

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

Ref.: AL OTH 76/2024

(Please use this reference in your reply)

17 May 2024

Dear Mr. Kaiser,

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

Caterpillar

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.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to draw your attention to information we have received concerning the **transfer of arms and ammunition by your company to Israel, which is likely to have enabled deliberate, disproportionate or 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 human rights violations. Such actions may amount to serious violations of international human rights, international humanitarian law and international criminal law. The information received suggests that your company has continued transferring weapons without any clear evidence of adequate heightened human rights due diligence to avoid fueling violence and human rights violations. Your company would become an accomplice of 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. 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 real and imminent 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 per cent 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 Kingdom, 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 Kingdom, 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.

Since 7 October 2023, Caterpillar would have transferred engineering machinery to Israel, including D9 armored bulldozers. Those bulldozers are allegedly used in the current hostilities to take part in the invasion of Gaza, causing destruction of roads, houses, and infrastructures. Some of those bulldozers are being adapted for autonomous or semi-autonomous operations. In November, the Israeli government has initiated an urgent procurement of dozens of those to Caterpillar.

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.

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 German military assistance, export and authorization of export of military equipment and war weapons to Israel.

Without wishing to prejudge the accuracy of the information received, we express our serious concern that the arms manufactured by your company and transferred to Israel have enabled Israel to commit violations of international humanitarian and human rights law, including war crimes, crimes against humanity, and possibly genocide. Therefore, based on the past pattern of Israeli violations, there is also a clear risk that your company will contribute or be directly linked to continuing violations in Israel's ongoing military operations, as well as being complicit.

Businesses have the responsibility to respect human rights and international humanitarian law in situations of armed conflicts. This responsibility is independent of the State's own international obligations and exists over and above compliance

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-amout>, <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>.

with national laws and regulations. The United Nations Guiding Principles on business and human rights provide that to discharge their responsibility to respect human rights, businesses should conduct human rights due diligence. Considering that human rights due diligence vary in complexity with the risk of severe human rights impacts and the nature and conduct of a company's operations, and considering that the risk of gross human rights abuses is heightened and gender-based discrimination and violence against women and girls is exacerbated in conflict affected areas, businesses should conduct heightened human rights due diligences addressing gender and conflict, as highlighted by the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/75/212). On this basis, businesses can make the decision to remain in or end a business relationship, or exit a challenging context more generally².

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 Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information with respect to measures taken by your company to respect human rights, including to conduct heightened human rights due diligence processes, including consultation with human rights defenders and civil society, in conflict-affected contexts, in particular considering the current hostilities in the occupied Palestinian territory.
3. What are the specific actions taken by your company to identify and address any adverse actual and potential human rights impacts in relation to the transfer of defense articles and services to the Israeli military after the eruption of the conflict, including risks of gender-based violence against women and girls.
4. Please explain how your company has monitored the usage of the defense articles and services by their clients, in particular the Israel military, to make sure they are not used to perpetrate violations of international humanitarian law, international criminal law and human rights law.
5. Please indicate how your company has engaged with the Government of United States and the Government of Israel to mitigate any impacts to the greatest extent possible.
6. Please indicate specific remedial measures that your company has taken or is considering taking to prevent being associated to human

² 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>

rights and humanitarian law abuses.

7. Please provide information on steps taken by your company to establish, or participate in effective operational-level grievance mechanisms, in line with the UN Guiding Principles on Business and Human Rights, to address adverse human rights impacts caused by your company throughout your operations globally.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your company 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 halt the alleged abuses and prevent their re-occurrence.

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 companies to clarify the issue/s in question.

Please note that letters expressing similar concerns will also be sent to the Governments of the United States, the United Kingdom, Norway, Italy and Germany, those arm manufacturers - Boeing, BAE Systems, General Dynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-Royce Power System, RTX, ThyssenKrupp and those 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, Mr. Kaiser, the expression of our most distinguished consideration.

Robert McCorquodale
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
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environment

Morris Tidball-Binz
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Michael Fakhri
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Attiya Waris
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Tlaleng Mofokeng
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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
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George Katrougalos
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Cecilia M. Bailliet
Independent Expert on human rights and international solidarity

Carlos Salazar Couto
Chair-Rapporteur of 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

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 your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would 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 consultation with governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These Guiding Principles are based on the recognition of:

- 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 corporations performing specialised functions, which must comply with all applicable laws and respect human rights;
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to:

- a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur;
- b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts". (guiding principle 13).

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights;
- b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact;
- c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships;
- b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact;
- c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working;
- d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

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 and other attempts to influence the outcome (commentary to guiding principle 25).

We would also like to draw your attention to the report of the Special Rapporteur on minority issues hate speech, social media and minorities (A/HRC/46/57). The report specifically addresses the targeting of minority women,

and the obligations of businesses, including by encouraging social media companies to:

- a) Put in place in procedures and mechanisms for the mandatory collection of data on hate speech, and at a minimum on incitement to genocide and advocacy that constitutes incitement to discrimination, hostility or violence. Such data should be disaggregated according to the basis of the hatred, whether national, ethnic, racial or religious hatred, which all relate to vulnerable minorities, or hatred affecting other vulnerable groups, on the basis of such factors as gender and sexual orientation.
- b) Manage hate speech on their platforms with reference to the human rights implications of their products, including algorithms and artificial intelligence programs such as chatbots. They must therefore have in place human rights review processes that refer to and focus specifically on the groups most susceptible to hate speech in the States concerned, and in particular minorities.
- c) Commit clearly, in the social media's content moderation systems and community standards, to protecting vulnerable and marginalized minorities and other groups. Minorities should specifically be identified as priorities.
- d) Apply the UNGPs in their own operations. Human rights standards should be integrated systematically into the content policies and decision mechanisms of social media platforms, so that, as specified in the UNGPs, the companies "comply with all applicable laws and respect internationally recognized human rights wherever they operate", and "treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate", for which they could be liable.
- e) Comprehensively address distortion and systemic bias against Jews and Muslims, as evidence suggests that antisemitism and Islamophobia are pressing challenges for minority rights.
- f) In order to improve mechanisms and content vetting policies for the handling of hateful content, and to ensure incorporation of the concerns of the main targets of hate speech in social media, the Special Rapporteur urges that minorities, as the most targeted and vulnerable groups, be represented in advisory and other relevant boards.
- g) Look into innovative, educational and preventive strategies that focus on protection of and respect for diverse communities in order to counter hate speech.

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 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 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.

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 your attention to the right to a clean, healthy and sustainable environment as recognized by resolutions A/HRC/Res./48/13 and A/Res./76/300.

It is also important to recall that 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.