

Department for Environment, Food and Rural Affairs

Technical advice: labelling of produce grown in the Occupied Palestinian Territories

Introduction:

1. The Government has received requests from retailers, consumer groups and NGOs for greater clarity about which origin should be stated on food and drink goods that have been produced and packed in the Occupied Palestinian Territories (OPT). Their enquiries have focused particularly on the distinction between products from Palestinian producers and products from Israeli settlements in the OPT.
2. The following advice (produced by the Department for Environment, Food and Rural Affairs, working with the Foreign and Commonwealth Office, the Food Standards Agency, HM Revenue and Customs, the Cabinet Office and Department for Business, Innovation and Skills) has been prepared to help businesses, should they wish to respond to consumer demand for information about the origin of food that has been produced in the OPT. The issue of clarity of origin between Palestinian producers and Israeli settlement producers within the OPT largely concerns the West Bank area. Although this advice would be applicable to imports from Gaza and East Jerusalem, we are aware that the majority of imports into the UK come from the West Bank and there have been no Israeli settlements in Gaza since 2006.
3. The EC legal requirements for retail labelling exist to provide a level playing field in trade across the Community and also to provide information to consumers on – amongst other particulars – the origin of products:
 - i. for some agricultural produce, country of origin *must* be stated, in accordance with the specific rules applying to the product in question. So, in respect of wine and most fresh fruit and vegetables, for example, most produce is covered by EC legislation which requires its country of origin to be stated¹;
 - ii. furthermore, even in the absence of such sector-specific legislation, EC law² requires that the place of origin or provenance of food should be labelled where the omission of such details might materially mislead the consumer about the true origin or provenance of the food;
 - iii. finally, even where it is not a legal requirement, food produce can be voluntarily labelled with its country of origin.

¹Commission Regulation (EC) No 1580/2007 (as amended) in relation to fruit and vegetables and Council Regulation (EC) No 479/2008 in relation to wine.

²Community legislation on the labelling of foodstuffs includes general provisions on the labelling of foodstuffs to be delivered to the consumer, as laid out in European Parliament and Council Directive 2000/13/EC.

Advice:

4. For produce from the West Bank, labelling currently states country of origin as **‘Produce of the West Bank’**. Traders and retailers may wish to indicate whether the product originated from an Israeli settlement or from Palestinian producers. This could take the form, for example, of **‘Produce of the West Bank (Israeli settlement produce)’** or **‘Produce of the West Bank (Palestinian produce)’**, as appropriate.
5. Separately, the Government considers that traders would be misleading consumers, and would therefore almost be certainly committing an offence, if they were to declare produce from the OPT (including from the West Bank) as ‘Produce of Israel’. This would apply irrespective of whether the produce was from a Palestinian producer or from an Israeli settlement in the OPT. This is because the area does not fall within the internationally recognised borders of the state of Israel.
6. Information on produce origin is available in various forms which should be available to retailers as a result of their individual relationships with suppliers. In addition, in many cases information on the origin of products can be found on Customs documentation:
 - i. Products will in many cases be accompanied by proof of preferential origin issued in Israel for the purposes of obtaining a nil or reduced rate of customs duty under the provisions of the EU-Israel Association agreement³. This will either be an EUR1 Movement Certificate (stamped by Israeli Customs) or preferential-origin declarations on invoices or other commercial documents.

In all cases, the proof of preferential origin will contain details of the place of production and accompanying zip code (i.e. postcode) of the produce concerned. This zip code will enable a distinction to be drawn between products from the internationally recognised state of Israel and products from Israeli settlements in the West Bank.

The inclusion of the place of production and zip code on the Israeli proof of preferential origin therefore enables a distinction to be made between which products are and are not entitled to a preferential rate of duty under the EU-Israel Agreement (see para 12 below). Only those products covered by a proof showing a place of production and zip code in the territory of the State of Israel are eligible for preferential access under the Agreement. HM Revenue and Customs will reject the claim to Israeli preference in all cases where the proof shows a Settlement location and zip code.

³ “The Euro-Mediterranean Agreement – establishing an association between the European Communities and their Member States, of the one part, and the State of Israel of the other part” – is known as the EU-Israel Association Agreement.

- ii. A range of products from the West Bank (also covering Gaza and East Jerusalem), are covered by the Euro-Mediterranean Interim Association Agreement on Trade & Co-operation between the European Union and the Palestine Liberation Organisation. This grants duty-free or reduced-tariff treatment on the products exported to the EU, in many cases within the limits of quotas. As in paragraph 6(i) above, eligible goods exported under this preferential arrangement will be covered by an EUR1 Movement certificate or invoice declaration. The EUR1 will be stamped by the Customs and Excise Department of the Palestinian National authority. Goods accompanied by such certificates are likely to be of West Bank Palestinian origin. However, it would be advisable to verify this by checking with your supplier.
 - iii. In cases where the goods are not exported under the provisions in i) and ii) above, documents such as invoices, packing lists, delivery notes and transport documents may provide an indication of the place of production or of the place of the initial loading of the products. If the information is not readily available from accompanying documents, retailers may wish to consider whether they are able to obtain, direct from their suppliers, information about the place of production.
7. In all cases the HMRC enquiry line on **0845 010 9000** will be able to help retailers to establish whether the declared location and postcode (where shown) relates to an Israeli settlement in the West Bank and should be used as the primary source of information and assistance. In the vast majority of cases HMRC will be able to say immediately whether a place is in a settlement. However, there may be a small number of instances where it will have to seek advice from the European Commission.

Background information:

HMG Position Statement: Israeli Settlements in Occupied Palestinian Territories

8. The Occupied Palestinian Territories were occupied by Israel in 1967. They include the territories of the West Bank, the Gaza Strip, and East Jerusalem. Settlements are Israeli communities established, usually by Israeli citizens, in the West Bank and East Jerusalem (there are no longer any Israeli settlements in Gaza).
9. Israeli settlements in the OPT are unlawful under international law. They contravene Article 49 (6) of the Fourth Geneva Convention of 1949, which prohibits an occupying power from transferring its own civilian population into occupied territory.
10. In addition, the Government believes that the existence – and continued growth – of Israeli settlements poses a significant obstacle to peace in the Middle East. This is because the settlement of occupied territories makes it more difficult to establish a viable Palestinian state. Israel has committed to freeze all settlement activity as part of previous political

agreements, such as the Roadmap of 2003 and the Annapolis Agreement of 2007. Though Israel recently announced a limited ten-month moratorium on settlement building in the occupied West Bank, Israel has not yet fully fulfilled its obligations under these political agreements. At the same time, the clear position of the Government is that we are opposed to boycotts of Israel or Israeli goods. We do not believe that boycotts help engage or influence Israel, or lead to progress in the Middle East Peace Process.

11. In many cases information on whether products from the West Bank are from Palestinian producers or from Israeli settlements can be found on HM Revenue and Customs documentation pursuant to the following two EU agreements:

EU-Israel Association Agreement

12. The EU-Israel Association Agreement, in force since 2000, provides for products from Israel to be imported into EU countries at a preferential tariff rate, in some cases within the limits of quotas. But the EU and Israel differ over the territorial scope of the Agreement. The EU does not recognise the OPT as part of the State of Israel (i.e. those territories occupied by Israel since 1967).
13. In recent years, the EU has become aware that products Israel was exporting to the EU as 'Israeli' products included products originating from the OPT. There is nothing to prevent such products from being imported into the EU, but, according to the European Commission, they should not benefit from the preferential treatment afforded by the EU-Israel Association Agreement.
14. In November 2001 the European Commission therefore alerted importers, through a notice in the Official Journal, that importers in EU countries were required to take all necessary precautions regarding the origin of produce. It noted that putting into circulation, under the provisions of the EU-Israel Association Agreement, goods produced in Israeli settlements in the OPT risked giving rise to a Customs debt, i.e. that importers might have to pay national Customs authorities the difference between the EU-Israel Association Agreement's preferential tariff rate and the standard rate. This made clear that the onus was on importers in EU countries to take steps to establish whether the products involved were entitled to benefit from the EU's preferential tariff rates.
15. Since 2005, there has been a requirement under a technical arrangement adopted by the EU-Israel Customs Co-operation Committee on 12 December 2004 that all proofs of preferential origin covering imports from Israel under the provisions of the EU-Israel Association Agreement must indicate the imported goods' place of production and an accompanying postcode. This is to ensure the full rate of Customs duty is payable on any consignment which is indicated as originating in an Israeli settlement so that it does not benefit from the reduced tariff by claiming Israeli preferential origin.

16. A list of zip codes (postcodes) was supplied by the Israeli authorities to the European Commission, which in turn passed it on to all EU Member States. If a retailer or importer is unsure whether a declared postcode relates to an Israeli settlement, then they should contact HMRC's enquiry line on **0845 010 9000**, which can provide the answer.

Euro-Mediterranean Interim Association Agreement on Trade & Cooperation between the European Union and the Palestine Liberation Organisation

17. Since 1997 there has been a Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, and the Palestine Liberation Organisation (PLO). This agreement grants duty free or reduced tariff treatment (within quotas) on Palestinian products originating in the OPT which are exported to the EU.

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