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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

## **Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem**

### **Report of the United Nations High Commissioner for Human Rights\***

#### *Summary*

The present report has been prepared pursuant to Human Rights Council resolutions 31/36 and 53/25. It describes the state of progress made towards updating the database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, and details the legal and human rights foundations for this work, as well as the methodology used to update the database. The report contains preliminary data from an initial screening of the submissions received in response to a call for input made in May 2024.

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\* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to its resolutions 31/36, entitled “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan”, and 53/25, entitled “Implementation of Human Rights Council resolution 31/36”.

### A. Mandate

2. In paragraph 17 of its resolution 31/36, the Human Rights Council requested the United Nations High Commissioner for Human Rights, in consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, to produce a database of all business enterprises involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory.

3. The request for the production of a database made by the Human Rights Council in its resolution 31/36 was in follow-up to the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.<sup>1</sup> In paragraph 96 of its report, the fact-finding mission set out a list of activities that raised particular human rights concerns (referred to as “listed activities”). In its resolution 31/36, the Council specified that the database should contain business enterprises involved in those listed activities, which are the following:

- (a) The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructure;
- (b) The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements;
- (c) The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olive groves and crops;
- (d) The supply of security services, equipment and materials to enterprises operating in settlements;
- (e) The provision of services and utilities supporting the maintenance and existence of settlements, including transport;
- (f) Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses;
- (g) The use of natural resources, in particular water and land, for business purposes;
- (h) Pollution and the dumping of waste in or its transfer to Palestinian villages;
- (i) Captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints;
- (j) Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.

4. In its resolution 31/36, the Human Rights Council requested the High Commissioner to produce such a database, to be updated annually, and to transmit the data therein in the form of a report to the Council at its thirty-fourth session. In its resolution 53/25, the Council requested the High Commissioner to ensure that the yearly updates of the database included the addition and removal of companies and to present the database on an annual basis to the Council starting from its fifty-seventh session.

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<sup>1</sup> [A/HRC/22/63](#).

5. As noted in previous reports, the database includes only business enterprises (whether domiciled in Israel, the Occupied Palestinian Territory or abroad) involved in the 10 specific activities listed above.<sup>2</sup> It does not cover all business activities related to settlements, nor does it extend to other business activities in the Occupied Palestinian Territory that may raise human rights concerns.

## B. Reporting pursuant to the mandate

6. In 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) submitted a report to the Human Rights Council at its thirty-seventh session<sup>3</sup> that contained the methods of work and methodology to be used to discharge the mandate as set out in Council resolution 31/36.

7. In 2020, OHCHR submitted a report to the Human Rights Council at its forty-third session<sup>4</sup> that contained a list of 112 business enterprises that had met the standard for inclusion in the database.<sup>5</sup>

8. In 2023, OHCHR published an update containing a review of the 112 business enterprises listed in the report from 2020.<sup>6</sup> The review resulted in 15 business enterprises being removed from the list. The update was transmitted to the President of the Human Rights Council and made publicly available on the OHCHR website.

9. The present report is the first such report submitted after the adoption of Human Rights Council resolution 53/25. As indicated in past reports, OHCHR has sought to ensure the highest level of procedural fairness in the implementation of the mandate, including by providing an opportunity for all screened business enterprises to respond to allegations of involvement in listed activities before including them in the database.<sup>7</sup>

10. To prepare the present report, OHCHR issued a public call for input and specific information on business enterprises involved in listed activities.<sup>8</sup> The call for input was disseminated through notes verbales addressed to all Member States on 2 May 2024. In addition, it was disseminated through the OHCHR web portal on the database and through specialized civil society organizations. As described in paragraphs 42–45 below, more than 700 submissions were received by OHCHR in response to the call for input.

11. Given delays in the recruitment of staff to implement the mandate set out in Human Rights Council resolution 53/25 and the liquidity crisis of the United Nations, OHCHR was unable to conduct a full assessment of and engagement with the business enterprises named in the submissions received (see paras. 42–45 below for an overview of the submissions received) before the deadline for submission of the present report. As a result, the present report does not include the names of any additional business enterprises involved in listed activities, nor does it contain a reassessment of the business enterprises already listed. Instead, the present report contains details of the legal and human rights foundations for this work and of the methodology that OHCHR is pursuing to update the database.

<sup>2</sup> [A/HRC/37/39](#), para. 6; and [A/HRC/43/71](#), paras. 6–8. See also Office of the United Nations High Commissioner for Human Rights (OHCHR), “OHCHR update of database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem” (2023), paras. 7 and 8, available at [www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session31/database-hrc3136/23-06-30-Update-israeli-settlement-opt-database-hrc3136.pdf](http://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session31/database-hrc3136/23-06-30-Update-israeli-settlement-opt-database-hrc3136.pdf).

<sup>3</sup> [A/HRC/37/39](#).

<sup>4</sup> [A/HRC/43/71](#).

<sup>5</sup> [A/HRC/37/39](#), paras. 10 and 11.

<sup>6</sup> OHCHR, “OHCHR update of database”.

<sup>7</sup> [A/HRC/37/39](#), paras. 15–22; [A/HRC/43/71](#), paras. 19–23; and OHCHR, “OHCHR update of database”, paras. 9–12.

<sup>8</sup> See [www.ohchr.org/en/calls-for-input/2024/call-input-bhr-opt-database](http://www.ohchr.org/en/calls-for-input/2024/call-input-bhr-opt-database).

## II. Normative framework

12. In its 2018 report, OHCHR presented the general normative framework applying to the mandate, which remains applicable.<sup>9</sup> The Guiding Principles on Business and Human Rights remain a key framework in assessing the potential involvement of business enterprises in the activities falling within the scope of the mandate. The following paragraphs contain a review of the key elements of the Guiding Principles and information on certain developments that have occurred since 2018, which are relevant to future adjustments to the methodology.

### A. Guiding Principles on Business and Human Rights and the mandate

13. In its resolution 31/36, the Human Rights Council made numerous references to the relevance of the Guiding Principles on Business and Human Rights, and OHCHR has reiterated their importance.<sup>10</sup> The extent to which the Guiding Principles have been referenced in, and continue to shape, national and international discourse and initiatives relating to responsible business is an indication of their authority and credibility as a conceptual framework and source of guidance. The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization (ILO) and the Guidelines for Multinational Enterprises on Responsible Business Conduct of the Organisation for Economic Co-operation and Development (OECD), among other instruments and standards, have been updated to integrate and align with the Guiding Principles. Key mechanisms in the international human rights system, such as the universal periodic review and the human rights treaty bodies, have included references to the implementation of the Guiding Principles in recommendations and statements. Moreover, they are increasingly referred to in laws, national policies, judicial decisions, guidance, codes of conduct and corporate standards. Their importance as a reference point in the development of legal standards for human rights due diligence further cements their status as the globally agreed-upon authoritative standard for what States and businesses need to do to respectively protect and respect the full range of human rights across all business contexts.<sup>11</sup>

### B. Key provisions of the Guiding Principles on Business and Human Rights

14. The Guiding Principles on Business and Human Rights rest on three “pillars”: (a) the State duty to protect human rights; (b) the corporate responsibility to respect human rights;<sup>12</sup> and (c) access to remedy.<sup>13</sup>

15. The first pillar of the Guiding Principles on Business and Human Rights – the State duty to protect human rights – acknowledges that States must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication. The Guiding Principles contain recognition of the strong policy reasons for home States to set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations. Owing to the heightened risks of human rights abuses in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved in such abuses. In such contexts, home States have

<sup>9</sup> A/HRC/37/39, paras. 27–41.

<sup>10</sup> Ibid., paras. 30–41.

<sup>11</sup> A/HRC/21/21, paras. 1–16; and A/HRC/47/39, paras. 11–29.

<sup>12</sup> OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide* (New York and Geneva, 2012).

<sup>13</sup> *Access to Remedy in Cases of Business-related Human Rights Abuse: An Interpretive Guide* (United Nations publication, forthcoming).

particularly important roles to play in preventing and addressing human rights abuses by business enterprises domiciled in their territory and/or jurisdiction.<sup>14</sup>

16. The second pillar of the Guiding Principles on Business and Human Rights – the corporate responsibility to respect human rights – contains the global standard of expected conduct for all business enterprises, wherever they operate and regardless of size, sector, operational context, ownership and structure.<sup>15</sup> It is stipulated in the Guiding Principles that the responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work.<sup>16</sup> As recognized in the Guiding Principles, business enterprises may need to consider additional standards depending on the circumstances. For instance, in situations of armed conflict, enterprises should respect the standards of international humanitarian law.<sup>17</sup>

17. The following key concepts of the second pillar are particularly instructive for the approach to the future implementation of the mandate.

### 1. Human rights due diligence

18. In order to meet their responsibility to respect human rights, business enterprises are expected to conduct ongoing human rights due diligence, which will vary in complexity depending on the size of the business enterprise, the risk of severe human rights impacts and the nature and context of its operations.<sup>18</sup> Human rights due diligence, as described in the Guiding Principles on Business and Human Rights, refers to the processes and activities by which businesses identify, prevent, mitigate and account for how they address their adverse human rights impacts.<sup>19</sup> The Guiding Principles provide important guidance as to the key elements of human rights due diligence and the basic standards that should be observed.<sup>20</sup> In recent years, additional guidance on human rights due diligence in challenging operating contexts, such as situations of armed conflict, has been produced by OHCHR<sup>21</sup> and the Working Group on the issue of human rights and transnational corporations and other business enterprises and the United Nations Development Programme (UNDP),<sup>22</sup> among others.

<sup>14</sup> Guiding Principles on Business and Human Rights, principles 1, 2 and 7. See also the statement by the Working Group on the issue of human rights and transnational corporations and other business enterprises on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the Occupied Palestinian Territory (2014), pp. 4 and 5, available at [www.ohchr.org/sites/default/files/Documents/Issues/Business/OPTStatement6June2014.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/OPTStatement6June2014.pdf).

<sup>15</sup> Guiding Principles on Business and Human Rights, principle 14. The responsibility of business enterprises to respect human rights is distinct from issues of legal liability and enforcement, which remain defined largely by national law provisions in relevant jurisdictions.

<sup>16</sup> Guiding Principles on Business and Human Rights, principle 12. See also [www.ohchr.org/en/business/international-standards](http://www.ohchr.org/en/business/international-standards).

<sup>17</sup> Guiding Principles on Business and Human Rights, principle 12, commentary.

<sup>18</sup> Ibid., principle 17. See also A/HRC/47/39, paras. 18–29.

<sup>19</sup> Guiding Principles on Business and Human Rights, principles 17–21. Human rights due diligence should not be confused with other forms of legal due diligence activities, such as those carried out in preparation for corporate mergers and acquisitions, or those required for compliance-monitoring purposes in areas such as banking or anti-corruption. The key difference between these concepts is that the latter group is generally concerned with identifying, preventing and mitigating risks to business, whereas human rights due diligence is concerned with risks to people (A/HRC/38/20/Add.2, paras. 7–13).

<sup>20</sup> Guiding Principles on Business and Human Rights, principles 17–21; see also OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 31–63.

<sup>21</sup> For example, “Business and human rights in challenging contexts: considerations for remaining and exiting” (2023).

<sup>22</sup> For example, *Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide* (New York, UNDP, 2022).

## 2. Involvement framework

19. Business enterprises can become involved in actual and potential adverse human rights impacts in different ways – either through their own activities or as a result of their business relationships with other parties. Principle 13 of the Guiding Principles on Business and Human Rights states that the responsibility to respect human rights requires that business enterprises:

(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

20. The typology used in the Guiding Principles on Business and Human Rights – of causation, contribution, and direct linkage – is often referred to as the “involvement framework”. The involvement framework helps to understand the various ways in which business enterprises may become involved in actual and potential adverse human rights impacts (within the meaning of the Guiding Principles) and the actions that they are expected to take in response, including as part of their human rights due diligence, to meet their responsibility to respect human rights.<sup>23</sup>

21. A business can cause an adverse impact where its activities (actions or omissions) on their own remove or reduce a person’s (or group of persons’) ability to enjoy a human right.<sup>24</sup> In cases in which a business causes or may cause an adverse human rights impact, it is expected to cease or prevent the impact and provide for or cooperate in its remediation.<sup>25</sup>

22. A business can contribute to an adverse impact through its own activities (actions or omissions) when those activities are combined with the activities of another actor (either alongside (i.e. in parallel) or through another party) in a way that removes or reduces the ability to enjoy a human right.<sup>26</sup> In cases in which a business contributes or may contribute to an adverse human rights impact, it is expected to cease or prevent its contribution, use whatever leverage it may have to mitigate any remaining impact to the greatest extent possible and provide for or cooperate in the remediation of the adverse impact.<sup>27</sup>

23. Even where a business has not caused or contributed to an adverse impact, an impact may nevertheless be directly linked to the business’ operations, products or services by a business relationship.<sup>28</sup> In such cases, the business enterprise is expected to seek to prevent or mitigate such an impact. If the business enterprise has the leverage to prevent or mitigate the adverse impact, it should exercise it. If it lacks sufficient leverage, it should seek to increase it. The Guiding Principles on Business and Human Rights set out key factors that business enterprises should consider in decision-making in situations of direct linkage,

<sup>23</sup> OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 15–18 and 48–51.

<sup>24</sup> OHCHR, “OHCHR response to request from BankTrack for advice regarding the application of the UN Guiding Principles on Business and Human Rights in the context of the banking sector” (2017), p. 5, available at [www.ohchr.org/sites/default/files/Documents/Issues/Business/InterpretationGuidingPrinciples.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/InterpretationGuidingPrinciples.pdf).

<sup>25</sup> Guiding Principles on Business and Human Rights, principle 19, commentary, and principle 22.

<sup>26</sup> OHCHR, “OHCHR response to request from BankTrack”, pp. 5 and 6; and OHCHR, “Taking action to address human rights risks related to end-use” (2020), p. 4.

<sup>27</sup> Guiding Principles on Business and Human Rights, principle 19, commentary, and principle 22.

<sup>28</sup> Letter dated 27 November 2013 from OHCHR to the OECD Working Party on Responsible Business Conduct, paras. 5 and 8, available at [www.ohchr.org/sites/default/files/Documents/Issues/Business/LetterOECD.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/LetterOECD.pdf); OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 15–18; and OHCHR, “OHCHR response to request from BankTrack”, p. 6. For the purpose of the Guiding Principles on Business and Human Rights, a business enterprise’s business relationships are understood to include relationships with business partners, entities in its value chain and any other non-State or State entity directly linked to its business operations, products or services (principle 13, commentary).

including as regards considerations for ending a business relationship in certain circumstances.<sup>29</sup>

24. In practice, it may be difficult to draw a clear distinction between these different modes of involvement. As explained in previous OHCHR commentaries on this topic, there is a continuum between contributing to and having a direct link to an adverse human rights impact. Moreover, the nature of a business' involvement with an impact may shift over time, depending on its own behaviour and evolving standards of practice.<sup>30</sup>

### 3. Prioritization and severity

25. Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.<sup>31</sup> As soon as the most severe impacts are addressed, the enterprise should turn to those with the next greatest severity and so on until it has addressed all its actual and potential impacts on human rights, bearing in mind that this is likely to be an ongoing exercise that will be adjusted to changing circumstances.

26. The severity of impacts are to be assessed on the basis of their scale, scope and irremediable character.<sup>32</sup> Relevant considerations will include the gravity of the impact, the number of individuals who are or will be affected and the ability to restore those affected to a situation as close as possible to their situation before the impact.<sup>33</sup>

## III. Methodology for implementation of the mandate

27. In performing the mandate, OHCHR applies its standard methodology, guided by the principles of independence, impartiality, objectivity, credibility and professionalism. This methodology was formulated on the basis of best practice, advice and guidance from the Working Group on the issue of human rights and transnational corporations and other business enterprises, and consultations with stakeholders.<sup>34</sup>

28. In its previous reports, OHCHR provided details on the methods of work and methodology to be applied in the implementation of the mandate,<sup>35</sup> including regarding:

- (a) Definitions;<sup>36</sup>

<sup>29</sup> Guiding Principles on Business and Human Rights, principle 19, commentary; OHCHR, "Business and human rights in challenging contexts", pp. 7–13; and OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 48–51.

<sup>30</sup> OHCHR, "OHCHR response to request from BankTrack", pp. 6–10; OHCHR, "Taking action to address human rights risks related to end-use", pp. 4 and 5; and OHCHR, "Business and human rights in challenging contexts", pp. 4 and 15.

<sup>31</sup> Guiding Principles on Business and Human Rights, principle 24; and OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 19, 31–34 and 82–85. In the Guiding Principles it is also recognized that, in circumstances in which it may be unreasonable to expect a business enterprise to conduct human rights due diligence across all entities in its value chain, the business enterprise should identify general areas where the risk of adverse human rights impacts is most significant and prioritize these for human rights due diligence (principle 17, commentary; see also OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 41 and 42; and OECD, *Due Diligence Guidance for Responsible Business Conduct*, pp. 17 and 42–45 (2018)).

<sup>32</sup> Guiding Principles on Business and Human Rights, principle 14, commentary.

<sup>33</sup> OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, pp. 83 and 84. See also OHCHR, "Identifying and assessing human rights risks related to end-use" (2020), pp. 7 and 8.

<sup>34</sup> [A/HRC/37/39](#), para. 7.

<sup>35</sup> *Ibid.*, paras. 7–25; and [A/HRC/43/71](#), paras. 9–30 and 32. See also OHCHR, "OHCHR update of database", paras. 5–16.

<sup>36</sup> [A/HRC/43/71](#), paras. 9–18.

- (b) Relevant standards for inclusion in the database;<sup>37</sup>
- (c) Relevant standards for removal from the database;<sup>38</sup>
- (d) Information-gathering and screening processes.<sup>39</sup>

29. The general approach articulated thus far will continue to apply; however, some aspects of the methodology have been revised, including as a result of recent developments in the business and human rights field, as detailed below.

## A. Definitions

30. In its 2020 report, OHCHR recognized that the mandate set out in resolution 31/36 required the identification of three cumulative elements: (a) “business enterprises”; (b) “involved”; and (c) in one or more listed activities.<sup>40</sup> Definitions of each element were provided for the purposes of that report. In order to better incorporate the Guiding Principles on Business and Human Rights in some concepts, some additional points on the definitions of “business enterprises” and “involved” are set out below.

### 1. Business enterprises

31. In line with the 2020 report, in assessing whether an entity is a business enterprise, OHCHR considers the nature and substance of the entity’s functions and activities, irrespective of its specific corporate form or structure or of its characterization in the national law of the State of domicile.<sup>41</sup>

### 2. Involved

32. As explained above, the Guiding Principles on Business and Human Rights lay out an involvement framework for understanding the ways in which a business enterprise may become involved in actual and potential adverse human rights impacts, recognizing that businesses can become involved in impacts through their own activities or as a result of their business relationships with other parties. To better align the approach to the database with the involvement framework of the Guiding Principles, OHCHR seeks to make distinctions among the different forms of involvement of a business enterprise, as follows:<sup>42</sup>

- (a) Causation: a business enterprise is itself engaged in a listed activity;
- (b) Contribution: a business enterprise is either engaged in a listed activity alongside another party or sufficiently involved in a listed activity through another party, for instance because the business incentivized or facilitated the party to engage in a listed activity or because the business was aware it was directly linked to adverse impacts through a party engaged in a listed activity, yet over time failed to take reasonable steps to seek to prevent or mitigate the impacts;<sup>43</sup>

<sup>37</sup> [A/HRC/37/39](#), para. 10; and [A/HRC/43/71](#), para. 23.

<sup>38</sup> [A/HRC/37/39](#), para. 11; and [A/HRC/43/71](#), para. 32. See also “OHCHR update of database”, paras. 11 and 16.

<sup>39</sup> [A/HRC/37/39](#), paras. 12–25; and [A/HRC/43/71](#), paras. 21, 22 and 24–30. See also “OHCHR update of database”, paras. 9, 10 and 12–14.

<sup>40</sup> [A/HRC/43/71](#), para. 9.

<sup>41</sup> *Ibid.*, para. 11. See also John G. Ruggie, “For the game. For the world: FIFA & human rights”, Corporate Responsibility Initiative Report No. 68 (Cambridge, United States of America, Harvard Kennedy School, 2016), p. 10.

<sup>42</sup> For the purposes of the implementation of the mandate and in line with past reports, it is assumed that involvement, as defined below, with the listed activities falling within the mandate will constitute involvement in actual or potential human rights impacts. See, for example, [A/HRC/22/63](#) and [A/HRC/37/39](#).

<sup>43</sup> OHCHR, “Business and human rights in challenging contexts”, pp. 4 and 15; OHCHR, “OHCHR response to request from BankTrack”, pp. 6–10; and OHCHR, “Taking action to address human rights risks related to end-use”, pp. 4 and 5.

(c) Direct linkage: a business enterprise is not in a situation of contribution, but it is involved in a listed activity through a business relationship, and there is a direct link between the underlying actual or potential adverse human rights impacts and the operations, products or services of the business enterprise.

33. For the purposes of the 2020 report, certain business enterprises were considered not to be involved in listed activities on the basis of a formal distinction in the nature of their business relationship with another entity engaged in a listed activity.<sup>44</sup> Going forward, and in order to better incorporate the approach of the Guiding Principles on Business and Human Rights in terms of involvement in actual or potential adverse human rights impacts, a business enterprise will be considered to be involved in listed activities if it meets the elements identified in paragraph 32 above, irrespective of the formal nature of the business relationship it may have.<sup>45</sup>

## **B. Standard of proof for inclusion in the database**

34. Where there are reasonable grounds to believe, on the basis of the totality of the information reviewed by OHCHR, that a business enterprise is involved in one or more of the listed activities, the business enterprise will be included in the database. This standard is consistent with the practice of United Nations fact-finding bodies and is lower than a criminal standard. There are “reasonable grounds to believe” that a business enterprise is involved in one or more of the listed activities where OHCHR has reviewed a reliable body of information, consistent with other material, on the basis of which a reasonable and ordinarily prudent person would have reason to believe that the business enterprise was involved in such activities.

## **C. Standard of proof for removal from the database**

35. A business enterprise may provide information indicating that it is no longer involved in a listed activity. The same standard will be used to make a determination as to whether a business enterprise is no longer involved in one or more of the listed activities; thus, if subsequently, on the basis of the totality of the information reviewed by OHCHR, there are reasonable grounds to believe that a business enterprise is no longer involved in the listed activities, the business enterprise will be removed from the database.

## **D. Information-gathering and screening processes**

36. OHCHR is mandated to make factual determinations of whether business enterprises are involved in one or more of the listed activities for the purposes of adding or removing business enterprises from the database. This work does not and does not purport to constitute a judicial or quasi-judicial process of any kind, nor does it provide any legal characterization of the listed activities or business enterprises’ involvement therein.

37. In performing this mandate, factual determinations made by OHCHR are based on an assessment of information gathered through:

<sup>44</sup> A/HRC/43/71, para. 12.

<sup>45</sup> OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, p. 5; letter dated 26 April 2013 from OHCHR to the Centre for Research on Multinational Corporations and OECD Watch, pp. 2–4, available at [www.ohchr.org/sites/default/files/Documents/Issues/Business/LetterSOMO.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/LetterSOMO.pdf); letter dated 27 November 2013 from OHCHR to the OECD Working Party on Responsible Business Conduct, paras. 20–28; and OHCHR, “OHCHR response to request from BankTrack and OECD Watch for advice regarding the application of the UN Guiding Principles on Business and Human Rights where private sector banks act as nominee shareholders” (2021), pp. 3–6, available at [www.ohchr.org/sites/default/files/Documents/Issues/Business/finance-2021-response-nominee-shareholders.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Business/finance-2021-response-nominee-shareholders.pdf).

(a) Desk review of publicly available information, including reports by the United Nations, civil society organizations, the media and academic sources;

(b) Information received in response to notes verbales sent to Member States to request input;

(c) Information received from business enterprises in response to communications inviting them to provide relevant information for the consideration of OHCHR as part of its assessment;

(d) Information received through consultations and in response to calls for input inviting all interested persons and entities to submit relevant information and documentation.

38. In its initial review, OHCHR screens out business enterprises where there is an insufficient factual basis in the submissions received or in the public domain to support the contention of involvement in listed activities at the time of the review.

39. To ensure procedural fairness, OHCHR provides an opportunity for all screened business enterprises to respond to allegations of their involvement in listed activities before including them in the database. When contacting business enterprises, OHCHR informs them of the listed activities that they appear to be involved in, on the basis of the totality of the information reviewed by the Office, and sets out the basic facts of their alleged involvement in such activities. Business enterprises are requested to respond in writing within 60 days with an initial response, providing any clarification or update to the information. A business enterprise may request that the substance of their written responses is kept confidential.

40. Where a business enterprise declines to provide a substantive response or fails to respond at all, this will not of itself prevent a determination as to their involvement in listed activities from being made.

41. All business enterprises that meet the standard of proof for inclusion in the database are informed in writing of their inclusion and of the procedure by which they could be removed.

#### **IV. Submissions received in 2024**

42. A detailed review of all submissions received to the call for input made by OHCHR in May 2024 is ongoing. The present section provides preliminary data from an initial screening of the information, which may be revised upon completion of the review.

43. OHCHR received a total of 733 submissions, which together included allegations of the involvement of 596 business enterprises in listed activities.

44. Of the allegations received, 88 per cent came from civil society organizations and individuals, 10 per cent came from States and the remaining 2 per cent came from other stakeholders.

45. As regards the sectors of the business enterprises concerned in the allegations, an initial review indicates that 45 per cent concern construction and manufacturing, 14 per cent concern finance, 6 per cent concern agriculture, food and beverages, 4 per cent concern technology, 4 per cent concern energy and natural resources, 3 per cent concern security, 11 per cent concern other business sectors and 13 per cent still need to be classified.

#### **V. Next steps**

46. OHCHR will apply the methodology set out above in relation to the submissions received, allowing screened business enterprises to respond to allegations of their involvement in listed activities. After having had the opportunity to respond, a business enterprise will be added to the database only where OHCHR finds that there are reasonable grounds to believe, on the basis of the totality of the information reviewed by it, that the business enterprise is involved in one or more of the listed activities.

47. OHCHR will pursue the review of the current database and the submissions received in response to the call for input made in May 2024 and expects to release the results of its assessment progressively. OHCHR plans to develop a system by which the addition and removal of business enterprises will be periodically released on a dedicated webpage. Until the next update is made public, the most recent public update of the database continues to be that provided by OHCHR in 2023.<sup>46</sup>

48. Given the number of submissions received and expected in the future, it may be that not all information received between updates can be assessed in time for the next regular update. Where unable to sufficiently review and ensure procedural fairness regarding all submissions received before a particular update, OHCHR will prioritize its efforts, taking into account the severity of the actual or potential adverse impacts alleged to be involved, judged by scale, scope and/or irremediable character.<sup>47</sup>

49. As noted above, business enterprises included in the database may provide information at any time demonstrating that they are no longer involved in a listed activity.

## VI. Conclusions and recommendations

50. **States should implement their duty to protect and ensure respect for human rights, including by setting out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations. States of domicile, in particular, have a crucial role to play – using their regulatory and policy tools – to ensure that business enterprises respect human rights in challenging operating contexts, including contexts affected by conflict.**

51. **Business enterprises should meet their responsibility to respect human rights, which exists over and above compliance with national laws and regulations protecting human rights. Where business enterprises are involved in listed activities, they should take appropriate action to address adverse impacts with which they are involved. Further, business enterprises should cooperate and engage in constructive dialogue with OHCHR, with a view to achieving human rights-consistent outcomes.**

52. **When human rights violations and abuses occur, those affected must have access to effective remedy and equal protection of the law.**

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<sup>46</sup> OHCHR, “OHCHR update of database”, pp. 3–7.

<sup>47</sup> See paras. 25 and 26 above.