HOUSE OF COMMONS
LONDON SW1A 0AA

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Dear Hamish

I am writing to follow up on our conversation last week, to ask again why it is the government's position not to ban trade with Israeli settlements. Given that there is i) a direction from the International Court of Justice to "*abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory"* and ii) precedent in UK law and policy to ban trade in goods originating from illegally occupied territory (Crimea and illegally occupied parts of Ukraine), I seriously struggle to understand why the UK government continues to refuse to take this step.

You indicated when we discussed this last week that the obstacle to a UK ban in trade with Israeli settlements was not one of ideological opposition, but a challenge of implementing such a ban effectively. I am writing to ask you to set out what those challenges are, given the existing requirement for the UK government to differentiate between goods originating in settlements and those originating in "green-line" Israel; and the existing regulatory framework for stopping the import of goods from certain illegally occupied lands.

Differentiation
As you know, the UK should already distinguish between settlement goods and green-line goods because settlement goods should not receive trade preferences, as is set out in the UK-Israel Trade and Partnership Agreement and its accompanying Israel Origin Reference Document. This latter document, which was agreed between the two parties and signed in February 2019, sets out implementing provisions, including a list of non-eligible locations for preferential treatment and a system of verification by customs authorities to ensure the authenticity of the exporting documents claiming preferential treatment.

The system of verification imposes requirements on the Israeli Customs Directorate, the Israeli exporters, His Majesty's Revenue and Customs (HMRC) and the UK importing companies. HMRC should ensure that importers have the correct documentation to support any claims for preferential treatment, including valid proofs of origin.

This system of verification should be carried out rigorously with regard to 'reasonable doubt' as set out in the origin reference document, or with regard to a 'risk based and intelligence led approach to tariff enforcement' as indicated by the Chief Secretary to the Treasury, James Murray.

Dr Ellie Chowns MP
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1. **Is it your position that the above system of verification and differentiation is not working effectively? If it is, identifying which goods would be eligible and ineligible for import into the UK under a ban on trade with settlements should be straightforward. If the system is not working effectively, what steps are the UK government taking to ensure that it is?**

Given that Israel's laws and policies consider the settlements to be part of Israel's sovereign territory and many major Israeli exporting companies have extensive operations in Israeli settlements, there would appear to be (at minimum) heightened risk of Israeli settlement goods being exported under the guise of originating from within the green-line. In that case the UK Government should be implementing enhanced checks on such high-risk goods, using a robust and well-informed risk assessment process to identify high-risk supply chains, including exporters known to source from occupied territory, the importers within those chains, and the types of products commonly produced in settlement farms.

2. **Is the UK government implementing enhanced checks on high-risk goods from green-line Israel to identify any which may actually be settlement goods?**

Existing legal and policy framework

As you know, a ban on settlement trade would not require primary legislation. A ban could be implemented under existing legislation via regulations announced by the Secretary of State for Business and Trade, under the Sanctions and Anti-Money Laundering Act 2018 ("**SAMLA**").

In relation to Israeli settlement goods, trade sanctions could be introduced under s.5 of SAMLA, relying on paragraph 3 of Schedule 1 to prohibit the import of goods which originate in settlements in the OPT. That prohibition could be supplemented with both criminal and civil enforcement mechanisms as well as non-circumvention provisions, as is already the case in relation to the UK's existing sanctions regimes.

With regard to mislabelling or circumvention, such challenges are common, and non-circumvention provisions in UK sanctions regimes are designed precisely to accommodate these sorts of difficulties. The UK's sanctions regime is accompanied by significant civil and criminal powers to assist with the enforcement of these prohibitions – including information powers and reporting obligations.

For example, I understand that such challenges have arisen in relation to the enforcement of Russian trade sanctions, which are incredibly complex, indeed more so than a ban on settlement trade would be, because the Russia trade sanctions include i) targeted bans in respect of the import and export of goods and services to/from Russian-occupied territories of Ukraine (ie Crimea and "*non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts"*); and ii) trade sanctions measures targeted at carefully delineated categories of 'properly' Russian goods and services (e.g. specified categories of software or internet services, technology of various descriptions, certain infrastructure-related goods). Therefore, the Russia trade sanctions require differentiation firstly between goods and services originating from Russian-occupied Ukraine vs. those originating from Russia proper,

and secondly, in relation to the latter category, to identify those goods and services which fall within the scope of trade restrictions vs. those which do not.

There are existing mechanisms in place to assist with the enforcement of those provisions, for example the role of the Office of Trade Sanctions Implementation and the multilateral 'updated guidance for industry' issued by a range of national authorities (including HMRC and the European Commission) which identifies some key risks, red flags and best practices in respect of preventing Russian export control and sanctions evasion. This demonstrates that there is now a sophisticated and road-tested legislative and institutional regime in the UK to enable the implementation and enforcement of a settlement trade ban.

3. **Given the above, is it the government's position that SAMLA, the Office of Trade Sanctions Implementation and HMRC are capable of effectively implementing a complex system of trade sanctions against Russia, but incapable of implementing a ban on trade with Israeli's settlements? If so, on what basis is that the case?**

Progress at the international level

As you know, other European countries are taking the lead on this issue, with nine EU countries (Belgium, Finland, Ireland, Luxembourg, Poland, Portugal, Slovenia, Spain and Sweden) calling on the EU Commission to initiate discussions on ending EU trade with settlements in June this year; Slovenia banning all trade with Israeli settlements in August this year, and Ireland considering legislation currently which would introduce a ban. The fact that EU countries are proceeding with implementing a ban, despite the complications of doing so while being a member of the EU common market, demonstrates a commitment to international law that is sadly lacking here in the UK. Not being a member of the EU means the UK does not face those same complications and can act unilaterally to prevent trade, just as it has done in relation to Russia.

4. **Can you set out what aspects of the ongoing legislative process in Ireland you consider to have implications for how effectively the UK could implement a ban?**

I look forward to receiving your response.

With thanks and best wishes,

Dr Ellie Chowns MP
Member of Parliament for North Herefordshire