

Brussels, April the 8<sup>th</sup> 2004

Dear Commissioner Patten,

Aprodev is the association of the 17 major Protestant, Anglican and Orthodox development and humanitarian aid organizations in Europe. 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. Aprodev works with partner organizations in both the Palestinian Occupied Territories and Israel. With them, the Aprodev agencies share a common vision of peaceful co-existence. In this respect, fundamental is a resolution of the Israeli-Palestinian crisis based on the respect for international law, international humanitarian law and the United Nations resolutions. These are the conditions for the achievement of a just and lasting peace and for the guarantee of security for all the countries of the region, including Israel.

For some time Aprodev has been following the EU's handling of the problems resulting from Israel's application of its preferential trade agreements with the EC to the territories it has occupied since 1967.

In this regard, we continue to bear in mind your words to the European Parliament of 16 May 2001 reminding all concerned that "all settlement activities in Gaza, the West Bank, including East Jerusalem, and on the Golan Heights are illegal under international law"; "preferential access to Community markets for exports originating in Israeli settlements in the West Bank and Gaza Strip and in East Jerusalem and the Golan Heights, contravenes agreed rules of origin"; and "the European Union must uphold the rule of law". On that occasion you also reminded the Parliament that "the existence of political

tensions ... does not exonerate the Commission as guardian of the Treaty and of the agreements concluded under it from ensuring the correct implementation by a third country of the obligation it has contracted to fulfill under an agreement concluded with the Community".

We note that EC-Israel preferential trade is still being implemented in a manner that international law does not accept and Community law cannot accept. We understand that the EU is now waiting for Israel to propose a "solution".

Aprodev is deeply concerned by indications that the Commission may be prepared to agree to a purported "solution" predicated on the continuation of Israel's practice of issuing proofs of origin to settlement products. In light of the Commission's statements stressing "the importance of solving the bilateral issue of rules of origin before the origin protocol is amended" in order to extend the Pan-European system of cumulation to Israel, we are particularly concerned by the prospect that the Commission may be prepared to recommend amending the Association Agreement on the basis of such an arrangement.

These concerns were provoked in large measure by the Commission's response to the questions on "Achieving the Correct Application of the EC-Israel Association Agreement" that were tabled in the European Parliament by four political groups for plenary debate on 9 March 2004.

The Commission was asked if it will accept a solution that would not require Israel to discontinue issuing proofs of origin to settlement products. The Commission, represented by Commissioner Liikanen, did not answer this question.

Instead, Commissioner Liikanen repeated the Commission's earlier statements that duties are being recovered on goods coming from the settlements, and added that the Commission "will not accept any solution that would mean preferential tariff treatment being granted for products originating from the Israeli settlements and imported under Israeli rules of preferential origin.

However, the question at hand does not involve granting preferential treatment to settlement products. It involves the prospect that the EU will effectively accede to Israel's continued application of its Agreement to the occupied territories for the duration of the Agreement. It involves the prospect that the EU may thereby concede or seriously weaken the legal ground on which it must rely to put an end to such preferential treatment. As church-related development agencies, it is difficult for Aprodev's member agencies to overlook the broader issues at stake, their ethical and humanitarian consequences, and their bearing on our own development missions.

It is difficult to overlook the fact that Israel improperly applies its agreements with the EC to occupied territories because it rejects its status and duties as an occupying power in international humanitarian law, and because of its attachment to policies mandating the settlement and annexation of parts of those territories.

The implementation of Israel's settlement programme continues to rely on the extensive and unlawful appropriation and destruction of public and private property and a range of other practices that violate international humanitarian law and the most basic human rights of the civilian persons it protects.

Dis-respect for the rules and principles of international humanitarian law has proliferated, overwhelming the will on both sides to exclude civilians from involvement in the political use of force as participants or as objectives. It is impossible to overlook the unjustifiable human costs that are now being exacted from innocent Palestinians and Israelis, and the fear and anger that grips both societies as a result.

In line with the EU position, Aprodev considers that progress in achieving essential economic, social and public institutional development and reform, and progress in achieving an equitable and durable political resolution of the Israeli-Palestinian conflict are in many respects interdependent. However, Aprodev also believes that no progress on

either of these goals can be achieved in a climate of general disrespect for the most basic rules of international humanitarian law.

We believe that the EU should conduct its relations with the parties in a manner that restores the credibility and cogency of those rules among the political actors and societies of the region. Under the prevailing circumstances, it can have no more important priority. "Patience" may indeed have been "given a whole new meaning by the way we have tried to deal with this issue" as you recently observed in reference to the problem concerning origin rules. Perhaps the time has come to ask if the legitimate objectives the EU seeks to advance through deepening and expanding its privileged relationships in the region can be served by giving any Partner the latitude it demands to implement its agreements in a manner that contravenes public international law.

Aprodev and its member agencies would be grateful to receive a clarification of the Commission's views regarding the acceptability of any "solution" that would not require Israel to discontinue its practice of issuing proofs of origin to settlement products, and the propriety of amending any part of the EC-Israel Association Agreement, including its protocol on origin, while Israel continues that practice.

Faithfully yours,

Rob W. van Drimmelen

Aprodev General Secretary