

# United States Senate

WASHINGTON, DC 20510

November 8, 2019

The Honorable Robert E. Lighthizer  
United States Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

Dear Ambassador Lighthizer:

We write to express our deep concerns regarding a recent announcement by the Court of Justice for the European Commission (CJEU) that they will issue a ruling on the European Commission's labeling requirements for Israeli goods, known as the "Interpretative Notice on indication of origin of goods from the territories occupied by Israel since June 1967." The court is expected to either mandate that food products originating from "Israeli-occupied territories" be labeled with "expressions such as 'product from the Golan Heights (Israeli settlement)' or 'product from the West Bank (Israeli settlement)'" or give labeling discretion to individual EU Member States.

Trying to differentiate between Israeli products—which may be produced in several regions—creates a slippery slope that would allow supporters of even the 'targeted' boycott, divestment and sanctions (BDS) movement to declare all or most Israeli products appropriately subject to BDS actions. These efforts to differentiate between goods based upon where and by whom they are manufactured directly contradicts how the U.S. government carries out the provisions of the U.S.-Israel Free Trade Agreement. Contrary to the EU, the U.S. government makes no distinction between goods coming into the United States from Israel or Israeli-controlled territories, whether produced by Israelis or Palestinians, affording all goods duty-free treatment. That is why we authored a piece of legislation that was included in the 2015 Trade Promotional Authority (TPA) Act that instructed U.S. trade negotiators in talks with the EU to oppose these types of efforts to differentiate between boycotts targeting Israel and territory controlled by Israel.

The possibility of the CJEU mandating such labeling requirements concerns us because it:

- Singles out Israel with a standard applied to no other country that controls disputed territories;
- Creates a differentiation policy between goods made by Israelis and Palestinians, which would seem to discriminate based upon ethnicity and national origin;
- Prejudges outcomes of a negotiated solution to a political conflict by essentially declaring that products made by Israelis from these disputed areas are tainted or illegitimate;
- Creates standards which are inconsistent with American policies on labeling goods based upon geographic origin rather than political labels and ideology;
- Provides legitimacy to those calling for boycotts against products labeled in this way.

Congress and the Executive Branch have a long history combatting such efforts to discriminate against or boycott Israel, including legislation enacted in the 1970s to block enforcement of the Arab League Boycott against Israel, implementation legislation for our trade agreements with Bahrain and Oman requiring stopping compliance with the Arab League Boycott, and conditioning U.S. support for Saudi Arabia's accession to the World Trade Organization on addressing boycotts. As noted above, Congress passed and the President signed the TPA in 2015, which included a provision directly related to the European Union that created principal negotiating objectives to discourage potential trading partners from undertaking politically-motivated BDS actions and to eliminate unsanctioned, state-sponsored boycotts against Israel.

We strongly encourage you to utilize the anti-BDS provisions in TPA to weigh in with the EU to express opposition to these new labeling guidelines and any further actions they might be contemplating to restrict commerce with Israel, isolate Israel and exert unilateral economic pressure on Israel to make political concessions outside of the negotiating process.

Sincerely,



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Benjamin L. Cardin  
United States Senator



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Rob Portman  
United States Senator