Doing Business with the Occupation

Economic and Financial Relationships of Foreign Companies with Israel's Settlement Enterprise

27 June 2018

profundo RESEARCH & ADVICE

11.11.11 VECHT MEE TEGEN ONRECHT

CNCD 11.11.11

About this report

This report has been commissioned by 11.11.11 and CNCD 11.11.11.

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Front page cover photograph: Dreamstime ID 16960704 | Rodrick Beiler - *Gilo, Occupied Palestinian Territories*.

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Acronyms

EU	European Union and its 28 member states
Fact-finding Mission	Independent International Fact-Finding Mission by the UN Human Rights Council to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory (FFM), including East Jerusalem, from February 2013.
IMOD	Israeli Ministry of Defense
OHCHR	Office of the United Nations High Commissioner of Human Rights
oPt	Occupied Palestinian Territory, including the West Bank (including East Jerusalem) and the Gaza Strip.
UNCTAD	United Nations Conference on Trade and Development
UNGP	United Nations Guiding Principle on Business and Human Rights (a.k.a. Ruggie Framework after Professor John Ruggie who proposed the framework)
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs

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Summary

Israeli settlements are illegal under international law and are considered war crimes under the Fourth Geneva Convention (1949) and the Rome Statute (1998). They render sustainable social and economic development in the occupied Palestinian territory (OPT) impossible and lie at the basis of multiple human rights violations. Israeli settlements also fragment the West Bank and isolate it from East Jerusalem, thereby heavily damaging the prospect of a two-state solution.

Private actors, represented by Israeli and international businesses operating in or providing services to the occupation economy, play a critical role in facilitating the functioning and growth of the illegal settlements. Considering the illegality of settlements but also the heavy social and humanitarian impact on the Palestinian population in the OPT and the obstruction of the development of a Palestinian economy, corporations have a responsibility to ensure that they are not– directly or indirectly - involved in violations of international humanitarian law.

Under the UN Guiding Principles on Business and Human Rights (UNGP), business enterprises that through their activities may facilitate and strengthen the occupation have a responsibility to conduct due diligence to prevent or mitigate adverse human rights impacts and thus avoid complicity in breaches of international law. These obligations apply also in relation to supply chain and indirect relationships.

In March 2016, as a direct consequence of the report of the Fact-Finding mission on the impact of settlements on Human Rights (2013), the UN Human Rights Council tasked the Office of the UN High Commissioner for Human Rights (OHCHR) to create a UN database of all local and international business enterprises that are involved in the settlement industry. The OHCHR was originally expected to submit its report to the UN Human Rights Council in March 2017 but has not been published to date. On January 31, 2018 the OHCHR published a preliminary progress report including a total of 206 companies involved without revealing their names. The final report is expected to be released after all companies have been contacted.

In anticipation of the database, this research investigated a limited selection of business actors that fall into the following categories, directly or indirectly contributing to the establishment, maintenance and normalisation of illegal settlements in the oPt:

- *Deprivation of sustainable economic development*: Extraction of natural resources on Palestinian land.
- *Physical existence and sustainability of settlements*: Construction, brokering, energy supply and transport infrastructure.
- *Funds to build and maintain settlements*: Banks provide the necessary financial services.
- *Normalisation of settlements*: Tourism contributing to settlement economy and normalisation.

The research identified direct links for two subsidiaries of EU-based companies - through respectively the exploitation of natural resources in the oPt (HeidelbergCement (Germany)) and the establishment of a solar field providing electricity to settlements (Enerpoint (Italy)).

A much larger number of European companies are indirectly implicated in the settlements economy through the supply of heavy machinery, solar panels, transport equipment, and infrastructure planning services. Among these corporations are several from Germany (Max Bögl Group, Siemens, PADCON, SMA Solar Technology, REFU Solar), as well as business enterprises from Spain (Ineco, ACS Group), the UK (CNH Industrial, JCB) and France (Alstom).

Many financial institutions from across the European Union, Norway and Switzerland are indirectly linked to settlement activities, often having financing relationships with several companies with

direct involvement in the settlement economy. The report identified investors and banks in 15 countries from across the European Union, Norway and Switzerland that have financial relationships with selected sectors of the Israeli settlement industry. The analysis looked at the top-20 participants in loans and credits between 2013 and 2018 and in share and bond underwriting services between 2016 and 2018, as well as the top-20 holders of shares and bonds at most recent dates. The overall value of loans, credits and underwriting services for top European banks reached US$ 25,66 billion, while the value of shares and bonds held by top European investors reached US$ 17,02 billion (Table 1). The four main sectors where European financial institutions are involved are natural resources, tourism, energy and banking.

Table 1 Value of investments by home state of top-EU financial institutions in selected sectors of the settlement economy

Investor parent country	Loans & credits (01/13-02/18, underwriting services (01/16-02/18) (US$ mln)	Share-, bondholdings (most recent date) (US$ mln)
1. Germany	6,438	2,829
2. UK	5,245	2,206
3. France	4,319	3,906
4. Switzerland	-	3,098
5. Sweden	2,215	611
6. Spain	2,394	153
7. Netherlands	1,576	901
8. Italy	1,817	190
9. Norway	-	1,277
10. Jersey	-	1,224
11. Austria	793	341
12. Denmark	866	8
13. Belgium	-	130
14. Luxemburg	-	120
15. Liechtenstein	-	25
Total	**25,663.0**	**17,019**

Among the identified institutional investors, the Norwegian Government Pension Fund Global invested in (1) the five leading Israeli banks (Bank Hapoalim, Bank Leumi, Mizrahi Tefahot Bank, Israel Discount Bank and FIBI), (2) three tourism companies offering accommodation in settlements (Booking Holdings, Expedia and TripAdvisor (U.S.)) and (3) cement producers HeidelbergCement (Germany) and Cemex (Mexico).

Recommendations

To private businesses and investors:

- **As enshrined in the UN Guiding Principles on Business and Human Rights (UNGP), companies are required to conduct due diligence to avoid causing or contributing directly or indirectly to adverse human rights impacts.** If it cannot cease or prevent adverse human rights impacts directly or lacks leverage in case of an indirect connection, the relationship should be terminated. An indirectly involved company may not always be aware of its business partner's involvement in the settlement enterprise. However, this does not remove the responsibility to avoid contributing to negative human rights impacts. The UN business database can play a crucial role in increasing awareness among companies with indirect links to the settlement economy.
- **As outlined in the UNGP, investors are obliged to fulfil their responsibility to conduct due diligence to seek to prevent or mitigate an adverse impact and to avoid complicity through their business relationships.** As is the case for other business enterprises, the UN database could help financial institutions to obtain more insights into their exposure to such companies. Investors should demand clarification from their investees as to the nature of their involvement and measures taken to avoid negative human rights impacts. In line with the UNGP, **if their leverage is not sufficient and efforts are not successful, investors should end the relationship**.

To governments:

- **Publicly call for the rapid and full publication of the UN Database** on companies associated with the settlement industry. **Ensure that sufficient resources are allocated** to the Office of the High Commissioner for Human Rights (OHCHR), so it can publish and annually update the UN Database.
- **For the States that already issued it, update, expand and actively promote an existing business advisory on Israeli settlements**. This update could include a reference to UN Security Council resolution 2334, the trend of increased annexation in the occupied Palestinian territories and the need to exercise "enhanced" due diligence. Such "enhanced" due diligence actions may include, among others, increasing the frequency of human rights impact assessments; formally integrating human rights principles into relevant business contracts; and exercising "extreme caution" in all business activities and relationships involving acquisition of assets. Inspiration for such update can be found, among others, in Denmark.
- **Consider new legislation, regulations and enforcement measures that oblige companies to exercise a more thorough general due diligence**, in order to avoid any practices that harm human rights. Inspiration for such legislation can be found, among others, in France.
- Specifically with regard to Israeli settlements, and based on the observations and findings described in this report, **consider new legislation, regulations and enforcement measures that prohibit businesses in all sectors to be invested** in relationships or activities associated with the Israeli settlements.
- Insist that the EU and its member states play an active and ambitious role in the current **multilateral negotiations on a legally binding UN Treaty on Business and Human Rights.**

Introduction

The year 2017 marked the 50-year anniversary of Israel's occupation and annexation of Palestinian territory.[1] Hopes to revive international peace-making initiatives to achieve a viable two-state solution and lasting peace were again impaired by the decision of the U.S. government in December 2017 to recognize Jerusalem as the capital of Israel.

First chapter summarizes the history of the conflict and the unlawful status of the settlements as well as the impacts of the occupation on the economic and humanitarian situation of the Palestinians.

Chapter two then explains the methodology and the different criteria and sources used in this report, as well as the consultation of the "tier one" companies before the publication of the results.

Chapters three to nine then explore the implication of business enterprises in facilitating and strengthening the Israeli settlements economy.

The responsibility of directly or indirectly involved enterprises to conduct due-diligence to prevent or mitigate an adverse human rights impact from their business activities and to avoid complicity in human rights breaches is related to the UN Guiding Principles on Business and Human Rights.

These findings form the basis for an analysis of direct and indirect business relationships with the settlement economy and the identification of companies that are complicit in unlawful behavior that supports the establishment and maintenance of settlements in the occupied Palestinian territory.

Chapter 1 Background

1.1 The unlawful status of Israeli settlements in the oPt

1.1.1 50 years of occupation

The conflict between the Israelis and the Palestinians over historic claims for land has been ongoing for decades. After the 1948-49 Arab-Israeli war, Israel and its neighbouring countries established a post-war armistice line that marked Israel's borders with Egypt, Jordan, Lebanon, and Syria. This so-called "Green Line" forms the internationally recognized border of the State of Israel. Beyond this border lie the West Bank (including East Jerusalem), the Gaza Strip, and the Golan Heights. These territories have been occupied by Israel since 1967. The East part of Jerusalem was annexed by Israel shortly thereafter.

The West Bank including East Jerusalem and the Gaza Strip are known as the occupied Palestinian territory (oPt), the Golan Heights are part of Syria. United Nations (UN) Security Council Resolutions 242 (1967) and 338 (1973) stipulate that Israel must withdraw completely from the territories it occupies.[2] The Oslo II Accord (1995) divided the West Bank into three distinct administrative divisions (Areas A, B and C). These have different governance-related statuses, pending a final status accord: Area A is exclusively administered by the Palestinian Authority; Area B is administered by both the Palestinian Authority (civil administration) and Israel (military control); and Area C is administered by Israel. The disconnected Areas A and B were formed around concentrations of Palestinian population. Area C is located around Areas A and B (see the map in Figure 2 for details) and represents 60% of the oPt. The Israeli settlements are located in Area C of the oPt.

1.1.2 Settlements and separation wall in violation of international law

Israel has established a large number of settlements in the oPt. In early 2017, the settler population had reached around 386,000 in some 130 settlements in Area C, and 208,000 in East Jerusalem. In addition, there were about 100 illegal outposts, settlements built without prior official authorization but with governmental support and assistance.[3]

Settlements are illegal according to international law. Article 49(6) of the Fourth Geneva Convention states that *"[t]he occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies*."[4] UN Security Council Resolution 465 (1980) *"[c]alls upon all States not to provide Israel with any assistance to be used specifically in connexion with settlements in the occupied territories*."[5] In 2004, the International Court of Justice confirmed that *"[…] Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law."*[6]

The UN General Assembly, UN human rights treaty bodies and other international mechanisms have repeatedly affirmed the illegality of settlements under international law and called on Israel to cease their construction. In December 2016, the UN Security Council adopted Resolution 2334 (2016), reiterating previous relevant resolutions. It *"[r]eaffirms that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace […] Calls upon all States […] to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967*."[7]

In contrary to that, the Israeli government maintains that the law of occupation as enshrined in international humanitarian law does not apply to Palestinian territory, arguing that there was no sovereign Palestinian state before 1967, and that the oPt's status remains "*disputed*".[a,8] As explained by the think tank European Council on Foreign Relations in June 2017, "*Israeli Supreme Court decisions have, at times, affirmed the applicability of what Israel calls the 'humanitarian provisions' of the 1949 Fourth Geneva Convention and 1907 Hague Regulations that codify the law of occupation, but have not rejected the government's claim that the 1949 Fourth Geneva Convention (a critical component of the international legal framework applicable to occupied territory) does not apply de jure or en bloc. This arbitrary standard on what to include in the 'humanitarian provisions' category gives unrestricted discretion to Israel to reject, for instance, the provision in Article 49(6) of the Fourth Geneva Convention prohibiting the transfer of civilians of the occupying state into occupied territory (i.e. one of the policies implemented by Israel to maintain and expand the settlements).*"[9]

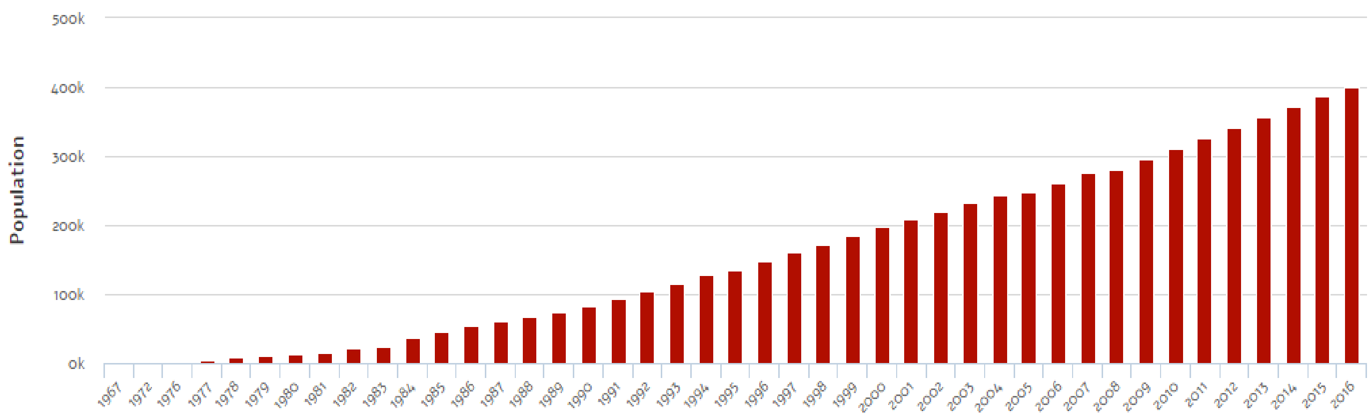
The planning and building policy as applied primarily by the Civil Administration means that many Palestinians face the threat of house demolitions to allow for the construction of settlement housing and related transport infrastructure and public services, Palestinians residing in areas designated as so-called "firing zones" live under the continuous threat of expulsion, and Bedouins are transferred to so-called "permanent communities" to allow for the expansion of settlements.[10]

In 2002, the Israeli government began building a separation wall in the occupied West Bank. In the aforementioned ruling from 2004, the International Court of Justice concluded that the separation wall and its associated regime *"[...] contravene Article 49, paragraph 6, of the Fourth Geneva Convention*" and *"[...] are contrary to international law*" and called on Israel to tear it down and compensate Palestinians harmed by its construction. It further stated that the wall "*[...] severely impeded the exercise by the Palestinian people of its right to self-determination.*"[11] It found that "*all States should not recognize the illegal situation resulting from the construction of the wall and not give any aid or assistance in maintaining the situation.*"[12]

1.1.3 Continued expansion of settlements and separation wall

The settlement population has continuously grown over the years, with increased activity taking place since 2009 (see Figure 1).

Figure 1 Development of settlement population since 1967



Source: ICBS, in: Peace Now (n.d.), "Population".

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[a] In the online Q&A on the peace process with the Palestinians, the Israel Ministry of Foreign Affairs states that "*[a]s the West Bank had no prior legitimate sovereign, under international law these areas cannot be considered as "occupied" Arab or Palestinian lands, and their most accurate description would be that of disputed territories.*"

For example, in October 2017 the Israeli Civil Administration's Higher Planning Committee advanced plans to build hundreds of housing units in settlements throughout the West Bank and published a tender for 300 new units in the Beit El settlement. In 106 cases the plans would retroactively legalize existing structures.[13]

Already in February 2017, the Israeli Parliament passed the so-called "regularization law" that aims to legalize thousands of housing units in so-called "outposts" in the West Bank that are built on Palestinian land.[14] A group of Palestinian local governments and civil society organizations subsequently brought the law before the Supreme Court. In November 2017, the Israeli Attorney General asked the Court to overrule the expropriation law, arguing that it gives full preference to settlers' interests over property rights of Palestinian land owners.[15] Meanwhile, the Jerusalem Post in January 2018 reported on leaked information that the Israeli Ministry of Defense had set up a working group to develop a plan for the legalization of up to 70 unauthorized outposts in the West Bank.[16]

In December 2015, the UN General Assembly declared its deep concerns about the continuing expansion of settlements in and around East Jerusalem, and stated to be *"[...] deploring the continuing unlawful construction by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which is causing humanitarian hardship and a serious decline of socioeconomic conditions for the Palestinian people, is fragmenting the territorial contiguity of the Territory and undermining its viability, and could prejudge future negotiations and make the two-State solution physically impossible to implement [...] Deeply concerned that the wall's route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem"*.[17]

Despite these findings, the construction of the separation barrier around Al-Wallajeh (near Bethlehem) was resumed in April 2017.[18] The building of the wall has led to the expropriation and loss of at least 10 percent of the fertile Palestinian lands in the West Bank.[19]

1.1.4 Calls for sustained peace settlement

In November 2017, the UN General Assembly adopted the draft resolution 'Peaceful settlement of the question of Palestine', asking parties to intensify efforts to achieve a final peace settlement, calling for resumed negotiations and requesting Israel to cease unilateral actions in the oPt.[20] A sustained conflict settlement entails the fulfilment of human rights obligations. Despite Israel's rejection of the applicability of these obligations in the oPt, this has been continuously asserted in relevant resolutions of the UN General Assembly, in reports of the UN Secretary-General and the High Commissioner for Human Rights, as well as by various human rights treaty bodies.[21]

1.2 Impacts on the humanitarian and economic situation of Palestinians

The occupation and its policies impose heavy social and humanitarian impacts on the Palestinians and constrict the development of an independent economy.

1.2.1 Discriminatory legal system

The Israeli legal system is applied in the illegally annexed East Jerusalem and in large parts also in the Israeli settlements in the oPt. Meanwhile, Palestinians living in the West Bank are subject to Israeli military law. Consequently, decisions like land use, freedom of movement of Palestinians or demolitions of houses in the West Bank are not taken by the civilian government but by the Israeli military. The extraterritorial application of Israeli domestic law to settlers in effect creates two different legal systems within the same territory, solely based on nationality or origin. As explained by the Office of the UN High Commissioner of Human Rights (OHCHR) in its annual report 2017, "*[s]uch differentiated application is discriminatory and violates the principle of equality before the law which is central to the right to a fair trial.*"[22]

Moreover, a 2017 analysis by the European Council on Foreign Relations explains that the extension of its domestic legal jurisdiction into occupied territory constitutes a "*[...] systemic violation of the dutybound authority of an Occupying Power, and the narrow remit it has as de facto administrator of the occupied territory, since they entail sweeping reforms to Palestinian laws and institutions, including by replacing the jurisdiction of Palestinian courts with that of Israeli military courts.*"[23]

1.2.2 Restricted movement and access to natural resources

Physical and administrative obstacles confine the free movement of Palestinians in the oPt. This is inextricably linked to a denial of self-determination and human rights, including the right to education, healthcare, work, family life and development.[24] Restrictions apply for the access to East Jerusalem, areas isolated by the separation wall, and various other Israeli-controlled areas (see Figure 2). Much of Area C is not accessible to Palestinian producers, even though it contains a large share of the West Bank's natural resources and is seen as having great potential in creating jobs in a range of different sectors (agriculture, tourism, quarrying etc.).[25] The separation wall further impedes access to important services and resources, and fosters the partitioning of the oPt into small, badly-connected fragments. Many Palestinian farmers need special permits to access their land between the barrier and the Green Line, with access channeled through gates with limited or erratic opening hours.[26]

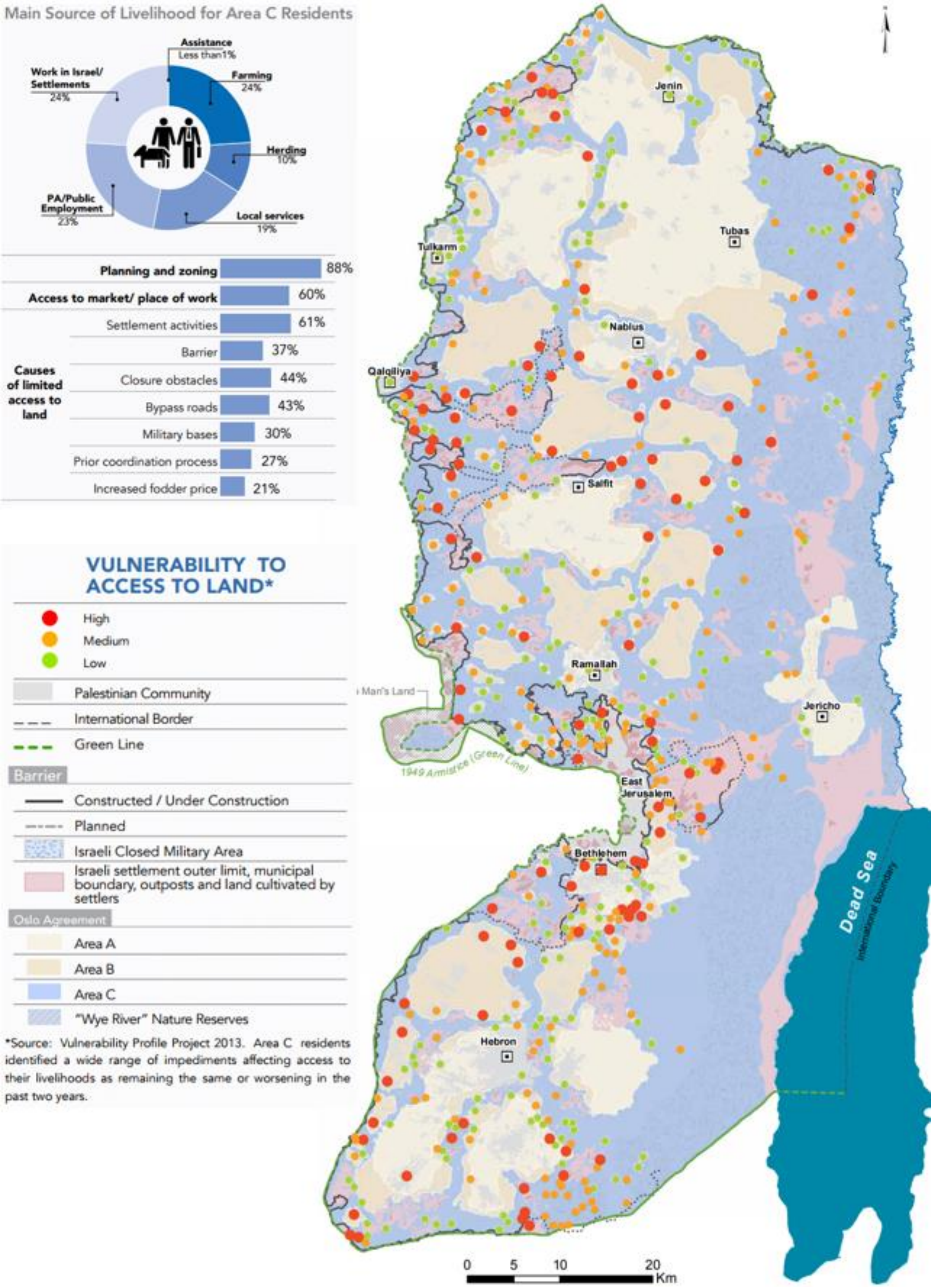
The wall is also cutting off access to water resources. A lack of sufficient and adequate water supplies is reducing yields and forces Palestinian farmers to switch to less valuable crops. Amnesty International called the restricted access of Palestinians to water *"a means of expulsion"*.[27] Adding to the losses from the widespread vandalization of Palestinian farmland, these restrictions further contribute to significantly decreased agricultural yields.[b,28]

1.2.3 Constricted economic development

A 2017 UN Conference on Trade and Development (UNCTAD) report on the economy in the oPt explicitly links the decline in Palestinian industrial and agricultural production with Israeli government policies, in particular the confiscation of land and natural resources, restrictions on movement of people and goods, and isolation from international markets.[29] According to the UNCTAD findings, the productive capacity of the Palestinian economy continues to erode, the economic performance remains far below potential, and unemployment persists at very high levels. The weakness of the tradeable goods sector, the inability to access export markets for industrial or agricultural producers, and the difficulty to compete with foreign imports to the domestic market leads to a massive Palestinian trade deficit.[30]

[b] As an example, UNCTAD estimates that more than 2.5 million productive trees, among which 800,000 olive trees, have been uprooted since 1967. Palestinians also lost access to two thirds of grazing land (UNCTAD, 2016).

Figure 2 Access to land and livelihood in Area C



Source: UN OCHAOPT (2015), *Humanitarian Atlas 2015*, p. 22.

A contributing factor to the fiscal instability is the channelling through Israel of Palestinian trade clearance revenues, which are collected by Israel on behalf of the Palestinian Authority. These proceeds have been repeatedly withheld in the past.[31] Findings by UNCTAD and other international institutions led in 2016 to an ad-hoc payment by Israel to the Palestinian authorities of US$ 300 million (€ 270 million) in unduly withheld fiscal revenues. However, long-term fiscal sustainability and improved Palestinian budget planning requires a transparent, verifiable and reliable bilateral mechanism to share trade data.[32]

1.2.4 Economic costs of the occupation

Several estimates of the economic costs of the occupation have been made by international institutions such as UNCTAD and the World Bank, considering a variety of factors. For example, the World Bank made an estimate of the costs of the occupation in Area C under consideration of the agricultural, Dead Sea minerals exploitation, stone mining and quarrying, construction, tourism, telecommunications and cosmetics sectors. It estimated that alleviating the restrictions in Area C would amount a total potential value added (direct and indirect) of about 35 percent of GDP (US$ 4.4 billion (€ 4.0 billion) in 2015). In addition, the fiscal cost was estimated at US$ 800 million (€ 720 million) or 50 percent of the Palestinian fiscal deficit in lost revenue. According to the study, an ending of the occupation in Area C could also contribute to a rise of 35 percent in Palestinian employment.[33]

1.3 The role of business enterprises in the occupation

1.3.1 Facilitating and strengthening the occupation

Private actors, represented by Israeli and international businesses operating in settlements and settlement zones, play a critical role in facilitating the functioning and growth of the settlements. The Israeli government is creating the policies that enable and encourage settlement construction and expansion. Businesses benefit from privileges such as access to confiscated Palestinian land and disproportionate amounts of water, favourable tax rates and government subsidies.[34]

Business participation in the settlement economy can take different forms. Direct involvement includes the construction and maintenance of settlements, in the form of financing, building, or providing services in settlements. In addition, companies may not be directly involved in providing services to settlements, but still be located in settlements or adjacent settlement industrial zones. Such businesses may be attracted by economic benefits from access to cheap Palestinian labour, low operational costs or reduced tax rates.[35]

The Israeli government as well as businesses tend to defend settlement activities by referring to jobs that are provided to Palestinians. However, this does not remedy the involvement of businesses in serious human rights and international humanitarian law violations. The illegal settlements play a prominent role in Israeli policies that dispossess and discriminate against Palestinians. While settlers and settlement businesses enjoy a range of financial incentives provided by the Israeli government, Palestinian self-determination and sustainable economic development is contained by restrictive Israeli policies.[36] This refers for example to a persisting lack of sovereignty of the Palestinian people in the oPt over their natural resources.[37]

Achieving a just solution of the Israeli-Palestinian conflict in accordance with international law is being obstructed by international relationships that enable and strengthen the settlement economy and with this the Israeli occupation and colonisation of the Palestinian territory. As put by Human Rights Watch, "*[m]any of the violations and abuses that companies operating in or with the* *settlements facilitate or benefit from are intrinsic to long-standing Israeli policies and practices in the West Bank and therefore beyond the control of companies to avoid or mitigate."* This leads to a recommendation "*[...] that businesses cease settlement-related activities.*"[38]

1.3.2 Territorial differentiation

Some states, including the European Union (EU), have taken steps to implement labelling requirements that allow for a proper identification of goods originating from settlements.[c,39] In its 2013 guidelines on the funding of settlement entities, the European Commission made clear that EU-funded and, by extension, member state-funded lending and investment may not be provided to Israeli entities operating in the occupied territory.[40]

The report *EU differentiation and Israeli settlements*, launched in July 2015 by the European Council on Foreign Relations and followed by an update in October 2016, puts an emphasis on stronger differentiation measures in the EU-Israel relationships to disincentivise the occupation of Palestinian territory. Differentiation measures create a distinction between formal EU-Israeli ties and those that create complicity in its settlement activities in the West Bank. It highlighted specifically the role of the banking system.[41]

1.3.3 The role of Israeli banks

Israeli banks play a crucial role in facilitating and strengthening the Israeli occupation and colonisation. They provide the financial infrastructure and services for activities of companies, governmental agencies and individuals in the occupied territory.[42] UN bodies have repeatedly criticised the role of the Israeli banks.[43] While these claim to be under legal obligations to provide services also to settlements, a legal assessment by Human Rights Watch from September 2017 comes to the conclusion that Israeli "*[...] banks can, under domestic law, avoid providing many services that support settlements and settlement activity[...] [W]hile banks cannot, under Israeli law, reject settlers as customers, they do not have to provide financial services that involve settlements, such as financing construction projects or mortgages for settlement properties, when the grounds for refusal are not the place of residence of the customer but rather the business and human rights considerations stemming from the location of the activities.*"[44]

1.3.4 The role of international law and accepted guidelines and standards

In its January 2018 report on business enterprises linked to the occupation, the OHCHR concludes that "*[...] considering the weight of the international legal consensus concerning the illegal nature of the settlements themselves, and the systemic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law.*"[45]

Meanwhile, at least eighteen EU member states have issued business advisories in line with a 2014 agreement on EU level, warning businesses of the legal and economic risks they could run when engaging in different economic activities in Israeli settlements or benefiting them, stemming from the illegality of these settlements under international law.[d,46] As highlighted by the European

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[c] The EU Commission published a guidance note in November 2015 on the requirement to clearly identify the origin of products under existing legislation. Mandatory indication of settlement origin applies to fresh fruit and vegetables, wine, honey, olive oil, eggs, poultry, organic products and cosmetics; voluntary indication applies i.a. to pre-packaged foodstuffs and most industrial products. Previously, the UK (2009), Denmark (2013) and Belgium (2014) implemented voluntary guidelines for food that allow to distinguish produce from Israeli settlements or the Palestinian West Bank.

[d] Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Sweden, Spain, UK.

Commission, this may bring about disputed titles to the land, water, mineral or other natural resources which might be the subject of purchase or investment.[47]

Under most legal systems, businesses are also liable for the civil consequences of the offences committed by their representatives. Consequently, corporations might also be liable under national civil law for activities in violation of international humanitarian law.[e,48]

The responsibility of business enterprises to respect human rights in their activities was unanimously accepted by the UN Human Rights Council in June 2011 with the endorsement of the *UN Guiding Principles on Business and Human Rights* (UNGP) (see section 1.4).[49] The concept of due diligence in relation to human rights issues as enshrined in the UNGP has also been incorporated as a requirement in the OECD Guidelines for Multinational Enterprises. While the promotion of and abidance to human rights standards in accordance with applicable laws and internationally recognised standards is primarily the responsibility of governments, enterprises are encouraged to respect human rights in their dealings with employees as well as with respect to others affected by their activities. While the guidelines are voluntary, national Contact Points are mandated to handle non-compliance complaints against companies.[50]

1.4 Using the UN Guiding Principles as a benchmark

In its report from September 2012, the then UN Special Rapporteur on the situation of human rights in the occupied Palestinian territory, Richard Falk, called on both States and business enterprises to ensure the full and effective implementation of the UNGP in the context of business operations relating to Israeli settlements in the occupied Palestinian territory.[51]

1.4.1 Companies´ responsibility to respect human rights

The responsibility to respect human rights as enshrined in the UNGP requires that companies:[52]

- avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and
- seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

The UNGP state under principle 12 that *"[t]he responsibility of business enterprises to respect human rights refers to internationally recognized human rights […]"*.[53] The corresponding commentary related to principle 12 specifically stipulates that "[…] *in situations of armed conflict enterprises should respect the standards of international humanitarian law*," thus bringing the Geneva conventions under the scope of these principles.[54] The International Committee of the Red Cross already concluded in 2006 that humanitarian law standards also apply to business enterprises in situations of armed conflict.[55]

In its *Statement on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the Occupied Palestinian Territory* of June 2014, the OHCHR

[e] For example, in the Netherlands a case was filed in 2010 against a company that provided equipment for the construction of the separation wall and Israeli settlements. After three years of investigation, the Dutch Prosecutor dismissed the case in 2013, as he deemed the contribution of the defendants against the entire settlement enterprise as minor. However, the prosecutor affirmed that Dutch persons and legal entities are obliged to ensure that they are not involved in any way with violations of international humanitarian law.

clarifies that "*[...] an area under occupation falls within the term "conflict-affected area" in the Guiding Principles*".[56] This unequivocally confirms that international humanitarian law is applicable to business enterprises in the occupied Palestinian territory.

As outlined in Principle 13(b) of the UNGP, "*[t]he responsibility to respect human rights requires that business enterprises: [...] [s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.*". Importantly, "activities" in the context of human rights obligations of business enterprises include both actions and omissions; "business relationships" explicitly include relationships with business partners, value chain stakeholders, and any other non-state or state entity that is directly linked to its business operations, products or services.[57] This means that also supply chain relationships require due diligence on human rights impacts, and action on prevention and mitigation.

1.4.2 Different levels of involvement

Principle 14 of the UNGP's clarifies that "*[t]he responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure.*"[58] UNGPs 16 to 24 provide operational guidance on how the required policies and processes should be put into practice. It requires businesses to conduct due diligence to prevent or mitigate an adverse impact and to avoid complicity. It discerns different levels of involvement of a business enterprise:

- where it causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact;
- where it contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to as far as possible mitigate any remaining impact;
- where an adverse human rights impact is directly linked to its operations, products or services by its business relationship with another entity, it should use any existing leverage to prevent or mitigate the impact, or aim to increase its leverage where it does not exist.

In cases where an enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage, it "*[...] should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.*"[59]

1.4.3 Relevance for financial institutions

Importantly, these principles not only apply to production and trade relationships, but also to financial institutions as enablers of business activities. Already in April 2013, the OHCHR concluded "*[...] that the Guiding Principles apply to institutional investors holding minority shareholdings,*" and that "*minority shareholdings of institutional investors constitute a "business relationship" for the purposes of Principle 13(b)*". It furthermore concluded that "*institutional investors would be expected to seek to prevent or mitigate human rights risks identified in relation to shareholdings [...]*" and that "*[i]f efforts in this regard are not successful, the Guiding Principles stipulate that the institutional investor should consider ending the relationship.*"[60]

The OHCHR clarified that minority shareholders can consider different strategies to increase a perceived lack of leverage to prevent or mitigate human rights risks, for example by filing shareholder proposals or acting together with other shareholders.[61] No distinction between active investments or passive shareholders investing via funds is made in this relation.

In July 2017, the OHCHR published an interpretative advice note on the banking sector's responsibilities for managing the human rights impacts of its finance in the context of the UNGP. It stresses the responsibility of banks to conduct human rights due diligence to identify whether and how they are involved in activities with actual or potential adverse human rights impacts. The advice note clarifies that a bank's impacts can be "*[...] those that it may contribute to through its own activities and impacts that may be directly linked to its operations, products or services through its clients or customers (i.e. its 'business relationships').*"[62]

1.5 Database of business enterprises engaged in settlement activities

As outlined in the previous sections, business enterprises with direct or indirect activities in the Israeli settlements in the West Bank, including East Jerusalem, contribute to the grave violations of international human rights and humanitarian law inherent in the retention of the occupation. In March 2016, the intergovernmental UN Human Rights Council (HRC) adopted resolution 31/36. Paragraph 17 of the resolution requests the UN High Commissioner for Human Rights to establish a database of business enterprises engaged in certain Israeli settlement activity in the oPt. After an initial deadline expansion, the database was due to be submitted no later than the end of December 2017 and a related report would then be discussed at the 37th session of the Human Rights Council in March 2018. The database should be updated annually thereafter.[63]

On 31 January 2018, the UN Human Rights Office published an update on the database development. Its screening of publicly available information and input from external stakeholders led to a selection of a total of 206 companies. It did not give company names but revealed that most of these businesses are domiciled in Israel or the settlements (143), another 22 are headquartered in the United States and the remaining companies in another 19 countries around the world. Due to its limited resources, the Office had only contacted 64 of these companies up to the publication date and could not yet give a final publication date for the database by when all companies will have been contacted.[64]

According to media information, the list of Israeli companies includes banks, a range of telecommunications and retail companies, security technology providers, construction and real estate companies. Foreign companies named as being included on the list include Caterpillar, Priceline.com, TripAdvisor and Airbnb.[65]

The parameters to be applied in identifying relevant activities are defined in paragraph 96 of the report of the Independent International Fact-Finding Mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (FFM), from February 2013.

Identified business activities and related issues that raise particular human rights violations concerns include:[66]

- supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures;
- supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements;
- supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olives groves and crops;
- supply of security services, equipment and materials to enterprises operating in settlements;

- provision of services and utilities supporting the maintenance and existence of settlements, including transport;
- banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses;
- use of natural resources, particularly water and land, for business purposes.

Business activities in and around settlements not only exploit natural resources on Palestinian land, but inherently support the maintenance and sustainability of settlements through the provision of employment and services and payment of taxes to settlement municipalities. As put by a broad coalition of civil society organisations supporting the establishment of a company database, it "*[...] has the potential to create a degree of transparency in relation to companies and their products which is ultimately beneficial for transnational investors and consumers. It also has the potential to fortify the role of home-states in regulating the transnational activities of their corporate nationals through concrete domestic regulatory measures*."[67]

Increased transparency is vital in achieving business and state compliance with existing obligations under international law. Rather than being a punitive instrument, such a database can play an important role in engaging and educating stakeholders about their responsibility from being directly or indirectly implicated in the settlement economy.[68] In the light of recent developments that further consolidate the occupation – such as the ongoing expansion of West Bank settlements, the passing of the *regularization law* for outposts in the West Bank, and the development of settlement-related infrastructure[69] – businesses need to understand the consequences of being implicated in the settlement economy and associated human rights breaches.

At the time of conducting this research, the database was not publicly available yet. According to media reports, the Israeli as well as the U.S. government were engaged in a quiet, but high-level effort to try to block its publication. The connected report is currently scheduled for release in early 2018.[70] In the meantime, this research aims to identify key companies that contribute to or benefit from the settlement economy as outlined in section 1.3 and are thus likely to be included in the UN database, and notably their indirect economic and financial interlinkages with private businesses in other countries.

Chapter 2 Methodology

The research is based on the premise that companies have a responsibility to ensure that their own company, subsidiaries as well as supply chain relationships or investments are not contributing to human rights violations. As outlined in section 1.5, the UN High Commissioner for Human Rights is expected to soon provide a database of business enterprises that are engaged in settlement activities. To use this UN database to its full effect, it will be necessary to establish which private companies internationally have links, financial or otherwise, to those companies included in the database. This will allow to conduct advocacy in relation to these relationships.

The sheer number of economic sectors and companies that in one way or the other contribute to or benefit from the settlement economy required a limitation of the scope of company characteristics and the settlement-related activities. The list of profiled companies is thus by no means comprehensive but rather presents a selection of exemplary cases.

This research is limited to the West Bank, including East Jerusalem, and does not consider the Golan Heights.

2.1 Business sector selection criteria

To make the list of companies manageable, a limited number of sectors that are linked to severe breaches of international human rights and humanitarian law as well as fundamental business obligations under the UNGP were chosen upfront. This is based on the following logic:

- *Deprivation of sustainable economic development: Extraction of natural resources*

  Sustainable and fair extraction of natural resources is crucial for Palestinian economic development. Business activities that deplete natural resources on Palestinian lands while impeding access to land and livelihoods for residents of the oPt can have severe detrimental impacts on the economic development and environmental sustainability of local communities.

- *Physical existence and sustainability of settlements: Construction, brokering, energy supply and transport infrastructure*

  A range of business activities contribute substantially to the physical construction, expansion and sustainability of illegal settlements and outposts, and with this to severe detrimental impacts on the surrounding communities. For the purpose of this research the following business activities will be considered:

  - Supply of heavy machinery that is used in the destruction of Palestinian houses and agricultural resources, the building of the separation wall, and the heavy construction work around the establishment and expansion of settlements, outposts and related infrastructure.
  - Real estate construction and brokering in illegal settlements in the West Bank, including East Jerusalem.
  - Provision of reliable energy supplies to settlements.
  - Construction and maintenance of transport infrastructure that connects illegal settlements in the West Bank and East Jerusalem to Israel.

- *Funds to build and maintain settlements*: Banks provide the necessary financial services

  Banks play a key role in financing the establishment, expansion and maintenance of illegal settlements in the West Bank and East Jerusalem. The selection will be based on the size of banks in relation to the overall market in Israel as well as foreign ownership.

- *Normalisation of settlements: Tourism*

  Tourism that enables business operations in settlements and that often does not differentiate between Israel and settlements in the oPt, as an example of a business activity that contributes to the normalisation and acceptance of illegal settlements as well as their economic autonomy.

2.2 Proximity

Due to the limited scope of this research, certain prioritization criteria were applied to ensure that the list of companies remains manageable:

- Size and/or significance of the activities of a company in the oPt, with ongoing involvement or strong indications for involvement during the last three years
- Severity of the violation of human rights and international law and the directness of the involvement assessed against the criteria of the UNGP, notably Principles 13 – 19, as outlined in section 1.4.
- Proximity to international counterparts and significance of relevant relationships and dealings.
- Priority for certain jurisdictions where directly or indirectly implicated companies are located, as outlined in section 2.3.

In their *Joint Submission on the Implementation of Human Rights Council Resolution 31/36 through the Establishment of a Database of Businesses Operating in Israeli Settlements*, the Global Legal Action Network (GLAN), the Centre for Research on Multinational Corporations (SOMO), and the International Federation for Human Rights (FIDH) identified criteria for tier-one and tier-two proximity to international law violations related to the settlements. "*The division between tier-one and tier-two conditions of proximity is in line with the distinction between direct and indirect forms of contribution to the likelihood, frequency and severity of the human rights abuses in the settlements, which depends both on the business' intention and knowledge, and on the conditions it places on its business partners to ensure their compliance with an equivalent standard*."[71] These criteria for distinguishing direct and indirect relationships were applied for the purpose of this research.[72]

- Tier-one proximity refers to businesses that are *directly* enabling, facilitating and profiting from settlements, through regular and ongoing contractual relations with settlement-based businesses or public bodies. This includes:
  - Businesses based in settlements in whole or in part;
  - Foreign parents of subsidiaries located in settlements or franchisors with franchisees based in a settlement;
  - Israeli or foreign business enterprises that contract with settlement-based entities for the purchase or supply of products, equipment or services;
  - Israeli or foreign parent of or shareholder in a company that maintains operations in settlements, or serve as the principal financiers of projects linked to settlements;
  - Israeli or foreign buyers of products or services directly or indirectly from settlement-based service-providers, producers and wholesalers.
- Tier-two proximity refers to businesses that are *indirectly* involved in settlement-based activities, by maintaining an ongoing contractual relationship, or regularly contract with businesses that operate in the settlements. This includes:
  - Foreign or Israeli producers or distributors that supply wholesalers or distributors who in turn maintain contractual relations or regularly contract with settlement-based entities;

- Foreign companies that buy settlement products from Israeli exporters or from subsidiaries of settlement-based companies;
- Financial institutions such as banks or institutional investors that provide financing to or invest in a company with operations in the settlements.

Companies with such indirect relations are thus not immediately engaged in the settlement economy and may be unaware of their business partners' dealings with settlement-based companies and public bodies.

In the text, companies with tier-one proximity are listed as sub-sections under the relevant sector chapter. Companies with indirect, tier-two proximity are listed under the section heading 'international relationships'.

2.3 Country selection criteria

An overarching selection criterion is a focus on companies with international relations. Many companies that have been identified by different sources, namely the Israeli initiative *Who Profits from the Occupation (Who Profits)*, as having economic links with settlements are Israeli-owned companies with little or no international relationships. As the aim of this research is to highlight the persistent lack of territorial differentiation by foreign, and then especially EU-based business enterprises, Israeli companies will only be included if they operate as subsidiaries of foreign parents, are publicly listed with international shareholders, or received financing from foreign financial institutions.

Priority was given to tier-one companies from the following jurisdictions, or tier-one companies from Israel or abroad with links to tier-two companies from these jurisdictions:

1. United Kingdom (UK), Belgium, Netherlands, Italy, Germany;
2. France, Spain, Sweden, Luxembourg, Ireland, Denmark;
3. Other European countries.
4. Non-European countries.

2.4 Information sources

Companies that are likely to be included in the UN database were identified by analysing a set of different sources. These include company materials, publications by international institutions and civil society organisations, including Who Profits' online database, and own previous research.

If no primary evidence could be extracted from company information, it was aimed to verify information on the involvement of a business enterprise in the settlement economy against at least one secondary data source. However, this was not always possible.

Dealings of different nature between tier-one and tier-two companies, including financial relationships, customer-supplier relationships or subsidiarity, were researched based on company publications, financial databases (Bloomberg, Thomson Eikon), company registers, and other specialized sources.

2.5 Analysis of financial relationships

2.5.1 Identification of financial links

It will be aimed to identify foreign financial institutions that provide financing to or invest in companies with settlement operations. This relates to Israeli as well as foreign tier-one companies as characterized in section 2.2. Depending on the size and nature of these companies, this may not always be possible. Small- and medium-sized privately-owned companies rarely issue bonds and have a higher likelihood of receiving bilateral loans and credits. Financial databases almost exclusively cover syndicated financing.

In the case that financial relationships with tier-one companies can be identified, information in this document will be limited to financial institutions with headquarters in EU member states, Norway and Switzerland. Share- and bondholdings will be limited to the top-20 holders from these countries. Investments by subsidiaries will be summarized under the parent, regardless of the location of the subsidiary.

The following information will be provided:

- shares/bonds held or managed at the most recent available filing date.
- loans and mortgages in the five-year period January 2013 to February 2018, unless already matured.
- underwriting of share and bond issuances in the two-year period January 2016 to February 2018.

In cases where the amount committed by a financial institution for its participation in a loan or underwriting syndicate is unknown, these will be estimated by using an estimation method that was tested on a large number of loans and underwritings. The bookratio (see formula below) is used to determine the spread over bookrunners and other managers. A bookrunner is the main lender/underwriter leading the syndicate of financial institutions.

$$\text{Bookratio: } \frac{number\ of\ participants - number\ of\ bookrunners}{number\ of\ bookrunners}$$

Table 1 shows the commitment assigned to bookrunner groups with our estimation method. When the number of total participants in relation to the number of bookrunners increases, the share that is attributed to bookrunners decreases. This prevents very large differences in amounts attributed to bookrunners and other participants.

Table 1 Commitment assigned to bookrunner groups

Bookratio	Loans	Issuances
> 1/3	75%	75%
> 2/3	60%	75%
> 1.5	40%	75%
> 3.0	< 40%*	< 75%*

* In case of deals with a bookratio of more than 3.0, we use a formula which gradually lowers the commitment assigned to the bookrunners as the bookratio increases. The formula used for this:

$$\frac{\frac{1}{\sqrt{bookratio}}}{1.443375673}$$

The number in the denominator is used to let the formula start at 40% in case of a bookratio of 3.0. As the bookratio increases the formula will go down from 40%. In case of issuances the number in the denominator is 0.769800358.

Data availability for shareholdings is often high, but rarely complete, meaning that in most instances not all shareholders of a company can be identified. For example, institutional investors like pension funds are not obliged to publish detailed information on their investments. Data availability for bondholdings is for most companies low, meaning that often only a small share of the financial institutions managing or owning bonds can be identified.

2.5.2 Definition of financing activities

The key financial activities of relevance to this research can be described as follows.

Loans

The easiest way to obtain credit is to borrow money. In most cases, money is borrowed from commercial banks. Loans can be either short-term or long-term in nature.

- *Short-term loans* (including trade credits, current accounts, leasing agreements, et cetera) have a maturity of less than a year. They are mostly used as working capital for day-to-day operations. Short-term debts are often provided by a single commercial bank, which does not ask for substantial guarantees from the company.
- A *long-term loan* has a maturity of at least one year, but generally of three to ten years. Long-term corporate loans are in particular useful to finance expansion plans, which only generate rewards after some period of time. The proceeds of corporate loans can be used for all activities of the company. Often long-term loans are extended by a *loan syndicate*, which is a group of banks brought together by one or more arranging banks with the aim of spreading the risk. The loan syndicate will only undersign the loan agreement if the company can provide certain guarantees that interest and repayments on the loan will be fulfilled.

A specific type of loan is a *revolving credit facility*. A revolving credit facility provides a company with an option to take up a loan from a bank (or more often: a banking syndicate) when it has an urgent financing need. The maturity of revolving credits differs, but they are often concluded for a five-year period and then renewed. But many companies renegotiate their revolving credit facility every year with the same banking syndicate. Amounts, interest rates, fees and participating banks can change slightly every year. As the financial press often reports these renegotiations for larger companies, this might raise the impression that banks are lending huge sums of money to the same company every year. However, this concerns renegotiations of basically the same facility and a revolving credit facility is hardly ever actually called upon for a loan. Revolving credit facilities are included in the same category of loan services provided to companies which means that the value of loans given in the tables may be higher than the actually called-upon amounts.

Project finance is a specific long-term loan. The proceeds of this loan can only be used to finance a specific project: a mine, pipeline, wind farm, road, etc. Project finance is often extended by a banking syndicate, like corporate loans. Different from corporate loans, the repayment of a project finance loan is dependent upon the revenues that a project is expected to generate once it is up and running. To guarantee the payment of interest and repayments as much as possible, the banks usually demand that the revenues of the project must be used first to pay interest and repayment. Only if the revenues are large enough, the remainder will be paid out as dividend to the owner(s) of the project.

But still the banks run a fairly high risk with this form of loans: if the project is not successful and does not generate (sufficient) revenues, they will not receive interest and repayments (or less than agreed). In that case, the banks do not have the option (or only to a very limited extent) to call upon the owner(s) of the project to pay interest and repayments from the revenues generated by other activities of the owner(s). This is called non-recourse or limited-recourse financing.

Because banks run a higher risk with a project finance loan, they will carefully evaluate the project in advance and will demand to be closely involved in the day-to-day running of the project. Also, banks will demand a higher interest rate for project financing loans. This makes project financing loans less attractive for most companies planning to develop a project. Project finance is a niche market for financing projects under specific circumstances, e.g. if the project is very large compared to the size of the owner, or if some of the owners of the project do not have cheaper financing options available.

A *mortgage* is also classified as a type of loan. In some sectors, such as agriculture, these can be the only source of information on financial relationships of small- and medium-sized companies.

Share issuances

Issuing shares on the stock exchange gives a company the opportunity to increase its equity by attracting a large number of new shareholders or increase the equity from its existing shareholders.

If it is the first time a company offers its shares on the stock exchange, this is called an *Initial Public Offering (IPO)*. If a company's shares are already traded on the stock exchange, this is called a *secondary offering* of additional shares. To arrange an IPO or a secondary offering, a company needs the assistance of one or more (investment) banks, which will promote the shares and find shareholders. The role of investment banks in this process therefore is very important.

Bond issuances

Issuing bonds can best be described as cutting a large loan into small pieces and selling each piece separately. Bonds are issued on a large scale by governments, but also by corporations. Like shares, bonds are traded on the stock exchange. To issue bonds, a company needs the assistance of one or more (investment) banks which underwrite a certain amount of the bonds. Underwriting is in effect buying with the intention of selling to investors. Still, in case the investment bank fails to sell all bonds it has underwritten, it will end up owning the bonds.

(Managing) shareholdings

Financial institutions can, through the funds they are managing, buy shares of a certain company. This provides the company with new equity and gives the financial institution a direct influence on the company's strategy. The magnitude of this influence depends on the size of the shareholding.

(Managing) investments in bonds

Financial institutions can also buy bonds of a certain company. The main difference between owning shares and bonds is that the owner of a bond is not a co-owner of the issuing company; the owner is a creditor of the company. The buyer of each bond is entitled to repayment after a certain number of years, and to a certain interest during each of these years.

2.6 Due hearing

Companies identified as having tier-one proximity to the settlement economy were given the opportunity to review the results and provide input. The company-specific findings were shared by email. Feedback was received by two of the directly involved companies, HeidelbergCement (Germany) and Booking Holdings (U.S.). The input was considered in the company profiles.

Chapter 3 Exploitation of natural resources

3.1 Corporate responsibility in the oPt

The Hague Regulations of 1907 and the Fifth Geneva Convention of 1949 not only aim to ensure the protection of the population of an occupied territory, but also to retain the "status quo ante". In relation to natural resources this means that their irreversible extraction, for example through quarrying, for the domestic use of the occupying power is conflicting with obligations under international law.[73] International law prohibits an occupying power from appropriating lands on a permanent basis for new uses of its own choosing. Article 55 of The Hague Regulations puts the resources of an occupied territory under the laws of usufruct.[74] This restricts the use of such resources by an occupying power to its military needs or the benefit of the occupied people. Legal analysis concludes that "*[t]he usufructuary principle forbids wasteful or negligent destruction of the capital value, whether by excessive cutting or mining or other abusive exploitation, contrary to the rules of good husbandry.*"[75]

Businesses involved in the exploitation of natural resources in an occupied territory must ensure that any fees it pays are used for the benefit of the protected population. Where taxes or royalties for operating in or extracting resources from an occupied territory are paid to the occupying power, these should be reserved in a transparent way for the benefit of the protected population.[76] According to Human Rights Watch, the majority of the material quarried by international companies in Area C is sold on the Israeli or settlement markets. Meanwhile, Israel has consistently refused to extend quarrying permits to Palestinians.[77] In 2013, the World Bank estimated that if Palestinians could develop mining and quarrying operations in Area C this would result in an incremental value added of US$240 million (€ 184 million) to their economy.[78]

3.2 Hanson Israel (Israel) / HeidelbergCement Group (Germany)

3.2.1 Profile

In 2007, HeidelbergCement Group (Germany) acquired the Hanson Group (Israel), with Hanson Israel as part of the acquisition. Publicly-listed HeidelbergCement is one of the world's largest building materials companies, operating in more than 40 countries. Key activities include the production and distribution of cement and aggregates as raw materials for the manufacture of concrete, as well as downstream activities in ready-mixed concrete and asphalt.[79]

Hanson Israel produces aggregates, asphalt, and ready-mixed concrete in 26 concrete and mortar production plants, three quarries and two asphalt plants.[80] The operations of Hanson Israel in Area C consist of the Nahal Raba quarry with an integrated asphalt plant.[81] Two ready-mixed concrete plants (Modi'in Illit and Atarot) located in the occupied West Bank have been closed in respectively Q4 2017 and Q1 2018.[82]

In 2014, Hanson Israel extracted approximately 3 million tonnes from the Nahal Raba quarry.[f,83] In that year, Hanson Israel reportedly paid US$ 467,000 (€ 384,000) in municipal taxes to the settlement Samaria Regional Council for use of the Nahal Raba quarry, and US$ 3.53 million (€ 2.90

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[f] Based on information provided by HeidelbergCement to Human Rights Watch, stating that the company paid royalties of € 3.25 million for the operation of the Nahal Raba quarry, with standard royalty rates of € 1.10 per tonne produced.

million) in royalties to the Israeli Civil Administration, the branch of the Israeli military that governs the West Bank.[84] In a letter to Human Rights Watch, HeidelbergCement defended its activities as fully complying with international law, arguing that the land was not privately owned and pointing to the jobs provided to Palestinians.[85] In a reaction to this report, the company stresses that "*[...] taxes and royalties paid by the quarry exclusively reach the Civil Administration and are used by them to finance local projects. Proof of such projects of the past can be found in the Internet, e.g. "Projects in area C 2012"*".[86] However, the company is not able to earmark specific projects benefitting from royalties paid by the Nahal Raba quarry.[87]

The majority of dolomite obtained from quarry Nahal Raba, located close to the settlement Elkana, is sold to the Israeli market. The German parent company HeidelbergCement explained this in a 2015 letter to Human Rights Watch with the fact that "*[...] the Israeli market has the higher demand and that the Palestinian Authority prevents deliveries to Area A and B by means of a boycott policy. We would also like to clarify that Hanson Israel does not sell construction materials for the construction of Israeli settlements in the West Bank or the security barrier.*"[88]

A declaration as "state land" would only be allowed under international law if it was confiscated for genuine military reasons and continued to be used for that. However, according to Human Rights Watch, Israel declared the land on which the quarry is located as "state land" by way of an "*[...] aggressive interpretation of an Ottoman law whereby land, even if privately owned, reverts to the state if not cultivated or otherwise used for three consecutive years. Israel built its separation barrier to encompass the quarry from the east, unlawfully diverting the route of the barrier into occupied territory from the pre-1967 armistice line. The barrier seamlessly connects the quarry to Israeli territory and separates the nearby Palestinian village of Zawiyah from its lands.*"[89]

The company believes though that the operations are in-line with international norms as "*i) the quarry provides significant advantages for the local Palestinian population in the West Bank and ii) the impact on the overall reserve position in Palestine is very small.*" In regards to i), the company stresses that the majority of quarry employees are Palestinians from the West Bank, working under equal conditions as Israeli employees, constituting an important source of income for this area of the West Bank. It further states that it is "*[...] working on a constructive solution [...] has founded a Palestinian subsidiary called "HeidelbergCement Palestine" in December 2015 with the goal to set up a building materials business in Palestine. The operations shall also include aggregates quarry activities with the goal to move production of aggregates for the region to Palestine in the mid-term.*" [g, 90]

Investors should demand a clear timeline as to the company's plan to move aggregates production to Palestine, as well as proof of specific projects enabled by the taxes paid to Israeli national and regional authorities for the benefit of Palestinian residents of Area C.

3.2.2 International relationships

3.2.2.1 Banks providing loans and credits

Table 2 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by the HeidelbergCement since January 2013.

g HeidelbergCement Palestine operates as a wholly-owned subsidiary of HeidelbergCement Group (Germany).

Table 2 Top-20 European participants in loans and credits to HeidelbergCement, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Deutsche Bank	Germany	1,866	6
Danske Bank	Denmark	576	5
Intesa Sanpaolo	Italy	576	5
ING Group	Netherlands	576	5
Skandinaviska Enskilda Banken*	Sweden	576	5
BNP Paribas	France	576	5
Commerzbank	Germany	576	5
Standard Chartered	United Kingdom	576	5
Raiffeisen Bank International	Austria	576	5
BayernLB	Germany	576	5
Landesbank Baden-Württemberg (LBBW)	Germany	576	5
Landesbank Hessen-Thüringen	Germany	576	5
Mediobanca Banca di Credito Finanziario	Italy	576	5
Svenska Handelsbanken	Sweden	576	5
Nordea	Sweden	393	4
Royal Bank of Scotland	United Kingdom	393	4
Barclays	United Kingdom	183	1
Crédit Agricole	France	183	1

*HeidelbergCement is included on SEB Investment Management's 2017 exclusion list under the category 'international norms' (SEB (2017. June) *Exclusion – SEB's Base Criteria*).
Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

3.2.2.2 Banks providing underwriting services

Table 3 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in the underwriting of share or bond issuances of HeidelbergCement since January 2016.

Table 3 European financial institutions providing underwriting services to HeidelbergCement, 01/16 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Deutsche Bank	Germany	613	4
BNP Paribas	France	396	3
Intesa Sanpaolo	Italy	396	3
Skandinaviska Enskilda Banken*	Sweden	348	3
Danske Bank	Denmark	290	3

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Commerzbank	Germany	290	3
Standard Chartered	United Kingdom	290	3
ING Group	Netherlands	272	3
Raiffeisen Bank International	Austria	217	1
Landesbank Hessen-Thüringen	Germany	217	1
BayernLB	Germany	159	1
Landesbank Baden-Württemberg (LBBW)	Germany	141	1
Royal Bank of Scotland	United Kingdom	131	2
Mediobanca Banca di Credito Finanziario	Italy	131	2
Nordea	Sweden	131	2
Svenska Handelsbanken	Sweden	131	2

*HeidelbergCement is included on SEB Investment Management's 2017 exclusion list under the category 'international norms' (SEB (2017. June) *Exclusion – SEB's Base Criteria*).
Thomson Reuters Eikon, "Equity deals", viewed in February 2018; *Bloomberg*, "Related securities", viewed in February 2018.

3.2.2.3 Shareholders

Table 4 gives an overview of HeidelbergCement shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 4 Top-20 European shareholders of HeidelbergCement, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Deutsche Bank	Germany	609.2	2.83
Crédit Agricole	France	345.9	1.67
Norwegian Government Pension Fund - Global	Norway	282.9	1.53
Schroders	United Kingdom	192.6	0.95
Deka Group	Germany	187.6	0.98
Société Générale	France	181.0	0.84
BPCE Group	France	157.5	0.77
Ruffer	United Kingdom	132.0	0.65
UBS	Switzerland	101.3	0.47
Anima	Italy	97.2	0.46
Ackermans & van Haaren	Belgium	86.4	0.41
Assenagon	Luxembourg	79.1	0.37
Julius Baer	Switzerland	71.4	0.32
BNP Paribas	France	63.0	0.29
Intesa Sanpaolo	Italy	49.9	0.23

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
HSBC	United Kingdom	46.4	0.22
Commerzbank	Germany	41.6	0.19
Zadig Asset Management	United Kingdom	40.7	0.20
DZ Bank	Germany	40.3	0.20
Oddo & Cie	France	38.9	0.18

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

3.2.2.4 Bondholders

Table 5 gives an overview of HeidelbergCement bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 5 Top-20 European bondholders of HeidelbergCement, latest filing date

Investor Parent	Country	Value (in mln US$)
Crédit Agricole	France	107.4
BNP Paribas	France	99.6
HSBC	United Kingdom	86.5
Deka Group	Germany	68.2
DZ Bank	Germany	60.7
Carmignac Gestion	France	55.5
Pictet	Switzerland	51.5
AXA	France	38.5
Oddo & Cie	France	36.5
UBS	Switzerland	35.8
Allianz	Germany	26.8
Société Générale	France	26.0
Le Conservateur	France	25.2
Nordea	Sweden	23.8
Intesa Sanpaolo	Italy	22.2
Banque Degroof Petercam	Belgium	22.2
La Banque Postale	France	19.6
Deutsche Bank	Germany	18.7
Aegon	Netherlands	17.6
BPCE Group	France	17.6

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

3.3 Readymix Industries (Israel) / Cemex (Mexico)

3.3.1 Profile

Israel-based Readymix Industries is a subsidiary of Mexican Cemex. Cemex is a publicly-listed holding company that is primarily engaged, through its operating subsidiaries, in the production, distribution, marketing and sale of cement, ready-mix concrete, aggregates and clinker.[91]

Readymix Industries is the leading producer of ready-mixed concrete and mortar in Israel. It supplies about one third of Israel's demand for concrete and mortar.[92] The company operates concrete plants in the occupied West Bank (in Mishor Adumim, Atarot I.Z., Mevo Horon I.Z.) and in Katsrin on the Golan Heights.[93] According to research by Who Profits, Readymix Industries provided concrete elements for construction of various infrastructure as well as settlements and outposts in the occupied West Bank.[94]

In a 2015 letter to *BHRRC*, the parent Cemex confirmed that it indeed provides building materials to settlements, explaining that the plants were located in "*[...] legal settlements, approved by the Israeli government*".[95] This statement is in clear contradiction with various findings under international law. Investors should point out to Cemex that all settlements are illegal under international law. The distinction made by the Israeli government between legal and unauthorised settlements has no legal standing.

3.3.2 International relationships

3.3.2.1 Banks providing loans and credits

Table 6 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by Cemex since January 2013.

Table 6 European financial institutions participating in loans and credits to Cemex, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Banco Bilbao Vizcaya Argentaria (BBVA)	Spain	1,275	12
Santander	Spain	814	11
HSBC	United Kingdom	712	12
Crédit Agricole	France	696	12
BNP Paribas	France	680	12
ING Group	Netherlands	528	9
Royal Bank of Scotland	United Kingdom	289	8
Crédit Mutuel CIC Group	France	197	6
BayernLB	Germany	165	6
Intesa Sanpaolo	Italy	138	7
Banco de Sabadell	Spain	105	5
Société Générale	France	92	4
Barclays	United Kingdom	72	2

Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

3.3.2.2 Banks providing underwriting services

Table 7 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in the underwriting of share or bond issuances of Cemex since January 2016.

Table 7 European financial institutions providing underwriting services to Cemex, 01/16 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
HSBC	United Kingdom	457	2
BNP Paribas	France	371	2
ING Group	Netherlands	200	1
Banco Bilbao Vizcaya Argentaria (BBVA)	Spain	200	1
Royal Bank of Scotland	United Kingdom	114	1
Crédit Agricole	France	114	1

Thomson Reuters Eikon, "Equity deals", viewed in February 2018; *Bloomberg*, "Related securities", viewed in February 2018.

3.3.2.3 Shareholders

Table 8 gives an overview of Cemex shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 8 Top-20 European shareholders of Cemex, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
APG Group	Netherlands	167.2	1.32
Norwegian Government Pension Fund - Global	Norway	126.3	1.13
Banco Bilbao Vizcaya Argentaria (BBVA)	Spain	65.3	0.60
Santander	Spain	63.1	0.58
HSBC	United Kingdom	25.2	0.22
PGGM	Netherlands	22.6	0.20
Schroders	United Kingdom	16.9	0.14
Första AP-Fonden (AP1)	Sweden	13.7	0.12
Credit Suisse	Switzerland	12.7	0.12
Tredje AP-Fonden (AP3)	Sweden	11.1	0.08
Prudential (UK)	United Kingdom	11.0	0.10
Pictet	Switzerland	11.0	0.08
UBS	Switzerland	10.5	0.09
Crédit Agricole	France	8.6	0.07
Deutsche Bank	Germany	6.5	0.06
Legal & General	United Kingdom	5.6	0.05

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Old Mutual	United Kingdom	5.6	0.05
Intesa Sanpaolo	Italy	5.4	0.05
Barclays	United Kingdom	4.7	0.04
GAM Holding	Switzerland	4.1	0.03

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

3.3.2.4 Bondholders

Table 9 gives an overview of Cemex bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 9 Top-20 European bondholders of Cemex, latest filing date

Investor Parent	Country	Value (in mln US$)
Prudential (UK)	United Kingdom	184.6
Newton Investment Management	United Kingdom	79.8
Pictet	Switzerland	70.8
NN Group	Netherlands	53.8
Ashmore Group	United Kingdom	43.9
Crédit Agricole	France	33.6
UBS	Switzerland	29.7
AXA	France	27.9
Lombard Odier	Switzerland	21.2
Standard Life Aberdeen	United Kingdom	19.9
BNP Paribas	France	18.4
Fisch Asset Management	Switzerland	17.0
Allianz	Germany	15.9
Vontobel	Switzerland	13.5
BPCE Group	France	12.3
Deutsche Bank	Germany	11.8
Jyske Bank Group	Denmark	7.7
RWC Partners	United Kingdom	6.7
Intesa Sanpaolo	Italy	6.1
Holinger Asset Management	Switzerland	5.4

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

Chapter 4 Heavy machinery

4.1 Corporate responsibility in the oPt

Various brands of heavy machinery have been documented to be used in the destruction of Palestinian houses as well as the construction of transport infrastructure, the separation wall, illegal settlements and outposts in the occupied West Bank, including East Jerusalem, in recent years.

Five globally operating heavy machinery companies are included in this analysis. They do not operate themselves in settlements or settlement industrial zones, but their equipment is offered through (exclusive) distribution contracts with local Israeli companies. Heavy machinery produced by other companies that has also been documented in earlier years includes e.g. Doosan Infracore (South Korea) and Manitou (France).[96]

The supply of equipment for the demolition of Palestinian housing and property and the destruction of Palestinian agricultural land in the oPt is among the business activities identified by the 2013 UN fact finding mission as settlement-related activities that are a particular cause for concern over human rights violations.[97]

The provision of construction equipment is a necessary precondition to the development and building of settlements, outposts and related infrastructure. The UN General Assembly, UN human rights treaty bodies and other international mechanisms have repeatedly affirmed the illegality of settlements under international law.[98] Settlements and related infrastructure are in contradiction to the stipulations under Article 49, paragraph 6 of the Fourth Geneva Convention that makes the establishment of settlements by the Government of Israel incompatible with its obligation not to transfer part of its civilian population into the Occupied Palestinian Territory.[99] Under international humanitarian law, an occupying country may not expropriate resident lands unless it is intended for use by the occupied population. The destruction of Palestinian homes and agricultural land is a breach of the fundamental human right to not be arbitrarily deprived of property, and with this in breach of the UNGP as such.[100]

As outlined in Principle 17 of the UNGP, business enterprises should carry out human rights due diligence to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Companies should take "*[...] every reasonable step to avoid involvement with an alleged human rights abuse*" in order to address the risk of legal claims. "*However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses*." Consequently, businesses need to provide assurance that also their business partners adhere to these rules.[101] In the case of heavy machinery producers this obligation relates to the relationships of foreign manufacturers with local distribution partners.

4.2 Carasso Group (Israel)

4.2.1 Profile

The family-owned Israeli Carasso Group offers vehicle import and distribution services through its subsidiaries. It also provides spare parts and warehousing facilities and engages in real estate development and construction services.[102] Its subsidiary Carasso Motors engages in the import, distribution and sale of vehicles and provides support and leasing services. Since 2013, it is importing heavy mechanical equipment sold under the brand name Case, produced by the UK-based CNH Industrial.[103]

4.2.2 International relationships

4.2.2.1 CNH Industrial (United Kingdom)

CNH Industrial is a publicly-listed UK-based multinational manufacturer of agricultural and construction equipment, trucks, commercial vehicles and buses. Among its brands are Case, Iveco and Magirus.[104]

Use of CNH Industrial heavy equipment has been repeatedly documented during the construction of Israeli outposts, settlements, industrial zones and related infrastructure in the oPt, and the construction of the Separation Wall on Palestinian lands. In February 2017, Who Profits documented Case heavy machinery being used at the construction site of the Nabi Elias Bypass Road, a settler road in the occupied West Bank involving the expropriation of olive groves belonging to Palestinian lands.[105] For the construction of this new 2.5 km long settler road in the occupied West Bank, 10 hectares of Palestinian land were expropriated.[106] Reportedly this includes a total of 700 olive trees belonging to the Palestinian villages of Izbat Tabib, Azzun, and Nabi Elias. Pictures published by +972 Magazine in January 2017 document the uprooting of trees for the project.[107] The road is intended to improve the connection between Israel and the settlements of Karnei Shomron and Kedumim, by-passing the Palestinian village of Nabi Elias.[108]

4.3 Comasco (Israel)

4.3.1 Profile

Comasco is a privately-owned Israeli company engaged in the wholesale distribution of construction and mining cranes, excavating machinery and equipment. It is the exclusive dealer of equipment by the UK-based manufacturer JCB in Israel.[109]

4.3.2 International relationships

4.3.2.1 JCB (United Kingdom)

JCB, a family-owned company headquartered in the UK, states to be among the world's top-three construction equipment manufacturers. Machinery is used in construction, agriculture, defence and other industries.[110]

The company's tools have repeatedly been documented during use for the construction of settlements, settlement industrial zones and infrastructure projects on occupied Palestinian land in East Jerusalem and the West Bank in recent years. JCB heavy equipment was also documented during the construction of the A1 high-speed railway between Tel Aviv and Jerusalem that crosses the Green Line in two places onto Palestinian lands and in the construction of the separation wall and checkpoints.[111]

In January 2017, photos published by +972 magazine document the use of JCB’s 3CX Compact backhoe in the uprooting of olive trees on Palestinian land for the construction of the Nabi Elias Bypass Road.[112] For the construction of this new 2.5 km long settler road in the occupied West Bank 10 hectares of Palestinian land were expropriated.[113] Reportedly this includes a total of 700 olive trees belonging to the Palestinian villages of Izbat Tabib, Azzun, and Nabi Elias. Pictures published by +972 Magazine in January 2017 document the uprooting of trees for the project.[114] The road is intended to improve the connection between Israel and the settlements of Karnei Shomron and Kedumim, by-passing the Palestinian village of Nabi Elias.[115]

In February 2018, Palestinian media documented the use of JCB machinery in levelling Palestinian lands in the Salfit area, reportedly in preparation for the construction of new settlement units.[116] The Salfit area has been the location of ongoing levelling of Palestinian pastoral and farming land to prepare for the expansion of settlements.[117]

4.4 Efco Equipment (1991) (Israel)

4.4.1 Profile

Privately-owned Efco Equipment (1991) is engaged in the wholesale distribution of construction and mining cranes, excavating machinery and equipment in Israel.[118] It acts as the exclusive dealer of Bomag and Hyundai Heavy Industries machinery in Israel.[119]

4.4.2 International relationships

4.4.2.1 Bomag (Germany)

Germany-based Bomag states to be a world leader in compaction technology.[120] The company is part of the French FAYAT Group, the largest privately-owned construction and civil engineering firm in France.[121]

According to research by Who Profits, machinery of the company was used in the paving of roads leading to settlements in the West Bank. Among them are works on so-called "apartheid roads" for exclusive use by Israelis, and roads at West Bank checkpoints.[122]

In February 2017, Bomag heavy machinery was documented at the construction site of the Nabi Elias Bypass Road.[123] For the construction of this new 2.5 km long settler road in the occupied West Bank 10 hectares of Palestinian land were expropriated.[124] Reportedly this includes a total of 700 olive trees belonging to the Palestinian villages of Izbat Tabib, Azzun, and Nabi Elias. Pictures published by +972 Magazine in January 2017 document the uprooting of trees for the project.[125] The road is intended to improve the connection between Israel and the settlements of Karnei Shomron and Kedumim, by-passing the Palestinian village of Nabi Elias.[126]

4.4.2.2 Hyundai Heavy Industries (South Korea)

Publicly-listed Hyundai Heavy Industries (HHI) from South Korea claims to be one of the largest heavy industries companies, the world's leading shipbuilder and a leader in construction equipment manufacturing.[127] The company's construction equipment division manufactures various excavators.[128]

Between 2008 and 2014, the use of various models of Hyundai's track excavators was repeatedly documented by Who Profits in house demolitions in the Palestinian neighbourhoods of Beit Hanina, Silwan, Tsur Baher, Issawiya and At-Tur in East Jerusalem, as well as in Beit Jala, Jawaya and Derath in the South Hebron Hills. The company's excavators were also documented during construction works in the settlement of Halamish and in the Barkan Industrial Zone.[129]

In 2016 and 2017, the company's equipment was documented in use during a house demolition in the Palestinian Issawiya neighbourhood in East Jerusalem and during settlement construction work in the Salfit area of the West Bank.[130] The Salfit area has reportedly been the location of ongoing levelling of Palestinian pastoral and farming land to prepare for the expansion of settlements.[131]

Hyundai equipment was also spotted at paving works for the Nabi Elias bypass road in the West Bank.[132] For the construction of this new 2.5 km long settler road in the occupied West Bank 10 hectares of Palestinian land were expropriated.[133] Reportedly this includes a total of 700 olive trees belonging to the Palestinian villages of Izbat Tabib, Azzun, and Nabi Elias. Pictures published by +972 Magazine in January 2017 document the uprooting of trees for the project.[134] The road is intended to improve the connection between Israel and the settlements of Karnei Shomron and Kedumim, by-passing the Palestinian village of Nabi Elias.[135]

4.5 Zoko Enterprises (Israel)

4.5.1 Profile

Privately-owned Zoko Enterprises engages in the infrastructure, transportation, energy, and the industry businesses. Among others, it imports, markets, and sells earthmoving machines to the infrastructure sector and provides spare parts and services.[136] Zoko Enterprises (Israel Tractors and Equipment Company) is the exclusive distributor of Caterpillar equipment in Israel.[137]

4.5.2 International relationships

4.5.2.1 Caterpillar (United States)

Caterpillar is a publicly traded company headquartered in the United States. Caterpillar reports to be the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives.[138] It operates under a total of 21 brands, with CAT-branded heavy machinery as the cornerstone of its brand portfolio.[139]

Caterpillar bulldozers, excavators and other heavy equipment have been repeatedly documented in use during demolitions of Palestinian houses in the oPt. The company's equipment has also been documented during use in the construction of the separation wall and settlements on Palestinian land, and in military deployments.[140]

According to research by Who Profits, Caterpillar's machinery was used by civilian companies for the construction of various settlements, including Revava, Maskiot, Oranit, Carmel, Elkana and Beitar Illit in the West Bank and the Har Homa settlement neighborhood in East Jerusalem. In addition, the use of the company's equipment was documented in various projects serving the settlements (e.g. the Ariel West and Barkan industrial zones and the Tel-Aviv-Jerusalem high speed railway) and the construction of the separation wall and checkpoints. In February 2017, Caterpillar equipment was documented paving the Nabi Elias bypass road.[141] For the construction of this new 2.5 km long settler road in the occupied West Bank, 10 hectares of Palestinian land were expropriated.[142] Reportedly this includes a total of 700 olive trees belonging to the Palestinian villages of Izbat Tabib, Azzun, and Nabi Elias. Pictures published by +972 Magazine in January 2017 document the uprooting of trees for the project.[143] The road is intended to improve the connection between Israel and the settlements of Karnei Shomron and Kedumim, by-passing the Palestinian village of Nabi Elias.[144]

Caterpillar D9 bulldozers have been sold in the past to the Israeli army through the United States Foreign Military Sales Program (FMS) for deployment with the Engineer Corps of the IDF.[h,145]

In June 2014, Caterpillar reacted to the decision of the U.S. Presbyterian Church to sell its stock in the company in protest of the use of the products in the oPt by stating that it did not sell to Israel but to the U.S. government.[146] Already in 2012, Caterpillar wrote in a reply to the Business and Human Rights Resource Centre (BHRRC) that "*Caterpillar cannot monitor the use of every piece of its equipment around the world. However, we recognize the responsibility companies have to encourage the constructive use of their products. To that end, we do not condone the illegal or immoral use of any Caterpillar equipment, and consistent with Caterpillar's Worldwide Code of Conduct, we expect our customers to use our products in environmentally responsible ways and consistent with human rights and the requirements of international humanitarian law.*"[147]

According to information gathered by Who Profits, Caterpillar's contracts with the Israeli Ministry of Defense (IMOD) for the supply of heavy machinery had not been renewed between 2013 and 2016. In August 2016, the IMOD replied negatively to a request by Who Profits on whether the IMOD itself or the Israeli Army had contracts with Caterpillar directly or indirectly with Zoko Enterprises. No information to the contrary has been identified since then.[148]

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h While not usually a military machine, the Israel Defence Forces (IDF) subsequently armours the bulldozers with various equipment, including the remote-controlled version 'Winnie the Pooh', which replaced the previous model 'Thunder Dawn'.

Chapter 5 Real estate construction and brokering

5.1 Corporate responsibility in the oPt

Housing developers and real estate agents that construct and broker housing in settlements for sale or rent effectively facilitate and benefit from the transfer of Israeli civilians into occupied territory. This is in contradiction to the stipulations under Article 49, paragraph 6 of the Fourth Geneva Convention which makes the establishment of settlements by the Government of Israel incompatible with its obligation not to transfer part of its civilian population into the Occupied Palestinian Territory.[149]

Settlements are illegal under international law and are associated with a range of human rights abuses. They are almost exclusively Jewish and Palestinian residents of the West Bank are effectively precluded from living in them, even when their land was confiscated to build such a settlement. Real estate developers and agents brokering such properties thus effectively contribute to discrimination against Palestinians.[150] The involvement in the construction of illegal settlements is in breach of Article 13 of the UNGP according to which business enterprises are required to "*[...] [a]void causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur.*"[151]

As put in a 2013 report by the then UN Special Rapporteur, Richard Falk, real estate brokers are in breach of international humanitarian law as they "[...] *provide knowing assistance that amounts to aiding in the commission of international crimes associated with transferring the citizens of the Occupying Power to the occupied territory.*"[152] Facilitating the transfer of Israeli civilians into occupied territory makes them complicit in the associated human rights abuses, as the restricted freedom of movement obstructs Palestinians' access to land, and constitutes arbitrary and unlawful interference with their privacy, family and home.[153]

5.2 CIM Lustigman (Israel) / Metrontario Group (Canada)

5.2.1 Profile

CIM Lustigman, a real estate developer and contractor, is since 1997 a wholly-owned subsidiary of Canadian Metronatrio Group.[154] The Metrontario Group is an investment organization with interests predominantly in real estate development, and more recently diversifying into nuclear medicine, marine agriculture and other areas.[155]

Among others, CIM Lustigman was involved in the past in construction projects in the East Jerusalem settlement neighborhoods Har Homa, Pisgat Ze'ev and Ramat Shlomo, and in the construction of Israeli Police headquarters in area E-1, close to Ma'ale Adumim.[156]

One of the projects the company promotes is Phase 2 of Brosh Hagiva in French Hill, a settlement neighbourhood in East Jerusalem. The project covers an area of about 5 hectares and consists of 340 residential units.[157]

5.3 RE/MAX Israel (Israel) / RE/MAX (U.S.)

5.3.1 Profile

The RE/MAX Israel has more than 100 offices in the country, including a licensed office in the West Bank settlement Ma'ale Adumim.[158] It is a franchisee of RE/MAX, a publicly listed U.S.-based multinational real estate company that states to be among the leading franchisors in the real estate sector globally.[159]

At the time of writing, the RE/MAX Israel among others offered real estate in the West Bank settlements of Kokhav Ya'akov and Geva Binyamin, and the settlement neighbourhoods Ramot Gimel and Gilo in East Jerusalem.[160] In addition, apartments for rent are offered in the settlement neighbourhoods Givat Hamivtar and Ramat Eshkol.[161] The franchisor RE/MAX offers the same properties on its global website.[162] For example a property in Kokhav Ya'akov is listed as "*Kokhav Ya'akov, Israel, Jerusalem and the South*".[163]

In a reaction to a campaign by a U.S. based anti-settlement advocacy group, Code Pink, the company's headquarters clarified in 2014 that it sold the franchise rights for Europe, including Israel, in 1995. The same year, RE/MAX Europe sold the rights to use the brand name to the owner of RE/MAX Israel, Mr. Raskin. Consequently, RE/MAX headquarters claimed it "*has no contractual agreement with RE/MAX Israel*."[164] In June 2016, the Chief Executive Officer of RE/MAX global operations, Dave Liniger, stated in a letter to the Presbyterian Church (U.S.) that it had recently taken action to ensure that it "*will no longer receive any income from the sale of Jewish-settlement properties in the West Bank*." No further clarifications on what this entails were provided.[165] In reaction to the statement by the CEO of RE/MAX Israel that the decision by its franchisor "*has zero impact on anything we are doing*", a spokesperson of RE/MAX global operations stated in July 2016 that the company "*[...] is now determining the specifics of a financial arrangement with the region*."[166]

In the meantime, RE/MAX continues to allow RE/MAX Israel to use its brand name affiliation and recognition to market properties in illegal settlements and lists these also on its own international website. In accordance with Principle 13(b) of the UNGP, this supply chain relationship puts the obligation of conducting human rights due diligence also on the franchisor. Due to this continuing relationship, investors should obtain clarity from the parent as to the arrangements with RE/MAX Israel, in line with the obligations under the UNGP.

5.3.2 International relationships

5.3.2.1 Shareholders

Table 10 gives an overview of RE/MAX shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 10 European shareholders of RE/MAX, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Deutsche Bank	Germany	5.1	0.60
AXA	France	2.4	0.27
APG Group	Netherlands	2.1	0.20
Squarepoint Capital	United Kingdom	1.8	0.20

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Marshall Wace	United Kingdom	1.7	0.20
Legal & General	United Kingdom	1.6	0.18
Schweizerische Nationalbank	Switzerland	1.5	0.18
Credit Suisse	Switzerland	1.4	0.17
OxFORD Asset Management	United Kingdom	1.4	0.16
Banco Bilbao Vizcaya Argentaria (BBVA)	Spain	1.1	0.13
Royal Dutch Shell	Netherlands	0.9	0.10
Capital Fund Management	France	0.6	0.07
BNP Paribas	France	0.4	0.05
UBS	Switzerland	0.4	0.05
BPCE Group	France	0.3	0.02
HSBC	United Kingdom	0.2	0.03
Zürcher Kantonalbank	Switzerland	0.1	0.01
Old Mutual	United Kingdom	0.0	0.00
ETF Securities	United Kingdom	0.0	0.00

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

5.3.2.2 Bondholders

Table 11 gives an overview of RE/MAX bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 11 European bondholders of RE/MAX, latest filing date

Investor Parent	Country	Value (in mln US$)
Aegon	Netherlands	2.5

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

5.4 Shikun & Binui (Israel)

5.4.1 Profile

Shikun & Binui is a publicly-traded Israeli infrastructure and real estate company realizing large-scale projects in Israel and internationally.[167] Arison Investments is the controlling shareholder with 47% of the outstanding shares.[168] Bank Hapoalim, which is also controlled by Arison Investments, is a major creditor of Shikun & Binui.[169]

In September 2016, Shikun & Binui won a tender published by Apartment for Rent - the Governmental Company for Housing and Rental Ltd., and the Israel Land Authority (ILA) to build, operate and manage a long-term rent project in Jerusalem with a value of ILS 66 million (€ 15 million).[170] The tender is located at the Allenby complex in Talpiot, Jerusalem. In February 2018, the request for the construction of the residential buildings project 'Dreams of Arnona' by Solel Boneh

Infrastructures, a wholly-owned subsidiary of Shikun & Binui, were approved by Jerusalem Municipality's local Planning and Building committee.[171] Talpiot is an Israeli settlement in the occupied East Jerusalem.

5.4.2 International relationships

5.4.2.1 Shareholders

Table 12 gives an overview of Shikun & Binui shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 12 European shareholders of Shikun & Binui, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
UBS	Switzerland	0.2	0.02
Credit Suisse	Switzerland	0.2	0.02
Allianz	Germany	0.0	0.00
Deutsche Bank	Germany	0.0	0.00
Zürcher Kantonalbank	Switzerland	0.0	0.00

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

Chapter 6 Energy supply to settlements

6.1 Corporate responsibility in the oPt

The establishment and maintenance of settlements constitutes a breach of humanitarian law, as it involves the forcible eviction of the Palestinians, the transfer of Israeli population into the occupied territory, and the destruction and appropriation of Palestinian property. Article 49 of the Fourth Geneva Convention explicitly prohibits an "occupying power" from transferring any part of its own civilian population into the territory it occupies.[172] The 2013 independent UN Fact-Finding Mission (see section 1.5) defined Israeli settlements as "*[...] [encompassing] all physical and non-physical structures and processes that constitute, enable and support the establishment, expansion and maintenance of Israeli residential communities beyond the Green Line of 1949 in the Occupied Palestinian Territory.*"[173]

The provision of energy is such a necessary precondition to the development, building and maintenance of settlements, making the involved companies complicit in violations of international humanitarian law and human rights of the Palestinian population, and consequently not fulfilling their obligations under the UNGP.

Solar fields constructed, operated and maintained on Palestinian lands in the oPt and supplying energy to settlements not only contribute to the settlement economy, but also take up considerable areas of occupied land for physical constructions and thus form an expansion of settlements and related industry in the oPt. International law prohibits an occupying power from appropriating lands on a permanent basis for new uses of its own choosing.[174]

As put by Michael Sfard, an Israeli human rights lawyer, international law prohibits any exploitation of the occupied lands for the economic benefit of the occupying power. "*Regulation 55 of The Hague Regulations [...] stipulates that the Occupying Power is considered (only) a trustee of public property, including natural resources of the occupied land. This regulation was interpreted to include natural resources, like mines and oil fields.*" While renewable energy resources like sun and wind are unlimited, "*[...] the occupying power must manage such resource for the benefit of the occupied people and [...] if the proceeds are not invested back in the occupied community, that is a violation of international law.*"[175]

6.2 Clal Sun (Israel) / Access Industries (U.S.)

6.2.1 Profile

Israeli company Clal Sun is active in the development and construction of photovoltaic energy projects. It states to be one of the leading companies in the renewable energy field in Israel.[176] Via its wholly-owned subsidiary Clal Energy, Clal Industries holds a 50% stake in Clal Sun. Clal Industries, one of Israel's leading investment companies, is in turn a subsidiary of U.S.-based investment company Access Industries.[177] Access Industries is a U.S.-based industrial group with international investments in natural resources and chemicals, media and telecommunications, technology and real estate.[178]

The 10.8-megawatt solar field in Kalia Kibbutz, a settlement in the occupied Jordan Valley, is among the biggest of its kind in the West Bank to date. The Kalia field occupies 13.5 hectares of Palestinian land.[179] The project is a joint venture between the kibbutz and Clal Sun.[180] The joint venture operating the field agreed on a 20-year off-take contract with Israel Electric Corporation (see section 6.4) upon placing into operation of the solar field in 2016.[181]

Clal Industries has previously been linked to other occupation-related activities via its investments in Nesher and Taavura. Via its wholly-owned subsidiary Mashav it acquired Israel's leading producer of cement, Nesher Israel Cement Enterprises, in 2015.[182] Nesher provides the majority of cement consumed by the Israeli market as well as the Palestinian Authority in in the oPt.[183] Material provided by the company has been spotted in various settlements, and their use in the construction of the separation wall, checkpoints, and Israeli transport infrastructure in the West Bank is highly likely.[184]

Via Nesher Israel Cement, Clal Industries also holds a 50% interest in Taavura Holdings, Israels largest road haulage and logistics company.[185] Who Profits documented use of the company's heavy haulage and installation engineering services during the construction of the separation wall, as well as participation in various Israeli transport infrastructure projects in the occupied West Bank.[186]

6.2.2 International relationships

6.2.2.1 First Solar (U.S.)

First Solar is a U.S.-based company active in the solar value chain, with production facilities in the U.S., Malaysia and Vietnam.[187] During field visits in June 2016 and October 2017, Who Profits documented stacks of First Solar's panels in the Kalia solar field.[188]

6.2.2.2 PADCON (Germany)

PADCON is specialised in monitoring systems, plant communication and power plant controls for solar power plants.[189] In June 2016, Who Profits documented PADCON's electrical and software components in the Kalia solar field.[190]

6.2.2.3 SMA Solar Technology (Germany)

SMA Solar Technology is a German company specialised in photovoltaic system technology.[191] Who Profits documented STP -60 solar pane system solution at the Kalia solar field.[192]

6.3 Enerpoint Israel (Israel) / Enerpoint (Italy)

6.3.1 Profile

The company states to be the leading solar company in Israel. Enerpoint is a subsidiary of Italian company Enerpoint (Italy).[193] The privately-owned Italian company provides photovoltaic systems and installation services. Internationally, it is present in Israel, Germany, the UK and the Benelux.[194]

Enerpoint is building 13,000 solar panels on 5 hectares of Palestinian land close to the Netiv Hagdud settlement in the occupied Jordan Valley.[195] Upon its completion, the solar field in Netiv Hagdud will produce 4 MW of electricity.[196] According to research by Who Profits the company also installed a 200 KW project close to Mishor Adumim.[197]

6.3.2 International relationships

6.3.2.1 REFU Solar (Germany)

REFU Solar (REFUsol) is a business unit of German REFU Elektronik. REFU Elektronik is in turn part of the Prettl Group of companies with activities in a range of electronic sectors.[198]

Who Profits documented large numbers of REFUsol´s solar panels in the Netiv Hagdud solar field in 2016.[199]

6.4 Israel Electric Corporation (Israel)

6.4.1 Profile

Israel Electric Corporation (IEC), a 99.85% state-owned company, is the main generator and supplier of electricity in Israel.[200] IEC's transmission grid is deployed throughout the State of Israel, settlements in the occupied territory in East Jerusalem, the West Bank and Gaza, as well as Palestinian communities.[201] IEC has an off-take contract with the operators of the Kalia solar field that was erected on Palestinian land (see section 6.2.2.2 and 6.2.2.3).[202]

It remains unclear in how far pricing policies for settlements and for Palestinians differ, and what payments are made to Palestinians for the use of energy from installations on Palestinian land. Investors should obtain clarity on these issues since there is clearly a continuing relationship with relevance under the UNGP.

6.4.2 International relationships

6.4.2.1 Banks providing loans and credits

Table 13 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by Israel Electric Corporation since January 2013.

Table 13 European financial institutions participating in loans and credits to IEC, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Barclays	United Kingdom	250	1
Landesbank Baden-Württemberg (LBBW)	Germany	98	1
KfW	Germany	98	1

Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

6.4.2.2 Banks providing underwriting services

Table 14 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in the underwriting of share or bond issuances of Israel Electric Corporation since January 2016.

Table 14 European financial institutions providing underwriting to IEC, 01/16 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Barclays	United Kingdom	250	1

Thomson Reuters Eikon, "Equity deals", viewed in February 2018; *Bloomberg*, "Related securities", viewed in February 2018.

6.4.2.3 Bondholders

Table 15 gives an overview of Israel Electric Corporation bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 15 Top-25 European bondholders of Israel Electric Corporation, latest filing date

Investor Parent	Country	Value (in mln US$)
Allianz	Germany	49.4
AXA	France	48.8
Deutsche Bank	Germany	26.3
Crédit Agricole	France	25.7
UBS	Switzerland	25.5
DZ Bank	Germany	18.6
Credit Suisse	Switzerland	15.5
Vontobel	Switzerland	6.9
HSBC	United Kingdom	5.4
Ashmore Group	United Kingdom	4.9
BPCE Group	France	4.7
Union Bancaire Privée	Switzerland	4.0
Erste Group	Austria	3.7
GAM Holding	Switzerland	2.8
BNP Paribas	France	1.9
Mahrberg Wealth	Liechtenstein	1.2
Standard Life Aberdeen	United Kingdom	1.2
BayernLB	Germany	1.1
Compass Asset Management	Switzerland	0.8
Deka Group	Germany	0.7
IFP Fund Management	Switzerland	0.6
Sparinvest	Luxembourg	0.6
Fisch Asset Management	Switzerland	0.5
Trea Capital Partners	Spain	0.5
Pharus Holding	Switzerland	0.4

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

Chapter 7 Transport infrastructure

7.1 Corporate responsibility in the oPt

Relevant projects include for example the A1 high-speed train route, the Jerusalem Light Rail or settler roads in the West Bank. These Israeli transportation projects aimed exclusively or mostly at Israelis and the benefit of the Israeli economy are completely or partly built on occupied Palestinian land, some of it privately owned. The confiscation and alteration of private property through the occupier for the benefit of its own citizens is expressly prohibited under international humanitarian law.[203] An occupying power is designated solely as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates. The construction of transport infrastructure initiated by Israel on occupied Palestinian lands in the West Bank, some of it privately owned, is in breach of Article 55 of The Hague Regulations.[204] The construction of physical structures severely impedes the exercise by the Palestinian people of its right to self-determination and seriously deprives it of its natural resources.[205] As put in a legal commentary, "*[...] Israel would not be entitled to appropriate such lands on a permanent basis for new uses of its own choosing*."[206]

Companies participating in these projects contribute to the consolidation of Israel's annexation of East Jerusalem and its illegal settlements. At the same time, these projects constitute discrimination against Palestinian people and limit their right to move freely. Consequently, participating business enterprises are in breach with their obligations under the UNGP which require business enterprises to ensure that they are not complicit in human rights abuses.

7.2 Jerusalem Light Rail (Jerusalem Municipality) (Israel)

7.2.1 Profile

As the first operational line, the Red Line of the Jerusalem Light Rail has been in use since 2011. It was designed to connect the city of Jerusalem with various settlement neighbourhoods in East Jerusalem, currently ending in the Pisgat Ze'ev.[207] Palestinian land was confiscated for the building of the line.[208]

The City Pass Group as the concessionaire of the initial line of the Jerusalem Light Rail consists of Israeli companies Ashtrom (inclusing Ashtrom Properties) (50%), Harel (20%), the Israel Infrastructure Fund (IIF) (20%) and the Teachers' Continuing Education Funds (10%). The operating company, Connect (Israel), is owned by the Ashtrom Group (50%), IIF (30%), and Harel (20%).[209] The Citypass PPP-consortium obtained the contract in 2006 under a DBFOM concession (design – build – finance – operate – maintain).[210]

Negotiations between the Israeli state and the CityPass Consortium on the extension of the Red Line, including additional stops between the settlement neighbourhoods Pisgat Ze'ev and Neve Ya'akov, broke down in 2017.[211] As a result of this conflict, the state will have to repurchase the franchise of the Red Line operation from CityPass.[212] The related work will consequently be shifted to the tender for the second, Green Line. The winner of that tender will operate both the Red and Green Lines, after the state buys CityPass's Red Line rights in 2019.[213]

The Green Line will connect the Gilo settlement neighbourhood in the South and the Mount Scopus area with the Hebrew University Campus in the East to the city centre.[214] Mount Scopus was controlled by Israel before the Six-Day War as an isolated outpost but was eventually connected to the city by subsequent Israeli annexation of Palestinian land between Mount Scopus and West Jerusalem.[215]

Already in January 2016, the Jerusalem Municipality approved the Blue Line of the light rail system. It will connect the settlement neighbourhoods Gilo in the South and Ramot in the North of the city, passing through the city's centre.[216]

7.2.2 International relationships

7.2.2.1 Alstom (France)

Alstom is a publicly traded French multinational corporation that focuses on transport solutions. Alstom was part of the original Citypass PPP-consortium that obtained the contract in 2006. Alstom's role was the engineering, procurement and construction, as well as the maintenance of the trams and the infrastructure.[217] It supplied the Citadis trains used by the light rail and is responsible for the ongoing maintenance of the trains.[218]

Alstom sold its 20%-stake in Citypass to other consortium members in June 2013.[219] However, the company remains involved through a 27-year maintenance contract. This involves maintenance work on the vehicles, track and overhead infrastructure, ticket machines, stations, signalling and traction substations.[220]

7.2.2.2 Ineco (Spain)

Ineco is a globally operating Spanish infrastructure engineering company. Ineco is integrated in the Spanish Ministry of Public Works and Transport, with public companies responsible for the management of Spain's transport systems as shareholders. Besides technical support services and resources for the Ministry of Publics Works and Transport, the company provides transport engineering and consultancy services globally.[221]

In February 2017, a consortium led by Ineco won an engineering contract for the Blue Line of the light rail in Jerusalem. The contract has a value of around € 20 million and includes the engineering, design and services of the underground section of the new line. Other consortium members are Austrian Geoconsult and the Israeli Yenon.[222]

7.2.2.3 Green Line tender

The ILS 9 billion (€ 2 billion) tender for the Green Line construction included a precondition of proven experience with similar infrastructure projects. The threshold conditions for submitting a bid for the tender required consortia to include an operator with proven experience, a construction contractor, a maintenance contractor, and an integrator. As none of the potential Israeli operators pertains over such experience, foreign applicants were required. While reports in mid-2017 still predicted a shortage of foreign bidders due to concerns over the politically sensitive route, reportedly a large number of consortia with international participation submitted proposals by the deadline for the pre-selection procedure in December 2017. In response to the concerns, the state had allowed foreign companies to refrain from being partners in the projects' capital and working with the Israeli state, but rather to operate as subcontractors of private Israeli companies.[223]

Firms initially signalled as being interested originate from the U.S., France, Germany, Austria, Spain, Belgium, Estonia, Portugal, Norway and Switzerland.[224] According to media reports, companies expected to have participated in the pre-selection phase that closed in December 2017 included:[225]

- Alstom (France) together with Electra, Dan Bus Company, and Spanish company Moventia;

- Hitachi (Japan) together with Ansaldo (Italy) (part of Hitachi (Japan)), Minrav Holdings (Israel) and Kavim (Israel);
- CRRC (China) together with Shikun & Binui Holdings (Israel) and Egged Israel Transport Cooperative Society (Israel);
- Despite its dispute with the state, reportedly also CityPass may be among the bidding consortia, together with Ashtrom Properties (Israel), Siemens (Germany), and Connect (Israel).

7.3 Israel Railways (Israel)

7.3.1 Profile

State-owned railway company Israel Railways is constructing its first high-speed connection between Tel Aviv and Jerusalem. After some delays, the opening of the line is expected at the end of March 2018.[226] The so-called A1 train line was heavily criticized by Palestinian officials and civil society groups as a 6 km stretch cuts through the West Bank onto occupied Palestinian territory, leading also to confiscations of private land.[227] Affected are the Palestinian villages of Beit Iksa and Beit Surik. Residents of these communities had previously been cut off from some of their lands by the construction of the separation wall. Criticism was also drawn by the fact that the project is primarily, or solely, designed for use by Israeli citizens. The project is seen as deepening Israel's hold over the oPt and with this in conflict with a two-state solution.[228]

7.3.2 International relationships

7.3.2.1 Bombardier (Canada)

Bombardier Transportation Israel is a wholly-owned subsidiary of Bombardier, a publicly traded Canadian air and railway transportation company. As part of the Israeli railway electrification project, Bombardier signed an ILS 1 billion (€ 227 million) contract with Israel Railways Corporations in October 2015, to supply 62 four-axle electric locomotives with an option for 32 additional units.[229] This means that the company's locomotives will operate on the A1 fast train line between Tel Aviv and Jerusalem that crosses the green line in two areas into Palestinian territory.

Reacting to questions around the company's engagement within the occupied West Bank, the president and operating officer of the company, Dr Bertling, said in 2015 that "*[t]his is not a problem. What do we provide? Railway systems to all residents, no matter their nationality. There is no apartheid in Israel. Eventually, everyone stands to gain from a good and effective railway, in any area it passes through. As far as we're concerned there is a green light to participate in all bids in Israel, even in upcoming bids over the Jerusalem light rail. It's not in our DNA to deal with political issues*."[230]

7.3.2.2 Max Bögl Group (Germany)

Privately-owned company Max Bögl Group is one of the largest construction, technology and service providers in Germany.[231]

The Electra Bögl joint venture[i] between the publicly-listed Israeli company Electra (including its subsidiary Electra Infrastructure) and Max Bögl with Signon Schweiz (Switzerland, now operating as

[i] The distribution between the joint venture partners is not clear.

TÜV Süd Schweiz, a subsidiary of TÜV Süd (Germany)) won a multi-disciplinary design-build project (planning, construction and maintenance) with a value of approximately ILS 750 million (€ 178 million) in 2015 for the construction of an upper structure for the A1 railway train lines, production and placement of concrete slab track, laying rails from Latrun to the Binyaney Hauma station in Jerusalem, and the installation of electrical systems, air conditioning, and smoke exhaust fans.[232] According to research by Who Profits, the consortium will provide maintenance services for a period of 10 years.[233]

Previously, Electra Infrastructure was involved in a project with a total scope of approximately ILS 820 million (€ 186 million) for excavating and tunneling works, excavating halls and shafts for an underground railway station and constructing bridges for the A1 high-speed railway.[234] Electra Katzenstein, part of the Electra Group, is installing the switchboards for the A1 high-speed train line between Jerusalem and Tel Aviv.[235]

The controlling shareholder of Electra is Elco Holdings, one of the largest Israeli industrial groups with various separate business entities, including production of computers, household appliances, air conditioning units and cell phones; electromechanical systems, facility management, and infrastructure; and real estate assets.[236] It has partnerships with a large number of international brands, including for example Sony, Miele, Philips, Brookfield, Siemens, and Bosch.[237]

7.3.2.3 ACS Group (Spain)

ACS Group is a Spanish publicly-listed construction and infrastructure development company. Its wholly-owned subsidiary SEMI is specialized in the maintenance and installation of electric power lines, railway electrification, communications infrastructures, and industrial facilities.[238]

In 2015, SEMI won a € 386 million contract with Israel Railways to execute the electrification of the country's railway network.[239] This includes the A1 Tel Aviv Jerusalem fast train connection that crosses the green line in two areas into Palestinian territory. The first SEMI vehicles on the A1 route were spotted in August 2016.[240] Reportedly the A1 railway route will become operational by the end of 2018. The entire electrification project in the Israeli Railways is due to end in 2021.[241]

7.3.2.4 Siemens (Germany)

Siemens is a German publicly-listed industrial manufacturing company with worldwide operations. It is active in electrification, automation and digitalization and states to be a leading supplier of systems for power generation and transmission, medical diagnosis, infrastructure and industry systems.[242]

As part of its electrification programme, Israel Railways selected Siemens in September 2017 to supply a fleet of double-deck electric multiple-units for delivery between 2020 and 2025. These are also going to be used on the A1 fast-rail link between Tel Aviv and Jerusalem. Its bid for the € 766 million contract won against competitors Alstom (France), Bombardier Transportation (Canada), Hitachi Rail Italy (part of Hitachi (Japan)), Škoda Transportation (Czech Republic) and Stadler (Switzerland), with Alstom and Siemens reportedly on the short list.[243]

Chapter 8 Banking services

8.1 Corporate responsibility in the oPt

The independent UN fact finding mission (2013) strongly criticised the role of Israeli banks in contributing to violations of human rights and international humanitarian law through the provision of services and financing infrastructure that enables settlers to live there.[244] The central role of Israeli banks in facilitating the Israeli occupation and colonisation of the Palestinian territory has been described in detail in Human Rights Watch's report '*Bankrolling Abuse*' from May 2018 and Who Profits' report '*Financing Land Grab – The Direct Involvement of Israeli Banks in the Israeli Settlement Enterprise*' from February 2017, as well as reports on the financial industry published in previous years.[245]

Israeli banks provide the financial infrastructure for activities of companies, governmental agencies and individuals in the illegal settlements. By facilitating construction projects, Israeli banks enable the expansion of settlements and make them more sustainable. This fosters the de facto annexation of Palestinian territory and with this makes the banks complicit in human rights abuses and breaches of international humanitarian law.

Key categories of involvement of Israeli banks include the provision of mortgage loans for homebuyers and special company loans for the construction of housing projects in settlements, the provision of financial services to settlement local authorities, the provision of financial services to settlements through the operation of local branches, and the provision of financial services to settlement companies.[246]

Among others, several of the leading banks have been found to provide loans to construction firms with the explicit use for housing projects in settlements in the West Bank and East Jerusalem. The terms are established in so-called "accompaniment agreements" (heskemey livuy), making the bank a kind of partner in the project. As the property is used as a collateral, a project bankruptcy means that the bank will become the owner of the property situated on occupied Palestinian lands.[247]

When confronted with concerns in relation to their banking activities in and with Israeli settlements in the occupied West Bank, Israeli banks have stated in the past that they are required to provide such services under Israeli law. However, a 2017 analysis by Human Rights Watch concluded that "*Israeli law does not appear to require Israeli banks to provide services in settlements, with the apparent exception of maintaining bank accounts for settlement entities and residents of settlements and refraining from discrimination in service provision inside the bank branches themselves*."[248]

In this analysis, the five largest Israeli banks are included as leading representatives of the sector that together account for around 90% of managed assets. The remaining 9% are distributed among seven smaller banks.[249]

The bank profiles draw on Who Profits' 2017 and Human Rights Watch's 2018 reports on the involvement of Israel banks in the settlement economy. These reports in turn base their findings on information published by official registries, government ministries and settlement local councils, as well as site visits and interviews and information published by the banks and construction companies that are involved in projects in the West Bank and East Jerusalem.

None of the included banks responded to requests to react to the Who Profits 2017 report or Human Rights Watch's reports on the role of banks in the settlement economy.[250]

8.2 Bank Hapoalim (Israel)

8.2.1 Profile

Publicly-listed Bank Hapoalim is the largest bank in Israel by managed assets.[251] Bank Hapoalim has been identified by Who Profits to have accompaniment agreements with construction companies. Recent settlement construction financed by Bank Hapoalim includes projects in the West Bank settlements Beitar Illit, Efrat and Ma'ale Adumim, as well as East Jerusalem settlement neighbourhoods Har Homa and Pisgat Ze'ev. It also provided loans and financial services to various settlement Regional Councils.[252]

8.2.2 International relationships

8.2.2.1 Foreign banking subsidiaries

Bank Hapoalim has several foreign subsidiaries in the private banking and business sector:

- Switzerland: Swiss subsidiary Bank Hapoalim (Switzerland) is focussing primarily on private banking services.
- Luxembourg: the wholly-owned banking subsidiary, Bank Hapoalim (Luxembourg), provides corporate banking solutions to Israeli and European companies.
- United Kingdom: the wholly-owned subsidiary Poalim Asset Management is the research and product arm of the bank's global private banking, providing advisory services, discretionary portfolio management and general advice to its global private banking relationship managers.
- Turkey: Bank Hapoalim holds a 69.8% stake in Turkish Bank Pozitif, whose activities are concentrating on corporate banking.
- United States: Bank Hapoalim operates under the name BHI in the United States. The New York branch provides credit and treasury banking services to local companies as well as to Israeli companies operating in the United States. It also operates a trading room and offers investment services to private and corporate clients. In addition, four loan production offices are operated in the United States.[253]

8.2.2.2 Shareholders

Table 16 gives an overview of Bank Hapoalim shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 16 Top-20 European shareholders of Bank Hapoalim, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Norwegian Government Pension Fund - Global	Norway	64.7	0.81
APG Group	Netherlands	44.8	0.55
Baillie Gifford	United Kingdom	35.8	0.36
AXA	France	30.8	0.31
Schroders	United Kingdom	29.9	0.30
UBS	Switzerland	22.6	0.25
Old Mutual	United Kingdom	8.9	0.09

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Allianz	Germany	8.6	0.09
Crédit Agricole	France	5.4	0.06
BNP Paribas	France	4.8	0.05
BPCE Group	France	4.3	0.05
Standard Life Aberdeen	United Kingdom	4.3	0.04
LGT	Liechtenstein	4.1	0.05
Deutsche Bank	Germany	3.5	0.04
Credit Suisse	Switzerland	2.8	0.03
St. James's Place Wealth Management	United Kingdom	2.7	0.04
Zürcher Kantonalbank	Switzerland	2.6	0.03
Pictet	Switzerland	2.4	0.03
Impax Asset Management	United Kingdom	1.7	0.02
Lombard Odier	Switzerland	1.3	0.01

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

8.3 Bank Leumi (Israel)

8.3.1 Profile

Publicly-listed Bank Leumi is the 2nd largest bank in Israel by managed assets.[254] Bank Leumi has been identified by Who Profits to have accompaniment agreements with construction companies. Recent settlement construction financed by Bank Leumi includes projects in the West Bank settlements Alfei Menashe, Givat Ze'ev and Ma'ale Adumim, as well as East Jerusalem settlement neighbourhoods Har Homa and Pisgat Ze'ev. It also provided loans and financial services to various settlement Regional Councils.[255]

8.3.2 International relationships

8.3.2.1 Foreign banking subsidiaries

Bank Leumi has quit activities in Switzerland and Luxembourg recently, but is still active in several other countries:

- Romania: Bank Leumi Romania is engaged in taking deposits, extending credit, international trade and forex. Among its commercial banking activities are real estate financing and extending credit to Israeli customers in Romania as well as to small and medium-sized local businesses. Bank Leumi's 99.9%-stake in Leumi Romania is expected to be sold to UK-based investment fund Argo Capital Management in the course of 2018.
- UK: The wholly-owned subsidiary Bank Leumi UK is engaged in commercial and private banking. Commercial banking activity includes real estate financing, international trade and financing of media, mainly in Europe, and Israel-related business of UK-registered Israeli

companies. The real estate financing is extended to a variety of operations in Western Europe and provided to both local and non-resident customers.

- United States: Bank Leumi holds a 99.9%-stake in Bank Leumi USA via its wholly-owned subsidiary Bank Leumi Corporation. It engages in commercial banking, international banking mainly with Israeli companies, and private banking for U.S. and non-U.S. residents. Commercial banking activities are focused on real estate, retirement and nursing homes, media financing and commerce.[256]

8.3.2.2 Shareholders

Table 17 gives an overview of Bank Leumi shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 17 Top-20 European shareholders of Bank Leumi, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Norwegian Government Pension Fund - Global	Norway	59.0	0.94
APG Group	Netherlands	44.8	0.67
UBS	Switzerland	28.3	0.33
Schroders	United Kingdom	23.3	0.25
Old Mutual	United Kingdom	17.5	0.18
AXA	France	7.2	0.08
Deutsche Bank	Germany	4.6	0.04
Standard Life Aberdeen	United Kingdom	4.4	0.05
Baillie Gifford	United Kingdom	3.8	0.04
Credit Suisse	Switzerland	3.1	0.03
HSBC	United Kingdom	3.1	0.03
BPCE Group	France	3.0	0.03
RAM Active Investments	Switzerland	2.8	0.03
Crédit Agricole	France	2.7	0.03
St. James's Place Wealth Management	United Kingdom	2.4	0.04
LGT	Liechtenstein	2.4	0.04
Allianz	Germany	1.9	0.02
Zürcher Kantonalbank	Switzerland	1.7	0.02
Sparinvest	Luxembourg	1.6	0.02
Pictet	Switzerland	1.0	0.01

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

8.4 Mizrahi Tefahot Bank (Israel)

8.4.1 Profile

Publicly-listed Mizrahi Tefahot Bank is the 3rd largest bank in Israel by managed assets.[257] Mizrahi Tefahot Bank has been identified by Who Profits to have accompaniment agreements with construction companies. Recent settlement construction financed by Mizrahi Tefahot Bank includes projects in the West Bank settlements Ariel, Beitar Illit, Ma'ale Adumim, and the East Jerusalem settlement Neighbourhoods Har Homa, Neve Ya'akov, Pisgat Ze'ev and Ramat Shlomo. It also provided loans and financial services to various settlement Regional Councils.[258]

8.4.2 International financial relationships

8.4.2.1 Foreign banking subsidiaries

Mizrahi Tefahot operates several overseas affiliates, including in:

- Switzerland: UMB (Switzerland) is a subsidiary focusing on private banking services and the extension of loans for real estate purchases in Israel. UMB is owned by the wholly-owned holding company UMOHC incorporated in the Netherlands. It is subject to Swiss regulatory law.
- Mizrahi Tefahot has two overseas branches that offer banking services in accordance with the local laws and regulations, while being subject to local and Israeli regulation:
  - United Kingdom: the London branch is engaged in corporate banking through among others participation in loan syndicates, foreign trade financing, credit and the provision of personal banking services.
  - United States: the Los Angeles branch is primarily engaged in commercial banking, participating in syndicated loans and receiving deposits.[259]

8.4.2.2 Shareholders

Table 18 gives an overview of Mizrahi Tefahot Bank shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 18 Top-20 European shareholders of Mizrahi Tefahot Bank, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Pictet	Switzerland	18.9	0.42
Norwegian Government Pension Fund - Global	Norway	17.6	0.52
F. van Lanschot Bankiers	Netherlands	8.0	0.18
BPCE Group	France	4.5	0.10
Standard Life Aberdeen	United Kingdom	4.4	0.10
St. James's Place Wealth Management	United Kingdom	2.8	0.09
Credit Suisse	Switzerland	2.1	0.05
Old Mutual	United Kingdom	2.1	0.05
Raiffeisen Bank International	Austria	1.5	0.03
UBS	Switzerland	1.5	0.04

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Deutsche Bank	Germany	1.4	0.03
AXA	France	1.2	0.03
Sparinvest	Luxembourg	0.7	0.02
Svenska Handelsbanken	Sweden	0.6	0.01
Zürcher Kantonalbank	Switzerland	0.3	0.01
Aegon	Netherlands	0.3	0.01
HSBC	United Kingdom	0.3	0.01
Allianz	Germany	0.2	0.01
Legal & General	United Kingdom	0.2	0.00
LGT	Liechtenstein	0.1	0.00

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

8.5 Israel Discount Bank (Israel)

8.5.1 Profile

Publicly-listed Israel Discount Bank is the 4th largest bank in Israel by managed assets.[260] Mercantile Discount Bank, the 7th largest bank by managed assets, is a subsidiary of Israeli Discount Bank. Israel Discount Bank has been identified by Who Profits to have accompaniment agreements with construction companies. Recent settlement construction financed by Israel Discount Bank includes projects in the West Bank settlements Alfei Menashe and Gilo, and the East Jerusalem settlement neighbourhood Neve Ya'akov. It also provided several loans to the Gush Etzion settlement Regional Council.[261]

8.5.2 International relationships

8.5.2.1 Foreign banking subsidiaries

Foreign subsidiaries of Israel Discount Bank in Switzerland (IDB (Swiss)) and Latin America (Uruguay) were under liquidation as of March 2018, the London branch has been closed already earlier. This means that all European operations have been discontinued.

The only remaining overseas subsidiary is Discount Bancorp, which in turn is holding 100% of the shares of Israel Discount Bank of New York (IDB New York).[262] IDB New York provides domestic and international, personal and commercial banking services to U.S. and foreign clients. It also maintains an international banking facility and representative offices in various Latin American countries. IDB Capital Corp., a wholly-owned subsidiary, operates as the Bank's broker-dealer.[263]

8.5.2.2 Shareholders

Table 19 gives an overview of Israel Discount Bank shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 19 European shareholders of Israel Discount Bank, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Norwegian Government Pension Fund - Global	Norway	75.8	3.12
AXA	France	8.3	0.25
Schroders	United Kingdom	3.3	0.09
Credit Suisse	Switzerland	1.0	0.03
Raiffeisen Bank International	Austria	1.0	0.03
Old Mutual	United Kingdom	0.9	0.03
UBS	Switzerland	0.8	0.02
Allianz	Germany	0.7	0.02
LGT	Liechtenstein	0.6	0.02
Zürcher Kantonalbank	Switzerland	0.5	0.02
BPCE Group	France	0.4	0.01
Legal & General	United Kingdom	0.3	0.01
HSBC	United Kingdom	0.2	0.01
Prudential (UK)	United Kingdom	0.2	0.01
Aviva	United Kingdom	0.1	0.00
Deutsche Bank	Germany	0.0	0.00

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

8.6 First International Bank of Israel (Israel)

8.6.1 Profile

Publicly-listed First International Bank of Israel (FIBI) is the 5th largest bank in Israel by managed assets.[264] FIBI among others has been found to accompany a housing project in Beitar Illit, as well as being involved in the financing of several road construction projects that serve settlements.[265]

8.6.2 International relationships

8.6.2.1 Shareholders

Table 20 gives an overview of FIBI shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 20 European shareholders of FIBI, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Norwegian Government Pension Fund - Global	Norway	8.2	0.55
Schroders	United Kingdom	3.6	0.16

Investor Parent	**Country**	**Value (in mln US$)**	**% of shares outstanding**
AXA	France	2.8	0.13
Standard Life Aberdeen	United Kingdom	2.2	0.11
Old Mutual	United Kingdom	1.2	0.05
Allianz	Germany	0.5	0.02
Credit Suisse	Switzerland	0.4	0.02
UBS	Switzerland	0.3	0.02
Baillie Gifford	United Kingdom	0.1	0.01
HSBC	United Kingdom	0.1	0.00
Zürcher Kantonalbank	Switzerland	0.0	0.00
Deutsche Bank	Germany	0.0	0.00

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

Chapter 9 Tourism in settlements

9.1 Corporate responsibility in the oPt

Companies offering accommodation in and tours to the oPt lead to a normalisation of settlements and are at the same time conducive to their economic autonomy. Legally, there are two issues: Firstly, the company faces risks from profiting through the use of their websites from properties which are in illegal settlements and whose owners probably do not have legal ownership (except under Israeli law). Secondly, where tour operators and online accommodation portals do not clearly describe the location as a settlement (not in Israel, not in Palestine) or use vague descriptions, consumers are not transparently informed about the fact that they are visiting and with this supporting an illegal settlement. They may remain unaware of the legal implications of booking such an accommodation or the fact that Palestinians cannot access these accommodations without a special permit. However, more concrete descriptions would not change the situation that tourism companies are breaching international human rights and humanitarian law by extending their services to settlers and are consequently neglecting their responsibilities under the UNGP.

Meanwhile, Israel is heavily promoting tourism for example to illegal settlements in Palestinian neighbourhoods of East Jerusalem. A report by the EU Heads of Mission in Jerusalem that was leaked in February 2018 warned that "*Israel is developing archaeological and tourism sites to legitimise illegal settlements in Palestinian neighbourhoods of Jerusalem*" and that projects in East Jerusalem are used "*as a political tool to modify the historical narrative and to support, legitimise and expand settlements*." It further raises concerns over the marginalisation of Palestinians in the light of more than 130 building demolitions and the displacement of 228 people, leading to a city that "*[...] has largely ceased to be the Palestinian economic, urban and commercial centre it used to be*".[266]

The Palestinian economy on the other hand sees major financial losses due to disadvantages from not being able to promote and support the tourism sector. The income of major attractions located in the oPt flows to Israel, not the Palestinians. Establishing Palestinian-led tourism is disadvantaged by the fact that Palestinian areas are often cut off from settler roads. At the same time, severe restrictions exist in visiting the West Bank, meaning that Palestinian tour operators have difficulties attracting Arab visitors from nearby countries. Very few of them can readily visit the West Bank, whose borders and checkpoints are controlled by Israel.[267]

According to a 2011 report by the Palestinian Ministry of National Economy and the Applied Research Institute of Jerusalem, the Palestinian economy annually loses an estimated US$ 144 million (€ 100 million) in the Dead Sea region alone as a result of Israeli restrictions to tourism-generated income.[268] Another estimate by an adviser to the Palestinian Ministry of Tourism puts the revenue losses in Palestinian tourism as high as US$ 1.4 billion (€ 1.2 billion) annually.[269] Details on the constrictions that the Palestinian industry is facing are provided in a 2017 Who Profits report.[270]

9.2 Airbnb (U.S.)

9.2.1 Profile

Airbnb is a privately-owned company headquartered in the U.S. It acts as a broker for private individuals who want to rent out their accommodation for short period of times.[271]

Airbnb's online portal includes places to stay in a large number of the illegal settlements in the West Bank, including for example Ariel, Kfar Adumim, and Ma'ale Levona.[272] The fact that these accommodations are located in settlements is in most cases not clear from the descriptions of the properties. For example, a property in Barkan is presented as being located in "Barkan, Eilat, Israel", a house in the settlement Kohav Hashahar is described as being located in Israel, in "*a religious community, 25 minutes' drive from Jerusalem*".[273] Accomodation is also offered in various settlement neighbourhoods of East Jerusalem, such as Ramot, Ramat Shlomo and Gilo, all listed as Jerusalem neighbourhoods.[274]

9.2.2 International relationships

Financial relationships of Airbnb have only been identified for non-European financial institutions.

9.3 Booking Holdings (U.S.)

9.3.1 Profile

The international travel website Booking.com is the most important channel of publicly-listed Booking Holdings (previously known as Priceline Group).[275]

Booking.com offers a range of hotels, guesthouses and holiday apartments in Israeli settlements in the West Bank, including for example accommodation in Kfar Adumim, Almog and Kalia. Booking.com categorizes these locations as "Israeli settlement" in the West Bank, not providing further explanations.[276] Accommodation options in settlement neighbourhoods of Jerusalem are not marked as such as of June 2018.[277] In a reaction to this report, Booking Holdings states that "*[...] how we display information on Booking.com is always in accordance with applicable law and by marking the areas concerned as 'Israeli settlement' we provide transparency to anybody looking for accommodations in these territories*." It is further stated that the label 'Israeli settlement' will be added to listings in East Jerusalem.[278] No statement in relation to a possible de-listing of settlement accommodation is made.

9.3.2 International relationships

9.3.2.1 Banks providing loans and credits

Table 21 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by Booking Holdings since January 2013.

Table 21 European financial institutions participating in loans and credits to Booking Holdings, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Deutsche Bank	Germany	250	1
BNP Paribas	France	250	1
Barclays	United Kingdom	63	1
Standard Chartered	United Kingdom	63	1
HSBC	United Kingdom	63	1

Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

9.3.2.2 Banks providing underwriting services

Table 22 gives an overview of the participation of financial institutions from the EU, Norway and Switzerland in the underwriting of share or bond issuances of Booking since January 2016.

Table 22 European financial institutions providing underwriting services to Booking Holdings, 01/16 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
Standard Chartered	United Kingdom	202	4
Barclays	United Kingdom	172	3
HSBC	United Kingdom	162	2
BNP Paribas	France	132	1
Deutsche Bank	Germany	132	1

Thomson Reuters Eikon, "Equity deals", viewed in February 2018; *Bloomberg*, "Related securities", viewed in February 2018.

9.3.2.3 Shareholders

Table 23 gives an overview of Booking Holding shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 23 Top-20 European shareholders of Booking Holdings, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Janus Henderson	Jersey	1,045.1	1.23
AXA	France	930.4	1.10
BPCE Group	France	637.6	0.75
Deutsche Bank	Germany	563.1	0.66
Norwegian Government Pension Fund - Global	Norway	522.3	0.73
Flossbach & von Storch	Germany	456.5	0.54
UBS	Switzerland	453.2	0.53
Vontobel	Switzerland	438.5	0.52
Legal & General	United Kingdom	404.9	0.48
Swedbank	Sweden	351.3	0.41
Schweizerische Nationalbank	Switzerland	314.6	0.37
NN Group	Netherlands	273.2	0.32
Credit Suisse	Switzerland	252.4	0.30
APG Group	Netherlands	199.5	0.24
Altor Equity Partners	Sweden	190.0	0.22
Crédit Agricole	France	188.2	0.22
Schroders	United Kingdom	182.2	0.21

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Allianz	Germany	179.5	0.21
Pictet	Switzerland	179.3	0.21
HSBC	United Kingdom	141.4	0.17

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

9.3.2.4 Bondholders

Table 24 gives an overview of Booking Holdings bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 24 Top-20 European bondholders of Booking Holdings, latest filing date

Investor Parent	Country	Value (in mln US$)
BPCE Group	France	138.1
Crédit Agricole	France	115.4
Lombard Odier	Switzerland	100.2
Prudential (UK)	United Kingdom	80.7
Allianz	Germany	71.7
Haron Holding	Switzerland	65.8
Fisch Asset Management	Switzerland	54.2
Deutsche Bank	Germany	53.9
Janus Henderson	Jersey	48.3
AXA	France	47.8
UBS	Switzerland	47.0
DZ Bank	Germany	40.3
Schroders	United Kingdom	28.7
Credit Suisse	Switzerland	27.9
Deka Group	Germany	27.4
Aegon	Netherlands	19.6
KBC Group	Belgium	18.7
Rothschild Group	France	16.1
Liechtensteinische Landesbank	Liechtenstein	16.1
Nordea	Sweden	15.9

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

9.4 Expedia (U.S.)

9.4.1 Profile

U.S.-based publicly-listed Expedia operates a range of online portals for travel bookings. Leading brands are Expedia, Hotels.com and Trivago.[279]

The Hotels.com website offers various accommodation in illegal Israeli settlements, including for example in Kfar Adumim and Kalia.[280] The accommodations are categorized as being located in the "State of Palestine", not providing further explanations.[281]

9.4.2 International relationships

9.4.2.1 Banks providing loans and credits

Table 25 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by Expedia since January 2013.

Table 25 European financial institutions participating in loans and credits to Expedia, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
BNP Paribas	France	275	2
HSBC	United Kingdom	255	2
Barclays	United Kingdom	150	2
Royal Bank of Scotland	United Kingdom	115	1
Nordea	Sweden	60	1

Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

9.4.2.2 Banks providing underwriting services

Table 26 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in the underwriting of share or bond issuances of Expedia since January 2016.

Table 26 European financial institutions providing underwriting services to Expedia, 01/16 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
HSBC	United Kingdom	94	1
BNP Paribas	France	94	1
Barclays	United Kingdom	63	1

Thomson Reuters Eikon, "Equity deals", viewed in February 2018; *Bloomberg*, "Related securities", viewed in February 2018.

9.4.2.3 Shareholders

Table 27 gives an overview of Expedia shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 27 Top-20 European shareholders of Expedia, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Senator Investment Group	Austria	332.4	2.00
UBS	Switzerland	181.7	1.09
Janus Henderson	Jersey	130.3	0.78
Norwegian Government Pension Fund - Global	Norway	101.7	0.65
Pictet	Switzerland	88.7	0.54
Credit Suisse	Switzerland	68.7	0.41
Legal & General	United Kingdom	67.2	0.40
Schweizerische Nationalbank	Switzerland	55.2	0.33
BNP Paribas	France	50.9	0.30
Polar Capital Holdings	United Kingdom	48.2	0.29
Deutsche Bank	Germany	45.1	0.27
Crédit Agricole	France	45.1	0.27
BPCE Group	France	37.9	0.23
Flossbach & von Storch	Germany	31.1	0.19
HSBC	United Kingdom	30.4	0.18
AXA	France	26.5	0.16
APG Group	Netherlands	22.7	0.14
Commerzbank	Germany	20.0	0.12
Marshall Wace	United Kingdom	19.4	0.12
Foyer	Luxembourg	17.2	0.10

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

9.4.2.4 Bondholders

Table 28 gives an overview of Expedia bonds owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 28 Top-20 European bondholders of Expedia, latest filing date

Investor Parent	Country	Value (in mln US$)
Crédit Agricole	France	63.2
BPCE Group	France	46.7
UBS	Switzerland	40.9
AXA	France	35.4
Aegon	Netherlands	21.1
Foyer	Luxembourg	20.8
Allianz	Germany	17.3

Investor Parent	Country	Value (in mln US$)
DZ Bank	Germany	14.9
Deutsche Bank	Germany	12.3
BNP Paribas	France	10.1
Fisch Asset Management	Switzerland	8.1
Oddo & Cie	France	7.8
First Private Investment Management	Germany	6.1
Aviva	United Kingdom	5.8
Öhman	Sweden	4.3
Old Mutual	United Kingdom	3.8
Lombard Odier	Switzerland	3.7
HDI	Germany	3.6
Dierickx Leys & Cie	Belgium	2.9
Raiffeisen Bank International	Austria	2.6

Thomson Reuters Eikon, "Bond ownership", viewed in March 2018.

9.5 TripAdvisor (U.S.)

9.5.1 Profile

TripAdvisor is a U.S.-based publicly traded company that operates online travel brands and websites, including tripadvisor.com. The company manages and operates websites under 20 media brands.[282]

TripAdvisor aggregates offers by various other accommodation brokers, including Booking.com, Expedia and Hotels.com, thus also offering listings in Israeli settlements. These are marked as "Palestinian Territories", without further explanation.[283]

On various websites of TripAdvisor's subsidiaries accommodation in illegal settlements in the West Bank and East Jerusalem settlement neighbourhoods are offered. None of them are explicitly marked as settlements.

TripAdvisor's rental website Flipkey lists many places to stay in the West Bank, including Palestinian communities as well as Israeli settlements, such as Kfar Adumim and Pisgat Ze'ev. They are all categorized under "*Palestinian Territories, West Bank*".[284]

Similarly, also the subsidiary HouseTrip is offering rentals in the West Bank, with Kfar Adumim marked as "*Palestinian Territories, West Bank*",[285] while for example the Ofra settlement is categorized as "*Jerusalem District, Jerusalem, Ofra*".[286]

Both TripAdvisor and its subsidiary Viator offer the "The City of David's Nighttime Spectacular".[287] Already for years the archaeological excavations in the Palestinian Silwan neighbourhood of Jerusalem have led to conflicts. The private right-wing City of David Organisation (Elad) uses the much-contested claim that the ancient City of David lies below the Wadi Helweh neighbourhood of Silwan as a justification for digging and tunnelling in the hill and under Palestinian homes. The site has been declared a National Park and is turned into a tourist attraction. At the same time, Israeli settlers are moved to the area with the assistance of Elad. Meanwhile homes of Palestinians are damaged by the excavation works and tunnel digging.[288] As reported in February 2018, a leaked report by EU diplomats found that the City of David is "*[...] promoting an exclusively Jewish narrative, while detaching the place from its Palestinian surroundings [...] Approximately 450 settlers live under heavy protection in Silwan alongside almost 10,000 Palestinians. Continued evictions of Palestinian families and the increased Israeli security presence have created a particular tension.*"[289]

TripAdvisor subsidiary Viator promotes a "*2 hour shooting experience*" in the Gush Etzion settlement close to Jerusalem that "*[...] is designed for tourists [...] who would like to get firsthand knowledge about world of Israeli counter terror operations and what makes Israeli counter terror units the best in the world.*"[290]

9.5.2 International relationships

9.5.2.1 Loans and credits

Table 29 presents an overview of the participation of financial institutions from the EU, Norway and Switzerland in loans and credits obtained by TripAdvisor since January 2013.

Table 29 European financial institutions participating in loans and credits to TripAdvisor, 01/13 to 02/18

Investor Parent	Country	Value (in mln US$, partly estimated)	# of deals
BNP Paribas	France	263	2
Barclays	United Kingdom	126	2
Deutsche Bank	Germany	105	2

Thomson Reuters Eikon, "Loans search", viewed in February 2018; *Bloomberg*, "Loan search", viewed in February 2018.

9.5.2.2 Shareholders

Table 30 gives an overview of TripAdvisor shares owned or managed by investors with headquarters in the EU, Norway and Switzerland.

Table 30 Top-20 European shareholders of TripAdvisor, latest filing date

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Allianz	Germany	62.6	1.44
Contrarius Investment Management	United Kingdom	46.5	1.07
Pictet	Switzerland	45.2	1.04
UBS	Switzerland	33.4	0.77
CDAM	United Kingdom	23.4	0.54
Inversiones Mobiliarias Advalor	Spain	23.0	0.45
Norwegian Government Pension Fund - Global	Norway	18.2	0.31
Legal & General	United Kingdom	17.5	0.40
Schweizerische Nationalbank	Switzerland	14.5	0.33

Investor Parent	Country	Value (in mln US$)	% of shares outstanding
Credit Suisse	Switzerland	14.1	0.32
Marathon Asset Management	United Kingdom	11.9	0.27
Amiral Gestion	France	10.2	0.24
Tobam	France	10.1	0.23
Intesa Sanpaolo	Italy	8.9	0.20
BNP Paribas	France	8.2	0.19
AXA	France	7.5	0.16
Commerzbank	Germany	7.0	0.16
HSBC	United Kingdom	6.9	0.16
Everett Capital Advisors	United Kingdom	6.7	0.15
Deutsche Bank	Germany	6.3	0.14

Thomson Reuters Eikon, "Share ownership", viewed in February 2018.

Chapter 10 Conclusions and recommendations

The occupied nature of the Palestinian territory and the illegality of Israeli settlements in this territory is broadly recognized by international institutions and states and supported by a large body of legal opinion. A sustained resolution of the Palestinian-Israeli conflict entails the cessation of further construction of illegal settlements and, importantly, the fulfilment of human rights obligations. Despite Israel's rejection of the applicability of these obligations in the occupied Palestinian territory (oPt), this has been continuously asserted in relevant resolutions of the UN General Assembly, in reports of the UN Secretary-General and the High Commissioner for Human Rights, as well as by various human rights treaty bodies.

Private actors, represented by Israeli and international businesses operating in settlements and settlement zones, play a critical role in facilitating the functioning and growth of the settlements. Considering the heavy social and humanitarian impacts on the Palestinian population in the oPt and the obstruction of the development of a Palestinian economy, corporations have a responsibility to ensure that they are not– directly or indirectly – involved in violations of international humanitarian law. As put by the OHCHR in January 2018, "*[...] considering the weight of the international legal consensus concerning the illegal nature of the settlements themselves, and the systemic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law.*"[291]

As of June 2018, the database of business enterprises engaged in certain Israeli settlement activity in the oPt as requested by the UN Human Rights Council (HRC) to the UN High Commissioner for Human Rights has not been published yet. In anticipation of the database, this research investigated a limited selection of sectors in more detail to identify direct or indirect involvement of foreign, and especially European business actors.

Company relationships

Direct links were identified for two subsidiaries of EU-based companies - through respectively the exploitation of natural resources in the oPt (HeidelbergCement (Germany)) and the establishment of a solar field providing electricity to settlements (Enerpoint (Italy)). A much larger number of European companies are indirectly implicated in the settlement economy through the supply of heavy machinery, solar panels, transport equipment, and infrastructure planning services. Among these corporations are several from Germany (Max Bögl Group, Siemens, PADCON, SMA Solar Technology, REFU Solar), as well as business enterprises from Spain (Ineco, ACS Group), the UK (CNH Industrial, JCB) and France (Alstom).

Justifications used by some companies referring to their business activities as being located on 'State land' or in a 'legal settlement' have no legal standing as all settlement activities in the oPt are illegal under international law. Similarly, stating to not be involved in politics has no legal foundation.

Financial relationships

Many financial institutions from across the European Union, Norway and Switzerland are indirectly linked to settlement activities, often having financing links with several companies with direct involvement in the settlement economy. The report identified investors and banks in 15 countries from across the European Union, Norway and Switzerland that have financial relationships with selected sectors of the Israeli settlement industry. The analysis looked at the top-20 participants in loans and credits between 2013 and 2018 and in share and bond underwriting services between

2016 and 2018, as well as the top-20 holders of shares and bonds at most recent dates. The overall value of loans, credits and underwriting services for top European banks reached US$ 25,66 billion, while the value of shares and bonds held by top European investors reached US$ 17,02 billion (Table 31). The four main sectors where European financial institutions are involved are natural resources, tourism, energy and banking.

Table 31 Value of investments by home state of top-EU financial institutions in selected sectors of the settlement economy

Investor parent country	Loans & credits (01/13-02/18, underwriting services (01/16-02/18) (US$ mln)	Share-, bondholdings (most recent date) (US$ mln)
1. Germany	6,438	2,829
2. UK	5,245	2,206
3. France	4,319	3,906
4. Switzerland	-	3,098
5. Sweden	2,215	611
6. Spain	2,394	153
7. Netherlands	1,576	901
8. Italy	1,817	190
9. Norway	-	1,277
10. Jersey	-	1,224
11. Austria	793	341
12. Denmark	866	8
13. Belgium	-	130
14. Luxemburg	-	120
15. Liechtenstein	-	25
Total	**25,663.0**	**17,019**

Among the identified institutional investors, the Norwegian Government Pension Fund Global is invested in (1) the five leading Israeli banks (Bank Hapoalim, Bank Leumi, Mizrahi Tefahot Bank, Israel Discount Bank and FIBI), (2) three tourism companies offering accommodation in settlements (Booking Holdings, Expedia and TripAdvisor (U.S.)) and (3) cement producers HeidelbergCement (Germany) and Cemex (Mexico). In the past, the Council of Ethics of this leading institutional investor has recommended the exclusion of two Israeli construction companies (found to be involved in housing construction in settlements), explaining that this activity must be regarded as illegal and poses "*[...] an unacceptable risk of the companies contributing to serious violations of the rights of individuals in situations of war or conflict.*"[292] Similarly, defence company Elbit Systems (Israel) has been excluded already in 2009 due to an "*[...] unacceptable risk of contribution to serious violations of fundamental ethical norms*" in relation to the company's involvement in the construction of the separation wall.[293] These findings may equally be valid for investments of the fund in other companies directly involved in the settlement economy and steps should be taken to mitigate these risks.

Home states

While various EU member states have published business advisories aiming to raise awareness on the risks related to economic and financial activities in settlements that are illegal under international law, these do not necessarily ensure that domestic law explicitly and adequately applies to such activities. In line with their obligations under the UNGP, home states of business enterprises should set out clearly the expectation that businesses within their jurisdiction respect human rights also in extraterritorial activities.

Several Israeli banks have subsidiaries registered with financial authorities in EU member states. As a parent's assets in illegal settlements have no legal standing, these should not be recognised as a value by regulators in EU states.

Recommendations

To private businesses and investors:

1. As enshrined in the UN Guiding Principles on Business and Human Rights (UNGP), companies are required to avoid causing or contributing directly or indirectly to adverse human rights impacts, and to address such impacts when they occur, even if they have not contributed to those impacts. An indirectly involved company may not always be aware of its business partner's involvement in the settlement enterprise. However, this does not remove the responsibility to avoid contributing to negative human rights impacts. The UN business database can play a crucial role in increasing awareness among companies with indirect links to the settlement economy.

   A business enterprise should comprehensively review its dealings in light of the specific rights and obligations that are connected to a situation of occupation. It risks being complicit in breaches of human rights, with resulting reputational, financial and legal risks. If it cannot cease or prevent adverse human rights impacts directly or lacks leverage in case of an indirect connection, the relationship should be terminated.

2. As outlined in the UNGP, investors are obliged to fulfil their responsibility to seek to prevent or mitigate an adverse impact and to avoid complicity through their business relationships. As is the case for other business enterprises, the UN database could help financial institutions to obtain more insights into their exposure to such companies. Investors should demand clarification from their investees as to the nature of their involvement and measures taken to avoid negative human rights impacts. In line with the UNGP, if their leverage is not sufficient and efforts are not successful, investors should end the relationship.

   In engaging, financial institutions should demand clarity on pricing policies for companies supplying both settlements and Palestinian inhabitants of the West Bank and what payments are made to Palestinians by companies using their land. For claims that taxes paid to Israeli national and regional authorities are used for the benefit of Palestinians, investors should demand proof of the benefitting projects. In other sectors, investors should advocate the cessation of construction or supplying contracts linked to settlement projects. Tourism companies as well as real estate brokers should be engaged to delist settlement accommodations from their offerings. Israeli banks should be engaged to cease providing services in or to settlements.

To governments:

1. Publicly call for the rapid and full publication of the UN Database on companies associated with the settlement industry. They should ensure that sufficient resources are allocated to the Office of the High Commissioner for Human Rights (OHCHR), so it can publish and annually update the UN Database.

2. For states that already issued it, update, expand and actively promote an existing business advisory on Israeli settlements. This update could include a reference to UN Security Council resolution 2334, the trend of increased annexation in the occupied Palestinian territory and the need to exercise "enhanced" due diligence. Such "enhanced" due diligence actions may include, among others, increasing the frequency of human rights impact assessments; formally integrating human rights principles into relevant business contracts; and exercising "extreme caution" in all business activities and relationships involving acquisition of assets. Inspiration for such update can be found, among others, in Denmark.

3. Consider new legislation, regulations and enforcement measures that oblige companies to exercise a more thorough general due diligence, to avoid any practices that harm human rights. Inspiration for such legislation can be found, among others, in France.

4. Specifically with regard to Israeli settlements, and based on the observations and findings described in this report, states should consider new legislation, regulations and enforcement measures that prohibit businesses in all sectors to be invested in relationships or activities associated with the Israeli settlements.

5. Insist that the EU and its member states play an active and ambitious role in the current multilateral negotiations on a legally binding UN Treaty on Business and Human Rights.

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