

Congress of the United States
Washington, DC 20515

November 14, 2019

Ms. Federica Mogherini
High Representative of the Union for Foreign Affairs and Security Policy
Vice President of the Commission
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Dear High Representative Mogherini,

We write to condemn the recent ruling from the Court of Justice of the European Union (“CJEU”) on whether a French interpretation of EU Food Labelling Regulation No. 1169/2011 is consistent with EU law. The CJEU’s ruling will require EU states to identify products imported from those disputed territories the EU identifies as “occupied by Israel since 1967,” and as well those that originate in Israeli settlements by indicating their origin on the label.

This mandate to all EU Member States will apply only to products from Israel and associated disputed territories, and thereby discriminate against Israel and against specific Israeli businesses. This ruling empowers those who may wish to discriminate based upon ethnicity, religion, and nationality.

Today’s CJEU decision mandates that EU imports of food products originating from Israel’s post 1967 boundaries must be labeled with an indication that they were produced in those disputed territories. Further, products that originate from Israeli “settlements” within those “Israeli-occupied territories” must be labeled with “expressions such as product from the Golan Heights (Israeli settlement), product from the West Bank (Israeli settlement).”

The CJEU decision affirms the view that under EU law, specifically its 2011 Food Labelling Regulation, “the provision of information to consumers must enable them to make informed choices, with particular regard to health, economic, environmental, social and ethical considerations.” It refers as well to the “non-exhaustive” nature of this list, and other types of considerations, such as those relating to international law.

We fear that by affirming the use of food/product labels for “ethical,” foreign policy and international law, and a seemingly-unlimited set of other considerations, entirely unrelated to food safety and consumer protection, the EU has opened the door to the politicization of product labeling, which was never intended to be used for political purposes. The “ethical issues” the EU’s Food Law Regulation and Food Labelling Regulation were originally concerned about were matters such as animal welfare and the manner of animal slaughter. In fact, the EU’s own procedures describe the need to determine if the majority of EU consumers would want and highly value such ethical issues included in product labels. We know of no such effort by the EU to make this finding regarding the “Israeli settlements.”

In practice, the judgment of the CJEU opens a Pandora's box of legal labelling requirements and administrative burdens for Member States and the Commission. The judgment could also negatively impact products that come from any territory around the world that is subject to disputes under international law. We believe that the EU requirement also will create new trade barriers, and may cause tensions between the EU and its trading partners, including the United States. In particular, the EU settlement's food labeling requirement, which is unrelated to food safety, quality or health risks to consumers, may be inconsistent with the EU's WTO commitments, including its obligations under the Technical Barriers to Trade (TBT) agreement.

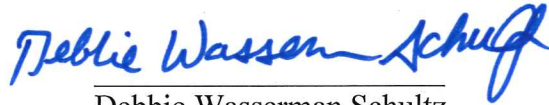
In these regards, we are also highly concerned that this CJEU decision, which empowers the EU to require its Member States to label Israeli and Palestinian products in the manner proposed, will facilitate Boycott, Divestment and Sanctions (BDS) tactics and de facto boycotts and discrimination against Israel, and its products, contrary to existing EU policies and laws against BDS campaigns, Israel boycotts and discrimination.

We hope you will consider these perspectives as well as ways to mitigate any negative consequences that may arise in the wake of the CJEU's decision.

Sincerely,



Lee Zeldin
Member of Congress



Debbie Wasserman Schultz
Member of Congress