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**Aprodev Working Group on the Middle East**

***The European Union - Israel Association Agreement***

***An Introduction***

**Aprodev**

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## **Aprodev**

Aprodev is the association of the 15 major Protestant, Anglican and Orthodox development and humanitarian aid organizations in Europe. Its associated member organizations are ICCO (Netherlands), Department for Global Ministries (Netherlands), EED (Germany), Bread for the World (Germany), Christian Aid (United Kingdom), Church of Sweden Aid (Sweden), Diakonia (Sweden), FinnChurchAid (Finland), DanChurchAid (Denmark), Norwegian Church Aid (Norway), Icelandic Church Aid (Iceland), Bread for All (Switzerland), HEKS/EPER (Switzerland), CIMADE (France) and Hungarian Interchurch Aid (Hungary). Nationally, the Aprodev agencies are related to the churches in their respective countries. Globally, the Aprodev agencies work closely together with the World Council of Churches and the Lutheran World Federation. They are inspired by the liberating message of the Gospel, share a common focus on justice, peace and human-centered development, and work with people in need, irrespective of creed, color, race, sex or political persuasion.

In the Middle East, Aprodev agencies work with partner organizations in both the Occupied Palestinian Territories and Israel. With them, the Aprodev agencies share a common vision of peaceful co-existence. Fundamental to this is a resolution of the Israeli-Palestinian conflict. Also fundamental is the need for security for all, based on respect for the human, political, economic, cultural and social rights of all people, the equitable sharing of (regional) resources, and participatory and pluralistic governance.

Aprodev believes that the solution to the long-standing conflict between Israelis and Palestinians must be based on international law and the respect for human rights, as enshrined in United Nations resolutions, the Fourth Geneva Convention related to the protection of civil persons in time of war, and other relevant international conventions.

In this paper on the EU-Israel Association Agreement, Aprodev argues that this Agreement should be either fully implemented or suspended. We hope that this paper will give a useful contribution to the debate about the responsibilities of the European Union with regard to the search for a just and lasting peace in the Holy Land.

## ***INDEX***

- 1) **What is the EU-Israel Association Agreement?**
- 2) **Why should the EU-Israel Association Agreement be suspended?**
- 3) **Isn't Israel the only democracy of the Middle East?**
- 4) **Would the suspension of the EU-Israel Association Agreement be a sanction on Israel?**
- 5) **Who decides to suspend the EU-Israel Association Agreement?**
- 6) **Why should a church related development agency call for the suspension of the EU-Israel Association Agreement?**
- 7) **Would the suspension contribute towards the alleviation of poverty in the Occupied Palestinian Territories?**
- 8) **What is the relation between the suspension of the EU-Israel Association Agreement and the Israeli occupation of the West Bank and Gaza?**
- 9) **Shouldn't the violence cease first?**
- 10) **What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the Israeli economy?**
- 11) **What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the EU's economy?**
- 12) **What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the Palestinian economy?**
- 13) **Should other EU Agreements with third countries be suspended under the same circumstances?**
- 14) **When should the EU lift the suspension of the EU-Israel Association Agreement?**
- 15) **As Europeans, why should we care about the suspension of the EU-Israel Association Agreement? Why should we care about the situation in the Middle East?**
- 16) **REFERENCES**

## 1) What is the EU-Israel Association Agreement?

The EU-Israel Association Agreement is a trade agreement between the EU and Israel. It was signed on 20.11.1995, and came into force on 1 June 2000, replacing the earlier Cooperation Agreement of 1975. The main features of the Agreement include: provisions on the liberalization of services; the free movement of capital and competition rules; the strengthening of economic cooperation and cooperation on social matters; regular political dialogue and cultural cooperation. The Agreement provides the EU and Israel with mutual preferential treatment and customs duties reduction or exemption in trade relations.

The European Community has set up an intense network of trade, cooperation and development agreements throughout the years with countries all over the world. Association Agreements are one kind of EU bilateral conventions and have been concluded with many Mediterranean countries<sup>1</sup>. The Association Agreements fall within the Euro-Mediterranean partnership, usually known as the Barcelona process, which aims, among other things, to establish a free trade area between the EU and the Mediterranean region by 2010.

To date, the EU has concluded Association Agreements in the Mediterranean region with: Cyprus (came into force 1.6.1973), Malta (1.4.1971), Turkey (21.12.1995), Israel (1.6.2000), Morocco (1.3.2000), **the Palestinian Liberation Organization (1.7.1997, which has never been implemented as Israel has officially opposed and in practice obstructed its implementation)**, Tunisia (1.3.1998). Association Agreements are under negotiation or already signed but not yet come into force with Algeria, Egypt, Jordan, Lebanon and Syria.

Unlike other Mediterranean countries, Israel does not benefit from E.U. funds under the MEDA bilateral financial cooperation, because of its relatively high standard of living, but it is covered by the MEDA regional component. Israel's wealth is partly due to its alliance with the United States, meaning that Israel receives more aid from the US than any other country in the world.

### Other EU-Israel Agreements:

- **The Scientific and Technical Cooperation Agreement** (came into force on 8 March 2000). Israel has been associated respectively to the 4<sup>th</sup> and the 5<sup>th</sup> Community Research and Technical Development Framework Programs, enjoying a status equivalent to that of any other Member State. Scientific and technical agreements have very important military implications.

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<sup>1</sup> See the 1957 Treaty establishing the European Community, as amended by subsequent treaties, Part Six, General and Final Provisions, Art. 238: "The Community may conclude with one or more States or international organizations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures".

- The Public Procurement Agreements
- The Agreement on Good Laboratory Practice
- Since March 2000 Israel has gained "Co-operating State" status in the COST (Research) program.
- Since June 2000 Israel is member of the Eureka (Research) Network.

**ISRAELI TRADE YEAR 2000 (% and millions of USA dollars)<sup>2</sup>**

EXPORT	To the EU	27.2% 8.529
	To North America (USA, Canada and Mexico)	38.8% 12.172
	To Asia (including Asian republics of former USSR)	18.5% 5794
IMPORT	From the EU	43.3% 15.466
	From North America	19.6% 7.004
	From Asia	14.6% 1.474

**RECENT USA AID TO ISRAEL (millions of USA dollars)<sup>3</sup>**

<sup>2</sup>Source: Israeli Ministry of Industry and Trade  
[http://www.tamas.gov.il/tamas\\_Mainlink\\_english.asp?link=bin/goto.asp?{F24980}](http://www.tamas.gov.il/tamas_Mainlink_english.asp?link=bin/goto.asp?{F24980}).

<sup>3</sup>"Israel: U.S. Foreign Assistance", by Clyde R. Mark, Foreign Affairs, Defense and Trade Division, Congressional Research Service, The Library of Congress, Washington, updated February 11, 2000.

<b>YEAR</b>	<b>TOTAL</b>	<b>MILITARY GRANT</b>	<b>ECONOMIC GRANT</b>	<b>IMMIGRATION GRANT</b>	<b>ASHA American Schools and Hospitals Grant</b>	<b>OTHER</b>
<b>1949-1996</b>	68,030.9	29,014.9	23,122.4	868.9	121.4	14,903.9
<b>1997</b>	3,132.1	1,800.0	1,200.0	80.0	2.1	50.0
<b>1998</b>	3,080.0	1,800.0	1,200.0	80.0	?	?
<b>1999</b>	3,010.0	1,860.0	1,080.0	70.0	?	?
<b>2000</b>	4,129.1	3,120.0	949.1	60.0	?	?
<b>2001</b>	2,873.8	1,975.6	838.2	60.0	?	?
<b>2002 estimated</b>	2,820.0	2,040.0	720.0	60.0	?	?
<b>TOTAL</b>	87,075.9	41,614.9	29,111.5	1,278.9	123.5	14,953.9

## 2) Why should the EU-Israel Association Agreement be suspended?

Israel commits material breaches of the Association Agreement, and in particular violates its provisions on human rights, democratic principles, on respect for the Charter of the United Nations and provisions on trade.

### a) Israeli violations of human rights

- Article 2 of the Agreement states that “Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement”.

Israel has carried out systematic violations of human rights in the Occupied Palestinian Territories. These are particularly grave because **Israel, the Occupying Power, fails to comply with its legal obligations under the 1949 Fourth Geneva Convention related to the protection of civilian persons in time of war**. Israel:

- imposes collective punishments on Palestinian civilians;
- indiscriminately shells residential areas;
- extensively destroys and confiscates Palestinian property;
- prevents freedom of movement to people and goods through internal and external closures;
- prevents the movement of food and medical supplies;
- gravely undermines public health;
- attacks medical and hospital establishments and services, schools, mosques and churches;
- undermines the right to education and freedom of religion;
- illegally detains and tortures Palestinian citizens, including children;
- systematically practices extra-judicial killing targeting Palestinian civilians, including high representatives of the National Palestinian Authority;
- transfers its population to the occupied Palestinian Territories.

These actions, not justified by military necessity and carried out unlawfully and wantonly, represent **grave breaches of the Fourth Geneva Convention**<sup>4</sup>.

### b) Israeli violations of democratic principles

As well as the grave breaches of the Fourth Geneva Convention in relation to Palestinians in the Occupied Territories, Israel violates human rights and democratic principles in relation to the Palestinians who are Israeli citizens and live within the State of Israel. Palestinian Israelis are discriminated against, both through written Israeli laws and customary practices (see below, point 3: “Isn’t Israel the only democracy of the Middle East?”).

### c) Israeli violation of the Charter of the United Nations

Israel, a member of the Organization of the United Nations, systematically violates the Charter by failing to comply with its **obligation to refrain from the use of force in international relations** (art. 2.4 of the UN Charter) and by denying to the Palestinian people the **right to self-determination** (art. 1.2 and 55) which are peremptory norms of general international law.

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<sup>4</sup> Art. 147 “Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.

#### **d) Israeli violations of the Agreement's provisions on trade**

Since the beginning of the occupation of the West Bank and the Gaza Strip, successive Israeli customs services have systematically certified products produced in the Occupied Territories (the Palestinian West Bank and Gaza, and the Syrian Golan Heights), including Israeli settlements, as originating in the State of Israel, for the purposes of preferential treatments established by successive trade agreements between Israel and the European Community.

Israel openly violates:

-the **territorial scope of the Agreement** (Art. 83 "This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community and the European Coal And Steel Community are applied and under the conditions laid down in those Treaties and, on the other hand, **to the territory of the State of Israel**");

-the **rules of origin** (Protocol 4, "concerning the definition of the concept of 'originating products' and methods of administrative cooperation", foresees that preferential treatment is granted to products produced within the territory of the Parties, therefore excluding products wholly or substantially produced in the Occupied Palestinian Territories);

-provisions on **customs cooperation** (Protocol 5, "on mutual assistance between administrative authorities in customs matters", states that "The Parties shall assist each other, within their competences, in the manner and under the conditions laid down in this Protocol, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of operations in breach of that legislation" -Art. 2.1).

These fraudulent practices have been explicitly recognized by the Israeli authorities, who openly refuse to comply with their legal obligations under general international law (the **customary prohibition against the unilateral annexation by an Occupying Power of occupied territory**) and the **Fourth Geneva Convention** related to the protection of civilian persons in time of war, one of the pillars of international humanitarian law. The Geneva Convention indeed prohibits the Occupying Power from building settlements and making **extensive appropriation of property**, not justified by military necessity and carried out unlawfully and wantonly, in the territory it occupies<sup>5</sup>.

#### **Evidence**

As far as Israeli violations of human rights and democratic principles are concerned, countless reports have been published by international, Palestinian and Israeli Organizations (e.g. Amnesty International, the International Federation on Human Rights, the Palestinian Center for Human Rights, Law, Bt'selem). The most important is the **Report of the United Nations Human Rights Inquiry Commission** established pursuant to Commission resolution S – 5/1 of 19 October 2000, on "Question on the violation of Human Rights in the Occupied Palestinian Territories, including Palestine. Grave and Massive Violations of the Human Rights of the Palestinian People by Israel".

As far as violations of the Agreement's provisions on trade are concerned, not only do the EU Member States and the European Commission now have *prima facie* proof, but on several occasions the Israeli authorities themselves have explicitly admitted their illegal behavior, openly claiming the Israeli right to build settlements in the occupied territories and to export settlements' products to the EU under this preferential treatment.

#### **The EU's failure to act**

Although the EU has reiterated its concern that Israel complies with the territorial scope of the Agreement and its humanitarian obligations<sup>6</sup>, to date the Commission has failed to take measures against Israeli violations.

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<sup>5</sup> Art. 49 "(...) The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies"; art. 147 "Grave breaches ... shall be those involving ...extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly".

<sup>6</sup> See e.g. the EU declaration at the meeting of the Association Council EU-Israel, Brussels, 20 November 2001; the Notice to the importers published by the European Community in the *Official Journal of the European Communities* on 23.11.01 (replacing an earlier note of 1997) saying: "(...) Operators are informed that arising from the result of the verification procedures carried out, it is now confirmed that Israel issues proofs of origin for

## Consequences

The Commission is responsible both for ensuring that Community trading partners comply with their obligations under their agreement with the EU, and for ensuring that customs services of Member States implement their enforcement function correctly. Therefore, from a juridical point of view, the European Commission, as guardian of the EU treaties, is now in a dangerous position. However, recently the Commission began to make more efforts to implement its November 2001 recommendation on the territorial scope of the Agreement, starting to require importers in EU Member States, who sell goods made by Israeli manufacturers, either to provide proof that the products are not made in the Occupied Territories or to deposit money to cover any future tariffs that may be imposed on the goods. Currently, the Israeli Customs Authority is preparing a list of Israeli companies operating in the Occupied Territories for the EU Member States' customs services<sup>7</sup>.

The Commission's failure to act is particularly grave not only because it undermines the whole body of European law, but also because it implies the failure of the EU Member States (and, by extension, of the EU) to comply with their obligation to ensure respect for the Fourth Geneva Convention in all circumstances<sup>8</sup>. Indeed, the EU, by its failure to act, risks *de facto* to participate in Israel's grave breaches of the Convention.

## The suspension of the Agreement

The suspension of the EU-Israel Association Agreement by the EU would be an implementation of the customary norm of general international law "inadimplenti non est adimplendum", codified by the Vienna Convention on the Law of Treaties of 1969, in response to Israel's material breaches of the Agreement<sup>9</sup>, as well as an implementation of the obligation of EU Member States to ensure respect for the Fourth Geneva Convention in all circumstances.

## 3) Isn't Israel the only democracy of the Middle East?

Formally, Israel is a democratic State. Elections to the House of Representatives and to Municipal Councils are held every few years under universal suffrage for all Israeli citizens. However, despite the claim to be a democratic state, Israel commits widespread violations of democratic principles in the Occupied Palestinian Territories as outlined in the above section.

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products coming from places brought under Israeli administration since 1967, which, according to the Community, are not entitled to benefit from preferential treatment under the Agreements. Community operators (...) are informed that they must take all the necessary precautions and that putting the goods in free circulation may give rise to customs debt"; the European Commission's "Communication to the Council and the European Parliament" of 12 May 1998.

In response to the European Commission advice to importers in Member States, for the first time on 1 February 2002 Italy imposed duties on all Israeli products until their origin had been verified. A few days later, as a result of heavy Israeli pressures, Italy withdrew its measure.

<sup>7</sup> See Ora Coren, "Customs compiles list of factories in territories", *Ha'aretz*, Friday 1 March 2002 (and other previous articles).

<sup>8</sup> Art. 1 of the Convention: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances". All EU Member States are parties to the Convention.

<sup>9</sup> Art. 60 of the Vienna Convention "Termination or suspension of the operation of a treaty as a consequence of its breach": 1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part (...) 3. A material breach of a treaty, for the purposes of this article, consists in: (...) (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty".

Additionally, Israel violates human rights and democratic principles in relation to the Palestinians who are Israeli citizens and live within the territory of the State of Israel. Palestinian Israelis represent 20% of the Israeli population.

Israel's notion of citizenship does not accord with the modern universal notion of citizenship, whereby all citizens are equal without distinction of religion, language, nationality, etc. In the Jewish State of Israel only Jews fully benefit from political and social rights, while the Palestinian citizens of Israel are discriminated against both through written laws (according to a UN report in 1998 there were 17 laws involving discrimination against Arab citizens) and customary practice.

#### **Examples of discriminating laws:**

**The Law of Return (1950)**, is based on the rabbinical definition of a Jew. This states that a Jew is anyone born of a Jewish mother or who has converted to Judaism. Israeli citizenship is granted to any Jew who applies for it, meaning that any Jew from anywhere in the world can settle in Israel with full citizenship rights; whereas the right to return is denied to Palestinian refugees who were forced to flee during the Arab-Israeli war of 1948-1949. Therefore, the Israeli notion of citizenship, relying on blood and religion, is undemocratic by definition.

**The Absentee Property Law (1950)**, states that any land left vacated by those who were forced to flee during the war of 1948-1949 becomes the property of the state of Israel. This applies to 200,000 Palestinian of Israeli citizenship (20% of the total), who fled their homes in 1948 and settled elsewhere within Israel. The absentee law also applies to those Palestinians who fled to other countries and to the West Bank and Gaza Strip. All of them have been denied all rights to the properties (lands, houses, corporations, shares, bank accounts, bank safes, etc.), which they owned until 1948.

**The Laws preventing Arab parties** that do not recognize the Jewish character of the Israeli State from participating in elections.

**The 1945 emergency legislation**, which allows the confiscation of Arab land (by 1998 only 10% of the immovable property owned by Palestinians before 1948 remained in Palestinian hands).

**The educational law**, which has the promotion of Jewish culture and Zionist ideology as one of its declared aims.

#### **Other discrimination practices**

The Palestinian Israeli population is discriminated against in the allocation of funding for public services, meaning that most predominantly Palestinian towns inside Israel are allocated much smaller budgets for health, education and other social services than predominantly Jewish towns.

According to a 1998 report by the Adva Centre in Tel Aviv, social and economic inequality in Israel is particularly noticeable with regard to the Israeli Arabs. The report provides some telling figures:

- The average income of Palestinian Israelis is the lowest of any ethnic group in the country.
- 42 % of Palestinian Israelis aged 17 years have already left school.
- The infant mortality rate among Palestinian Israelis is almost twice as high as for Jews: 9.6 per 1000 births, compared with 5.3.

#### **4) Would the suspension of the EU-Israel Association Agreement be a sanction?**

As Israel commits material breaches of the Agreement as outlined above, the suspension of the EU-Israel Association Agreement by the EU would not be a sanction but the implementation of the customary norm of general international law "inadimplenti non est adimplendum" (non-compliance of one Party negates the obligation of compliance of the other Party), codified by the 1969 Vienna Convention on the Law of Treaties.

However, this would not prevent the EU from imposing sanctions (including the suspension of trade Agreements) on Israel, on the basis of art. 301 of the Treaty establishing the European Community of 1957<sup>10</sup>.

A precedent of suspension of a bilateral EU Agreement as a consequence of material breaches by the EU partner occurred in 2001, when the EU suspended the EU-Haiti partnership agreement, arguing that Haiti failed to respect democratic principles.

A precedent of EU sanction on a third country according to art. 301 of the Treaty establishing the European Community occurred on 18 February 2002, when the EU imposed sanctions on Zimbabwe, arguing that this country fails to respect democratic principles<sup>11</sup>.

## 5) Who decides to suspend the EU-Israel Association Agreement<sup>12</sup>?

### The Council of the European Union

The Council of the European Union, consisting of representatives of each Member State at the ministerial level, has the power to decide the suspension of the EU-Israel Association Agreement. It acts on a proposal of the European Commission, after the assent of the European Parliament has been obtained. The Council itself can request the Commission to submit an appropriate proposal. The Council decision to suspend the EU-Israel Association Agreement can be/

- a) the implementation of the customary norm of general international law “inadimplenti non est adimplendum”, codified by the 1969 Vienna Convention on the Law of Treaties, as Israel commits material breaches of the Agreement. In this case the suspension of the Agreement would not be a countermeasure (or sanction) and the Council should act unanimously.
- b) an urgent measure taken according to art. 301 of the Treaty establishing the European Community<sup>13</sup>, consisting of interrupting or reducing economic relations with one or more third countries, according to the provisions of the Treaty on the EU relating to the common foreign and security policy. In this case the suspension of the Agreement would be a countermeasure, and the Council decision must be by a qualified majority.

Before suspending the Agreement, the Council might adopt the following procedure: it can decide to invite the government of Israel to enter into consultations under the Association Agreement’s provisions on human rights, democratic principles and trade and find out how Israel intends to comply with the essential elements referred to in art. 2 and with the territorial scope of the Agreement. If the Israeli government subsequently fails to take into account the concerns expressed by the EU, the Council, having regard to the Treaty establishing the EU, can decide the suspension of the Association Agreement.

The appropriate measures taken by the Council in regard to trade with Israel would be maintained until Israel complies with the humanitarian and territorial clauses of the Agreement, accepts the presence of international human rights monitors in the Palestinian Occupied Territories, withdraws from the territories falling under the control of the Palestinian Authority, totally lifts the closures and restores freedom of movement of people and goods, and resumes negotiations with the Palestinian party within the framework of international law and all relevant United National resolutions.

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<sup>10</sup> Art. 301 of the Treaty establishing the European Community of 1957: “Where it is provided, in a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to the common foreign and security policy, for an action by the Community to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the Council shall take the necessary urgent measures. The Council shall act by a qualified majority on a proposal from the Commission”.

<sup>11</sup> The decision came in the wake of the refusal of the Zimbabwe authorities to accredit Pierre Schori as head of the EU’s election observation mission. The EU election observation team has now been withdrawn. The EU’s position is set out in the Council Common Position of February 18 (*Official Journal of the European Communities* L50 of 21.2.2002) and the legal text for the targeted sanctions is Council Regulation (EC) N° 310/2002 of February 18, 2002 (in the same edition of the *Official Journal*).

<sup>12</sup> See the Treaty establishing the European Community Part Five “Institutions of the Community”

<sup>13</sup> See above point 4.

## **What role do the other EU and Member States bodies play in encouraging the decision of the Council?**

### **The European Commission**

The Commission consists of 20 members appointed by the EU Member States after the approval of the European Parliament. The Commission, guardian of the EU treaties, can present a motivated proposal for a Council decision on the opportunity to suspend the EU-Israel Association Agreement<sup>14</sup>. Compensation for Israeli damages to Palestinian infrastructure should also be taken into consideration.

### **The European Parliament**

The Members of the European Parliament are elected by universal direct suffrage by all the peoples of the EU Member States. The European Parliament may, acting by a majority of its Members, request the Commission to submit an appropriate proposal on matters on which it considers that a Community action is required for the purpose of implementing the Treaty establishing the European Community (e.g. the suspension of the EU-Israel Association Agreement).

The European Parliament and its Members may put questions (orally or in writing) to the Commission. The Commission shall reply, orally or in writing, to them.

The Parliament may also, at the request of a quarter of its Members, set up a temporary Committee of Inquiry to investigate contraventions or maladministration in the implementation of Community law. Therefore, if the Commission persists in failing to act regarding Israel's material breaches of the Association Agreement, the Parliament can set up a Committee of Inquiry to investigate the Commission's failure to comply with its mandate of guardian of the EU treaties.

### **The Court of Justice of the European Communities**

The Court of Justice shall ensure that, in the interpretation and application of the Treaty establishing the European Community, the law is observed.

Should the European Parliament, the Council or the Commission, in infringement of the Treaty establishing the European Community, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

### **National Parliaments**

Rules may differ from one country to another. National Parliaments have several democratic means to influence the foreign policy of their governments. For instance, national Parliaments and their Members may put questions (orally or in writing) to their governments. Governments shall reply, orally or in writing, to them.

### **Civil society**

Civil society may make use of all democratic instruments it has to influence the EU and Member States' relations with Israel by addressing petitions to their Parliaments, encouraging Parliamentary questions, organizing meetings, information campaigns, etc.

Any citizen of the EU, and any natural or legal person residing in a Member State, has the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and affects him / her directly, e. g. importers who consider they are harmed by Israel's frauds, NGOs or Church who consider their development projects in the Palestinian Occupied Territories gravely undermined by the Israeli army, may address a petition to the European Parliament asking it to present a proposal to the Commission on the suspension of the EU-Israel Association Agreement.

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<sup>14</sup> See the Commission's proposal for a Council decision in regard to the suspension of the ACP-European Community partnership agreement with Haiti [http://europa.eu.int/eur-lex/en/com/dat/2001/en\\_501PC0311.html](http://europa.eu.int/eur-lex/en/com/dat/2001/en_501PC0311.html)

## **6) Why should a development agency call for the suspension of the EU-Israel Association Agreement?**

Development is a much wider issue than growth of GNP. It is a social process, comprising economic, social, political and cultural dimensions (see the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations in 1966).

Israeli violations of the EU-Israel Association Agreement are the result of grave violations of general international law and humanitarian law. These violations, exemplified by Israeli closures of Palestinian villages and towns, preventing free movement of goods and people, and by massive destruction and confiscation of Palestinian infrastructure, natural resources and properties by military means, gravely undermine *development* in the widest sense in the occupied Palestinian Territories.

More over, as far as European law is concerned, trade agreements between the EU and its Mediterranean partners aim to support economic and social development, stability and peace in the whole area, while Israeli violations risk undermining all European policy in the Mediterranean and the Middle East.

## **7) Would the suspension alleviate poverty in the Occupied Palestinian Territories?**

Since the beginning of the current intifada, the Palestinian economy has suffered enormous losses. Only pressure applied to Israel, such as through the suspension of the EU-Israel Association Agreement, would encourage the Israeli authorities to refrain from their aggressive and destructive policies against the Palestinians and comply with their legal obligations under the Fourth Geneva Convention and the Charter of the United Nations.

## **8) What is the relation between the suspension of the EU-Israel Association Agreement and the Israeli occupation of the West Bank, East Jerusalem and Gaza?**

Although occupation is illegal under international law, the international community has established rules in order to “humanize” war and military occupation. These are made up of a number of international conventions, most important of which is the 1949 Fourth Geneva Convention related to the protection of civilian persons in time of war. The suspension of the EU-Israel Association Agreement would be both the implementation of the customary norm of general international law “*inadimplenti non est adimplendum*”, codified by the Vienna Convention on the Law of treaties, and of the EU Member States’ obligation to ensure respect for the Fourth Geneva Convention in all circumstances.

## **9) Shouldn’t the violence stop first?**

Both sides are suffering from violence, Palestinian as well as Israeli civilians. But how realistic is it to demand a complete cease of violence from Palestinian groups as long as this violence is not coordinated by one centralized but executed by various bodies who do understand this as part of the national struggle for the end of the occupation? Can this be fully controlled by an already weak Palestinian Authority?

The Israeli military occupation of the Palestinian Territories involves daily violence, in all its forms, against all Palestinian citizens. It causes the death of uninvolved and innocent civilians, the confiscation of land, the uprooting of trees, the destruction of private homes, the closure of towns and villages and the denial of access to medical services. It is in this environment that extremism flourishes, leading to actions such as suicide attacks against Israeli civilians. Only Israel’s compliance with its obligations under international law, and in particular the Fourth Geneva Convention and relevant UN

Security Council resolutions can provide Israel itself and all States and peoples of the region with stability, security and peace.

### **10) What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the Israeli economy?**

The EU is an important economic partner of Israel, therefore the suspension of the Agreement would have an impact on the Israeli economy. The objective of suspending the Agreement would be to put pressure on Israel by peaceful means to make it abide by its legal obligations. Nevertheless, given that:

- this measure would not be the suspension of economic relations between the EU and Israel, but only the suspension of preferential treatment between the parties;
- Israel would be able to substitute losses in the European market by intensifying its exchanges with American and Asian markets;
- Israel, thanks to huge USA aid, has a relatively high standard of living;

the suspension of the Agreement would be more a political sign from the EU than a real economic measure. This will show that the EU will not allow Israel to act outside the law just because of its privileged relations with the USA.

### **11) What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the EU economy?**

The EU Member States all together represent the first economic power in the world, while Israel is one of their many economic partners. The suspension of the Agreement would not have any significant impact on the European economy.

Moreover, Israeli military damage to Palestinian infrastructure (schools, hospitals, public infrastructures, etc.) financed by the EU has been estimated by the EU at more than 17 million Euros. The EU should be encouraged by its citizens to ask Israel for reparation. Meanwhile, the suspension of the EU-Israel Association Agreement, would be a political sign, contributing to put pressure on Israel to refrain from further military destruction of Palestinian infrastructure.

### **12) What would be the economic consequences of the suspension of the EU-Israel Association Agreement on the Palestinian economy?**

One of the most common Israeli arguments in favor of Israel's violations of the Association Agreement is that stopping the export of settlements' products to the EU under this preferential treatment would affect the Palestinian economy. Should we really believe that the Israeli authorities would defend the interests of Palestinian workers? Indeed, Palestinians workers provide Israeli factories and farms established in the West Bank and Gaza with cheap labor; although in the current crisis most of the Palestinian population live under military siege and have become unemployed.

Israeli material breaches of the Association Agreement are the result of Israel's grave breaches of international law (the customary prohibition against the unilateral annexation by an Occupying Power of occupied territory) and of the Fourth Geneva Convention (the prohibition for the Occupying Power to establish colonies in the territory it occupies, to carry out military aggressions against civilians and infrastructure and to make extensive appropriation of property). These policies gravely undermine all future development in the Occupied Territories, while the suspension of the Association Agreement would be a peaceful means of pressure to make Israel respect the right of the Palestinians to development and independence. Moreover, it would provide the basis for the implementation of the EU-Palestinian Liberation Organization Association Agreement, which has never been implemented as Israel has officially opposed and in practice obstructed its execution.

**13) Should EU Association Agreements with other countries be suspended if the same conditions occur?**

One of the basic principles of modern law is the certainty and uniformity of the application of law. Usually this principle is respected by national law, while accusations of double standards in relation to international law are, regrettably, common. For example, as outlined above under point 4, in 2001 the EU suspended the EU-Haiti Partnership Agreement arguing that Haiti failed to respect democratic principles, while in February 2002 the EU has imposed sanctions on Zimbabwe, arguing that this country fails to respect democratic principles. Regrettably, the EU's failure to apply international and European law uniformly gravely undermines all legitimacy of measures taken against certain countries and not against others.

**14) When should the EU lift the suspension of the EU-Israel Association Agreement?**

As soon as Israel complies with its legal obligations under the Agreement itself.

**15) As Europeans, why should we care about the suspension of the EU-Israel Association Agreement? Why should we care about what happens in the Middle East?**

As Europeans, we cannot be responsible for Israel's behavior, but we carry a responsibility for the behavior of European governments and institutions within the EU and for their foreign policy. Internal and foreign policy are deeply related. Therefore, if we do not want to be accomplices to Israel's violations, we should require that our countries do not provide Israel with the legal, political, economic and social basis for its daily violations of international law.

The success of the project of the European Union itself, based on values of democracy, human rights, legality, development, citizenship and peaceful relations with our Mediterranean neighbors on a just and egalitarian basis, also depends on the EU's attitude towards Israel's grave and systematic breaches of international law and human rights.

We should understand that defending the implementation of human rights, democratic principles and the rule of law in the Middle East means defending human rights, democratic principles and the rule of law also within the European Union.

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