

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to development; the Special Rapporteur on the right to education; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the human rights of internally displaced persons; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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17 May 2024

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the right to development; Special Rapporteur on the right to education; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right to food; Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the human rights of internally displaced persons; Independent expert on the promotion of a democratic and equitable international order; Independent Expert on human rights and international solidarity; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Special Rapporteur on violence against women and girls, its causes and

consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 53/3, 51/7, 53/7, 55/2, 53/4, 49/13, 52/17, 51/21, 52/10, 52/4, 53/12, 50/6, 54/4, 53/5, 51/13, 1993/2A, 49/10, 54/10, 53/9, 54/8, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the transfer of arms and ammunition by and/or with the support of the United States of America to Israel after 7 October 2023, the granting of direct military aid to Israel, the issuing of new arm exports licenses, and the failure to adequately review the risk assessments for existing licenses in light of the new circumstances. The transfer of arms and ammunition is likely to have enabled deliberate, disproportionate and indiscriminate attacks in Gaza by the Israeli military, which has resulted in extraordinary loss of life and serious injury, the widespread destruction and damage of homes, the destruction of vital food and water infrastructure, health, education, and justice facilities, and other catastrophic impacts and human rights violations. Such actions may amount to serious violations of international human rights, international humanitarian law and international criminal law. Furthermore, the information suggests that United-States-based defense businesses, notably Boeing, Caterpillar, General Dynamics, RTX, Oshkosh, Northrop Grumman and Lockheed Martin have continued transferring weapons to Israel, with the facilitation of your Excellency's Government, without conducting adequate heightened human rights due diligence. These businesses would become accomplices in such violations, as they are knowingly providing assistance to Israel for actions amounting to serious violations of human rights and international humanitarian law and making profit out of such assistance. In addition, United States-based companies have continued investing in the listed defense companies exporting arms to Israel , including Bank of America, BlackRock, Capital Group, Causeway Capital Management LLC, Citigroup, Fidelity Management & Research Co. LLC, INVESCO Ltd., JP Morgan Chase, Harris Associates LP, Morgan Stanley & Co. LLC, Newport Group, Inc, Raven'swing Asset Management, Inc., State Farm Mutual Automobile Insurance, State Street Corporation, The Vanguard Group, Inc., Wells Fargo & Company, Wellington Management Co. LLP, despite the manifest risk that these investments will contribute to gross violations of international human rights and humanitarian law. Transfers have also continued despite Israel failing to implement the United Nations Security Council's demand for a ceasefire in Gaza and the International Court of Justice order requiring Israel to take all necessary measures to avoid a plausible risk of genocide occurring in Gaza.**

According to the information received:

Al Qassam Brigades and other Palestinian armed groups committed atrocities against Israel on 7 October 2023, including launching thousands of indiscriminate projectiles, willful killing, mistreating and taking civilians in hostage. In response, the Israeli military-led operations, including the extensive use of explosive and incendiary weapons with wide area effects in densely populated areas, has resulted in over 33,800 people killed in Gaza, predominantly civilians, and 70 per cent estimated to be women and children. At least 14,500 children and 9,500 women have been killed since the start of the military operation. It is estimated that 19,000 children have been orphaned. The attacks have also injured at least 76,500 people and displaced around

1.7 million people. They have further destroyed or damaged up to 80% of homes and vital infrastructure, notably hospitals, refugee camps, agricultural lands and the fishing fleet, water pipes along with sewage and electricity networks, UN compounds and schools, as well as cultural heritage sites and justice institutions. In addition, military operations and toxic remnants have resulted in pollution and serious environmental degradation, further exacerbating impacts on the civilian population. Reportedly, the Israeli military used artificial intelligence (AI systems) such as the “Gospel”, “Lavender” and “Where’s Daddy?” for the identification of targets and at the same time issued military directives that significantly increased the acceptable number of civilian casualties per target and pressured Israeli intelligence officers to conduct hasty human verification of targets. It has been reported that the Israeli military used AI systems to target the family homes of suspected low-level Hamas operatives, typically at night when they sleep, with unguided munitions known as “dumb” bombs (without guidance system), with little regard for civilians who may be in or around that home. The deliberate, indiscriminate and disproportionate military operation conducted by the Israeli military in Gaza, which has been enabled by the exports of arms from several countries, including the United States, has entailed gross violations of international human rights law as well as international humanitarian law regulating the conduct of hostilities, including the principles of distinction, necessity, proportionality, precaution and prohibition of indiscriminate attacks, as well as violation of international criminal law. Moreover, the cutting off of supplies essential for the survival of the civilian population, including water, food and health supplies with the announcement of the complete siege imposed by Israel on Gaza, the denial of humanitarian assistance to the civilian population in need, and the targeting of critical civilian infrastructure could amount to a violation of the prohibition of starvation under international law. Credible evidence of war crimes, crimes against humanity and the real and imminent risk of genocide are found. Special Procedures mandate-holders have raised concerns on several of the above-mentioned issues and have urged several States, including the United States, to immediately halt arms transfers to Israel, including export licenses and military aid, and have called for the respect of international law in all circumstances and raised alarm about the real and imminent risk of genocide¹, including by the UN Special Rapporteur on the Occupied Palestinian Territory in her [report](#) to the 55th regular session of the UN Human Rights Council.

¹ [A/HRC/55/28](#) – the report of the High Commissioner for human rights on human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice, <https://www.ohchr.org/en/press-releases/2023/10/israeloccupied-palestinian-territory-un-experts-deplore-attacks-civilians>, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>; <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>, <https://www.ohchr.org/en/press-releases/2023/11/gaza-running-out-time-un-experts-warn-demanding-ceasefire-prevent-genocide>, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>, <https://www.ohchr.org/en/press-releases/2023/12/un-experts-urge-states-unite-peace-and-push-ceasefire-gaza>, <https://www.ohchr.org/en/press-releases/2024/01/over-one-hundred-days-war-israel-destroying-gazas-food-system-and>, <https://www.ohchr.org/en/press-releases/2024/02/gaza-un-experts-condemn-killing-and-silencing-journalists>, <https://www.ohchr.org/en/press-releases/2024/02/israels-alleged-undercover-killings-occupied-west-bank-hospital-may-amount>, <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>, <https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts>, <https://www.ohchr.org/en/press-releases/2024/03/un-experts-condemn-flour-massacre-urge-israel-end-campaign-starvation-gaza>.

Reportedly, between 11 October and 31 December 2023 alone, more than 10,000 tons of arms and weaponry, including bombs, artillery shells, joint direct attack munition (JDAM) tail kits, tank shells, bunker bustle bombs, and other kinds of armaments and ammunitions, armored vehicles and protective personal equipment have been transferred from the United States to Israel. ² Between 1950 and 2022, 70,000 tons of weapons were sent by the United States to Israel, indicating a significant escalation of export during the last months of 2023.

As a result, United States-origin weapons have been directly used by the Israeli military in the commission of apparently grave breaches of human rights law and international humanitarian law. For example:

- In October 2023, United States-made Joint Direct Attack Munitions (JDAM) were used by Israel in two airstrikes, killing 43 civilians, including 19 children and 14 women.
- United States-made white phosphorous was used by Israel in densely populated areas in Gaza on 11 October 2023.
- United States-made GBU-39 Small Diameter Bomb was used by Israel in a strike that killed 18 civilians (10 children, 4 men, 4 women) in January 2024, in what was likely either a direct or indiscriminate attack on civilians and civilian infrastructure in a densely populated area.
- United States -manufactured GBU32 (MK83) missile package was used by Israel in an airstrike on a residential compound housing targeting medical staff and family members on 18 January 2024.

The lack of updated public data hinders the ability to ascertain how many weapons have been transferred by United States-based defense companies, with the support of the Government – including through foreign military finance- funded direct commercial sale procurement - or have been provided from the United States government army stock. Among existing military programs and security assistance, under the 10-year Memorandum of Understanding (MOU) on military aid (from 2019 to 2028), United States pledged to provide \$38 billion in military aid (\$33 billion in Foreign Military Financing grants plus \$5 billion in missile defense appropriations) to Israel. In addition, the United States has more than 599 active foreign military sales with Israel, valued at \$23.8 billion. Furthermore, the Government reported to Congress that the United States made more than 100 separate foreign military sales to Israel since 7 October 2023. The United States has also allowed Israel to use munitions lodged in its War Reserve Stockpile Ammunition-Israel, located within Israel. According to the information received, this War Reserve Stockpile would be full of dumb munitions and it has been reported that about 40 of the air-to-ground munitions used by Israel in indiscriminate attacks since 7 October 2023 have been unguided. The Government reportedly prioritizes acquiring advanced weaponry and military support to Israel, instead of tax revenues being invested in essential social services, which undermines the

² [Israel Defense Industry Intro to Foreign Military Financing \(FMF\) \(trade.gov\)](#); [Search for israel | Defense Security Cooperation Agency \(dsca.mil\)](#)

fiscal social contract that the state has entered with their citizens.

From 2018 through 2022, your Government reportedly authorized the permanent export of over \$5.7 billion in military equipment to Israel via the Direct Commercial Sales (DCS) process. None of those arms export licenses and risks related to the sales appear to have been reassessed under the new circumstances, despite the manifest heightened risks that the weapons could be used to perpetrate violations of international humanitarian and international human rights law.

Many Palestinian journalists and human rights defenders have been documenting and reporting on the devastating impact of these weapons systems on civilians in Gaza and are calling for a ban on their continued export. In addition, national courts have been handling cases of violation of international humanitarian law and human rights from States exporting arms to Israel, including in Germany, Denmark, the United Kingdom and the Netherlands.

On 12 February 2024, the Dutch Court of Appeal in the Hague prohibited exportation of F-35 spare parts from the Netherlands to Israel due to the risk of serious violations of international humanitarian law. Nicaragua also filed a lawsuit against Germany in the International Court of Justice concerning alleged violation of its obligations deriving from the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 1949 and their additional protocols, because of Germany military assistance, export and authorization of export of military equipment and war weapons to Israel.

Some of the main United States-based defense companies still transferring arms to Israel during its current bombardment are Boeing, Caterpillar, General Dynamics, RTX, Oshkosh, Northrop Grumman and Lockheed Martin. These companies have reportedly not conducted any heightened human rights due diligence process to address the risks that their products and services may be contributing or linked to violations of human rights and international humanitarian law.

The Government of your Excellency has adopted legislation and policies regarding arms transfers. The National Security Memorandum 20 requires the executive to report to Congress on 8 May 2024 regarding instances since January 2023 in which weapons purchased with U.S. taxpayer funds were used in a manner inconsistent with international law.³ Additionally, 22 U.S. Code §2378d (the “Leahy law”) prohibits the United States from providing assistance to any unit of foreign security forces that has committed a gross violation of human rights.⁴ U.S. law defines gross violations of human rights to include: “torture or cruel, inhuman, or degrading treatment or punishment; prolonged detention without charges and trial; causing the disappearance of persons by the abduction and clandestine detention of those persons; and other

³ National Security Memorandum on Safeguards and Accountability With Respect to Transferred Defense Articles and Defense Services, <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/02/08/national-security-memorandum-on-safeguards-and-accountability-with-respect-to-transferred-defense-articles-and-defense-services/>

⁴ US Department of State, “About the Leahy Law,” <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/human-rights/leahy-law-fact-sheet/>

flagrant denial of the right to life, liberty, or the security of person.”⁵ Moreover, section 502B of the Foreign Assistance Act (22 U.S. code §2304) bans the United States from providing security assistance to any government that engages in a consistent pattern of gross violations of human rights. Finally, section 620I of the Foreign Assistance Act (22 U.S. code §2378-1) prohibits the United States from providing arms to any country that “prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.” These policies are also bolstered by the current administration’s own Conventional Arms Transfer (CAT) policy, which requires that the United States not transfer weapons when it is “more likely than not” that those weapons will be used to commit, facilitate the commission of, or aggravate the risk of serious violations of international human rights or humanitarian law, among other specified violations.⁶

Without prejudging the accuracy of the information received, we express our serious concerns at the known and real risk that the alleged transfer of arms to Israel authorized by your Excellency’s Government, has facilitated and, if not stopped, will continue to facilitate the commission of violations of international human rights and international humanitarian law, including crimes against humanity, war crimes and possibly genocide. Therefore, those arm transfers could amount to the violation of human rights and international humanitarian law.

All States must ‘ensure respect’ for international humanitarian law by parties to an armed conflict, as required by 1949 Geneva Conventions and customary international law. States must accordingly refrain from transferring any weapon or ammunition – or parts for them – if it is expected, given the facts or past patterns of behaviour, that they would be used to violate international law. Such transfers are prohibited even if the exporting State does not intend the arms to be used in violation of the law – or does not know with certainty that they would be used in such a way – as long as there is a clear risk.

We further recall the obligation to prevent genocide under article I of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. On 26 January 2024, the International Court of Justice issued an order on provisional measures,⁷ finding that there is a real and imminent risk of irreparable prejudice to the rights of the Palestinian population in Gaza not to be subjected to genocide and related prohibited acts. In this respect, we recall that, in its previous case law, the International Court of Justice has affirmed that the duty to prevent genocide arises when there is a serious risk that genocide will be committed. This duty requires all countries to employ all means reasonably available to them to prevent genocide in another state as far as possible, particularly where they have influence with the other state – such as where they provide military, financial or political support. This necessitates halting arms exports in light of the International Court’s finding that there is a real and imminent risk of genocide in Gaza, since such arms are a means by which genocide could be perpetrated.

⁵ 22 U.S.C. § 2304(d)(1) (1994)

⁶ Memorandum on United States Conventional Arms Transfer Policy, <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/23/memorandum-on-united-states-conventional-arms-transfer-policy/>

⁷ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel), Order of 26 January 2024 on the request for the indication of provisional measures.

Separately, under customary international law, a State is internationally responsible for aiding or assisting another State in the commission of an internationally wrongful act if it does so with knowledge of the circumstances of the internationally wrongful act; and the act would be internationally wrongful if committed by the State providing aid or assistance. Such conduct could also entail direct responsibility under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. We note further that state officials involved in authorizing arms transfers or exports may be individually criminally liable for aiding and abetting international crimes in Gaza where they knew that the arms would be used in the commission of those crimes.

During its 55th session, the Human Rights Council called upon States to cease the sale, transfer and diversion of arms, munitions and other military equipment to Israel in order to prevent further violations of international humanitarian law and violations and abuses of human rights, and to refrain, in accordance with international norms and standards, from the export, sale or transfer of surveillance goods and technologies and less-lethal weapons, including “dual-use” items, when they assess that there are reasonable grounds to suspect that such goods, technologies or weapons might be used to violate or abuse human rights.

We also draw our concerns to the role of United States-supplied weapons in the obstruction of humanitarian relief consignments and humanitarian workers, as protected under international law, through Israel’s targeting of humanitarian relief personnel and objects and its continuation of military operations without due regard for the presence and safe movement of humanitarian workers. We note that the United Nations Security Council has demanded a ceasefire to enable humanitarian relief, but Israel continues to use U.S.-supplied weapons in its unrelenting military hostilities.

Further, business enterprises, including financial institutions, have their own responsibilities under the UN Guiding Principles on Business and Human Rights to respect human rights, including international humanitarian law, and conduct human rights due diligence. When having activities linked to conflicts, businesses should conduct heightened human rights due diligence to avoid fueling violence and human rights violations ([A/75/212](#)), and on this basis make the decision to remain in or end a business relationship, or exit a challenging context more generally⁸. Given investors can also be directly linked to adverse human rights impacts through business relationships (such as through the provision of financing), investors should also request, where appropriate, that investees provide evidence that they have undertaken heightened human rights due diligence. They can also take a number of other actions in this regard, including releasing public information on the approach taken, taking escalation measures such as collaborative engagement and filing shareholder proposals, etc. A financial business can move from being directly linked to an adverse human rights impact to contributing to that impact if it does not take action to prevent or mitigate the business relationship to which it is directly linked, including by undertaking human rights due diligence. Therefore, the alleged involvement of financial institutions in investing in ThyssenKrupp could be in violation of human rights and international humanitarian law.

Reflective of the State’s existing obligations under international human rights law, the UN Guiding Principles on Business and Human Rights provide that States

⁸ See OHCHR policy guidance on business and human rights in challenging contexts: Considerations for remaining and exiting. <https://www.ohchr.org/sites/default/files/documents/issues/business/bhr-in-challenging-contexts.pdf>

must respect and protect human rights and fundamental freedoms, including by taking measures to ensure that business enterprises operating in conflict affected areas are not involved with human rights abuses, and by providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying particular attention to both gender-based and sexual violence.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the United Nations Human Rights Council, to seek to clarify cases brought to our attention, and in order to ensure the accuracy of our future reporting, we seek clarification from Your Excellency's Government on the information provided above and your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations, including whether the above information is accurate and complete.
2. Please also provide information on concrete progress made by your Excellency's Government in requiring or encouraging companies, including investors, domiciled in your territory and/or jurisdiction to implement human rights due diligence processes, that would be complemented by a conflict-sensitive approach when needed. In addition, please provide information regarding additional steps to protect against rights abuses by arms companies that are owned or controlled by the State, or that receive substantial support from State agencies, such as the United States Military Financing.
3. Please provide information on any steps taken by Your Excellency's Government to set out clearly the expectation that all business enterprises respect human rights throughout their operations.
4. Please provide information on steps taken to ensure that State-based grievance mechanisms deliver remedy and accountability for human rights violations originating in the arms sector, including by allowing challenges to export licenses, even where previously approved by the Government.
5. Please also provide information on how United States transfers to Israel comply with domestic legislation as well as regional or international standards pertaining at the export control of weapons that your Excellency's Government has adopted or ratified, which contain explicit human rights provisions, including international humanitarian law and the Genocide Convention. In addition, please provide an update on your Excellency's Government's current position regarding the ratification of the Arms Trade Treaty (ATT), signed in 2013.
6. Please clarify the United States' policy concerning arms transfers to Israel and whether the transfers by the United States-based defense

companies violate such policies.

7. Please indicate whether your Excellency's Government has authorized the transfer of any arms from the aforementioned companies, or any other United States-based companies to Israel military since 7 October 2023.
8. Please provide information about risk assessments conducted in export license approval decisions, including gender-based violence risk assessments, and whether risks have been reassessed in view of the International Court of Justice's orders indicating provisional measures and the relevant General Assembly, Human Rights Council and Security Council resolutions.
9. Please provide information regarding steps taken by your Excellency's Government to amend national and regional export control regulations governing the arms sector to include reference to the standalone responsibility of all businesses in the sector to conduct human rights due diligence in line with the United Nations Guiding Principles on Business and Human Rights.
10. Please provide information on the steps your Excellency's Government is taking to ensure arms transfer does not enable the violation of civil, political, social, economic and cultural rights and endanger sustainable development.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to suspend all kind of arm transfers to Israel, prevent the re-occurrence of the alleged violations that those arms transfers may have caused, and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please be informed that a letter on the same subject has also been addressed to the Governments of the United Kingdom, Norway, Italy and Germany, to arm manufacturers - BAE System, Boeing, Caterpillar, General Dynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-Royce Power System, RTX, ThyssenKrupp and to investors Alfried Krupp von Bohlen und Halbach-Stiftung, Amundi Asset Management SA (Investment Management), Bank of America, BlackRock, Capital Group, Causeway Capital Management LLC, Citigroup,

Fidelity Management & Research Co. LLC, INVESCO Ltd., JP Morgan Chase, Harris Associates LP, Morgan Stanley & Co. LLC, Norges Bank Investment Management, Newport Group, Inc, Raven'swing Asset Management, Inc., State Farm Mutual Automobile Insurance, State Street Corporation, Union Investment Privatfonds GmbH, The Vanguard Group, Inc., Wells Fargo & Company, Wellington Management Co. LLP.

Please accept, Excellency, the assurances of our highest consideration.

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Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Surya Deva
Special Rapporteur on the right to development

Farida Shaheed
Special Rapporteur on the right to education

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Michael Fakhri
Special Rapporteur on the right to food

Attiya Waris
Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Paula Gaviria
Special Rapporteur on the human rights of internally displaced persons

George Katrougalos
Independent expert on the promotion of a democratic and equitable international order

Cecilia M. Bailliet
Independent Expert on human rights and international solidarity

Carlos Salazar Couto
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Francesca Albanese
Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ben Saul
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Bernard Duhamie
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

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

Annex

Reference to international human rights law and international humanitarian law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the international human rights standards, the norms of international humanitarian law, and the obligations to which the United States are bound and which are applicable regarding the present allegations:

Common article 1 to the four Geneva Conventions of 1949 places a standing obligation on States to "respect and ensure respect" for the Conventions' protections in all circumstances. In its authoritative commentary to common article 1, the International Committee of the Red Cross (ICRC) explains that the article 1 obligation requires, inter alia, that States "refrain from transferring weapons if there is an expectation, based on facts or knowledge of past patterns, that the weapons would be used to violate the Conventions." Thus, if a transferring state knows that the state receiving the weapons systematically commits violations of international humanitarian law using certain weapons, the transferring state must deny further transfers of those weapons, even if those weapons could also be used lawfully.

Principle 4 of the OSCE Principles Governing Conventional Arms Transfers requires States to "promote and, by means of an effective national control mechanism, exercise due restraint in the transfer of conventional arms and related technology." In order to give effect to that principle, States "will take into account" a number of factors in considering any proposed arms exports. They are then required to avoid any transfers which breach any or all of the OSCE criteria contained within the OSCE principles.

According to the article I of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

We would also like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultations with governments, civil society, human rights defenders and the business community. The guiding principles were established as the authoritative global standard for all states and companies to prevent and address the negative impacts of business activities on human rights. The guidelines are based on the recognition that:

- a. The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialised bodies or companies performing specialised functions, which must comply with all applicable laws and respect human rights;
- c. The need for appropriate and effective remedies for rights and obligations when they are violated.

Guiding principle 1 reiterates the State's duty to "protect against human rights abuses by business enterprises on its territory and/or under its jurisdiction". Guiding principle 2 provides that States should make clear that all companies domiciled on their territory and/or under their jurisdiction are expected to respect human rights in all their activities. In addition, guiding principle 1 reiterates that States must take appropriate measures to "prevent, investigate, punish and remedy such abuses through effective policies, laws, regulations and adjudication". Guiding principle 3 further requires, among other things, that a State "provide effective guidance to business enterprises on how to respect human rights throughout their operations".

Guiding principle 4 establishes that States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the States or that receive substantial support and services from State agencies, where appropriate by requiring human rights due diligence.

Principles 11 to 24 and principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have cause or contributed to adverse impacts. Moreover, the commentary of principle 11 states that "business enterprises should not undermine States' abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes". The commentary of guiding principle 13 notes that "[b]usiness enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. [...] Business enterprise's 'activities' are understood to include both actions and omissions; and its 'business relationships' are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services".

The guiding principles have identified two main components to the business responsibility to respect human rights, which require that "business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts" (guiding principle 13).

Principles 17-21 lay down the four-step human rights due diligence process that all business enterprises should take steps to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when "business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes".

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to

influence the outcome (commentary to guiding principle 25).

Furthermore, according to guiding principle 26, States should take appropriate measures to ensure the effectiveness of domestic judicial mechanisms when dealing with business-related human rights abuses, including by considering how to limit legal, practical and other obstacles that may lead to denial of access to remedy.

In particular, in its Information Note on responsible business conduct in the arms sector: Ensuring business practice in line with the UN Guiding Principles on Business and Human Rights, the Working Group on Business and Human Rights recommends States to:

- Amend national and regional export control legislation governing the arms sector to include reference to the standalone responsibility of all businesses in the sector to conduct human rights due diligence in line with the guiding principles.
- Introduce mandatory human rights due diligence legislation with enhanced human rights due diligence obligations for the arms sector.
- Publicly communicate information about risk assessments in export licence approval decisions.
- Establish independent oversight of arms transfers through parliamentary commissions, national human rights institutions, and other independent mechanisms. Ensure that detailed, disaggregated data is provided to such mechanisms to allow for genuine assessment of transfers.
- Ensure that national export control legislation prohibits the use of offshoring as a means of circumventing export controls.
- Take additional steps to protect against rights abuses by arms companies that are owned (in part or in whole) or controlled by the State, or that receive substantial support from State agencies.
- Ensure that all political processes related to arms transfers, including the export control process, are protected from undue corporate influence, including safeguards to ensure that arms sector lobbying activities are transparent and responsible.
- Grant legal standing both to victims of human rights violations originating in the arms sector and to human rights CSOs to challenge export licences in administrative courts.
- Grant legal standing to victims of human rights violations originating in the arms sector to join legal actions against arms companies, including as civil party in criminal proceedings. Expand definitions of “affected persons” beyond only direct victims of armed attacks.
- Commit to establishing and using State-based non-judicial grievance mechanisms to deliver remedy and accountability for human rights

violations originating in the arms sector, including by allowing challenges to export licences, even where previously approved by government.

Guiding principle 7 on supporting business respect for human rights in conflict affected areas provides that States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by: (a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships; (b) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence; (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation; (d) Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.

The UN Working Group on Business and Human Rights, in its report on "business, human rights and conflict-affected regions: towards heightened action (A/75/212), urges home and host States to use their key policy tools and levers to ensure that business engages in conflict-sensitive heightened human rights due diligence when operating in conflict-affected areas. To conduct heightened human rights due diligence, business should focus on three main steps: first, identify the root causes of tensions and potential triggers, which include the contextual factors such as the characteristics of a country or region that can affect conflict, and the real and perceived grievances that can drive conflict. This conflict analysis will help identify the human rights abuses or impacts that may arise due to the conflict and not just business operations. There will be a difference between workplace risks based on normal safety concerns versus those related to employees belonging to different groups that were parties to a conflict. Second, map the main actors in the conflict and their motives, capacities and opportunities to inflict violence, which include affected stakeholders, parties to the conflict and "mobilizers", those people or institutions using grievances and resources to mobilize others, either for violence or for peaceful conflict resolution. Businesses should pay particular attention to human rights defenders, those "individuals or groups that, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights." In conflict-affected contexts, human rights defenders may share the same claims as a party to the conflict but advocate for rights holders in a peaceful manner. Businesses should, therefore be careful to differentiate between the two, and not expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings or reporting them to authorities. Third, identify and anticipate the ways in which the businesses' own operations, products or services impact upon existing social tensions and relationships between the various groups, and/or create new tensions or conflicts. The report also underscores that there is ample evidence of the differentiated impact of violence on women and girls and that conflict exacerbates gender-based discrimination. Accordingly, it is important for business to realize the specific experience of women and girls in conflict and post-conflict situations and, given the risks to women and girls of sexual violence, discrimination and pervasive inequality, the private sector should address gender and conflict as part of any heightened human rights due diligence.

Moreover, the Working Group on discrimination against women and girls, in its report on the gendered inequalities of poverty (A/HRC/53/39), calls on corporations, and the States and international and regional organizations exercising jurisdiction and control over them, to contribute to the realization of the rights of all women and girls, implement participatory gender and human rights impact and due diligence processes, in compliance with the Guiding Principles on Business and Human Rights, and ensure that grievance mechanisms and remedies for business-related abuses are accessible, effective and gender-transformative.

We also wish to recall that the Arms Trade Treaty, signed by the United States of America on 25 September 2013, calls on the exporting State Party to take into account the risk of the arms being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children (art. 7(4)).

Similarly, general recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), signed by the United States of America on 17 July 1980, stresses that the proliferation of conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related gender-based violence, as victims of domestic violence and also as protesters or actors in resistance movements, and urges that State Parties address the gendered impact of international transfers of arms, especially small and illicit arms, including through the ratification and implementation of the Arms Trade Treaty (para. 32(e)).

Article 7 of the Declaration on the right to development states that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries. We also refer to the guidelines and recommendations on the practical implementation of the right to development developed by the Special Rapporteur on the right to development (A/HRC/42/38). The guidelines request States to collectively disarm and redirect the resources resulting from such disarmament to economic and social development (para. 84). The guidelines further highlight that States where transnational corporations and other business enterprises (or their parent or controlling companies) are hosted or incorporated should take measures – including the necessary administrative, legislative, investigative and adjudicatory measures – to ensure that independent authorities provide prompt, accessible and effective remedies for the human rights violations of these enterprises (para. 155).

We further recall that the Security Council, in its landmark resolution 1325 (2000), expressed explicit concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and recognized the consequent impact this has on durable peace and reconciliation.

It is also important to recall that the Committee on Economic, Social and Cultural Rights, in its general comment 24 (2017), states that "the extraterritorial obligation to protect requires States parties to take steps to prevent and remedy

violations of Covenant rights that occur outside their territory as a result of the activities of business entities over which they may exercise control, in particular in cases where remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective ".

We wish to recall that the right to adequate housing is enshrined in article 25(1) of the Universal Declaration of Human Rights, as well as in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which state that everyone has the right to an adequate standard of living, including housing. In its general comment No. 4 on the right to adequate housing, the Committee on Economic, Social and Cultural Rights has clarified that the right to housing should not be interpreted in a narrow or restrictive sense, such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity.

In this regard, we wish to refer to the 2022 report (A/77/190) on the right to adequate housing during violent conflict presented by the Special Rapporteur on the right to adequate housing to the General Assembly. In it, the Special Rapporteur concluded that, while housing is not expressly mentioned in many provisions of international humanitarian law, it is generally protected in international humanitarian law as a "civilian object" or "civilian property". As long as housing is inhabited by civilians, attacks on it would amount to an attack on civilians prohibited by international humanitarian law.

We wish to draw the attention of Your Excellency's Government to the right to a clean, healthy and sustainable environment as recognized by resolutions A/HRC/Res./48/13 and A/Res./76/300. We also wish to highlight the Framework Principles on Human Rights and the Environment detailed in the 2018 report of the Special Rapporteur on Human Rights and the Environment (A/HRC/37/59). The principles provide that States must ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (principle 1); States must respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (principle 2).