

SodaStream

A Case Study for Corporate Activity
in Illegal Israeli Settlements



A Case Study No. 1
January 2011



The Coalition of Women for Peace brings together ten feminist peace organizations and non-affiliated activist women in Israel. Founded soon after the outbreak of the Second Intifada

in 2000, CWP today is a leading voice against the occupation, committed to feminist principles of organization and Jewish-Palestinian partnership in a relentless struggle for a just peace. CWP continuously voices a critical position against militarism and advocates for radical social and political change. Its work includes direct action and public campaigning in Israel and internationally; a pioneering investigative project exposing the occupation industry; outreach to Israeli audiences and political empowerment of women across communities; and capacity-building and support for grassroots activists and initiatives for peace and justice.

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Who Profits from the Occupation is a research project of the Coalition of Women for Peace. Initiated in response to the Palestinian call for

boycott, divestment and sanctions (BDS) on Israel, this research project is dedicated to exposing the commercial involvement of Israeli and international companies in the continuing Israeli control over Palestinian and Syrian land. The project publishes information about these companies on its website (www.whoprofits.org), produces in-depth reports and serves as an information center.

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Introduction

This report provides an extensive analysis of SodaStream (Soda Club), a manufacturer of home carbonating devices whose main factory is in the industrial park of Mishor Edomim in the West Bank, territory occupied by Israel. Using SodaStream as a case study for corporate activity in the illegal settlements, the report explores the concept of industrial production in settlements. The report discusses key issues of production in settlements, including the identity of the manufacturers, workers' conditions, land confiscation and trade in settlement products. This report provides a broad picture about SodaStream, its commercial activities in the territories, and its international business ties, which are mainly in Europe and the United States.

SodaStream has shown substantial growth and expansion in recent years, reaching new international markets. Most significantly, as of November 8, 2010, the company has gone public and its shares are traded on NASDAQ.

Examining the performance of this company is important in order to understand how its success is based, at least in part, on the structural advantages that production in Israeli settlements enjoys. Settlement production benefits from low rent, special tax incentives, lax enforcement of environmental and labor protection laws, as well as additional governmental support. For instance, all industrial parks in the settlements are defined as Priority Area A, which qualifies them for tax deductions. These tax deductions are usually offered as incentives for the development of businesses in areas of the country which are far from



A view of SodaStream's main factory in the industrial park of Mishor Edomim in the occupied West Bank. Photo: Esti Tsal, Who Profits

the major Israeli urban centers; but the main settlement industrial parks are a short driving distance from Israel's urban centers, and this gives them a competitive advantage over industrial areas inside the State of Israel.¹

Exploitation is an inevitable part of commercial production in an occupied area. Palestinians employed in these industrial parks work under severe restrictions of movement and organization. All workers have to obtain special permits and gain clearance from the Israeli General Security Service (Shabak) just to be able to enter these factories. Their dependence on these permits limits the workers' employment choices and makes organizing almost impossible. Israeli labor laws have been extended to Palestinian workers in the settlements, but not in full. With hardly any governmental enforcement or protection (especially, given that Palestinian workers are effectively prevented from demanding their rights),

employment under occupation is always exploitative, resulting in routine violations of labor rights.

A central tenet of the Israeli argument about the legality of commercial production in Mishor Edomim is that this activity in the settlement serves the local population and, thus, does not break international law. For example, in reaction to the Palestinian Authority initiative to boycott settlement produce, the manager of Lipski, a company located in Barkan, an Israeli industrial park in the occupied West Bank, explained that these industrial parks primarily serve Palestinian workers; hence, a boycott on settlement products "is self-defeating from a Palestinian point of view".² On May 27, 2010, the speaker of the Israeli parliament, Mr. Ruby Rivlin, said, during a visit to Barkan: "Barkan is a hub for co-existence and a bridge for peace".³ However, as the analysis provided herein of the case of SodaStream clearly shows, this claim fails to be substantiated by this case. The Palestinian workers in the

¹ The website of Mishor Edomim Industrial Park provides a partial list of the advantages that stem from its location, in order to attract businesses to move there. The list can be found at: tinyurl.com/36fdyst. The policy of Priority Areas is described in detail by the Ministry of Industry, Trade and Labor. For more information see here: tinyurl.com/376eq7x and here: tinyurl.com/3225ht5 (starting on page 8). More technical information can also be found here: tinyurl.com/34p4hca (see page 6).

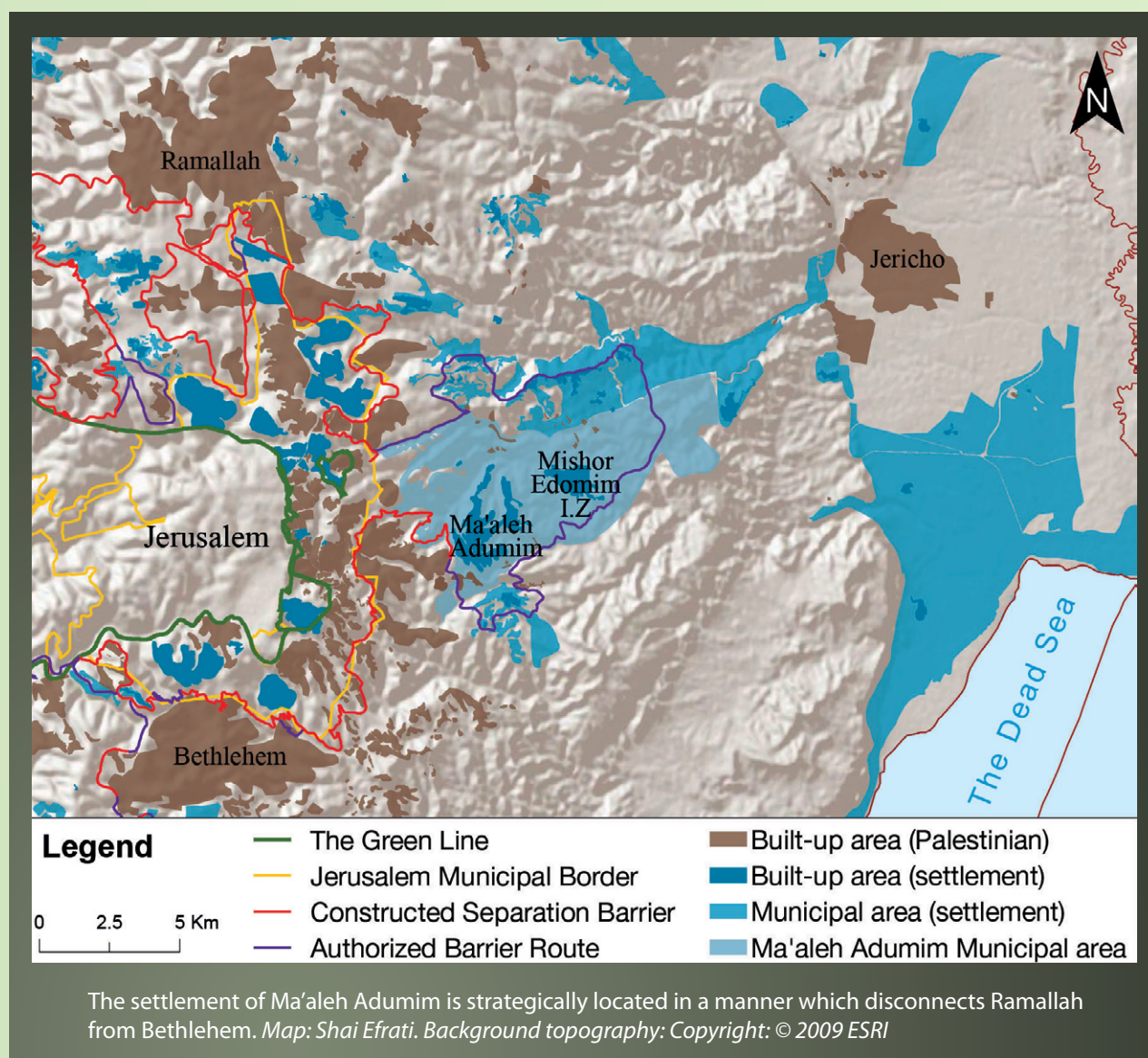
² "Palestinian boycott of the settlements: Who would be hurt more?", Ynet, May 21, 2010, www.ynet.co.il/articles/0,7340,L-3892193,00.html (in Hebrew, translation by authors).

³ "Rivlin: Boycott will hurt the chances for peace", Walla News, May 27, 2010, news.walla.co.il/?w=/1/1679652 (in Hebrew, translation by authors).

factory are employed in discriminatory and exploitative conditions.⁴ In addition, the products do not serve the local population, but are mostly shipped elsewhere (65% of production is exported); the company pays its taxes to the Israeli government and not to the Palestinian Authority; and, the profits of

the company benefit the Israeli economy and not that of the local Palestinians.

SodaStream and similar industries in the industrial park of Mishor Edomim directly support the settlement of Ma'aleh Adumim in various aspects. First, the municipal taxes that the company pays



⁴ See chapter 3 for more information on the working conditions in SodaStream's Plant in Mishor Edomim.

(property tax for production facilities, or “Arnona”, in Hebrew) go to the Ma’aleh Adumim Municipality’ where it is solely used to support the growth and development of the settlement. The funds the municipality of the Ma’aleh Adumim settlement collects from SodaStream and the other factories in its industrial zone are used for the construction of roads, education services, sewage treatment, gardening, for the payment of salaries of municipal employees and the like. Thus, when one buys a SodaStream device – one contributes to sustaining the Ma’aleh Adumim settlement.

The settlement of Ma’aleh Adumim is strategically positioned. It is east of Jerusalem, bordering on the Jordan Valley, creating continuous Israeli control between the settlement neighborhoods of East Jerusalem and the Jordan Valley. The Israeli continuum between East Jerusalem

and Ma’aleh Adumim disconnects the south of the West Bank (Bethlehem and Hebron) from the central and northern areas (Ramallah, Nablus and Jenin) for Palestinian movement and development.

The first chapter provides an overview of SodaStream’s business structure, the history of the establishment of the plant in the illegal industrial park of Mishor Edomim and explores its corporate activity there. The second chapter explores the working conditions of the Palestinian workers in the SodaStream factory in Mishor Edomim.

The story of the confiscation of the land on which the industrial park of Mishor Edomim is located is discussed in chapter three. The last chapter discusses the issues of EU Customs, mislabeling and possible consumer fraud.

Methodology

Research for this report was conducted using both desk studies and field research. The desk studies included the collection and analysis of information from various public sources, including: the Israeli Registrar of Companies, SodaStream's report to the American Securities and Exchange Commission and other information published by the company on its website, and legal documents of judicial instances of the European Union. Some of the conclusions of this report are based on research conducted by partner organizations. For instance, information on working conditions at the SodaStream factory was obtained from the reports and field work of Kav LaOved's project with Palestinian workers. Similarly, the history of land confiscation is based on reports of B'tselem –

The Israeli Information Center for Human Rights in the Occupied Territories, and Bimkom – Planners for Planning Rights, in addition to information and aerial photographs of the region provided by Mr. Dror Etkes, an expert on the growth of the settlements in the West Bank.

The field research included a visit to the factory in the Mishor Edomim settlement. Additional information on trade and labeling was obtained through visits to retail stores in different European countries.

We sent this report prior to its publication to the management of SodaStream and asked for its response. As of the writing of this paper, we have yet to receive any reply.

I. SodaStream at a Glance

■ **Full Name:** SodaStream International (formerly known as Soda Club Holdings)

■ **Major Shareholders:** Fortissimo Capital Fund GP (31.7%) and Real Property Investment (18.7%)

■ **Traded on:** NASDAQ

■ **Symbol:** SODA

■ **Key persons:**

Yuval Cohen, chairman and a major shareholder

Conrad Morris, a major shareholder

Daniel Birnbaum, CEO

■ **Revenues in 2009:** 142,842,000 USD

■ **Export Markets:** South Africa, Canada, United States, New Zealand, Australia, Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Malta, Latvia, Lithuania, Norway, Portugal, Ireland, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the Netherlands,

the United Kingdom, Mexico, the Philippines, South Korea and Taiwan.

■ **Major Subsidiaries:** Soda Club Enterprises N.V. (the Netherlands Antilles), Soda Club International BV (the Netherlands), Soda Club Worldwide B.V. (the Netherlands), Soda Club GmbH (Germany) and SodaStream Industries (Israel).

■ **Brands and Trademarks:** SodaStream, Soda Club, AlcoJet, Sprudelino, Aquabar, Gazoz, Aquafizz, Aquabubbler, Penguin, Sodamaker, Fountain Jet, and Edition1. SodaStream, through its subsidiary Soda Pop, is the sole distributor of Brita (water filtering jugs) in Israel.

■ **Major Importer and Distributors:**

In Germany, Brita imports and markets products of SodaStream. In Sweden, Denmark, Norway, Finland, Estonia, Latvia and Lithuania, SodaStream is distributed by Empire. In Ireland SodaStream is distributed by JDM Products, and in Romania by Blue Nest Trade.

■ **Address:**

Israeli Main Office:

Kiryat Sde Hate'ufa
Airport City I.Z.
Gilbo'a, Lod 70151
POB 280
Ben Gurion Airport 70151
Tel: 972-3-9762323

Mishor Edomim Plant:

50 Ha'ugda St.
POB 77
Mishor Edomim I.Z. 98510
Tel: 972-2-5900421

Netherlands Office:

Minervum 7334
4817 ZD Breda
The Netherlands
Tel: 31-76-5444222

■ **Website:** www.sodaclub.com



2. Profile of SodaStream

SodaStream is a manufacturer of home beverage carbonating devices. Its main manufacturing facility is located in the industrial park of Mishor Edomim, an illegal settlement in the Israel-occupied West Bank. In addition to carbonating devices, the company develops, manufactures and sells carbon-dioxide (CO₂) cylinders, carbonation bottles and flavor syrups. The company is also the Israeli distributor of Brita (water filtering jugs).



History of the Company

SodaStream was founded in 1991 by Peter Wiseburgh, a British-born Zionist entrepreneur and an antique cars aficionado, under the name Soda Club. Between 1978 and 1991 Wiseburgh was the exclusive

Israeli distributor of the original British SodaStream devices, invented in the UK in 1903. A year after Wiseburgh founded Soda Club, the Israeli competitor to the British SodaStream, he began to market the products internationally as well, and between 1992 and 1995, overseas marketing reached South Africa, Switzerland, Austria, and Germany.⁵

In 1996 Soda Club established its main production plant in the industrial park of Mishor Edomim, which is an Israeli settlement in the occupied West Bank, east of Jerusalem. In 1998 the company acquired the British SodaStream company. Since then the company has continued to expand its activities in the Netherlands, New Zealand, the United Kingdom, the United States, South Korea and other markets (see "SodaStream at a Glance" for a complete list).⁶

Following a financial crisis, the Israeli-based Fortissimo Capital Fund took over SodaStream in 2007 and became its main owner. It is interesting to note that the portfolio of Fortissimo includes another

⁵ For the history of SodaStream see: "Get busy with Israeli fizzy", Leslie Bunder, Something Israeli, 2006 (www.somethingisraeli.com/articles/60_get_busy_with_israel.htm) and SodaStream's website: www.sodastream.com/company-milestones, accessed on December 12, 2010.

⁶ Company website (see: tinyurl.com/34emfjz, in Hebrew) Accessed in November 9, 2010, and "An old and dusty industrial firm has become the new star of NASDAQ", Sarit Menham, The Marker, November 5, 2010, see: tinyurl.com/32fhseg (in Hebrew, translation by authors).

company involved in the occupation, Emblaze, the parent company of Matrix, one of the biggest IT groups in Israel.⁷ Matrix operates a center in the Modi'in Illit settlement, for software development and quality assurance.⁸

A year after the Fortissimo takeover, SodaStream began a process of re-branding itself in accordance with marketing trends and to accommodate itself to the health food trend and to ecologically responsible consumerism. It designed a new logo and launched a new line of devices, with an updated look and new "natural" syrups.

The Company Today

SodaStream today sells its products in 39 countries. Over the past decade it has sold 8 million carbonating devices. The products are sold at more than 35,000 stores worldwide, including by retailers like Macy's, Bed Bath and Beyond, Bloomingdale's, Sears, Kmart, Coop, Carrefour, Gal and Gal, Edeka, and Migros. The sale of the carbonation devices doubled in the first half of 2010, in comparison with the same period the previous year. In 2009 SodaStream bought out one of its biggest

competitors, the German Wassermass. 68% of company sales are in Europe. The SodaStream devices are especially popular in Sweden; it is estimated that one of every five Swedish households owns a SodaStream device.⁹

As part of its growth strategy, SodaStream has registered on NASDAQ. Since November 8, 2010, the company has been traded under the symbol SODA. The initial public offering was very successful for SodaStream – after surplus demands, the com-



Manufactured in the settlement of Mishor Edomim and sold in U.S. retail shops: Products of SodaStream in the store of Bed Bath & beyond in San Francisco. The picture was taken on January 3, 2011.

pany increased the number of stocks that were offered to the public and raised a total sum of 109 million USD.

⁷ Fortissimo is the major shareholder of Emblaze, holding 16.08% of Emblaze shares.

⁸ See the website of Who Profits for more information on the involvement of Emblaze (whoprofits.org/Company%20Info.php?id=623) and Matrix (whoprofits.org/Company%20Info.php?id=633) in the occupation.

⁹ "Yuval Cohen Takes Soda Club to NASDAQ", Calcalist, February 9, 2010. Information about retailers is based upon the SodaStream customer service, November 9, 2010, and SodaStream's Registration Statement to the US Securities and Exchange Commission (SEC), October 19, 2010. The full statement can be found here: http://www.sec.gov/Archives/edgar/data/1502916/000114420410054318/v198147_jp-f1.htm#tPSS.

In its report to NASDAQ on October 19, 2010, SodaStream disclosed its business strategy for the upcoming years. The company's plan is primarily based on expanding its market in the U.S., which SodaStream believes "can become one of our largest markets within a number of years".¹⁰ Another part of the plan is to focus efforts and resources to expand the base of active users, particularly in Germany, France and Italy.¹¹

SodaStream is currently controlled by two major companies which are registered in offshore tax havens. The majority of shares (31.7%) is held by Fortissimo Capital Fund

GP, a Cayman Island limited partnership, which is controlled by an Israeli, Mr. Yuval Cohen. Another 18.7% of the shares are held by Real Property Investment, a Liberian company, whose shares are held by the British tycoon, Mr. Conrad Morris, through a trust company in Gibraltar.¹²

The entire activity of SodaStream is incorporated under the Israeli company SodaStream International. The operational activities of the company and its subsidiaries are managed by Soda Club International B.V., a fully owned Dutch subsidiary, held by SodaStream through Soda Club International B.V.

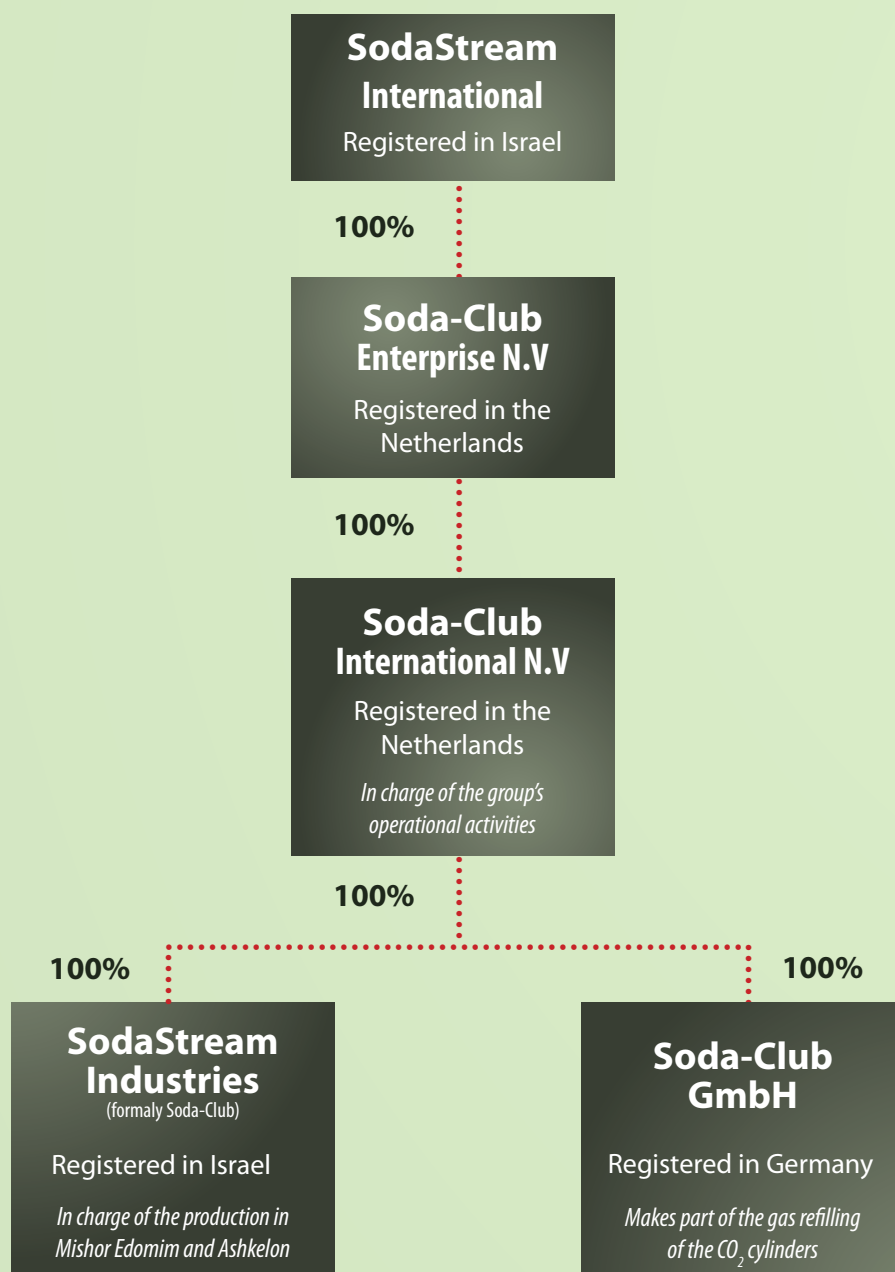
¹⁰ SodaStream's Registration Statement to the SEC, page 43.

¹¹ SodaStream's Registration Statement to the SEC, page 43.

¹² SodaStream's Registration Statement to the SEC, page 101, footnotes number 1 and 2.

The Structure of SodaStream

Major subsidiaries:



Additional full subsidiaries of the company, for marketing, services and logistics*:

- Sodapop Ltd.
- Soda-Club Distribution SA
- Soda-Club Österreich GmbH
- Soda-Club Australia PTY Ltd.
- SodaStream (New Zealand) Ltd.
- Soda-Club (SA) (Pty) Ltd.
- Soda-Club USA, Inc.
- Soda-Club CO2 Ltd.
- Soda-Club (Europe) Limited
- Soda-Club Switzerland GmbH
- Soda-Club (CO2) SA/AG/Ltd.
- SodaStream (CO2) SA/AG/Ltd.
- Soda-Club (CO2) Atlantic GmbH
- Soda-Club Z.O.O Oddziel w polsce Branch
- Soda-Club Worldwide Trading Company Branch
- Soda-Club Worldwide BV (Sweden) Branch
- Soda-Club Worldwide BV (France) Branch
- Soda-Club Worldwide BV (Greece) Branch

** A full list of SodaStream's subsidiaries can be found on annex number 1, page 31.*

Most of the products are manufactured by the Israeli subsidiary of SodaStream International, SodaStream Industries (formerly Soda Club), in Mishor Edomim and in Ashkelon. In Ashkelon, only syrups are produced. Part of the gas refilling is made by another subsidiary of SodaStream International, Soda Club GmbH, in a Ger-

man facility.¹³ Marketing and service are carried out by third party distributors and wholly-owned subsidiaries located in various countries. These subsidiaries primarily purchase the goods directly from other companies of the group, for marketing in their specific geographic areas.

¹³ This facility in Germany is used for sales and marketing activities as well as refilling. Additional gas refilling takes place

in Australia, Israel, New Zealand, South Africa, Sweden and the United States.

The European commercial and logistics center is managed from Breda, the Netherlands. The company operates a refilling center, office and warehouse in Limburg, Germany. The company has marketing and sales subsidiary offices in Australia, Germany, Israel, the Netherlands, South Africa, Switzerland, the United Kingdom and the United States. In Germany, Brita imports and markets products of SodaStream, and Soda Pop, a fully-owned subsidiary of SodaStream, which is the sole distributor of Brita in Israel. In Ireland SodaStream is distributed by JDM Products, and in Romania by Blue Nest Trade.

The main offices, logistic center and a warehouse belonging to the company are located in Lod, Israel, in the Airport City Business Park, near the international airport of Israel. For a full overview of SodaStream's corporate structure see Annex number 1.

Moving to a West Bank Settlement

In 1996, SodaStream, then Soda Club, made a strategic decision to embark on the independent manufacturing of soda makers. It then opened its first plant. The location chosen was Mishor Edomim, the industrial park of Ma'aleh Edomim, an il-

legal settlement east of Jerusalem. The SodaStream site includes a metal factory, a plastic and bottle-blowing factory, a machining factory, an assembly factory, a cylinder manufacturing facility, a CO₂ re-fill line and a cylinder retest facility. This 164,000 square foot facility in Mishor Edomim is also used as a warehouse and as offices.

In an interview for Globes magazine given in March 2000, Peter Wiseburgh, the founder of the company, explained that he chose to build the factory in Mishor Edomim because of the low real estate prices and lax bureaucratic regulations he found there. "I looked everywhere," he said, "but anywhere I looked the bureaucracy was cumbersome. When I got here, the space [formerly occupied by the Israel military industry] was deserted and full of pigeons. So I just turned around and walked away. A week later, the Jerusalem Economic [which leases the industrial zone from the Israeli Civil Administration] offered to give me the site for free for the first six months, and then for forty-four thousand shekels rent per month and also offered one hundred thousand dollars in cash for the cost of renovating the place. I rented 13,000 square meters, and it was a good deal. Not a political act".¹⁴

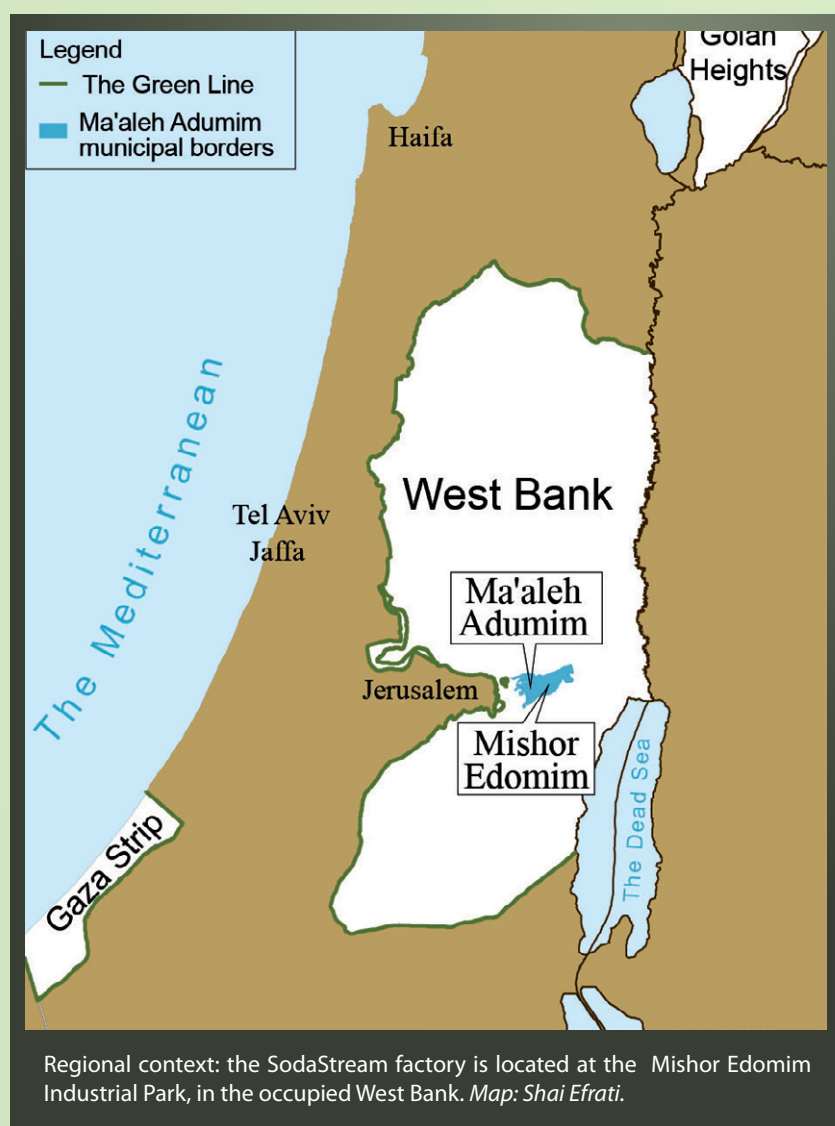
¹⁴"A Bubbles Company", Batia Feldman, Globes, March 5, 2000. The article can be found here: [www.globes.co.il/news/](http://www.globes.co.il/news/article.aspx?did=192594)

[article.aspx?did=192594](http://www.globes.co.il/news/article.aspx?did=192594) (in Hebrew, translation by authors).

The registration statement by the company, which was filed to the American Securities and Exchange Commission (SEC), as part of the process of registering the company on NASDAQ, gives the public a rare glimpse into the internal considerations of a settlement producer, weighing consumer boycotts and possible negative publicity, against the economic benefits of having a factory

in a settlement. On the one hand, the statement lists boycott campaigns as a significant “risk factor”. The location of the factory on occupied land is described as causing “rising political tensions and negative publicity,” and the company adds that it “may negatively impact demand for our products or require us to relocate our manufacturing activities to other locations.” Another “risk factor” that

the statement mentions is the new legislation by the Palestinian Authority, which may prohibit Palestinians from working for Israeli companies located in the West Bank.¹⁵ On the other hand, SodaStream declares that moving its factory out of the settlement would require the expenditure of resources and, more importantly, “limit certain of the tax benefits for which we are currently eligible.” These benefits stem from the fact that, as aforementioned, the Israeli government provides economic incentives, including tax deductions, for businesses operating in West Bank settlements.¹⁶



¹⁵ SodaStream's Registration Statement to the SEC, page 24.

¹⁶ Ibid.

3. Labor: The Status of Palestinian

Workers in SodaStream

Palestinian Workers in the Israeli Industrial Parks in the West Bank

The Israeli occupation of the Palestinian territory conquered in the 1967 war has become an issue not only of land but of labor, too. Israeli employers see Palestinian workers as cheap labor to whom they do not have to provide the full set of workers' rights and legally required conditions. Due to the difficult economic situation and the high percent of unemployment in the occupied Palestinian territory (oPt), many Palestinians are forced to earn their living in the settlements, despite the fact that by doing so they support the settlement economy.¹⁷ It is important to highlight that the Palestinian residents of the West Bank who work in settlements suffer not only from potentially exploitative employment conditions, but also from the fact that they are occupied subjects and thus they do not enjoy civil rights, and depend on their employers for work permits.¹⁸ The main criterion for receiving such a permit

is a 'security clearance', which attests that the worker's personal record in the Israeli security forces records is clear of any action or pronouncement which is defined as endangering Israel's security. Ironically, involvement in a labor disagreement with an employer is also defined as a security risk.¹⁹ Thus, workers jeopardize their work permit if they demand anything of their employers. By losing this permit, workers do not only lose their current employment; they also lose the ability to work in settlements in the future. Therefore, fear of losing the work permit most often overrides the workers' desire to demand their rights. Consequently, it is very rare for Palestinian workers to demand their legal employment rights.²⁰

Palestinian Workers at the SodaStream Factory

Most of the Palestinian workers in the SodaStream factory in Mishor Edomim come from the Palestinian villages and cities

¹⁷ For more information on unemployment in the occupied Palestinian territory see the World Bank report: "Towards a Palestinian State: Reforms for Fiscal Strengthening", April 13, 2010, tinyurl.com/3a5br34.

¹⁸ "Multi-Culturalism at the Soda Club Factory", Salwa Alinat, Kav LaOved, May 02, 2009. www.kavlaoved.org.il/media-view_eng.asp?id=2262.

¹⁹ "Palestinian Workers in Israeli West Bank Settlements – 2009", Salwa Alinat, Kav LaOved, March 13, 2010. See: www.kavlaoved.org.il/media-view_eng.asp?id=2764.

²⁰ "Palestinian Workers in Israeli West Bank Settlements – 2009", Kav LaOved.

which are adjacent to the Ma'aleh Adumim settlement: Azaria, Abu Dis, Hazma, and Jericho.²¹ According to reports from three consecutive years (2008 to 2010) of Kav LaOved (an NGO committed to pro-

er, Salim, who was hired in 2008, states in a report to Kav LaOved (April 2010): "I've been working for almost two years, and every few months there's a problem: workers are let go, and new ones brought in. We

work hard to stay at the factory, but we feel insecure. There are rumors they'll be hiring workers to replace those fired."²²

In April 2008, and following several unheeded appeals to the contractor to increase the workers' salaries, the Palestinian workers decided to hold a protest at the factory, hoping to improve their work conditions, including their wages, which were far below the minimum wage.²³ Salwa Elinat, a coordinator for Kav LaOved stated at the time, after meet-



A view into factory ground of the SodaStream factory in Mishor Edomim.
Photo: Esti Tsal, Who Profits.

ing with workers from the factory: "The Palestinian workers say that they are being discriminated against, they don't even earn half of the minimum wage and the work conditions are terrible. If they demand their rights they will be fired. It is like this in many factories in this area but Soda Club's factory is one of the worst".²⁴ According to Israeli law, based on a 2007 Supreme Court ruling, Palestinians work-

ing with workers from the factory: "The Palestinian workers say that they are being discriminated against, they don't even earn half of the minimum wage and the work conditions are terrible. If they demand their rights they will be fired. It is like this in many factories in this area but Soda Club's factory is one of the worst".²⁴ According to Israeli law, based on a 2007 Supreme Court ruling, Palestinians work-

²¹ "Multi-Culturalism", Kav LaOved.

²² "Employees at Soda Club Fired Without Wages", Salwa Elinat, Kav LaOved, April 27, 2010. www.kavlaoved.org.il/media-view_eng.asp?id=2797

²³ "Multi-Culturalism", Kav LaOved.

²⁴ "Wachtmeister Under Fire", Daniel Öhman, Ekot October 31, 2008.

ers from the West Bank are entitled to the same rights enjoyed by Israeli workers. This ruling was a result of a 14-year struggle led by Kav LaOved in the Israeli Labor Court.²⁵

According to Kav LaOved, "The length of the struggle and the persistent resistance of the State of Israel to the application of Israeli labor laws in the settlements reflected the State's preference to maintain low labor costs in the settlements. A cheap and available workforce was an incentive for Israelis and foreigners to invest in the settlements."²⁶ At that time, and in reaction to the protest, 17 Palestinian workers were fired, and then were rehired with better conditions, only following the publication of the story in the Swedish press and the intervention of Kav LaOved.²⁷ However, according to Kav LaOved's report of March 2010, Palestinian workers continue to be "at the bottom of the hierarchy in the factory and remain fearful of dismissal".²⁸

In March 2010, the Palestinian workers were fired again, allegedly because SodaStream wanted to hire them directly and not through a subcontractor. The workers told

Kav LaOved that Sol Pearl Ltd., the Israeli subcontractor which employed the Palestinian workers, demanded 6,000 shekels (approx. 1,250 Euros) from each worker for their 'release' from their contract. Sol Pearl denied these claims. However, on April 16, 140 Palestinian workers who were employed by SodaStream through Pearl Sol were fired and were not paid their March salaries. When the workers, relying on the promises of Sol Pearl, returned to the factory to collect their salaries, SodaStream called the security personnel of the settlement, asking them to expel the workers from the factory and to keep them off the premises of the industrial zone.²⁹

Only after Kav LaOved intervened were the workers paid their salaries, and SodaStream promised to rehire the dismissed workers who were employed via Sol Pearl.³⁰ However, although SodaStream did rehire the workers, it did not hire the two workers who led the struggle and were the contact people for Kav LaOved.³¹ Since then, Kav LaOved has not been able to obtain any information concerning the working conditions of the Palestinian workers at SodaStream.³²

²⁵ Decision of the Israeli High Court of Justice, 5666/03, October 10, 2007. The decision can be found here: http://law.haifa.ac.il/la-watch/lawatch_files/2007labor566603.htm (in Hebrew).

²⁶ "Palestinian Workers in Israeli West Bank Settlements – 2009", Kav LaOved.

²⁷ "Multi-Culturalism" Kav LaOved.

²⁸ Ibid.

²⁹ "Employees at Soda Club".

³⁰ Ibid.

³¹ "Soda Club: The Never Ending Story", Kav LaOved 3/6/2010. See: www.kavlaoved.org.il/media-view.asp?id=2826 (in Hebrew).

³² Personal communication with coordinator of Palestinian Workers Project of Kav LaOved.

4. Land: Land Expropriation Creates Cheap

Land for Israeli Industries in Mishor Edomim

SodaStream is located in the Mishor Edomim Industrial Park, which is one of 17 industrial parks Israel has established in the occupied Palestinian territory. The industrial parks in the oPt were developed to serve illegal settlements as places of employment and sources of revenue. They also serve the major Israeli urban centers, by providing the benefits of nearby industrial production, without the downsides of heavy industrial activity in the urban area. These parks were established to explicitly serve the settlements, the Israeli economy as a whole and to strengthen Israeli control of the oPt.

The Mishor Edomim Industrial Park constitutes a permanent infrastructure, which serves the settlement of Ma'aleh Adumim and the Jerusalem area, as well as Israeli businesses and workers. This is despite international law, which prohibits the occupying power from constructing permanent infrastructure in occupied territory, unless it is for military use or serves the interests of the occupied population.

The history of the establishment of Mishor Edomim suggests that the intention of the Israeli government from the very start was to create an industrial park for the development of Jerusalem. The Mishor Edomim Industrial Park was established in 1974, following a decision by an inter-ministerial committee convened by the government and headed by the Attorney General. The committee's mandate was to locate land set up a new industrial park for Jerusalem. The committee reviewed a number of alternatives in the Jerusalem area, some within the Green Line (in Israel), and some on occupied land in the West Bank.¹ The committee's final recommendation was in favor of Mishor Edomim, in the West Bank. On November 23, 1974, the government adopted the recommendation to establish the Mishor Edomim Industrial Park.

Section B of the government decision states as follows:

Development of Mishor Edomim as an industrial park for Jerusalem:

³³ The history of the founding of Mishor Edomim and Ma'aleh Adumim is described in a comprehensive and insightful report of the human rights organizations, B'tselem and Bimkom: "The Hidden Agenda: The Establishment and Expansion

Plans of Ma'aleh Adumim and their Human Rights Ramification" by Nir Shalev, December 2009. The report can be found here: eng.bimkom.org/_Uploads/27THEHIDDENAGENDA.pdf.

1. The Mishor Edomim area will be developed as an industrial park for Jerusalem(...)

2. The planning will consider the urban and industrial development needs of the city of Jerusalem in coordination with the Jerusalem municipality.

3. The legal aspects of land reclamation for the project will be arranged by the military

administration according to the Attorney General's instructions.³⁴

Therefore, from the start, the Israeli government designated this area, which is within the occupied territory, for the development needs of Jerusalem, in a way that does not conform with international law and without regard for the needs of the local population and original land



A view of the Mishor Edomim Industrial Park and the Ma'aleh Adumim settlement. The creation of Mishor Edomim played a central role in the establishment of Ma'aleh Adumim, which today ranks third in population of all Jewish settlements in the West Bank. Photo: Esti Tsal, *Who Profits*.

³⁴ Government decision number 159, "The development of Jerusalem", November 23, 1974.

owners. Furthermore, the industrial park of Mishor Edomim was built with the explicit plan of bringing about the establishment and development of the settlement of Ma'aleh Adumim. The inter-ministerial committee located an area of land spanning 4,500 dunams (ca. 1,100 hectares) for the industrial park. However, the ministerial committee, which was set up by the government to execute the plan, instead, decided on expropriating an area almost seven times larger (30,000 dunams or ca. 7,500 hectares). The government decision, which referred to the construction of an industrial park at Mishor Edomim, also allowed for the construction of accommodation "for workers whose work is in the area". Following that, a "workers' compound" was erected in the winter of 1975. Later that year, this compound was declared the settlement of Ma'aleh Adumim. This was among the largest land expropriations in the history of the occupation, spanning a vast area from Jerusalem to the city of Jericho.³⁵

Thus, the creation of the Mishor Edomim Industrial Park played a central role in the establishment and development of the Ma'aleh Adumim settlement, which today occupies the largest land area of all Israeli

settlements and, with its 35,000 residents, ranks third in population. Because of its scale, its location and the difficulties associated with relocating such a large and established population, Ma'aleh Adumim is, today, considered to be a major obstacle to any future peace agreement.

The land expropriated for Mishor Edomim and Ma'aleh Adumim originally belonged to the Palestinian towns of Abu Dis, Azarya, A-Tur, Issauya, Han El Akhmar, Anata and Nebbi Mussa. Israel used two methods to take over the land. The first is known as the Survey Procedure, which Israel uses to convert private Palestinian land to "State Land" (or government property). This method is based on a manipulative interpretation of the Ottoman Land Law of 1855, which often leaves Palestinians whose land is converted as such with no plausible legal recourse to protect their ownership of the land.³⁶

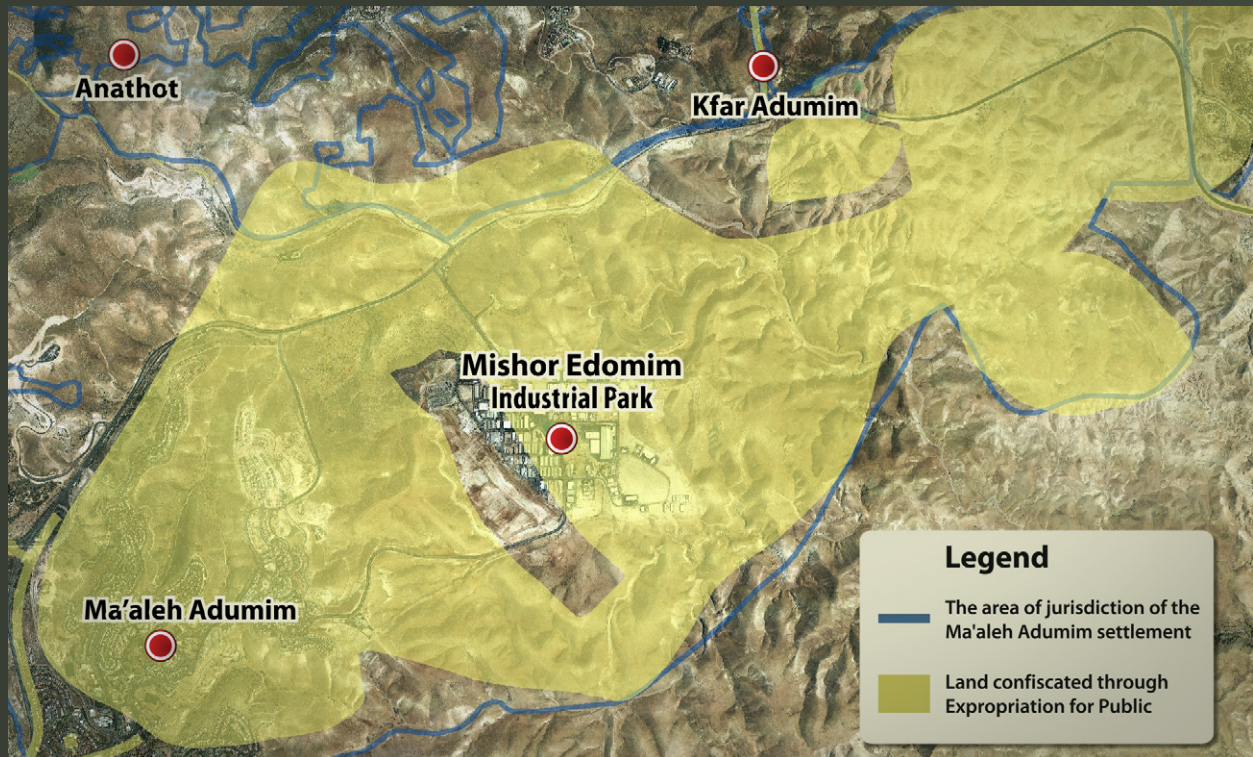
Other parts of Mishor Edomim are also located on private Palestinian land. Israel assumed control over these lands using a procedure called Expropriation for Public Purposes. It allows the occupying power to expropriate land to serve the local population. This expropriation evidently was

³⁵ "The Hidden Agenda", B'tselem and Bimkom, and "On The Way To Annexation: Human Rights Violations Resulting from the Establishment and Expansion of the Ma'aleh Adumim Settlement", B'tselem, 1999, www.btselem.org/Download/199907_On_The_Way_To_Annexation_Eng.doc.

³⁶ For an explanation of the land expropriation procedure see "By Hook and by Crook: Israeli Settlement Policy in the West Bank", Chapter 3, B'tselem, July 2010. The report can be found here: www.btselem.org/Download/201007_By_Hook_and_by_Crook_Eng.pdf.

not used to serve the local population, which not only renders it illegal according to international law, but also according to Israeli military law. This is considered the largest single expropriation in the history of the Israeli occupation.

Expropriation of land has made an abundance of land available at attractively low lease prices in the industrial park. This, with other government benefits, attracted companies such as SodaStream to relocate there, as it did in 1996.



An aerial photograph of the Mishor Edomim Industrial Park and the settlements of Ma'aleh Adumim, Kfar Adumim and Anathot. *Source: Dror Etkes*

5. Trade: Exporting Settlement Products

to Europe – Customs and Mislabeling

The Framework of Export from Israel to the EU

In June 2000, the EU-Israel Association Agreement came into force. The agreement defined Israeli goods as exempt from customs fees. The West Bank, East Jerusalem, Gaza and the Golan Heights are not recognized as part of Israel by EU member states. However, de facto, Israel applied the agreement to the occupied territory as well, creating a fierce dispute between Israel and the EU. This dispute was resolved in August 2004, when Israel agreed that Israeli goods would be marked with their place of origin so that the customs authorities of the EU member states could distinguish between products from the settlements and products from inside Israel proper. In practice, an unknown amount of goods produced in settlements are still exported as Israeli products.³⁷

Settlement Products are not Part of the Preferential Trade Agreement

On February 25, 2010, the European Court of Justice in Luxembourg ruled that goods produced in settlements in the occupied

West Bank must not be considered as made in Israel.

The decision stated: *Products obtained in locations which have been placed under Israeli administration since 1967 do not qualify for the preferential treatment provided for under that agreement [...] Products originating in the West Bank do not fall within the territorial scope of the EC-Israel Agreement and do not therefore qualify for preferential treatment under that agreement.*³⁸

The decision was made following a disagreement between the German distributor of SodaStream, Brita, and Hamburg's port customs office. Brita, which imported SodaStream products manufactured in Mishor Edomim, reported to the customs authorities that the source of the goods was Israel, in order to avoid paying customs. The German authorities suspected that the source of the goods was a settlement, and asked the Israeli Customs Authority to validate that the soda devices were not made in the West Bank or Gaza. The Israeli Customs Authority replied that the source of the goods is in a region un-

³⁷ Personal communication with the Fact Finding Mission of the EU Custom's Authority, July 16, 2009.

³⁸ The full text of the decision can be found here: tinyurl.com/yzuocc3

der its responsibility, but did not declare that the goods were not produced in the territories.

As a result, the customs authorities of Hamburg imposed import tariffs on the goods, claiming that it is impossible to rule out production in the West Bank or Gaza. Brita contested the decision to the Court for financial affairs in Hamburg (Finanzgericht Hamburg), which referred the case to the European Court of Justice. The Court of Justice's ruling backed the customs authorities of Hamburg, in line with overall EU policy.

The ruling of the European Court of Justice has considerable implications, politically as well as economically. It was a further blow to Israel's settlement policy in general, and to SodaStream in particular. The ruling also serves as precedent for other products which are produced by companies in Israeli settlements in the occupied territories. With its ruling, the court has taken a clear stance, stating that the occupied territories should not be seen as part of the State of Israel.

It is interesting to note that SodaStream did not provide a disclosure about the ruling against it in the European Court of Justice in its report to the U.S. Securities

and Exchange Commission on October 19, 2010.

Mislabeling and Consumer Fraud

Mislabeling of settlement products has another aspect; it raises the issue of consumer fraud. A settlement product cannot be considered to be a product of Israel; if these products are sold under the Made in Israel label it raises suspicions that this information misleads consumers. The definition of consumer fraud varies from country to country. The prohibition against consumer fraud is generally perceived as part of the consumers' right to know the basic facts about the product they are purchasing, a right which has been enshrined in consumer protection laws. The place of production is part of this basic information.

For many years SodaStream was a private company, and thus information about the location of its production facilities was incomplete. That changed in October 2010, when the company went public on NASDAQ and was obligated to disclose extensive details about its operations. In its report to the SEC on October 19, 2010, under the section "Manufacturing and Production", SodaStream explains where

each of its products is produced. For the manufacturing of the carbonation devices SodaStream indicates only one production facility: the factory in Mishor Edomim. This factory is used for metal works, plastic and bottle blowing, machining, assembly, cylinder manufacturing, CO₂ refill and cylinder retest. The syrups are manufactured in the Ashkelon factory (within the Green Line). "Certain components" of the products are outsourced to two subcontractors in China. The CO₂ cylinders are refilled in facilities in Australia, Germany, Israel, New Zealand, South Africa, Sweden and the United States.

To explore the issue of mislabeling and potential consumer fraud, we initially chose to look at labels on the carbonation devices, because, according to the company's own statement, the entire production of these products takes place in the Mishor Edomim Industrial Park in the occupied Palestinian Territories.

The following are a few examples of packages of SodaStream devices from retail shops in European countries:

■ A package on display at Coop City department store in Bern, Switzerland is sold under the label Made in Israel. As seen in photo number 1, the address reads: "Gilboa Street, Airport City, Ben Gurion Airport".

Airport City is a business center next to the Ben Gurion Airport. The device could not be manufactured there as SodaStream runs no factory in Airport City, but only offices and a warehouse, as stated by SodaStream itself in its October report to the Securities and Exchange Commission and, also, as evident from pictures of the company's facility published on the Airport City website.³⁹



Photo no. 1: A package from Switzerland. The address reads: "Gilboa Street, Airport City", although SodaStream has no factory in Airport City but only offices and a warehouse.

■ On January 4, 2011, new pictures of two packages of the carbonation device were taken at a Coop City store in Bern, Switzerland. Again, the packages bore the label Made in Israel, using the address of SodaStream offices in Airport City. See photo number 2.

³⁹ www.airport-city.co.il/en/logistic.php?office_id=10, accessed on December 1st, 2010.



Photo no. 2: A package of the carbonation device which were sold in January 2011 at a Coop store in Bern, Switzerland. This package was sold under the label Made in Israel, using the address of SodaStream's offices in Airport City.

■ Photo number 3 was taken on the same date in a Manor department store in Bern, Switzerland. In this case the print on the package reads "Made in Israel", however, a small sticker placed on it reads "Made in Mishor", although "Mishor" is not a known country or city.



Photo no. 3: A package from a Manor department store in Bern, Switzerland. The label reads: "Made in Israel" and the sticker on the labels reads: "Made in Mishor".

■ Photo number 4 shows the package of a carbonation device sold at a Carrefour shop, H rouville Saint Clair, Calvados, France, on December 17, 2010. The label on the package reads Made in China, although in the company's statement there is no mention of device production in China, but only of "certain components".

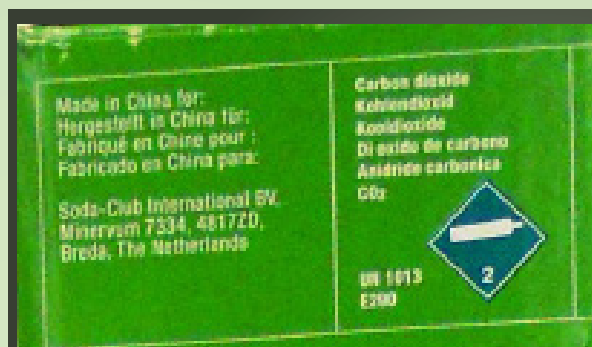


Photo no. 4: The label of a package of a carbonation device sold in France. The label reads: "Made in China."

Credit: Association France Palestine Solidarit  du Calvados (AFPS-14)

We later decided to look at other products sold under the label Made in Israel. A package of a SodaStream bottle for use with the carbonation device was bought on November 16, 2010, at Super de Boer in Utrecht, the Netherlands. See photo number 5. Here again, the product is sold under the Made in Israel label. The address on the package is that of company offices in Airport City.

However, SodaStream has only one factory that produces bottles in Israel and the occupied Palestinian territory – the fac-



Photo no. 5: The package of a SodaStream bottle. The label reads Made in Israel and the address on the package is that of company offices in Airport City. However, SodaStream has only one bottle factory in Israel and the occupied Palestinian territory – the factory in Mishor Edomim, which is not mentioned on the package.



tory in Mishor Edomim, which is not mentioned on the package.

The issue of labeling became a hot topic as pressure from the growing global Boycott, Divestment and Sanctions (BDS) movement on Israel mounted. This led SodaStream to issue several statements about the location of its factory.

In Sweden, which is one of SodaStream's main markets, a report published in 2008 by the development organization Diako-

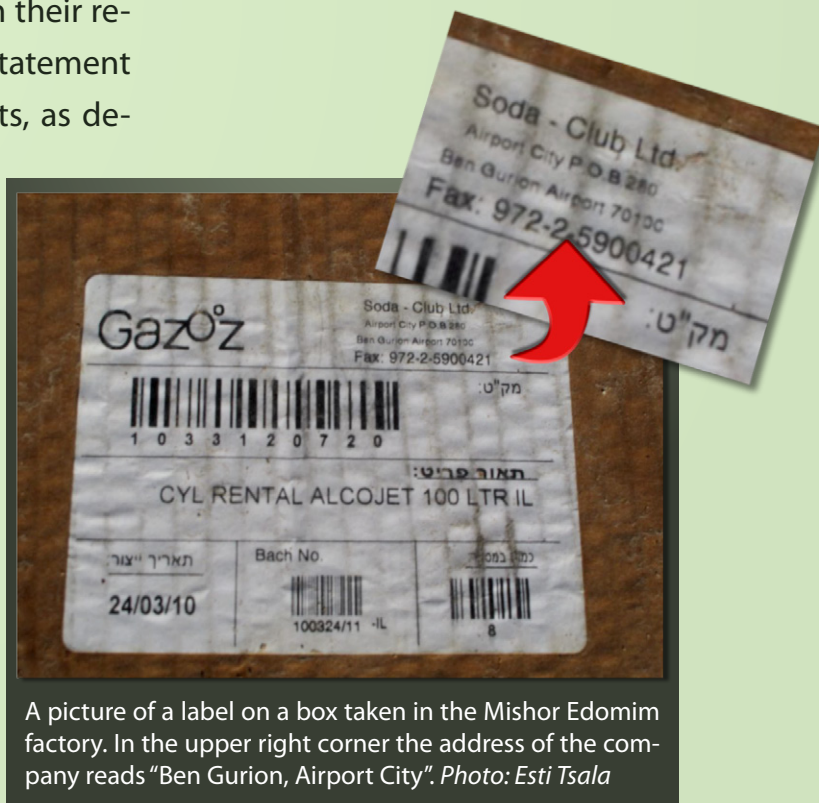
nia on another company located in a settlement (Assa Abloy's Mul-T-Lock), turned the media's attention to SodaStream as well. As a result, Empire, which sells the devices in Sweden, said it was not aware that the factory was located in a settlement, and added that it had informed SodaStream that Empire did not want the factory to stay there. Mr. Daniel Birnbaum, CEO of SodaStream, was asked for comments by the National Swedish Radio. He said SodaStream, "will supply the Scandinavian markets with products sourced

from any of our 7 facilities other than the Mishor plant".⁴⁰ However, as the information disclosed by the company in their report to the SEC indicates, this statement cannot be supported by the facts, as described at length above.

In addition, in a letter to EU customs authorities on April 15, 2010, SodaStream confirmed that its "carbonation machines are produced at [...] Mishor Adumim Industrial Zone". But the letter leaves open the possibility that the carbonation devices were not produced in a settlement or in Israel, by adding a reservation: "unless otherwise

indicated on the packaging".

For a copy of the letter, see annex no 2.



A picture of a label on a box taken in the Mishor Edomim factory. In the upper right corner the address of the company reads "Ben Gurion, Airport City". Photo: Esti Tsala

⁴⁰ The National Swedish Radio, Ekot, 31 October 2008. Dia-konia translated the broadcast; this translation can be found

here: tinyurl.com/3x62cpb.

SodaStream's subsidiaries worldwide

Name of subsidiary	Incorporated in	Ownership interest
Soda Club Enterprises N.V.	Netherlands Antilles	100%
Soda Club International B.V.	The Netherlands	100%
Soda Club Worldwide B.V.	The Netherlands	100%
Soda Club GmbH.	Germany	100%
SodaStream Industries Ltd.	Israel	100%
Sodapop Ltd.	Israel	100%
Soda Club Distribution SA	Switzerland	100%
Soda Club Österreich GmbH	Austria	100%
Soda Club Australia PTY Ltd.	Australia	100%
SodaStream (New Zealand) Ltd.	New Zealand	100%
Soda Club (SA) (Pty) Ltd.	South Africa	100%
Soda Club USA, Inc.	United States	100%
Soda Club CO2 Ltd.	British Virgin Islands	100%
Soda Club (Europe) Limited	United Kingdom	100%
Soda Club Switzerland GmbH	Switzerland	100%
Soda Club (CO2) SA/AG/Ltd.	Switzerland	100%
SodaStream (CO2) SA/AG/Ltd.	Switzerland	100%
Soda Club (CO2) Atlantic GmbH	Switzerland	100%
Soda Club Z.O.O Oddziel w polsce Branch	Poland	100%
Soda Club Worldwide Trading Company Branch	United Kingdom	100%
Soda Club Worldwide BV (Sweden) Branch	Sweden	100%
Soda Club Worldwide BV (France) Branch	France	100%
Soda Club Worldwide BV (Greece) Branch	Greece	100%

A letter from SodaStream to EU customs authorities, sent on April 15, 2010.

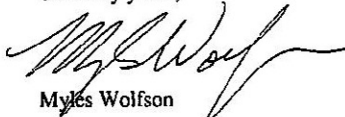


April 15, 2010

To Whom It May Concern:

We hereby confirm that SodaStream carbonation machines are produced at 50 Haugda Street, Mishor Adumim Industrial Zone, Ma'aleh Adumim, Israel, 98510 unless otherwise indicated on the packaging.

Sincerely yours,



Myles Wolfson
General Counsel



www.SodaStream.com

Gillwa Street, Airport City, P.O.Box 280, Ben Gurion Airport 70100, Israel, Tel: + 972 3 9762323, Fax: 972 3 9736673