

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 the situation of human rights defenders; the Working Group on the rights of peasants and other people working in rural areas; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: AL DEU 5/2025

(Please use this reference in your reply)

19 September 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur in the field of cultural rights; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Working Group on the rights of peasants and other people working in rural areas; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 51/16, 53/3, 55/5, 55/2, 52/9, 59/4, 51/21, 52/4, 54/9, 52/36 and 51/19.

In this context, we would like to bring to the attention of Your Excellency's Government the information we have received regarding **the potential negative human rights impacts of the construction and operation of the ammoniac plant in the municipality of Ahome, Sinaloa, Mexico, Gas y Petroquímica de Occidente (GPO), subsidiary of the Swiss company PROMAN. These activities would affect Indigenous Peoples, fishing communities, children and all residents of the area, in particular their right to a clean, healthy, and sustainable environment, their right to health, their right to development, and to maintain specific ways of life and cultural practices related to nature and the land, and the implementation of which seems to have raised obstacle to their right to defend human rights, including freedom of expression, assembly and association, among others. Emissions resulting from the plant's operations, as well as the production and use of petrochemicals will also contribute to climate change, exacerbate biodiversity loss, and toxic pollution, with additional negative impacts on human rights. This project of ammoniac plant is reportedly being financed by KfW IPEX-Bank, domiciled in Germany and by additional financial resources from the German Government, and has been approved without adequate consultation with the inhabitants of the region, and the free, prior and informed consent of the Indigenous Peoples concerned.**

According to the information received:

In 2013, Gas y Petroquímica de Occidente (GPO), a subsidiary of the Swiss company PROMAN, announced an investment to build an ammonia plant in Topolobampo, Ahome, Sinaloa. This plant, intended to produce fertilizers, would be one of the largest in Latin America. In April 2014, the Secretary of Environment and Natural Resources (SEMARNAT) granted authorization for the project. However, residents, along with representatives of Indigenous Peoples, fishing communities, and environmentalists, expressed concern about the plant's potential environmental impacts, particularly on Ohuira Bay.

In 2015, civil society created the “Aquí No” movement, made up of environmental groups, local citizens, and Yoreme Indigenous Peoples, who opposed the plant's construction. They argued that the project threatened the ecological balance of the bay, an internationally protected wetland site, and would negatively impact fishing and tourism. In 2016, they filed amparos against the plant's construction, alleging that public consultations had not been sufficient and that environmental impacts had not been adequately considered, nor had consultation been conducted in accordance with Convention 169 of the International Labor Organization.

In 2017, GPO launched a public campaign to promote the plant's economic benefits, highlighting its job creation and boost to local agriculture. However, the “Aquí No” movement and other organizations continued to encourage protests and filed new legal actions in opposition to the plant. In 2018, public consultations were held to try to validate the project but were criticized for not including all Indigenous Peoples affected and for not meeting the standards of free, prior, and informed consent.

In 2019, various amparo proceedings filed by “Aquí No” and indigenous representatives suspended the plant's construction work. A federal judge ruled in favour of halting the project until adequate consultation with Indigenous Peoples took place. In 2020, the COVID-19 pandemic slowed both public mobilizations and legal proceedings, but civil society organizations continued to hold demonstrations and spread their messages of opposition to the project through social media. In 2021, the government organized a referendum, the result of which was overwhelmingly in favour of the plant, although it was criticized for not including the participation of all affected communities.

In 2022, following a ruling by the Supreme Court of Justice of the Nation ordering so, a consultation with Indigenous Peoples was organized. In September of that year, the SEMARNAT reauthorized the project. To date, despite pending court rulings and lawsuits, construction of the plant has partially resumed, while public and judicial opposition to the project has continued from civil society and Indigenous Peoples.

Environmental and socio-environmental impacts

The Santa María-Topolobampo-Ohuira lagoon system was recognized as a wetland of global importance according to the Convention on Wetlands of International Importance (Ramsar Convention) in 2009. It is located near two other wetlands, or Ramsar sites, to the south is the San Ignacio-Navachiste-Macapule lagoon system and to the northwest the Agiabampo-Bacorehuis-Río Fuerte Antiguo lagoon system. Within the Santa María-Topolobampo-Ohuira lagoon system there are a series of islands that belong to the “Islands of the Gulf of California” Flora and Fauna Protection Area, a natural site declared a World Heritage Site and UNESCO Biosphere Reserve since 2005. In addition, the site includes two important bird conservation areas and is in the priority hydrological region of Ohuira Bay-Ensenada del Pabellón, as well as in the priority terrestrial region of Topolobampo-Caimanero Marshes. These areas are of great importance to mitigate and prevent the negative impacts of climate change on human rights.

Lagoons are key to the reproduction, nesting, feeding, and shelter of numerous species, including turtles, dolphins, crustaceans, fish, and resident and migratory birds, many of which are threatened or endangered. As for flora, the mangroves are essential for biodiversity and coastal protection.

Ohuira Bay has high levels of pollution from pesticides, fertilizers, and heavy metals due to the intensive use of agrochemicals in the area and port and energy activities at the Port of Topolobampo. Due to the configuration of the lagoon system, all pollutants remain trapped there for long periods of time, exacerbating the negative environmental impact. Added to this is the pressure of climate change, whose rising water temperatures significantly affect the ecosystem. As a result, the lagoon has lost environmental quality and presents high levels of pollution, making its cleanup and restoration urgent.

The Ammonia Plant project is located within the polygon of the Ramsar lagoon system, Santa María-Topolobampo- Ohuira, and consists of the construction of an ammonia plant that, in a second stage, will increase its production capacity (another 2,200 MT/day of anhydrous ammonia) and, in a third stage, contemplates the operation of a methanol plant. For ammonia production, it will be necessary to use gas, which arrives at the port of Topolobampo through a gas pipeline.

The initial work on the project's installation was carried out in 2013, and construction continues to this day. According to an expert's appraisal in a technical report, the environmental impacts include the destruction of approximately 21,000 m² of mangrove forest, as well as the drying of a floodplain (wetland), which has already impacted on several species of flora and fauna. Once operational, the plant will use 2,000 m³ of seawater per hour. It is estimated that this extraction, without any filtration, will destroy more than 500 tons of shrimp larvae in one year, representing more than half of the 900 tons of shrimp produced annually by coastal fishing. Similarly, the water will re-enter the lagoon with an increased temperature and salinity, which will affect fish and crustacean larvae and increase the impact of climate change.

Additionally, for every ton of ammonia produced at the plant from gas, 1.1 tons of carbon dioxide will be emitted.

In addition to these specific impacts, there are additional risks to the population and the lagoon system. A leak of ammonia, a highly toxic substance, would lead to fatal risks, with the potential to particularly affect children. The Environmental Risk Assessment, presented by the company responsible for the project, recognizes that, in the event of a 5-minute accidental ammonia leak due to a rupture of the ammonia pipeline, the entire Ohuira Bay would become a high-risk zone, with an “immediate danger to health or life”, and the toxic cloud would reach a diameter of 45 km, thus affecting a population of more than 400,000 people and the entire lagoon ecosystem. It is noteworthy that this risk analysis is limited only to the first ammonia plant, not considering the increase in ammonia production in a second phase, nor the methanol plant, which are also contemplated in the future of the project.

Residents have reiterated that the risk of leaks is real and concrete, basing their assessment on similar previous incidents of leaks in the same region, which have involved accidents with trucks and transport vessels. They have also emphasized that the port of Topolobampo is in a seismic and hurricanes zone, which further increases the risk of accidents and leaks. In this context, it is argued that the works and activities already carried out and planned by the project not only negatively and directly impact the human right of residents to life, health, and a healthy environment, but also the right to food and water of the present and future local population. Furthermore, these incidents can also have lasting repercussions beyond Sinaloa and the Gulf of California, on populations living far from the area.

Business and Human Rights

Members of the affected communities have repeatedly expressed their concern “since the companies arrived.” Since 2013, the Swiss company PROMAN and its Mexican subsidiary, GPO, have insisted on building the ammonia plant in Topolobampo. Opposition to this project by Indigenous Peoples, fishing communities, environmentalists, and organized citizens stems from the plant's current and potential impacts on human rights, including the right to free, prior and informed consent, the right to health, and a healthy environment, among others.

The financing for this project is being guaranteed by a group of banks led by KfW IPEX-Bank of Germany. Furthermore, a significant portion of the financing is reportedly being facilitated through a credit from the Government of Germany. Furthermore, in 2022, the Federal Electricity Commission, a public company owned by the State, and the company GPO are said to have signed gas supply contracts for the ammonia plant in Topolobampo.

There is no specific public information on how companies and financial institutions fulfilled their responsibility to respect human rights, and its responsibility to phase out fossil fuels, through appropriate policies and procedures. In particular, there is no evidence of a human rights due diligence

process to identify, prevent, mitigate, and account for how they address their impact on human rights; as well as processes to claim and redress all negative human rights consequences that they have caused or contributed to.¹ Although there is a study titled “Environmental and Social Due Diligence Review” which assesses the project's potential risks and impacts, found that the project did not incorporate a human rights approach nor is based on the UN Guiding Principles on Business and Human Rights. As a result, the study reportedly denied the existence of Indigenous Peoples in the area, arguing that there is little Indigenous presence in Topolobampo, and that these people did not form a Yoreme community with all the necessary organizational conditions (including a ceremonial centre).

Likewise, there is no information on how the State is fulfilling its obligation to protect people “against human rights violations committed in its territory and/or jurisdiction by third parties, including companies.”² This is particularly relevant considering, for example, an alleged document in which the GPO reportedly requested that a public investigative body “*try to prevent public statements from this woman*”, referring to the statements of a woman human rights defender who has opposed the project and whose situation is further described below.

Discriminations, risks of human rights abuses or violations, and Indigenous Peoples

The “2200 TMPD Ammonia Plant” project negatively affects the territories of Indigenous Peoples, their development model, their ways of life and their worldviews. Furthermore, it violates the rights of access to information, consultation, and free, prior, and informed consent, as well as the right to land, territory, and resources, and to a healthy environment.

The Mayo or Yoreme Indigenous Peoples live in the municipalities of Ahome, El Fuerte, Choix, Sinaloa de Leyva, and Guasave, in the state of Sinaloa, and in the municipalities of Álamos, Quiriego, Navojoa, Etchojoa, and Huatabampo, in Sonora. Their territory includes several communities within the Mochis-Topolobampo industrial corridor. Following the creation of new municipalities and the relocation of at least one community, the current territorial planning no longer reflects the interests, organization, and worldview of this Indigenous Peoples.

The project negatively impacts the territory and the sacred sites of the Indigenous Peoples and their ability to exercise their religious and cultural practices in the several ceremonial centres belonging to the Yoreme in the area. For the Mayo-Yoreme Peoples, one of the meanings of the word Mayo is “people of the riverbank”, and of the word Yoreme, “peoples who respect tradition.” The Yoremes have a sacred relationship with nature, upon which their worldview is based, for which the *juyya Aania*, the world of the mountain, is the provider; the generator of life is the *yukku rain*, and they pay homage to water, including the sea world. Specifically, in Ohuira, the Mayo- Yoreme found in the *bäwe aania*, the sea, the way to satisfy their needs and a way of life.

¹ Guiding principle 15 of the UN Guiding Principles on Business and Human Rights

² Guiding principle 1

This relationship with nature is reflected in the cultural celebrations traditionally held by Indigenous Peoples and their ability to exercise their religious and cultural practices. Ceremonial centres and huts, impacted by the pollution and destruction caused by the project, are part of the sacred territory and constitute part of their traditional governance. Furthermore, artisanal fishing is the main source of income for more than 3,000 indigenous fishermen and their families, most of whom are organized into cooperatives.

The 2014 Environmental Impact Statement (SGPA/DGIRA/DG/03576) on the project authorizes the ammonia plant despite acknowledging that it “could have significant impacts on the life and environment of the indigenous community” and it could “cause serious damage to the ecosystem” and ignoring that the best science available to address the climate crisis includes the knowledge of Indigenous Peoples.

Through social organization and various injunctions, Indigenous Peoples obtained a ruling from the Supreme Court of Justice of the Nation (amparo under review 498/2021), which established a violation of the right to consultation and consent. This could imply that the process was not conducted in good faith and still requires the free, prior, and informed consent from the Indigenous Peoples concerned, specifically on the aspects of the project related to toxic waste and the serious environmental impacts. The Supreme Court considered Indigenous Peoples’ participation in the Environmental Impact Statement to be fundamental “since Indigenous peoples have knowledge of how projects and administrative measures can affect their ways of life, traditions, cultures, and spiritual development.”

As a result, in 2022, the Mexican government, through SEMARNAT, the National Institute of Indigenous Peoples (INPI), and the Ministry of the Interior (SEGOB), developed a consultation process. Civil society organizations, particularly those representing affected indigenous communities, emphasize that the consultation process was carried out in locations both inside and outside Topolobampo Bay and that it did not seek consent, as four of the five affected communities directly voted against it. In 2023, the Mayo Yoreme community of Lázaro Cárdenas challenged the process. Furthermore, during and after the consultation, hostility and threats against indigenous leaders reportedly increased. For example, after the consultation in Ohuira, where Indigenous Peoples refused to give their consent to the development of the plant, women defenders of the movement received direct threats when the authorities withdrew.

Civic Space

As previously mentioned, in reaction to the plans to build the plant, members of the movement for the defence of the environment in Ohuira Bay organized themselves to form the movement “¡Aquí No!” (Not Here!). This collective incorporates diverse leaderships, particularly women human rights defenders, traditional representatives of the affected Yoreme-Mayo indigenous communities, representatives of ejido lands, fishing cooperatives, municipal

commissioners, academic representatives, among others. As part of their exercise of the freedoms of assembly, association, expression and of their rights to public participation and to contribute to decision-making processes that have an impact on cultural life, as well as the right to defend human rights, members of ¡Aquí No! carried out various activities, such as meetings, marches, awareness-raising campaigns, public statements, and meetings with local and state authorities.

However, their human rights advocacy and activities have been met with various attacks, including harassment, surveillance, defamation campaigns on social media, threats, physical assaults, home invasions, and attempted disappearances. For example, in February 2024, one day after leading a demonstration against the construction of the ammonia plant, one of the defenders was the victim of an enforced disappearance attempt. She was allegedly intercepted by unidentified individuals, who tried to force her into their van. She reportedly managed to escape.

The risks faced by members of ¡Aquí No! have resulted in various impacts on their physical and psychological integrity, as well as on their family relationships. The attacks have primarily targeted women in leadership roles, with at least one of them forced into internal displacement.

Since December 2022, the most visible leaders, Claudia Susana Quintero Sandoval, Melina Maldonado Sandoval, Irene Diaz López, and Felipe Montaña Valenzuela, have been granted protection measures by the Federal Protection Mechanism for Human Rights Defenders and Journalists; and since April 2024, by the Institute for the Protection of Human Rights Defenders and Journalists of Sinaloa. However, the protection measures have not eliminated the risk and fear felt by communities regarding possible reprisals for defending their territory, so doubts persist regarding their effectiveness. Furthermore, no measures aimed at addressing the underlying issue, such as the establishment of an inter-institutional working group with the various responsible bodies, have reportedly been adopted.

Without intending to prejudge the veracity of the information received, we would like to express our deep concern about the potential adverse human rights impacts that the construction and operation of the ammonia plant in Topolobampo, Ahome, Sinaloa would cause. We are concerned about the allegations regarding the lack of an adequate consultation process to obtain the free, prior, and informed consent from Indigenous Peoples, and to involve all the people concerned in decision-making processes that have an impact on their cultural life and livelihoods before the project begun, in accordance with international standards. We also express concern for the lack of oversight of the impact of the plant's construction and the company's activities on the human rights of local inhabitants, including Indigenous Peoples and fishing communities, as well as on the environment.

Of particular concern is the impact of the construction and of the plant on the rights of the Yoreme Indigenous Peoples, especially their right to exercise, maintain and develop their cultural practices and way of life. The plant's construction would negatively affect sacred sites and the sources of subsistence, such as water and fish, in

addition to violating their right to give or deny their free, prior, and informed consent, as declared by the Supreme Court of Justice of the Nation and by international human rights law norms. We are furthermore seriously concerned about the persecution suffered by those who have opposed the project.

Further, we note that financial institutions have their own responsibilities under the UN Guiding Principles to respect human rights and conduct human rights due diligence. Financial businesses can be directly linked to adverse human rights impacts through its business relationships (such as through the provision of financing); they can also contribute to human rights harm through their own operations and actions. Further, the Office of the United Nations High Commissioner for Human Rights has issued statements indicating that if a bank identifies, or is made aware of, an ongoing human rights issue that is directly linked to its operations, products or services through a client relationship, yet over time fails to take reasonable steps to seek to prevent or mitigate the impact, it can be viewed as enabling the situation. The Organisation for Economic Co-operation and Development (OECD) Guidance on Due Diligence for Responsible Corporate Lending and Securities Underwriting further states that where a bank is directly linked to an adverse human rights impact through a client, it still has a responsibility to prevent or mitigate the impact, and that “[w]here the adverse impacts are directly linked to a bank’s lending or securities underwriting through a client, it should also use its leverage to seek to prevent and mitigate those impacts”. This approach has been applied by the OECD National Contact Points (NCP): for example, the Norwegian NCP concluded that “If [an investor], after investing, learns of a portfolio company’s human rights impacts, it still has a number of tools available, including shareholder proposals, engagement with management, and the threat of divestment”. Further, in the Society for Threatened Peoples Switzerland’s complaint to the Swiss NCP regarding UBS Group AG, the Swiss NCP recognized that a financial business, through investing in a business enterprise, was directly linked to potential adverse human rights impacts by its relationship with that business enterprise.

Further, 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 the financing of the ammonia plant could be in violation of international human rights law and standards.

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 or comments that may be relevant.
2. Please provide information on the measures the Government of your Excellency has taken, or is considering taking, to protect the human

rights of all peoples who would be affected against possible violations by business enterprises domiciled in your territory and/or jurisdiction, and to ensure that these business enterprises respect human rights in all their activities, including investment activities and operations of their foreign subsidiaries, in line with the UN Guiding Principles on business and human rights (UNGPs).

3. Please provide information on concrete progress made by the Government of your Excellency in requiring or encouraging business enterprises domiciled in your territory and/or jurisdiction to implement human rights due diligence processes, including regarding their investment activities, in line with the UNGPs. As part of this, please indicate the status of development of your Government's second National Action Plan on business and human rights.
4. Please provide information on the steps the Government of your Excellency is taking or considering taking to ensure that individuals, Indigenous Peoples, children and communities affected by the activities of business enterprises domiciled in your jurisdiction have access to remedy in your country, through judicial or extrajudicial State-based mechanisms, in line with the UNGPs, considering particularly that the State has ratified ILO Convention 169 on Indigenous and Tribal Peoples.
5. Please explain how the Government of your Excellency takes additional steps to ensure that export credit entities respect human rights in their transactions, including through human rights due diligence in line with the UNGPs, either for their own decision-making or as a requirement for their clients.
6. Please explain how the Government of your Excellency is taking steps to prevent further harm to the climate system through the phase out of fossil fuel exploration, extraction and consumption, as well as related subsidies, as part of its international obligations in the areas of climate change, biodiversity, the law of the sea and human rights.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 violations and prevent their re-occurrence 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 inform you that a letter on this matter has also been sent to the government of Mexico and Switzerland and the businesses involved namely: Gas y Petroquímica de Occidente, Proman and KFW IPEX-Bank.

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

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xenophobia and related intolerance

Pedro Arrojo-Agudo
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Annex

Reference to international human rights law

In relation to the allegations above, we would like to draw the attention of Your Excellency's Government to the relevant international norms and standards.

The Universal Declaration of Human Rights (UDHR) proclaims that all organs of society shall endeavour to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. In this context, article 6 of the International Covenant on Civil and Political Rights (ICCPR) enshrines the inherent right to life of every human person. As the Human Rights Committee emphasizes in its general comment No. 36, the duty to protect life also implies that States parties must take appropriate measures to address general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including environmental degradation (para. 26). Fulfilment of the obligation to respect and guarantee the right to life, and in particular life with dignity, depends, among other things, on the measures adopted by States Parties to preserve the environment and protect it from damage, pollution, and climate change caused by public and private actors (para. 62). We would like to emphasize that article 25 of the UDHR recognizes the right of everyone to a standard of living adequate for the health and well-being of themselves and their families, which is interpreted in terms of the individual's potential, the social and environmental conditions affecting that individual's health, and health services.

In this regard, article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. General comment No. 14 describes the normative content of article 12 of the ICESCR and the legal obligations assumed by States Parties to respect, protect, and fulfil the right to physical and mental health. In paragraph 11 of general comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as "an inclusive right extending not only to timely and appropriate health-care but also to the basic determinants of health, such as access to safe and clean water and adequate sanitation, adequate supplies of safe food, nutrition, and housing, healthy working and environmental conditions, and access to health-related education and information."

Article 11(1) of the ICESCR recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. Article 11(2) establishes "the fundamental right to be free from hunger and malnutrition," which is self-executing. Article 11, paragraph 1, of the ICESCR further requires States to "take appropriate measures to ensure the realization of this right." CESCR emphasized in its general comment No. 12 that the concept of adequacy of food is to be determined by "the prevailing social, economic, cultural, climatic, ecological and other conditions" (para. 7). In the same general comment, CESCR emphasized that the core content of the right to adequate food involves, inter alia, the economic and physical accessibility of food (para. 7). The Committee considers that the core content of the right to adequate food implies, among other things, the availability of food, which refers to the possibilities either of sourcing food directly from productive land or other natural

resources, or of having properly functioning distribution, processing, and marketing systems capable of moving food from the place of production to where it is needed, based on demand. The obligation to respect existing access to adequate food requires States parties not to adopt any measures that would result in impeding such access. The obligation to protect requires measures on the part of the State to ensure that private actors do not deprive individuals of their access to adequate food. The obligation to fulfil requires the State to proactively engage in activities aimed at strengthening people's access to and use of the resources and means to ensure their livelihoods, including food security. We would like to recall that, as the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication point out, pollution and degradation of aquatic environments pose serious threats to small-scale fishing communities, impeding the safe and sustainable use of the fisheries resources on which they depend, thus hampering the realization of their right to food. The FAO Voluntary Guidelines recommend that States and other stakeholders take measures to address problems such as pollution, coastal erosion, and the destruction of coastal habitats due to anthropogenic factors unrelated to fisheries.

We also highlight the explicit recognition of the human right to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected, among others, by article 25 of the Universal Declaration of Human Rights and article 11 of the ICESCR. In its general comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone has the right to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic use. Furthermore, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall the explicit recognition that "the human right to sanitation entitles everyone, without discrimination, to physical and affordable access to sanitation services in all spheres of life that are safe, hygienic, protected, socially and culturally acceptable, and that provide privacy and guarantee dignity, while reaffirming that both rights are components of the right to an adequate standard of living."

We wish to draw the attention of Your Excellency's Government to article 25 of the ICCPR, which guarantees the right and opportunity of every citizen to participate in the conduct of public affairs, and to article 15 of the ICESCR on the right of everyone to take part in cultural life, which guarantees the right to take part in decision-making processes that have an impact on one's cultural life. The Human Rights Committee, in general comment No. 25, stipulates that citizens may participate directly by taking part in popular assemblies empowered to make decisions on local issues or on the affairs of a particular community and in bodies established to represent citizens in consultation with the government (para. 6), and that they may also exercise influence through public debate and dialogue with their representatives or through their ability to organize (para. 8). The right to participate in public affairs is further elaborated in document A/HRC/39/28: "Meaningful participation requires a long-term commitment on the part of public authorities, coupled with their genuine political will, a focus on action and a change of mindset regarding the way things are done.... Laws, policies and institutional arrangements should guarantee the equal participation of individuals and groups in the development, implementation and evaluation of any law, regulation, policy, programme

or strategy that affects them (paragraph 19 (c)). The right to participate in public affairs should be recognized as an ongoing process that requires open and honest interaction between public authorities and all members of society, including those most at risk of marginalization or discrimination, and should be facilitated on an ongoing basis (paragraph 19 (h)).

In its general comment 21, the Committee on Economic, Social and Cultural Rights also stressed the right to take part in the development of the community to which a person belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person's cultural rights (para. 15.c). In her report to the General Assembly, the Special Rapporteur in the field of cultural rights highlighted that in many cases, "development" policies and strategies reflecting dominant cultural viewpoints or those of the most powerful sectors of society, with historic ties to colonialism and domination, are designed and implemented to the detriment of the most vulnerable in a manner that impedes the future sustainable development and survival of these persons and communities and probably, in the longer term, of humanity. She stressed that people and peoples must be the primary beneficiaries of development processes and recommended that States, international organizations and other stakeholders ensure that sustainable development processes

- (a) Are culturally sensitive and appropriate, contextualised to specific cultural environments and seek to fully align themselves with the aspirations, customs, traditions, systems and world views of the individuals and groups most likely to be affected;
- (b) Fully respect and integrate the participation rights and the right of affected people and communities to free, prior and informed consent;
- (c) Are self-determined and community led;
- (d) Are preceded by human rights impact assessments to avoid any negative impacts on human rights, including impact assessments on cultural rights; any impact assessment failing to address living heritage or the cultural significance of affected natural resources, or conducted without the free, prior and informed consent, consultation and active participation of the persons and communities affected directly or indirectly, should be rejected as insufficient and incomplete;
- (e) Recognize that indigenous peoples must give their free, prior and informed consent before any project that affects them is implemented. (A/77/290, paras. 97-98).

Furthermore, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) states that each State Party shall adopt the necessary legal or administrative measures, through legal or administrative provisions, to promote access to environmental information held by private entities, in particular information on their operations and potential risks and effects on human health and the environment (article 6, paragraph 12). The right to information has been recognized as one of the rights upon which free and democratic societies depend (E/CN.4/2000/63,

paragraph 42). We also wish to highlight the report of the Special Rapporteur on climate change and human rights on access to information (A/79/176), which makes specific recommendations on the subject and concludes that "Timely access to high-quality, reliable, evidence-based and accessible information on climate change and human rights is essential to ensure that public authorities understand the potential for predicting and preventing the negative effects of climate change on human rights and response measures, and adopt holistic, effective, and integrative decisions to mitigate and adapt to climate change. The public should be informed about the magnitude of the actual and potential negative human rights risks and impacts of climate change and response measures, and about the adequacy of State and business responses to effectively protect and respect human rights in the context of climate change."

We would like to refer Your Excellency's Government to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Declaration establishes international human rights standards relating to the rights of Indigenous Peoples. Article 32 affirms that Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions with a view to obtaining their free and informed consent prior to approving any project affecting their lands or territories and other resources, particularly in relation to the development, use or exploitation of mineral, water or other resources." Furthermore, article 28 of the UNDRIP establishes that Indigenous Peoples have the right to fair, impartial, and equitable compensation for the lands, territories, and resources they have traditionally owned, occupied, or used, which have been confiscated, taken, occupied, used, or damaged without their free, prior, and informed consent. The UNDRIP further emphasizes that States must provide effective mechanisms for fair and equitable redress for any such activities, and that appropriate measures must be taken to mitigate any adverse environmental, economic, social, cultural, or spiritual impacts.

Additionally, ILO Convention 169 establishes that the peoples concerned shall have the right to decide their own priorities in the development process, insofar as it affects their lives, beliefs, institutions and spiritual well-being, and the lands they occupy or otherwise use, and to control, as far as possible, their own economic, social and cultural development (article 7). Furthermore, they shall participate in the formulation, execution and evaluation of national and regional development plans and programs that may directly affect them. Article 15 of ILO Convention 169 refers to the right to participate in the utilization, management and conservation of natural resources belonging to the lands of Indigenous Peoples and includes the right to share in the benefits arising from such activities and to receive fair compensation for any damage they may suffer as a result.

The United Nations Declaration on the Rights of Peasants and Other Persons Working in Rural Areas clarifies that peasants and other people working in rural areas, including artisanal fishers, have the right to access and sustainably use the natural resources present in their communities to enjoy adequate living conditions, in accordance with article 5 of that Declaration. They also have the right to participate in the management of these resources. The Declaration indicates that States shall take measures to ensure that any exploitation affecting natural resources traditionally owned or used by peasants and other people working in rural areas is permitted, based on, inter

alia, a properly conducted social and environmental impact assessment; good faith consultations; and modalities for the fair and equitable sharing of the benefits of such exploitation established on mutually agreed terms between those exploiting the natural resources and peasants and other people working in rural areas. The FAO SSF Guidelines urge States to ensure the active, free, effective, meaningful, and informed participation of small-scale fishing communities throughout the decision-making process related to fisheries resources and the areas where small-scale fisheries operate, as well as adjacent terrestrial areas, taking into account existing power imbalances between different parties. This should include providing feedback and support to those potentially affected by decisions before they are made, and responding to their contributions (paragraph 3.1.6). The Guidelines further indicated that States and other parties should, before implementing large-scale development projects that could affect artisanal fishing communities, consider the social, economic, and environmental impacts through impact assessments, and hold effective and meaningful consultations with these communities, in accordance with national legislation.

Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Germany in 1973, establishes a general prohibition on all forms of racial discrimination. Article 1, paragraph 1, defines racial discrimination as "any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in any field of public, political, economic, social, cultural, or other life." Article 2 of ICERD sets out the general responsibilities to prevent, address, and eliminate all forms of racial discrimination. In her 2022 report to the General Assembly (A/77/549), the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance explained how to address situations of environmental degradation. Her report (para. 42) states that "in its general recommendation, the Committee on the Elimination of Racial Discrimination has clarified that the prohibition of racial discrimination cannot be interpreted narrowly. The Committee has also stated that the Convention applies to intentional or deliberate discrimination, as well as to discrimination in practice and structural discrimination. This substantive and non-formalistic approach to equality is particularly important in the context of environmental degradation and climate change, where it is difficult to prove discriminatory intent, but the disparate effects of environmental damage are clearly evident." Article 5 of ICERD requires States parties to eliminate racial discrimination in the enjoyment of economic, social, cultural, civil, and political rights, in accordance with their obligations under article 2. Article 5(vi) sets out the right to equal participation in cultural rights.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we highlight article 1 on the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and article 2 which states that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would also like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 5: For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to (a) meet or assemble peacefully; and (b) to form, join and participate in non-governmental organizations, associations or groups.
- Article 6: Everyone has the right (b) to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and (c) to study, discuss, form and hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to those matters.
- Article 12: (1) Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms. (2) The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights.

We consider it particularly relevant to note general comment No. 36 of 2018 of the Human Rights Committee, which establishes that the obligations of States Parties under international environmental law must inform the content of article 6 of the ICCPR, and that the obligation of States Parties to respect and guarantee the right to life must also inform their relevant obligations under international environmental law. In this regard, we would like to draw the attention of Your Excellency's Government to the rules of international law that prohibit significant transboundary environmental damage, both within the territory of other States and in areas beyond national jurisdiction. Environmental impact assessments (EIAs) are necessary as a preventive measure for States to ensure that significant transboundary damage does not occur. Any uncertainty resulting from the EIA should be resolved by applying the precautionary principle, in accordance with principle 15 of the 1992 Rio Declaration on Environment and Development. Principle 21 of the 1972 Stockholm Declaration on the Human Environment, reaffirmed by principle 2 of the Rio Declaration, established that States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. This was codified in article 194(2) of the United Nations Convention on the Law of the Sea (UNCLOS), which states that “States shall take all necessary measures to ensure that activities under their jurisdiction or control are carried out in such a way as not to cause damage by pollution to other States and to their environment, and that pollution resulting from incidents or activities under their jurisdiction or control does not extend beyond the areas in which they exercise sovereign rights in accordance with this Convention.”

Furthermore, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy, and sustainable environment, reaffirmed by the General Assembly in July 2022 with resolution A/RES/76/300. A safe climate has been identified as one of the substantial elements of this right (A/74/161 and A/79/270). Other substantial elements of the right

to a clean, healthy, and sustainable environment include clean air, safe and sufficient water, healthy and sustainable food, non-toxic environments, and healthy biodiversity and ecosystems. Additionally, the right to a healthy environment also includes procedural elements, namely access to information, citizen participation, and access to justice, which are also autonomously recognized human rights.

The Framework Principles on Human Rights and the Environment, submitted to the Human Rights Council in March 2018 (A/HRC/37/59), set out States' core obligations under human rights law with regard to the enjoyment of a safe, clean, healthy, and sustainable environment. They underscore States' substantive responsibilities in this regard, including the obligation to prevent violations of the right to a healthy environment or other human rights. Principle 8 specifically states that "In order to avoid authorizing measures with environmental impacts that interfere with the full enjoyment of human rights, States should require prior assessments of the potential environmental impacts of proposed projects and policies, including their potential impacts on the enjoyment of human rights," including the rights to life, health, food, water, housing, and culture. Furthermore, principle 14, for example, establishes that "States should take additional measures to protect the rights of those who are most vulnerable to or particularly exposed to environmental damage, taking into account their needs, risks, and capabilities." In this regard, the report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (A/HRC/56/46), in particular its paragraph 15, recalls States' obligation to exercise due diligence in implementing the necessary measures to regulate emissions from companies operating under their national jurisdiction, in order to mitigate the future effects of climate change. Furthermore, principle 15 clarifies that States must ensure that they fulfil their obligations to indigenous peoples and members of traditional communities by recognizing and protecting their rights to the lands, territories, and resources they have traditionally owned, occupied, or used; consulting with them and obtaining their free, prior, and informed consent before relocating them or adopting or approving any other measures that may affect their lands, territories, or resources; respecting and protecting their traditional knowledge and practices related to the conservation and sustainable use of their lands, territories, and resources; and ensuring that they share fairly and equitably the benefits of activities related to their lands, territories, or resources.

Furthermore, we would also like to draw your attention to the Paris Agreement, which recognizes that States Parties must, when taking measures to address climate change, respect, promote, and consider their respective human rights obligations (preamble).

In this regard, we also note that States' obligations related to the protection of the climate system and other parts of the environment from anthropogenic greenhouse gas emissions, in particular the obligation to prevent significant transboundary harm under customary international law, are *erga omnes* obligations, as observed by the International Court of Justice in its Advisory Opinion of 23 July 2025.

The Special Rapporteur on human rights and the environment compiled in document A/74/161 the specific climate-related human rights obligations of States. In particular, he emphasized that States must:

- 1) States with significant fossil fuel industries should incorporate just transition strategies, including social and economic impact assessments, as well as policies and programs for skills development, retraining, and adult education.
- 2) Prevent fossil fuel companies and their industry associations from influencing climate, energy, and environmental policies, given their responsibility for the majority of emissions and their well-known efforts to subvert and deny scientific evidence of climate change.
- 3) Ban further fossil fuel exploration, as it is not possible to burn all existing reserves while also meeting the obligations under the Paris Agreement.

In her latest thematic report ([A/HRC/58/59](#)), the Special Rapporteur on the human right to a clean, healthy and sustainable environment recognized that businesses have a responsibility to address and disclose their climate impacts transparently, while ensuring compliance with human rights standards. They must also assess and report on emissions (scope 1, scope 2, and scope 3) across all their operations and evaluate the sustainability of their activities. Extractive industries must incorporate human rights considerations into their energy transition programs and all other initiatives, ensuring respect for ecosystems and the rights of communities. Furthermore, in cases of business-related human rights abuses, States have an obligation to guarantee access to justice and effective remedies for victims through independent grievance mechanisms, including, for example, legislation to counter undue corporate influence and mechanisms to protect environmental defenders so they can enjoy a safe environment and continue to carry out their work. In general, breaches of the obligations to respect, protect, and fulfil the right to a clean, healthy, and sustainable environment give rise to the application of human rights obligations beyond a State's territory when the source of the harm is under its control.

Furthermore, the Special Rapporteur on climate change and human rights has recommended:

54. Priority, comprehensive, coherent action on the fossil fuel phaseout within this decade is necessary to ensure a livable future for all, as an urgent precondition for a just transition and for effective human rights protection in the context of current planetary crises.

55. While decarbonization continues to be essential, coupled with detoxification of any decarbonization technology, it must be accompanied by the defossilization of our economies with a view to: (a) Prioritizing the phaseout of fossil fuel production and of the use of fossil fuels, as the main cause of climate change; (...)

56. All States should immediately start inclusive processes to co-develop defossilization plans and measures, with the informed and meaningful

participation of workers and unions, representatives of human rights holders most affected by climate change, Indigenous Peoples, people of African descent, peasants, women, children and youth. (...)

59. States should immediately prohibit (c) the exploration or exploitation in protected and highly biodiverse areas.

62. [D]eveloped countries should (a) take immediate defossilization measures; (b) prioritize international financial, capacity-building and technological support to other countries to defossilize their economies, in accordance with their maximum available resources.

70. States should (b) require private and publicly owned financial institutions to divest from fossil fuels, and provide instead finance for renewables development, for adaptation and for responses to loss and damage.³

In addition, the Committee on the Rights of the Child, in its general comment No. 26 (2023), emphasized that to protect children’s right to a healthy environment, which is implicit in the Convention on the Rights of the Child, States must take immediate action to equitably phase out the use of coal, oil and gas; and States that have substantial fossil fuel industries should assess the social and economic impact on children of their related decisions.

On the other hand, the International Court of Justice established in its Advisory Opinion of 23 July 2025, that “(f)ailure of a State to take appropriate action to protect the climate system from GHG emissions – including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies – may constitute an internationally wrongful act which is attributable to that State” (para. 427). The Court also stressed that “States have obligations under international human rights law to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment”. Further, it highlighted that “, (...) all States have a common interest in the protection of global environmental commons like the atmosphere and the high seas. Consequently, States’ obligations pertaining to the protection of the climate system and other parts of the environment from anthropogenic GHG emissions, in particular the obligation to prevent significant transboundary harm under customary international law, are obligations *erga omnes*. In the treaty context, the Court recalls that the UNFCCC and Paris Agreement acknowledge that climate change is “a common concern of humankind” (UNFCCC, first preambular paragraph; Paris Agreement, eleventh preambular paragraph), requiring “a global response” (Paris Agreement, article 2). They seek to protect the essential interest of all States in the safeguarding of the climate system, which benefits the international community as a whole. As such, the Court considers that the obligations of States under these treaties are obligations *erga omnes partes*.” (para. 440).

In relation to the facts and concerns raised above, we would also like to shed light on the relevance of the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously adopted by the Human Rights Council in

³ A/HRC/59/42

June 2011, to the impact of business activities on human rights. 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 specialized organs or companies performing specialized functions, obliged to comply with all applicable laws and to respect human rights; (c) The need for rights and obligations to be accompanied by appropriate and effective remedies when they are violated."

According to the guiding principles, States have a duty to protect against human rights violations committed within their territory and/or jurisdiction by third parties, including business entities. States may be deemed to have breached their international human rights obligations when they fail to take appropriate measures to prevent, investigate, and remedy human rights violations committed by private actors. Although States generally enjoy discretion in deciding on these measures, they should consider the full range of permissible preventive and restorative measures. States should also take appropriate measures to ensure, by judicial, administrative, legislative, or other means as appropriate, that when such abuses occur within their territory and/or jurisdiction, those affected have access to an effective remedy" (guiding principle 25). The guiding principles also emphasize that "States should ensure [...] that the legitimate and peaceful activities of human rights defenders are not hindered" (Commentary to guiding principle 26).

Furthermore, we would like to point out that, as set out in the UN Guiding Principles on Business and Human Rights, all businesses have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others and to address adverse human rights impacts in which they are involved. The responsibility to respect human rights is a global standard of conduct expected of all businesses, wherever they operate. It exists independently of the ability and/or willingness of States to fulfil their own human rights obligations and does not diminish those obligations. Furthermore, it exists beyond compliance with national laws and regulations that protect human rights.

Principles 11 to 24 and 29 to 31 guide businesses on how to fulfil their responsibility to respect human rights and to provide remedy when they have caused or contributed to adverse impacts. The commentary to guiding principle 13 notes that businesses may be implicated in adverse human rights consequences through their own activities or as a result of their business relationships with others. [...] The "activities" of businesses 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 State or non-State entities directly linked to their business operations, products, or services.

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

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

States may be deemed to have violated their international human law obligations when they fail to take appropriate measures to prevent, investigate, and remedy human rights violations committed by private actors. While States generally have discretionary powers to decide on such measures, they must consider the full range of permissible preventive and corrective measures.

The full texts of the aforementioned human rights instruments and standards can be consulted at www.ohchr.org or requested in writing.