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## **Policy options for Congress on Israeli settlements after Department of State reversal on legal opinion that settlements are “inconsistent with international law”**

**November 20, 2019**

American Muslims for Palestine (AMP) [condemns](#) in the strongest terms Monday’s decision by the Department of State to reverse a four-decade-old legal opinion that Israel’s settlements in Occupied Palestinian Territory are “inconsistent with international law”.

AMP reaffirms that Israel’s settlements in the Palestinian West Bank, including East Jerusalem, are illegal. Article 49 of the [Fourth Geneva Convention](#), to which both the United States and Israel are signatories, states clearly that “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

Furthermore, the [charter](#) of the International Criminal Court makes this illegal colonization of Occupied Territory a “war crime”.

**AMP calls on Congress to take action immediately to make clear that Israeli settlements are illegal.** [Media reports](#) indicate that some Members of Congress are considering the passage of H.Res.326 as a response. Given the gravity of the Trump administration’s action and the weakness of this resolution, this response by itself would be inadequate. While applauding the intent of H.Res.326, AMP issued a detailed [policy statement](#) expressing its concerns with the text of the resolution.

Instead of passing a toothless resolution, Congress should take bold and decisive action to respond to the Trump administration’s provocative act. Such options for congressional action include:

### **1. Deducting from Israel’s FMF account for its expenditures on illegal settlements**

Precedent exists for geographically restricting the scope of US assistance to Israel and deducting amounts of available assistance for Israel’s expenditures on illegal settlements in Occupied Palestinian Territory.

In 2003, Congress passed an [emergency war supplemental](#) appropriations bill authorizing loan guarantees for Israel. The bill states that “the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program.” Between FY2003 and FY2005, the Bush administration deducted nearly [\\$1 billion](#) from the amount of loan guarantees available to Israel due to its expenditures on illegal settlements.

Congress should **amend the Foreign Operations appropriations bill to extend this language to Israel’s Foreign Military Financing (FMF) account** to ensure that US military aid does not go to support Israel’s illegal settlements and to deduct from the amount available to it commensurate with its expenditures on maintaining and expanding its colonization of Palestinian land.

## **2. Ensuring Israeli settlements products are labeled and don’t enjoy duty-free access**

During the Clinton administration, the US Customs Service issued [regulations](#) requiring that goods “produced in the territorial areas known as the West Bank or Gaza Strip shall be marked as ‘West Bank,’ ‘Gaza,’ or ‘Gaza Strip,’” and “shall not contain the words ‘Israel,’ ‘Made in Israel,’ ‘Occupied Territories-Israel,’ or words of similar meaning.” Goods marked incorrectly are subjected to a 10 percent duty, according to these regulations. Similar [regulations](#) were reissued by the Obama administration in January 2016.

**Congress should write the Trump administration to demand that these regulations, which are often [ignored](#), are followed and that Israeli settlement products are correctly marked.**

Relatedly, neither the US-Israel free trade agreement nor its 1996 [extension](#) to the West Bank and Gaza Strip should justify Israeli settlement products receiving duty-free access to the United States. In its 2016 report [Occupation, Inc.](#), Human Rights Watch called on third parties to exclude “such goods from preferential treatment under Free Trade Agreements with Israel”.

**The Oversight Committee should hold hearings about this issue and make recommendations** for how the United States should amend its regulations pertaining to its free trade agreement with Israel to align with this recommendation and others by Human Rights Watch.

## **3. Including settlements as a “gross violation of human rights” in the FAA**

The [Foreign Assistance Act](#) states that “no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.”

The law further states: "In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government" has violated religious freedom.

Congress should amend the act by **adding a stipulation that the statements of the Fourth Geneva Convention and International Criminal Court on transferring civilians to occupied territory should be an additional consideration** in determining a consistent pattern of gross violations of internationally recognized human rights.

Such an amendment would make Israel ineligible for security assistance as long as it continued to illegally colonize Palestinian land, a much-needed step to put teeth into rhetorical congressional opposition to Israeli settlements.