In 1995, the Euro-Mediterranean Partnership (Barcelona Process) was founded and Israel became a partner that participates in all its programmes. Israeli participation in Euro-Mediterranean Partnership had a negligible economic impact on Israel in the region compared to the political legitimacy Israel gained (Pardo & Peters, 2010). To intensify their relations, Israel and the EU signed EU-Israel Association Agreement in 1995²³, the agreement came into effect in 2000, and it forms the legal basis of the mutual relations.

²¹ Theodor Herzl was an Austro-Hungarian journalist. He was one of the fathers of modern political Zionism and the founder of World Zionist organisation that promoted Jewish migration to Palestine in an effort to form a Jewish state (Laqueur, 1972).

²² Those Jews are called also Ashkenazis. This name was applied in the middle ages to Jews living along the Rhine River in northern France and western Germany. The centre of Ashkenazi Jews later spread to Poland-Lithuania. Today, the name “Ashkenazi” refers to Western Jews (coming from Europe and America). While Sephardi Jews are the Jews from Spanish and Portuguese roots they had moved towards Balkans and Mediterranean countries. Today, the name “Sephardi” refers to Eastern Jews.

²³ The exact name is: Euro-Mediterranean Agreement establishing an association between European communities and their member states on one part, and the state of Israel on the other part. (European Community, 2000).

Since 1996, Israel has been the only non-European country associated to the the EU Research and Technological Development Framework Programme (FP) (Europa, 2015a). Over years, the EU became Israel's second biggest source of research funding (Pardo, 2009:52). In 2004, the European neighbourhood policy (ENP) was launched with the membership of 16 countries²⁴ including Israel. Under the umbrella of the ENP, the EU and Israel adopted the EU-Israel Action Plan (AP) in 2005. AP covers wide areas of cooperation between both sides including political and security cooperation, economic integration, socio-cultural and scientific research as well as sharing responsibility in conflict prevention and resolution (European Commission, 2004).

Israel has been looking forward to upgrading its relations with the EU, and to crafting a unique model for a partnership that goes beyond regular levels to gradual economic integration and deeper political cooperation. Several Israeli attempts were taken towards this potential model, most notably was the establishment of the so-called "reflection group" in 2007 which was charged with examining areas in which cooperation could be enhanced, including Israeli integration into the European Single Market (European Commission, 2008). However, Israeli attacks against Gaza in late 2008 and early 2009, besides election of the right-wing government of Benjamin Netanyahu have called into question the future of the upgrade process (Euro-Mediterranean human rights network, 2012). One can notice that the upgrade is frozen till now.

In spite of the unique EU-Israel relations, the challenges of Israeli-Palestinian conflict, and the European desire to play a significant role in the MEPP, make the mutual relations complicated and multidimensional. Israel has attempted constantly to keep the conflict away from influencing its relations with the EU, these attempts often succeed. However, when one studies the mutual relation between the European Union and Israel, one cannot neutralise the dimensions of the Israeli - Palestinian conflict which affect the relation. Literature on the

²⁴ Twelve states out of 16 are currently fully participating as partners in the ENP. These are: Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, Palestine, Tunisia, the Ukraine. While Algeria is still in accession negotiations. Belarus, Libya and Syria are outside most of the ENP's structures (Europa, 2015b).

relations between the EU and Israel has attained relatively little attention outside the context of the Israeli-Palestinian conflict and peace process (Pardo & Peters, 2010). This is due to several reasons related to Israel's origination and its illegal occupation of the OPTs, besides the European interests and considerations in the Middle East. Jewish history in Europe makes it hard to separate the latter from repercussions of the conflict. For many years, the Arab World looked at Israel as an aggressive state that fought them in five organised wars till 1982²⁵. Even after the Israel-Egypt Peace Treaty in 1979 and the Israel-Jordan Peace Treaty in 1994 the mutual hostile status did not disappear. In 2006 Israel attacked and invaded limited areas in Lebanon for 34 days, two years later, Israel forced a blockade on the former Palestinian President Yasser Arafat in his office in Ramallah. These events enforced long standing tension and persisting instability in the Middle East.

Over the past two decades, both Israel and the Arab Mediterranean countries have been engaged in a series of multilateral programmes and initiatives in which the EU has been responsible for the management of relations between Israel and the Arab World. The EU also has to deal with Israel's shortcomings of meeting its obligations under EU agreements. For example, the EU accepted Israel as a partner in Barcelona Process which obliges its signatories to "respect the territorial integrity and unity of each of the other partners" (The Council, 1995), however, at that time, parts of Lebanon and Syria were under Israeli military occupation and the Golan Heights has been annexed by Israel till now, as well as the OPTs.

2.2. The Pattern of EU-Israel relations

In this part, the study elaborates the main three bases of the EU official relations with Israel; the Euro-Mediterranean Partnership, European Neighbourhood Policy (ENP), and the Union for the Mediterranean (UFM). It also tries to analyse the mutual relations in order to characterise the pattern of EU-Israel bilateral relations. Re-defining the pattern helps realise

²⁵ The five organised wars between Israeli and various Arab nations were in 1948, 1956, 1967, 1973, and 1982. In 2006 Israel invaded limited areas of Lebanon in order to fight Hizbollah, especially in South Lebanon.

some reasons of the ineffectiveness of EU role regarding the MEPP, this chapter argues. The study starts with the Association Agreement (AA) signed between Israel and the EU in 1995, as it considered the organiser of the legal issues between the two side, which drive the headlines of the relations.

2.2.1. The EU-Israel Association agreement

The EU-Israel association agreement was signed in Brussels in 1995, and came into effect in 2000. The agreement forms the legal basis governing the relation between Israel and the EU. The core of the agreement is economic integration. It enhances free trade arrangements for industrial goods that started between Israel and the EC in 1975, and concessionary arrangements for trade in agricultural products which went into effect later in 2004 (Europa, 2015c). Out of technical details, the agreement paved the way for Israel to be the Mediterranean partner, after Turkey²⁶, that has the closest ties to the EU (Pardo & Peters, 2010). It allows Israel, in industrial and economic terms, to cooperate with all EU member states on the basis of full reciprocity (Malanczuk, 1999). To elaborate this issue, it is important to explore EU trade policies towards neighbouring counties.

The EU trade agreements system has applied a varying degree of trade integration and strategies to EU neighbours, ranging from shallow to deep integration. In general, there are four levels of economic cooperation between states: (i) Preferential trade agreements, (ii) Free trade area (FTA), (iii) Customs union, (v) Common market (Hauswaldt, 2003). In the first two levels, which are the case of EU-Israel trade cooperation, trade is liberalised between the states by partial or general abolishment of tariffs and non-tariff barriers on goods entering the market of parties (Hauswaldt, 2003). Unlike the case of common market or customs union, the individual members of FTA retain their own external tariffs, thus, there is a possibility that goods from non-member of FTA could enter the market of a high-tariff FTA member, through the country of the lowest tariff, this called “trade deflection” and means that a county loses tax revenue (Hauswaldt, 2003). To prevent that kind of abuse, the EU

²⁶ As Turkey has a Customs Union with the EU since 1996.

developed the protocol of “Rules of Origin” to ensure that FTA benefits is giving only to products originate from the same state, and “originate from a state” means “wholly obtained” on its territory and without incorporating materials of any other country. (Europa, 2016a).

A return to the question of the privileged EU-Israel trade cooperation, one can notice two key factors make EU-Israel cooperation advanced on EU cooperation with other neighbours²⁷. First factor is related to the EU trade policy itself, as EU offers the access to FTA to its neighbours in spite of they do not form a homogenous group, neither in terms of geography nor in terms of income (Liargovas, 2013). For example, Israel has a GDP per capita which is more than 10 times larger compared to the poorest neighbours (e.g. In 2014\ Israel’s GDP per capita: 37,208.0 \ Egypt: 3,198.7\ Morocco: 3,190.3 \ Jordan: 5,422.6) (World Bank, 2014). Thus, Israel benefit from the FTA that can not be compered to the modest benefits received by its much poorer neighbours. For example, Jordanian goods’ exports to the EU in 2014 did not exceed the value of 0.3 billion euros, while Israeli goods’ exports were 13.1 billion euros (Europa, 2016b) (Europa, 2016c).

The second key factor is related to the gap between Israel’s industrial capacity and the poor neighbours’ industrial capacity, as the Rules of Origin Protocol is too restrictive on imports of goods to the EU (Liargovas, 2013). In EU FTAs, as a general rule, the EU requires countries to produce 50-70% of a product locally for it to apply for duty free status (Europa, 2016a). That means a majority of goods do not benefit from FTA in the poor EU neighbours, with a majority of Israeli goods benefit. Basically because poor countries did not originate a high share of raw materials, but import them. Moreover, Israel has a more share of non-processed agricultural goods in the EU’s FTA, which rarely have problems in implementing Rules of Origin (Hauswaldt, 2003). In other words, Israel had a good ability to meet the conditions of the ROO, while it is difficult to poor countries such as Israel’s neighbours including the Palestinian Authority (PA).

Scholars like Neill Nugent (2004) argue that EU-Israel AA is similar to the European agreements that the EU signed in the 1990s with Central and Eastern European countries that

²⁷ We mean here, almost Mediterranean neighbours, as rich Western European countries such as: Norway, Iceland and Switzerland enjoy advance trade cooperation with the EU.

applied for full EU membership²⁸. Pardo and Peters (2010:51) go farther by arguing that in the economic context, unlike the equivalent Association Agreements signed with other Mediterranean countries, the EU-Israel AA sees Israel's economic place in Europe, and pushes towards this model rather than encouraging Israel to integrate with its Mediterranean neighbours' economies. One can support this argument saying that in spite the EU-Israel AA is an instrument of the Euro-Mediterranean Partnership, the text, mentions the term of "Mediterranean" only twice in its 154 pages, and the first mention was in the title of the agreement (Pardo & Peters, 2010:52).

In fact, the privileged treatment of Israel over other EU neighbours has two features. The first is the economic privileged relations with the Union that explained above. The second is the absence of the political conditionality on Israel in EU policy as elaborated later in this chapter (i.e. read more in 2.2.5). Despite the ENP is designed as a form of conditionality, and it is a policy tool in both foreign and trade policy (Liargovas, 2013), the pattern of EU neighbourhood policy towards Israel lacks any kind of conditionality (Tocci, 2005).

A return to EU-Israel AA, and although it is, foremost, an economic accord, it covers areas of scientific and technological research and social life. Besides the economic provisions, it includes a map to the institutionalisation of a political dialogue between Israel and the EU (European Communities, 2000). In this context, the agreement added three new dimensions to the EU-Israel political relations. First, it converted the unofficial political meetings between Israel and member states in the ministerial levels to official annual meetings, and it created the EU-Israel Association Council that meets annually at the level of foreign ministers (European Community, 2000). Both sides agreed also to establish EU-Israel Association Committee that consists of representatives of the EU Council, European

²⁸ Association agreements with Central and Eastern European Countries (CEEC) basically focused on the establishment of free trade areas, liberalisation of economic activity, technical and legal assistance, participation in the EU's programs and political dialogues. Most of the CEEC became member states or candidates for the EU membership, while Israel has been awarded the same privileges even though it is neither a member state nor a candidate (Rault & Sova & Sova, M, 2007)

Commission and senior Israeli officials. Third, it created eleven sub-committees at the expert level for the discussion of professional matters (European Community, 2000).

2.2.2. Israel and the Euro-Mediterranean Partnership (EMP\Barcelona Process):

In November 1995, the EU launched the Euro-Mediterranean Partnership (EMP) as a new framework for peaceful and cooperative relations with Europe's neighbours in the south. While the EMP built on the EU's Mediterranean policies developed since the 1960s, it was designed to add new dimensions to the already achieved integration. It is supposed to create more integrated multilateral relations by focusing on regional work in order to reach regional stability (Del Sarto & Tovas, 2001). EMP is regarded as a "stability pact" that aims to stimulate economic development and trade relations in the boarder context of Mediterranean security (Pardo & Peters, 2010:34).

According to Euro-Mediterranean partnership declaration signed in Barcelona²⁹, three main objectives were highlighted: Firstly, to strengthen political dialogue between the Union and its Mediterranean neighbours as well as between the neighbours themselves in order to establish common areas of peace and stability including respect for human rights and democracy (political and security partnership); secondly, to create a shared zone of prosperity by establishing a free trade area, encouraging economic cooperation between the states of the region, and increasing the EU's financial support for EMP's states (economic and financial partnership), thirdly, to develop an active civil society and promote an understanding between cultures (partnership in social, cultural and human affairs) (Council of Ministers, 1995).

From previous concepts of the Barcelona Declaration, one can notice several driving forces behind Barcelona Process. At the outset, EU wanted to deal with the Mediterranean needs as one package in order to solve the status of instability in the Mediterranean region. EU's leaders believed that the root causes of instability in the Mediterranean region are economic

²⁹ In November 27th and 28th 1995, fifteen European Union member states and 12 Mediterranean non-member states adopted Barcelona Declaration in the Euro-Mediterranean conference. The declaration became the basis of Barcelona Process (Council of Ministers, 1995).

underdevelopment and social inequality, so they chose to tackle these problems in multilateral social and economic development frameworks (Del Sarto & Tovias, 2001). However, this is not the whole story, as root causes of the rise of radicalism and violence in the Middle East are more complicated, and can not be separated than Israel's occupation. This shortcoming in ticking Middle East's problems is a widespread problem regarding the European role in the region. Swedish Prime Minister Margaret Wallstrom mentioned this matter after Paris terror attack in November 2015, saying in a television interview: "To counteract the radicalisation, we must go back to the situation, such as the one in the Middle East of which not the least the Palestinians see that there is no future" (NYT, 2015).

A return to Barcelona Process, it also enhanced the concept of "cooperative security", which means addressing security needs from more than just a military perspective (Pardo & Peters, 2010:34). To achieve this, Barcelona Declaration tried to address problems like: migration, environmental degradation, internal political dialogue and human rights, and also tried to avoid potential interstate conflict by encouraging multilateral talks (Council of Ministers, 1995).

The European decision to include Israel as a member of Barcelona Process was not appreciated by Israel (Del Sarto & Schumacher, 2005). A group of Israeli officials regarded the European step of putting the relation with Israel in the Mediterranean context as a dramatic and disappointing change due to Israel's perception of itself as a part of Europe, not the Mediterranean (Tovias, 2003:40). In other words, Israel saw its economic place as being in Europe not in the Mediterranean, and it was not appreciated being put into the group of Southern- Mediterranean countries (Del Sarto & Tovias, 2001). Israeli ministry of finance wanted Israel to have been included on the European side of the Barcelona Process as the 15th EU entity on one side, while the other 11 Mediterranean partners remained on the other side (Pardo & Peters, 2010:36). Moreover, Israel started a dispute when Israeli Foreign Ministry discovered that its 1995 Association Agreement was labeled as "Euro-Mediterranean Agreement". An official Israeli request was submitted to change the name to "Association agreement" stemming from Israeli refusal to allocate its relation with the Union in the Mediterranean context (Chokron, 1996). The EU refused, saying that the demanded term was

reserved for the agreements signed in the early 1990s with Central and Eastern European countries with the perspective of future full membership, then as a compromise, the agreement was called "Euro-Mediterranean Agreement Establishing an Association" (Chokron, 1996). Although Israelis were not sure that the Barcelona Process would be beneficial to their economy, they joined in order to make use of the peace process, and promote regional confidence that in turn will pave the way for an environment in which Israel can develop relations with North African states (Pardo & Peters, 2010).

While the EU was trying to integrate Israel in the EMP, its efforts were raising questions over the logic behind regional-cooperation of the process. Europeans thought that Arab Mediterranean states would accept Israel as a welcomed partner and give it legitimacy during Barcelona Process's multilateral talks, which is something that did not happen often³⁰. At that time, Europeans were optimistic about their ability to achieve considerable change, and gain influence in the Israeli-Palestinian peace process, especially that discussions over Barcelona Process happened during European sponsorship of secret peace talks between the Israelis and the Palestinian Liberation Organisation (PLO) in Oslo in the late 1980s. But over time, it became clear that Europeans were mistaken when they thought that economic prosperity and social development alone could bring stability to the region or solve the instability and insecurity caused by the Israeli-Palestinian conflict. Twenty years so far they were not able to achieve that, as the Israeli occupation continues with no apparent solution in sight to the long standing conflict.

The Barcelona Process, is a model of the insufficiency of the European evaluation of Israel's position in the Middle East and how Israel is involved in the instability of the region. The EU launched the process with the hope of regional integration and continued to deny any linkage

³⁰ In 1996, the second Euro-Mediterranean ministerial conference was supposed to be held in Tunisia. However, fears that Tunisians will not welcome Israeli delegation in their country led to the conference being moved Valletta, Malta (Times of Malta, 2003). Moreover, after the so-called "Tunnel Uprising" in the late 1996 that resulted in the deaths of 64 Palestinians and 15 Israeli soldiers, a right-wing government led by Benjamin Netanyahu came to power and increased the pace of building new settlements in the West Bank. These events led the Arab Bloc in the EMP to announce that they would be suspending their participation in the multilateral talks (Peters, 2004).

between the Barcelona Process and the Middle East peace process (Asseburg, 2003). But the speed of progress in the Barcelona Process had become dependent on events and developments happening in the OPTs. That led to a halt in the part related to the political and security partnership when several attempts to agree on the Mediterranean Charter for Peace and Stability had failed (Asseburg, 2003). EuroMeSCO Network³¹ issued a report on Political and Security Cooperation in the Mediterranean in 1997, confessed that it is impossible for the EU to separate future progress in the Barcelona Process from the Middle East peace process (EuroMeSCO, 1997). The report states that the “resolution of the Middle East peace process in a precondition for the implementation of a fully- fledged area of peace and stability in the overall Mediterranean environment”. (EuroMeSCO, 1997). Few years later, EMP has been replaced by the Union for Mediterranean (UFM).

2.2.3. Israel and European Neighbourhood Policy

The ENP was established in 2004, to work with the EU’s Southern and Eastern neighbours in order to achieve “the closest possible political association and the greatest possible degree of economic integration” (Lippert, 2007). The core of ENP is to create a ring of well governed countries around the Union that share its fundamental values and objectives (Del Sarto & Schumacher, 2005). For achieving that, the ENP focuses on sharing benefits of the EU’s enlargement with its neighbours in order to avoid drawing a new dividing line between enlarged EU and its neighbours (European Commission, 2004c). It basically aims to promote stability and prosperity within and beyond the new borders of the EU, especially after the wide enlargement of 2004³². Joining the ENP offers the Union’s neighbours several privileges

³¹ EuroMeSCO or the Euro-Mediterranean Study Commission is a network of research centres on politics and security in the Mediterranean.

³² On May 1st, 2004, ten new countries with a combined population of almost 75 million joined the EU. It was the biggest enlargement of the Union. The new member states were: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Seven out of ten are part of the former Eastern Bloc.

including financial support. Economic integration includes awarding an eventual share in the EU's internal market, easier travel to EU states by facilitations of Schengen visa arrangements, and technical and policy support (Lippert, 2007).

The main characteristic of the ENP, which differs than Barcelona Process, is that adopting ENP gradually renounced the principle of the "regionality" that was inherent in the Barcelona Process (EMP) and replaced it with the "differentiated" and "bilateral" approach (Aliboni, 2003). This encouraged the bilateral model of relations between the EU and its partners. It also means that relations built up under the umbrella of the ENP would be developed on a case-by-case basis. This leads to the conclusion that the most politically and economically advanced countries, or those most ready to adopt serious political and economic reforms would be offered privileges and favourable chances to upgrade their relations with the EU (Del Sarto & Schumacher, 2005).

The other characteristic of the ENP, is the Commission's declaration that it "does not seek to impose conditions or priorities on the partners" (The Commission, 2003). According to Del Sarto and Schumacher (2005: 23), the ENP relies on the benchmarking approach, which means that "only those states that share the EU's political and economic values and/or commit themselves to engage in reforms will have anything to gain from the ENP". This approach opened the door to Israel to surpass its neighbours in upgrading its relations with the Union for the same reasons explained in the vein of EU-Israel AA (i.e. section 2.2.1.). The presence of the logic of "positive conditionality" in the ENP, instead of "negative conditionality" regarding the respect for human rights (Del Sarto & Schumacher, 2005) offers Israel an easy withdrawal from its commitments to human rights and international law in the OPTs.

Although the ENP is regarded as a bilateral relation with the EU, European side tried to inject some ideas regarding the MEPP during discussions over the Action Plan. However, both Europeans and Israelis came with different visions towards the correlation between mutual integration and political status. For example, the EU demanded of Israel to give written pledges to respect the European vision to resolving the Middle East conflict, namely the two-

state solution, particularly they asked Israel to accept a Roadmap for Peace³³ and join the global efforts to combat weapons of mass destruction (WMDs) (Padro & Peters, 2010). The Israeli side tried to avoid any commitments on political issues and wanted to upgrade economic relations with the least possible terms (Padro & Peters, 2010). Even Israel has never been willing to make any written commitments related to the Israeli-Palestinian conflict, the AP includes Israeli acknowledgement of the role of the EU in the Middle East Quartet³⁴, and the need to take into account the viability of a future Palestinian state. The same applies to Israel's WMDs (European Commission, 2004a). This kind of "acknowledgement" and showing respect to the MEPP is not considered as binding formula. It is also important to mention that the Action Plan had been discussed and adopted during the second Palestinian Intifada while Israel was implementing its wide military operation in the West Bank called "Defensive Shield" in order to put an end to the Palestinian uprising, which caused 1,949 Palestinian deaths (HRW, 2003).

Regarding European "shared values", the EU-Israel AP refrains from the usual European strict commitment to the shared values (Del Sarto & Schumacher, 2005) such as peace and human rights. By skimming EU-Israel AP, one can notice clearly the contrast between affirming the importance of "shared values" and "anti semitism". For example, the AP states that "the EU and Israel share the common values of democracy, respect for human rights and the rule of law and basic freedoms", while regarding "anti-semitism" it states that "both parties are committed to the struggle against all form of anti-semitism, racism and xenophobia". (European Commission, 2004a). In other words, the AP mentioned the "shared values" seven times, but in the vein of: having the same background, working to enhance them, or looking forward deeper relations in accordance to the degree of commitment to them

³³ Roadmap for Peace was a peace proposal to resolve Israeli-Palestinian conflict proposed by the International Quartet at the end of 2002.

³⁴ The Middle East Quartet is an International group established to contribute to resolving the Israeli-Palestinian conflict. It was established in Madrid in 2002 and includes: the UN, the U.S, the EU and Russia. Ex-British Prime Minister Tony Blair was the Quarter's special envoy since its establishment till his resignation in May 2015.

(i.e. vague positive conditionality wording). In the same time, the text does not talk of any joint programmes to ensure that. It also does not recommend creating any criteria or instruments to protect human rights in a conflict region. Moreover, the Action Plan suggests to “explore the possibility to join the optional protocols related to international conventions on human rights” (European Commission, 2004a), which is not a binding term and does not contain any details about which human rights conventions. This insufficiency in the Action Plan appears in the lack of harmony in the positions of the twenty-five EU member states at that time which supported the UN General Assembly Resolution condemning Israel for the construction the Separation Wall in the West Bank and demanding its immediate dismantlement (UN General Assembly, 2004). The Action Plan does not mention this topic and it does not suggest instruments to guarantee respect for human rights during the bloody years of Intifada in the OPTs.

The Intifada or the Separation Wall were not the only areas of problem. In 2003, Israeli government amended a controversial law on citizenship drawing serious criticism from the international community including the UN Human Rights Council and also Israeli human rights organisations, (HAMOKED, 2004). And in spite of the fact that the EU Country Report on Israel that builds the basis of the AP criticised the amended law (European Commission, 2004b), the AP itself does not mention this topic.

In conclusion, can be argued that the new model of bilateral relation represented in the ENP affected the EU role in the MEPP negatively, as it caused regression in European role in peace building in the Southern Mediterranean (Del Sarto & Schumacher, 2005). In this vein, the language used in the EU-Israel AP to cover political issues and the so called “shared values” is extremely vague, and it is ignoring fundamental differences in explaining of terms between the EU and Israel (Del Sarto, 2007). The AP also lacks political commitments in an unintelligible way, especially when taking into account the Middle East conflict. The few political acknowledgments made by Israel are ambiguous and open to future misunderstandings (Del Sarto, 2007). So the AP partiality for Israel is obvious in providing Tel Aviv extra economic privileges, and almost rescuing it from political and human rights responsibilities regarding the peace process. As an axiomatic result, this model reduced EU

chances to play an effective role in the MEPP, particularly in view of the top priority that Israel enjoys in the ENP (Del Sarto & Schumacher, 2005). The dominance of the ENP model over EU-Israel relations, contributes significantly in widening the gap between EU goals and roles in the MEPP and EU-Israel bilateral relations.

2.2.4. Israel and the Union for the Mediterranean

In 2008, European and Mediterranean heads of governments launched the Union for the Mediterranean (UFM) in order to provide a new political motive to the EMP. The idea of the UFM came first from Nicolas Sarkozy's campaign for French Presidency. When the French initiative received several European objections, especially from Germany, Spain and Italy, Germany succeeded in pursuing its preferences in an edited formula made the initiative more European than French (Pardo & Peters, 2010). As a result, EU member states agreed on the project in the Euro-Mediterranean foreign ministers meeting in Marseilles in November 2008 (The Council, 2008).

The UFM is an intergovernmental international organisation composed of 43 member states of which 28 are EU members and 15 are Mediterranean. The League of Arab States participates in all meetings at all levels of the Union for the Mediterranean (UFM Secretariat, 2015).

Israel, like many other Mediterranean countries involved in the ENP, sees the ENP, not the UFM, as where the real content of their relation with Europe is (Bechev & Nicolaidis, 2008). That because the ENP is built on a tailor made relation between the Union and each neighbour country, and it is independent of regional political influence. However, because of Sarkozy's strong support of Israel, Israeli officials chose to welcome his initiative lavishly (Pardo & Peters, 2012). That does not mean that Israel did not benefit from the UFM because one cannot neglect how it helps Israeli steady efforts to promote normalisation in the region.

In conclusion, the UFM, like Barcelona Process, failed so far in achieving a considerable and durable state of stability in the Mediterranean, and any progress in the UFM remained dependent on the developments in the Israeli- Palestinian conflict. In its first test, the UFM

became one of the victims of Israeli aggression against Gaza (2008-2009) (Pardo & Peters, 2010) when the Arab partners in the UFM boycotted UFM's meetings in order to pressure Europe to convince Israel to stop the blood shed in Gaza, the EU could not provide results. Given that real cooperation and integration between The Union and Israel is a bilateral relation formed under the umbrella of the ENP, which is away from any political influence, Israel does not matter if its participation in the UFM is stumbled.

2.2.5. The Absence of Conditionality in EU-Israel relations

Two main factors makes EU relation with Israel unique, as the EU's 1994 Essen Declaration which conceded Israel a "special status" over EU neighbours (The Council, 1994) . First factor is related to the structure of the EU's relations with its neighbours, particularly the ENP, that based on offering the developed economies more chances of economic integration, and more chances to upgrade their relations with the EU, as elaborated previously. EU Focusing on the ENP, shifted the European approach to more refraining from the political conditionality regarding peacemaking and political reforms (Del Sarto & Schumacher, 2005), more withdrawing form the negative conditionality in favour of positive conditionality, though the EU resort to the negative conditionality two years later with the PA after Hamas had been elected in 2006 (Brynen, 2008). The second factor is the partiality in treating with Israel regarding the political conditionality, as the EU did not impose any kind of conditionality over Israel. This endeavour could be unintelligible, especially when taking into account the ongoing bloody conflict in the Middle East, and the European willingness to play an effective role in the MEPP. These two factor give an idea about the pattern of the EU-Israel relations, and how this pattern contributes significantly in stripping the EU of its pressure tools in the region.

As the study explored previously, the ENP bilateral model is the core of EU-Israel relations. However, political issues are not mentioned by a binding formula in EU-Israel AP. Both political and human rights\international law issues are discussed or mentioned as a content of political dialogue between Israel and the EU. No conditions are attached to the receipt of

AP's benefits, though the ENP based on affirming the positive conditionality (Liargovas, 2003). Thus, one can argue that the EU has never applied the political conditionality on Israel. This is in clear contrast to the political conditionality developed in EU-PA Action Plan, which is clearly linked PA's participation in ENP with the success of applying the reforms in Palestinian political and economic agenda (European Commission, 2004d:1).

To realise the status of EU political conditionality in the case of Israel, it is important to mention the case of Palestinian Authority (PA). In general, the EU uses the concept of "constructive engagement" which refers to the positive conditionality with its Mediterranean neighbours (Liargovas, 2003). Positive conditionality is similar to the "carrot" in the carrot and stick approach. However, this approach has not been applied to Israel, as the carrot have been rarely dangled, and normally simply given to Israel (Tocci, 2005:18)³⁵.

In the Palestinian side, the EU uses tied aid or aid conditionality in the context of the relation with Palestinians to achieve the EU's goals in state building, especially supporting democracy and good governance in the PA, and it heavily stated in EU-PA Action Plan (European Commission, 2004d). Moreover, the MEDA programme (the main financial instrument of the Euro-Mediterranean partnership, that provides financial support to the EMP's states) managed to make the element of conditionality more sharp (i.e. negative conditionality), by stating that any violation of democratic principles, the rule of law, human rights and fundamental freedoms "will justify the adoption of appreciate measures" (Council of the EU, 1996), that opens the door to adopt a suspension of EU aid to PA, and that exactly what happened after a few years.

Later, and particularly after the second Intifada in 2000, positive aid conditionality has been used to quell the "Palestinian violence" and remove any American and Israeli reasons or excuse to reject negotiations with Palestinians (Tocci, 2005:15). One can notice that during Oslo era (1993-2000) European donors rarely threatened to slow or withhold economic assistance in order to support the Palestinian leadership in spite of the existence of corruption

³⁵ That is completely accurate if one excludes EP's delayed ratification of three additional protocols in the EU-Israel trade agreement between 1987-1988 during Palestinian first Intifada, the approval was given on 12 October 1988 when the EP received a commitment by Israel that it would no longer ban the Palestinian exports to the EC market. (MEDEA, 2016)

in PA's institutions and the slow progress in good governance reforms (Brynen, 2008). That happened because the donors had fears of weakening the pro-negotiations lobby in the Palestinian society and PA itself as a peace process new nascent (Brynen, 2008).

Status of violence during the second intifada (2000-2004), modified European priorities related to PA, from enhancing democracy and good governance, to quelling violence in the Occupied Palestinian Territories (OPTs) (Gianniou, 2008) (Alfattal, 2010). This approach became more clear when the EU's positions matched with U.S policy in isolating Yasser Arafat in Ramallah. However, the sharp turning point happened in 2006 when the EU boycotted Palestinian government shaped by Hamas after its election victory. The aid conditionality secreted announced economic and diplomat sanctions against any Palestinian government including Hamas (Brynen, 2008). Despite the EU Commission welcomed the result of Palestinian legislative election and stated that it was "efficiently administered by a professional and independent Palestinian Central Elections Commission" (EU delegation to the UN, 2006). Five days later, the EU, as a part of the Quartet, announced three precondition to recognise and deal with any potential Palestinian government includes Hamas, and to delivery aids and fund to this government. The conditions were: recognising Israel (or according to some, Israel's right to exist as a Jewish state), renouncing violence and accepting previous Israel-PLO agreements. (O'Donnell, 2008). Thus, the EU stopped money transferees to PA's treasury till Salam Fayyad was appointed prime minister of a technocrat government in West Bank, which is supported by Fatah and recognised by the international society in June 2007 (Reuters, 2007).

Many officials and scholars, including UN Special Coordinator for the Middle East Peace Process Alvaro De Soto, criticised the EU's harsh conditionality over the elected Palestinian government (De Soto, 2007; Cronin, 2011; Brynen, 2008). With the exception of the conditionality on renouncing violence, Nathalie Tocci (2007) sees that the Quarter's conditions were legally dubious. First, the conditionality on Israel's recognition has no legal grounding in so far as only states and not political parties can recognise other states (giving that Hamas is not a state, even not a part of PLO yet (as the internationally recognised representative of the Palestinian people) (Tocci, 2007). Moreover, the peace process between

Israel and other Arab states has never been made conditional upon the Arab world's recognition of Israel or its right to exist (Tocci, 2007). The recognition conditionality also leaving unanswered question of on which borders should Israel be recognised, especially that the Quarter's parties know very well that it is controversial question had been delayed to the final status agreement between Israelis and Palestinians. Second, regarding the acceptance of previous agreements in particular, it was Ariel Sharon's government in March 2001 – and not the PA – that first claimed it would only “respect” rather than “accept” previous agreements, adding to this that its respect would be conditional on the conduct of the other side (Israel Ministry of FA, 2001).

Overall, using economic assistance as a political tool is an apparent European approach in the relation with Palestinians. Several reasons encourage this approach, particularly Palestinian economic dependence on Europe, then political dependence. It is important to mention that dependency culture in the Palestinian economy is a problem exacerbated because of Israel's heavy restrictions over the OPTs (Konency, 2012). These Israeli restrictions undermine the EU-PLO trade agreements, contribute in weakening the European economic diplomacy, and force the EU to shoulder the costs of Israel's occupation (Hollis, 2010), especially through offering Palestinians daily-needs instead of Israel³⁶.

Israel, as an occupying power, has obligations towards Palestinian people under international law. According to B'Tselem- The Israeli Information Centre for Human Rights in the OPTs:

“One source of Israel's obligations is the laws of occupation, which are incorporated in the 1907 Hague Convention, and in the 1949 Fourth Geneva Convention.... These laws impose general responsibility on the occupying state for the “safety and welfare of civilians living in the occupied territory”... The laws of occupation apply if a state has "effective control" over the territory in question, this matter applies on the Gaza Strip and the West Bank including East Jerusalem. The High Court has held contrary to Israel's claim, stating that the creation and continuation of an occupation does not depend on the existence of an institution administering the lives of the local population (because in the in the case of Israeli-Palestinian conflict, Palestinian Authority (PA) is the institutional form that often

³⁶ Chapter 3 elaborates this matter minutely.

administrate lives of the local populations), but only on the extent of its military control in the area.

Furthermore, a certain area may be deemed occupied even if the army does not have a fixed presence throughout the whole area. Leading experts in humanitarian law maintain that effective control may also exist when the army controls key points in a particular area, reflecting its power over the entire area and preventing an alternative central government from formulating and carrying out its powers, and this is the case in the occupied West Bank, and Gaza Strip”.

(B’Tselem, 2016b)

Thus, it can be argued that European toleration of Israeli human rights abuses in the OPTs (Cronin, 2010), and shouldering Israel’s occupation bill (Hollis, 2010) made EFP towards the Middle East, more expensive and less effective, and this status quo exacerbated the alleged gap between EU goals in the region and its bilateral relations with Israel.

In the other side, deepening of EU-Israel relations without applying any sort of political conditionality (unlike in the case of Palestinians) has eroded the EU’s legitimacy among Palestinians (Del Sarto, 2011:34), led to several paradoxical incidents damaging the EU’s credibility (Tocci, 2005:19), and weakened EU ability to commit Israel regarding to the peace process. As an example of these paradoxical incidents, one can mention the 2004 Commission negotiations over ENP Action Plan with Israel, following the International Court of Justice ruling condemning Israel and the EU Council’s own criticisms of the Israeli strikes in Gaza. This atypical EU approach led a German official to comment: “Imagine if disproportionate use of force is being condemned by everyone, and at the same time the EU offers this magic plan to move Israel and the EU closer to each other – a plan which benefits the Israelis... at the bottom of this is how we can use for the best our leverage with Israel. After all, they will get everything but institutions” (Haaretz, 2004).

In conclusion, Israel almost succeeded in adapting its own model of relations with the EU, particularly in the meaning of separating politics from economics (Tocci, 2005). This argument has three main indicators. First, is the successful Israeli attempts to be free from any political conditionality related to the Israeli-Palestinian conflict or the MEPP, and keeping the effects of the conflict far away from the mutual EU-Israel relations. Second,

Israel's level of economic growth which can not be compared to the economic levels of its neighbours, makes Israel the preferred partner in the region. Third, Israeli leaders realise that a "smart and useful" partnership with the EU will be more benefit to Israel than the full EU membership. Thus, they keep seeking to upgrade Israel's relations with the Union on the base of the economic benefit without being obliged to the full accession commitments (e.g. Copenhagen criteria).

One can clearly notice that the real content of the EU-Israel relation is concentrated in a model of a bilateral relation between the two sides, while the EU failed in developing a multilateral partnership that can integrate Israel with its Arab Mediterranean neighbours in order to reduce the Middle East conflict. The dominant model of bilateral relations is supported by an Israeli willingness to keep relations with the EU far away from any commitments related to the Israeli-Palestinian conflict. Besides that a model of multilateral relation under the umbrella of the EMP or UFM would lead to political commitments related to the MEPP. Focusing on bilateral relations, especially in the context of ENP, benefits Israel from its advanced economy to gain privileged economic and trade relations with the EU. Given that the ENP Action plan is a tailor-made pact for each partner and depending on the extent of its economic development, Israel prefers to make it the base of its economic relations with Europe, and pushes towards this model at the expense of its integration within the region.

The other noticeable point is that the EU has never applied political conditionality on Israel in any of the mutual agreements signed with Israel. Moreover, the EU-Israel official agreements neglect the political issues related to the conflict and the MEPP (such as: commitment to peace talks, respect to international law and human rights) as they only mention them in extremely vague wording. Even the European "shared values" is mentioned in vague wording, and the few political commitments made by Israel are ambiguous and open to future misunderstandings. For example, one can notice the difference of wording between commitments to human rights which mentioned as "exploring the possibility to join optional protocols related to international conventions on human rights", and the commitments against anti-semitism which mentioned five times as "combating anti-semitism". Thus, neither

theoretical nor practical conditionality was applied on Israel, while political aid conditionality is the base of EU economic assistance to the PA. During the Second Intifada (2000-2004), “quelling the Palestinian violence” was the European condition to allow assistance (or money transfer) (The Council, 2003a; Brynen, 2008). For example, European demands for the PA shifted from focusing on democracy and good governance, to urge “consolidating all Palestinian security services” in order to “confront individuals and groups conducting and planning terrorist attacks” (European Council, 2003b), as the concepts of “democracy and good governance” had been disappeared in the EU’s official documents issued in 2003. Thus, during the years of the Second Intifada, EU aid conditionality had been condensed on the quelling Palestinian violence, in favour of the concepts of democracy and good governance. The heaviest political conditionality was applied in 2006 after Hamas election victory, when the Quartet, including the EU, cut off contact with and halted assistance to the PA in order to isolate Hamas and drive it out of power.

As a result of double standards, and normally offering the carrot for Israelis, the EU lost its credibility and influential tools in the MEPP where the EU seeks to play a significant role. Europeans found themselves inaudible, while Israelis are very grateful for Europe’s absence and the American dominance (Savir, 2016).

Even the European aid that was transferred to the PA after Palestinians met their commitments became a burden on the EU as Israel continues to target European funded-projects in OPTs (Cronin, 2011). Thus, the EU bears, at least partially, the financial burden of the Israeli occupation instead of Israel, through offering Palestinians daily-needs (like: infrastructure projects and salaries) (Hollis, 2010). Moreover, the United Nations declared in 2011 that the PA is ready for statehood, and echoed findings by the World Bank and the International Monetary Fund, who in separate reports prepared for the donors’ conference, said that the authority was well-positioned to run an independent state (UN, 2011). The EU as the biggest donor for the PA did not welcome the report, as there was no political willingness to empowering the Palestinian state. The 2015 World Bank reports showed deficit in the financial performance of the PA, which means more European millions of euros have been lost.

This financial impasse was not the only problem. The preferential export of Israeli goods produced in illegal settlements poses a legal question in the EU. The EU that constantly condemns Israeli settlement activity in the OPTs gives legitimacy for settlement policy as it accepts settlement goods produced in the occupied territories, not in Israel. However, after roughly seven years of deliberations over a comparison of this legal problem, the EU decided that EU agreements with Israel applied only to the State of Israel within the pre-1967 border (The Commission, 2005). Ten years later, the Commission issued an Interpretative Notice decided that no more misleading labels over settlement products in European retail stores (The Commission, 2015). Surely, the legal issue was not the main motivation beyond the 2015 labelling decision, as chapter 3 elaborates.

The next chapter discusses how and why the EU issued the last decisions on the labelling of settlement products as a case study of EU foreign policy new shifts towards Israel. The study focuses on labelling issue as a model, because it has a direct link to Israeli settlement policy which preempts the two-state solution, and undermines EU role in the MEPP. The chapter also analyses how the EU hopes that new shifts will help in tightening the gap between its roles and goals in the Middle East from a side, and its policies towards Israel from the other side. The roles of NSAs, particularly socialised elites and interest groups in the certification of the labelling issue are also discussed in the next chapter.

3. TIGHTENING THE GAP BETWEEN EU ROLES AND GOALS IN THE MIDDLE EAST AND EU-ISRAEL BILATERAL RELATIONS

As elaborated in chapter two, the real content of the EU-Israel relations are concentrated in a bilateral relation model between the two sides. This model offers Israel a comfortable withdrawal from any political commitments regarding the Middle East conflict. Thus, the dominance of this model led to stripping Europeans of any pressure tools on Israel in order to keep European interests in the MEPP, and rescue EU role in the region.

This chapter continues analysing the reasons behind the chained EU policy towards the MEPP by exploring its challenges. It focuses on challenges regarding the disabled foreign policy instruments. Unlike the conventional challenges such as: American dominance over the MEPP political agenda or the debatable ability to reach a common EFP, the EU has its own internal challenges that undermine its policies even when the Union succeeds in reaching common decisions. This chapter studies how the absence of European active pressure tools chains up European ability to achieve its security priority in accomplishing steady peace process in the Middle East. It also studies the impact of Israel's restrictions in the OPTs on undermining EU economic assistance to the PA which, indeed, undermines a vital European foreign policy instrument used to serve the MEPP (i.e. EU economic diplomacy). The chapter elaborates how ongoing Israel's restrictions and distraction of the EU-funded development projects emphasised dependency-culture in the OPTs, which puts more economic burdens on the EU, and forced Europe to bear the financial burden of the Israeli occupation instead of Israel.

This chapter argues that all of these challenges created a wide gap between EU goals and roles in the MEPP, and the EU-Israel bilateral relations. It also claims that the EU realised that bridging this gap is a pre-condition to play a more effective role in the region, while it does not prefer to impose sanctions or enter into a confrontation with Israel. Thus, European elites, who are no longer pleased with Israel's heavy-handed practices, decided to activate a regulatory foreign policy instrument (i.e. regulatory economic diplomacy instrument). The aim was to sending a refusal message of Israel's government led by the right-wing coalition.

In order to evaluate EU decision to activate FP instrument against settlement policy, the first part of the chapter starts with clarifying EU position on the Middle East conflict, as EU-Israel relations can not be separated from this matter. EU position towards the conflict based on two main pillars, which are the two-state solution as the sole way to resolve the conflict, and the respect to human rights and international law (Tocci, 2005). The second part, elaborates how Israel's restrictions undermine EU goals in the OPTs, and preempt EU-PLO trade agreement. The third part studies Israel's settlement policy as a case study of Israel's practices in the OPTs, and points the contradiction between these practices and the EU's vision in the conflict. The study chose to focus on settlement policy because it is the most discarded and renounced Israeli policy among Europe and international community, and it also threatens the EU's two-pillar vision in the Middle East (i.e viability of the two-state solution, and respect to human rights).

The last two parts explore how European endeavour to activate the rules of origin protocol (ROO) came into force, by elaborating the history of settlement products question in EU-Israel relations since the 1990s. Then the chapter analyses the 2015 labelling guidelines by comparing with the 2005 arrangements regarding settlement products. Finally, the chapter studies the role of NSAs including European elites and interest groups in pushing towards the labelling decision from agenda-setting to implementation. It takes MATTIN group's efforts in this matter as a case study on an effective labelling model that lies on EU norms and shared values and does not challenge EU legislations. The study argues that MATTIN group experience is an example of informational lobbying that plays a crucial role in EFP decision making process.

3.1. The EU two-pillar vision to the Israeli-Palestinian conflict

The EU has a well-defined position towards the Israeli-Palestinian conflict since the 1980s³⁷. This position has been affirmed after the establishment of the Oslo Peace Process in 1993,

³⁷ This matter has been discussed minutely in this chapter.

which led to a bigger EU engagement in the resolution of the conflict, especially in economic sense as being the bigger donor for Palestinian Authority (PA) (Europa, 2016d) and the first economic partner of Israel (Europa, 2016c).

3.1.1. EU positions on the conflict

The well-defined European position towards the Israeli-Palestinian conflict predicated on two main pillars: (i) the two-state solution as the sole means to resolve the conflict, and (ii) the commitment to respect democracy, human rights and international law (Tocci, 2005). Accordingly, the EU believes in Israel's right to statehood in the territories beyond the 1967 Line³⁸ living in security and peace with its neighbours. And it also believes in the Palestinian right to self-determination (European Council, 1980) in order to establish a viable, independent, sovereign, peaceful and democratic state, and it would entail the end of Israel's occupation (European Council, 2002). Thus, the EU refuses Israel's settlement policy in the West Bank and East Jerusalem, the Separation Wall as they confiscate Palestinian lands and restrict the freedom of movement, the Israeli airstrikes, Israeli detention policy – especially against children – the Palestinian suicide bombs³⁹ and rockets.

The EU has notes and criticisms over both Israeli and Palestinian practices which undermine peace in the OPTs. A brief skim through a sample of EU statements and documents since 1993 will show clearly that the majority of criticisms are over Israeli violations which mentioned in the context of the threat viability of the two-state solution,. While the most of criticisms of Palestinian violations are mentioned in the context of condemning violence (The

³⁸ The 1967 Line or the Green Line refers to the demarcation line set out in the end of the 1948 Arab-Israeli War. This line came into being according to the 1949 Armistice Agreement between Israel, Egypt, Jordan, Lebanon and Syria. The territories behind this line include the current occupied Palestine except East Jerusalem, West Bank and Gaza Strip. Thus, territories occupied since 1967 would be out of Israel's borders under international law. (Sella, 1986).

³⁹ Palestinian military groups had adopted suicide attacks against Israelis during the Second Intifada. The first suicide attack was carried out in 1989, the rate of these attacks arisen between 2000-2004, then stopped in 2008. (Israel Ministry of FA, 2016).

Council, 2005, 2012, 2014, 2016). In other words, the EU realises that Israel is committing structural violence against Palestinians in a way that undermines peace by making the two-state solution unviable, and this totally contradicts the European vision of the resolution. This contradiction between Israeli practices and European vision in the MEPP increased the divergence and clash between the two sides' interests.

The European efforts to resolve the MEPP are not a luxurious interest to expand power or international prestige, but the EU considers this issue as a security priority. The 2003 European Security Strategy that provides the conceptual framework for the Common Foreign and Security Policy (CFSP), emphasises that “resolution of the Arab-Israeli conflict is a strategic priority for Europe” (Council of the EU, 2003). The document also mentions the two-state solution as the base of the resolution (Council of the EU, 2003). In spite of this interest, the European involvement in the MEPP seems modest and not equivalent to the image in the EU's strategies, even not equivalent to EU economic aids and facilitates provided to the conflict parties, especially the Palestinian Authority (PA).

A great controversy emerges over characterising the feature of EU's involvement in the MEPP. Some researchers say that the EU is an “economic giant”, giving that it is the largest financial donor to the PA and biggest trade partner for Israel, but at the same time, it is a “political dwarf” (Alfattal, 2010:3). There is a consensus among researchers that the EU has a deep economic linkages with both sides of the conflict. However, the main point of contention is not whether the EU is a “payer”, but if it is also a “player” that is capable of influencing the political agenda of the MEPP. Hollis (2010) argues that the EU is a player, not a bystander, in the quest of the MEPP. Others consider that the EU never played a political role in the conflict and has only been able to have an influence through economic means (Perthes, 2004). Voltolini asserts that despite its persistent and evident involvement, the EU is considered as an actor with a secondary role (Voltolini, 2013: 42). Rodney Wilson (1998) sees that the EU's role is so limited, as the EU tends to follow the lead of the U.S on the MEPP. Asseburg (2010) affirms that EU success in being an active player, not just paymaster, has proved elusive, as long as the EU is unwilling to wield real political influence. Asseburg (2010) also sees that EU self-imposed political constraints make the Union unable to

communicate with all actors in the region and, thus, unable to exercise influence on all parties. In nutshell, this study agrees, to some extent, with Asseburg's argument and argues that the EU's political role is unbalanced in comparison to its economic involvement in the MEPP, whether through aid to Palestinians, or trade with Israelis.

As the study explored shortly before, the EU does not seem to lack a well-defined position towards the Israeli-Palestinian conflict. Its involvement, due to other considerations related to the absence of the concept of cohesion, is modest or unbalanced, as the EU does not control the tone of its bilateral relations with Israel in a harmony with the EU's rhythm (i.e. EU roles and goals) in the MEPP.

3.1.2. Resolution of the conflict in the EU's vision

As a result of its positions towards the Israeli-Palestinian conflict, the EU developed its policy towards the MEPP using several tools and instruments, so as to pave the way to the two-state solution, and guarantee respect to democracy, human rights and international law in the region. This part highlights the EU's significant policies, reflected in the EU's declaratory diplomacy, in order to understand the pattern of the EU's goals and roles in the MEPP.

3.1.2.1. The two-state solution.

Initially, the EU's vision of the resolution of the Middle East conflict had been built on respecting the rights of Israeli and Palestinian people. Historically, the EC\EU recognised Israel's right to exist and statehood since the first moment, when the EC started its diplomatic relations with Israel in 1959. Through EU programs and partnerships, the EU has tried to integrate Israel with its neighbourhood to normalise Israel's relations with neighbours in order to live in peace and safety with them, it also provides Israel financial aid, economic and trade privileges as discussed in chapter 2.

On the other hand, the EU positions regarding the two-state solution have been defined over decades. At the outset, the EC declared its support for the "legitimate rights of the

Palestinians” in 1973 (European Community, 1973), the official formula was vague and not detailed. In 1977, the European definition of these legitimate rights became more clear when the European Council acknowledged the “national identity” of the Palestinians and added that they need a “homeland” (European Council, 1977). Greater clarity was achieved in 1980, when the European Council declared its support for the Palestinian “right to self-determination” in the Venice Declaration (European Council, 1980), which is regarded as a European key reference document about the conflict.

During the early 1990s, the golden years of the Oslo Peace Process, the EU preferred to be discreet about specifying further steps on the conflict resolution. During this phase, the EU limited its role to support the peace process and emerging Palestinian Authority (PA) (Tocci, 2005). However, the regress of the peace process and rise of violence between 1997-1998, led the EU to restore its clarity by calling to achieve Oslo peace promises. In 1998, the European Council agreed that a solution should not exclude the option of a Palestinian state (European Council, 1998). The next European Council meeting in Berlin in 1999, went a step further when it specified the Palestinian state’s characteristics stating that “the EU is convinced that the creation of a democratic, viable and peaceful sovereign Palestinian State on the basis of existing agreements and through negotiations would be the best guarantee of Israel's security” (European Council, 1999).

With the outbreak of the second Intifada (uprising) in 2000, the rise of violence and human rights violations in the OPTs and the collapse of negotiations, the Union felt emboldened to articulate further its vision for a peaceful Middle East (Tocci, 2005), especially one that concurred with the regress of American focus on Israeli-Palestinian conflict, in favour of War Against Terror after September 11. Thus, a closer look at the European vision for the resolution of the Middle East conflict since that time, highlights that it is built on the creation of two states, Israel and Palestine, living in peace and security within internationally recognised borders based on UN and UN Security Council resolutions (European Council, 2001). The state of Palestine, according to the European vision, would be “viable, independent, sovereign, peaceful and democratic”, and it would “put an end to the Israeli occupation” (European Council, 2002). The state would be established along the 1967

borders, with minor adjustments agreed by the parties (European Community, 2003), and achieving the two-state solution would be through negotiations (European Council, 2002) (European Council, 2004).

With the end of 2015, the EU conclusion on the Middle East peace process enhanced its previous positions and reaffirmed the two-state solution principle as the sole resolution for the conflict (The Council, 2015). In the same context, the EU's report condemned "building the separation barrier beyond the 1967 line, demolitions and confiscation - including EU-funded projects - evictions, forced transfers including of Bedouins, illegal outposts, settler violence and restrictions of movement and access", and considered these violations as an obstacle to the two-state solution. (EU Council, 2015). In Article 6, the EU Council mentioned the labelling of settlement products in the context of preserving the viability of the two-state solution (The Council, 2015), which affirms the political dimension of the labelling decision.

3.1.2.2. Respect to human rights and international law.

The second pillar of the EU goals in the MEPP is guaranteeing respect toward democracy, human rights and international law (Tocci, 2005). Since the 1970s, the EU has condemned violence and terrorism pointing to the violations against human rights and international law in Israel and OPTs. Regarding this study and particularly settlement policy, the EU has considered that a peace agreement should be based particularly on the stopping of the Israeli occupation and the acquisition of Palestinian territory by force (The Community, 1973). The first European official condemnation of Israeli settlements in the OPTs came in the EC statement on the Egyptian-Israeli peace process made by the nine member states in 1979 (The Community, 1979). The Venice Declaration in 1980, further specified that settlements are not only a "serious obstacle to peace", but that any modification in population and property in the occupied territories is illegal under international law (European Council, 1980). In 1989, the European Council stated that the fourth Geneva Convention is applicable to the occupied territories (European Council, 1989), which could lead to classify several Israeli violations

against Palestinians related to settlement activities, as war crimes⁴⁰. In 1990, the European Council recalled Israel to not permit settlements in the OPTs. (The Council, 1990). The Council also affirms that Israeli settlements are “illegal” and “present a growing obstacle to peace in the region” (The Council, 1990).

In the golden years of peace (i.e. the early 1990s) the EU chose to mitigate its criticisms and condemnations related to the Middle East status, despite Israel’s ongoing settlement activities and the PA’s shortcomings in the fields of democracy and good governance (Tocci, 2005). This choice had been nominated to give a chance to the peace process. That reflects how the EU used its declamatory diplomacy instruments to influence the two parties of the conflict, in EFP arena.

With the collapse of the process toward the end of the year 2000, the condemnations reappeared again. Even European criticisms focused on making calls to stop the mutual violence, it did not neglect its focus on settlement policy. In 2001, the European Council calls Israel to freeze on settlements and end operations directed against Palestinian infrastructures (The Council, 2001). In 2002, the EU started to criticise Israel’s Separation Wall⁴¹ within the OPTs in a vague formulation⁴² (The Council, 2002). Later, the EU considered the Wall illegal and urged Israel to reverse its settlement policy together with the departure of the Wall (European Council, 2003a). The EU also condemned the Wall obstruction of Palestinian free movement and privation of essential services and access to land and water resources (The Council, 2003b). In 2004, the EU MSs supported the UN General Assembly Resolution’s condemnation of Israel for building the Separation Wall in the West Bank and demanding its immediate destruction (UN General Assembly, 2004) (European Community, 2004).

⁴⁰ Article 8.2. (b)(viii) of the Rome Statute of the International Criminal Court (ICC) defines “The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory” to be a war crime. (ICC, 2002)

⁴¹ This Wall has been seen as a step to emphasise the two-level economy and lifestyle in the West Bank in favour to settlers.

⁴² The European Council Presidency conclusion stated that : in the OPTs, “restrictions on the freedom of movement must be lifted. Walls will not bring peace”. (European Council, 2002).

On the Palestinian side, Europeans criticised the PA, during Intifada, because of its inability or unwillingness to stop Palestinian violence. The European Council started to call for reforming the PA to “demonstrate concretely its determination in the fight against terrorism and extremist violence” (The Council, 2003a). European demands for the PA shifted from focusing on democracy and good governance, to urge “consolidating all Palestinian security services” in order to “confront individuals and groups conducting and planning terrorist attacks” (European Council, 2003b), as the concepts of “democracy and good governance” had been disappeared in the EU’s official documents issued in 2003. Thus, during the years of the Second Intifada, EU aid conditionality had been condensed on the quelling Palestinian violence, in favour of the concepts of democracy and good governance.

In the 2015 and 2016 European Council conclusions on the Middle East, the EU continued to recall its strong opposition to Israel’s settlement policy and other Israeli practices that preempt the two-state solution. Most of the commendations of Israeli violations against the Palestinians and the MEPP had been mentioned in the context of serving the two-state solution (The Council, 2016) (The Council, 2015) (The Council, 2014). For example, in 2015, the EU reaffirms that there is no alternative to a negotiated two state solution (European Council, 2015). Article 6, regarding the two-state solution and the future of the MEPP, used a strong wording condemnation to settlement activities and the Separation Wall, as stated that:

“The preservation of the viability of the two state solution is at the core of EU policy and will remain a priority. In this regard, and recalling that settlements are illegal under international law, the EU reiterates its strong opposition to Israel’s settlement policy and actions taken in this context, such as building the separation barrier beyond the 1967 line, demolitions and confiscation – including of EU funded projects – evictions, forced transfers including of Bedouins, illegal outposts, settler violence and restrictions of movement and access. These actions seriously threaten the two state solution. Settlement activity in East Jerusalem seriously jeopardizes the possibility of Jerusalem serving as the future capital of both states. The EU will continue to closely monitor developments on the ground and their broader implications and remains ready to take further action in order to protect the viability of the two state solution. The EU and its Member States reaffirm their commitment to

ensure continued, full and effective implementation of existing EU legislation and bilateral arrangements applicable to settlement products. The EU expresses its commitment to ensure that - in line with international law – all agreements between the State of Israel and the EU must unequivocally and explicitly indicate their inapplicability to the territories occupied by Israel in 1967”.

(The Council, 2015)

One can find the same concept in the January 2016 European Council conclusion on the MEPP. Article 7, emphasised the EU evaluation of settlement policy as an obstacle to peace and more effective European engagement in the process, by “recalling that settlements are illegal under international law, constitute an obstacle to peace and threaten to make a two state solution impossible, the EU reiterates its strong opposition to Israel's settlement policy... It urges Israel to end all settlement activity.... Settlement activity in East Jerusalem seriously jeopardises the possibility of Jerusalem serving as the future capital of both States”.

(The Council, 2016).

3.2. The chained EU role and goals in the MEPP

The current facts on ground in Israel and the OPTs, the collapse of the peace process and the lack of any signs of the resumption of peace talks any time soon reflect that events in the Middle East develop outside the European vision for resolution. The time is running out for the two-state solution. Israeli settlement policy converted the future Palestinian state into discrete Palestinian cantons separated from each other, lacking basic needs such as potable water, road networks and natural spaces (ARIJ, 2015). Thus, the first key pillar of the European vision almost fades as Israeli settlement policy has preempted the two-state solution.

Likewise, European efforts to achieve respect to international law and human rights have had little impact. On the ground, the efforts to restrain Israel from entrenching its occupation have failed. A new wave of violence has emerged since October 2015 with 180 Palestinian deaths and 33 Israeli in the first 150 days (Euro-med, 2016). Moreover, roughly 800 million dollars

annual fund to the PA has not fared any better nor has it quelled violence or achieved any progress in the mission of the state building (World Bank, 2016). The state building has been a dead end, as the EU solidifies a dependency culture in the OPTs instead of real economy (Witney, 2013).

Based on the previous data and status quo in the OPTs, one can find that the most important challenge influences the EU's role in the MEPP is the lack of the coherence. The EU itself, and through its incoherent policies, challenges its role and effectiveness (Asseburg, 2010). This challenge could be more effective than any challenges such as: U.S dominance over the peace process, the fact that the EU is not a unitary player, and the Israeli unwelcoming of a more European involvement.

Regarding coherence, Terpan (2010) drew attention to an important difference between two kind of coherence needed in the EFP, especially in the case of EU's positions towards Israel. He stated that:

“In order to act collectively on the international scene, the EU must combine the common foreign policy with the national ones, and coordinate the different parts of its external action. Hence, two kinds of coherence must be achieved: a vertical coherence between the EU and the Member States and a horizontal coherence between the CFSP and other external policies. This specificity must be kept in mind when studying the EU's position towards Israel”

(Terpan, 2010:2)

Terpan's argument (2010) defines the vertical coherence as a consistent status between MSs with no major divergence among them, while the horizontal coherence means that EU external policies should mutually reinforce. Thus, even when the EU succeeds in reaching a common policy towards Israel, among its 28 member states, the lack of coherence between this policy and the EU-Israel bilateral relations leads to more obstacles undermine the EU's role. For example, it is remarkable how the EU's rhetoric condemns settlement policy while EU markets are open to settlement products. Therefore, one can argue that the widening gap between the EU's role and goals in the MEPP, and the bilateral EU-Israel relations, remains a considerable obstacle in the way of an effective European presence in the Middle East.

The EU has a variety of foreign policy tools and instruments used in the Middle East, ranging from its bilateral relations with both Israelis and Palestinians, statement diplomacy, the roles in the Middle East International Quartet and Special envoy (political diplomacy), and its advanced economic relations with both Israelis and Palestinians (economic diplomacy) (White, 2001)⁴³. Many of these instruments became inefficient because of the absence of a coherent EU policy towards the Middle East conflict, and the tragic inconsistency between European interests in the Middle East and European interests in Israel.

For example, many researchers see that the bilateral EU relations with Palestinians, as a second party of the conflict, is no longer an effective instrument in the service of the EU's role and goals (Neslen, 2014; Youngs, 2014). These bilateral relations have become a burden to Europeans basically in the economic sense (Neslen, 2014; Hollis, 2010). While aid flows to the PA, and nothing is done regarding Israeli policies in blocking and undermining the economy in the OPTs, the EU contributes in affirming a dependency culture in the OPTs and masking the hollowing out of the real Palestinian economy (Witney, 2013) by shouldering the Israeli occupation's bill. This means more expensive and less effective European involvement in the Middle East.

3.2.1 Aid over trade in the OPTs

Israeli occupation in the OPTs, the Separation Wall along and within the West Bank, air and sea blockades in the Gaza Strip have placed harsh limitations on the success of the Palestinian economy. A complicated web of military checkpoints (which are illegal under the international law, and Israeli-Palestinian accords) makes it difficult for Palestinians to travel within OPTs for jobs, to bank or to trade. As Palestinian society is a rural society, farmers whose land falls behind the Separation Wall are required to apply for visitor permits to take care of their lands, which Israel regularly rejects (e.g. in 2012 Israel accepted only 20% of these applications) (OCHA, 2012a) . According to the UN OCHA (2012, b) 80,000 Palestinian families who economically rely on the olive harvest lose \$ 12.3 million each year.

⁴³ They have been discussed in chapter 1.

In trade sector, it is important to mention the Paris Protocol signed in 1994 between the Israelis and Palestinians as part of the peace process. The Paris Protocol gives Palestinians the right to export their products without restrictions, and states that Palestinians should be given equal treatment to Israeli exporters (Israeli Ministry of FA, 2016). Based on Israel's obligations under the Paris Protocol, the EU allowed preferential trade access to specific Palestinian products in 1986, in order to support the Palestinian economy and establish mutual economic relations (Fidler, 1998), including duty free for industrial products (European Community, 1997). In 2011, the EU extended duty free access to most Palestinian agriculture products, in what the EU called "one of the most generous agreements that the EU signed in the field of agriculture" (EP, 2011).

However, the differences between theory and facts on the ground deprive Palestinians from enjoying EU privileges. Wide ranging Israeli restrictions invalidate the EU's agreements with the Palestinians and keep Palestinian exports to Europe to a minimum. The harshest Israeli restrictions often connected to settlement policy, including:

(i) Constraints on access to land and water: These constraints undermine especially the Palestinian agricultural sector and deprive Palestinians from enjoying the 2011 duty free agreement with the EU. According to the UNCTAD (2012), because of the Israeli practices in the OPTs, the Palestinian economy "has lost access to 40 per cent of West Bank land, 82 per cent of its ground water, and more than two thirds of its grazing land". Moreover, restrictions on access to water make Palestinian production much more expensive than production from the settlements (Oxfam, 2012).

(ii) Restrictions on movement of goods: All Palestinian goods destined for Israel or other export must pass through Israeli checkpoints, where they are unloaded from Palestinian vehicles and extensively checked before they can be re-loaded onto an Israeli vehicle on the other side (the so-called "back-to-back" system) (Oxfam, 2012). This procedure is extremely time-consuming and often damages the products. Thus, it reduces the competitiveness of Palestinian products and increases the unpredictability of their delivery times and quality. (Oxfam, 2012)

(iii) Israeli ban on dual use products: Israel bans Palestinians from importing a range of “dual-use” products, including chemicals and fertilisers used in factories and agriculture. Palestinians are forced to turn to more expensive or less effective alternatives that further increase the cost of production (Oxfam, 2012). Restrictions on fertilisers alone lead to losses of between 20-33% in agricultural productivity (UNCTAD, 2012).

(v) The blockade on Gaza: Since the takeover of Hamas in 2007, the Gaza Strip has been subject to stringent Israeli and Egyptian restrictions. Almost all exports from Gaza are banned. Despite the easing of some restrictions by Israel since 2010, the volume of exports from Gaza is still less than 2% of the pre-2007 levels (Gisha, 2012). The Palestinian split also led to separating Gaza’s budget from the PA’s budget, which caused more suffering for the 1.7 million Palestinians living in Gaza.

As a result, the Palestinian economy has been a dead end. A Palestinian study cited by the UN estimated the total cost of Israeli restrictions at \$6.9 billion in 2010, or 84.9 % of the total Palestinian GDP (ARIJ, 2011). In 2013, the World Bank (2013) itself estimated the cost of Israeli restrictions in the West bank only with the exception of Gaza and East Jerusalem as \$3.4 billion a year, or 35% of Palestinian GDP. In other words, if the restrictions were left, the Palestinian economy would be almost able to phase out European and other international aids.

It is clear that the most devastated restrictions are those imposed to reinforce the settlement activities in the West Bank (first and second categories). These restrictions contribute in creating a two-level economy in the OPTs; settlements prosperous economy and Palestinian tripped economy (Konency, 2012). These restrictions “remain the major impediment to sustainable economic growth” in the OPTs, according to the World Bank (2012). Furthermore, World Bank warned that “numerous Israeli road blocks, closed areas, restricted roads and growing settlements have cut the Palestinian communities into isolated cantons, raising transportation costs and significantly limiting the ability of Palestinian enterprises to achieve economies of scale” (World Bank, 2009). As a result, the PA became completely dependent on funds from the EU and other foreign donors for around one-third of its expenditure (Word Bank, 2012). This dependency compounded the burdens of the EU (i.e.

European Commission and EU MSs) as the biggest multilateral donor for the PA (Europa, 2015). The EU gave the PA financial assistance of over 5.6 billion euros between 1994 and 2013 (ECA, 2013), and this does not include the assistances provided by individual member states⁴⁴.

If international actors, like the EU, pressure Israel to reduce its restrictions on the Palestinian economy, the PA's dependency on foreign funds would be significantly reduced. A report issued by the World Bank in 2010, highlighted that if Israeli distractions on the Palestinian agriculture sector were removed in order to develop an additional 3.5% of Area C⁴⁵ in the Jordan Valley, the PA's economy would gain \$1 billion a year, which is comparable to the annual foreign aid budget to the PA (World Bank, 2010).

A report produced by 22 European research centres and human rights organisations in 2012, warned that the ongoing condoning of Israel's policies and constrictions in the OPTs, especially the expansion of settlements and the associated displacement of Palestinians from Area C have undermined the effectiveness of EU aid, and preempted the EU's stated goal for

⁴⁴ For example, in 2015, the European Union's contribution in the international aid to the Palestinians through UNRWA was \$111,539,994; the United Kingdom's \$51,349,547; Sweden's \$35,859,431; Norway's \$21,794,642; Switzerland's \$23,761,329 (UNRWA, 2015).

⁴⁵ According to Oslo II accord, OPTs have been divided into three administrative divisions: the Area A, B and C. Area A: covers 18% of West Bank, with full civil and security control by the PA. Area B: covers 19% of the West Bank, with Palestinian civil control and joint Israeli-Palestinian security control. Area C: covers 60% of the West Bank with full Israeli civil and security control. 3% of the West Bank is a nature space. According to the United Nations:

“Over 60 percent of the West Bank is considered Area C, where Israel retains near exclusive control, including over law enforcement, planning and construction.

150,000 (approx.) Palestinians live in Area C in 542 communities.

325,000 Israeli settlers live in some 135 settlements and about 100 outposts in Area C, in contravention of international law; the settlements' municipal area (the area available for their expansion) is nine times larger than their current built-up area.

Palestinian construction in 29% of Area C is heavily restricted; less than 1% of Area C has been planned for Palestinian development”. (UN, 2013)

this fund, which is Palestinian statehood as part of the two-state solution (Konecny, 2012). Moreover, the report stated that:

“By trading with settlements and contributing to their permanence, the EU is undermining its own investment in Palestinian state-building efforts. Furthermore, while the EU’s aid has been crucial to address the urgent needs of Palestinians living in poverty, it has also effectively relieved the Israeli government of its obligation as the occupying power to ensure the welfare of the occupied population. If EU aid is to have lasting impact and not only perpetuate the status quo, governments need to invest not only money but also political will to address the root causes of Palestinian poverty and aid dependency”.

(Konecny, 2012)

Based on this vision, incoherence between bilateral EU-Israel relations and other EU external actions towards Middle East weakens the EU’s role in the MEPP. And this reinforces Al-Fattal’s argument that considers the EU as a political dwarf in the MEPP (2010:3). It also weakens the EU’s economic role, as foreign policy economic diplomacy has been chained by Israeli practices in the OPTs, especially through settlement policy.

3.2.2. The lack of European peace initiatives

Despite the EC having developed a more coherent vision and manner towards the Israeli-Palestinian conflict since the 1980s, one can say that the MEPP’s political agenda continues to be dominated by the U.S. even after the establishment of the Middle East Quartet in 2002. Although the idea behind the Quartet was to transfer the mediation of the peace process between the Israelis and Palestinians from the unilateral dimension to the multilateral by engaging the U.S, EU, UN and Russia to organise and monitor peace talks, the Quartet, after 13 years of processing, seems to have failed in breaking the US’s monopoly over the political agenda and peace initiatives. This happened despite the EU having been extremely keen to maximise its political role in the peace process as the Union is still the first donor of the PA since 1993 (Europa, 2015). While the US remains the dominant driver of the Quartet, the EU stands as the supporter of the US’s actions. This was obvious from day one when the

Quartet's first statement in April 2002 highlighted the US's supremacy amongst the four, stating that: "the UN, the EU and Russia express their strong support for Secretary of State Powell's mission" (UN, 2002).

The former UN Secretary-General (UNSG) representative Alvaro De Soto condemns the EU following the U.S. in the Quartet. De Soto summarised the status inside the Quartet saying it became a "group of friends" not of the conflict, but rather of the the U.S. (De Soto, 2007). In the case of the Quartet's conditions over Hamas, De Soto condemns the EU following the US's decision in boycotting Hamas, saying that "the Quarter could have represented the ideal means to engage in diplomatic constructive ambiguity: concomitantly exerting pressure on Hamas without cutting all ties to it" and it could benefit the future of the peace process. However, the U.S forced the partners to adopt its approach with Hamas, and "went as far as threatening to review U.S contribution to the UN budget". (De Soto, 2007). In 2007, former British Prime Minister Tony Blair who was appointed as Quartet representative also highlighted how the U.S's role overshadowed the other partners. Because Blair was very close to the Bush administration, he was viewed with disgust in Europe, moreover, Russia was opposed to him because of previous discords (Tocci, 2011). This made the appointment of Blair a unilateral American choice which proceeded without contacting the other three partners, especially the EU (Moller & Hanelt, 2007).

In practice, the Quartet failed to present any initiative for peace since it came into being. Its role ranged from adopting and supporting already existing initiatives like the Roadmap and Annapolis Conference, and to welcoming US attempts to relaunch negotiations like the attempt under the supervision of the special envoy, George Mitchell, in 2010. One can argue that the Quartet's weakness is not just related to the US's exclusive ownership of the political agenda, especially that other states from outside the Quartet had submitted peace initiatives, such as Egypt (mediated to set cease-fire between Israel and Hamas in 2008) and Turkey (Turkey made efforts to mediate between Israel and Syria in 2008). Today, the Quarter has represented much less of a shift in the EU role from payer to political player than many initially hoped (Musu, 2010). That raised questions over the Quartet's effectiveness and the

EU's role from the gate of the Quartet as a significant instrument in the EU's political diplomacy.

3.3. Settlement expansion is the biggest obstacle to EU role in the Middle East

As the study elaborated previously (in 3.1 and 3.2), the majority of the EU's condemnations of Israeli violence came in the context of preempting of the two-state solution and undermining Europe's role in the MEPP. The Europeans realise that Israeli violence could be classified as structural violence, which harm people by preventing them from meeting their basic needs⁴⁶. Although the EU's statements do not use the phrase "structural violence" but they condemn Israeli practices for preventing Palestinians from their basic needs and rights according to the international law.

The Israeli settlement policy is considered as the most significant impediment to peace. The most dangerous impact of settlements expansion is preempting the two-state solution and making it impracticable. It means further displacement of Palestinians, absorption of East Jerusalem, which is supposed to be the capital of the future Palestinian state, entrenching the occupation in the 1967 territories and simply erasing the Green Line (Witney, 2013). The EU realised how Israel races against time to change the geographic and demographic situation in the OPTs before the final status negotiations, and how this strategy makes reaching an agreement over the final status so elusive.

According to international law, the UN Security Council (1967) (1979), UN General Assembly (1997) and the International Court of Justice (2004), the West Bank and East Jerusalem are occupied illegally by Israel, and this occupation must be ended. Thus, as an occupying power, Israel is obliged to respect international law, particularly Article 49 of the

⁴⁶ According to the theory of structural violence, structural inequalities that systematically deny some people their basic human needs constitute a structural violation of human rights (Galtung, 1969). Especially that the theory argues that unequal share of power and distribution of resources is the pivotal causal factor of these avoidable structural inequalities. (Ho, 2007)

Fourth Geneva Convention that prohibits an occupying power from transferring its citizens into the occupied territory (Red Cross, 1949).

A report issued in 2015 by the Applied Research Institute in Jerusalem-ARIJ (2015), highlighted that Israel established 196 settlements and 232 settler outposts in the West Bank and East Jerusalem until September 2015. These settlements and outposts take up approximately 45% of the West Bank area. About 750,000 Israeli settlers reside in both the West Bank and East Jerusalem, while the population of Israeli settlers in the West Bank is between 425,000-462,000 (UN, 2015) (ARIJ, 2015). The annual growth of the population of Israeli settlers in the West Bank (with the exception of East Jerusalem) is 4.4%, while the overall population growth of Israel is 1.9% (B'tselem, 2015). This reflects how Israel plans to extend the boundaries of its presence in the OPTs and de-Palestinianize the local population (UN, 2015) (ARIJ, 2015). If Israeli settlements take up around 45% of the West Bank area, how much of it remains for a viable Palestinian state? To answer this question it is important to mention that the impact of settlements is not limited to reducing the space of the potential Palestinian state, but in making this state noncontiguous and unviable in the light of the following facts:

First, settlement policy cuts out the OPTs to isolated cantons rather than a connected area. Around 430 Israeli settlements and outposts (ARIJ, 2015) have reduced the space of a potential Palestinian state, and “have cut out Palestinian communities into isolated cantons, raising transportation costs and significantly limiting the ability of Palestinian enterprises to achieve economies of scale” (World Bank, 2009).

Second, settlement policy created road networks for settlers which increases the isolation of the OPTs and discrimination against the Palestinians. According to the 2012 UN figures, Israel established “540 internal checkpoints, roadblocks and other physical obstacles that impede Palestinian movement within the West Bank; these obstacles exist primarily to protect settlers and facilitate their movement, including to and from Israel” (OCHA, 2012c). Unlike the Palestinian citizens, Israeli settlers have easy access to special roads that bypass the most of Palestinian areas and connect settlements to the road network and cities inside Israel and to other settlements (Konency, 2012).

Third, settlement policy contributes to unequal access to water. According to the World Bank, Israel adopts an extremely unequal division of water resources in the West Bank to the benefit of settlers and at the expense of the Palestinians (World Bank, 2009b). According to the Oslo Accord, Israel was allocated four times more water from the West Bank aquifers than the Palestinians (World Bank, 2009b). In practice, however, Israel has been extracting up to 80% more than the share agreed under the Oslo Accord (World Bank, 2009b). As a result, average Palestinian water consumption in the West Bank reduced to about 73 litres a day per capita, which is below the 100 litres a day per capita recommended by the World Health Organisation as a minimum personal share of water (B'Tselem, 2016a). Meanwhile, per capita share of water for Israelis, including settlers, is three and half times higher than the Palestinians (B'Tselem, 2016a). This uneven distribution of water also affects the Palestinian agricultural sector, which loses about 110,000 job opportunities because of poor access to water (World Bank, 2009b).

Fourth, settlement policy affirms two-tier economy in the West Bank. Through preferential services, development, preferential access to nature resources and other benefits provided for settlers while harsh restrictions have been imposed on the Palestinians, a discriminatory two-tier system has been affirmed in the West Bank (HRW, 2010) (Konency, 2012). On one side, settlement projects including the agriculture and manufacture sectors, benefit from wide ranging Israeli government subsidies, and enjoy easy access to international markets thanks to special road networks that bypass Palestinian-populated areas. While on the Palestinian side, agriculture and manufacture sectors are severely constrained by Israeli restrictions on access to markets and natural resources, especially water. As previously elaborated in the study, the Palestinian economy loses 35% of its GDP per year as a result of the Israeli restrictions (World Bank, 2013). This poorness of the Palestinian economy affirms its dependency on financial aids. A two-tier economy affects the life of the population in the West Bank, with settlers enjoying a wide range of facilities and preferential services, and the Palestinians being subject to Israeli restrictions that violate their rights (HRW, 2010).

The previous impacts and risks on the two-state solution have always been reflected in the EU's declaratory diplomacy. The 2011 and 2012 internal reports of the EU Heads of Mission in Jerusalem and Ramallah revealed that Europe was disturbed by Israel's settlement activities. The 2012 report described the settlement construction as "systematic and provocative" policy undermines the peace (EU Mission, 2012). Regarding Jerusalem, the reports stated that Israel's actions have run counter to its stated commitment to sustainable peace with Palestinians (EU Mission, 2011). They emphasised that Israeli policies in the city are increasingly undermining the feasibility of Jerusalem as the future capital of two states (EU Mission, 2011). They added that "Israel is actively perpetuating its illegal annexation of East Jerusalem by systematically undermining the Palestinian presence" (EU Mission, 2012). A comment made by Chris Patten, the former EU commissioner for Foreign Affairs, summaries the policy of the vicious circle as continued funding of the two-state resolution in the Middle East without committing Israel to respect this project or deterring its distraction for chances of peace on the ground. Patten criticised the European role, saying (Financial Times, 2009):

"At present, international donors meet most of the bill for the consequences of occupation that should be met under the Geneva convention by Israel. (...) If Israel continues, as its PM says it will, to build settlements, making an agreement on a viable Palestinian state all but impossible, should the international community simply shrug its shoulders and write more cheques? The money that I spent in Palestine on behalf of European voters and taxpayers over five years as a European commissioner has drained away into the blood-soaked sand. (...) Is Europe's role in the region to be the paymaster for intransigence and the use of disproportionate force?"

3.4. The question of "Rules of Origin" and settlement products

As elaborated previously, Israeli settlement policy has led in the last years to erase the Green Line and make the two-state solution no longer viable, besides its several human rights violations. The EU as a mediator in the Israeli-Palestinian peace process, which adopts the

two-state solution as a sole way to resolve the conflict, has a strong opposition to Israeli settlement activities. The EU has denounced settlement policy in the majority of its statements and reports on the Middle East. However, Israeli governments keep launching new settlement projects especially during Benjamin Netanyahu's government according to Israeli official numbers⁴⁷ (Haaretz, 2015a). The dominance of right-wing on the Israeli political life took the region to more violence with no peace partner in the Israeli side, according to the PA (Al-monitor, 2015). While in the Palestinian side, the despair led to a wave of public protests and knife attacks against Israeli soldiers and settlers in Jerusalem and the West bank since October 2015. In this sphere, the EU trade arrangements on labelling settlement products, in November 2015, would not be surprising.

The 2015 arrangements are different than any previous European arrangement regarding settlement products, as they emphasises differentiating of settlement products than other Israeli products, not just for European importers, but for average consumers. The decision means that no more "Made in Israel" labels on settlement goods in Europe markets and retail shops. However, one can consider that the 2015 arrangements, came too late, as it took eighteen years to be issued in the last formula.

It is important to mention that the 2015 labelling guidelines were not new legislation. The Commission as the responsible institution about explaining and monitoring the implementation of EU legislations, issued the last guideline to help member states in implementing the already existing legislation between the EU and Israel. The Commission aimed also to allow average European consumers to take their own and informed decision about buying settlements products or avoiding them. In the same time, the 2015 guidelines, authorised EU member states governments to label settlement goods in national markets according to the new arrangements.

The 2015 arrangements that issued under "Interpretative Notice" title were not new legislations (The Commission, 2015). Thus, the Commission emphasises its roles as responsible body to activate the regulatory instrument in the economic diplomacy tools of

⁴⁷ Benjamin Netanyahu said in October 2015 that the number of West Bank settlers has grown by about 120,000 since he took office in 2009. (Haaretz, 2015a)

EFP that theorised by Brian White (2001) and mentioned in several EU studies (Radaelli, 2002; Smith, 2007). According to White (2001), regulatory instrument refers to a set of trade policy instruments developed to take action in order to stop unfair trading with third parties. The Commission in this case, intervened to stop misleading European consumers by stop buying settlement goods as originated in Israel. Moshe Hirsch (2002) focused on Rules of Origins (ROO) Protocol as a foreign policy instrument in the EU arena. He studied settlement products as a case study on ROO as a EFP tool (Hirsch, 2002). Therefore, the 2015 arrangements can not be evaluated as an abstract economic procedure, but rather political and legal move.

The new arrangements acquired a normative and political importance in isolating settlement policy and underlining its illegality. This is apparent in the political side of the decision, even it may not has immediate significant economic impact on settlement industry. In spite of recent economic reports that observed slight economic impact on settlement industrial and agricultural sectors, but the political and legal and cultural impact of the 2015 arrangements is more obvious. Especially that the labelling decision would open the door to several condemnations of settlement policy in Europe and the World, and underlines the attempts to isolate settlement policy.

It is important to analyse the roots cause of settlement products question in Europe, and how the ROO could be a political tool regarding the MEPP. The next few pages explain the ROO, their correlation to EU-Israel commercial exchange and the recent EU guidelines. It also analyse how activating the ROO would narrow the gap between EU goals and roles in the MEPP, and the EU-Israel bilateral relations.

3.4.1. Rules of Origin (ROO)

Rules of Origin (ROO) are economic arrangements in international trade, they constitute an essential component of any preferential trading regime (Hirsch, 2002). The ROO's ordinary goal is to determine whether a preferential treatment (e.g. duty-free import) will be applied to a given product in international trade (Trebilcock & Howse & Eliason, 2013). The ROO

described as the “economic nationality” of products (Gordon&Pardo, 2015), and generally condition that products must be “wholly obtained” or produced in one state to benefit from the preferential treatment (Hirsch, 2002). This condition, has been imposed to prevent trade deflection, which is a situation where a third country not party in a FTA or PTA exports a product through a country that is benefiting from the lower tariff, and thus, illegally enjoys a custom reduction (Gordon & Pardo, 2015).

In EU-Israel Association Agreement, the ROO clause is concluded in Protocol 4 on the definition of the concept of originating products (European Community, 2000). Article 2 of the Protocol 4 determines that products must be “wholly obtained in Israel” to be benefited from preferential treatment (European Community, 2000). The condition of “wholly obtained” includes two main factors in order to reach a correct implementation of the ROO; (i) determination of the origin of a product truly, (ii) the territory from which the product originated is neither disputed nor occupied (Gordon & Pardo, 2015).

Most difficulties involving the ROO are related to the first factor, especially with the internationalisation of product process, as many products are manufactured in several countries (Gordon & Pardo, 2015). However, in the case of Israeli settlement products, the EU and Israel are agree on the origin of the products, which is the OPTs, but they are disagree about the legal status of these territories. This leads us to the main question of sovereignty over the OPTs, and the European refusal of Israeli annexation of the West Bank including East Jerusalem.

Even the ROO protocol is well defined in the EU-Israel AA, but by skimming the protocol, one can clearly notice that it does not offering specific definition of Israel’s territories. The agreement settles for saying “wholly obtained in Israel” without clarifying Israel’s borders. By going back to EU literatures and positions towards Israeli-Palestinian conflict, one finds that the EU considers Israel’s territories as based on Security Council Resolutions 242 and 338⁴⁸. Accordingly, the territories captured in 1967 are not parts of Israel. Thus, Israeli settlements can not be considered as a part of Israel’s territories, and this detail creates a

⁴⁸ This matter has been elaborated in 3.1 and 3.2.

breach. In the other side, however, Israel prefers to leave the exact demarcation of its border vague, because it considers the illegal settlements as a part of the state (Gordon, 2008).

The question of Israel's territories and the Palestinian territories created, during the last eighteen years, a dilemma in implementing of the ROO under the EU-Israel AA. The agreement that signed in 1995, grants preferential tariffs for products of Israeli origin (European Community, 2000). But with signing similar agreement with the Palestinians (i.e. the EU- PLO Interim Association Agreement in 1997), the EU has two trade partners claiming ownership of the same territories. Thus, they are claiming the right of preferential trade treatment on the base of the same area. The most disastrous status that Israeli breach of the ROO led to giving European privileges for products originate in territories have been unilaterally and illegally annexed. Moreover, the legal status of these territories, according to the UN and EU, is occupied territories (UN, 1967,1979) (The Community, 1979).

EU accepting of products originate by an occupying power in occupied territories under the preferential trade treatment contradicts with the EU's rhetoric that opposites settlement policy. It also could be considered as accepting occupation, especially in a means of offering trade privileges for industry based on looting natural sources, territories and water of the citizens under military occupation. As the EU introduces itself as a normative power, and given the Union refuses Israel's sovereignty over the OPTs, and considers it as an illegal occupation, trading settlement products in EU market includes a strong paradox. It reflects the wide gap between the vision and goals regarding the Middle East reflected in EU rhetoric, and the EU's interests in Israel reflected in the bilateral relation with Tel Aviv.

A year after the EU-PLO FTA, the European Commission (1998) issued a statement declaring that:

“The EC-Israel Agreement covers neither exports originating in Israeli settlements in the West Bank and Gaza Strip nor exports originating in East Jerusalem and the Golan Heights. Preferential access for such exports would contravene the Protocol on rules of origin annexed to the agreement”.

As a result, several European customs offices had sent requests to Israeli authorities in order to verify Israeli certificates of origin for the products coming from the OPTs and the Golan Heights (Hauswaldt, 2003). Since the Europeans did not received satisfactory response, the EU established the EU-Israel Customs Cooperation Committee to address this dispute (European Community, 2001). In its first meeting in July 2001, the committee failed in finding a solution (European Community, 2001). Thus, the problem had referred to the Association Council which includes members of the Council of the EU, members of the Commission and members of Israeli government (European Community, 2001). In the end of the second meeting of the Association Council on 23 November 2001, the Commission issued a Notice to importers declared that settlements products “are not entitled to benefit from preferential treatment under the EU-Israel AA”, and emphasised that theses products “may become subject to the full rate of customs duties rather than duties at the preferential tariff treatment accorded by the EU-Israel AA” (The Commission, 2001).

On 24 January 2005, the 2001 Notice had been replaced by more firm notice. The 2005 notice stated that “products coming from places brought under Israeli administration since 1967 are not entitled to benefit from preferential tariff treatment under the EU-Israel AA” (European Community, 2005). The 2005 Notice, committed the operators to clarify the “name of the city, village or industrial zone where production conferring originating status” in all movement certificates and invoice declarations made out in Israel. (European Community, 2005). Moreover, the EU elaborated that the preferential treatment will be refused to the goods that originated in “a city, village or industrial zone which is brought under Israeli administration since 1967”. (European Community, 2005). With the 2005 decision, one can say that the former European practice of accepting settlements products under the preferential trade treatment had been officially ended, and settlement products have been subjected to customs duty.

3.4.2. Differences between the 2005 arrangements and the 2015 labelling decision

The 2005 arrangements related to Israeli products originated in the occupied lands were, in the first class, directed to the European importers and trade operators. They were issued under the title of “Notice to importers: Imports from Israel into the Community”, and they focused on excluding the WB and the GH products from any preferential treatment, by warning that “putting the products in free circulation could give rise to a customs debt” (European Community, 2005). The Notice was, primarily, technical.

To achieve its goal in differentiating of the WB’s and the GH’ products, the 2005 European arrangements commit Israeli customs authorities to identify the place of production for all products exported to the EU (European Community, 2005). However, all Israeli products coming from the WB and GH had continued to be labelled with “Made in Israel” labels, but with more specific indication verifies the exact name of the city or the village with its postal code (European Community, 2005). The maintaining of the label “Made in Israel” was crucial to undermining the direct impact of the 2005 arrangements in political and economic meanings (Gordon & Pardo, 2015). This label could be considered misleading as it identifies the occupied lands as “Israeli land” in a contradiction with international law and EU positions.

The 2005 arrangements could be evaluated as timid arrangements, as they failed in solving the main question of sovereignty over the OPTs. The 2005 arrangements also opened the door to misleading indication of settlements products, as the EU kept “Made in Israel” label over products coming from the occupied lands. This issue weakened the 2005 arrangements as a “solution” of the ROO dilemma in the case of the OPTs. Moreover, the 2005 solution contracts with EU literatures and positions towards the sovereignty over the OPTs. Thus, the debate on implementation of the ROO continued.

The EU tried to solve the question in a way corresponds to EU positions, by focusing on reforming the implementation of the already existing trade legislations. Thus, the Commission had worked on developing more indicated guidelines fix the bias in the former implementations. These efforts reflect the practical meanings of the regulatory instrument as

a tool of economic diplomacy in EFP (White, 2001) (Hirsch, 2002), when the EU develops a set of guidelines in order to stop unfair trading with a state. One can clearly notice that the EU decided that the solution would be based on a regulatory instrument to affirm its opposition to settlement policy. By issuing the 2015 guidelines, the EU emphasised that the goal is fixing the wrong implementation of the existing legislations, rather imposing a new one. This mark could be considered as another affirmation of the regulatory approach.

In the 2015 Interpretative Notice, which issued on 11 November, one can say that the paradox in determining the sovereignty over the OPTs has been fixed. Technically, the 2015 notice differs than the 2005 arrangements as it directed to the average European consumers rather than EU importers and operators.

The 2015 Notice calls that when the indication of origin of Israeli products is mandatory⁴⁹ (i.e. explicitly required by the relevant provisions of EU law), the indication “must be correct and not misleading” (The Commission, 2015a). When the indication of origins is not mandatory, but voluntarily⁵⁰, the information must be also “correct and not mislead the consumer” (The Commission, 2015a). The Notice encourages the using of mandatory indication, by warning that indication must become mandatory when omission of information “would mislead the consumer”, or when “such omission causes or is likely to cause the average consumer to take a decision that he would not have taken otherwise”(The Commission, 2015a). It is worth to mention that mandatory indication helps in reaching more effective distinguishing of settlement products.

The most important point in the 2015 notice, that it prevents labelling settlements goods as Israeli products. The notice, emphasises that using “Made in Israel” for the products coming from Israeli settlements is not acceptable, as it “would mislead the consumers, and therefore, is inconsistent with EU legislation” (The Commission, 2015a). It also stated that indicating by “Products from West Bank” or “Products from Golan Heights” is not acceptable too (The

⁴⁹ Mandatory indication of origin applies notably to fresh fruit and vegetables, wine, honey, olive oil, eggs, poultry, organic products and cosmetics (The Commission, 2015b)

⁵⁰ Voluntary indication of origin applies inter alia to pre-packaged foodstuffs and the majority of industrial products excluding cosmetics (The Commission, 2015b).

Commission, 2015). The Notice pointed that the expression “Israeli settlement” or equivalent expression needs to be added, i.e. “Product from the West Bank (Israeli settlement)”. In the case of Palestinian products coming from the West Bank, the Notice suggests using “Product from Palestine” or “Product from West Bank (Palestinian Product)” (The Commission, 2015a).

Even the 2015 arrangements considered as a step further in isolating Israeli settlement policy, the EU clarified that it “does not support any form of boycott or sanctions against Israel or exports from settlements” (The Commission, 2015b), adding that the Commission aimed to “help member states in applying the already existing legislations, and giving consumers the possibility of informed choice” (The Commission, 2015b).

3.4.3. The 2015 labelling decision is political rather technical

The EU decision to label settlement products aimed in the first class to end the paradox between EU displeasure of Israeli settlement policy from a side, and opening EU market to settlement products under misleading labels in the other side. Labelling decision contributes in narrowing the gap, argued by Tocci (2005), between rhetoric and reality in European foreign policy. It also creates a legal precedent that helps in justifying other actions that use commerce to emphasise the illegality of Israel’s occupation (Gordon & Pardo, 2015).

It is clear that the labelling decision is used by the EU as a pressure tool to convince Israel to cede settlement policy and respect the two-state solution. This argument is supported by looking to the EU’s trade policy towards other disputed territories, for example, Western Sahara. Even the EU does not recognise Moroccan sovereignty over Western Sahara (EP, 2015), Moroccan products originated there were benefiting from EU preferential trade treatment under the EU-Morocco Agreement on Agricultural, Processed Agricultural and Fisheries Products (European Community, 2012). In December 2015, the European Court of Justice (ECJ) issued a decision to partly annul the EU-Morocco trade agreement signed in 2012 (The WSJ, 2015). The ECJ claimed in its ruling that the agreement failed to explicitly refer to Western Sahara, leaving open possibility that the agreement would apply in this

disputed region (The WSJ, 2015). The case was brought before the ECJ by Polisario Front which has fought for Western Sahara's independence (The WSJ, 2015). However, the ECJ's legal decision did not match with EU political willingness, as the legal services of the Council of Ministers appealed the ECJ's decision on 19 February (WSRW, 2015). This affirms that the ROO used by the EU in order to serve political reasons rather legal or economic. It is also the case of some products originated in Taiwan, like garlic, which benefit from EU preferential treatment (Hirsch, 2002), even the EU and its MSs do not recognise Taiwan as a sovereign state, rather they consider it a province of the state of China (Hirsch, 2002).

Moshe Hirsch (2002) and Eyal Rubinson (2011) see that the EU policy regarding the ROO of products originated in disputed territories is not uniform. Hirsch (2002) considers EU treatment of Taiwan's and Western Sahara's products, is closer to the practical trade approach that seeks to focus on de facto controller of the state, and avoids the disputed question regarding political sovereignty and international recognition. This argument had been affirmed after the EU appealed the ECJ's decision on EU-Morocco trade agreement. However, the EU policy towards settlement products is based on political developments, as it matched with the EU's political willingness. The treatment of settlement products, according to Hirsch (2002), is based upon prior determinations regarding the issue of sovereignty and international recognition, and he called it political sovereignty approach. He finds that determination of origin in such cases "may constitute a transmission belt between the foreign policy of the relevant state (or economic bloc) and its trade policy" (Hirsch, 2002: 581-582). In the case of EU policy towards Israeli settlements, based on Hirsch's argument (2002), the new labelling decision constitutes an instrument for exerting pressure on Israel to stop its one-sided annexation policy and settlement activities.

One can argue that labelling decision is understood as a European attempt to translate its economic power into political clout in the Israel-Palestinian conflict. The EU used its economic diplomacy to send a refusal message of Netanyahu's policies. It also could be explained as a European attempt to narrow the gap between the goals regarding the MEPP, and bilateral EU-Israel relations which based on offering "carrots" without "sticks".

Despite that political meanings are the dominance in the background of labelling decision, it has also economic impact on Israel. According to recent estimations, settlement products occupy not more than 2.5 per cent of Israel's exports to the EU (HRW, 2016). However, this small share is not the real influenced sectors. Many Israeli companies have a subsidiary in the West Bank, which makes these companies affected one way or another. A recent report issued in March 2016, by Gush Shalom organisation⁵¹, disclosed that roughly 20 to 30 percent of companies established in the West Bank since 20 years ago, are no longer there (Haaretz, 2016). Some of these companies have shut down completely and others have relocated inside the Green Line in apparent response to boycott pressure (Haaretz, 2016). The report considered EU labelling arrangements as akin to boycott as they encourage Europeans to avoid buying settlement products (Haaretz, 2016).

The linkage between labelling decision and boycott could be justified by the fact that EU decisions have a "normative authority". Gordon and Pardo (2015) support this argument saying that as the labelling decision issued by the EU, that has self-identification as a normative power, it could take place on three levels: supranational, national, and private level. In other words, many several entities would be inspired by the EU and adopt a similar position towards settlement products (Gordon & Pardo, 2015). That seems to be imminent as Human Rights Watch welcomed the EU decision, saying that "other states should follow the EU's example." (HRW, 2015). This also raises the value of interest groups roles in marketing EU decision as a normative position in the side of pro-Palestinians groups, or as a "anti-semitism" in the pro-Israelis side. Interests groups and other non-governmental actors could also play a role in making average consumers aware of the impact of their decision to buy or to avoid settlement products, as the 2015 guidelines aim to give those consumers an "informed choice" to buy settlements products or boycott the goods originated in the occupied land.

⁵¹ An Israeli peace activism group.

3.5. NSAs and arrangements of labelling settlement products

Non-state actors (NSAs) have a significant roles regarding EU labelling of settlement products, especially in the meanings of activating or deactivating the impact of the decision in isolating Israel's settlement policy. Pro-Israeli NSAs could also play a role in delegitimise the decision by linking it with "anti-semitism" culture, as many Israeli officials tried to do⁵². While pro-Palestinians NSAs could play an opposite role in delegitimise Israel's occupation, warning from the illegality of settlements and calling on European citizens to boycott settlement products.

NSAs roles ranging from putting pressure on EU member states to implement\ to not implement labelling procedures, making EU citizens aware of the illegality of settlements\ or aware against differentiating settlements products, to the political marketing of the decision as a pillar to delegitimise Israel's occupation\ or as a semblance of "anti-Semitism". However, before discussion the roles of NSAs including European elites in reacting with the decision, it is important to mention that their roles were present also in taking the 2015 labelling guidelines into force.

3.5.1. The role of the European elites

During the long-term debate on labelling settlement products, the Commission justified its efforts to push forward the decision by saying it received several "strong and recurrent" demands on this issue from member states since 2012 (The Commission, 2015). MSs called on the Commission to apply EU legislation to Israel within its internationally recognised borders (The Commission, 2015), which excludes the 1967 occupied territories.

Before the official declaration of labelling guidelines on 11 November, Haaretz Newspaper published a leaked letter sent to EU foreign policy chief Federica Mogherini. The letter explains how considerable sectors of European elites pushed forward the labelling decision.

⁵² For example, Israeli Energy Minister Yuval Steinitz called the labelling plans "disguised anti-Semitism" (Dailymail, 2015)

Sixteen foreign ministers from EU member states including four out of the five big⁵³, signed a letter asking Mogherini to foster the labelling decision (Haaretz, 2015b). The letter emphasises the political motive of the decision, underlining that “We remain of the view that this is an important step in the full implementation of EU longstanding policy, in relation to the preservation of the two-state solution” (Haaretz, 2015b). It also mentioned other letter dated on 13 April 2013 asking Kathrin Ashton to push forward the process of labelling products originated in settlements (Haaretz, 2015b). According to Haaretz (2015b) the signatories on to the 2013 letter were 13 member states, however, since the breakout of talks between Israelis and Palestinians sponsored by the U.S in 2014, additional countries have joined the pre-labelling bloc in the EU.

By going back to positions of the big EU member states, prominent European figures, and socialised EU elites one can find several demands called on stopping labelling settlement products as “Made in Israel” and pushed forward the 2015 guidelines.

- (i) In 2009, British government asked UK supermarkets on how to distinguish between products from settlements and Palestinian origin, by indicating settlement goods by the label: “Israeli settlement produce”, (UK National Archives, 2009). It also considered that “traders would be misleading consumers, and would therefore almost be certainly committing an offence, if they were to declare produce from the OPTs as (Produce of Israel)” (UK National Archives, 2009). British government also called on the EU to be stricter in its application of the ROO (UK National Archives, 2009).
- (ii) In May 2012, Denmark, which had the rotating presidency of the Council of the EU, declared that it is planning to ban labelling products from Israeli settlements in the West Bank as "Made in Israel" (Haaretz, 2012). Danish Foreign Minister Villy Søvndal Søvndal said : “It will then be up to consumers whether they choose to buy the products or not” (Haaretz, 2012).

⁵³ The European letter is signed by the foreign ministers of France, Britain, Spain, Italy, Belgium, Sweden, Malta, Austria, Ireland, Portugal, Slovenia, Hungary, Finland, Denmark, The Netherlands and Luxembourg. Germany is the only one of the five big European states not to sign on to the letter (Haaretz, 2015b).

- (iii) On 11 April 2013, foreign ministers of 13 EU states signed a letter to the Former EU Foreign Relations Chief Catherine Ashton asking her to push forward “wide guidelines on the labelling of settlement produce” (EUobserver, 2013) (Haaretz, 2013). The signatory states were: Austria, Belgium, Denmark, Finland, France, Ireland, Luxembourg, Malta, The Netherlands, Portugal, Slovenia, Spain and the UK.
- (iv) In September 2013, 19 prominent former European officials had sent a letter to EU foreign relations chief Catherine Ashton on the MEPP. The letter reflected a strong concern about the dying chances of the a settlement based on the two-state solution, and affirmed the need to stop the expansion of Israeli “illegal settlements” (The Daily Beast, 2013). The signatories include several public figures like Former French PM Lionel Jospin, Former Dutch leader Andreas Van Agt and Javier Solana (The Daily Beast, 2013).
- (v) In December 2012, the European Foreign Affairs Council declared that all EU-Israel agreements “must unequivocally and explicitly indicate their inapplicability to the territories occupied by Israel in 1967, namely the Golan Heights, the West Bank including East Jerusalem, and the Gaza Strip” (The Council, 2012). This conclusion, that taken unanimously, led to the result that EU-Israel Association agreement, including EU-funded projects, must exclude settlement products (The Council, 2012).
- (vi) In July 2013, the Commission issued new guidelines excluded settlements form EU-funded projects (The Commission, 2013). The guidelines prevent Israeli ministries, public bodies and businesses that operate in the OPTs from receiving loans worth hundreds of millions of Euros each year from the European Investment Bank (ECCP, 2013). The EU will also stop awarding grant funding to Israeli ministries, public bodies or private businesses or any entity pursuing activities in the Israeli settlements (The Commission, 2013).
- (vii) In August 2013, The Dutch government issued a directive asking traders and retailers to mark Israeli products from the OPTs (Haaretz, 2013). By this move, the Netherlands became the third EU states recommended labelling settlement products.

Consequently, decision makers in the EU found themselves under the pressure of several sectors to go ahead towards the labelling guidelines. From a side there were several demands made by European elites including ministers, prime ministers, former European officials, former EU officials and other prominent European figures. In the other side, EU concerned committees and officials had accumulated hundreds of papers and documents justify and urge the labelling move as a European foreign policy need, by linking this move to the viability of the two-state solution, EU goals in the Middle East and EU heritage as a normative power. This trend among European elites has harmonised with a European popular mood irritated from Israeli heavy-handed policies raised in the last few years. Thus, a blend of efforts by prominent European figures and socialised EU elites succeeded in putting the decision into action in November 2015.

The delay in adopting labelling guidelines, could be explained as a result of hesitation in the EU national level in taking a move annoys Israel. While European elites including EU socialised elite reach a belief that a warning message should be sent. This belief, supported by elites efforts, has took a long-term process to be translated into a FP outcome. One can argue that labelling guidelines have been based on cumulative long-term impact of European elites and interest groups⁵⁴. That explains how the decision remained on the EU's table for years.

EU officials and spokespersons underlined that the labelling decision is not a political rather a technical move, by affirming that the decision does not call to boycott Israel rather avoid misleading consumers (The Commission, 2015). However, one can ask, as long as the EU believes that Israeli settlements are illegal, why the Union accepts products originated in illegal entities to be soled in its market. It is clearly seen that labelling move presents the minimal solution to the illegality question of settlements. Taking a modest decisions after ten yeas of deliberations was expected in the light of the unique EU-Israeli relations, and the characteristics of EU decision making process itself. Given this decision had been pushed by European elites efforts, it was subjected to the elites self-determination behaviour. European elites sought in this case, to keep equilibrium status between the commitment to EU norms

⁵⁴ The next part (3.6.2) focuses on the role of interest groups.

and refusal of violation of international law in a side, and the dangers of Israeli reaction and the long-term effects on bilateral relations with Israel. This corresponds with Weiler and Wessele argument (1988) on European elites behaviour in keeping balance between EU commitments, and the understanding of dangers of political fragmentations. This notice encourages to do not underestimate the labelling move by identifying it as a modest outcome.

3.5.2. The role of interest groups

NGO Monitor, which is an Israeli research institution that has strong links with Israeli intelligence, issued a report analysing the background of the labelling guidelines. NGO Monitor mentioned a European report issued by 22 NGOs in 2012, under the title “Trading Away Peace”, and called on the EU to boycott settlement products (NGO Monitor, 2016). NGO Monitor’s report argued that the EU guidelines closely follow the said report, by adopting part of its recommendations and justifications for distinguishing settlement goods (NGO Monitor, 2016). In fact, EU guidelines were not following NGOs reports, rather harmonising with long-term efforts of interest groups that worked on this cause. The cumulative efforts of interest groups succeeded in reaching a common understanding of settlement products question. And this is the exact core function of informational lobbying at the EU level.

According to official documents of the European Parliament, a Palestinian NGO called MATTIN Group⁵⁵ and its founder Charles Shamas have engaged in a dialogue with the Parliament and the Commission and some MSs regarding the trading of settlement products since 1995 (EP, 2015). MATTIN Groups focused on examining the problems that have emerged regarding Israel’s application of the EU-Israel AA in the occupied lands (EP, 2015). MATTIN Group had been invited by OLAF (Commission’s anti-fraud office) and the

⁵⁵ MATTIN Group is an association based in Ramallah. It focuses on international humanitarian law and aims to influence EU foreign policy making on the Israeli-Palestinian conflict, with a view to change the situation on the ground for Palestinians. (interviewee-1, 2016)

Directorate General for Taxation and Customs Union (DG TAXUD), and had been asked to present confidences on how trading settlement goods violates EU law (Interviewee-1, 2016). As the question of settlement products was a technical case and full of details, MATTIN Group did not seek to influence European public opinion, rather it engaged to direct dialogue with EU officials and administrative officers. Thus, instead of looking for indirect pressure through media and public events, it focused on lobbying the administrative process of political bargaining through direct contacts with EU policy makers (Interviewee-1, 2016), which is called inside tactics⁵⁶ (Chalmers, 2011a).

Studying a few documents regarding deliberations between EU and MATTIN Group, and interviewing the discreet MATTIN's activists reveal the crucial role that the group accomplished. MATTIN's tactic relied on establishing contacts and having interactions with the staff of EU institutions, in order to accumulate a mutual knowledge on settlements question in several dimensions. On MATTIN side, the group aimed to be more familiar with institutions and officers' competences and demands, and related EU laws and arrangements regarding EU-Israel commercial exchange. On EU side, the targeted institution's response to MATTIN staff evolved and became more interactive by the time. EU response developed from receiving information and reports to using legal frame employed by MATTIN's experts (Voltolini, 2013). MATTIN Group relied on the fact that access to the EU policy making process has several patterns in dependence to the type of information offered (Bouwen, 2002, 2004). So it supplied the EU with diverse information, and has moved according to the following:

- (i) It contacted members of European Parliament (MEPs) through letters, in order to call them to present oral and written questions to the Commission and the Council. This endeavour echoed as some MEPs interacted positively with MATTIN's letters and documents by tabling relevant questions.
- (ii) In June 1998, MEP Mary Banotti asked the Commission how the EU was going to make sure settlement goods did not benefit from preferential treatment under the EU-Israel AA (EP, 1998). In January 2000, MEP Luisa Morgantini asked questions to both the Council

⁵⁶ The types of tactics are explained further toward the end of this chapter.

and the Commission concerning the practical steps that EU institutions were taking to prevent the incorrect application of the EU-Israel AA, and the illegal entrance of settlement products under preferential treatment. (EP, 2000a). In February 2000, a group of MEPs applied a question to the Commission on the ‘Irregular application of the EC-Israel Agreement’ during the plenary debate (EP, 2000b). Thus, with more and more examples in the following months, the question of settlement goods trading in the EU, became a familiar current problem. Some EU officials told Voltolini (2013) that they found the wording of the tabled questions by MEPs are akin to the language and forms used by MATTIN Group.

- (iii) It coordinated meetings with officers in the Customs Code Committee, which is responsible for dealing with the rules of origin (ROO) (EP, 2015). It also established contacts with the staff of the Commission, especially the officers in the DG TAXUD as well as the former RELEX (External Relations).

Later, as a result of the long-term pressure of the EP and customs authorities of MSs, the Commission became more active in this matter. Thus, MATTIN Group was invited by OLAF and DG TAXUD to present evidence of the alleged violations of EU law (Interviewee-1, 2016). This invitation could be considered a turn point, as the EU engaged MATTIN Group in the policy making process and legitimated its role. The invitation also reflects EU officials’ need for information, which increased the value of informational lobbying in EFP making process.

Since 2001, settlement products became a current question in both EU level and national level in Europe. The EP issued a resolution in 2001 urging the Commission and the MSs to “take decisive measures to correct any violation of rules of origin by Israel under the trade agreement with the EU and to inform Parliament, so as to avoid any indirect complicity in illegal settlements” (EP, 2001). Since that moment, several interest groups had intensified efforts to call on the EU to exclude settlement products from the preferential trade treatment. While other interest groups went further by calling for boycotting of settlement products.

3.5.3. The effective lobbying should matches EU norms

As analysed in Chapter 1, informational lobbying is the significant type of lobbying EFP making process. Information and knowledge are the currency between interest groups and EU decision makers. The lobbying process includes two parties: interest groups and EU officials. As explained in the MATTIN Group's case, interest groups use information as a bridge to cross into EU decision making process, in other words, to legitimatise its lobbying process (Chalmers, 2011a).

Lobbying process among the EU bodies has two sides. In the first side, interest groups have experts on both issues affecting their interests and technical details regarding EU decision making process. In the EU side, decision makers are, usually, understaffed, under-resourced and pressed for time (van Schendelen, 2005; Crombez, 2002). So, decision makers find their needs in interest groups reports, documents and information in order to reduce uncertainty about potential policy outcomes, especially in the case of external relations behind EU borders (Chalmers, 2011b). Interest groups supply information in exchange for legitimate access to the policy making process with the objective of having their voices heard at EU level, and, ultimately, steering or affecting EU policy making process (Chalmers, 2011b). However, not every process of providing information succeeds in lobbying EU officials, and, indeed, not every interest group does so. The lobbying process, according to Chalmers (2011b) depends on two main components: the type of information and type of tactics.

Regarding information, and according to Bouwen (2004), interest groups have different access patterns to EU decision making process, depending on the type of reverent information, i.e. each decision maker in the EU has a unique informational need depending on their role in the policy making process. For example, the Commission deals with apolitical and technocratic function, thus it requires a large amount of technical, operational and expert information (Bouwen, 2009). The EP requires information that allows it to evaluate the Commission's proposals from EU law, EU norms, EU goals perspectives (Lehmann, 2009), and so on. Accordingly, interest groups would offer various kinds of information such as technical data, expert knowledge, legal explanations, field reports, studies on economic and

social impacts of a proposed policy, studies on public opinion etc. (Chalmers, 2011a). It also needs to offer the suitable type of information for each policy maker, in order to effectively meet their needs.

Regarding tactics, the effectiveness of informational lobbying could not be measured without studying the tactics used to persuade EU officials about the supplied information. Scholars differentiated between approaches of informational lobbying in dependence to several factors. Voltolini (2013, 2015) argues that there is a consensual approach role, which is based on the mutual legitimating of social interactions that do not challenge the EU's role and policies, and adversarial approach, which openly criticises the EU. Walker (1991), Gerber (1999) and Kollman (1998) relied on the arena where the lobbying process takes place to differentiate between outside tactics and inside tactics. Outside tactics refer to interest groups mobilising citizens outside the EU policy making process to pressure officials inside the process (Kollman 1998). These tactics are indirect and focus on using media, launching public campaigns and organising public events such as rallies and conferences in order to influence the attention of public opinion. Inside tactics, by contrast, involve a more direct form of contact between interest groups and decision makers (Kollman 1998). Inside tactics usually refer to old-fashioned strategies such as writing letters, making phone calls and coordinating face-to-face meetings (Chalmers, 2009b).

According to Beyers (2004), inside tactics are more effective in lobbying EU policy making process for three reasons. First, inside tactics are direct, thus, allow the transmission of very technical, detailed and complex information. While outside tactics accost the public, which limits the type of information they can convey to the public (Beyers, 2004). Second, inside tactics are less costly – making a phone call or coordinating a dinner meeting is far less costly than organising a conference or launching a media campaign (Beyers, 2004). Third, outside tactics may have a negative political price like damaging the reputation of an interest group in the eyes of decision makers (Beyers, 2004).

The most of empirical researches emphasise the supremacy of tactics over abstract information in making a lobbying process effective, but there is no consensus over which tactics are the most effective (Chalmers, 2011a). Beyers (2004) emphasises the value of

inside tactics, as well as Eising's (2007) argument that inside tactics offer good opportunities to access EU policy making process, while outside tactics tend to reduce a group's chances of access. Voltolini (2013) also supports this argument, while Baumgartner and Leech (1998) argue that the most effective interest groups are the groups that have the greatest repertory of strategies available to them, including both inside and outside tactics. Chalmers's (2011a) empirical research agreed with Baumgartner and Leech, as he argues that a combination of both inside and outside tactics grants the greater access to the EU. Chalmers (2011a) also measured that inside tactics are used very frequently, while outside tactics are used very sparingly. He used this assumption to defend his opposition to the common idea saying that outside tactics are less effective. At the same time, Chalmers (2011a) stressed that even cause-effect logic type of information is important in the lobbying process, but, how information is conveyed to decision-makers is more important than the actual content of the information. In other words, he argues that "medium is more important than the message", thus, an interest groups can increase its effectiveness by sending the same information using multiple tactics in order to maximise the salience and urgency of its information and demands (Chalmers, 2011b:18).

Theoretically, this study finds that inside tactics have supremacy over outside tactics, even though both are necessary to reach an effective lobbying process in the EU decision making policy. This supremacy dues to the fact that inside tactics lead to interactions with EU socialised elites, who have the upper hand in EU decision making process, as elaborated in Chapter 2. In some sensitive causes, like questions related to Israel, inside tactics have advantage of being free of the influence of pro-Israelis media which tries to resist interest groups' work. In general, elites' conviction and public opinion rarely converge (Goldmann, 2001). However, if effective inside tactics were fed using harmonious outside tactics, in order to mobilise public support for a policy, both of them would constitute a proper effective lobbying process.

By employing the previous theoretical and empirical analyses in the question of settlement products in Europe, one can find that MATTIN Group adopted the consensual approach lobbying, as the group did not challenge EU policies towards Israel rather urged to protect

EU legislations. Both MATTIN Group and EU legitimised each other's role, and tried to reach the most proper application of EU law. MATTIN Group affirms its consensual lobbying by conforming with EU law and norms, as it holds the EU accountable to its norms, existing legislations and its commitments to international law (Voltolini, 2013). The Group also focused on inside tactics by building cumulative contact network with several EU bodies, in order to improve its act and increase its credibility and reputation at the EU level. MATTIN's focus on inside strategy is also due to the complex, technical and full of details case. It can also clearly be seen that MATTIN Group kept its lobbying process extremely far from the public and media. This was supposed to be considered as a shortcoming in mobilising a public opinion support for their demands, unless other interest groups had adopted the same demands and covered the public arena.

In the last few years, three Israeli wars on Gaza, and the extreme settlement expansion boosted European indignation over the Likud Government's heavy-handed policies. It also created a state of harmony between European elites and the public opinion towards Israel. This status facilitates MATTIN's and other interest groups' mission at EU level and among European public opinion. A convergence between those two important circles (elites, public opinion) pushed forward the issuing of the 2015 labelling guidelines.

CONCLUSION

Israel almost succeeded in adapting its own model of relations with the EU, particularly in the meaning of stripping the Union of pressure tools regarding the Middle East conflict. This argument has three main indicators. First, is the successful Israeli attempts to be free from any political conditionality related to the MEPP, and keeping the effects of the conflict far away from bilateral EU-Israel relations. Secondly, Israel's level of economic growth, which can not be compared to the economic levels of its neighbours, increased Israeli chances of gaining more European privileges, thanks to the nature of the ENP, which grants a tailor-made model of relations. Third, Israeli leaders realise that a "smart and useful" partnership with the EU will be of more benefit to Israel than full EU membership. Thus, they keep seeking to upgrade relations with the EU on the basis of the economic benefit without being obliged to the full accession commitments (i.e. Copenhagen criteria).

One can clearly notice that the real content of the EU-Israel relations are concentrated in a model of bilateral relations between the two sides, while the EU failed in developing a multilateral partnership that can integrate Israel with its Arab Mediterranean neighbours in order to reduce the Middle East conflict. The dominance of the bilateral model is supported by an Israeli willingness to keep relations with the EU far away from any commitments related to the Israeli-Palestinian conflict or the MEPP. Focusing on the tailor-made model in the context of the ENP, grants Israel preferable economic chances due to its advanced economy compared to EU neighbours. Given that the ENP Action plan is a tailor-made pact for each partner and it is dependent on the extent of the partner's economic development, Israel prefers to make it the base of its economic relations with Europe, and pushes towards this model at the expense of its integration within the region.

The other noticeable point is that the EU has never applied political conditionality on Israel in any of the mutual agreements signed with Israel. Moreover, the EU-Israel official agreements neglect the political issues related to the conflict and the MEPP (such as: commitment to peace talks, respect to international law and human rights) as they only mention them in extremely vague wording. Even the European "shared values" are mentioned in vague

wording, and the few political commitments made by Israel are ambiguous and open to future misunderstandings. Thus, neither theoretical nor practical conditionality was applied on Israel, while political aid conditionality is the base of EU economic assistance to the PA. During the Second Intifada (2000-2004), “quelling the Palestinian violence” was the European condition for allowing assistance (or money transfer) (The Council, 2003a) (Brynen, 2008). For example, European demands for the PA shifted from focusing on democracy and good governance, to urge “consolidating all Palestinian security services” in order to “confront individuals and groups conducting and planning terrorist attacks” (European Council, 2003b), as the concepts of “democracy and good governance” had disappeared in the EU’s official documents issued in 2003. Thus, during the years of the Second Intifada, EU aid conditionality had been condensed on the quelling of Palestinian violence, in favour of the concepts of democracy and good governance. The heaviest political conditionality was applied in 2006 after the Hamas election victory, when the Quartet, including the EU, cut off contact with and halted assistance to the PA in order to isolate Hamas and drive it out of power.

As a result of double standards, and usually offering the policy of “carrot without a stick” for Israelis, the EU lost its credibility and influential tools in the MEPP where the EU seeks to play a significant role. Europeans found themselves inaudible, while Israelis are very grateful for Europe’s absence and the American dominance (Savir, 2016).

Even the European aid that was transferred to the PA after the Palestinians met their commitments, it became a burden on the EU as Israel continues to target European funded-projects in the OPTs (Cronin, 2011). Thus, the EU bears, at least partially, the financial burden of the Israeli occupation instead of Israel, through offering Palestinians their daily-needs (like: infrastructure projects and PA’s salaries) (Hollis, 2010). Moreover, the United Nations declared in 2011 that the PA is ready for statehood, and echoed findings by the World Bank and the International Monetary Fund, who in separate reports prepared for the donors’ conference, said that the authority was well-positioned to run an independent state (UN, 2011). The EU as the biggest donor to the PA could not welcome the report, as there was no political willingness to empower the Palestinian state. The 2015 World Bank reports showed

a deficit in the financial performance of the PA, which means more millions of European euros were lost.

This financial impasse was not the only problem. The preferential export of Israeli goods produced in illegal settlements poses a legal question in the EU, besides the political question. The EU, which constantly condemns Israeli settlement activity in the OPTs, gives legitimacy for settlement policy as it accepts settlement goods produced in the occupied territories, not in Israel. However, after roughly seven years of deliberations over a comparison of this legal problem, the EU decided that EU agreements with Israel applied only to the state of Israel within the pre-1967 border (The Commission, 2005). Ten years later, the Commission issued an Interpretative Notice that decided against continuing misleading labels over settlement products in European retail stores (The Commission, 2015). Surely, the legal issue was not the main motivation beyond the 2015 labelling decision.

The 2015 settlement products guidelines ensured that no more settlement products were sold in Europe with the label “made in Israel”. This decision can not be evaluated as a tenuous move in EU-Israel relations. It has deep political dimensions during the eighteen years until the decision reached the final formula in November 2015. Even that has not had an immediate tangible economic impact on the settlement industry in the OPTs, but it has apparent political roots and effects. It is important to mention that the decision is not an abstract legal decision, but rather political, as the ECJ issued legal advice regarding Western Sahara products, but the political willingness in the EU appealed to the ECJ’s decision.

The political motive behind the labelling decision, as the study argues, was a European endeavour to send a refusal message to Israeli governments that time is running out to change facts on the ground in the OPTs, erase the Green Line and preempt the two-state solution. These Israeli policies challenge the EU’s vision in the Middle East, and shackle its roles in the region. Thus, the European message has been attached with a clear indicator to settlement policy, as the EU decided to isolate settlement products in the European market. The EU used a pressure tool linked to Israel’s settlement activities without suspicion.

European leaders realise that settlement trade occupies only a small proportion in the EU commercial exchange with Israel⁵⁷, but their focus was the on the political and cultural impact of the labelling decision, rather than the economic impact, especially at a time when the settlement policy has become a pariah policy throughout the world⁵⁸.

The other motives behind the European move are related to EU norms that pay much respect to human rights and international law. Thus, it was difficult to continue opening European markets to products that originated in occupied territories. The other major motive, due to a new conviction, had been firmed up among considerable sectors of the European elites saying that Europe needs to re-evaluate the policy of “carrot without a stick” towards Israel.

Distinguishing settlement products in European markets after excluding them from duty-free treatment could be considered a step towards more respect to international law and human rights. However, preventing the trading of settlement goods in the EU market could sound like a more official step as the EU rejects the occupation of land behind the 1967 line. Given that trading settlement products encourages violations of international law, they should be banned from trading in the EU market. The study claims that this argument should be the logic of interest groups seeking to isolate settlement policy. It also claims that this logic is sound considering the demands of European elites during their efforts to tighten the alleged gap.

MATTIN group could be considered a good model in relying on EU norms and shared values in order to legitimise its lobbying efforts. MATTIN group had for years engaged in common committees with EU officials on the settlement products matter, and finally succeeded in reaching a common understanding of the question among the EU and some sectors in European public opinion. MATTIN group adopted a consensual approach that does not challenge EU policies and focused on inside tactics in accordance with the technical nature of the question. Other interest groups combined their efforts to cover the needed outside tactics.

⁵⁷ Not more than 3% according to the Human Rights Watch (2016).

⁵⁸ The UNSC adopted in December 2016 a resolution demanding the halt of settlement activity by Israel on the OPTs. The EU issued several demands in this context, while many European and international NGOs working on isolation Israeli settlements and affirming their illegality.

MATTIN Group's model was not supposed to succeed if it did not match the appropriate conviction that exists among European elites. For years, socialised elites continued pumping reports and documents among EU committees and institutions, media, public figures and public opinion on this matter. Prominent European figures contributed in this process including Javier Solana and several European former ministers and former prime ministers.

The 2015 labelling decision came late after 18 years of deliberations, and this delay may be due to the nature of European elites' cautious behaviour. The elites' behaviour is almost too keen to keep the equilibrium between maximising adherence to EU principles and minimising the political consequences, especially considering Israeli propaganda works on using anti-semitism like a scarecrow to quell any decision that could be interpreted as a criticism of Israel. At the same time, one can find that the European public has become more daring in its criticism of Israel's violations. Thus, the BDS movement, which calls to boycott Israeli products as a whole, has more popularity among public opinion, while European elites marketed the labelling decision as a different move than the BDS claims. (Interviewee-3, 2016).

Even though the 2015 labelling decision has had a trivial impact on the settlement economy, it has had a significant political and cultural effect in contributing to isolating Israel's settlement policy. The decision also clearly indicates the changes among the general mode of European elites, the most significant driver of EFP. Moreover, though labelling settlement products in EU markets has had a trivial impact on the settlement economy, the labelling decision should not be evaluated through an economic lens. The decision offers academics, politicians and interest groups a good base to build on the understanding of European elites' current mode towards Israel. It also underlines that the EU could go beyond rhetoric into action in order to rescue its role in the Middle East.

Finally, settlement expansion in the OPTs has become the most discarded and renounced Israeli policy among the world's governments. This study affirms that settlement expansion is the point where European and Israeli interests diverge, and a clash of interests between the two sides appears. This argument requires more research and focus in two channels. Firstly, the discussing of ways that could promote the European conviction that settlement expansion

is a serious threat to the peace process as well as the European role in the Middle East. Secondly, the discussing of ways in which Europe can activate its FP instruments to pressure Israel to abandon settlement policy and respect international law in the OPTs.

The study looks forward to paving the way for academic study of NSAs role in influencing EFP in favour of pre-Palestinian groups by following the informational lobbying tactics that do not challenge EU legislation, but work under its umbrella. In the case of settlement products, the study offers a theoretical base for demands to boycott settlement products in EU markets, on the basis of avoiding the support of an industry built up on violations of international law and individual rights. Similar boycott decisions have been taken in several European cities and provinces, which increases the chances of adopting the same decision at the EU level.

This study has been accomplished with the hope of correcting some prior convictions \stereotypes among sectors of politicians, activists, and researchers in the Arab World saying that the EU is absolutely biased toward Israel and its violations against the Palestinians. This study, by arguing there is a shift in EFP towards Israel, tries to give a glimmer of hope to pro-Palestinian activists to engage in dialogue with EU institutions, elites and leaders in order to urge them to stand at the same distance from both sides of the conflict and enhance human rights situation in the occupied lands.

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