

## **Legislative motion**

### **Act on the prohibition to import goods originating from certain occupied territories**

*To the Parliament of Finland*

#### **SUMMARY OF THE LEGISLATIVE MOTION**

This legislative motion constitutes a proposal to prohibit the import of goods from certain occupied territories. If passed, the act would contain provisions banning the import of goods originating from territories where serious violations of international humanitarian law or human rights conventions occur in conjunction with occupation by a foreign power, in order to stop support to business enterprises that directly or indirectly contribute to infringements of human rights and international humanitarian law in such territories. A list of territories fulfilling these criteria would then be issued in a government decree pursuant to the provisions laid out in the act.

#### **RATIONALE**

##### **Background**

According to the Programme of Prime Minister Sanna Marin's Government, the promotion of human rights, the rule of law, democracy, peace, freedom, tolerance and equality in all international activities forms the central element of the value base on which Finland's foreign and security policy rests. Finland's foreign and security policy is based on, among other principles, effective multilateral cooperation based on the respect for and strengthening of international law. Finland stands among the defenders of international law, is committed to the universal values of the United Nations, and works actively to strengthen international law, democracy and human rights.

Pursuant to the Charter of the United Nations, the purposes of the United Nations are based on respect for the principle of equal rights and self-determination of peoples. The Geneva Conventions of 12 August 1949 lay out international humanitarian law and the laws of armed conflict. The Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Geneva Convention IV) governs the rights of the people in occupied territories. The Convention gives protection to people who, in the case of a conflict or occupation, find themselves

in the hands of a party to the conflict or an occupying power from another country of which they are not nationals. Furthermore, paragraph 6 of the Convention's Article 49 states that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies". Pursuant to Article 1 of the International Covenant on Civil and Political Rights, "all peoples have the right of self-determination". According to this Article, the states that are parties to the Covenant commit to promoting the realisation of the right of self-determination and must respect that right in keeping with the provisions of the Charter of the United Nations.

There are constantly several conflicts going on globally, some even decades long. In many of them, a state occupies the territory of another state or infringes on the self-determination rights of the people in the territory through occupation while lacking recognition of sovereignty by the international community. In the most blatant cases, the homes of the original residents in such territories are demolished or the people forcibly removed or deported from the occupied territories to make way for illegal settlements by the occupying state, which infringes on international law, the approval of the international community and the self-determination rights of the people in the area. The people in the occupied territories may also be subjected to many other forms of human rights infringements, and the occupying state typically denies the original people of the territory the same basic human rights as it grants its own nationals. In such territories, the negative impact of business enterprises on human rights is intensified when business enterprises either directly or indirectly contribute to the oppression of people and occupation of the territory in conjunction with systematic violations of international law.

As the International Court of Justice states, all States are under an obligation not to recognize the illegal situation such as territorial annexation or transfer of population to the occupied territory (I.C.J. Reports 2004, p. 136, paragraph 159). By their commitment to the Geneva Conventions on humanitarian law, the goals and purposes of the United Nations, and fundamental international human rights conventions, states are duty bound to prevent business enterprises that contribute to the economies of occupying states from causing or aggravating the infringements of human rights in the occupied territories in order to uphold their commitments.

## **Objectives**

The objective of the proposed act is to promote the respect of international law and the core values of the United Nations, including respect for the self-determination rights of the peoples in line with

the Government Programme and Finland's international commitments. Other objectives of the Act would be to prevent support being given to business enterprises that either directly or indirectly contribute to violations of human rights and international humanitarian law and to promote the resolution of conflicts in a manner that respects international law and the self-determination rights of peoples. Explicit import bans with a solid legal base also help companies and consumers make responsible choices.

## **Key proposals**

The proposed act would prohibit the import of goods from territories that have been occupied in a manner laid out in Geneva Convention IV, under which the sovereignty of the occupying state is not recognised, and the occupying state has, in contravention of Article 49 of the Convention, deported or transferred civilians or where the occupying state is otherwise guilty of serious infringements of this Convention or other human rights conventions. The proposed act would not include a list of territories that fulfil these criteria: they would instead be listed in a government decree pursuant to the provisions laid down in the act.

Supervision of the import prohibition would fall under the remit of Customs, and violation of the ban would be punishable according to the regulations in the Criminal Code regarding smuggling, petty smuggling, unlawful dealing in imported goods and petty unlawful dealing in imported goods.

## **Rationale by sections**

**Section 1:** Purpose of the Act. This section refers to the respect for the self-determination rights of peoples laid out in the Charter of the United Nations, conformity with Geneva Convention IV, and prevention of support to business enterprises contributing to infringements of international humanitarian law and human rights. In keeping with these purposes, the proposed law would include provisions prohibiting the import of goods originating from territories that are governed by occupying states as defined in international law, and where, under such occupation, this Convention is breached or the rights protected by international human rights conventions are violated on a large scale.

Under Article 1 of the United Nations Covenant on Civil and Political Rights, all peoples have the right of self-determination. The Article states that all the States Parties to the Covenant shall

promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Having committed to the Geneva Conventions on humanitarian law, the goals and principles of the United Nations, and other essential international human rights conventions, states are, in conformity with such commitments, duty bound to prevent business enterprises that contribute to the economies of occupying states who violate international law from causing or aggravating human rights infringements in the occupied territories.

**Section 2: Scope.** The proposed act would apply to imports from territories that are occupied in a manner defined in Geneva Convention IV and where the sovereignty of the occupying state has not been recognised. Furthermore, the scope would be linked to the transfer of civilian population to the territory as prohibited in the Convention or other serious violations of the Convention or human rights in connection with occupation.

For example, a situation where the proposed act may be applicable is the occupation imposed by the state of Israel and the establishment of Israeli settlements in Palestinian territories, which are regarded as illegal under international law. In the Interpretative Notice on indication of origin of goods from the territories occupied by Israel published in 2015 (OJEU 2015, C 375, p. 4), the European Commission states that “[t]he European Union, in line with international law, does not recognise Israel’s sovereignty over the territories occupied by Israel since June 1967, namely the Golan Heights, the Gaza Strip and the West Bank, including East Jerusalem, and does not consider them to be part of Israel’s territory.”

The Court of Justice of the European Union, in its judgment issued on 12 November 2019 (C-363/18), stated that foodstuffs originating from the territories occupied by the state of Israel must include a clear indication of their provenance as settlement products. If such foodstuffs originate from single location or a collective of locations that forms an Israeli settlement within the territory, they must include a mention of the specific location they originate from.

The Court emphasised in its resolution that “the settlements established in some of the territories occupied by the State of Israel are characterised by the fact that they give concrete expression to a policy of population transfer conducted by that State outside its territory, in violation of the rules of general international humanitarian law, as codified in the sixth paragraph of Article 49 of the

Convention relative to the Protection of Civilian Persons in Time of War, signed in Geneva on 12 August 1949 (United Nations Treaty Series, vol. 75, No 973, p. 287).”

The International Court of Justice in the Hague was established through the Treaty on the United Nations and supervises international law. The International Court of Justice issued an advisory opinion on 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, noting that in founding settlements in the occupied Palestinian territories, Israel has violated the said regulation of the Geneva Convention (IV) of 1949 (I.C.J. Reports 2004, p. 136, paragraph 120). The United Nations Security Council has also repeatedly condemned this policy, as has the European Union.

In the matter concerning the information on provenance of foodstuffs required on packaging, the European Union Court of Justice discussed first and foremost foodstuffs that originate from the West Bank, including Eastern Jerusalem and the Golan Heights, occupied by Israel since 1967. The Court of Justice states: “Under the rules of international humanitarian law, these territories are subject to a limited jurisdiction of the State of Israel, as an occupying power, while each has its own international status distinct from that of that State. The West Bank is a territory whose people, namely the Palestinian people, enjoy the right to self-determination, as noted by the International Court of Justice in its Advisory Opinion of 9 July 2004, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (I.C.J. Reports 2004, p. 136, paragraphs 118 and 149). The Golan Heights form part of the territory of a State other than the State of Israel, namely the Syrian Arab Republic.”

Another example are vegetables imported into Finland that are produced in the Western Saharan territory occupied by Morocco. In the European Union, however, the information given so far on provenance of the vegetables originating from Western Sahara has been that the provenance is Morocco. The status of the Western Saharan territory has been under dispute for decades. The International Court of Justice stated in its advisory opinion issued as early as in 1975 that Morocco does not have legal ties to the Western Sahara territory and that the peoples in the territory have the right of self-determination (I.C.J. Reports 1975, p. 12, paragraph 162). The United Nations Security Council has spoken in defence of the self-determination right of the peoples in the region in several of its resolutions. The precondition of the peace pact between Morocco and Western Saharan liberation front Polisario in 1991 was that a referendum would be organised for the Western

Saharan population to decide on their own future. No such referendum has, however, been organised to date.

The import of goods originating from Crimea or Sevastopol, both illegally occupied by Russia, into the European Union is banned by Council Regulation (EU) No 692/2014 of 23 June 2014.

Other territories whose international status is under dispute but are widely accepted as being occupied include Abkhazia, South Ossetia, Badme, Northern Cyprus and part of Northern Syria. The situation of each of these territories is unique, the problems of international law related to each occupation vary, and the occupations do not necessarily include forcible transfer of civilian populations.

The proposed act would be applied to goods produced by entities who operate in the occupied territory that falls under the scope of the act and who operate on behalf of or are facilitated by the occupying state. However, the proposed act would not be applicable to goods produced by entities protected by the Geneva Convention who operate under the occupying state and who are not nationals of the occupying state. The act would counteract the violations of international law by the occupying state and business enterprises that contribute to these violations. The proposed act would not limit the rights of the original peoples of the territory whose right of self-determination has been infringed upon by the occupying state and who are not nationals of the occupying state. Therefore, the proposed act would not apply to the typically small-scale production by current or previous people of the occupied territory.

Business enterprises operating in the territories that are regarded as being under dispute under international law typically operate under the occupying state or are enabled by it, and they mostly benefit the occupying state and the occupation by that state. For instance, according to the non-governmental organisation Finnwatch, which studies the global impacts of business, there are hundreds of businesses of different sizes operating in the illegal Israeli settlements. Doing business in the settlements is profitable because land leases are cheap and Israel grants various incentives (for example, tax breaks) to businesses operating in the settlements. Business enterprises have also benefited from poor supervision of environmental and labour legislation. Taxes paid by the business enterprises operating in the settlements are used to develop the infrastructure of the settlements. As a result, business enterprises feed the growth of the settlements and thus make it more difficult to resolve the conflict between Israel and Palestine (Finnwatch 2012). According to the human rights

organisation Amnesty International, exports from the settlements support the infringements of international law and should be prohibited. The human rights organisation Human Rights Watch maintains that all business activity in the settlements supports the violation of human rights.

**Section 3:** Definition of provenance. The phrase “goods that originate from a certain territory” used in the legislative motion refers to foodstuffs and goods produced entirely in the territory. The provisions of this section correspond with the definition laid out in Article 60 of the EU’s customs code (Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code): Goods that were produced in more than one country or territory are deemed to originate in the country or territory where they underwent their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

**Section 4:** Prohibition of import of goods. The provisions of this section would prohibit the import of goods produced in a territory that is occupied in violation of international law.

**Section 5:** Further provisions on scope of application. This section specifies that the territories to which the import prohibition would be applied would be defined more specifically in a government decree.

The provisions of this section lay down the basis for this definition so that the evaluation of violation of international law relating to the occupation can be based on the guidelines issued by the International Court of Justice, the International Criminal Court or another international court of justice or based on another interpretation founded on sufficient and reliable evidence. The other evidence mentioned in the section would refer to, for example, widely accepted and established international interpretations; reports and opinions of international organisations; research data; opinions of the European Commission, the European Union Court of Justice or other European Union institutions; and policies and guidelines issued by other monitoring bodies of international treaties. Some possible situations in which the act would be applicable have been discussed above.

A list of specific business enterprises producing goods in these occupied territories may be listed in the government decree. For example, according to Finnwatch, in 2012 more than 30 business enterprises operating in Finland had various connections to the illegal Israeli settlements. Many

business enterprises have imported settlement goods, sold goods or services used for equipping the settlements, or invested in or otherwise collaborated with business enterprises operating in the settlements. Goods produced in the illegal Israeli settlements have been widely sold in Finland, with provenance markings incorrectly indicating them as originating from Israel, at least prior to the current guidelines by the European Commission and the European Union Court of Justice (Finnwatch 2012).

In her report issued in February 2020 (A/HRC/43/71, 12 February 2020), the United Nations High Commissioner for Human Rights identified a total of 112 business enterprises operating in the illegal Israeli settlements and thus providing economic support to the settlements.

More detailed provisions concerning the scope of application of the import ban and its enforcement may be issued in a government decree.

**Section 6:** Supervision. The section states the remit of Finnish Customs in supervising compliance with the import prohibition laid out in the act and government decree as specified in the Customs Act (304/2016).

**Section 7:** Reference to the Criminal Code. The section contains references to the regulations in the Criminal Code on smuggling, petty smuggling, unlawful dealing in imported goods and petty unlawful dealing in imported goods.

Based on the aforementioned, we propose  
*that the Parliament passes the following legislative motion:*

### **Act**

#### **On the prohibition of importing goods originating from certain occupied territories**

By decision of Parliament, the following is enacted:

#### Section 1

##### *Purpose of the Act*

By virtue of the principle of self-determination rights of peoples recognised in the Charter of the United Nations and the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and in the interest of preventing support of business enterprises that directly or indirectly contribute to violations of human rights and international humanitarian law, this Act lays down provisions banning the import of goods originating from territories which, under international law, do not belong to the territory of the occupying state and whose occupation violates the Convention or international human rights conventions.

## Section 2

### *Scope*

This Act is applicable to imports of goods from territories that have been occupied in a manner specified in the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949, where the sovereignty of the occupying state has not been recognised and where the occupying state has, in violation of Article 49 of the Convention, transferred its civilian population or where the occupying state in another manner is guilty or has been guilty of serious violations of the Convention or international human rights conventions.

This Act is applicable to goods produced by entities who operate in the occupied territory on behalf of or who are facilitated by the occupying state. The Act is not applicable to goods produced by a person who is protected under paragraph 1 of Article 4 of the Convention, or who is, in other words, under the power of the occupying state or party to the dispute without being a national of said state or party.

## Section 3

### *Definition of the provenance of goods*

Goods originating from a certain territory are considered to be foodstuffs and goods produced entirely in that territory. Goods whose production takes place in more than one state or territory are deemed to originate in the country or territory where they underwent their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

## Section 4

## *Prohibition to import*

It is prohibited to import goods that are produced in a territory as defined in section 2, paragraph 1 of this Act and that fall under the scope of the section 2, paragraph 2 of this Act.

### Section 5

#### *Further provisions on the scope of application*

The territories to which the prohibition to import goods under this Act applies will be specified in a government decree. The government decree may list companies that produce goods in the territories in question.

The evaluation of whether a violation of international law as referred to in this Act has occurred or is occurring can be based on the policies and guidelines issued by the International Court of Justice, International Criminal Court or another international court of justice or on another interpretation that is founded on sufficient and reliable evidence.

More detailed provisions on the scope and application of the import prohibition may be specified by government decree.

### Section 6

#### *Supervision*

Compliance with the Act is supervised by the Finnish Customs as laid out in the Customs Act (304/2016).

### Section 7

#### *Reference to Criminal Code*

The penalties for smuggling and petty smuggling are laid out in chapter 46, sections 4 and 5 of the Criminal Code (39/1889), and the penalties for unlawful dealing in imported goods and petty unlawful dealing in imported goods are specified in sections 6 and 6a of the same chapter.

### Section 8

#### *Entry into force*

This Act enters into force on xx of xxxx 202x.

In Helsinki,

Veronika Honkasalo, Left Alliance