



THE PERMANENT MISSION
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

July 10, 2024

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Geneva, Switzerland

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Special Rapporteur on violence against women and girls, its causes and consequences
Geneva, Switzerland

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls
Geneva, Switzerland

Special Procedures Mandate Holders,

Please find enclosed the U.S. response to communication AL USA 9/2024 dated May 17, 2024.

Sincerely,



Ambassador Michèle Taylor
Permanent Representative to the
UN Human Rights Council

U.S. response to communication AL USA 9/2024

Thank you for your letter of May 17, 2024, referenced AL USA 9/2024, regarding the provision of arms to Israel.

The United States unequivocally condemns the appalling attacks on October 7, 2023, by Hamas terrorists against Israel. Our commitment to Israel's inherent right to self-defense remains unwavering. President Biden has made clear the United States will continue to provide Israel the necessary means to defend itself from the threats it faces. Israel must also take all possible precautions to protect civilians during its military operations, significantly improve the flow of and access to humanitarian assistance and investigate credible allegations of law of war violations when they arise. This is both a moral obligation and a strategic imperative. The United States has clearly and consistently conveyed the importance of protecting civilians to Government of Israel officials from the highest levels of our own government. We also continue to actively pursue a ceasefire in Gaza to alleviate the suffering of the Palestinian people in Gaza and to secure the return of hostages.

Multiple U.S. laws and policies govern the adjudication of arms transfers to Israel and our other partners, including, but not limited to, the Arms Export Control Act, the Foreign Assistance Act of 1961, and the President's Conventional Arms Transfer Policy. Those fundamental frameworks highlight the extent to which the United States remains committed to promoting respect for human rights and international humanitarian law (IHL) and advancing civilian protection. We expect our partners to comply with applicable international law, including IHL, and partners' adherence is a key consideration in our arms transfer decisions. The Department continues to review proposed arms transfers to Israel and all other partners on a case-by-case basis in accordance with U.S. law and policy. The Administration is reviewing the Arms Trade Treaty (ATT) to determine U.S. policy respecting it.

In addition, within the last year, the Biden Administration implemented two new policies to further address incidents of civilian harm by our partners. First, the State Department developed procedures, known as the Civilian Harm Incident Response Guidance (CHIRG), by which to review and assess the potential use of U.S.-furnished defense articles in incidents that may have resulted in civilian harm. Information obtained through this process may inform the Department's adjudication of arms transfers. Second, the President issued National Security Memorandum 20 (NSM-20), which requires partners receiving certain U.S. Government-funded security assistance to provide reliable and credible assurances that the foreign recipients will use U.S.-funded defense articles in accordance with IHL and, as applicable, other international laws. Furthermore, the partner provides an assurance that it will facilitate and not arbitrarily deny, restrict, or otherwise impede, directly or indirectly, the transport or delivery of U.S. humanitarian assistance and U.S.-supported international efforts to provide humanitarian assistance in areas of armed conflict. These measures, in addition to the Department's existing Conventional Arms Transfer Policy and our robust adjudication process, are intended to further minimize the risk that U.S. defense articles are used in ways that violate international law or perpetuate civilian harm.

The first report required by the NSM-20 concluded that, given Israel's significant reliance on U.S.-made defense articles, it was reasonable to assess that defense articles covered under NSM-

20 have been used by Israeli security forces since October 7 in instances inconsistent with its IHL obligations or with established best practices for mitigating civilian harm. However, non-permissive conditions on the ground in Gaza amid an active conflict obstruct the United States' ability to conduct independent assessments. We continue to review new, relevant information as it becomes available, including information received from parts of the U.S. Government, NGOs, and other entities and organizations.

In the course of bilateral engagements, the Government of Israel has identified a number of processes for ensuring compliance with IHL that are embedded at all levels of their military decision-making. The Government of Israel has provided written analysis of its legal positions related to its military operations and described in detail its procedures for integrating legal review into targeting decisions and other aspects of military operations. It also has identified several domestic accountability mechanisms aimed at investigating and remediating violations of its rules of engagement and IHL. Senior Israeli leadership are investigating incidents in which Israel Defense Forces (IDF) soldiers are alleged to have acted in contravention to IDF protocols and IHL. To date, Israel has confirmed that it has opened a number of criminal investigations, which are ongoing, including into allegations related to deaths and treatment of detainees and allegations of IHL.

Since the beginning of this conflict, the United States has led efforts to get humanitarian aid into Gaza to alleviate the suffering of Palestinian civilians. This continues to be a priority for this Administration.

The United States is committed to advancing enduring peace and security for Israelis and Palestinians in furtherance of a two-state solution. We firmly believe that the two-state solution is the best way for Israelis and Palestinians to preserve and realize, respectively, their peoples' aspirations.