

Dear President,

We are writing to inform the House of Representatives of the government's assessment of the external review carried out by Proximities Risk Consultancy of possible links between the Palestinian non-governmental organisation (NGO) Union of Agricultural Work Committees (UAWC) and the Popular Front for the Liberation of Palestine (PFLP), which the EU considers a terrorist organisation. We would also like to inform the House of the government's decision, in response to the external review, concerning possible continuation of Dutch cooperation with UAWC.

Government position on two-state solution and importance of Palestinian civil society

The government continues to support a two-state solution, in which a secure Israel and an independent, democratic and viable Palestinian state would coexist side by side in peace. The Netherlands contributes to efforts to reach this goal through development cooperation programmes that strengthen Palestinian governance and help in the construction of a sustainable Palestinian economy. The development cooperation programme focuses mainly on access to land, water and energy, legal protection and economic development. Cooperation with Palestinian civil society is important to the development of a democratic Palestinian society, especially in a situation where the Palestinian parliament is not functioning and Hamas is governing part of the Palestinian Territories. Civil society organisations can provide scope for dissent from Palestinian Authority and Hamas decisions, and are to some extent accountable to Palestinian society. They also provide essential services to Palestinians living in Area C, and this contributes to a two-state solution. Unless the parties agree otherwise, the boundaries of a Palestinian state should be based on those that existed before 4 June 1967. The agricultural programme that the Netherlands has been supporting, with the UAWC as lead party of the consortium, is being implemented in Area C, which makes up most (60%) of the occupied West Bank, contains most of the illegal Israeli settlements and includes almost all Palestinian agricultural land. For this reason, programmes like this – which give Palestinians access to land and water or assist them in successfully cultivating farmland – are essential to the viability of the Palestinian economy and of a future Palestinian state. This is why the Netherlands and many other donors support NGOs' efforts to this end.

NGOs' efforts are not only important in defending Palestinian access to Area C; NGOs also address other pressing issues related to the Israeli occupation of the West Bank. Palestinian as well as Israeli civil society play an important role in keeping the two-state solution alive. In general, the Dutch government sees a healthy, diverse and active civil society as a precondition for a well-functioning democracy. For these reasons, it will continue to support civil society in both the occupied Palestinian Territories and Israel. This is all the more important because NGOs are facing growing pressure as a result of their sometimes critical programmes.

Dutch cooperation with the UAWC

In September 2007 the Netherlands began funding the Land Development 2 programme, which was being implemented by a consortium including the UAWC as one of the partners. The UAWC continued to take part as an implementing partner organisation in Dutch-funded consortia in subsequent programmes. In 2013, in view of the UAWC's proven expertise, knowledge and capacity, it became the lead party in a new consortium to implement phase 1 of the Land and Water Resource Management programme. The total Dutch contribution to that programme, which continued through 2016 and was aimed at raising Palestinian farmers' production and incomes, was €8.5 million. Phase 2 of the programme began in 2017. This programme has been implemented in West Bank Area C and is aimed at helping Palestinian farmers retain their access to land and water. Support has also been provided to help farmers work in the most climate-responsible manner possible, for example by promoting effective reuse of rain water for agriculture and giving advice on planting water-efficient crops. The consortium received a contribution of €11.7 million from local funds for food security (ODA article 2.1) for a period of four years (2017-2020). €1.27 million was paid to the UAWC in 2020 under this programme. At the same time the UAWC took part in the FAO's Multi-donor Agribusiness Programme in the Palestinian Territories, with support from the Netherlands and other donors. This participation by the UAWC has been terminated. The UAWC also implemented projects financed by the EU, by a broad group of countries including Germany, Canada and Spain, and by a number of international NGOs.

Reason for external review

On 23 August 2019, the 17-year-old Israeli Rina Schnerb died in a bombing in the West Bank that was attributed to the PFLP. Not long after, in September 2019, two men were arrested on suspicion of involvement in the attack. The two suspects turned out to be employed by the UAWC, with which (as explained above) the Netherlands has had a development cooperation partnership since 2007. The trial of the two suspects is still currently underway.

After the arrest of these two employees, the UAWC terminated their employment, stopped paying their salaries and informed the Netherlands of Israel's suspicions of their involvement in the attack. The Netherlands Representative Office (NRO) in Ramallah subsequently asked the UAWC several times for explanations, and inquired about any role the two men might have played in the Dutch-funded project. The UAWC responded that neither of them was involved in managing the Dutch-funded activities. However, further examination of the records by the Ministry of Foreign Affairs showed that while the two employees were not directly involved in the Dutch-funded project with the UAWC, they had in fact received part of their salaries from the Dutch-funded overhead costs. Immediately following this discovery, on 9 July 2020, the then Minister for Foreign Trade and Development Cooperation decided to suspend payments to the UAWC; the contribution agreement makes this possible in cases where funding of an activity may be contrary to the Dutch government's foreign policy. The House of Representatives was informed of this action on 20 July 2020 in responses to parliamentary questions posed by MPs Kees van der Staaij, Raymond de Roon and Joël Voordewind (ref. 2020D30213).

Decision to launch external review

In 2012, allegations of possible ties between the UAWC and the PFLP led to a review by Australia. The Australian review concluded that the allegations were unfounded, despite the fact that several UAWC staff had been held in Israeli administrative detention. The conclusions of the Australian investigation were subsequently reflected in risk analyses conducted by the Netherlands and other donors as part of assessments of UAWC project applications. A significant factor in this connection is that the UAWC has never been designated as a terrorist organisation by either the EU or the UN, and that no UAWC board members or staff have ever been placed on EU sanctions lists. Furthermore, substantive and financial reports, working visits, independent audits by international audit organisations and other forms of oversight by the Netherlands and other donors never gave any indications that the UAWC had used contributions for purposes other than those agreed.

In view of the compelling, unique circumstances set out above, on 20 July 2020 (ref. 2020D30213) the Minister for Foreign Trade and Development Cooperation made a commitment to the House to commission an independent, external review of possible links between the UAWC and the PFLP. The review could potentially lead to a decision concerning the partnership between the Netherlands and the UAWC. Following a limited bidding procedure, the government informed the House on 26 January 2021 (ref. 23432, no. 480) that the external review would be conducted by the Dutch investigative firm Proximities Risk Consultancy.

The review began in February 2021. It involved both desk research – often making use of publicly accessible sources – and field visits to Israel and the Palestinian Territories, including interviews with the UAWC itself, the Israeli and Palestinian authorities, and other donors. Proximities' mandate, as laid down by the government, required the firm to use only information that could be checked and verified, and to draw conclusions only on that basis. Confidential information, supplied for example by intelligence services, therefore could not be used in the review. The review examined the entire period in which the Netherlands provided funding: 2007-2020.

Findings of the external review

The Ministry of Foreign Affairs accepted the report of the review from Proximities on 10 November 2021.

As there is no internationally recognised definition of the PFLP, Proximities had to draw up its own definition of the PFLP for the purposes of this review. Besides the PFLP's militant and political arms, the definition used by Proximities includes a number of civil society organisations that Proximities believes should be viewed as part of the PFLP framework. When the EU listed the PFLP as a terrorist organisation, it made no distinction between a political, militant or civil society arm, and no such

organisation has been designated by the EU as terrorist. So as not to unnecessarily damage these organisations, their names are not mentioned in this letter.

The external review shows that no evidence has been found of financial flows between the UAWC and the PFLP. Nor has any proof been found of organisational unity between the UAWC and the PFLP or of the PFLP's providing direction to the UAWC. Proximities does however state that there are individual links between the UAWC and the PFLP, involving 34 persons during the period from 2007 to 2020. According to the report, 28 of these 34 persons were members of the UAWC board, and for some period 12 of the 28 simultaneously had both leading positions in the UAWC and positions in the PFLP. Of these 12 people, 5 were active in an organisation that was allegedly part of the PFLP's civil society arm, while the other 7 were active in the PFLP's political arm. Proximities states that it found no evidence suggesting that UAWC staff or board members used their position in the UAWC to organise or support terrorist activities. Proximities also states that the UAWC is bound to the principle of non-discrimination on the grounds of political expression, and is not allowed to ask staff or board members about their political activities. On this basis, Proximities states that the UAWC could not be expected to be aware of individuals' links with the PFLP.

The report also states that there are indications of organisational ties between the UAWC and the PFLP as well. Proximities bases this conclusion on 18 events that took place in the period between 2007 and 2020: visits or contacts between representatives of the two organisations, expressions of solidarity, the use of each other's buildings, and joint meetings focusing mainly on matters and/or training courses related to agriculture. Most of these were joint activities of the UAWC and other civil society organisations that Proximities considers part of the PFLP's civil society arm. Of the 18 events, 14 took place before 2013. Except for three events in 2011-12 in the West Bank, all of these were joint meetings with the UAWC's Gaza branch. No ties with the PFLP's militant arm were found to exist. Proximities considers it reasonable to expect the UAWC to be aware of these organisational ties with the PFLP.

The government's assessment of external review findings

The government welcomes Proximities' report, and considers that it did thorough, painstaking research within the limits that are unavoidable in a review that must be based on interviews and verifiable, publicly accessible sources. In producing this report, Proximities has fulfilled its task and answered the questions posed in the Terms of Reference (ToR) (see appendix). The investigators have clearly explained how the review was conducted, how they have dealt with sources and what conclusions they have drawn. The government does however have a reservation regarding some of the individual findings which ultimately shape the overall conclusions. This is due to the fact that some of the findings are based only on a single source, which in the government's view means that they were not sufficiently established.

The government acknowledges that Proximities had to define the PFLP more comprehensively in order to make the review possible. However, it has doubts about Proximities' decision to consider various civil society organisations as part of the PFLP. Although Proximities gives reasons for this decision in the report, the government does not consider that it has made sufficiently clear to what extent these organisations are actually under the PFLP's direction or control. Moreover, none of these organisations has been designated as terrorist by the EU or the UN.

In the government's view, this review does not justify the conclusion that there are organisational links between the UAWC and the PFLP. The accounts of the 18 events cited by Proximities that supposedly demonstrate the links do not provide sufficient clarity about the background to these events, and mainly concern meetings in which civil society organisations took part that Proximities considers part of the PFLP's civil society arm. Furthermore, most of these findings are based on only a single source.

Proximities notes that no evidence has been found of financial flows between the UAWC and the PFLP. Nor has evidence been found of organisational unity between them or of the PFLP's providing direction to the UAWC. Proximities also states that there are no indications that UAWC staff or board members have used their position at the UAWC to organise or support terrorist activities.

The external review has, in the government's view, sufficiently established that there were ties at individual level between UAWC staff and board members and the PFLP for some considerable time.

The great number of UAWC board members with roles in both organisations gives particular cause for concern. In the government's judgment, on this point the quality of the review is high and the conclusion is founded on solid evidence, consisting of a significant number of cases over a long period, which moreover are confirmed by a range of sources. In the government's judgment, it is reasonable to assume that the UAWC was aware of these individual ties. The government therefore differs from Proximities regarding this finding. The UAWC could and should have realised that this is an undesirable situation for donors – or should at least have been conscious of the sensitivity of these ties – and should have informed donors of the situation. This was not done in the course of the external review, however, even though the UAWC had an opportunity to present its views. The ties to which these findings relate are also at odds with the UAWC's own policy that its staff may not be politically active.

The findings about individual-level ties between the UAWC and the PFLP, and the UAWC's lack of candour about the situation before or during the review, constitute sufficient reason in the government's view to no longer fund the UAWC's activities. The Netherlands will not transfer to the UAWC the last part of the Dutch financial contribution for the Land and Water Resource Management programme.

Because publication could cause disproportionate harm to the civil society organisations that the report describes as part of the PFLP's civil society arm, the government, working on the basis of the principle of 'do no harm', sees no possibility of making the external review public. For this reason, the government is sharing the report in confidence with the House of Representatives, and would be willing to provide a technical briefing in confidence concerning the conduct of the review.

Israel's decision to place NGOs on the terrorism list

On 22 October 2021, Israel decided to place six Palestinian NGOs, including the UAWC, on its national terrorism list, on the grounds that they were allegedly fully part of the PFLP. The government and Proximities both received information from Israel earlier this year about Palestinian civil society organisations ties' with the PFLP. However, the information provided was not initially sufficiently detailed or specific (see the letter to parliament of 12 May 2021, ref. 23432, no. 482, and the government's responses of 16 June 2021 to parliamentary questions posed by MP Wybren van Haga, ref. 2021Z10914). The government asked Israel to provide additional information on the recent listings. This additional information was received from Israel in mid-December. The government will try to work with other donors to arrive as much as possible at a joint assessment of the Israeli information, taking account of the motion submitted by MP Tunahan Kuzu (35925V no. 46). The process will be guided by the principle that the Israeli information must be convincing to justify the listings and to attach consequences to them. However, the government sees no reason to postpone a decision about Dutch cooperation with the UAWC until the result of the consultations with other donors is known.

Strengthening due diligence

After the Netherlands suspended its funding of the UAWC in July 2020, NRO Ramallah immediately intensified its due diligence, without waiting for the outcomes of the external review. This means that the risk management procedures during the identification and assessment of projects now include explicit questions about how an organisation deals with employees or board members who may be part of organisations that are on the EU or UN sanctions list. In this way, an extra check has been introduced to obtain at an early stage a picture of possible ties to such organisations, and implementing organisations are being sent a clear message that such ties are unacceptable for the Netherlands.

Internal report

In connection with this issue, the Ministry of Foreign Affairs has drafted an internal report surveying the extent to which the internal risk management with regard to the UAWC was conducted in accordance with the applicable rules and procedures. Consideration has been given to the advisability of making further changes in addition to the intensification of due diligence already instituted by NRO Ramallah.

In managing risks of terrorism, the Netherlands follows the EU's sanctions policy, which distinguishes between making funds available directly or indirectly. In the case of the UAWC, there is no question

of the Netherlands making funds available directly to a listed organisation, because neither the UAWC nor its staff are on the EU sanctions list. The external review has also not shown that the UAWC is part of the PFLP or that there are financial flows between the two organisations. Nor is there any information to suggest that funds have been made available indirectly to a listed organisation.

The internal report shows that the ministry correctly applied the rules and internal procedures for risk management during every phase of the activity cycle.

While the ministry has acted correctly and in accordance with the rules of the applicable assessment framework, the outcomes of the external review lead nonetheless to the conclusion that there can be a residual risk that the current risk management practices can only partly mitigate. The government believes that no infallible framework can be constructed in advance for determining the boundary between acceptable and unacceptable risks. This is inherent to the willingness of the Netherlands and other donors to take risks when working in complex political situations like the one in the West Bank. In such situations intended objectives, the ways of achieving them and the appraisal and mitigation of the risks that these efforts may entail must be continuously assessed.

Because making internal report public could be harmful for relations with other countries, the government is sharing it with the House in confidence.

Follow-up

A settlement was reached during the past year with various contractors and farmers who had had financial difficulties as a result of the Netherlands' decision to suspend payments to the UAWC. This was because they had already done work at their own expense as part of the programme with the UAWC before the decision was taken, and had not yet been paid for it. The House of Representatives was informed of this on 12 May 2021 (ref. 2021D17528). The settlement involves using a different Palestinian partner organisation to pay the farmers and contractors directly – of course with checks carried out by an international accountant. The UAWC is not a party to these transactions. The government has decided to reach a similar settlement with the junior consortium partners that have incurred costs for the programme.

The government attaches as much importance as ever to supporting civil society in the Palestinian Territories, so as to contribute to their socioeconomic development and preserve prospects for a two-state solution. To this end, the Netherlands will shortly launch a new land and water programme in the West Bank in order to continue supporting farmers in Area C, with different Palestinian partner organisations and a different lead party for the consortium. The applicable safeguards, including intensified due diligence, will of course be applied to this new programme.

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