Palestinian General Delegation
Ottawa - Canada

المفوضية الفلسطينية العامة
أوتاوا - كندا

Ottawa , September 27th 2021

Mr. A. Dimitri Lascaris
A.Dimitri Lascaris Law professional Corporation
360, Rue St. Jacques, Suite G101
Montreal, Quebec H2Y 1P5

Dear Mr. Lascaris:

Please find attached the position paper by the Ministry of Foreign Affairs and Expatriates of the State of Palestine, concerning the Illegal settlement products labeled as "Israeli products".

In regards to the labelling of wines produced in Israel's illegal settlements and sold in Canada, kindly note the following : -

Canada's foreign policy and relevant public international law concede, that the OPT is not part of the State of Israel. In addition, third states including Canada are expected to comply with internationally agreed-upon legal obligations such as: The obligation not to recognize internationally wrongful acts established by Israel, including through its settlement of the OPT; the obligation to respect and ensure respect for the terms of the Fourth Geneva Convention in all circumstances; and the obligation to respect the right of the Palestinian people to self-determination in the whole of the OPT. These obligations are unambiguous and rooted in a number of peremptory norms of public international law. As such any claims suggesting that it is "reasonable" for products produced in illegal Israeli settlements in the OPT to be labeled as "products of Israel" would not comport with the legal international obligations stated above.

Please accept, my sincere regards,

Mona Abuamara
Chargé d'affaires
Palestinian General Delegation to Canada

18 THE DRIVEWAY, OTTAWA, ONTARIO, K2P 1C6 TEL: 613-7360053 FAX: 613-7360535 E-mail:caemb@mfae.gov.ps

State of Palestine
Ministry of Foreign Affairs and Expatriates

Illegal settlement products labeled as "Israeli products"

At no point has the PLO acquiesced in the view that any portion of the Occupied Palestinian Territory (OPT) forms part of the State of Israel for any purpose, including matters of customs and trade. For further precision:

1. In the course of negotiating the 1994 Israeli-Palestinian Protocol on Economic Relations (Paris Protocol), neither the Palestine Liberation Organization nor the Palestinian Authority negotiated, consented to or acknowledged the inclusion of Israeli settlements in the Israeli-Palestinian 'Customs Union' created under that Protocol. Indeed, under the 1993 Declaration of Principles laying the foundation for subsequent arrangements, settlements were explicitly set aside as a "final status" issue. Consequently, at no point in negotiations on the Paris Protocol were the inclusion of settlements in the Customs Union discussed. The PA/PLO would never have agreed to their inclusion in the Customs Union.

2. The parties to the Paris Protocol were "the Government of the State of Israel" and the "P.L.O., representing the Palestinian people." The territorial definition of the "State of Israel" in the course of the Protocol's negotiation *preceded* the definition of "Israeli territory. The "West Bank" was not then and is not now part of the "State of Israel." It follows logically that West Bank settlements could only have come to be included in the area where Israel's customs laws are applied in the course of negotiations leading to the creation of an Israeli-Palestinian Customs Union. They were not.

3. To the extent that a functioning Israel-Palestinian Customs Union exists today, it is the position of the PA that settlements are not part of them. In fact, the Customs Union created under the Paris Protocol extended Israeli customs practices to Palestinian Areas of the West Bank -- not to settlements.

As a matter of public international law, Israel remains in belligerent military occupation of the OPT, as affirmed by every relevant principal organ of the UN, including the Security Council, the General Assembly, and the International Court of Justice. Israeli settlements, in whatever form they take – including "business" endeavors – have been established and maintained by Israel in violation of international humanitarian law, international criminal law, and general principles of international law, which prohibit acquisition of territory through the threat or use of force.

While the PLO did enter into the Paris Protocol as part of the above-mentioned Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, that instrument cannot be relied upon for the following four reasons:

1. The Paris Protocol must be interpreted in the context of the Declaration of Principles [DOP] on Interim Self-Government Arrangement ("Oslo Agreement") of September 13, 1993. The DOP stated: "It is understood that the interim arrangements are an integral part of the whole peace process and that the negotiations on the permanent status will lead to the implementation of Security

Council Resolutions 242 and 338." UNSC 242, in turn, confirmed the "inadmissibility of the acquisition of territory by war," the commitment of member states to act "in accordance with Article 2 of the Charter" (upholding the "principle of equal rights and self-determination of peoples"), and called upon Israel to withdraw from "territories occupied in the recent conflict."

2. As a matter of international law, the *lex specialis* governing the relationship between Israel and the Palestinian people in the OPT is the law of belligerent occupation, *not* the Oslo Accords. The principal treaty governing the law of belligerent occupation is the 1949 *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (hereinafter "*Fourth Geneva Convention*"), to which Israel is a High Contracting Party without reservation. Art. 7 of the *Fourth Geneva Convention* contemplates that the High Contracting Parties may enter into special agreements with the local population (e.g. Oslo Accords, including the Paris Protocol), but "[n]o special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them." Likewise, Art. 8 of the *Fourth Geneva Convention* provides that: "protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be" (under art. 4, the local Palestinian population are the 'protected population'; Israeli settlers do not qualify as 'protected persons'). Finally, Art. 47 of the *Fourth Geneva Convention* provides that "protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as a result of the occupation of a territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory." It is clear, therefore, that the *Fourth Geneva Convention* protects the interests of the protected population by prohibiting the transfer by an occupying power of its civilian nationals into the territory it occupies (art. 49), and no special agreement between the occupying power and the protected population's representatives may be invoked to justify, however temporary and for whatever purpose, a violation of those protections.

3. The Paris Protocol, like the rest of the Oslo Accords, were meant to be temporary special agreements that were local in nature. They were aimed at transferring, not consolidating, Israeli control over the OPT. The interim period ended in April 1999 – over twenty years ago.