

I-M-R-I
The Interfaith Group for Morally Responsible Investment
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Mr Neville White
Secretary
Ethical Investments Advisory Group
CCLA Investment Management Ltd
80 Cheapside
London
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7 April 2006

Dear Neville,

Caterpillar and the EIAG

It was a pleasure to meet you again in Ilminster last week and to debate with you at the meeting of the South Somerset Peace Group on the matter of the Church of England's ethical investments in relation to Palestine and in particular its ownership of shares in Caterpillar, Inc.

As you appreciate, following the Anglican Synod decision to heed the call from the Episcopal Church in Israel and Palestine and sell its investments in Caterpillar, there has been a good deal of surprise and even consternation that the EIAG has, so speedily, re-confirmed its earlier advice that the Church of England should not divest in this way.

I now understand that you reached this decision at an emergency meeting of the EIAG because you had not received any additional information that would lead you to change the advice you gave in September 2005. We find it puzzling that in the light of Synod's decision you found it necessary to call an additional meeting to discuss this, rather than spending the time checking the facts as debated at Synod in time for your scheduled meeting in May.

That the decision was made without reference to Synod's request that EIAG visit Palestine and see, first hand, the devastation caused by the use of Caterpillar bulldozers by the Israeli military, or meet with the local Anglican church leadership, despite several invitations, is disappointing. By an overwhelming majority, General Synod called upon EIAG to:

- (b) follow up the consultation referred to in its Report with intensive discussions with Caterpillar Inc, with a view to its withdrawing from supplying or maintaining either equipment or parts for use by the state of Israel in demolishing Palestinian homes &c;*
- c) in the light of the urgency of the situation, and the increased support needed by Palestinian Christians, urges members of the EIAG to actively engage with monitoring the effects of Caterpillar Inc's machinery in the Palestinian occupied territories through visiting the*

Episcopal Church in Jerusalem and the Middle East to learn of their concerns first hand, and to see recent house demolitions;

d) urges the EIAG to give weight to the illegality under international law of the activities in which Caterpillar Inc's equipment is involved; and

e) urges the EIAG to respond to the monitoring visit and the further discussions with Caterpillar by updating its recommendations in the light of these."

In our debate last week you stated that the members of the EIAG do not feel the need to visit Palestine, and indeed don't want to, because a visit wouldn't change their views. We would urge you to reconsider this because there is no substitute for first hand experience to inform and guide your decision making on such an important and controversial issue.

I promised to let you have in writing the questions I raised with you in the debate in Illminster. The answers you gave raise important questions as to whether EIAG has undertaken its engagement with Caterpillar with due diligence.

The key issue is not whether future sales of Caterpillar D-9 bulldozers to the Israeli military are likely as you suggest or that we must 'draw a line' to use your words and only consider future sales. A decision on whether to retain or divest shares in Caterpillar rests on whether their past and present use constitutes grave human rights (HR) violations, that is, war crimes, and whether, despite being made aware of such violations of international law, Caterpillar has continued to supply equipment, spare parts or grant licenses for spare parts, to Israel. The dividends paid to the Church of England on its Caterpillar shares are based primarily on past profits not future forecasts.

The EIAG's own criteria state "the purpose of the ethical investment policy of the Church of England is to avoid profiting from enterprises engaged in activities which are wrong or so controversial among Christians as to undermine the credibility and unity of the Church's witness." Our contention is that on precisely these very grounds, disinvestment is required.

The issue that concerns IMRI and many within the Church of England is whether the EIAG has or has not fulfilled its responsibilities with due diligence. If the EIAG has not done its engagement with Caterpillar correctly, then its conclusions and advice cannot be relied upon.

Engagement means being in conversation with a company so that the concerns expressed by both sides can be heard and responded to, with appropriate action being taken to address those concerns. IMRI has taken the advice of a specialist in the field of Corporate Social Responsibility (CSR) about engagement. We know that HR abuses have occurred and continue to occur with Caterpillar equipment. If EIAG has done engagement correctly, then it should already have answers to all the points raised in the seven questions below.

1) Does the EIAG accept that Caterpillar products have been (and potentially are being) used for HR abuses? Examples were catalogued in the submission to the EIAG from War on Want which draws on copious testimony from the United Nations, Amnesty International, Human Rights' Watch and the Israeli Committee Against House Demolitions (ICAHD).

In our debate last week you indicated verbally that EIAG were indeed aware and that this was one reason why you did not feel it was necessary to see for yourselves.

However, has EIAG taken note of the ruling of the International Court of Justice (ICJ) on Israel's illegal Separation Barrier and the involvement of Caterpillar in its construction? In particular, the ICJ's ruling that the Barrier must be dismantled and recompense paid and that

the international community “are under an obligation to recognise the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction.”

2) Does Caterpillar accept that HR abuses have been committed with its products? The HR case is that all the settlements are illegal under international law, as well as the separation wall – the Foreign and Commonwealth Office website says this explicitly, and the 4th Geneva Convention of 1949 explicitly protects the civilian population of an occupied territory, including against collective punishment. That is illegal. Does the EIAG accept this?

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1115148780942>

What is the Government's view on Israeli settlements?

A: Settlements are illegal under international law. Phase One of the Quartet Roadmap calls on Israel to freeze all settlement expansion, including natural growth, and to dismantle settlement outposts erected since Prime Minister Sharon's election in March 2001. Settlement activity around east Jerusalem, and throughout the West Bank, threatens the territorial contiguity of any future Palestinian state, and combined with the construction of the barrier on occupied Palestinian land, is an obstacle to peace. The Foreign Secretary has said on many occasions that settlements are illegal and that it is wrong for the Israeli Government to continue to extend them. We continue to call on the Israeli Government to end settlement expansion. (Checked 2006-03-21)

3) Does the EIAG know what ‘end use monitoring’ Caterpillar carries out and what actions has Caterpillar taken to prevent further abuses? If Caterpillar passes the buck to the US government, then what end use monitoring has the US government done? Does the US government accept that HR abuses have been caused with Caterpillar equipment? What are its conclusions? Does Caterpillar accept that? Does EIAG accept the findings? If Caterpillar and the US government claim there have been no HR abuses, and EIAG has accepted that, then our view is that it has not carried out its engagement sufficiently.

4) Can the EIAG explain the end use monitoring provisions of the export conditions from the US, and what assessments have been done by the US into alleged HR abuses? If EIAG are unable to do so, then again this indicates insufficient engagement. If the US says no abuses have occurred, has EIAG accepted that, or has it pushed further, quoting the abundant evidence of such abuses? If not, then it hasn’t been sufficiently proactive to get the answers the Church Commissioners (CC) and CBF requires.

5) Can the EIAG provide details of what Caterpillar has supplied to the IDF (and when), either directly or indirectly? When was equipment last supplied? What contracts has Caterpillar entered into regarding spares or support for the equipment supplied to the IDF (not necessarily directly with the IDF)? If Caterpillar is not supplying spares and support then who is? (Caterpillar should know, and EIAG should have the details). What are the terms of those contracts, and are they using any Caterpillar parts or supplied designs? (it is highly likely that either genuine Caterpillar parts or Caterpillar part copies, made to Caterpillar drawings under licence, are being supplied).

In our debate you conceded that EIAG has not asked Caterpillar whether it is supplying spare parts or has granted a licence for their manufacture in Israel. We understand the IDF has 100 D-9 bulldozers. To maintain them require a considerable supply of spare parts and the knowledge, cooperation and participation of Caterpillar. On this issue alone, EIAG have

failed to engage Caterpillar sufficiently robustly and therefore its advice to the CC and CBF is deficient.

6) Has Caterpillar agreed not to supply any more spares or support to its products to the IDF, either directly or through third parties since it was made aware of HR abuses?

Caterpillar were given constructive notice of such violations since at least 1989 when HR organisations began to publicize the home demolitions. If not, then why not, and how can that be consistent with the EIAG's ethical criteria? Spares and support are as vital to the use of the equipment as the original supply. In 2002, for example, the UK government blocked the sale to Israel of spare parts to the ejector seats of F-4 Phantom fighter bombers made by Martin-Baker Aircraft Co. on the grounds that the aircraft had been used against Palestinian civilians.

7) If Caterpillar has not agreed not to supply in future, has the EIAG got an agreement that Caterpillar will disclose to EIAG immediately any request for spares or support (directly or indirectly), and also to declare immediately any actual supply of spares or support? If not, then why not? That is a key piece of information the EIAG will need in order to be able to review its investment decision and 'actively monitor the situation' as EIAG has stated previously. If Caterpillar will not agree to this level of transparency then EIAG cannot be certain that Caterpillar is not supplying spare parts or servicing these bulldozers, and indeed must assume they are.

Jews, Christians and Muslims in Israel and the Occupied Territories are calling for action. People are dying, HR abuses are being committed, and the Church of England is currently profiting from that. At best the Church of England is condoning these abuses and at worst is complicit.

This letter has been circulated amongst all the members of the Interfaith Group for Morally Responsible Investment (IMRI) and rather than write separately to raise the same issues, those whose names are indicated below have asked that you take this as being from me on behalf of them all.

Yours sincerely,



Stephen Sizer

Garth Hewitt : *Amos Trust*

Sue Plater : *Amos Trust*

Ibrahim Hewitt : *Interpal*

Nick Dearden : *War on Want*

Stephen Leah : *York and Hull Methodist District Synod*

Janet Davies : *Friends of Sabeel UK*

John Dinnen : *General Synod of the Church of England*

Linda Ramsden : *Israeli Committee Against House Demolitions UK*

Dan Judelson, *European Jews for a Just Peace*

Abe Hayeem, *Architects & Planners for Justice in Palestine*

Richard Kuper, *Jews for Justice for Palestinians*

cc. John Reynolds, EIAG Chair