

New developments in foreign trade with Israel

Spain applies restrictions on operations involving the importation, export, and transit of defense equipment through Spanish territory, as well as on the importation of goods originating from Israeli settlements in the Occupied Palestinian Territory, including advertising for the marketing of such goods.

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KEY ASPECTS

- Transfer of defense equipment, other equipment, and dual-use products and technology to and from Israel is prohibited.
- Restrictions are imposed on the transit of fuel that may have a military use through Spanish territory.
- The importation of goods originating from Israeli settlements in the Occupied Palestinian Territory is prohibited.
- Advertising for the marketing of goods originating from Israeli settlements in the Occupied Palestinian Territory and of services provided in those settlements is considered unlawful advertising.





Introduction

The approval of [Royal Decree-Law 10/2025](#) of September 23, ("**RD-Law 10/2025**"), published in the Official State Gazette (BOE) on September 24, and entering into force the day after its publication, contains a series of measures affecting (i) foreign trade with Israel in defense equipment, other equipment, and dual-use products and technology; (ii) goods originating from Israeli settlements in the Occupied Palestinian Territory (OPT); and transit through Spanish territory of fuel bound for Israel that may have a military end use.

In this Legal Flash, we analyze the significance and impact of the measures set out in this regulation.

Embargo on defense equipment and dual-use technology. Transit of fuel, trade, and advertising of goods originating in the OPT

The primary measures set out in RD-Law 10/2025 are as follows:

- **Article 1 prohibits the transfer of defense equipment**, other equipment, and dual-use products and technology to or from Israel. This measure entails both the **rejection of new applications and the revocation of previously granted authorizations**, in line with the control framework set out in [Act 53/2007](#), of December 28 on the control of foreign trade in defense and dual-use equipment ("**Act 53/2007**").

It should be noted that dual-use products and technologies are not expressly listed in the annexes to the Regulation on the control of foreign trade in defense equipment, other equipment, and dual-use products and technology, approved by [Royal Decree 679/2014](#), of August 1 ("**RD 679/2014**"), which raises the question of whether they are excluded from the scope of the absolute prohibition contained in that provision.

- **Article 2** provides the **rejection of applications for transit through Spanish territory of fuel bound for Israel that may have a military end use**. The decree-law eliminates the exemption set out in Annex I to RD 679/2014 for JP-4, JP-5, and JP-8 fuels, which are now classified as defense equipment for the purposes of RD 679/2014 and its export control procedures.
- **Articles 3 and 4** prohibit both the importation of goods originating from Israeli settlements in the OPT and advertising relating to the marketing of such goods and services, equating such advertising with unlawful advertising for the purposes of Article 3.d) of [Act 34/1988](#), of November 11, 1988 (the "General Advertising Act").

To this end, the Ministry of Foreign Affairs, European Union and Cooperation will submit to the President of the Spanish Tax Agency a list of the postal codes of those territories for approval, to allow the Spanish tax authorities to comply with this mandate. In any case, the prohibition has already been in effect since the decree-law's entry into force, without affecting the subsequent publication of the list.

- The **first additional provision** grants the prerogative to the Council of Ministers, following a report by the Interministerial Board for the Regulation of Foreign Trade in Defense and Dual-Use Equipment, to authorize certain transfers on an exceptional basis when the prohibition could harm the general national interests.

This measure is complemented by the Government's obligation to appear before Congress quarterly, as set out in the **second additional provision**, to report on authorizations granted and on the application of the measures set out in the regulation.

- [Royal Decree-Law 10/2025](#) must be ratified by the Congress of Deputies within 30 days from its promulgation. If ratified, the measures will remain in effect on the terms set out.

If the Congress of Deputies does not ratify the decree-law, it will be repealed, although it will retain the effects arising during the period it was in force, unless an express provision states otherwise.



Applications pending a decision will continue to be processed under the legal framework in force on the date of their filing, as set out in the [sole transitional provision](#) of Royal Decree-Law 10/2025 itself. Alternatively, the Congress of Deputies may agree to process it as a government bill, which would allow amendments to be introduced through the ordinary parliamentary procedure.

Council Common Position 2008/944/CFSP, of December 8, 2008, defining common rules governing the control of exports of military technology and equipment in the European Union

Council Common Position 2008/944/CFSP, of December 8, 2008, defining common rules governing the control of exports of military technology and equipment is the reference instrument for reviewing applications for the export of goods in the European Union (the "**Common Position**").

[Article 4](#) requires Member States to communicate the details of export license applications that have been rejected according to the criteria set out in the Common Position. Therefore, before granting an export license to an applicant whose transaction has been rejected by another Member State in the previous three years, Member States must consult with the Member State that rejected it and, if they ultimately authorize the export, explain the reasons for departing from that rejection.

Therefore, following the rejection of export license applications under Royal Decree-Law 10/2025 by the Kingdom of Spain, any other Member State receiving an application to export the same products for the same purpose to Israel must contact the Spanish authorities and expressly justify a potential authorization within the coordination framework established in the Common Position.

Potential effects on contracts in force

Royal Decree-Law 10/2025 does not expressly establish measures regarding contracts in force, whether public or private, whose performance could be affected by the measures it sets out.

The set of measures adopted by Royal Decree-Law 10/2025 could, however, compromise the performance of certain contracts whose subject-matter is directly or indirectly related to the scope of the approved measures.

(a) Possible effects on public contracts

The implementation of the measures adopted by Royal Decree-Law 10/2025 may result in the total or partial impossibility of executing public contracts entered into under the provisions of [Act 24/2011](#), of August 1, on public sector contracts in the areas of defense and security ("**Act 24/2011**") or [Act 9/2017](#), of November 8, on Public Sector Contracts ("**Act 9/2017**"), or it may cause an extraordinary and unforeseeable alteration of the conditions under which the contractual obligations are to be performed.

Against this backdrop, it is advisable to review the contractual documentation that forms part of the primary regulation governing the effects and termination of these contracts to assess whether this legal framework provides any mechanism to address the situation created by applying the measures set out in Royal Decree-Law 10/2025, in particular:

- (i) suspension of performance,
- (ii) modification,
- (iii) restoration of the economic and financial balance, and
- (iv) termination of the contract.

(b) Possible effects on private contracts

The provisions of Royal Decree-Law 10/2025 may also affect preexisting private contractual relationships. In this scenario, it is essential to analyze the terms of the legal transaction to determine:

- (i) whether it provides that the entry into force of a new legal framework, as defined in Royal Decree-



Law 10/2025, entails an extraordinary and unforeseeable change of the circumstances under which that transaction was entered into; and

- (ii) whether the legal transaction itself provides the remedies for a supervening situation such as the new Royal Decree-Law 10/2025, in particular whether the performance of the contract may continue, or whether, if applicable, the parties must make mutual restitution of the benefits provided up to the date of entry into force of Royal Decree-Law 10/2025.

Moreover, both where the legal transaction provides such remedies and, especially, where it does not, the effects of Royal Decree-Law 10/2025 on the transaction must in any case be analyzed in light of the contract's governing law, whether agreed by the parties or determined under the rules of private international law.

Potential effects on applications and authorizations

The **sole transitional provision** of Royal Decree-Law 10/2025 establishes a differentiated framework for authorizations depending on their processing status and current validity.

- For **applications for authorization pending a decision** at the time of the law's entry into force, the prior framework applies, and processing will be concluded under **Article 4** of Act 53/2007.
- With respect to **authorizations already granted**, the regulation provides for revocation after the deadline, under the procedure set out in **Article 8** of Act 53/2007.

This procedure requires opening specific administrative proceedings, which must include a hearing for the interested party.

- Applications for authorization **submitted on or after the law's entry into force** are subject to Royal Decree-Law 10/2025 and will be automatically denied in the cases set out in **Article 1** of that regulation.

In practice, although the sole transitional provision allows pending applications to be decided under the prior procedure, the subsequent authorization falling within the scope of **Article 1** of Royal Decree-Law 10/2025 will trigger a revocation procedure because the prohibition established by the Royal Decree-Law has retroactive effects on authorizations in force.

The transitional framework, therefore, does not guarantee the continued validity of the authorizations granted under the previous regulations but rather leads to their revocation under the new legal framework.

Possible effects on the advertising of goods originating from Israeli settlements in the OPT and of services provided in those settlements

Royal Decree-Law 10/2025 defines advertising for the marketing of goods originating from Israeli settlements in the **OPT** as unlawful advertising for the purposes of Article 3.d) of Act 34/1988, of November 11 (the "**General Advertising Act**").

Under Article 3.d) of the General Advertising Act, advertising that violates the regulations governing the advertising of certain products, goods, activities or services is unlawful.

Unlawful advertising is an action that triggers the application of other regulations, such as Act 3/1991, of January 10, 1991, on Unfair Competition (the "**Unfair Competition Act**") or the Consolidated Text of the General Consumer Defense Act, approved by Legislative Decree 1/2007, of November 16, 2007 (the "**Consumer Defense Act**").

Article 18 of the Unfair Competition Act provides that advertising considered unlawful under the General Advertising Act—to which Royal Decree-Law 10/2025 expressly refers—will be considered unfair and, consequently, the actions set out against acts of unfair competition in Articles 32 and following of the Unfair Competition Act will apply.



Articles 47.1.m) and 47.1.g) of the Consumer Defense Act classify the use of unfair trade practices involving consumers and noncompliance with the rules on the advertising of goods and services as violations of consumer regulations.

Accordingly, the Ministry of Social Rights, Consumer Affairs, and the 2030 Agenda may impose penalties on the marketing of goods originating from Israeli settlements in the OPT, as announced following the approval and entry into force of Royal Decree-Law 10/2025

(<https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/derechos-sociales-consumo-agenda-2030/Paginas/2025/300925-consumo-empresas-servicios-palestina.aspx>).

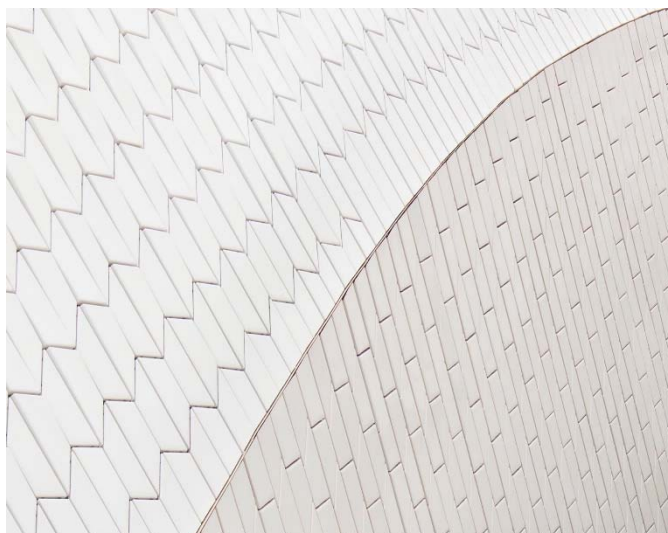
United Nations database of companies involved in certain specified activities aiding the Israeli settlements in the OPT

According to the preamble of Royal Decree-Law 10/2025, the measures it establishes are framed within the context of United Nations acts and decisions regarding the OPT. In particular, the Advisory Opinion of the International Court of Justice of July 19, 2024, on the legal consequences arising from Israel's policies and practices in the OPT, and Security Council Resolution No. 2334 of December 23, 2016, both of which state, among other matters, that Israeli settlements in the OPT are illegal and contravene international law.

This week, the United Nations published an update to the database of businesses involved in certain specified activities related to the existence and development of the settlements. This database is an instrument created in 2016 by United Nations Human Rights Council Resolutions 31/36 and 53/25. It was first published in 2020 and is updated periodically through a predetermined investigative process. The economic activities investigated are exhaustively listed in ten categories identified for their contribution to the development and expansion of OPT settlements.

It is an instrument for monitoring and reporting on the activities of businesses in the OPT that aims to help States and businesses prevent serious violations of international humanitarian law and the human rights of local communities in those territories, in line with the Guiding Principles on Business and Human Rights.

Being listed in the database does not imply a legal determination regarding the activity or the company engaged in it. It does, however, indicate that the activity is not aligned with standards of business conduct in the area of human rights—a standard that is particularly stringent in a conflict zone. In addition, some public authorities use this database as a condition to determine eligibility for public procurement. This, together with reputational effects, creates clear incentives to align the business strategy and decisions with the international standard set by the Guiding Principles on Business and Human Rights.



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