

February 23, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Dear Mr. Secretary,

We are US pro-Israel organizations writing to urge the Department of Homeland Security to review¹ and revoke the previous administration's December 23, 2020 General Notice on "Country of Origin Marking of Products from the West Bank and Gaza" (the "General Notice") published by US Customs and Border Protection.² We believe the General Notice is inconsistent with current US policy on the status of the occupied territories, requires inaccurate and misleading labelling on the origin of products, and is harmful to essential interests of Israelis and Palestinians alike.

The General Notice requires that products made anywhere in Area C of the West Bank – i.e. the Israeli settlements and associated areas under Israel's direct administrative control – be labelled with "Israel," "Product of Israel," or "Made in Israel" for sale in the United States. This requirement ostensibly applies even to products made in Palestinian communities in Area C. The General Notice also declares that products from the Palestinian-administered areas of Area A and B of the West Bank or the Gaza Strip may no longer be labelled in conjunctive form, such as "West Bank/Gaza," "West Bank/Gaza Strip," "West Bank and Gaza," and that they must indicate they are either from the West Bank or the Gaza Strip.

The Trump administration's General Notice marks a significant change from longstanding US Customs guidance maintained under both Democratic and Republican administrations, which prohibits products from anywhere in the West Bank – whether from settlements or Palestinian

¹ On January 20, 2021, White House Chief of Staff Ronald A. Klain issued a [memo](#) directing heads of executive departments and agencies concerning regulatory rules "or any agency statement of general applicability and future effect that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue" that had been issued by the previous administration but not yet taken effect. The memo directed department and agency heads to consider opening a comment period "to allow interested parties to provide comments about issues of fact, law, and policy raised by such rules." The General Notice falls within the scope of this directive. While the General Notice states that "the position set forth in this document is applicable as of December 23, 2020," it specifies a "transition period" and a March 23, 2021 enforcement deadline, stating that "goods produced in the territorial areas known as the West Bank or Gaza Strip, which are entered or withdrawn from warehouse for consumption into the United States after March 23, 2021, must be marked in accordance with the position set forth" in the General Notice.

² [U.S. Customs and Border Protection, Federal Register Doc No: 2020-28547 \(December 23, 2020\)](#)

areas – from being labelled as made in Israel. The pre-Trump guidance was first promulgated in 1995 following the Oslo Accords and stated:

“...goods which are produced in the West Bank and Gaza Strip shall be properly marked as 'West Bank,' 'Gaza' or 'Gaza Strip' and shall not contain the words 'Israel,' 'Made in Israel,' 'Occupied Territories-Israel,' or words of similar meaning.”³

This guidance was modified in 1997 to allow for products made in the occupied territories to also be labelled “West Bank/Gaza,” “West Bank/Gaza Strip,” “West Bank and Gaza,” or “West Bank and Gaza Strip” to emphasize that the United States regarded the occupied territory a single territorial unit.⁴ This guidance was reaffirmed under the Obama administration in 2016.⁵

The issuance of the General Notice occurred amidst a flurry of activity by the previous administration to endorse and legitimize Israeli settlements following Donald Trump’s election defeat. By inaccurately and misleadingly treating settlement and other products from Area C of the West Bank as if they were made in Israel, the General Notice attempts to reverse decades of US policy that makes a firm distinction between Israel and the West Bank. It runs counter to the Biden administration’s policy of opposing settlement activity and unilateral annexation of territory as harmful to the prospects for the peaceful, just resolution of the Israeli-Palestinian conflict.

We therefore urge the Department of Homeland Security to review and revoke the General Notice, and to duly enforce the longstanding customs guidance requiring such goods to be labelled accurately.

Sincerely,

Ameinu
Americans for Peace Now
J Street
New Israel Fund
Partners for Progressive Israel
T'ruah: The Rabbinic Call for Human Rights

³ [Treasury Department Statement of Policy T.D. 95-25; Federal Register Doc No: 95-8454 \(April 6, 1995\).](#)

⁴ [U.S. Customs Service T.D. 97-16; Federal Register Doc No: 97-6434 \(March 14, 1997\).](#)

⁵ [CSMS #16-000047.](#)