

Illegal Ground

Assa Abloy's business in occupied
Palestinian territory





Diakonia is a Swedish non-governmental development aid organisation. Diakonia gives support to and works together with 400 partner organisations in 30 countries around the world. Diakonia is primarily engaged in long term development work on social and economic structures that affect the life of poor people. Website: www.diakonia.se

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Foreword

The conflict in the Middle East between Israelis and Palestinians is one of the most complex and sensitive struggles of our time. It has been described by the acclaimed Israeli novelist Amos Oz as “a tragedy in the ancient and most precise sense of the word: a clash between right and right, a clash between one very powerful, deep, and convincing claim, and another very different but no less convincing, no less powerful, no less humane claim”. It is a conflict that has become part and parcel of the very life of all Israelis and Palestinians, and despite numerous peace initiatives over the past decades we are still facing a situation where the parties have failed to reach a comprehensive agreement.

Diakonia and the Church of Sweden both share a strong commitment to working together with our partners, both Israeli and Palestinian, in order to promote lasting peace in the region. It is our firm belief that it is possible to reach a just peace that grants every individual of the two peoples and the three religions the universal right to live freely and in full security. The right and duty of the state of Israel to protect its citizens is of no lesser importance than the right and duty of the Palestinians to form their own future. And these rights must, and can, be met without tampering with the rights of the other.

The legal framework of any peaceful solution to the conflict, and the basis of all negotiations between the parties, is found in international humanitarian law and universal human rights as described in the Geneva conventions and in numerous UN resolutions. These legal documents are at the very core of our organisations’ commitment to the region, as they are in all other parts of the world. They are also the point of departure of this report – an investigation of the Swedish company Assa Abloy and its involvement in a manufacturing plant located in an Israeli settlement on the West Bank.

The Israeli settlements on Palestinian territories, occupied by Israel since 1967, are not merely illegal under international law. In the international community they are also widely regarded as one of the major obstacles to peace. As the case of Assa Abloy/Mul-T-Lock shows, companies that are active in an environment marked by conflict constant face risks of both ethical and legal character. By publishing this report, we hope to shed light on the responsibilities of private enterprises operating within an occupation situation and the importance of conducting business in line with international law. In this report we also outline the consequences of the establishment of the settlement of Barkan for families who once cultivated the very same land. We wish to engage in dialogue with Assa Abloy/Mul-T-Lock, as well as other private stakeholders in order to ensure that business decisions do not aggravate the situation in the occupied Palestinian territories.

It is our firm belief that business, if conducted in line with international law, plays an important role in contributing to a peaceful future for the region. We

also believe that peace is vital for companies, enabling them to conduct profitable and successful business activities in the long run. Consequently Diakonia and the Church of Sweden urge companies to become active partners for a just and lasting peace in the Middle East that is in compliance with international law and is beneficial to both Israelis and Palestinians.

Margareta Grape
Director International Affairs
Church of Sweden

Bo Forsberg
Secretary-General
Diakonia

Executive Summary

The Swedish company Assa Abloy is the owner of Mul-T-Lock, a company that produces lock and security solutions at a factory located within an illegal Israeli settlement on the West Bank. The factory is located in the industrial zone of Barkan which is part of the Israeli settlement Ariel, located 40 km east of Tel Aviv and 10 km inside the West Bank.

Mul-T-Lock's manufacturing plant in the Barkan industrial zone was opened by the company's former owners in 1984; however the entire company was acquired by Assa Abloy in 2000. Over the years the Barkan factory has been turned into a top modern facility, equipped with highly advanced computer programmes, robotics and machinery.

The State of Israel encourages both national and foreign investment in occupied territory by offering a wide range of incentives and benefits to investors in industry, tourism and real estate. Assa Abloy confirms that the Mul-T-Lock plant receives such benefits, but refrains from publishing any figures.

Israeli law states that settlements may be erected on state land but only on private Palestinian land if the owner's permission has been granted. The industries in Barkan and other industrial settlements are built on both private and state land, thus contravening Israel's own legislation.

According to international humanitarian law all Israeli settlements on occupied Palestinian territory are illegal, whether built on state or private land. This has been underscored by the international community through the United Nations Security Council, General Assembly resolutions, statements by the High Contracting Parties to the Fourth Geneva Convention and by the International Court of Justice. This is also the view of the European Union and the Swedish government.

The UN Security Council in 1979 determined *"that the policy and practice of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."*

According to Article 49(6) of the Fourth Geneva Convention it is absolutely prohibited for the occupying power to transfer its own population into occupied territory. The International Court of Justice has confirmed that the prohibition does not just cover the actual transfer of persons, but also any measures taken by an occupying power in order to organise or encourage transfers of parts of its own population into the occupied territory. This would cover the Government of Israel's promotion of such transfer by use of economic subsidises to settlement inhabitants, including to companies located in the settlements. Breach of Article 49(6) constitutes a serious violation of international humanitarian law.

International humanitarian and human rights laws primarily set out obligations for state actors. Under the principle of individual criminal responsibility, however, individuals – also CEOs of companies – can be held individually responsible for certain grave violations of international law, including war crimes.

Although it has not yet been fully crystallised to what extent private companies as such bear legal responsibility under international law, it should be noted that soft law, e.g. the OECD Guidelines, the ILO declarations and the UN Global Compact, clearly sets out standards of behaviour for companies that are closely corresponding to the international legal obligations of states. The same standards of behaviour stem from a moral and ethical framework of rules. This includes, as a minimum, a duty for companies to fully respect existing international humanitarian and human rights law, both in terms of avoiding to deprive individuals of their rights and to avoid contributing in any way to such deprivation.

Businessmen and women may either be found directly liable for the commission of crimes against international law or they may be found to have assisted others in the commission of a crime. The Israeli appropriation of the land where the Mul-T-Lock facility is situated is clearly in violation of international humanitarian law. By acquiring assets such as a leasehold where a facility is situated, an owner of a company may be accused of pillage. Pillage is a crime under international humanitarian law and company officials must safeguard that they are not acquiring resources and property without the consent of the rightful owners. According to the International Committee of the Red Cross, pillage is not limited to the acquisition of assets by force. Acquiring assets by entering into contracts based on a position of power derived from the surrounding conflict, as well as knowingly receiving goods obtained against the will of the true owner, have been deemed pillage in courts.

In addition to the violations related to property, company decision makers may also be seen as assisting in, or contributing to, the violation of Article 49(6) in the Fourth Geneva Convention when, for example by relocating a factory to a settlement or building a new factory, they cause the transfer of Israeli citizens to the settlements, who come as workers with their families. The mere fact that companies exist makes it possible, in theory, for such population transfers to take place due to job opportunities arising due to their operation in illegal settlements in occupied territories. Article 49(6) prohibits not only deportations or forced transfers of population, but any measures taken by an occupying power in order to organise or encourage transfers of parts of its own population into the occupied territory. To locate corporations in settlements and to subsidise those, could be seen as an encouragement covered by Article 49(6).

Assa Abloy did not set up the factory in the illegal settlement of Barkan, but the company has chosen to maintain its location. Moreover, according to the local management in Barkan, Mul-T-Lock is increasing production in Barkan and the company has recently made major investments in this facility.

Another foreign-owned company has recently decided to move its facilities from occupied territories, most probably to avoid negative publicity. Assa Abloy has chosen not to answer questions on how they view the fact that the factory is located in a settlement regarded as illegal according to international law, and on land not recognised as Israeli territory by Sweden, the EU, the US or the UN. Instead the company refers to its Code of Conduct adopted in 2004 without, however, explaining if it believes that the factory's location is in line with the spirit of this document.

The products from the Mul-T-Lock factory in Barkan are exported to several countries within the EU. According to the EU-Israel trade agreements, products manufactured in settlements are not included in the free trade agreements and should be subject to normal taxation. Initially Assa Abloy did not answer the question on how they safeguard that products manufactured in Barkan are not imported to the EU under the free trade agreement. In an additional comment, just before the publication of this report, Assa Abloy stated that only components are manufactured at the Barkan plant and that the company therefore meets the requirements of the free trade agreement.

Assa Abloy chooses not to respond to questions about who actually owns the land where Mul-T-Lock's Barkan factory is located or if it has taken any action to safeguard that the land use is not in violation of the rights of local communities or individuals. In June 2008, the field team of this study visited local communities affected by the confiscation of their land on the West Bank and individual Palestinians who claim that part of the land on which Mul-T-Lock's factory stands is theirs.

The illegality of Israeli settlements on the West Bank under international humanitarian law (IHL) is undisputed. Diakonia, Church of Sweden and SwedWatch therefore concludes that Assa Abloy – as the owner of Mul-T-Lock - is disrespecting international humanitarian law. Furthermore, by choosing to operate in Barkan, Assa Abloy is taking action which is counterproductive to the ongoing peace process between the Government of Israel and the Palestinian Authority.

We further conclude that Assa Abloy fails to meet the standards established by itself in its own Code of Conduct. The company also conducts its business in stark contrast to the policy of the government of Sweden, currently supported by all political parties in the Swedish Parliament.

The settlements constitute a major constraint on the peace process. The Middle East Quartet (the EU, the UN, Russia and the US) has expressed its collective opposition to the settlements and has, on 18 occasions since its inception, warned of the dangers of continued expansion to the process. However, Assa Abloy does not seem to question its role on the West Bank. Instead the company states that the operations abide by Israeli legislation.

The Mul-T-Lock facility in Barkan benefits from Israeli subsidies to companies located inside illegal settlements. At the same time governments and organisations in Sweden, the EU and the US are spending huge amounts of humanitarian aid funding to counter the humanitarian crises partly caused by these same settlements.

Diakonia, Church of Sweden and SwedWatch urge Assa Abloy:

- to stop immediately all investments in the production plant in Barkan and move the plant into Israel or any other location that does not disrespect international legislation.
- parallel to the demand to move its operations from the Barkan Settlement, we also urge Assa Abloy to invite an independent investigation regarding the ownership of the land and to examine possible damages and suitable reparations to private or public Palestinian interests. Although the location of Assa Abloy's Mul-T-Lock plant is illegal, irrespective of whether it is located on confiscated public or private land, those individuals who have suffered have a special right to reparations.

Diakonia, Church of Sweden and SwedWatch invite Assa Abloy to further discussions on the steps that need to be taken.

Facts about Assa Abloy: In 2007 Assa Abloy employed 32 000 people around the world and annual turnover reached SEK 33.5 billion (approximately USD 5 billion). At the end of 2007 Investment AB Latour, Säkl, Melker Schörling AB, Alecta and Swedbank Robur were Assa Abloy's major shareholders. According to the latest figures, the Swedish public pension funds hold a joint interest valued at about SEK 1.27 billion (USD 210 million).

1. Introduction

The Swedish company Assa Abloy is the owner of a company located within an Israeli settlement – Mul-T-Lock in the Barkan industrial zone on the West Bank. Mul-T-Lock produces lock and security solutions for a wide range of clients. In advertisements Mul-T-Lock promises to ensure “peace of mind” through its locks and high security products. In reality the company is an obstacle to peace between Israelis and Palestinians because of the location of its factory within the illegal settlement of Barkan.

Over the years, many Israeli industries have moved to the West Bank, encouraged by economic incentives such as hefty grants and tax exemptions provided by the Israeli government. By 2003, the Ministry of Industry and Trade had set up eleven new industrial zones in the West Bank.¹ Companies that are located within these zones are not subject to Israeli environmental legislation. Despite the fact that thousands of Palestinians work within Israeli settlements, workers rights provided by Israeli labour law did not apply to Palestinians until late 2007.²

The Barkan industrial zone is part of the Israeli settlement Ariel, located 40 km east of Tel Aviv. The settlement is partly surrounded by the illegally erected Israeli separation barrier, which winds itself into occupied Palestinian territory.

According to international law the settlements are illegal.³ Still, 149 settlements exist on the West Bank, including eastern Jerusalem, with approximately 462 000 settlers of which 191 000 are in Jerusalem.⁴ Construction operations within existing settlements have proceeded, even after the latest peace talks took place in Annapolis in late 2007 in which Israel was urged to stop all construction since it is considered to be a major obstacle to further peace negotiations.⁵

The World Bank describes this settlement policy as the main cause for the deteriorated humanitarian and economic situation in occupied territories and a clear obstacle to peace.⁶ The Middle East Quartet (the EU, the UN, Russia and the US) has expressed its collective opposition to the settlements and has, on 18 occasions since its inception, warned of the dangers of continued expansion to the process.⁷

1 Mair L and Long R, Backs to the Wall, in Dollars and Sense, Nov/Dec 2003.

2 Swedish Department for Foreign Affairs, Mänskliga rättigheter på de ockuperade palestinska områdena 2007.

3 Fourth Geneva Convention, article 49(6). See further in Chapter 8 of this report.

4 UN OCHA referred to at Diakonia's and B'Tselem's websites: www.diakonia.se and www.btselem.org.

5 Peace Now, The Death of the Settlement Freeze – 4 Months Since Annapolis, March 2008.

6 World Bank, Stagnation or Revival? Israeli Disengagement and Palestinian Economic Prospects, Dec 2004.

7 See US Department of State, Middle East Quartet Statements, available at <http://www.state.gov>.

Sweden provides foreign aid to help the Palestinian population – SEK 620 million or USD 93 million in 2007⁸. At the same time Assa Abloy benefits from Israel's incentives to companies situated in Barkan and is in effect - due to the location of Mul-T-Lock factory - indirectly supporting the illegal Israeli occupation.

FACTS

Box 1: Facts about Assa Abloy

Assa Abloy is the world leader in door locking solutions. In 2007 the company employed 32 000 people around the world and the annual turnover reached SEK 33.5 billion (USD 5.5 billion).¹ Mul-T-Lock is wholly owned by Assa Abloy.²

At the end of 2007 Investment AB Latour, Säkl, Melker Schörling AB, Alecta and Swedbank Robur were the company's major shareholders. According to the latest figures, the Swedish public pension funds hold a joint interest valued at about SEK 1.27 billion.

For more information on the holdings and Assa Abloy's ownership structure, please refer to Annex 3 at the end of this report.

¹ Assa Abloy, Annual Report 2007.

² Mul-T-Lock's website, www.mul-t-lock.com. Assa Abloy AB owns 90% of Mul-T-Lock while another company within the Assa Abloy Group owns the remaining 10%

gov/p/nea/rt/c9963.htm

⁸ This aid includes support to UNRWA, Sida's development cooperation and humanitarian efforts. In late 2007, the Swedish government decided to increase aid to the Palestinians to SEK 700 million (USD 115 million). Information from the Swedish government's website, <http://www.regeringen.se/sb/d/2688/a/86018>

2. Methodology

Research for this report was conducted using both desk studies and field research. The desk studies included research into the history of Mul-T-Lock, the current situation on the West Bank and settlement policy as well as a literature review regarding companies' responsibility under international humanitarian law. The field research was performed by representatives of the Diakonia offices in Jerusalem and Stockholm. In June 2008 this team visited the West Bank to meet local human rights organisations and labour unions as well as individuals and community representatives from Palestinian villages around Barkan. They also talked to Palestinian and Israeli workers in Barkan as well as a local manager at the Mul-T-Lock factory. Local research has also included visits to the Israeli land authorities to crosscheck documents and information from these field visits.

The Church of Sweden has been involved in the analysis process of this report. SwedWatch has conducted background research and has been involved in the final editing.

Questions have been forwarded to Assa Abloy directly and Q and A can be found in Annex 1 of this report. After sending the questions to Assa Abloy the company was given the time they required to answer them fully.

Assa Abloy has also been given the opportunity to comment on the findings of this report and notify the authors of any factual errors. They were also invited to send in written comments before publication to be included at the end of the report. The comments are found in Annex 2.

3. The history of Mul-T-Lock

The story of Mul-T-Lock Ltd. starts in 1973 when the company – then called Rav-Bariach - was founded by Abraham Bahry and Moshe Dolev in Holon near Tel Aviv where they engaged in developing a four-way lock that was to become famous.⁹ Within a couple of decades, these two Israeli inventors managed to build a market leading company manufacturing high-level security products. In 1976, overseas marketing took off and new products were quickly added to Rav-Bariach's product line.

In 1984, three years before the first Intifada began, a factory was set up in Barkan. During the first half of the 1990s, Rav-Bariach's sales increased rapidly in Israel, the US and in Europe. In 2000 the locking and cylinder divisions of Rav Bariach were sold to Swedish Assa Abloy. The company name was changed to Mul-T-Lock one year later.¹⁰ The purpose of the acquisition was to strengthen Assa Abloy's position within the Do-It-Yourself stores and locksmiths distribution channels. The importance of these channels was increasing considerably at the time and Mul-T-Lock/Rav-Bariach already used them.¹¹

Rav-Bariach still exists as a company and focuses on high-security entrance doors and windows, as well as vehicle protection products. The connection between Mul-T-Lock and Rav-Bariach is highlighted by the fact that the two companies still share the same logo, a muscleman figure whose legs are depicted as a key. Both companies currently have factories within the Barkan industrial zone.

3.1. Mul-T-Lock today

Mul-T-Lock describes itself as a worldwide leader in developing, manufacturing and marketing high security products. Today, Mul-T-Lock holds hundreds of international patents for products such as mechanical cylinders, locks, padlocks, electromechanical locking systems and automatic assembly and key-cutting machines. It currently employs 690 people, mainly highly skilled personnel, who have worked for Mul-T-Lock for many years.¹²

Mul-T-Lock's products are currently distributed in nearly one hundred countries, through sales units in the UK, the US, France, Turkey, Argentina, Italy, Canada,

9 The description of the company's history is based on Mul-T-Lock websites, www.mul-t-lock.com and http://www.mul-t-lock.co.uk/about_history.aspx, and the 'Companies Catalogue' of the Israeli Industrial Cooperation Authority.

10 Abraham Bahry first sold his shares (78%) in Rav-Bariach Ltd., known then as "Rav Bariach", to Assa Abloy for the sum of USD 113.5 million. He then acquired Rav-Bariach Investments Ltd. from Rav-Bariach Ltd for USD 45 million. Information from Rav-Bariach's website, <http://www.rav-bariach.com/eng/profile.asp>

11 Assa Abloy, Bokslutskommuniké januari-december 1999.

12 Mul-T-Lock website, <http://www.mul-t-lock.com/87.html>



Mul-T-Lock's factory in Barkan was set up by its former owner, Rav Bariach, a company that is still located within the industrial zone. The connection between the two companies is highlighted by the fact that they share the same logo, a muscleman figure whose legs are depicted as a key.

the Czech Republic and Africa. Consequently, the company's clients are spread around the world. In Israel, the Ministry of Defence, the Israel Electric Corporation and Israel's national telecom provider Bezeq are among Mul-T-Lock's clients.¹³ In 2002 more than two thirds of Mul-T-Lock products were exported.¹⁴

As mentioned earlier one of the company's manufacturing plants is located on the West Bank, in the Barkan industrial zone, adjacent to the Ariel Settlement. The Barkan plant was opened by the former owners in 1985 and has become a top modern facility, equipped with highly advanced computer programmes, robotics and machinery designed by Mul-T-Lock itself.¹⁵ In June 2008, 120 people were employed at the Barkan factory.¹⁶

¹³ Ibid.

¹⁴ Assa Abloy, Delårsrapport januari-mars 2002.

¹⁵ Ibid.

¹⁶ Information from factory management.

3.2 Mul-T-Lock confirms new investments in the factory

The Mul-T-Lock factory is located on Ha'inbar Street in the Barkan Settlement. At the entrance of the site the field study team meets Mr Eliyahu Dvela, Machining Department Manager¹⁷.

Mr Dvela explains that production has shown very positive development with 15% annual growth. Recently major investments in new technology have been made, according to Mr Dvela. He also states that the factory has regular contact with its owner Assa Abloy, with foreign visitors coming to Barkan.

While another European company – Heineken - has chosen to move its operations from Barkan to Israel (see Chapter 10, page 36), Assa Abloy is still investing and increasing its production in Barkan. Diakonia, Church of Sweden and Swed-Watch have asked Assa Abloy if they see any risk that they may be considered as taking part in the illegal expansion of settlements, activities criticised and condemned by for example Sweden, the EU, the US and the UN, however Assa Abloy has chosen not to answer this question.

According to Mr Dvela only one Palestinian employee is working at the plant, a janitor/caretaker. Mr Dvela sees no specific reason for this but points out that Mul-T-Lock's work with security solutions demands a very high level of security clearance of employees.

Other employees describe Mul-T-Lock as an attractive employer with a high-tech profile. Mul-T-Lock has not been one of the companies in Barkan specifically indicated by labour unions as taking advantage of the situation of the Palestinians in nearby villages (See box 2, page 23).

"We do employ people with different ethnic backgrounds, but only Jewish", says one Mul-T-Lock employee during the visit.

In later discussions with Assa Abloy's Corporate Communication Manager, Ann Holmberg, she stated clearly that religious discrimination is not acceptable according to corporate policy and that this policy should also apply to Mul-T-Lock.

¹⁷ The meeting took place on 1 June 2008 when the interview was conducted.

4. The settlement of Barkan/Ariel

The Barkan industrial zone is located on the West Bank, about 40 km east of Tel Aviv and 10 km inside the internationally recognised border between Israel and Palestine (the Green line). Its history is connected to the history of the Ariel Settlement, six km further East. In 1977, two Israeli Defence Force tents were placed on a hilltop and called the “Haris Outpost”, named after the Arab village Haris on whose land the outpost was located. By 1978 the outpost had expanded to include 40 families in mobile homes and was granted the status of a town by the Israeli government. The residents chose the name Ariel, a Biblical reference to Jerusalem and the Temple Mount. Ariel now has 30 000 inhabitants including 10 000 students.

The location of the Haris Outpost was chosen by Ariel Sharon when he was Minister of Agriculture due to its strategic position halfway between the Mediterranean Sea and the Jordan River.¹⁸ Another important strategic factor was probably that the block of settlements is located on top of the Western Mountain Aquifer with some of the richest water resources in the region, thereby achieving Israeli control of the water source.

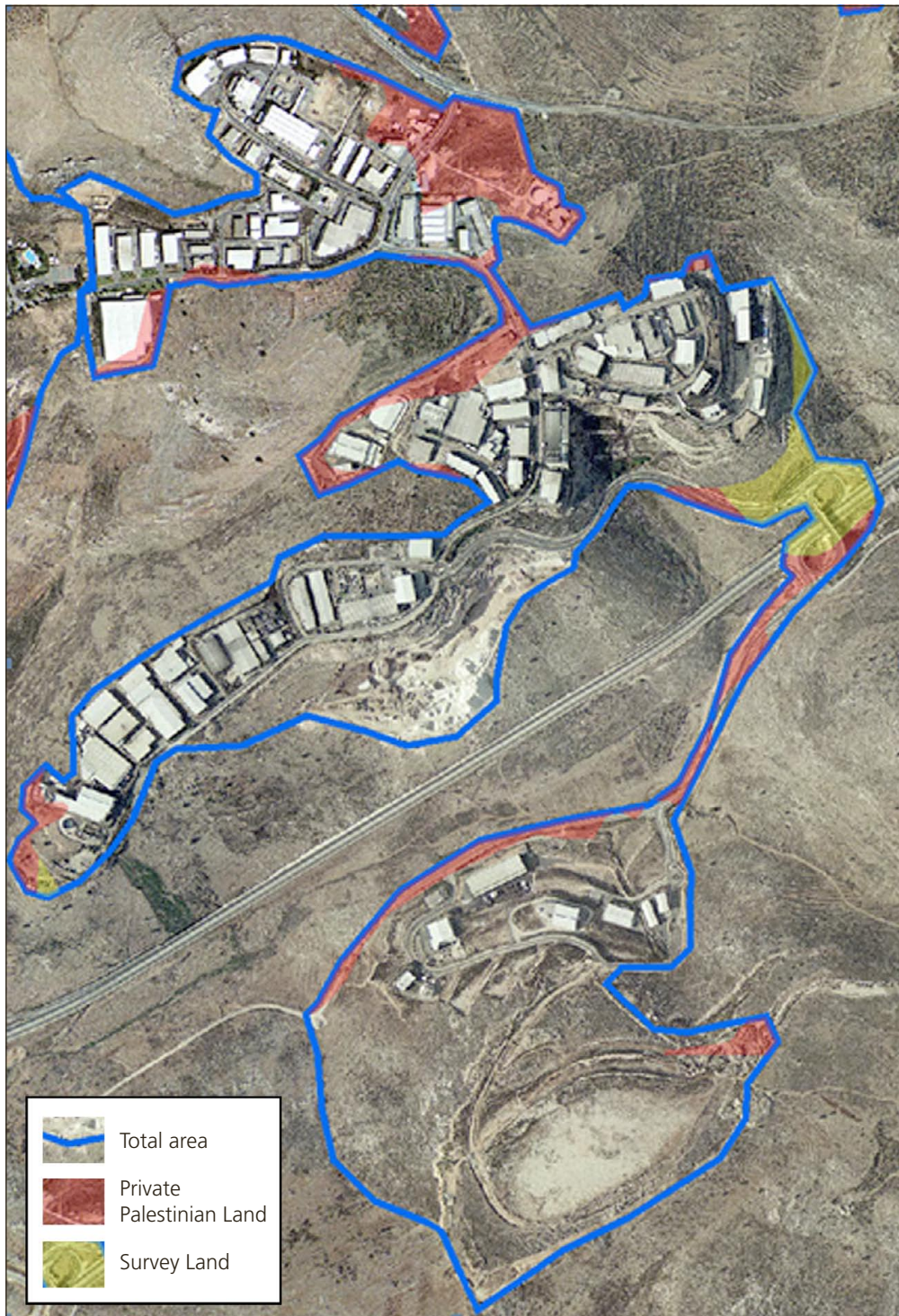
According to the Ariel Settlement’s website¹⁹ the settlement was built on a barren mountain. It says that the land was public land or state property. It also claims that no land has been confiscated. The inhabitants of the Arab village Haris, on the other hand, claim that large portions of what was later declared state land in Barkan was earlier under private ownership. While the Ariel Settlement’s home page describes the land as “incapable of growth and development”, the inhabitants of Haris describe a long tradition of farming the land.

Israeli law states that settlements can be erected on state land, but not on private Palestinian land unless the owner’s permission has been given. International humanitarian law prohibits any such settlement in occupied territory, whether on state or private land (for further information see clarifications in Chapter 7 and 8).

According to Israeli official registers some parts of the settlement are located on privately owned Palestinian property. In one case this has led to the effect that a Palestinian farmer was granted the right to cultivate the remains of his land between the factories in Barkan. When the field study team visited the area in June 2008, the farmer showed that a recent expansion of one of the factories’ parking lots had taken some more of his land.

¹⁸ The Ariel Settlement’s website: http://go.ariel.muni.il/ariel/en/index.php?option=com_frontpage&Itemid=1

¹⁹ Ibid.



Aerial picture of Barkan, showing total area and what Israel acknowledges as private Palestinian land. "Survey lands" are areas whose ownership has yet to be determined and on which development is not legal.



Residential housing has been established as part of the settlement expansion in connection to the industrial area of the Barkan settlement.

5. Palestinian villagers lose their land

In November 2006 the Israeli organisation Peace Now presented a report showing that Israel has effectively stolen privately owned Palestinian land for the purpose of constructing settlements on the West Bank.²⁰ The construction was also in violation of Israel's own legislation regarding activities on the West Bank (see Chapter 6). According to official data from the Israeli Civil Administration (the government agency in charge of the settlements) nearly one third of the total land area on which the settlements are located on the West Bank, used to be privately owned by Palestinians. According to Peace Now 13.28 % of the land in the Barkan and the Ariel industrial zones is private Palestinian land. Peace Now concludes that the settlement policy has undermined not only the collective property rights of the Palestinians as a people, but also the private property rights of individual Palestinian landowners.

5.1. Is the Mul-T-Lock plant located on land that belongs to the Daoud family?

During the field study team's visits to Haris a number of people were asked about the status of the land where the Mul-T-Lock factory is situated. Several people said that it was located on the properties of the Daoud family and the team therefore contacted Mr Jemil Daoud.²¹

Mr Daoud claims that Mul-T-Lock is located on the land belonging to his family. Israeli official documentation states that the factory is located on what is classified as state land, but Mr Daoud states that his family farmed the land until it was confiscated. Whether or not the land has been cultivated is important to establish the ownership of the land (see further in Chapter 6).

According to Jemil Daoud the land was earlier farmed by his grandfather Mohammad (Sabti) Daoud and his father Mustafa Issa Hassan Daoud. They cultivated olives and other crops. However, in 1984 they received a military confiscation order. Jemil Daoud's father protested to the Israeli land authority, Beit-El, and hired a lawyer to represent them. The lawyer was initially optimistic since they had a long history of farming the land, but in 1986 bulldozers started uprooting their trees and destroying the land.

²⁰ Peace Now, Breaking the Law in the West Bank - The Private Land Report, Nov 2006.

Available at <http://www.peacenow.org.il/site/en/homepage.asp>. Peace Now is the largest non-governmental movement in Israel, the country's oldest peace movement and the only peace group to enjoy a broad public base. The movement was founded in 1978 during the Israeli-Egyptian peace talks. The basic principles of the movement are the right of Israel to live within secure borders and the right of neighbours to do the same. In time the movement became convinced that the only viable solution was the creation of a Palestinian State in the territories adjacent to Israel which were occupied as a result of the 1967 war.

²¹ The meeting took place on 2 June 2008 when the interview was conducted.



Jemil Daoud is a business man and the spokesperson of the Daoud family: "I was disappointed that the attitude at Mul-T-Lock did not change when Assa Abloy bought the company".

Jemil Daoud possesses the family documentation regarding their land ownership and presented it to the field study team. However, after study the team noted that identifying methods to reconcile the old agricultural maps of the villages' land plots with the modern industrial structure in the settlements was an extremely complicated procedure. This made it difficult for the team, given the time and the resources available for this report, to confirm the precise location of the different land plots from sources other than spoken statements. However, the team could confirm that the documents presented by Jemil Daoud correspond to the documentation at the Israeli Land Authority (Beit-El), where the late Mustafa Issa Hassan is registered as landowner.

The Daoud family did not appeal to the Israeli High Court. Instead Jemil Daoud told us that he visited the Mul-T-Lock facility several times to discuss the status of the land directly with the factory managers. According to Mr Daoud, they have not been willing to engage in any prolonged discussion. They mainly argued that they have the right to the land, according to Israeli law (they have also referred to the old Jordanian law on state land), and that the land has been granted to them by Israeli authorities.

When Swedish Assa Abloy bought Mul-T-Lock, Mr Daoud considered this as good news.

“I had a good impression of Sweden as a country with respect for human right and thought that a Swedish owner would make a change in the company attitude.”

He has visited the factory since Assa Abloy acquired the company but he states that they merely ignored him.

5.2. Confiscation of farmers' land

During the field trip the research team of this study also met with other Palestinians affected by the Barkan industrial zone. One of them was Omar Samar who is the head of Haris Village Council.²² According to him nearly 70 hectares of land were confiscated from the village when the Barkan zone was set up. The confiscated land contained historical landmarks that are important to the village such as ancient Roman pools, the remains of sacred places and stone graves.

Mr Samar states that, in the early 1980s, Israeli authorities told the leader of the Village Council at the time (the Muktar) Mr Hosni Daoud that their land was to be confiscated. The villagers filed complaints with the Israeli military commander in Tulkarem but received no reaction. Some villagers have also tried to file individual cases. Mr Samar has no specific facts about the results of these complaints, but recalls that one villager got 1.5 ha land back after filing a complaint. He also claims that the Mul-T-Lock factory is located on land that was previously privately owned.

Mr Samar describes the settlement policy as a vicious circle:

“In the old days we could sell our products to Nablus, Jerusalem and even to Jordan. Because of the closures around our village we are now unable to sell and market our products on a larger scale. This makes it less meaningful to cultivate the land and today many villagers are forced to work in the industries located on the land once stolen from us.”

It is sometimes said that Israeli industries in the settlements contribute a welcome source of income to Palestinians, but talking with a group of Palestinian women working in a textile factory in Barkan the desperate situation becomes clear. When they describe the harsh working conditions, they are asked why they at all choose to work in the Israeli settlement industries. One of them explains that they have no other choice:

“Our village is blocked by Israeli checkpoints making it almost impossible to sell or manufacture anything by ourselves. My husband doesn't get a working permit

²² The meeting with Mr Samar took place on 1 June 2008 when the interview was conducted.



One of the villagers in Haris shows a picture of Barkan before the settlements were established.

to enter the settlements or Israel. Our farmland where we had our income has been taken by the Israelis. So what choice do we have? My family needs to eat.”

5.3. Mr Muhsen’s legal process to get his land back

In June 2008 the field study team of this study met with Mr Suleiman Mahmoud Shamlawi (called Muhsen) in a family house in Haris Village.²³ He claims that his land originally consisted of 21.5 ha, but in 1982 everything except 4 ha was confiscated for the settlement. He asked an Israeli lawyer for help and they filed a complaint. However, the construction activities on the land started before the case was closed. They filed a second petition that the construction should be stopped but without success.

When Mr Muhsen initiated a legal process in 1982 his lawyer told him he had valid documentation that should hold up in a court process. An Israeli agricultural expert had also inspected the land and written a report confirming that it was in use as farming land. Whether or not the land has been cultivated is important for establishing ownership of the land (see below, Chapter 6).

²³ The meeting took place on 2 June 2008 when the interview was conducted.

Box 2: Workers' rights in the Occupied Territories

Kav LaOved¹ is a female-led, non-profit, non-governmental Israeli organisation committed to protecting the rights of disadvantaged workers employed in Israel and by Israelis in the Occupied Territories. Kav LaOved has, in several reports, showed a system of exploitation of Palestinian labour in factories inside the settlements. The system has relied on the fact that the settlements are zones where the Israeli environmental and labour legislation does not apply, making it possible for employers to operate under conditions that would not have been possible inside Israel.

Another factor has been the occupation, due to which Palestinians have been deprived of their normal opportunities to support themselves and have been forced to accept employment even if the work is poorly paid, dangerous, unhealthy and without the normal chances of demanding decent working conditions and exercising their rights.

However, in October 2007 the Israeli High Court of Justice ruled that Israeli labour law applied equally to Israeli employers and their Palestinian workers on the West Bank, 'unless the parties decide differently'. However, in 2008 the application of this ruling is still somewhat unclear since many employers do not respect its instructions.²

Another complicating factor is the involvement of Palestinian sub-contractors who serve as middle-men. According to Kav LaOved the sub-contractors often keep a major part of the salary making it hard to ascertain what is really paid to the workers.

As mentioned above, there is only one Palestinian worker at Mul-T-Lock's factory in Barkan. Assa Abloy states that salaries at the factory are above the established minimum wage in Israel and that all employees have social benefits above the standard level of Israeli industries.

¹ http://www.kavlaoved.org.il/default_eng.asp. Kav LaOved is a non-profit, non governmental organisation committed to protecting the rights of disadvantaged workers employed in Israel and by Israelis in the Occupied Territories

² Interview with Kav LaOved, 1 June 2008.

Mr Muhsen did not get his land back. He states that during the court process, he was suddenly arrested and locked up for two days. When he was released his trees had been uprooted and when the case began the land had already been destroyed.

Mr Muhsen showed a huge stack of court documents from all the litigation as well as black and white photographs from the land that he claims was illegally confiscated. Today most of the land is the site of a textile factory in the Barkan industrial zone.

In order to be able to tend his remaining fields, Mr Muhsen holds a special permit to enter the settlement; he has permission to move between the entrance and his land plot only. He took the field study team to the remains of his land inside Barkan and showed how the recent expansion of a parking lot had taken



Mr Muhsen has been involved in litigation since 1982 in order to get the land he claims belongs to his family back. Most of the land is now the site of a textile factory in the Barkan industrial zone.

more of his land. Mr Muhsen said that he was neither consulted nor offered any compensation. Just beside the concrete wall of the parking lot, uprooted olive trees were still lying on the ground.

Mr Muhsen has filed a new petition to the Israeli High Court and is now hoping for a process to start.

6. A process of land confiscations

As mentioned earlier, a large part of the settlements are built on privately owned Palestinian land, and are hence in violation of the Israeli domestic law on property rights,²⁴ as of the Israeli High Court decision of 1979 which only allows settlement construction on state land. While prohibiting confiscation of private land this ruling opened up for further confiscation of land, by declaring it as state land. This policy makes confiscations appear to be legal while they, according to international humanitarian law, are illegal regardless if they consist of private or public/state land.

The legal system governing land ownership on the West Bank is complex, consisting of traces from the Ottoman Empire, British Mandate Law, Jordanian and Israeli law. Since 1967, Israel has made use of Ottoman Law dating back to the middle of the 19th century.

According to the Ottoman Law, all land is considered to be state land unless proven otherwise.²⁵ In order to formally register the land as private land an individual must cultivate the land for at least ten years. If the land is not registered, the one who cultivates it will be considered the owner if he also pays taxes for the land. If the land is not proven to have been cultivated for three consecutive years, it may become the property of the state and hence be declared state land. A considerable amount of land in the settlements has been declared state land according to these legal principles.

The occupation of the West Bank brought about economic changes for the Palestinian population and many farmers left their former profession to become workers inside Israel, resulting in even more land left uncultivated and therefore declared as state land. About one third of the West Bank is today designated state land by Israel. Before 1967 only eleven per cent was registered as state land (by Jordan).

Today, private Palestinian land in the West Bank was either formally registered before 1968, or is recognised as private land, according to the Ottoman legislation described above. An extensive report from Peace Now, published in 2006, shows that more than 30% of the existing settlements are built on private land, which is a violation even of Israeli law.²⁶

Prior to the Israeli High Court of Justice case of 1979, the Israeli government officially allowed the building of settlements on private land based on the right to "seize land for military purposes". After the High Court had declared that the construction of settlements did not constitute an act of security, this practice

²⁴ Israel's Basic law: Human Dignity and Freedom.

²⁵ Interview with Peace Now, 1 June 2008.

²⁶ Peace Now, Breaking the Law in the West Bank: The Private Land Report, Nov 2006.

came to an end. Yet it has been reported that the reference to "seizure for military purposes" is still used as a reason for the construction, if not of the settlements themselves, of the surrounding barrier or the adjacent roads for the settlers.²⁷ Land that is used for roads can by law be confiscated from Palestinians, since it is assumed that roads also serve the Palestinian population.

Israeli companies can buy land on the West Bank if the land is registered by either the Israeli or Palestinian authorities. In most cases companies lease land, generally for 49 or 98 years.

According to international humanitarian law the settlements are illegal, even if built on state land, for the reasons declared below.

²⁷ Ibid.

7. Israeli settlements an obstacle to peace

The Government of Israel has supported the construction and growth of settlements inside occupied Palestinian territory since the beginning of the occupation in 1967. At present, there are 149 settlements established on the West Bank, including in East Jerusalem. The settlements currently control more than 40 % of the West Bank and house more than 460 000 settlers and are, according to the United Nations Office for the Coordination of Humanitarian Affairs, increasing by the equivalent of approximately one and a half busloads per day (including natural growth).²⁸

The settlements are accompanied by a vast infrastructure - the barrier, a separate road system for the inhabitants of the settlements and hundreds of check-points and other movement restrictions - which constitute a severe impediment to the Palestinians pursuing their daily lives.

In 2004 the International Court of Justice concluded that the settlements had been established in breach of international law. In its 2004 Advisory Opinion on the legality of the Wall the Court noted that the barrier will enclose approximately 80% of the Israeli settlers on the "Israeli" side and hence risks amounting to a de facto annexation of Palestinian land.²⁹

Movement restrictions caused by these settlements have exerted severe humanitarian consequences for the Palestinian population such as increasing poverty and unemployment while hindering access to health care and education. The World Bank has several times declared that the main reason for the negative economic development of the West Bank is the restrictions on movement, whose *raison d'être* is the settlements. The movement restrictions constitute serious violations of international human rights law, under which the Palestinians are guaranteed the right to health care, education and family life.

²⁸ UN OCHA, The Humanitarian Impact on Palestinians of Israeli Settlements and other Infrastructure in the West Bank, July 2007.

²⁹ The International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, [2004] I.C.J. Rep. 136.



The Israeli checkpoints between Palestinian communities block the commercial and the social life of the Palestinian population.

8. International law violations

The settlements have been constructed, and are expanding, despite the fact that they are illegal under international law and despite the fact that they have been declared a major obstacle to peace between the Israelis and the Palestinians.³⁰ This has been underscored by the international community through United Nations Security Council and General Assembly resolutions, statements by the High Contracting Parties to the Fourth Geneva Convention and by the International Court of Justice.

The UN Security Council in 1979 determined *“that the policy and practice of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”*³¹

More than one aspect of the settlements presents a violation of international humanitarian law. The first violation is constituted by the transfer of Israeli civilians into the occupied territory, the second, by the appropriation and the destruction of both private and public property, and the third by the extension of Israeli jurisdiction over areas outside of its territory. On a more general level, the settlements violate the core international humanitarian law principle of the protection of the occupied population, and various human rights principles.

According to Article 49(6) of the Fourth Geneva Convention it is absolutely prohibited for the occupying power to transfer its own civilian population into occupied territory.³² Breach of the article constitutes a serious violation of international humanitarian law, amounting to a war crime.³³

The rationale of the prohibition is that occupation is intended to be a temporary institution and the occupying power is prevented by law from changing the demography, law, public order etc. in the occupied territory.³⁴ The International Court of Justice has confirmed that the prohibition does not just cover the actual transfer of persons, but also any measures taken by an occupying power in order to organise or encourage transfers of parts of its own population into the occupied territory. This would cover the Government of Israel’s promotion of such transfer by use of wide-ranging economic subsidises to settlement inhabitants,

30 Kofi Annan quoted in UN News Service, Israel’s separation wall ‘obstacle’ to two-State solution – Annan, 2 Oct 2003.

31 UN Security Council, Resolution 446 of 22 March 1979.

32 “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”.

33 Henckaerts, J-M. and Doswald-Beck L, Customary International Humanitarian Law – Volume I: Rules, CUP, 2005, pp 568, 576, 578.

34 International Court of Justice, Advisory Opinion on the legal consequences of the construction of a Wall in the occupied Palestinian territory, para. 120.

including to companies based in the settlements (see further information in Box 2 at the end of this chapter).

Legally “occupation” refers to a temporary state of being; the occupying power does not gain sovereign rights over the occupied territory and must administer it as a temporary caretaker, according to Article 55 of the Hague Regulations.³⁵ Expropriating large areas of land, establishing new cities³⁶, housing hundreds of thousands of Israelis, constructing Israeli-only hospitals, schools and a university within the settlements amounts to an establishment of “facts on the ground” that are incongruent with the supposed temporality of occupation. The extension of Israeli law and the jurisdiction of Israeli courts (contrary to Art. 43 of the Hague Regulations³⁷) over the space and inhabitants of the settlements in Palestinian territory further amounts to *de facto* assertion of sovereignty over the territory.³⁸

The UN Security Council holds:

*“That all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity.”*³⁹

In international humanitarian law the occupying power is, to a certain extent, allowed to use the occupied ‘state land’:

*“The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied Country.”*⁴⁰

The concept of “usufruct” as a legal term means a legal right to use and to (literally) take the fruits of property, but not the right to own, destroy, change, encumber, expropriate or sell it, or to allow these actions to be taken by others.

The requirement to ‘safeguard’ state property is congruent with the temporary nature of occupation. As such, the establishment of settlements in the occupied Palestinian territory amounts to a breach of Article 55 of the Hague Regulations.

35 Hague Convention (IV) of 1907 respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (“The Hague Regulations”).

36 A number of settlements have been granted city status. B’Tselem, Land Grab: Israel’s Settlement Policy in the West Bank, May 2002, Chapter 4.

37 Article 43 of the 1907 Hague Regulations requires the occupying power to respect the laws applying in the occupied territory.

38 On successive Israeli governments’ plans and policies see B’Tselem, Land Grab: Israel’s Settlement Policy in the West Bank, May 2002, Chapter 1.

39 UN Security Council, Resolution 465 of 1 March 1980, para. 5.

40 Article 55 Hague Regulations.

In addition, as mentioned above, the appropriation or destruction of property without military need is contrary to Fourth Geneva Convention⁴¹ and may amount to a war crime if it is carried out on a large scale.

Despite the Israeli government's promises to freeze all settlement activity, both under the Quartet's "Road Map for Peace" from 2002 and in various statements in the context of the Annapolis Conference in late 2007, expansion is still continuing. After the peace negotiations were initiated in Annapolis, hundreds of new housing units have been constructed and new tenders for construction have been issued.⁴²

41 Article 53, 4th Geneva Convention: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."

42 B'Tselem's website: www.btselem.org

Box 3: Benefits and incentives to companies in Israeli industrial zones ¹

The State of Israel encourages both local and foreign investment in the illegal settlements by offering a wide range of incentives and benefits to investors in industry, tourism and real estate. Special emphasis is currently placed on hi-tech companies and research and development activities.²

To qualify, investment projects must meet certain criteria such as international competitiveness and high added value. The company must also be registered in Israel. Incentives include grants of up to 24% of tangible fixed assets and/or reduced tax rates, tax exemptions and other tax-related benefits.

The benefits and grants awarded to a specific enterprise depend on the location of the company in question. The authorities have defined different so called “National Priority Areas” and according to Israel’s Investment Promotion Center at the Ministry of Industry, Trade and Labour, the Barkan industrial zone is included in Priority Area A.³ Companies investing in these areas receive the most extensive tax exemptions.

Assa Abloy has confirmed that Mul-T-Lock receives subsidies from the Israeli state, such as repayment of investments and reduction in taxes, but the company refrains from publishing any figures. Moreover, Assa Abloy has chosen not to answer the question as to who owns the land on which the factory is situated. In other settlements companies have been offered either to buy or to lease the confiscated land on sometimes very favourable conditions.⁴

1. Information in this chapter concerning incentives given to companies investing in Israel’s industrial zones is based on Investment Promotion Center’s website: <http://www.investinIsrael.gov.il>

2. Investment incentives are outlined in the Law for the Encouragement of Capital Investment, which was recently revised, and currently two types of incentive programs exist: The Grants Programme (administered by the Israel Investment Center, a department of the Ministry of Industry, Trade and Labour) and the Automatic Tax Benefits Programme (administered by the Israeli Tax Authorities).

3. Information given by the Director of Foreign Investments at the Investment Promotion Center at the Ministry of Industry, Trade and Labour, 15 April 2008.

4. Interview with Bimkom, 11 September 2008. Bimkom is an organisation that was established in May 1999 by planners and architects with the goal of strengthening the connection between human rights and spatial planning in Israel. Website: www.bimkom.org/aboutEng.asp

9. Companies' responsibility under international humanitarian law

International humanitarian and human rights laws primarily set out obligations for state actors. Under the principle of individual criminal responsibility, however, individuals – also the CEOs of companies – can be held individually responsible for certain grave violations of international law, including war crimes.⁴³

Although it has not yet been fully crystallised to what extent private companies as such bear legal responsibility under international law, it should be noted that soft law, e.g. the OECD Guidelines, ILO declarations and the UN Global Compact, clearly sets out standards of behaviour for companies that closely correspond to the international legal obligations of states. The same standards of behaviour stem from a moral and ethical framework of rules. This includes, as a minimum, a duty for companies to fully respect existing international humanitarian and human rights law, both in terms of avoiding to deprive individuals of their rights and to avoid contributing in any way to such deprivation.

Businessmen and women may either be found directly liable for the commission of crimes against international law or they may be found to have assisted others in the commission of a crime. Recently, there have been an increasing number of court cases in the US against companies operating in conflict zones. These companies (and often also their directors) are accused of complicity in war crimes, such as gross human rights abuses, apartheid, torture, wilful killing etc.⁴⁴ Civil claims for compensation and punitive damages are being filed against companies and their directors by victims and rights groups.

The Israeli appropriation of the land where the Mul-T-Lock facility is situated is clearly in violation of international humanitarian law. By acquiring assets

⁴³ War crimes encompass serious violations of the laws and customs of war and international humanitarian law applicable to both international and non-international armed conflicts. The International Criminal Court Statute contains a comprehensive list of war crimes, which include: wilful killing, torture, inhuman treatment, wilfully causing great suffering or serious injury, extensive destruction or appropriation of property not justified by military necessity, unlawful deportation or transfer or displacement of the civilian population and intentionally directing attacks against civilian populations. They also include property offences such as pillage and unlawfully destroying or seizing property. See also, International Commission of Jurists, *Corporate Complicity & Legal Accountability*, 2008, Volume 2, p 4.

⁴⁴ E.g.: *Apartheid Litigation Cases* (In re: South African Apartheid Litigation, 346 F. Supp. 2d 538, 2004); Cynthia Corrie, et al., v Caterpillar, Inc., A Foreign Corporation, Case No. C05-5192FDB.

such as a leasehold where a facility is situated, an owner of a company may be accused of pillage. Pillage is a crime under international humanitarian law and company officials must safeguard that they are not acquiring resources and property without the consent of the rightful owners. According to the International Committee of the Red Cross, pillage is not limited to the acquisition of assets by force. Acquiring assets by entering into contracts based on a position of power derived from the surrounding conflict, as well as knowingly receiving goods obtained against the will of the true owner, have been deemed pillage in courts.⁴⁵

In addition to the violations related to property, company decision makers may also be seen as assisting in, or contributing to, the violation of Article 49(6) in the Fourth Geneva Convention⁴⁶ when, for example by relocating a factory to a settlement or building a new factory, they cause the transfer of Israeli citizens to the settlements, who come as workers with their families. The mere fact that companies exist makes it possible, in theory, for such population transfers to take place due to job opportunities arising due to their operation in illegal settlements in occupied territories.

In July 2008, a civil suit was launched against two Canadian parent companies and their director, who were accused of violating Article 49(6) through building new homes in the Israeli settlement Modi'in Ilit, built on the lands of the Palestinian village of Bil'in.⁴⁷ The building of new homes was considered to directly encourage the transfer of civilians to the settlement. Another ongoing case related to the conflict concerns the French company Alstom. The company is being sued in France for its building and future exploitation of the tramway that will connect the centre of Jerusalem to the outlying settlements. The tramway contributes to the viability of the settlements and runs over illegally confiscated land.⁴⁸

Assa Abloy did not set up the factory in the illegal settlement of Barkan, but

45 ICRC, *Business & International Humanitarian Law: An introduction to the rights and obligations of business enterprises under International Humanitarian Law*, Nov 2006, Chapter 3. The International Commission of Jurists (ICJ) further notes that “/o/utside the context of armed conflict, pillage is called “theft”, and all domestic criminal jurisdictions prohibit theft. Laws prohibiting theft or receipt of stolen property may also be relevant to instances of transfer of private property to companies for business use.” International Commission of Jurists, *Corporate Complicity & Legal Accountability*, 2008, Volume 2, p 41-42.

46 The full text is available at www.unhchr.ch/html/menu3/b/92.htm

47 (Petition) Bil'in (Village Council) and Ahmed Yassin v Green Park International, Inc, Green Mount International Inc and Annette Laroche, Superior Court, Province of Québec, District of Montreal, No. 500-17-044030-081.

48 L'Association France Palestine Solidarité (AFPS) v ALSTOM and VEOLIA TRANSPORT, Tribunal de Grande Instance de NANTERRE, March 2007.

the company has chosen to maintain its location. Moreover, according to the local management in Barkan, Mul-T-Lock is increasing production in Barkan and the company has recently made major investments in this facility.

10. International companies abandon settlements

In December 2004 the Dutch beer company Heineken signed a memorandum of understanding with the Israeli Tempo Beer Industries (TBI) to acquire 40% of the shares of a new beer and beverage company in Israel.⁴⁹ Heineken suddenly found itself in a situation not unlike Assa Abloy's, since TBI is the main owner of the wine brand "Barkan Wineries" with a large facility in Barkan.

About four years ago the Barkan Wineries began the process of moving their operations to Kibbutz Hulda which is located within the recognised territory of Israel. In September 2008 they announced they would permanently close down the facility in Barkan. When the Coalition of Women for Peace visited Barkan recently, operations at the factory had been stopped and a sign saying that the real estate was for sale was displayed on the facilities.⁵⁰

According to Israeli peace organisations, the primary reason for moving out of the settlements was Heineken's situation, having controlling interest in the winery while being based in the Netherlands, whose government and foreign policy is firmly opposed to Israeli settlements. Exports to the EU may also have played a part in the move since products from settlements are not allowed to be imported under EU-Israel free trade agreements.

Neither Heineken, nor TBI and Barkan Wineries, have officially commented on the relocation of the factory as a political act. Asked by the Israeli News agency IMRA the company spokesperson replied that "politics were never part of our business decisions".

However, the company directors' report to the stockholders stated, according to the Ma'an News agency: "In the past, the location of the company's winery at the Barkan area caused a negative image and made difficult the exporting of the Barkan brands. Due to severe limitation caused by the size of the Barkan location, as well as due to problems connected with operating a winery beyond the Green Line, the company decided to remove the winery from the Barkan Industrial Zone and relocate it to the Hulda site".

Another multinational firm that faced problems operating in Israeli settlements

⁴⁹ Wall Street Journal, Market Watch 31 Dec 2004. This text is based on information published by Palestinian online news agency Ma'an News Agency, Israeli Winery Leaves Premises in Illegal West Bank Settlement, 31 Aug 2008 and Israeli news organisation IMRA, Gush Shalom congratulates the Barkan Wineries for leaving "Occupied Territories" with comment from Wineries to IMRA, 1 Sept 2008.

⁵⁰ Interview with Merav Amir at The Coalition of Women for Peace, 3 Oct 2008. The Coalition is a leading Israeli feminist peace organisation, <http://coalitionofwomen.org/home>.

is the Danish-owned security company Group 4 Falck.⁵¹ In October 2002 the British newspaper The Guardian reported that the Israeli company Hashmira, a subsidiary of Group-4-Falck, was supplying private security personnel to illegal Israeli settlements. At this time Denmark held the Presidency of the EU and the company faced severe criticism from Danish human rights organisations as well as politicians. The Danish Socialist MP Soren Sondergaard accused the company of "...making money of people's misery" and being "complicit in the maintenance of settlements which the UN has with absolute clarity deemed illegal".

In the end Group 4 Falck took action and the Chief Executive Officer at that time, Lars Norby Johansen, ordered a review of Hashmira's role in the West Bank. Soon afterwards Group 4 Falck announced that it would pull Hashmira's security staff out of the West Bank.

⁵¹ The information about this case is taken from The Guardian, Group 4 Security Firm Pulls Guards Out of West Bank, 9 Oct 2002. In 2004 Group 4 Falck merged with British Securicor and a joint company was created named Group 4 Securicor.

11. Assa Abloy denies any wrongdoing

Responding to criticism of its Mul-T-Lock factory in the occupied territories, Assa Abloy refers to its Code of Conduct adopted in 2004, four years after Mul-T-Lock was acquired. This code was revised in January 2007 and covers issues such as freedom of association, discrimination, environmental practices and health and safety aspects. It is based on the UN Declaration of Human Rights and relevant UN conventions, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises, the UN Global Compact and ISO 14001.

According to the UN Global Compact, which Assa Abloy joined in May 2008, companies should “support and respect the protection of internationally proclaimed human rights.”⁵² Global Compact defines “beneficial complicity” as when *“a company benefits directly from human rights abuses committed by someone else. For example, violations committed by security forces, such as the suppression of a peaceful protest against business activities or the use of repressive measures while guarding company facilities, are often cited in this context”*.

As Assa Abloy’s Barkan factory enjoys the Israeli military protection of the settlements, which has included a large number of repressive measures including human rights abuses condemned by the international community, it may be argued that Assa Abloy is a beneficial complicit to these abuses.

Assa Abloy notes that circumstances may arise, which require human rights perspectives other than those mentioned in the code:

*“Even if such circumstances are not common, ASSA ABLOY is aware of the potential impact on human rights and acts according to relevant international or local law. If no official guidelines are available, ASSA ABLOY will seek other sources so as to choose the best approach under the specific circumstances.”*⁵³

Assa Abloy has chosen not to answer questions⁵⁴ on how they view the fact that the factory is located in a settlement regarded as illegal according to international law, and on land not recognised as Israeli territory by Sweden, the EU, the US or the UN. Nor does the company explain if it believes that the location is in line with the spirit of the company’s own Code of Conduct. Assa Abloy further chooses not to respond to questions about who actually owns the land where Mul-T-Lock’s Barkan factory is located or if it has taken any action to safeguard that the land use does not violate the rights of local communities. As mentioned above the company is investing in the plant. Diakonia/Church of

⁵² Global Compact, Principle 1 and 2.

⁵³ Assa Abloy’s Code of Conduct, section 3.8 on page 26.

⁵⁴ See Annex 1 of this report for Assa Abloy’s full response.

Sweden/SwedWatch have asked Assa Abloy if the company believes that there is a risk that they will be considered to be taking part in the illegal expansion of settlements. Assa Abloy has chosen not to answer this question.

Instead the company's spokesperson, Ann Holmberg, states that the Barkan industrial zone is supported and officially authorised by the Israeli government.

“Like in all other Mul-T-Lock companies the operations at the Barkan factory are operated in accordance with Israeli law”.

At the same time the company spokesperson admits that the Barkan factory is situated on occupied territory. Still, the company does not appear to conclude that the ownership of a factory in an illegal settlement is in contradiction with its own Code of Conduct or the conventions and guidelines on which it is based.

Products from the Mul-T-Lock factory in Barkan are exported to several countries within the EU. According to the EU-Israel trade agreements, products manufactured in settlements are not included in the free trade agreements and should be subject to normal taxation. Initially Assa Abloy did not answer the question on how they safeguard that products manufactured in Barkan are not imported to the EU under the free trade agreement. In an additional comment, just before the publication of this report, Assa Abloy stated that only components are manufactured at the Barkan plant and that the company therefore meets the requirements of the free trade agreement.

Assa Abloy's full response to Diakonia's/Church of Sweden's/SwedWatch's questions is found in Annex 1 and 2.

12. Conclusions

In this report Diakonia, Church of Sweden and SwedWatch have shown that Assa Abloy operates a factory in Barkan, an Israeli settlement situated in the heart of the West Bank. The illegality of Israeli settlements on the West Bank under international humanitarian law is undisputed. Consequently, by operating a factory in Barkan we conclude that Assa Abloy is disrespecting international humanitarian law. Furthermore, by choosing to operate in Barkan, Assa Abloy is taking action which is counterproductive to the ongoing peace process between the Government of Israel and the Palestinian Authority.

We further conclude that Assa Abloy fails to meet the standards established by itself in its own Code of Conduct. The company also conducts its business in stark contrast to the policy of the government of Sweden, currently supported by all political parties in the Swedish Parliament.

The settlements constitute a major constraint on the peace process, but Assa Abloy does not seem to question its role on the West Bank. Instead the company states that the operations abide by Israeli legislation.

By taking over and making new investments in the Mul-T-Lock factory in Barkan, Assa Abloy has chosen a situation where the company actively acts counter to ongoing political and economic efforts to improve the situation. Efforts made by international institutions as well as governments of countries where Assa Abloy has substantial markets, operations and shareholders. The Middle East Quartet (the EU, the UN, Russia and the US) has expressed its collective opposition to the settlements and has, on 18 occasions since its inception, warned of the dangers of continued expansion to the process.⁵⁵

The Mul-T-Lock facility in Barkan benefits from Israeli subsidies to companies located inside illegal settlements. At the same time governments and organisations in Sweden, the EU and the US are spending huge amounts of humanitarian aid funding to counter the humanitarian crises partly caused by these same settlements.

The settlement policy has several times been condemned by the UN Security Council. Assa Abloy's Code of Conduct is based on the UN Declaration of Human Rights and relevant UN conventions, however the company seems to disregard the ethical aspects of the factory's location or its legality under international humanitarian law.

⁵⁵ See US Department of State, Middle East Quartet Statements, available at <http://www.state.gov/p/nea/rt/c9963.htm>

Diakonia, Church of Sweden and SwedWatch urge Assa Abloy:

- to stop immediately all investments in the production plant in Barkan and move the plant into Israel or any other location that does not disrespect international legislation.
- parallel to the demand to move its operations from the Barkan Settlement, we also urge Assa Abloy to invite an independent investigation regarding the ownership of the land and to examine possible damages and suitable reparations to private or public Palestinian interests. Although the location of Assa Abloy's Mul-T-Lock plant is illegal, irrespective of whether it is located on confiscated public or private land, those individuals who have suffered have a special right to reparations.

Diakonia, Church of Sweden and SwedWatch invite Assa Abloy to further discussions on the steps that need to be taken.

Annex 1.

Questions sent to Assa Abloy regarding Mul-T-Lock in Barkan, 16 June 2008

Diakonia and Church of Sweden in cooperation with SwedWatch are working on a study regarding the Mul-T-Lock manufacturing facility in the Barkan Settlement. Since Mul-T-Lock is fully owned by Swedish Assa Abloy we have a number of questions for Assa Abloy.

1. Has Assa Abloy's Code of Conduct been implemented within Mul-T-Lock?
2. In Chapter 3.10 of Assa Abloy's Code of Conduct on community outreach, the company's role in the local, regional and global community is described. How has this goal been implemented at Mul-T-Lock in Barkan?
3. The Mul-T-Lock production facility in Barkan is located in a settlement regarded as illegal according to international law, and on land not recognised as Israeli territory by Sweden, the EU, the US or the UN.
 - a. In what country is the factory in Barkan located according to Assa Abloy?
 - b. Has the issue regarding the location of the factory been the subject of discussions at Assa Abloy?
 - c. Is there a plan in place to solve this issue?
 - d. How would Assa Abloy regard the ownership of a factory in an illegal settlement in view of the content of the company's Code of Conduct and its clear statement on high-level requirements as concerns unlawful business practices, respect for human rights and local and international law (for example in chapters 1, 2 and 3)?
 - e. How would Assa Abloy regard the ownership of a factory in an illegal settlement in relation to the bases (as stated Chapter 1, Introduction) of the Code of Conduct, including relevant UN conventions and the UN Global Compact (including compliance with local and international law, and promoting the rule of law, as stated in Global Compact explanation of Principle 1)?
4. Enterprises establishing in Barkan (by Israel currently defined as a Priority Area A) are the recipients of several financial benefits.
 - a. To what extent did the former owner of the factory benefit financially from establishing the factory in a settlement?
 - b. Since Assa Abloy acquired Mul-T-Lock, to what extent has the company benefited financially from the location of the factory in the Barkan Settlement?
 - c. Do the present operations reap any benefits from the location of the factory?
5. The Barkan Settlement is located on land that historically belonged to the

inhabitants of Haris Village. In several cases the inhabitants did not accept the legal grounds for the confiscation order for the land.

- a. Who owns the land where the Mul-T-Lock factory is located?
- b. Has Mul-T-Lock or Assa Abloy taken any action to safeguard that their use of land does not violate the rights of local communities?
- c. Has Mul-T-Lock or Assa Abloy taken any action to safeguard that their use of the land does not violate the right to protection of private property as stated in international law (Human Rights and 4th Geneva Convention)?

6. According to local Israeli and Palestinian labour organisations there are several cases of misconduct by employers in Barkan towards employees with Palestinian backgrounds such as the use of subcontractors as a method of bypassing regulations on, for example, the legal minimum wage. According to a local manager at the Mul-T-Lock factory they have only one employee of Palestinian background. We have chosen to not contact this employee, but would like to know:

- a. Does the Palestinian employee enjoy equal rights to his Israeli colleagues?
- b. Does Mul-T-Lock safeguard that this employee is paid according to local rules on minimum wage?

7. The products from the Mul-T-Lock factory in Barkan are exported to several countries within the EU. According to the EU-Israel trade agreements, products manufactured in settlements are not included in free trade agreements and should be subject to normal taxation. Does Mul-T-Lock and Assa Abloy safeguard in any way that products manufactured in Barkan are not imported to the EU under free trade agreements?

8. According to local sources the factory is expanding and new investments are being done. How do you regard the risk of Mul-T-Lock being seen as taking part in the illegal expansion of settlements, activities criticised and condemned by, for example, Sweden, the EU, the US and the UN?

9. According to Mul-T-Lock "Quality, Environmental Quality, Safety and Hygiene Policies" all company activities should comply with applicable laws, orders, protocols and standards. Mul-T-Lock is located in Israel whose government differs from Sweden (where Assa Abloy is based), the EU, the US and the UN regarding the interpretation of international law concerning settlements in the occupied Palestinian territory.

- a. Does Mul-T-Lock consider human rights and international humanitarian law applicable to its operations in Barkan?
- b. Do Mul-T-Lock and Assa Abloy share the same position on the applicability of HR and IHL to operations in Barkan?

10. The general business operation in Barkan has been subject to criticism from local environmental organisations. According to our sources the Mul-T-Lock

facility has not been subject to criticism in this matter, is this correct?

Response from ASSA ABLOY

The company's response to the above questions was received on 1 August 2008. Assa Abloy was given ample time to respond to them.

ASSA ABLOY has, since the company was founded in 1994, acquired more than 150 companies around the world. The corporation has carried out these acquisitions to get into local markets and today has companies in 50 countries. Since Assa Abloy was created it has actively worked to build and nurture a company culture based on clear values. To improve the adherence to these a corporate social responsibility code of conduct was introduced in 2004. It states that Assa Abloy always respects applicable laws and regulations where it carries out its operations. The code further states that Assa Abloy rejects all forms of discrimination. The Code of conduct covers, and has been communicated to, all employees' rights and obligations. It also contains a "whistle blowing mechanism", giving all employees who experience that they are treated in a way that contravenes the Code of conduct the possibility to raise their concerns to the head quarters in Stockholm, either publicly or anonymously.

The Code of conduct has been translated into Hebrew and all employees at Mul-T-Lock have received a copy. All new employees have participated in Assa Abloy's introduction program, which among other things explains Assa Abloy's values, strategies and company culture. As part of the program the Code is distributed and explained.

Mul-T-Lock was founded in 1973 and acquired by Assa Abloy in year 2000. The Barkan factory was founded in 1984 by Mul-T-Lock's former owner. The industry's location in the Barkan industrial zone was chosen because of its proximity to Tel Aviv and only one hour drive from Mul-T-Lock's other plant in Yavne, south of Tel Aviv. The Barkan industrial zone is supported and officially recognized by the Israeli government. Its industries receive government subsidies, like the repayment of investments and favorable taxation. It is one of the largest industrial zones in Israel and includes about 100 companies.

The Mul-T-Lock plant in Barkan has about 100 employees and the company has invested the latest technologies and machinery. The focus is on the production of cylinder components. Like in all other Mul-T-Lock's plants the production in the Barkan factory is carried out in accordance with Israeli law. Salaries are above the established minimum wage in Israel and all employees have social benefits above the standard levels in Israeli industries. Mul-T-Lock has further reached very good results in Assa Abloy's employee satisfaction evaluations and is seen as an attractive employer in Israel. All Mul-T-Lock's plants, including the one in Barkan, are certified according to ISO 9001, ISO 14001 and ISO 1800 (the Israeli standard).

Annex 2.

Assa Abloy's comments to the report

Assa Abloy has been given the opportunity to comment on the full content of this report. The report was sent to the company on 9 October 2008. The following letter was received on 15 October 2008.

Comment from ASSA ABLOY regarding Mul-T-Locks manufacturing site in Barkan

Mul-T-Lock was established in 1973 and was acquired by ASSA ABLOY in 2000. The Barkan plant was founded by the former owners of Mul-T-Lock in 1984. Mul-T-Lock is an Israeli company which acts in accordance with applicable law in Israel.

Mul-T-Lock's main factory is located in Yavne, Israel. The Barkan factory is used for production of certain components only.

Mul-T-Lock's export activity is examined regularly by the Israeli customs authorities in relation to the free trade agreement between Israel and the EU. Mul-T-Lock fully meets the requirements set by said agreement. Please find enclosed a copy of the Approved Exporter certificate of Mul-T-Lock, which is valid until 5.9.2010.

The Barkan plant has been declared an Approved Enterprise by the Israeli government in accordance with the laws of Israel.



ISRAEL TAX AUTHORITY

CUSTOMS DIRECTORATE

CERTIFICATE of "APPROVED EXPORTER"

The holder of this certificate has been authorized as an "Approved Exporter" by the Customs Directorate, according to the Free Trade Agreements, signed by the State of Israel and the European Community, EFTA States, Turkey, Jordan and/or any other country subject to notification by the Competent Authority.


The holder of this Certificate is authorized to issue Invoice Declarations irrespective of the value of the goods covered by them, as an alternative to Movement Certificates Eur-1 or Eur-Med in accordance with said agreements and the directives published by the Israeli Customs.

Name of the Exporter:

MUL-T-LOCK TECHNOLOGIES LTD

Authorization No.:

510742190

Valid until:	Validity extended until:	Validity extended until:
 OFFICIAL STAMP	 OFFICIAL STAMP	 OFFICIAL STAMP

Annex 3.

The Assa Abloy ownership structure

The ownership structure of Assa Abloy at the end of 2007:

OWNER	CAPITAL (%)	VOTES (%)
Investment AB Latour	7.2	16.1
Säkl	2.6	13.6
Melker Schöring AB	4.0	11.6
Alecta	7.3	5
Swedbank Robur fonder	4.0	2.7
Oppenheimer fonder	3.5	2.4
Fidelity fonder	3.4	2.3
Harbor Funds Inc	3.3	2.2
SEB fonder	2.4	1.6
Wärtsilä Corporation	2.0	1.4
Other owners (foreign)	45	30.5
Other owners (Swedish)	21	14.5
Other owners (Swedish private individuals)	5.4	3.6
TOTAL	100	100

Source: Assa Abloy's Annual Report of 2007

Several Swedish public pension funds also hold interests in the company. Recent figures show a common ownership valued at almost SEK 1.3 billion, equivalent to USD 210 million.

NAME OF PUBLIC PENSION FUND	NUMBER OF SHARES	MARKET VALUE (SEK)	MARKET VALUE (USD) ¹
AP1 ²	525,837	45,879,278	6,705,536
AP2 ³	3,764,971	488,505,000	83,045,850
AP3 ⁴	3,360,671	293,219,000	48,072,629
AP4 ⁵	3,283,800	287,000,000	47,053,037
AP7 (Premiesparfonden) ⁶	1,676,004	153,773,367	25,210,815
AP7 (Premievalsfonden) ⁷	34,430	3,158,953	517,904
TOTAL	12,645,713	1,271,535,598	210,605,771

1. The exchange rates of Forex have been used to calculate the market value in USD for each date.

2. Holdings per 30 June 2008, available at the AP1 website.

3. Holdings per 31 Dec 2007, available at the AP2 website.

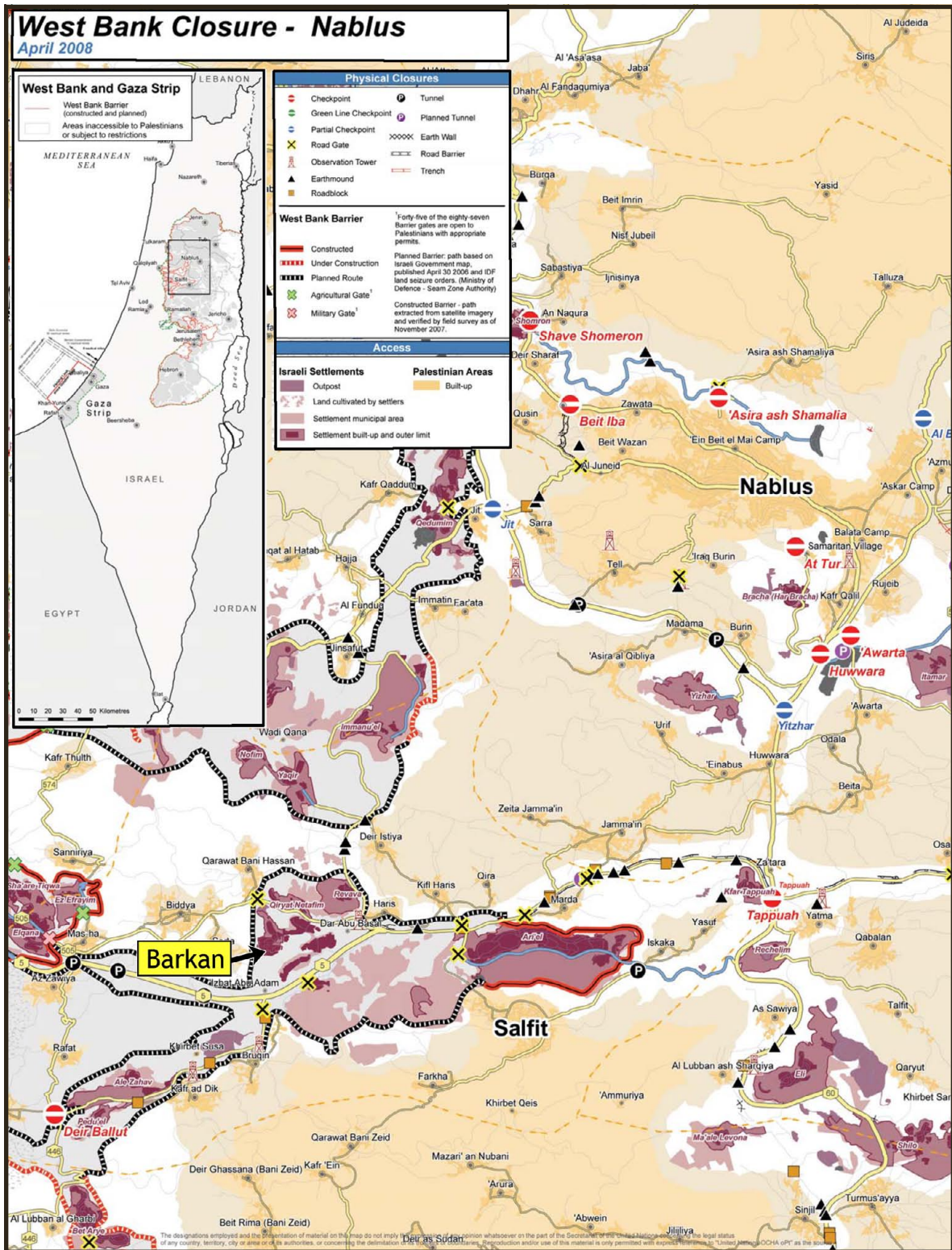
4. Holdings per 30 June 2008, available at the AP3' website.

5. Holdings per 30 June 2008, available at the AP4 website.

6. Holdings per 19 Aug 2008, available at the AP7 website.

7. Holdings per 19 Aug 2008, available at the AP7 website.

Annex 4: Maps



Map showing Barkan in the West Bank, the settlements and the physical closures.

Source: UNOCHA, modified by SwedWatch.

List of References

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AP3's website: www.ap3.se

AP4's website: www.ap4.se

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