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COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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REFERENCE:

7 August 2018

Excellency,

I am writing to provide you with a letter regarding the database of business enterprises engaged in certain settlement-related activities throughout the occupied Palestinian territory, including East Jerusalem. This letter is presented pursuant to my opening statement and global update of human rights concerns at the thirty-eighth session of the Human Rights Council (18 June 2018), paragraph 26 of my 2018 report A/HRC/37/39 (20 March 2018), and paragraph 17 of Human Rights Council resolution 31/36 (24 March 2016).

I kindly request for this letter to be transmitted to the Member States of the Human Rights Council.

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

A handwritten signature in blue ink, appearing to read 'Zeid Ra'ad Al Hussein'.

Zeid Ra'ad Al Hussein  
High Commissioner for Human Rights

H.E. Amb. Vojislav Šuc,  
President of the Human Rights Council



**Database of 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**

Letter to the President of the Human Rights Council

**A. Context**

1. On 24 March 2016, the Human Rights Council adopted resolution 31/36 on Israeli settlements in the Occupied Palestinian Territories, including East Jerusalem and in the Occupied Syrian Golan. Operative paragraph 17 of the Resolution called upon the United Nations High Commissioner for Human Rights (OHCHR), in close consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises (the Working Group), to establish a database of business enterprises currently engaged in certain Israeli settlement activity in the Occupied Palestinian Territory (OPT).
2. Resolution 31/36 establishing the database follows up the 2013 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 (A/HRC/22/63). In its report, the fact-finding mission found that business enterprises had directly and indirectly enabled, facilitated and profited from the construction and growth of the settlements; in paragraph 96 of the report, it provided a list of activities that raised particular human rights violations concerns (“listed activities”).
3. The High Commissioner for Human Rights presented a report on the database at the thirty-seventh session of the Human Rights Council, on 20 March 2018 (A/HRC/37/39). The report set out the methodology that OHCHR used to fulfil the mandate given to it by the Council in relation to the standard of proof and information-gathering process.
4. In the report, OHCHR noted that it had received information on 307 companies through notes verbales from States and an open call for submissions. Following OHCHR’s review, 115 companies were excluded on the basis of the criteria set out in paragraph 13 of the 2018 report. The 192 remaining companies formed the initial group of “screened companies” that were subject to further research and consideration by OHCHR. An additional 14 companies were added following OHCHR research, resulting in a total of 206 screened companies.
5. As of March 2018, OHCHR had contacted 64 of the 206 companies involved in 33 different situations concerning the listed activities.
6. The report noted, “[o]nce OHCHR has been in contact with all 206 companies, and subject to determinations of their responses and non-responses, OHCHR expects to provide the names of the companies engaged in listed activities in a future update. Before the determinations on the companies are made public OHCHR will notify the companies concerned.”



## B. Update

7. In relation to the standard of proof, as set out in its 2018 report, “OHCHR has determined that where there are reasonable grounds to believe based on the totality of the information reviewed by it, that a business enterprise is engaged in one or more of the listed activities, such a business enterprise will be included in the database”.

8. OHCHR has determined that 45 of the 64 companies it contacted, have met the standard of proof and are engaged in one or more of the listed activities. OHCHR has determined that 17 of the 64 companies have not met the standard of proof for inclusion in the database at this time, while two companies warrant further research and evaluation.<sup>1</sup>

9. OHCHR notified these 45 companies of their inclusion in the database, as well as the procedure by which they can be removed. It has invited the companies to continue their engagement with OHCHR in line with the Guiding Principles on Business and Human Rights (A/HRC/17/31) and obligations under the Global Compact.

10. The database is a living instrument that allows for changing business dynamics to be updated and reflected. Business enterprises that have been included due to their engagement in one or more of the relevant listed activities, can be removed from the database on the receipt of information that engagement with the activity has ceased, as outlined in paragraph 7 of the 2018 report.

To be removed from the database:

- The business enterprise should provide a body of reliable information that demonstrates that the business enterprise is no longer engaged in the activity for which it has been included in the database to OHCHR for its evaluation.
- Where OHCHR is satisfied there are reasonable grounds to believe that, based on the totality of the information provided, the business enterprise is no longer engaged in the activity, the business enterprise shall be duly removed from the database.

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<sup>1</sup> The two companies that are undergoing further determination require additional correspondence with parent/subsidiaries to identify the underlying business relationship and involvement in activities.

**D.****Next steps**

11. OHCHR is in the process of contacting the remaining screened companies to inform them of the listed activities that they appear to be engaged in (based on the totality of information reviewed by OHCHR), and to set out the basic facts of the companies' involvement in the listed activity or activities. The companies are requested to respond in writing within 60 days for an initial response, providing any clarification or update of the information.

12. Consistent with paragraph 26 of the 2018 report, after all 206 companies have been contacted, OHCHR expects to provide the Council shortly thereafter an update, including the names of those engaged in listed activities.

13. OHCHR continues with its endeavors to encourage engagement and constructive dialogue with business enterprises, in line with the Guiding Principles on Business and Human Rights.