ACT Government
Chief Minister, Treasury and Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2025-093
Date of Application	13 March 2025
Date of Decision	20 May 2025
Processing time (in working days)	45
Fees	Waived
Decision on Access	Partial Release
Information Requested (summary)	Assembly resolution of 7 February 2024 "Human rights incompliant companies – Divestments", and - Government response to e-petition E-PET-034-24 "Human Rights and Palestine".

Publication Details		
Original application	☑ Published	☐ N/A
Decision notice	☑ Published	☐ N/A
Documents and schedule	☑ Published	☐ N/A
Decision made by Ombudsman	N/A	
Additional information identified by Ombudsman	N/A	
Decision made by ACAT	N/A	
Additional information identified by ACAT	N/A	

From: no-reply@act.gov.au
To: CMTEDD FOI
Subject: Freedom of Information request - CMTEDDFOI 2025-093
Date: Thursday, 13 March 2025 1:39:59 PM

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:
First Name:
Last Name:
Business/Organisation:
Address:
Suburb:
Postcode:
State/Territory:
Phone/mobile:
Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):	All briefs, correspondence, internal to the ACT Government and with external parties, and associated attachments in relation to the following: - Assembly resolution of 7 February 2024 “Human rights incompliant companies – Divestments”, and - Government response to e-petition E-PET-034-24 “Human Rights and Palestine”.
I do not want to access the following documents in relation to my request::	

Thank you.
Freedom of Information Coordinator

ACT Government
Chief Minister, Treasury and Economic Development

Our ref: CMTEDDFOI 2025-093

[redacted]

FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

I refer to your application on behalf of Andrew Braddock MLA under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 13 March 2025.

Specifically, you have sought access to the following information:

"All briefs, correspondence, internal to the ACT Government and with external parties, and associated attachments in relation to the following: - Assembly resolution of 7 February 2024 "Human rights incompliant companies – Divestments", and - Government response to e-petition E-PET-034-24 "Human Rights and Palestine"

On 21 March 2025, you were contacted by an FOI coordinator in relation to a scope clarification. On 24 March 2025, you agreed to the below new scope:

"briefs to Ministers, Cabinet documents and correspondence with external parties in relation to the following: - Assembly resolution of 7 February 2024 "Human rights incompliant companies – Divestments", and - Government response to e-petition E-PET-034-24 "Human Rights and Palestine".

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision within 30 working days of the access application being received. Following third party consultation, the due date for a decision is **20 May 2025.**

Decision on access

Searches were completed for relevant documents and **43** documents were identified that fall within the scope of your request.

I have decided to grant **full access** to **20** documents.

I have decided to grant **partial access** to **18** documents.

I have decided to **refuse access** to **five** documents.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of the documents that fall within the scope of your request and the access decision for each of those documents.

Release of documents

I have decided to grant partial access to the relevant information.

Statement of Reasons

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act,
- the scope of your requested information,
- third party consultation, and
- the content of the documents that fall within the scope of your request.

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring nondisclosure in **Schedule 2** of the Act.

Exemption claimed

Schedule 1: Information taken to be contrary to the public interest.

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Contrary to the public interest information under schedule 1 of the Act

A proportion of the documents contain information that is contrary to the public interest under Schedule 1 of the Act. Information that falls under the exemptions in Schedule 1 is not subject to the public interest test as detailed in section 17 of the Act.

Section 1.6 Cabinet information

Some documents or parts of the information with the documents, contains material identified as information that the disclosure of which would reveal deliberations of Cabinet.

Under section 1.6(1)(a) of the Act, information *that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose* and section 1.6(1)(d) information *the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision*) of Schedule 1 of the Act, is considered Cabinet information and is exempt from release. The purpose of this exemption is to maintain the confidentiality of the Cabinet process and to uphold the principle of collective ministerial responsibility.

This exemption was discussed in *The Commonwealth v Northern Land Council* [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993). Paragraph 6 of the decision, states that:

> *… it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.*

Some of the information that you have requested falls within Schedule 1, section 1.6 of the Act as it is information which has been brought into existence to guide Cabinet it in its decision making and assist it in its deliberations. It is reasonable to consider that the disclosure of this material would or could reveal those deliberations. Therefore, these materials are exempt from release under the Act.

Public Interest Test

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and nondisclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when 'used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which it appears'. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factors favouring disclosure (Section 2.1)

- *Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability.*
- *Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.*
- *Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.*

I consider that disclosing the contents of the information sought could contribute to open and informed discussion on the matters relating to the Assembly resolution of 7 February 2024 and the Government response to e-petition E-PET-034-24. I am satisfied there may be a public interest relating to the decisions made around this information.

Noting that the Act has an express pro-disclosure bias which reflects the importance of public access to government information for the proper working of a representative democracy, I must consider the above factors for disclosure against those factors favouring nondisclosure. However, in this case I do give significant weight to the factors for disclosure.

Factors favouring nondisclosure (Section 2.2)

- *Section 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

- *Section 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person.*
- *Section 2.2(a)(xii) - prejudie an agency's ability to obtain confidential information.*

Having reviewed the documents, I consider the protection of an individual's right to privacy is a significant factor. I have decided that their right to privacy in relation to their personal information has a higher weighting not to disclose, than the public interest has in disclosing this information. I am of the view that disclosure of names, signatures and contact information, where they are not already publicly available could prejudice their individual rights to privacy under the *Human Rights Act 2004*.

Release of information concerning individuals working within the ACT Public Service is generally not considered to prejudice the protection of an individual's right to privacy. However, where mobile phone numbers may be used for home and work purposes, this information is redacted, as it could or would reasonably be expected to prejudice an individual's right to privacy under the *Human Rights Act 2004*.

Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person. The information withheld from release could reasonably be expected to unfairly prejudice the business affairs and trade secrets of a third party, along with unwanted commercial implications. I apply moderate weight to this factor.

The ACT Government frequently deals with private third parties regularly. It is understood the information in question was obtained in confidence and release of this information could reasonably be expected to limit the ability for the Government to gain trust in future dealings. I apply significant weight to this factor. When combined with factor 2.2(a)(xi), and balanced against those factors for release, I consider this information should not be disclosed.

Having applied the test outlined in section 17 of the Act and deciding that release of some of the information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to information held by CMTEDD within the scope of your request.

Charges

Under section [redacted] of the Act, a fee must be waived if the applicant is a [redacted]

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log.

Your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73

of the Act within 20 working days from the day that my decision is provided to you, or a longer period allowed by the Ombudsman.

We recommend using this form *Applying for an Ombudsman Review* to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

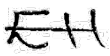
ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
http://www.acat.act.gov.au/

Should you have any queries in relation to your request please contact the CMTEDD FOI Team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely



Emma Hotham
Information Officer
Chief Minister, Treasury and Economic Development Directorate

20 May 2025

ACT Government
Chief Minister, Treasury and Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
"Briefs to Ministers, Cabinet documents and correspondence with external parties in relation to the following: ***- Assembly resolution of 7 February 2024 "Human rights incompliant companies – Divestments", and*** ***- Government response to e-petition E-PET-034-24 "Human Rights and Palestine".***	**CMTEDDFOI 2025-093**

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-29	Email correspondence: ACT Legislative Assembly Motion in this week"s Sitting Week	9 February 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
2	30-38	Email correspondence: Re Catch-up re. MSCI ESG Methodologies	1 February 2024 -23 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii) Schedule 2 s2.2 (a)(xi)	Yes
3	39-41	Investment Advisory Board – Treasurer Request for Advice (CMTEDD2024/971)	3 April 2024	Full Release		Yes
4	42-44	Attachment A - Assembly Resolution *"Human rights incompliant companies –Divestments*	3 April 2024	Full Release		Yes
5	45-48	Attachment B - Terms of Reference	3 April 2024	Full Release		Yes
6	49	Attachment C – Treasurer Letter to Board	3 April 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
7	50-52	Email correspondence: Invite to IAB member to SharePoint site	17 April 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
8	53	List of SharePoint Documents	17 April 2024	Full Release		Yes
9	54-56	Document – MSCI ESG Controversies Factsheet	17 April 2024	Full Release		Yes
10	57-115	Document – MSCI ESG Controversies Global Norms Methodology Nov 2023	17 April 2024	Full Release		Yes
11	116-149	Document - Report of UNOHCHR A/HRC/43/71	1 February 2018	Full Release		Yes

12	150-152	Document - Summary of Company Assessments	17 April 2024	Full Release		Yes
13	153-157	Email correspondence: IAB Advice preparation correspondence	17 April to 24 April 2024	Partial Release	Schedule 2 s2.2 (a)(ii); (a)(xi) and (a)(xii)	Yes
14	158-179	First Working Draft IAB Advice (referred to in item 12)	19 April 2024	Full Release		Yes
15	180-183	Email correspondence: RE: Updating ACT Advice	25 April-29 April 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
16	184-186	Email correspondence: RE: Updating ACT Advice	29 April 2024	Patrial Release	Schedule 2 s2.2 (a)(ii)	Yes
17	187-190	Email correspondence: RE: Updating ACT Advice	29 April 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
18	191-199	Email correspondence: RE: Updating ACT IAB Advice	29 April -23 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
19	200-209	Email correspondence: RE: Updating ACT IAB Advice -- FINAL	29 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
20	210-211	Email correspondence: FW: Trial send of IAB Advice and Cover Letter	30 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
21	212	Email correspondence: Advice from IAB on the Government's Responsible Investment Policy Framework in relation to ESG controversy assessments	30 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
22	213	IAB Letter to Treasurer re. Advice Request	30 May 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
23	214-215	CM Letter to OHCHR	26 July 2024	Full Release		Yes
24	216-218	Email correspondence :RE: Request for Assistance - Permanent Mission to the United Nations Office and other international organizations in Geneva	14 August 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
25	219-220	Email correspondence: RE: Organising call with Ambassador for Human Rights.	15 August 2024	Partial Release	Schedule 2 s2.2 (a)(ii)	Yes
26	221-224	Cabinet Business Paper – Government Response to Assembly Resolution 'Human Rights Incompliant Companies – Divestments' (CMTEDD2024/2534)	22 August 2024	Partial Release	Schedule 1 s1.6	Yes
27	225-256	Attachment A - TSR Brief – Investment Advisory Board Advice (CMTEDD2024/3017)	22 August 2024	Exempt	Schedule 1 s1.6	No
28	257-270	Attachment B - TSB – Further Information (CMTEDD2024/3075)	22 August 2024	Partial Release	Schedule 1 s1.6	Yes
29	271-278	Attachment C-Cabinet Business Paper, *comprising*	22 August 2024	Exempt	Schedule 1 s1.6	No

30	279-281	Attachment 1A- Assembly Resolution – 7 Feb 2024	22 August 2024	Full Release		Yes
31	282-308	Attachment 1B- Investment Advisory Board Advice	22 August 2024	Exempt	Schedule 1 s1.6	No
32	309-310	Attachment 1C- Table of comments	22 August 2024	Full Release		Yes
33	311-316	Attachment 1D- Government Response	22 August 2024	Full Release		Yes
34	317-318	Attachment 1E-Open Access Assessment: Cabinet Decision and Wellbeing Impact Assessment summary	22 August 2024	Full Release		Yes
35	319-320	Attachment 1F Wellbeing Impact Assessment	22 August 2024	Full Release		Yes
36	321-325	Cabinet Business Paper – Government Response E-PET-034-24 Human Rights & Palestine (CMTEDD2024/3784)	15 January 2025	Partial Release	Schedule 1 s1.6	Yes
37	326-332	Attachment A- Cabinet Business Paper (24-512), *comprising*	15 January 2025	Full Release		Yes
38	333-335	Attachment 1A- Petition E-PET-034-24 Human Rights and Palestine, 27 Aug 2024	15 January 2025	Full Release		Yes
39	336-337	Attachment 1B - Letter from Treasurer to Clerk - Response to Petition	15 January 2025	Full Release		Yes
40	338-339	Attachment 1C- Wellbeing Impact Assessment	15 January 2025	Full Release		Yes
41	340	Attachment 1D- Open Access Assessment: Cabinet Decision and Wellbeing Impact Assessment summary	15 January 2025	Full Release		Yes
42	341	Attachment 1E- Table of Comments	15 January 2025	Full Release		Yes
43	342-343	Attachment B - Cabinet Meeting Brief	15 January 2025	Exempt	Schedule 1 s1.6	No
Total No of Docs						
43						

From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Tran, Diana; Nicholls, Lucas; William Leong; Sch 2.2(a)(ii)
Subject: ACT Legislative Assembly Motion in this week"s Sitting Week
Date: Friday, 9 February 2024 2:38:00 PM
Attachments: Notice Paper No.110 7.02.2024.pdf
AssemblySittingMinutes 7.02.2024.pdf

OFFICIAL

Hi Christine and Kerrie

I hope you are both doing well, probably like me wondering where the year is going already.

Just want to bring a matter to your attention in the event you happen to come across it in the press etc.

- In the Sitting Week this week, on Wednesday 7/2 the Greens member Mr Braddock MLA brought forward a motion in relation to the Israeli/Palestine conflict which also raised the issue about some of our shares holdings and calling for divestment.
    - Refer to the attached Notice Paper, page 4, Private Members Business, Notice 1.
- The matter was debated and an amended motion was agreed by the Assembly on Wednesday, 7 February.
    - Refer to the attached Minutes of Proceedings for the Sitting Day, pages 4-11. You will find the final amended motion on pages 9-11

We will be making this an agenda item with supporting papers for our Board meeting on 6 March 2024 to work through the requirements, noting the Government has until end August to report back to the Assembly.

In the meantime if you would like to have an initial discussion I am more than happy to set up a Teams call at a suitable time – just let me know.

Enjoy your weekends.

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

Legislative Assembly for the
Australian Capital Territory

2020-2021-2022-2023-2024

Notice Paper

No 110

Wednesday, 7 February 2024

The Assembly meets this day at 10 am

ASSEMBLY BUSINESS

There are no items of Assembly business programmed for 7 February 2024.

EXECUTIVE BUSINESS

Notices

*1 **MR RATTENBURY**: To present a Bill for an Act to amend legislation about crime, and for other purposes. *(Notice given 6 February 2024)*

*2 **MR RATTENBURY**: To present a Bill for an Act to amend the *Civil Law (Wrongs) Act 2002*. *(Notice given 6 February 2024)*

*3 **MS VASSAROTTI**: To present a Bill for an Act to amend legislation because of the enactment of the *Biosecurity Act 2023*, and for other purposes. *(Notice given 6 February 2024)*

Orders of the day

1 **GOVERNMENT PROCUREMENT AMENDMENT BILL 2023**: *(Special Minister of State)*: Agreement in principle—Resumption of debate *(from 2 November 2023—Mr Cain)*.

*2 **CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2024**: *(Minister for Children, Youth and Family Services)*: Agreement in principle—Resumption of debate *(from 6 February 2024—Ms Castley)*.

3 **COAG LEGISLATION AMENDMENT BILL 2021**: *(Chief Minister)*: Agreement in principle—Resumption of debate *(from 4 August 2021—Ms Lee)*.

4 **HUMAN RIGHTS (HEALTHY ENVIRONMENT) AMENDMENT BILL 2023**: *(Minister for Human Rights)*: Agreement in principle—Resumption of debate *(from 26 October 2023—Mr Cain)*.

5 **CRIMES LEGISLATION AMENDMENT BILL 2023**: *(Attorney-General)*: Agreement in principle—Resumption of debate *(from 26 October 2023—Mr Cain). (Referred to the Standing Committee on Justice and Community Safety on 26 October 2023.)*

6 **VOLUNTARY ASSISTED DYING BILL 2023**: *(Minister for Human Rights)*: Agreement in principle—Resumption of debate *(from 31 October 2023—Ms Lee). (Referred to Select Committee on the Voluntary Assisted Dying Bill 2023 on 31 October 2023.)*

7 **PARENTAGE (SURROGACY) AMENDMENT BILL 2023**: *(Minister for Human Rights)*: Agreement in principle—Resumption of debate *(from 31 October 2023—Mr Cain). (Referred to the Standing Committee on Justice and Community Safety on 31 October 2023.)*

8 **SEXUAL, FAMILY AND PERSONAL VIOLENCE LEGISLATION AMENDMENT BILL 2023**: *(Attorney-General)*: Agreement in principle—Resumption of debate *(from 2 November 2023—Mr Cain). (Referred to the Standing Committee on Justice and Community Safety on 2 November 2023.)*

9 **ASSISTED REPRODUCTIVE TECHNOLOGY BILL 2023**: *(Minister for Health)*: Agreement in principle—Resumption of debate *(from 28 November 2023—Ms Castley)*.

10 **LIQUOR AMENDMENT BILL 2023**: *(Attorney-General)*: Agreement in principle—Resumption of debate *(from 29 November 2023—Mr Cain)*.

11 **ROAD SAFETY LEGISLATION AMENDMENT BILL 2023**: *(Minister for Transport and City Services)*: Agreement in principle—Resumption of debate *(from 29 November 2023—Mr Cain)*.

12 **DOMESTIC VIOLENCE AGENCIES (INFORMATION SHARING) AMENDMENT BILL 2023**: *(Minister for the Prevention of Domestic and Family Violence)*: Agreement in principle—Resumption of debate *(from 30 November 2023—Mrs Kikkert)*.

13 **PROPERTY DEVELOPERS BILL 2023**: *(Minister for Sustainable Building and Construction)*: Agreement in principle—Resumption of debate *(from 30 November 2023—Mr Parton)*. *(Referred to the Standing Committee on Planning, Transport and City Services on 30 November 2023.)*

14 **BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT BILL 2023**: *(Minister for Human Rights)*: Detail stage—Clause 1—Resumption of debate *(from 6 February 2024—Mr Gentleman)*.

15 **PUBLIC TRANSPORT WORKFORCE AND TIMETABLES—GOVERNMENT RESPONSE TO RESOLUTION OF THE ASSEMBLY—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 7 February 2023—Mr Braddock)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

16 **OFFICE OF WATER—UPDATE ON CATCHMENT PLANS AND YERRABI FLOATING WETLANDS—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 9 February 2023—Ms Lawder)* on the motion of Mr Rattenbury—That the Assembly take note of the paper.

17 **FINANCIAL MANAGEMENT ACT—HALF YEARLY STATEMENT OF PERFORMANCE—PERIOD ENDING 31 DECEMBER 2022—ACT HEALTH DIRECTORATE—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 9 February 2023—Ms Lawder)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

18 **FINANCIAL MANAGEMENT ACT—HALF YEARLY STATEMENT OF PERFORMANCE—PERIOD ENDING 31 DECEMBER 2022—ACT LOCAL HOSPITAL NETWORK—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 9 February 2023—Ms Lawder)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

19 **FINANCIAL MANAGEMENT ACT—HALF YEARLY STATEMENT OF PERFORMANCE—PERIOD ENDING 31 DECEMBER 2022—CANBERRA HEALTH SERVICES—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 9 February 2023—Ms Lawder)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

20 **FINANCIAL MANAGEMENT ACT—CANBERRA HEALTH SERVICES 2022-2023 BUDGET STATEMENT C—CORRIGENDUM—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 9 February 2023—Ms Lawder)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

21 **WORLD DAY FOR SAFETY AND HEALTH AT WORK AND INTERNATIONAL WORKERS' MEMORIAL DAY**: Resumption of debate *(from 6 June 2023—Ms Cheyne)* on the motion of Mr Gentleman—That this Assembly:

(1) notes the importance of World Day for Safety and Health at Work and International Workers' Memorial Day commemorated internationally on 28 April of each year and that:

(a) it is a day of reflection to remember and honour those who have lost their lives at work or from work-related injuries or illness;

(b) an opportunity to focus on the importance of health and safety at work and the joint responsibility shared by all in keeping our workplaces safe and fostering a positive work safety culture;

(c) all workers have the right to return home safely from work;

(d) in 2023, the theme for World Day for Safety and Health at Work was "A safe and healthy working environment is a fundamental principle and right at work", focusing on good work; work that is not only safe, but that is also good for us by contributing to our physical and psychological health and wellbeing; and

(e) in 2023, the theme for Workers' Memorial Day was "remember the dead, fight for the living"; and

(2) express solidarity in reflecting on the importance of World Day for Safety and Health at Work and International Workers' Memorial Day which occurred on 28 April 2023 by:

(a) formally recording a continuing and shared commitment to being a world-leading jurisdiction in work health and safety; and

(b) continuing to provide Territory workers with contemporary laws that recognise the complexity of modern workplaces and emerging hazards and keep pace with community expectations.

22 **URBAN OPEN SPACE LAND MANAGEMENT PLAN—DRAFT—PAPER—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 19 September 2023—Mr Braddock)* on the motion of Mr Gentleman—That the Assembly take note of the paper.

*23 **GOVERNMENT PRIORITIES—2024—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER**: Resumption of debate *(from 6 February 2024—Mr Gentleman)* on the motion of Mr Barr—That the Assembly take note of the paper. (*Order of the day will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 152A.)*

PRIVATE MEMBERS' BUSINESS

Notices

1 **MR BRADDOCK**: To move—That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) these events occur in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and the historic displacement and apartheid treatment of the Palestinian people by the State of Israel;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community; and

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(2) calls on all Members of this Assembly to:

(a) voice their support for:

(i) an immediate and permanent ceasefire;

(ii) a release of all hostages and political prisoners;

(iii) all perpetrators to be held accountable for their actions in accordance with international law;

(iv) reinstating and enhancing funding for the United Nations Relief and Works Agency; and

(v) ending the illegal occupation of the Palestinian territories and apartheid against the Palestinian population;

(b) condemn all forms of racism, including antisemitism and islamophobia, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Palestinian and Israeli communities during this challenging time, including people seeking refuge in the ACT;

(3) further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies complicit in the establishment and maintenance of illegal settlements in occupied Palestinian territories;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc; and

(c) that the ACT Government's Responsible Investment Policy of March 2023, and its Environment, Social and Corporate Governance (ESG) controversy assessment exclusions should preclude companies listed in paragraph (3)(b) 11 as they are complicit in the human rights violations by the State of Israel against the Palestinian people;

(4) calls on the ACT Government to report back to the Assembly by August 2024, on divestments that have or may be undertaken, to ensure that company ESG controversy assessment exclusions fully consider companies involved in illegal settlements in Palestinian territories; and

(5) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly.
(*Notice given 5 February 2024. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

2 **MS LEE**: To move—That this Assembly:

(1) notes:

(a) recent analysis by Numbeo, the world's largest cost of living database, has confirmed that Canberra has the highest cost of living in Australia;

(b) the cost for Canberrans to visit their general practitioner is the second highest in the country;

(c) Canberra remains the second most expensive city in which to rent;

(d) Canberra has the highest vehicle registration costs in the country;

(e) Canberra is the most expensive state or territory in the country for children's sport, including swimming lessons; and

(f) Canberra remains the second most expensive city in Australia to buy a house;

(2) further notes:

(a) that Australian Bureau of Statistics (ABS) data shows that while living costs for all household types are increasing, it is employee households (households earning wages) that have recorded the largest annual increase in living costs of all household types, with a 9.0 percent increase;

(b) community groups such as the ACT Council of Social Services are seeing, largely for the first time, a significant increase in people on incomes – i.e. wage earners, accessing their services; and

(c) the latest ABS figures show retail spending in the ACT fell 3.8 percent in December, well above the national rate of 2.7 percent, demonstrating that Canberrans are really feeling the pinch; and

(3) calls on the ACT Labor-Greens Government to:

(a) explain to the people of Canberra why cost of living in the ACT is so high under their Government; and

(b) report back to the Assembly by the last sitting day in March on measures to alleviate cost of living pressures for all Canberrans. (*Notice given 5 February 2024. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

3 **MS ORR**: To present a Bill for an Act to promote disability inclusion, and for other purposes. *(Notice given 2 February 2024)*

4 **MS CLAY**: To present a Bill for an Act to amend the *Residential Tenancies Act 1997. (Notice given 5 February 2024)*

5 **MR PARTON**: To move—That the Assembly:

(1) notes:

(a) on 7 December 2023, the ACT Labor-Greens Government released their costings and the timeframe for the delivery of light rail stage 2A which included the total cost for stage 2A at $577 million;

(b) the ACT Labor-Greens costings of $577 million does not include the total cost of the work for stage 2A, specifically the cost to raise London Circuit, upgrades to the depot and purchasing more light rail vehicles;

(c) when including the cost for these elements of light rail stage 2A, the total cost of stage 2A balloons out to over $800 million for an extension of just 1.7 km;

(d) the original timeframe for the light rail stage 2A when announced was 2024; and

(e) the revised timeframe is now early 2028, four years longer than first announced;

(2) further notes that this demonstrates that the ACT Labor-Greens Government have not been upfront with ACT taxpayers over the true cost and timeframe of light rail stage 2A; and

(3) calls on the Government to table in the Legislative Assembly by the last sitting week:

(a) in June 2024, the full costings, including all the enabling work, of light rail stage 2A; and

(b) in August 2024, the full costings and timeframe for light rail stage 2B and be upfront with Canberrans on the true cost of this major infrastructure project ahead of the 2024 ACT election. (*Notice given 5 February 2024. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

6 **MR PARTON**: To move—That the Assembly:

(1) notes:

(a) increasing public transport patronage should be one of the key jobs of the Minister for Transport;

(b) pursuing policies to reduce car use and prioritise public transport are a means to tackle congestion, air pollution and greenhouse gas emissions and to create a more liveable city;

(c) faster public transport travel times are an enormous factor in convincing people to take public transport over the private motor vehicle;

(d) should stage 2B of the tram ever be completed, the travel time between Woden and Civic will be up to 15 minutes slower than the current rapid bus run, with the addition of bus to tram transfer time at Woden interchange;

(e) the completion of stage 2B would necessitate the cancellation of the R4 and R5 bus routes, at least between Woden and Civic, because the much quicker bus routes would be a more attractive travel option than the tram;

(f) public transport travel times for most southside journeys are likely to increase should stage 2B ever be completed; and

(g) Canberra had one of the highest percentages of public transport usage nationally in the 1980s by simply running a better-connected bus network; and

(2) calls on the Government as a matter of urgency to:

(a) publicly admit that the R4 and R5 services will not continue if stage 2B of the tram is ever completed;

(b) publicly admit that most public transport travel times from the south will increase if stage 2B of the tram is ever completed; and

(c) examine ways to decrease travel times in our public transport network and report the findings back to the Assembly at the end of July 2024. (*Notice given 5 February 2024. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

Orders of the day

1 **ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT BILL 2021 (NO 2)**: *(Ms Clay)*: Agreement in principle—Resumption of debate *(from 22 June 2021—Mr Steel)*.

2 **CORRECTIONS MANAGEMENT AMENDMENT BILL 2021**: *(Mrs Kikkert)*: Agreement in principle—Resumption of debate *(from 25 November 2021—Mr Gentleman)*.

3 **INTEGRITY COMMISSION AMENDMENT BILL 2022 (NO 2)**: *(Ms Lee; presented by Mr Cain)*: Agreement in principle—Resumption of debate *(from 20 October 2022—Mr Barr). (Referred to Standing Committee on Justice and Community Safety on 24 November 2022.)*

4 **MODERN SLAVERY LEGISLATION AMENDMENT BILL 2023**: *(Ms Clay)*: Agreement in principle—Resumption of debate *(from 28 March 2023—Mr Steel)*.

*5 **ENVIRONMENT PROTECTION (FOSSIL FUEL COMPANY ADVERTISING) AMENDMENT BILL 2024**: *(Ms Clay)*: Agreement in principle—Resumption of debate *(from 6 February 2024—Mr Barr)*.

ASSEMBLY BUSINESS—continued

Orders of the day

Four months following when the Government review of the *Integrity Commission Act 2018* becomes available

1 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE**: Presentation of report on the Integrity Commission Amendment Bill 2022 (No 2), pursuant to order of the Assembly of 24 November 2022.

29 February 2024

2 **VOLUNTARY ASSISTED DYING BILL 2023—SELECT COMMITTEE**: Presentation of report on the Voluntary Assisted Dying Bill 2023, and any other related matters, pursuant to order of the Assembly of 31 October 2023.

14 March 2024

3 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE**: Presentation of report on the Crimes Legislation Amendment Bill 2023, pursuant to order of the Assembly of 28 November 2023.

4 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE**: Presentation of report on the Parentage (Surrogacy) Amendment Bill 2023, pursuant to order of the Assembly of 28 November 2023.

5 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE**: Presentation of report on the Sexual, Family and Personal Violence Legislation Amendment Bill 2023, pursuant to order of the Assembly of 28 November 2023.

30 March 2024

6 **PLANNING, TRANSPORT AND CITY SERVICES—STANDING COMMITTEE**: Presentation of report on the Property Developers Bill 2023, pursuant to order of the Assembly of 30 November 2023.

QUESTIONS ON NOTICE

On the first sitting day of a period of sittings a complete Notice Paper is published containing all unanswered questions. On subsequent days, only redirected questions are included on the Notice Paper together with a list of all unanswered questions.

A Questions on Notice Paper will be issued on the Friday of a sitting week, containing the text of all questions on notice lodged that week and can be accessed at www.parliament.act.gov.au/parliamentary-business/in-the-chamber/chamber-documents.

Unanswered question

1527.

T Duncan
Clerk of the Legislative Assembly

GOVERNMENT TO RESPOND TO PETITIONS

(in accordance with standing order 100)

28 February 2024

Police presence at Kippax shops—Minister for Police and Emergency Services—Petitions lodged by Mr Cain (e-Pet 021-23 and Pet 030-23).

7 May 2024

Access roads to connect Tralee to the Monaro Highway—Minister for Planning—Petition lodged by Mr Parton (e-Pet 031-23).

Use of good character references in child sexual abuse processes—Attorney-General—Petition lodged by Mr Braddock (e-Pet 027-23). *(Referred to the Standing Committee on Justice and Community Safety on 6 February 2024.)*

COMMITTEES

Unless otherwise shown, appointed for the life of the Tenth Assembly. The dates of the amendments to the committees' resolution of appointment are reflected, but not changes in the membership.

Standing

Pursuant to standing order

ADMINISTRATION AND PROCEDURE: *(Formed 3 November 2020)*: The Speaker (Chair), Mr Braddock, Ms Lawder, Ms Orr.

Pursuant to resolution

ECONOMY AND GENDER AND ECONOMIC EQUALITY: *(Formed 2 December 2020)*: Mr Milligan *(Chair)*, Miss Nuttall, Ms Orr.

EDUCATION AND COMMUNITY INCLUSION: *(Formed 2 December 2020)*: Mr Pettersson (Chair), Ms Lawder, Miss Nuttall.

ENVIRONMENT, CLIMATE CHANGE AND BIODIVERSITY: *(Formed 2 December 2020)*: Dr Paterson (Chair), Ms Clay, Mr Cocks.

HEALTH AND COMMUNITY WELLBEING: *(Formed 2 December 2020)*: Ms Clay *(Chair)* Mr Milligan, Mr Pettersson.

JUSTICE AND COMMUNITY SAFETY: *(Formed 2 December 2020)*: Mr Cain (Chair), Mr Braddock, Dr Paterson.

PLANNING, TRANSPORT AND CITY SERVICES: *(Formed 2 December 2020)*: Ms Clay (Chair), Mr Parton, Ms Orr.

PUBLIC ACCOUNTS: *(Formed 2 December 2020)*: Mr Cocks *(Chair)*, Mr Braddock, Mr Pettersson.

Select

VOLUNTARY ASSISTED DYING BILL 2023: *(Formed 31 October 2023)*: Ms Orr *(Chair)*, Mr Braddock, Ms Castley, Mr Cocks, Dr Paterson.

Dissolved

COST OF LIVING PRESSURES IN THE ACT: *(Formed 9 February 2023)*: Mr Davis (Chair), Ms Lawder, Dr Paterson. *(Presented 11 May 2023)*

COVID-19 2021 PANDEMIC RESPONSE: *(Formed 16 September 2021)*: Ms Lee (Chair), Ms Clay, Ms Orr. *(Presented 2 December 2021)*

DRUGS OF DEPENDENCE (PERSONAL USE) AMENDMENT BILL 2021: *(Formed 11 February 2021)*: Mr Cain (Chair), Mr Davis, Dr Paterson. *(Presented 30 November 2021)*

ESTIMATES 2022-2023: *(Formed 1 July 2022)*: Mr Milligan (Chair), Mr Braddock, Dr Paterson. *(Presented 11 October 2022; Dissolved 31 October 2022)*

ESTIMATES 2023-2024: *(Formed 15 May 2023)*: Mr Parton *(Chair)*, Ms Clay, Mr Pettersson. *(Presented 29 August 2023)*

PRIVILEGES 2022: *(Formed 15 August 2022)*: Mr Hanson (Chair), Ms Clay, Mr Pettersson. *(Presented 1 December 2022)*

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LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2020–2021–2022–2023–2024

MINUTES OF PROCEEDINGS

No 111

WEDNESDAY, 7 FEBRUARY 2024

1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms Burch) took the Chair and made the following acknowledgement of country in the Ngunnawal language:

Dhawura nguna, dhawura Ngunnawal.
Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.
Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

This is Ngunnawal Country.
Today we are gathering on Ngunnawal country.
We always pay respect to Elders, female and male, and Ngunnawal country.

The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 REVIEW OF EMBEDDED NETWORKS IN THE A.C.T.—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Mr Rattenbury (Minister for Water, Energy and Emissions Reduction) made a ministerial statement concerning the Government's response to the Review of Embedded Networks in the ACT and presented the following papers:

Review of Embedded Networks in the ACT—

Government response, dated February 2024.

Government response—Ministerial statement, 7 February 2024.

Mr Rattenbury moved—That the Assembly take note of the paper.

Question—put and passed.

3 ACTIVE TRAVEL UPDATE—MINISTERIAL STATEMENT—PAPER NOTED

Mr Steel (Minister for Transport) made a ministerial statement to provide an update to the Assembly on Government's initiatives to encourage active travel and presented the following paper:

Active travel update—Ministerial statement, 7 February 2024.

Mr Steel moved—That the Assembly take note of the paper.

Debate ensued.

Question—put and passed.

4 UNITED KINGDOM STUDY TOUR—MINISTERIAL STATEMENT—PAPER NOTED

Ms Davidson (Minister for Mental Health) made a ministerial statement concerning her leading a delegation of mental health officials on a study tour to the United Kingdom in December 2023 and presented the following paper:

United Kingdom Study Tour—Ministerial statement, 7 February 2024.

Ms Davidson moved—That the Assembly take note of the paper.

Question—put and passed.

5 EDUCATION AND COMMUNITY INCLUSION—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR—PAPERS

Mr Pettersson (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments by the Standing Committee on Education and Community Inclusion.

Papers: Mr Pettersson, pursuant to Continuing Resolution 5A, presented the following papers:

Education and Community Inclusion—Standing Committee—Schedule of Statutory Appointments—10th Assembly—Periods—

1 January to 30 June 2021.

1 July to 31 December 2021.

1 July to 31 December 2022.

6 HEALTH AND COMMUNITY WELLBEING—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR—PAPERS

Ms Clay (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments by the Standing Committee on Health and Community Wellbeing.

Papers: Ms Clay, pursuant to Continuing Resolution 5A, presented the following papers:

Health and Community Wellbeing—Standing Committee—Schedule of Statutory Appointments—10th Assembly—Periods—

1 July to 31 December 2022.

1 July to 31 December 2023.

7 CRIMES LEGISLATION AMENDMENT BILL 2024

Mr Rattenbury (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about crime, and for other purposes.

Paper: Mr Rattenbury presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

Mr Rattenbury moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Cain) and the resumption of the debate made an order of the day for the next sitting.

8 CIVIL LAW (WRONGS) AMENDMENT BILL 2024

Mr Rattenbury (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Civil Law (Wrongs) Act 2002*.

Paper: Mr Rattenbury presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

Mr Rattenbury moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Cain) and the resumption of the debate made an order of the day for the next sitting.

9 BIOSECURITY LEGISLATION AMENDMENT BILL 2024

Ms Vassarotti (Minister for the Environment, Parks and Land Management), pursuant to notice, presented a Bill for an Act to amend legislation because of the enactment of the *Biosecurity Act 2023*, and for other purposes.

Paper: Ms Vassarotti presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

Ms Vassarotti moved—That this Bill be agreed to in principle.

Debate adjourned (Ms Lawder) and the resumption of the debate made an order of the day for the next sitting.

10 GOVERNMENT PROCUREMENT AMENDMENT BILL 2023

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Paper: Mr Steel (Special Minister of State) presented a revised explanatory statement to the Bill.

Question—That this Bill be agreed to in principle—put.

The Assembly voted—

AYES, 16		NOES, 9
Andrew Barr	Suzanne Orr	Peter Cain
Yvette Berry	Marisa Paterson	Leanne Castley
Andrew Braddock	Michael Pettersson	Ed Cocks
Joy Burch	Shane Rattenbury	Jeremy Hanson
Tara Cheyne	Chris Steel	Elizabeth Kikkert
Jo Clay	Rachel Stephen-Smith	Nicole Lawder
Emma Davidson	Rebecca Vassarotti	Elizabeth Lee
Mick Gentleman		James Milligan
Laura Nuttall		Mark Parton

And so it was resolved in the affirmative.

Leave granted to dispense with the detail stage.

Question—That this Bill be agreed to—put and passed.

11 QUESTIONS

Questions without notice were asked.

12 HUMAN RIGHTS INCOMPLIANT COMPANIES—DIVESTMENTS

Mr Braddock, pursuant to notice, moved—That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) these events occur in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and the historic displacement and apartheid treatment of the Palestinian people by the State of Israel;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community; and

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(2) calls on all Members of this Assembly to:

(a) voice their support for:

(i) an immediate and permanent ceasefire;

(ii) a release of all hostages and political prisoners;

(iii) all perpetrators to be held accountable for their actions in accordance with international law;

(iv) reinstating and enhancing funding for the United Nations Relief and Works Agency; and

(v) ending the illegal occupation of the Palestinian territories and apartheid against the Palestinian population;

(b) condemn all forms of racism, including antisemitism and islamophobia, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Palestinian and Israeli communities during this challenging time, including people seeking refuge in the ACT;

(3) further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies complicit in the establishment and maintenance of illegal settlements in occupied Palestinian territories;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc; and

(c) that the ACT Government's Responsible Investment Policy of March 2023, and its Environment, Social and Corporate Governance (ESG) controversy assessment exclusions should preclude companies listed in paragraph (3)(b) 11 as they are complicit in the human rights violations by the State of Israel against the Palestinian people;

(4) calls on the ACT Government to report back to the Assembly by August 2024, on divestments that have or may be undertaken, to ensure that company ESG controversy assessment exclusions fully consider companies involved in illegal settlements in Palestinian territories; and

(5) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly.

Paper: Mr Braddock, by leave, presented the following paper:

United Nations Human Rights Office of the High Commissioner— OHCHR update of database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international factfinding 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, dated 30 June 2023.

Mr Barr (Treasurer), by leave, moved the following amendments together:

1. Omit paragraph (1)(c), substitute:

"(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people".

2. After paragraph (1)(f), insert the following new paragraphs:

"(g) as individuals and in our collective society we all have responsibility to act with humanity in our actions and reactions;

(h) the conflict in Gaza and Israel has and continues to challenge the commitment to humanity of the actors of this conflict as well as the global community; and

(i) the impacts of the conflict and the decades of struggle that have led to this point are felt deeply in the ACT community".

3. Omit paragraphs (2) to (4), substitute:

"(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally-agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

(a) act with responsibility and thoughtfulness as representatives of the ACT community, to ensure to the best of our ability that all members in our community have their rights upheld, and that our actions serve to alleviate the negative impacts this conflict is having on ACT residents;

(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc;

(c) the ACT Government's Responsible Investment Policy of March 2023 includes an Environment, Social and Corporate Governance (ESG) controversy assessment that identifies and excludes investment where a company is assessed as having a very severe ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global norms; and

(5) calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories.”.

Debate continued.

Mr Braddock moved the following amendment to Mr Barr's proposed amendment No 1: Omit paragraph (1)(c), substitute:

"(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian Territories construction of illegal settlements, apartheid, and displacement of the Palestinian people".

Ordered—That the question be divided.

Question—That Mr Braddock's amendment to Mr Barr's proposed amendment No 1 be agreed to—put.

The Assembly voted—

AYES, 6	NOES, 17	
Andrew Braddock	Andrew Barr	Nicole Lawder
Jo Clay	Yvette Berry	Elizabeth Lee
Emma Davidson	Peter Cain	Suzanne Orr
Laura Nuttall	Leanne Castley	Mark Parton
Shane Rattenbury	Tara Cheyne	Marisa Paterson
Rebecca Vassarotti	Ed Cocks	Michael Pettersson
	Mick Gentleman	Chris Steel
	Jeremy Hanson	Rachel Stephen-Smith
	Elizabeth Kikkert	

And so it was negatived.

Question—That Mr Barr's amendment No 1 be agreed to—put.

The Assembly voted—

AYES, 15		NOES, 8
Andrew Barr	Suzanne Orr	Peter Cain
Yvette Berry	Marisa Paterson	Leanne Castley
Andrew Braddock	Michael Pettersson	Ed Cocks
Tara Cheyne	Shane Rattenbury	Jeremy Hanson
Jo Clay	Chris Steel	Elizabeth Kikkert
Emma Davidson	Rachel Stephen-Smith	Nicole Lawder
Mick Gentleman	Rebecca Vassarotti	Elizabeth Lee
Laura Nuttall		Mark Parton

And so it was resolved in the affirmative.

Question—That Mr Barr's amendment No 2 be agreed to—put.

Debate continued.

Mr Barr's amendment No 2 agreed to.

Question—That Mr Barr's amendment No 3 be agreed to—put.

The Assembly voted—

AYES, 15		NOES, 8
Andrew Barr	Suzanne Orr	Peter Cain
Yvette Berry	Marisa Paterson	Leanne Castley
Andrew Braddock	Michael Pettersson	Ed Cocks
Tara Cheyne	Shane Rattenbury	Jeremy Hanson
Jo Clay	Chris Steel	Elizabeth Kikkert
Emma Davidson	Rachel Stephen-Smith	Nicole Lawder
Mick Gentleman	Rebecca Vassarotti	Elizabeth Lee
Laura Nuttall		Mark Parton

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

"That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community; and

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(g) as individuals and in our collective society we all have responsibility to act with humanity in our actions and reactions;

(h) the conflict in Gaza and Israel has and continues to challenge the commitment to humanity of the actors of this conflict as well as the global community; and

(i) the impacts of the conflict and the decades of struggle that have led to this point are felt deeply in the ACT community;

(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally-agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

(a) act with responsibility and thoughtfulness as representatives of the ACT community, to ensure to the best of our ability that all members in our community have their rights upheld, and that our actions serve to alleviate the negative impacts this conflict is having on ACT residents;

(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc;

(c) the ACT Government's Responsible Investment Policy of March 2023 includes an Environment, Social and Corporate Governance (ESG) controversy assessment that identifies and excludes investment where a company is assessed as having a very severe ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global norms; and

(5) calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories."

(6) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly."—

be agreed to—put.

The Assembly voted—

AYES, 15		NOES, 8
Andrew Barr	Suzanne Orr	Peter Cain
Yvette Berry	Marisa Paterson	Leanne Castley
Andrew Braddock	Michael Pettersson	Ed Cocks
Tara Cheyne	Shane Rattenbury	Jeremy Hanson
Jo Clay	Chris Steel	Elizabeth Kikkert
Emma Davidson	Rachel Stephen-Smith	Nicole Lawder
Mick Gentleman	Rebecca Vassarotti	Elizabeth Lee
Laura Nuttall		Mark Parton

And so it was resolved in the affirmative.

13 COST OF LIVING PRESSURES—ALLEVIATION

Ms Lee (Leader of the Opposition), pursuant to notice, moved—That this Assembly:

(1) notes:

(a) recent analysis by Numbeo, the world's largest cost of living database, has confirmed that Canberra has the highest cost of living in Australia;

(b) the cost for Canberrans to visit their general practitioner is the second highest in the country;

(c) Canberra remains the second most expensive city in which to rent;

(d) Canberra has the highest vehicle registration costs in the country;

(e) Canberra is the most expensive state or territory in the country for children's sport, including swimming lessons; and

(f) Canberra remains the second most expensive city in Australia to buy a house;

(2) further notes:

(a) that Australian Bureau of Statistics (ABS) data shows that while living costs for all household types are increasing, it is employee households (households earning wages) that have recorded the largest annual increase in living costs of all household types, with a 9.0 percent increase;

(b) community groups such as the ACT Council of Social Services are seeing, largely for the first time, a significant increase in people on incomes – i.e. wage earners, accessing their services; and

(c) the latest ABS figures show retail spending in the ACT fell 3.8 percent in December, well above the national rate of 2.7 percent, demonstrating that Canberrans are really feeling the pinch; and

(3) calls on the ACT Labor-Greens Government to:

(a) explain to the people of Canberra why cost of living in the ACT is so high under their Government; and

(b) report back to the Assembly by the last sitting day in March on measures to alleviate cost of living pressures for all Canberrans.

Mr Barr (Chief Minister) moved the following amendment: Omit all text after "That this Assembly", substitute:

(1) notes:

(a) the Australian Bureau of Statistics (ABS) is Australia's national statistical agency and an official source of independent, reliable information;

(b) the prices of essential products have increased significantly across Australia in the last two years, combined with interest rate increases this has placed many household budgets under pressure;

(c) the December Quarter 2023 Consumer Price Index (CPI) released by the ABS showed that Canberra's CPI increased by 0.4 percent in the December Quarter, the equal lowest of any capital city in Australia and through the year rose by 3.7 percent, lower than the National increase of 4.2 percent over the same period;

(d) inflation still remains a risk on the economic outlook and the Government continues to monitor the varied impacts across the community; and

(e) the Federal Government has made changes to the Stage 3 tax cuts to deliver a fairer tax reform outcome that supports more workers without increasing the risk to the inflation outlook;

(2) further notes that in the 2023-24 financial year, the ACT Government has introduced new initiatives and expanded existing initiatives to address cost-of-living pressures faced by vulnerable members of our community including through:

(a) extending the Utilities Concession to Commonwealth Health Care Card holders, benefitting around 12,000 additional low-income and low-wealth households, taking the total number of eligible households to around 43,800 eligible for an $800 rebate this financial year;

(b) partnering with the Commonwealth Government to provide energy bill relief to Canberrans. Eligible low-income households with an average electricity consumption will receive around $327 in additional energy assistance in 2023-2024;

(c) establishing a Rental Relief Fund for people facing immediate difficulty in meeting rental payments, paying their rent for four weeks up to $2,500; and

(d) a one off $250 booster payment to households on the priority housing wait;

(e) delivering more affordable homes in the pipeline through the Affordable Housing Project Fund; and

(f) other concessions, such as:

(i) the Pensioner General Rates and PFESL Rebate, providing around 15,300 households a rebate ofup to $750 per year for general rates and $98 PFESL rebate per year;

(ii) the Conveyance duty concessions - providing 4,800 eligible home buyers up to 100 percent discount on conveyance duty;

(iii) spectacle subsidy scheme providing around 10,600 Canberrans with a subsidy of up to $200 for spectacles;

(iv) motor vehicle registration concessions providing 63,900 ACT drivers with up to a 100 percent discount on motor vehicle registration fees;

(v) free Chromebooks for every student in high school and college, and one between every three students in primary school

(vi) driver licence concessions providing around 6,000 ACT drivers with up to a 100 percent discount on driver licence fees; and

(vii) public transport concessions providing reduced or free fares on Transport Canberra bus and light rail services for over 5.9 million trips;

(3) finally notes, as updated to the Assembly in August 2023, that the Commonwealth Government has introduced a number of cost-of-living measures, in partnership with the Territory, or on their own, including:

(a) cheaper child-care, with Child Care Subsidy rates up to 90 percent for eligible families;

(b) new Paid Parental Leave Scheme, meaning around 180,000 families will be able to receive the payment for up to 20 weeks, and increasing to up to 26 weeks by 2026;

(c) cheaper medicines through 60-day dispensing;

(d) bulk billing incentives for the most common GP consultations for children under 16 years, pensioners, and other Commonwealth concession card holders;

(e) energy rebates with up to $3 billion of direct bill relief for vulnerable households and small businesses;

(f) expanding eligibility for the Single Parenting Payment meaning that around 57,000 eligible single parents will receive an extra $176.90 per fortnight;

(g) increasing the rate for JobSeeker, Austudy and Youth Allowance payments; and

(h) providing the largest increase to Commonwealth Rent Assistance in over 30 years; and

(4) calls on the ACT Government to:

(a) continue to monitor the impacts of cost of living on Canberra households using independent and reliable sources of information and data through the Cost of Living Subcommittee of Cabinet;

(b) continue to deliver targeted cost-of-living support; and

(c) provide a cost-of-living statement in the 2024-25 Budget.".

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 15		NOES, 7
Andrew Barr	Laura Nuttall	Peter Cain
Yvette Berry	Marisa Paterson	Ed Cocks
Andrew Braddock	Michael Pettersson	Jeremy Hanson
Joy Burch	Shane Rattenbury	Elizabeth Kikkert
Tara Cheyne	Chris Steel	Nicole Lawder
Jo Clay	Rachel Stephen-Smith	Elizabeth Lee
Emma Davidson	Rebecca Vassarotti	Mark Parton
Mick Gentleman		

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

"That the Assembly:

(1) notes:

(a) the Australian Bureau of Statistics (ABS) is Australia's national statistical agency and an official source of independent, reliable information;

(b) the prices of essential products have increased significantly across Australia in the last two years, combined with interest rate increases this has placed many household budgets under pressure;

(c) the December Quarter 2023 Consumer Price Index (CPI) released by the ABS showed that Canberra's CPI increased by 0.4 percent in the December Quarter, the equal lowest of any capital city in Australia and through the year rose by 3.7 percent, lower than the National increase of 4.2 percent over the same period;

(d) inflation still remains a risk on the economic outlook and the Government continues to monitor the varied impacts across the community; and

(e) the Federal Government has made changes to the Stage 3 tax cuts to deliver a fairer tax reform outcome that supports more workers without increasing the risk to the inflation outlook;

(2) further notes that in the 2023-24 financial year, the ACT Government has introduced new initiatives and expanded existing initiatives to address cost-of-living pressures faced by vulnerable members of our community including through:

(a) extending the Utilities Concession to Commonwealth Health Care Card holders, benefitting around 12,000 additional low-income and low-wealth households, taking the total number of eligible households to around 43,800 eligible for an $800 rebate this financial year;

(b) partnering with the Commonwealth Government to provide energy bill relief to Canberrans. Eligible low-income households with an average electricity consumption will receive around $327 in additional energy assistance in 2023-2024;

(c) establishing a Rental Relief Fund for people facing immediate difficulty in meeting rental payments, paying their rent for four weeks up to $2,500; and

(d) a one off $250 booster payment to households on the priority housing wait;

(e) delivering more affordable homes in the pipeline through the Affordable Housing Project Fund; and

(f) other concessions, such as:

(i) the Pensioner General Rates and PFESL Rebate, providing around 15,300 households a rebate ofup to $750 per year for general rates and $98 PFESL rebate per year;

(ii) the Conveyance duty concessions - providing 4,800 eligible home buyers up to 100 percent discount on conveyance duty;

(iii) spectacle subsidy scheme providing around 10,600 Canberrans with a subsidy of up to $200 for spectacles;

(iv) motor vehicle registration concessions providing 63,900 ACT drivers with up to a 100 percent discount on motor vehicle registration fees;

(v) free Chromebooks for every student in high school and college, and one between every three students in primary school

(vi) driver licence concessions providing around 6,000 ACT drivers with up to a 100 percent discount on driver licence fees; and

(vii) public transport concessions providing reduced or free fares on Transport Canberra bus and light rail services for over 5.9 million trips;

(3) finally notes, as updated to the Assembly in August 2023, that the Commonwealth Government has introduced a number of cost-of-living measures, in partnership with the Territory, or on their own, including:

(a) cheaper child-care, with Child Care Subsidy rates up to 90 percent for eligible families;

(b) new Paid Parental Leave Scheme, meaning around 180,000 families will be able to receive the payment for up to 20 weeks, and increasing to up to 26 weeks by 2026;

(c) cheaper medicines through 60-day dispensing;

(d) bulk billing incentives for the most common GP consultations for children under 16 years, pensioners, and other Commonwealth concession card holders;

(e) energy rebates with up to $3 billion of direct bill relief for vulnerable households and small businesses;

(f) expanding eligibility for the Single Parenting Payment meaning that around 57,000 eligible single parents will receive an extra $176.90 per fortnight;

(g) increasing the rate for JobSeeker, Austudy and Youth Allowance payments; and

(h) providing the largest increase to Commonwealth Rent Assistance in over 30 years; and

(4) calls on the ACT Government to:

(a) continue to monitor the impacts of cost of living on Canberra households using independent and reliable sources of information and data through the Cost of Living Subcommittee of Cabinet;

(b) continue to deliver targeted cost-of-living support; and

(c) provide a cost-of-living statement in the 2024-25 Budget."—

be agreed to—put and passed.

14 ADJOURNMENT

Mr Gentleman (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.42 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

From: McAuliffe, Patrick
Sent: Thursday, 23 May 2024 9:18 AM
To: Yap, Anne
Cc: Nicholls, Lucas; Tran, Diana
Subject: RE: Catch-up re. MSCI ESG Methodologies

Hi Anne
Thank you for confirming.
Kind regards
Pat

From: Yap, Anne <Sch 2.2(a)(xi) >
Sent: Thursday, May 23, 2024 9:11 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Pat,

Hope you are well.

Confirming this is all ok, but please let me know if you have any questions.

Kind regards,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
56 Pitt St | Sydney, NSW 2000 | Australia
Sch 2.2(a)(xi), Sch 2.2(a)(ii) | msci.com | @msci_inc



Information Classification: GENERAL

Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, May 22, 2024 8:11 AM
To: Yap, Anne <Sch 2.2(a)(xi) >
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Thanks Anne

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

Information Classification: GENERAL

From: Yap, Anne <Sch 2.2(a)(xi)
Sent: Tuesday, May 21, 2024 9:33 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Pat,

Could I run this through the team and come back to you. I don't see any issues but just want to be sure.

Many thanks,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
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Sch 2.2(a)(xi)
msci.com | @msci_inc



Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Tuesday, May 21, 2024 12:49 PM
To: Yap, Anne Sch 2.2(a)(xi)
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Anne
Thank you for clarifying.
In light of your comments, do you see any issues with the following drafting:

Cases include alleged company violations of existing laws and/or regulations across different countries to which they are subject to, or an alleged company action or event that violates commonly accepted international norms and conventions which are drawn from a broad list of NGOs including:

a. *The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises;*
b. *The United Nations Global Compact Principles;*
c. *The United Nations Guiding Principles on Business and Human Rights;*
d. *The Universal Declaration of Human Rights;*
e. *The International Labour Organisation's conventions;*
f. *The Rio Declaration on Environment and Development; and*
g. *The United Nations Convention against Corruption.*

Kinds regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

Information Classification: GENERAL

From: Yap, Anne Sch 2.2(a)(xi)
Sent: Tuesday, May 21, 2024 12:23 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Pat,

Thanks for your patience on this, please find our response below:

Please note that MSCI ESG Research provides designated screening factors for the following Global Norms:

- The United Nations Guiding Principles on Business and Human Rights (UNGP Alignment)
- The United Nations Global Compact Principles (UNGC Alignment)
- The International Labour Organisation's Fundamental Principles (ILO Alignment – Core) and expanded ILO principles to include workplace safety (ILO Alignment – Broad)
- The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (OECD Alignment) launched by MSCI ESG Research in 2023

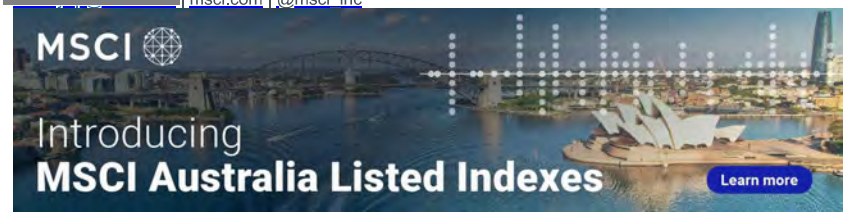
Appendix A of 2018 Methodology Document was removed as it was confusing for readers of the document and erroneously interpreted as a list of available screening solutions. Instead it was provided as a reference to types on allegations that could result in ESG Controversy. For example:

- *Would an allegations of a company breaching the UN Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (1972) be reflected in MSCI ESG Controversies?* Yes, such allegation may result in an ESG Controversy case that would be assessed based on the severity of alleged impact, role of the company, and progress towards remediation.
- *Does MSCI ESG Research provide a screening factor to identify all companies that maybe misaligned with the UN Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (1972)?* No, we do not provide a designated screening factor for this Convention.

Hope this clarifies, but please let me know if you have any questions.

Kind regards,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
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Sch 2.2(a)(xi)
| msci.com | @msci_inc



Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, May 15, 2024 4:21 PM
To: Yap, Anne Sch 2.2(a)(xi)
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Anne
Hope things are going well.
Just after some clarification about the relationship between the attached 2018 and 2023 methodology documents.
For example:

- the 2018 document refers to the extensive list of norms and conventions captured in the research process (Appendix A, from page 27)
- the 2023 document does not list all of these out, refers to a few of them.

We are hoping to refer to a number of the norms and conventions in the report being prepared that you cannot actually directly find in the 2023 document as this really provides extensive details of the breadth of the research.

For example, this is some proposed text (blue highlight not in 2023 document):

Cases include alleged company violations of existing laws and/or regulations across different countries to which they are subject to, or an alleged company action or event that violates commonly accepted international norms and conventions which are drawn from a broad list of NGOs including:

a. *The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises;*
b. *The United Nations Global Compact Principles;*
c. *The United Nations Guiding Principles on Business and Human Rights;*

d. *The Universal Declaration of Human Rights;*
e. *The International Labour Organisation's conventions;*
f. *The Rio Declaration on Environment and Development; and*
g. *The United Nations Convention against Corruption.*

There may be other more detailed research highlights in 2018 document also that we may look to incorporate.

Would appreciate your advice

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

Information Classification: GENERAL

From: Yap, Anne Sch 2.2(a)(xi)
Sent: Wednesday, April 10, 2024 2:09 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Pat,

Thanks for your time on the call earlier. As per our discussion earlier, it is fine to include excerpts of our methodology in your response and also as the link to the methodology is publicly available (but requires some information eg email, name, organization etc to access), it is ok to include this too.

Please let me know if you have any questions.

Kind regards,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
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msci.com | @msci_inc



Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, April 10, 2024 11:46 AM
To: Yap, Anne Sch 2.2(a)(xi)
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Thanks Anne.
Also the termso of reference are:

Terms·of·Reference¶

The·Investment·Advisory·Board·(the·"Board")·is·requested·to·provide·the·Treasurer·with·advice·("Advice")·in·relation·to·the·Government's·Responsible·Investment·Policy·("Investment·Policy")·framework·in·relation·to·Environmental,·Social·and·Corporate·Governance·("ESG")·controversy·assessment·considerations.¶

The·Advice·is·to·have·regard·to:¶

- → the·*ACT·Government's·Responsible·Investment·Policy*·(version·March·2023);¶
- → the·research·and·methodology·policies·and·frameworks·supporting·the·Environmental,·Social·and·Corporate·Governance·("ESG")·controversy·assessments·underpinning·the·Investment·Policy;·¶
- → the·outcomes·under·the·current·Investment·Policy·settings;·and¶
- → the·pros·and·cons·of·any·deviations·in·the·framework·by·reference·to·paragraphs·4·and·5·of·the·Assembly·resolution.¶

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

From: Yap, Anne Sch 2.2(a)(xi)
Sent: Wednesday, April 10, 2024 10:15 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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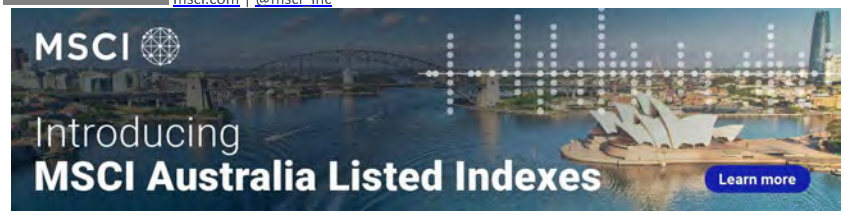
Hi Pat,

No worries at all! I have updated the meeting invite.

Kind regards,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI

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Information Classification: GENERAL

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From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, April 10, 2024 10:12 AM
To: Yap, Anne Sch 2.2(a)(xi)
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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OFFICIAL

Hi Anne, could we meet at 11:45am, we have a meeting from 11-11.30.
Thanks
Pat

From: Yap, Anne Sch 2.2(a)(xi)
Sent: Wednesday, April 10, 2024 10:08 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies

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Hi Pat,

Thanks for the background. I will send through a Teams invite for 11am to discuss.

Speak soon!

Kind regards,
Anne

ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
56 Pitt St | Sydney, NSW 2000 | Australia
Sch 2.2(a)(xi), Sch 2.2(a)(ii) | msci.com | @msci_inc



Information Classification: GENERAL

Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, April 10, 2024 7:14 AM
To: Yap, Anne <Sch 2.2(a)(xi) >
Cc: Nicholls, Lucas <lucas.nicholls@act.gov.au>
Subject: RE: Catch-up re. MSCI ESG Methodologies
Importance: High

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OFFICIAL

Hi Anne

Further to our previous discussions, was hoping you might have some time today (preferable) or tomorrow for a quick Teams meeting to discuss the attached ACT Legislative Assembly resolution and the advice required to be prepared by our Investment Advisory Board.

- Specifically, the advice to be prepared for the Government (which will be a public document) is going to need to make reference to the relevant MSCI methodologies underpinning our investment framework and we need to understand the extent to which we can quote/refer.
- I note we executed the 'public reporting licence' with MSCI last November.

Our availability today is between 9.30am and 11.00am or 2.30pm to 3.30pm
Else tomorrow, available between 9.30am and 11.00am or 1.30pm to 2.00pm or 3.00pm to 4.00pm

Thanks
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 Sch 2.2(a)(ii) Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

From: Yap, Anne Sch 2.2(a)(xi)
Sent: Friday, March 1, 2024 1:38 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Subject: RE: Quick call

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Hi Pat,

Hope you are well.

Would you have time for a quick call this afternoon? Say about 2:30pm?

Many thanks,
Anne
ANNE YAP
Asset Owner Client Coverage | ESG, Climate & Index | MSCI
56 Pitt St | Sydney, NSW 2000 | Australia
Sch 2.2(a)(xi), Sch 2.2(a)(xi) | msci.com | @msci_inc

Information Classification: GENERAL

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Thursday, February 1, 2024 3:44 PM
To: Yap, Anne Sch 2.2(a)(xi)
Subject: RE: Quick call

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OFFICIAL

Hi Anne
As discussed, the attached is a couple of pieces of information on the UN Human Rights Council list of business enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory.
Kind regards
Pat

From: McAuliffe, Patrick
Sent: Thursday, February 1, 2024 2:56 PM
To: Yap, Anne Sch 2.2(a)(xi)
Subject: Quick call

OFFICIAL

Hi Anne
Happy new year to you.
Would you have time for a quick call?
Thanks
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**
220 London Circuit | www.act.gov.au

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Chief Minister, Treasury and Economic Development Directorate

To:	Treasurer	**Tracking No.: CMTEDD2024/971**
Date:	12/03/2024	
From:	Executive Branch Manager, Investments & Borrowings	
Subject:	Investment Advisory Board – Treasurer Request for Advice	
Critical Date:	21/03/2024	
Critical Reason:	The Government is to provide its response to the Assembly Resolution by end August 2024. It is considered the Board advice will need to be completed by no later than Monday, 22 April 2024 to meet this timeframe.	

Recommendations

That you:

1. Agree to the Terms of Reference in relation to the required Investment Advisory Board Advice (Attachment B);

Agreed / Not Agreed / Please Discuss

2. Sign the letter to the Investment Advisory Board (Attachment C);

Agreed / Not Agreed / Please Discuss

3. Note the Investment Advisory Board has been informed of the Assembly Resolution and their role in informing the Government response; and

Noted / Please Discuss

4. Note the Cabinet meeting date to consider the Government Response is Wednesday, 31 July 2024; and

Noted / Please Discuss

5. Note the Government response is to be tabled in the Legislative Assembly during the sitting week of 27-29 August 2024.

Noted / Please Discuss

Andrew Barr MLA ....3./..4./..24

Minister's Office Feedback

Background

1. On Wednesday 7 February 2024 the Legislative Assembly made a Resolution titled "*Human rights incompliant companies – Divestments*". Part of the Resolution related specifically to the Territory's investment exposures, specifically:

   The Assembly "*calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories*".

   a. A copy of the Resolution is at Attachment A.

Issues

2. As required by the Resolution, the Investment Advisory Board (the Board") is required to provide you advice in relation to the current policy settings (the "current Responsible Investment Policy").
3. It is appropriate that you formally write to the Board requesting the required advice and setting out the Terms of Reference and timeframes.
4. The recommended Terms of Reference are set out in Attachment B.
5. The recommended timeframe for the Board to respond to you is by no later than **Monday, 22 April 2024** to provide sufficient time to complete the drafting of the Government Response, Cabinet timing requirements and the tabling process.

• Friday, 17 May 2024	Treasurer approval of Cabinet Submission Exposure Draft
• Wednesday, 3 July 2024	Exposure draft lodgement due to Cabinet Office
• Tuesday, 23 July 2024	Final lodgement (including Cabinet brief) due to Cabinet Office
• Wednesday, 31 July 2024	Cabinet Meeting to discuss Government Response
• 27-29 August 2024	Government Response Tabled in the Legislative Assembly

6. A draft request for advice letter is at Attachment C for your consideration.
7. The Board has been advised about this requirement and have commenced early considerations in developing their Advice.

Financial Implications

8. nil

Consultation

Internal

9. n/a

Cross Directorate

10. n/a

External

11. Investment Advisory Board, Frontier Advisors (Asset Consultant), MSCI

Work Health and Safety

12. n/a

Benefits/Sensitivities

13.

Communications, media and engagement implications

14. n/a

Signatory Name: Patrick McAuliffe Phone: 70187

Attachments

Attachment	**Title**
Attachment A	Assembly Resolution "*Human rights incompliant companies – Divestments*
Attachment B	Terms of Reference
Attachment C	Treasurer Letter to Board

Speaker

Mr Andrew Barr MLA
Treasurer
Legislative Assembly for the ACT
CANBERRA ACT 2601

Dear Treasurer

Human rights incompliant companies—Divestments

At its meeting on Wednesday, 7 February 2024, the Assembly passed the following resolution:

"That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community;

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(g) as individuals and in our collective society we all have responsibility to act with humanity in our actions and reactions;

(h) the conflict in Gaza and Israel has and continues to challenge the commitment to humanity of the actors of this conflict as well as the global community; and

(i) the impacts of the conflict and the decades of struggle that have led to this point are felt deeply in the ACT community;

(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

(a) act with responsibility and thoughtfulness as representatives of the ACT community, to ensure to the best of our ability that all members in our community have their rights upheld, and that our actions serve to alleviate the negative impacts this conflict is having on ACT residents;

(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc; and

(c) the ACT Government's Responsible Investment Policy of March 2023 includes an Environment, Social and Corporate Governance (ESG) controversy assessment that identifies and excludes investment where a company is assessed as having a very severe ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global norms;

(5) calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories; and

(6) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly.".

Yours faithfully

Joy Burch MLA
Speaker of the Legislative Assembly
February 2024

ACT Government

LEGISLATIVE ASSEMBLY RESOLUTION OF 7 FEBRUARY 2024

HUMAN RIGHTS INCOMPLIANT COMPANIES DIVESTMENTS'

Investment Advisory Board Advice
Terms of Reference

Background

On Wednesday 7 February 2024 the Legislative Assembly made a Resolution titled "*Human rights incompliant companies – Divestments*". Part of the Resolution related specifically to the Territory's investment exposures, specifically:

> The Assembly "*calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories*".

A copy of the full Resolution is Attached.

Terms of Reference

The Investment Advisory Board (the "Board") is requested to provide the Treasurer with advice ("Advice") in relation to the Government's Responsible Investment Policy ("Investment Policy") framework in relation to Environmental, Social and Corporate Governance ("ESG") controversy assessment considerations.

The Advice is to have regard to:

- the *ACT Government's Responsible Investment Policy* (version March 2023);
- the research and methodology policies and frameworks supporting the Environmental, Social and Corporate Governance ("ESG") controversy assessments underpinning the Investment Policy;
- the outcomes under the current Investment Policy settings; and
- the pros and cons of any deviations in the framework by reference to paragraphs 4 and 5 of the Assembly resolution.

Timing

The Board is requested to provide its Advice to the Treasurer by no later than Monday, 22 April 2024.

Speaker

Mr Andrew Barr MLA
Treasurer
Legislative Assembly for the ACT
CANBERRA ACT 2601

Dear Treasurer

Human rights incompliant companies—Divestments

At its meeting on Wednesday, 7 February 2024, the Assembly passed the following resolution:

"That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people;

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(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

Legislative Assembly for the Australian Capital Territory | 196 London Circuit, CANBERRA ACT 2601, AUSTRALIA
(+61) 02 6205 0200 • speaker@parliament.act.gov.au • parliament.act.gov.au

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

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(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

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(ix) Motorola Solutions Inc; and

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(6) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly.".

Yours faithfully

Joy Burch MLA
Speaker of the Legislative Assembly
February 2024

Ms Christine Cameron
Chair, Investment Advisory Board
Sch 2.2(a)(ii)

Ms Kerrie Williams
Member, Investment Advisory Board
Sch 2.2(a)(ii)

Dear Ms Cameron and Ms Williams

Thank you for your ongoing contribution to the development and implementation of our financial investment policies and investment governance arrangements with your participation on the Investment Advisory Board.

I understand Treasury officials have advised you about the recent Assembly Resolution in relation to the Territory's investment exposures and our current Responsible Investment Policy settings.

As you have been advised, the Resolution calls on you (the Board) to provide me with advice in relation to the Government's Responsible Investment Policy framework in relation to Environmental, Social and Corporate Governance controversy assessment considerations, including in relation to the pros and cons of any deviations in the framework, by reference to paragraphs 4 and 5 of the Resolution in relation to the occupation of Palestinian territories.

I am writing to formally request this advice in accordance with the attached Terms of Reference.

Please contact Mr Patrick McAuliffe as required for any assistance.

Yours sincerely



Andrew Barr MLA
Chief Minister

4 April 2024

From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Tran, Diana; Nicholls, Lucas
Subject: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board
Date: Wednesday, 17 April 2024 3:47:00 PM
Attachments: McAuliffe Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board.msg
McAuliffe Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board.msg
image001.png

Hi Christine and Kerrie

I refer to the attached emails that you would have received in relation to the separate 'Advice' library we have established on our SharePoint site.

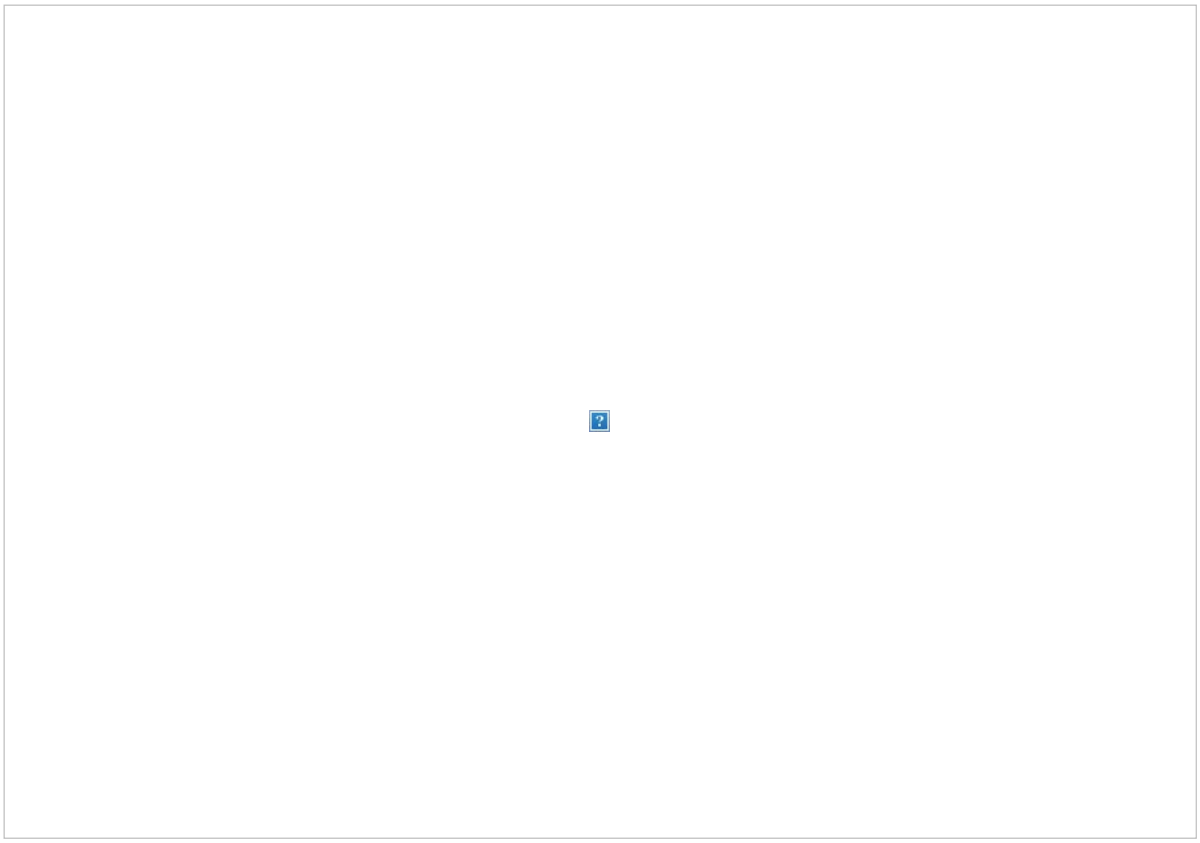
When you have a chance, please let me know that you can see the new Library.

I have put some initial background .pdfs in it so far. We are hoping to have an initial draft word document loaded by the end of the week.

You both should have ***read and write access*** to this site which might make it easier to provide edits and comments to the advice document (ensuring track changes remains on).

Let's touch base once we have a version available.

Kind regards
Pat



Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
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From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: McAuliffe, Patrick
Subject: McAuliffe, Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board
Date: Wednesday, 17 April 2024 3:41:23 PM

Here's the site that McAuliffe, Patrick shared with you.

Go to ACT Treasury Investment Advisory Board

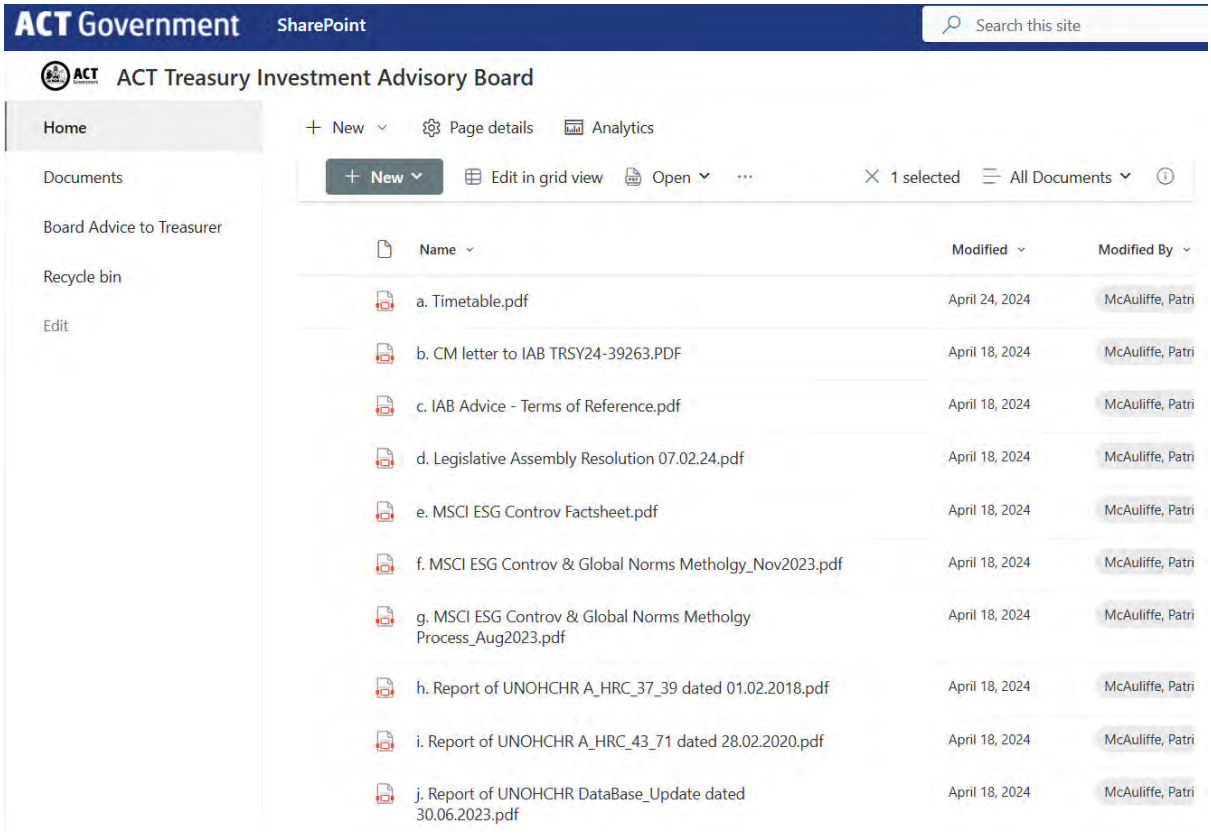
Follow this site to get updates in your newsfeed.

From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: McAuliffe, Patrick
Subject: McAuliffe, Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board
Date: Wednesday, 17 April 2024 3:41:13 PM

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All Documents
Name
Modified
Modified By
a. Timetable.pdf
April 24, 2024
McAuliffe, Patri
b. CM letter to IAB TRSY24-39263.PDF
April 18, 2024
McAuliffe, Patri
c. IAB Advice - Terms of Reference.pdf
April 18, 2024
McAuliffe, Patri
d. Legislative Assembly Resolution 07.02.24.pdf
April 18, 2024
McAuliffe, Patri
e. MSCI ESG Controv Factsheet.pdf
April 18, 2024
McAuliffe, Patri
f. MSCI ESG Controv & Global Norms Metholgy_Nov2023.pdf
April 18, 2024
McAuliffe, Patri
g. MSCI ESG Controv & Global Norms Metholgy Process_Aug2023.pdf
April 18, 2024
McAuliffe, Patri
h. Report of UNOHCHR A_HRC_37_39 dated 01.02.2018.pdf
April 18, 2024
McAuliffe, Patri
i. Report of UNOHCHR A_HRC_43_71 dated 28.02.2020.pdf
April 18, 2024
McAuliffe, Patri
j. Report of UNOHCHR DataBase_Update dated 30.06.2023.pdf
April 18, 2024
McAuliffe, Patri

MSCI ESG Controversies

MSCI ESG Controversies allows institutional investors to analyze a company's significant social, environmental, and governance impacts by identifying company involvement in major ESG controversies, adherence to international norms and principles, and assessing company performance with respect to these norms and principles.

Key features and benefits

Comply with international standards

MSCI ESG Controversies can assist investors in determining how well companies adhere to international norms and principles such as the UN Global Compact and ILO Core Conventions.

Manage reputational risk with timely alerts

MSCI ESG Controversies scoring and flagging system alerts investors to potential reputational risks. Clients can set customized email alerts in order to remain informed of significant ESG changes to their portfolios.

Identify targets for engagement

MSCI ESG Controversies helps clients identify companies for further stakeholder engagement. Clients can use controversy details as well as severity assessments to determine a course of engagement with a company in their portfolio.

Availability on multiple platforms

MSCI ESG Controversies is available on our proprietary online platform, MSCI ESG Manager, as well as through API delivery. It is also integrated within MSCI's BarraOne and Barra Portfolio Manager platforms, as well as in FactSet and StyleResearch.

Broad and in-depth Coverage

Coverage extends to approximately 12,500 companies covering the MSCI ACWI IMI Index, in addition to 95% by market value of the Barclays Global Aggregate – Corporate Index.



MSCI

Product overview

MSCI ESG Controversies analyses and monitors company management strategies and their actual performance:

MSCI ESG Controversies is designed to provide timely and consistent assessments of ESG controversies involving publicly traded companies and fixed income issuers.

The evaluation framework is designed to be consistent with international norms represented in numerous widely accepted global conventions.

Our global research analysts assess performance, looking for instances where companies are involved in major controversies or have breached the standards set by international bodies.

- **Red:** Indicates that a company is involved in one or more very severe controversies.
- **Orange:** Indicates that a company has been involved in one or more recent severe structural controversies that are ongoing.
- **Yellow:** Indicates that the company is involved in severe-to-moderate level controversies.
- **Green:** Indicates that the company is not involved in any major controversies.

The MSCI ESG Controversies approach is stakeholder driven and covers the following five categories of stakeholder impact, organized against 28 indicators:

MSCI ESG Controversies Coverage - Stakeholder 'Pillars' and 'Indicators'

Environment	Human rights & community	Labor rights & supply chain	Customers	Governance
• Biodiversity & land use • Toxic emissions & waste • Energy & climate change • Water stress • Operational waste (Non-hazardous) • Supply chain management • Other	• Impact on local communities • Human rights concerns • Civil liberties • Other	• Labor management relations • Health & safety • Collective bargaining & unions • Discrimination & workforce diversity • Child labor • Supply chain labor standards • Other	• Product safety & quality • Anticompetitive practices • Customer relations • Privacy & data security • Marketing & advertising • Other	• Bribery & fraud • Governance structures • Controversial investments • Other

Monitor compliance with global norms

- Identify news-based controversies linked to specific global norms and conventions
- Identify companies which fail a specific set of global norms
- Identify Watchlist companies for monitoring purposes
- Use detailed reports to support engagement activities



Fail

The company is implicated in one or more controversy cases where there are credible allegations that the company or its management inflicted serious large scale harm in violation of global norms.

Watch list

The company is implicated in one or more controversy cases that are serious and warrant ongoing monitoring but, based on information available to date, does not constitute a major breach of global norms according to our methodology.

Pass

The company has not been implicated in any controversy case constituting a major breach of global norms within the last three years according to our methodology.

About MSCI ESG Research products and services

MSCI ESG Research products and services are provided by MSCI ESG Research LLC, and are designed to provide in-depth research, ratings and analysis of environmental, social and governance-related business practices to companies worldwide. ESG ratings, data and analysis from MSCI ESG Research LLC. are also used in the construction of the MSCI ESG Indexes. MSCI ESG Research LLC. is a Registered Investment Adviser under the Investment Advisers Act of 1940 and a subsidiary of MSCI Inc.

About MSCI

MSCI is a leading provider of critical decision support tools and services for the global investment community. With over 45 years of expertise in research, data and technology, we power better investment decisions by enabling clients to understand and analyze key drivers of risk and return and confidently build more effective portfolios. We create industry-leading research-enhanced solutions that clients use to gain insight into and improve transparency across the investment process.

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MSCI ESG Controversies and Global Norms Methodology

MSCI ESG Research

November 2023

MSCI

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MSCI ESG Controversies overview

MSCI ESG Controversies is designed to provide timely and consistent assessments of ESG-related controversies, whether actual or alleged, involving publicly traded companies and fixed income issuers in our coverage universe (the MSCI ESG Controversies and Global Norms coverage universe is determined by issuers' inclusion in certain equity and fixed income indexes).

An ESG controversy case is defined as either an event or an ongoing situation in which company operations and/or products allegedly have a negative environmental, social and/or governance impact. MSCI ESG Controversies assessments measure companies' reputational/brand risk based on actual or alleged involvement in adverse impact activities as reported by the media, nongovernmental organizations (NGOs), civil society groups, academia, regulators and other stakeholders.

Cases include alleged company violations of existing laws and/or regulations to which they are subject to, or an alleged company action or event that violates commonly accepted international norms, including, but not limited to, norms represented by global conventions, such as the International Labour Organization (ILO) Fundamental Conventions.[1]

A case can be a single event such as a spill, accident or regulatory action, or a set of closely linked events or allegations such as health and safety fines at the same facility, multiple allegations of anticompetitive behavior related to the same product line, multiple community protests at the same company location, or multiple individual lawsuits alleging the same type of discrimination.

Our analytical framework organizes ESG controversies within three Pillars: Environment, Social and Governance. In particular, the Social Pillar is further divided into three Sub-Pillars representing different stakeholders: community (Human Rights & Community Impact Sub-Pillar), workers (Labor Rights & Supply Chain Sub-Pillar) and customers (Customers Sub-Pillar).

Pillars and Sub-Pillars are further divided into 28 Themes (see Exhibit 1). All assessed ESG controversy cases are associated with at least one Theme. Since a single event or an ongoing situation may have a broad array of implications, such an event may result in MSCI ESG Research profiling multiple ESG controversy cases, possibly categorized in different Themes. For example, an oil spill incident may result in our profiling an ESG controversy case assessing alleged impact on the local

[1] For all references to laws, rules or regulations, please note that the information is provided "as is" and does not constitute legal advice or any binding interpretation. Any approach to comply with regulatory or policy initiatives should be discussed with your own legal counsel and/or the relevant competent authority, as needed.

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ecosystem (under the Biodiversity and Land use Theme) and a separate case assessing alleged impact on the local population (under the Impact on Local Communities Theme). Each case is assessed separately based on the severity of impact and other factors detailed below, and monitored over time for remediation action.

MSCI ESG Research has a dedicated team of analytical staff who identify and assess the severity of controversy cases that involve companies in our coverage universe on an ongoing basis. ESG analytical staff review the reported allegations and apply consistent scoring and a color-coded flag for each controversy case, based on the Severity of Impact in each case, the alleged Role of the company in each case and the Status of each case (which is determined by the state of resolutions, if any, between involved stakeholders).

Exhibit 1: MSCI ESG Controversies thematic framework



Each ESG controversy case is assessed for the Severity of its impact on society or the environment as Very Severe, Severe, Moderate or Minor.

Each ESG controversy case receives a Score and an associated color-coded Flag based on a combination of the assessed Severity of the controversy as well as the assessments of the company's alleged Role and the Status of the case remediation and resolution (see Exhibit 2). In the event that a company has multiple ESG

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controversy cases, the Overall Company Score and the corresponding Flag are determined by the lowest-scoring case.

A company-level Overall Flag indicates the following:

- A **Red Flag** indicates that a company is directly involved in one or more Very Severe Ongoing controversies.
- An **Orange Flag** indicates that a company has either:
  - Settled most but not all of the stakeholders' concerns related to its direct involvement in one or more Very Severe controversies;
  - Continues to be indirectly involved in one or more Very Severe controversies, or
  - Is directly involved in one or more Severe controversies.
- A **Yellow Flag** indicates that a company either:
  - Has been implicated in one or more Concluded Very Severe or Severe controversies;
  - Has settled most or all of the stakeholders' concerns related to its alleged direct involvement in one or more Severe controversies or indirect involvement in one or more Very Severe controversies, or
  - Continues to be indirectly involved in one or more Severe controversies or directly involved in one or more Moderate controversies.
- A **Green Flag** indicates that a company either:
  - Has fully or partially settled one or more Moderate severity controversies in which it was directly involved,
  - Is indirectly implicated in one or more Moderate controversies,
  - Is either directly or indirectly implicated in one or more Ongoing or Concluded Minor controversies, or
  - Has not been implicated in any controversy.

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Exhibit 2: MSCI ESG controversy assessment scoring matrix (effective for controversy cases reviewed after June 20, 2022)

Severity of the case	Company role	Status of the case		
		Ongoing	Partially Concluded	Concluded
Very Severe	Direct	0	1	2
Very Severe	Indirect	1	2	3
Severe	Direct	1	2	3
Severe	Indirect	2	3	4
Moderate	Direct	4	5	6
Moderate	Indirect	5	6	7
Minor	Direct	6	7	8
Minor	Indirect	7	8	9

MSCI ESG Controversies is intended to reflect all areas of adverse impact covered by the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises general policies. In addition, MSCI ESG Research provides a mapping of ESG controversy cases to the underlying principles of the following global norms: the UN Global Compact (UNGC), the UN General Principles of Business and Human Rights (UNGP) and the International Labour Organization (ILO) Conventions (both Core and Broad conventions). For additional details on the definition of Flag and Global Norms scales, refer to the ESG and Climate Symbols and Definitions available here.

MSCI ESG Controversies is not designed to verify or confirm any allegations or claims of violations. Instead, it provides a consistent assessment of controversies in the form of scores and color-coded flags.

1 ESG controversy case assessment methodology

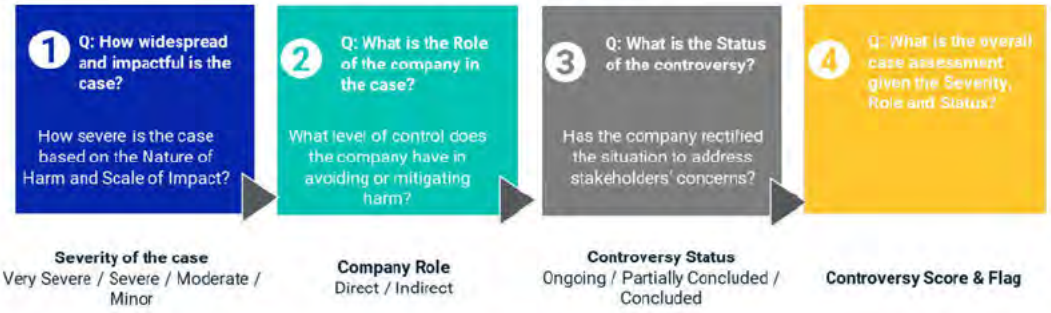
1.1 ESG controversy case assessment overview

An ESG controversy case is created when allegations concerning an event or a company's practices, products or businesses could lead to reputational risk due to their potential negative environmental, social and/or governance impact.

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MSCI ESG Research analytical staff identify new ESG controversy cases and update existing cases by researching company public documents, media sources and nongovernmental organization publications. Please refer to "MSCI ESG Controversies and Global Norms Methodology – Process" for details on the frequency of updates, sources and review process.

Exhibit 3: Assessments made for a controversy case



For each ESG controversy case, MSCI ESG Research determines:

1. The ***Severity*** of the case based on the nature of harm and scale of alleged impact, and application of specific exacerbating circumstances: Very Severe, Severe, Moderate or Minor
2. The ***Role*** of the company implicated in the case: Direct or Indirect.
3. The ***Status*** of the case: Concluded, Partially Concluded, Ongoing, Archived or Historical Concern.

Based on these three inputs, an overall Score and a corresponding Flag are determined for each of the ESG controversy cases.

Written summaries for all Severe and Very Severe cases and some Moderate cases provide details of each controversy and are included in each company's MSCI ESG Controversies report.

1.2 Severity Assessment

The Severity of each case is assessed based on the **Nature of Harm** and alleged **Scale of Impact** of the event, practices, products or businesses on the environment, society and economy. In some instances, the Severity assessment can be adjusted based on **exacerbating circumstances** that include activities constituting deliberate action with regard to social or environmental harm, or involve the most vulnerable ecosystems or demographic groups.

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1.2.1 Nature of Harm

The **Nature of Harm** is assessed on a scale ranging from Very Serious to Minimal harm:

Exhibit 4: Nature of Harm scale



Very Serious harm generally applies to events and actions that lead to irretrievable or long-lasting damage to the environment, result in fatalities, contribute to major financial or economic crisis, or correspond to a most serious crime against humanity (based on the definitions of the International Criminal Court).

Minimal harm generally refers to cases where actual impact is projected in the future. This includes cases alleging adverse impact of planned or forthcoming actions, for example, protests against the construction of an oil pipeline based on concerns over possible adverse impact on land and water resources.

1.2.2 Scale of Impact

The **Scale of Impact** is assessed on a scale ranging from Extremely Widespread to Low:

Exhibit 5: Scale of Impact



The Scale of Impact is determined based on the size of the area or number of people affected, the size of the operating footprint of companies involved in high-impact controversial activity, and the number of regions or jurisdictions affected by high-impact controversial business practices. Low Scale of Impact is attributed to controversies that have an undeterminable, but probable extent of harm.

See Appendix B for more details and examples of Nature of Harm and Scale of Impact assessments.

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1.2.3 Combining Nature of Harm and Scale of Impact

Nature of Harm and **Scale of Impact** assessments are combined to reach an initial determination of Severity; multiple scenarios can lead to the same Severity assessment (see Exhibit 6).

Exhibit 6: Initial assessment of controversy case Severity

		Nature of Harm			
		Very Serious	Serious	Medium	Minimal
Scale of Impact	Extremely Widespread	*Very Severe*	*Severe*	*Severe*	*Moderate*
	Extensive	*Very Severe*	*Severe*	*Moderate*	*Moderate*
	Limited	*Severe*	*Moderate*	*Minor*	*Minor*
	Low	*Moderate*	*Moderate*	*Minor*	*Minor*

1.2.4 Exacerbating Circumstances

Certain circumstances may warrant a controversy case Severity assessment to be adjusted: cases that have an Exacerbating Circumstance have a controversy assessment that is more severe than otherwise would have been determined through the Nature of Harm and Scale of Impact alone.

Exacerbating circumstances can be assessed if any of the following three criteria are met:

1) **Vulnerable demographics**: controversy cases that negatively impact the most vulnerable demographics. The definition of vulnerable demographics is limited to national, ethnic, racial and religious groups (including indigenous people) currently subject to serious, systemic and prolonged human rights violations as defined by international bodies and standards, such as the Rome Statute of the International Criminal Court articles 6 to 8b, United Nations Convention on the Prevention and Punishment of the Crime of Genocide and the United Nations Declaration on the Rights of Indigenous Peoples, and investigated by the United Nations Human Rights Council or the United Nations Office of the High Commissioner. See Appendix D for more details.
2) **Vulnerable ecosystems**: controversy cases that negatively impact the most vulnerable ecosystems. MSCI ESG Research defines vulnerable ecosystems as those included on the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List.

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3) **Deliberate action**: controversy cases that arise from allegations that the company, company's representatives or employees are involved in activities constituting deliberate action with regard to social or environmental harm. These may include deliberate obstruction of investigations, attempts to cover up the event or activity, punishment or termination of employees voicing their concerns or participating in protests against the company.

1.2.5 Extenuating Circumstances

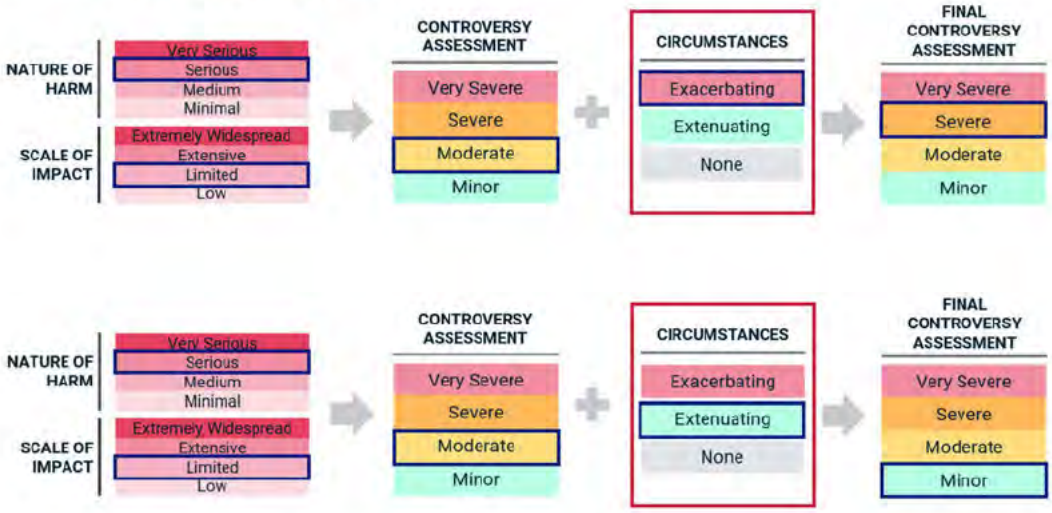
Certain situations may warrant a controversy case Severity assessment to be adjusted based on circumstances. Cases that face such Extenuating Circumstances have a controversy assessment that is less severe than otherwise would have been determined through the Nature of Harm and Scale of Impact alone.

Extenuating Circumstances are assessed if a case is determined to be linked to a legacy issue that continues to present a reputational or legal risk to the company. We define a legacy issue as the following:

- A high-impact event that occurred 20 or more years ago (e.g., use of prison labor during World War II); or
- A high-impact product or practice that was discontinued and/or remediated 20 or more years ago (e.g., asbestos, lead paint, polychlorinated biphenyls [PCBs], perfluorooctanoic acid [PFOA], perfluoroalkyl and polyfluoroalkyl substances [PFAS], hexavalent chromium [Cr(VI)], etc).

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Exhibit 7: Example of Severity assessment with exacerbating and extenuating circumstances triggers applied



1.3 Assessment of the company Role: Direct vs. Indirect

- **Direct:** We consider companies to have a direct involvement in an ESG controversy if the negative impact is directly attributed to the company's actions, practices, products or businesses, whereby harm could not have happened without such actions or activities, or if the ESG controversy relates to an entity or a joint venture in which the company has significant control. Our determination of significant control is based specifically on the ownership structure as disclosed by the company. If an entity has 30% ownership or higher or is a primary operator in a joint venture project, it is assessed as having significant control.

Examples:

- A company is implicated in a workplace incident that led to several employee fatalities.
- An oil refining company is facing substantial community opposition to a pipeline construction project that is carried out by a subsidiary of the company, of which it owns 30% of the shares.
- A medical device manufacturer is facing a class-action lawsuit filed by patients who sustained injuries linked to malfunction of the company's pacemakers.

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- **Indirect:** We consider companies to have an indirect involvement in an ESG controversy when the negative impact may have been facilitated by the company's actions, practices, products or businesses, but the company is not considered as playing critical or essential role (e.g., it is involved as a supplier or a client of a directly involved company, or when the company had a minority ownership (<30%) in a company or joint venture involved in an ESG controversy case). Indirect Role is also attributed to companies in cases of adverse impact due to natural causes (e.g., earthquake, tsunami), whereby the company is still responsible for impact remediation.

Examples:

- A company faces allegations of unsafe working conditions at one of its supplier's factories.
- An oil refining company is facing community opposition to a pipeline construction project. The project is managed by a joint venture, in which the refining company holds 20% ownership.
- A medical device distributor is linked to a controversy related to a class-action lawsuit filed by patients who sustained injuries linked to malfunction of pacemakers. The pacemakers are produced by one of the firms whose products are sold by the distribution company.

As events unfold or additional information becomes available, the company's Role is reassessed as warranted.

1.4 Assessment of controversy Status

Please note that MSCI ESG Research does not recommend any specific course of action for issuers implicated in controversies. Instead, we apply a methodology to assess the status of each controversy case based on remedial action taken by involved entities, as reported in public sources. For any information to be considered in our assessment, it must meet the criteria set out in Section 2.1, ESG Controversies sources, of "MSCI ESG Controversies and Global Norms Methodology – Process."

Each ESG controversy case is monitored on an ongoing basis to determine the status of remediation activities to resolve disputes with affected stakeholders. Active cases (determined as either Ongoing, Partially Concluded or Concluded) affect the overall ESG Controversy Score, while inactive cases (determined as either Archived or Historical Concern) do not affect the overall company assessment.

- **Ongoing**: A case is considered Ongoing if the company has not implemented remediation steps to satisfy the claims of affected stakeholders.

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Examples:

- A company was implicated in a workplace incident that led to several employee fatalities, yet has not scoped out remediation action.
- A company was implicated in a workplace incident that led to several employee fatalities. The company allocated compensation funds, but has faced community opposition over insufficient compensation to the families and inadequate action to improve workplace safety conditions.

- **Partially Concluded:** A case is considered partially concluded if there is reasonable evidence that the company has taken action towards the remediation of the relevant issue, while some concerns and disputes over the original claims may still be ongoing.

Remediation activities include payment of penalties, distribution of compensation, settlement agreements, reclamation and rehabilitation activities, discontinuation of the controversial practices or businesses, and implementation of industry best practices to mitigate the adverse impact of the controversial activities.

In cases where community criticism pertains to ongoing adverse impact from operations (e.g., Arctic drilling), a case may not be fully concluded until the company completely discontinues such operations and settles all outstanding claims.

Examples:

- A company was implicated in a workplace incident that led to several employee fatalities. It has engaged families of the victims to determine a compensation plan and has upgraded health and safety equipment, which are now aligned to international safety standards. However, several workers claimed that the incident may have affected their health, and the investigation into these claims remains ongoing.
- A company was implicated in a workplace incident that led to several employee fatalities. The company has since discontinued related operations and sold assets of the implicated subsidiary to a third party, but continues to be involved in a lawsuit over alleged insufficient compensation to the victims' families.
- A large palm oil producer is criticized by NGO groups for adverse impact of palm oil production on tropical forests, biodiversity and natural carbon storage. A company certifies over 30% of its palm oil to the most stringent certification standard. Such level and stringency of certification is considered to be the best practice in the industry and can constitute partial conclusion of the case despite ongoing opposition to palm oil production.

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- **Concluded**: A case is considered Concluded if the above-described corporate actions or case resolution actions are implemented and the company does not face any pending legal action or ongoing criticism over the controversy.

Examples:

- A company was implicated in a workplace incident that led to several employee fatalities. It has engaged families of the victims to determine a compensation plan and has upgraded health and safety equipment, which are now aligned to international safety standards. A lawsuit filed by several workers claiming that the incident affected their health was dismissed and not appealed.
- A large food producer was criticized by NGO groups for using palm oil in its products. Palm oil production is commonly linked to tropical forests destruction, loss of biodiversity and disturbance of natural carbon storage. The company has since completely discontinued its use of palm oil in food products and was not implicated in palm oil-sourcing controversies.

Some Moderate- or Minor-Severity cases may be determined to be Concluded without an intermediate Partially Concluded step due to a narrow scope of impact that may require a simple resolution. Moderate or Severe cases may also be classified as Concluded if targeted research seeking updated information has yielded no results for at least two consecutive years, subject to review and approval by designated methodology committees (see "MSCI ESG Controversies and Global Norms Methodology – Process" for details).

- **Archived**: Concluded cases with no new escalations are eventually assessed as Archived and removed from companies' assessment and profiles.
    - Due to the narrow scope and low level of impact of Minor controversies, case conclusions are not often reached or reported. Therefore, Minor Ongoing cases can be assessed as Archived one year after a case's initiation if no further updates to the case are available.
    - Moderate ESG controversy cases are assessed as Archived one year after conclusion.
    - Severe and Very Severe ESG controversy cases are assessed as Archived three years after conclusion.
- **Historical Concern**: Some Concluded cases are determined to be high profile on a case-by-case basis as they form an important part of the company's ESG history. Examples include the BP Deepwater Horizon spill. The designation of a case as a Historical Concern requires MSCI Controversies Methodology

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Committee approval. These cases remain in the company's profile but do *not* affect the scoring.

1.5 Determining Controversy Score and Flag

ESG controversy cases are scored based on a combination of Severity, Role and Status. Within a given Severity level, Ongoing cases score lower than those that are Partially Concluded or Concluded, and those that are Direct score lower than those that are Indirect (see Exhibit 8).

Exhibit 8: MSCI ESG controversy case assessment scoring matrix[2]

Severity of the case	Company role	Status of the case		
		Ongoing	Partially Concluded	Concluded
Very Severe	Direct	0	1	2
Very Severe	Indirect	1	2	3
Severe	Direct	1	2	3
Severe	Indirect	2	3	4
Moderate	Direct	4	5	6
Moderate	Indirect	5	6	7
Minor	Direct	6	7	8
Minor	Indirect	7	8	9

1.6 MSCI ESG Controversies methodology – transitional period

The current MSCI ESG controversies methodology for case assessment, which is the result of a minor update in June 2022, is effective for controversy cases initiated or reviewed after June 20, 2022. On that date, the case assessment transitioned from the prior methodology to the methodology described in Sections 1.1-1.5 above. Controversy cases last reviewed prior to June 20, 2022, are assessed based on the prior methodology. The prior methodology differs from the current methodology in the following ways:

[2] The MSCI ESG Controversies methodology outlined in this document is effective for controversy cases reviewed after June 20, 2022.

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- The prior methodology used controversy Types (Structural or Non-Structural) distinguishing instances of systematic and repetitive allegations suggesting a pattern of corporate behavior instead of company Roles (Direct or Indirect) to determine Controversy Scores.
- The prior methodology did not include a Partially Concluded Status.
- Under the prior methodology, a score of 0 and a corresponding Red Flag was applied to all cases assessed as Very Severe, regardless of other criteria.
- Prior to the introduction of the company Role assessment, to determine whether a case extended to a related company, we evaluated whether the related companies were under common control and shared senior leadership (or senior leadership who were first-degree relatives).

The following definitions of controversy Types apply to cases last reviewed prior to June 20, 2022:

- **Structural:** evidence suggests an underlying problem at the company — poor culture, or lack of adequate governance and oversight — that caused or contributed to the occurrence of the controversy. The incident would likely have been avoided if the company had governance and oversight procedures in place. Indications of a structural issue may include executive misconduct, a history of ignoring warnings or a pattern of incidents across locations or business units.
- **Non-Structural:** The controversy appears to be linked to misfortune or rogue employees rather than poor management or governance failures. Better governance and oversight could not reasonably have been expected to prevent it.

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Exhibit 9: Discontinued ESG controversy case scoring matrix (applied to cases last reviewed prior to June 20, 2022)

		Ongoing	Concluded
Very Severe	**Structural**	0	0
Very Severe	**Nonstructural**	0	0
Severe	**Structural**	1	2
Severe	**Nonstructural**	2	3
Moderate	**Structural**	4	5
Moderate	**Nonstructural**	5	6
Minor	**Structural**	7	8
Minor	**Nonstructural**	8	9

Note: Some companies' cases may still have reflected prior scoring methodology during the transitional period.

2 ESG Controversy Scores aggregation

2.1 ESG Controversy Scores hierarchy

Individual ESG controversy cases are grouped into 28 Themes (or Thematic Indicators), which are organized into 5 Sub-Pillars and 3 Pillars: the Environmental, Social and Governance Pillars. The overall Company Score and Flag are derived from the Pillar-level scores.

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Exhibit 10: ESG controversies hierarchy



Please see Appendix A for a complete list of Themes and descriptions of the types of ESG controversies captured within each one.

2.2 Determination of Themes, Sub-Pillar, Pillar and Company Scores and Flags

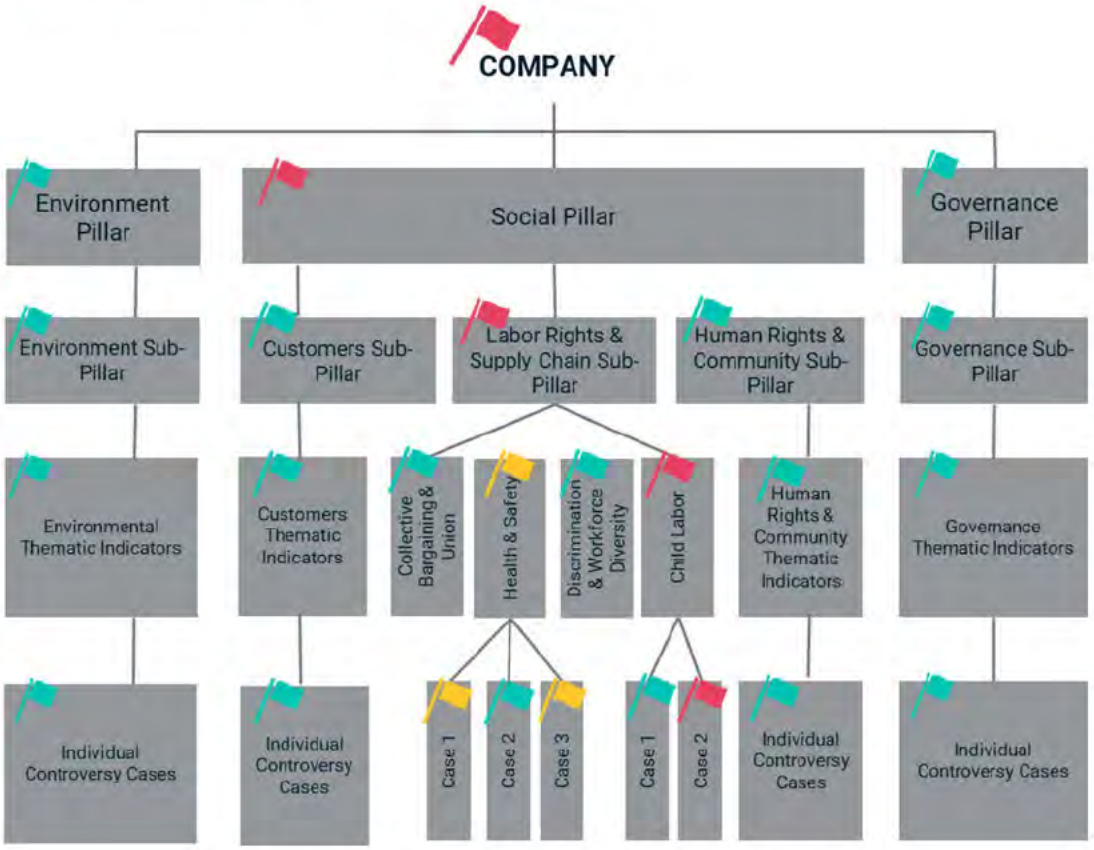
As the objective of MSCI ESG Controversies assessments is to highlight reputational risk to a company based on its involvement in controversial practices or events, we do not apply any averaging or weight adjustment of scores. An Overall Company Score is generally determined based on the lowest-scoring controversy case in which the company is involved. Unless there is a pattern of controversial involvement within a specific Theme, this approach is applied through the entire ESG controversies hierarchy structure (see Exhibit 11 for a detailed example):

- Thematic Indicators receive the score corresponding to the lowest-scoring controversy case within the same Theme. An additional score deduction may apply if a pattern of involvement in similar cases is established.
- Sub-Pillars receive the score corresponding to the lowest scoring Thematic Indicator within the Sub-Pillar.
- Pillars receive the score corresponding to the lowest-scoring Sub-Pillar within the Pillar.
- The company's Overall Score is ultimately determined by the lowest-scoring Pillar.

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Exhibit 11: ESG Controversy Score propagation through the ESG controversies hierarchy

Example: A company is not involved in any major environmental or governance controversies, but is directly involved in an Ongoing Very Severe (Red Flag) case alleging use of child labor in an ethnic community subjected to systemic abuse, and three instances of workplace safety violations, two of which resulted in injuries to several workers (Yellow Flags).



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2.2.1 Treatment of more than three cases within the same Theme

In situations where companies have three or more non-Minor controversy cases within the same Theme, the Theme Score is reduced by 1 point. This rule applies only at the Thematic Indicator level to reflect the greater reputational risk associated with multiple controversies of similar impact. There is no pattern-based score adjustment within the same Sub-Pillar or Pillar. Cases with a score of 1 (Orange Flag) or 0 (Red Flag) always result in a Thematic Indicator score of 1 or 0, respectively.

Exhibit 12: Example: ESG Controversy Score propagation for a company with three or more Product Safety & Quality controversies



Scores across individual cases, Thematic Indicators, Sub-Pillars, Pillars and at the company level translate to a corresponding color Flag indicating the Severity of controversies in which the company is involved.

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Exhibit 13: Interpretation of a Company Flag

Company Flag	Flag Description
	**Red Flag:** indicates that a company is directly involved in one or more Very Severe Ongoing controversies.
	**Orange Flag:** indicates that a company has either: o Settled most but not all of the stakeholders' concerns related to its involvement in one or more Very Severe controversies, o Continues to be indirectly involved in one or more Very Severe controversies, or o Is directly involved in one or more Severe controversies.
	**Yellow Flag:** indicates that a company either: o Has been implicated in one or more Concluded Very Severe or Severe controversies, o Has settled at least some of the stakeholders' concerns related to its alleged direct involvement in one or more Severe controversies or indirect involvement in one or more Very Severe controversies, or o Continues to be indirectly involved in one or more Severe controversies or directly involved in one or more Moderate controversies.
	**Green Flag:** indicates that a company either: o Has fully or partially settled one or more Moderate severity controversies in which it was directly involved, o Is indirectly implicated in one or more Moderate controversies, o Is either directly or indirectly implicated in one or more Ongoing or Concluded Minor controversies, or o Has not been implicated in any controversy.

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3 MSCI ESG Global Norms screens overview

MSCI ESG Global Norms screens are not intended to verify ongoing commitments of companies to such norms and conventions or assess the quality of internal compliance monitoring mechanisms of the companies that commit to such external guidelines and standards. Instead, MSCI ESG Global Norms screens leverage MSCI ESG Controversies Flags to identify publicly traded companies and fixed income issuers involved in controversies that may constitute a breach of those global norms and conventions. We have reviewed details of each set of norms and determined a mapping of ESG controversy cases to the specific policies and principles of the following global norms and conventions:

- The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises,
- The United Nations Global Compact Principles (UNGC),
- The International Labour Organization's (ILO) conventions (Broad and Core Conventions), and
- The United Nations Guiding Principles on Business and Human Rights (UNGP).

These global norms and conventions vary in scope. For example, the OECD's are the broadest, covering a wide range of environmental, social, economic and business ethics issues. By contrast, the ILO conventions focus exclusively on labor-related issues. In Exhibit 14 (below), we outline how the mapping of MSCI ESG Controversies cases to different categories and Themes aligns with the specific issues covered by each of these conventions.

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Exhibit 14: The intersection of MSCI ESG Controversies Pillars and Sub-Pillars with Global Norms and corresponding MSCI ESG Controversies

Pillar or Sub-Pillar	OECD	UNGC	UNGP	ILO	MSCI ESG Controversies categories and Themes
Human rights	✓	✓	✓		Human Rights Violations, Civil Liberties, Censorship & Surveillance, Support for Controversial Regimes, Disputed Territories, Controversial Sourcing (e.g., conflict minerals), Indigenous Peoples Rights
Labor	✓	✓	✓	✓	Child Labor, Forced/Bonded/Slave Labor, Health & Safety, Kidnapping & Attacks, Working Conditions/Pay, Discrimination/Exclusion & Workforce Diversity, Harassment, Opposition to Unions /Unionization
Environment	✓	✓			Land Use, Biodiversity & Endangered Species, Marine Biodiversity (e.g., overfishing), Electronic Waste, Packaging Material & Waste, Energy & Climate Change, Operational Waste, Pesticides/ Persistent Organic Pollutants, Toxic Releases to Air/Water/Land (incl oil spills)
Economic & business issues	✓	✓	✓		Bribery & Corruption, Ethics & Fraud, Accounting, Money Laundering, Political Influence Taxes avoidance, Director Ethics, Compensation Controversies, Censorship & Surveillance
Customer issues	✓				Anticompetitive Practices, Predatory Lending, Fraud & Billing, Restricted Access to Products / Services, Misleading Claims, Pesticides, Chemical Safety, Product & Service Safety/Quality, Structural Integrity & Materials, Privacy & Data Security
Community development	✓				Impact on Local Communities, Political influence, Working Conditions/Pay, Discrimination/Exclusion, Workforce Diversity, Restricted Access to Services.

Sources: Marie Gradert and Peter Engel, A comparison of 4 international guidelines for CSR, *(Danish Business Authority, 2015); MSCI ESG Research*

Further, MSCI ESG Research has developed designated screening factors for the OECD Guidelines, UNGC, UNGPs, and ILO Broad and Core conventions (see Exhibit 15).

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Exhibit 15: MSCI Global Norms Screening factors and factor descriptions

Factor Name	Factor Values	Description
OECD Alignment	Fail, Watch List, Pass	This factor indicates whether the company is aligned with the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises based on MSCI ESG Research methodology. The possible values are Fail, Watch List, or Pass.
UN Global Compact Alignment	Fail, Watch List, Pass	This factor indicates whether the company is aligned with the United Nations Global Compact principles. The possible values are Fail, Watch List, or Pass.
UNGP Alignment	Fail, Watch List, Pass	This factor indicates whether the company is aligned with the United Nations Guiding Principles for Business and Human Rights. The possible values are Fail, Watch List, or Pass.
ILO Alignment - Broad	Fail, Watch List, Pass	This factor indicates whether the company is aligned with the International Labour Organization's broader set of labor standards. The possible values are Fail, Watch List, or Pass.
ILO Alignment - Core	Fail, Watch List, Pass	This factor indicates whether the company is aligned with the International Labour Organization's fundamental principles. The possible values are Fail, Watch List, or Pass

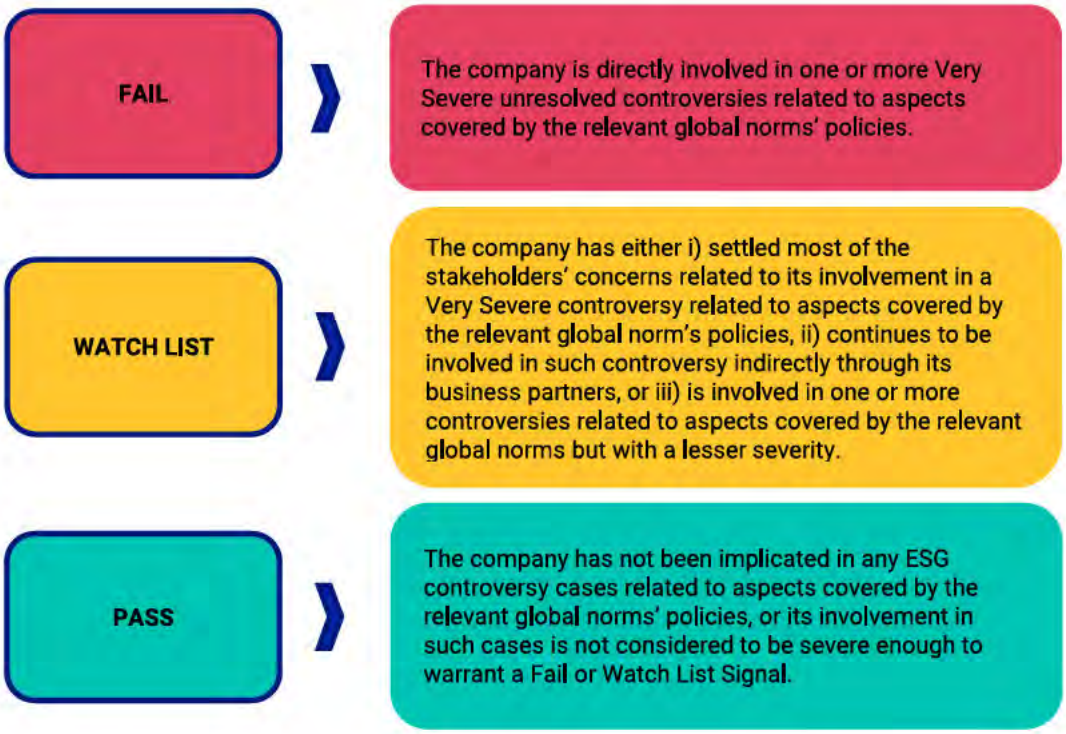
The screening factor values include Fail, Watch List, or Pass Signals based on the Severity of specific cases in which a company is implicated. A Fail Signal indicates that a company is involved in one or more Red Flag controversies in the areas covered by the corresponding set of norms or conventions. An involvement in a single Red Flag controversy in an area covered by a global policy or convention results in the company receiving an overall Fail Signal under that particular global norm.

Only cases that relate to policies and principles within a specific set of global norms will lead to a screening signal for those norms. For example, a Red Flag case related to an extensive and long-lasting impact on biodiversity will result in a Fail screening signal for the UNGC, but will not affect the company's assessment against ILO norms, as ILO conventions do not include environmental principles.

As the MSCI ESG Controversies framework fully overlaps with all policies under OECD Guidelines, any Red Flag controversy that ultimately leads to the overall company-level Red Flag is considered in breach of the OECD norms.

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Exhibit 16: Interpretation of the Global Norms Screen Signal



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Appendix A – ESG controversy Pillars, Sub-Pillars and Thematic Indicators

Pillar and Sub-Pillar	Thematic Indicators
Environmental	Biodiversity & Land Use Toxic Emissions & Waste Energy & Climate Change Water Stress Operational Waste (Non-Hazardous) Supply Chain Management Other
Social: Customers	Anticompetitive Practices Customer Relations Privacy & Data Security Marketing & Advertising Product Safety & Quality Other
Social: Human Rights & Community Impact	Impact on Local Communities Human Rights Concerns Civil Liberties Other
Social: Labor Rights & Supply Chain	Labor Management Relations Health & Safety Collective Bargaining & Union Discrimination & Workforce Diversity Child Labor Supply Chain Labor Standards Other
Governance	Bribery & Fraud Governance Structures Controversial Investments Other

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Environmental

Biodiversity & Land Use

ESG controversies related to a company's use or management of natural resources, where there is an alleged or anticipated negative impact on the environment, especially in ecologically sensitive areas.

Topics covered under this indicator include issues such as species loss, reduction in biodiversity, habitat damage, depletion of or competition for natural resources, loss of economic value (for example, in fisheries or tourism), as well as post-consumer waste issues.

Biodiversity impacts primarily caused by toxic releases are captured under the Toxic Emissions & Waste Theme.

Competition for water resources and ESG controversies regarding water usage are captured under the Water Stress Theme.

When there is a substantial adverse impact on a local community that results from an environmental ESG controversy classified under Biodiversity & Land Use, an additional ESG controversy case is logged and assessed under the Impact on Communities Theme in the Human Rights & Community Impact Sub-Pillar, with a focus on the community impact rather than the environmental impact.

Toxic Emissions & Waste

ESG controversies related to a company's operational non-GHG emissions or releases to land, air and/or water.

Topics covered under this indicator include issues such as accidental spills or releases as well as the environmental impacts of standard operational emissions, whether within or in exceedance of levels allowed by permit.

When there is a substantial adverse impact on a local community that results from an environmental ESG controversy classified under Toxic Emissions & Waste, an additional ESG controversy case is logged and assessed under the Impact on Communities Theme in the Human Rights & Community Impact Sub-Pillar, with a focus on the community impact rather than the environmental impact.

Energy & Climate Change

ESG controversies related to a firm's climate change and energy-related impacts.

Topics covered under this indicator include issues such as lawsuits over a company's alleged contribution to climate change, public controversy or criticism of

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a company's contribution to climate change, or status as an exceptionally large emitter of GHGs, as well as resistance to calls for improvement.

Water Stress

ESG controversies related to a firm's water management practices.

Topics covered under this indicator include issues such as ecological damage resulting from water withdrawals, depletion of water resources for other users and regulatory action or community disputes regarding the company's water usage.

This indicator does not capture water pollution cases, which are covered under the Toxic Emissions & Waste Theme.

When there is a substantial economic impact on a local community that results from an environmental ESG controversy classified under Water Stress, an additional ESG controversy case is logged and assessed under the Impact on Communities Theme in the Human Rights & Community Impact Sub-Pillar, with a focus on the community impact rather than the environmental impact.

Operational Waste (Non-Hazardous)

ESG controversies related to the impact of a firm's non-hazardous, non-toxic operational waste, meaning waste, emissions or effluents produced through normal operations and/or as part of the production of a product.

ESG controversies related to toxic and hazardous waste emitted to air, land or water are captured under the Toxic Emissions & Waste Theme. ESG controversies related to post-consumer waste are captured under Biodiversity & Land Use.

Supply Chain Management

ESG controversies related to the sourcing of raw materials or other inputs that have a substantial negative environmental impact.

Topics covered under this indicator include issues such as degradation of natural resources through use of raw materials that are resource intensive and/or waste intensive, including tropical hardwoods, palm oil or unsustainable fisheries.

Other

Any environmental issues that fall outside of the more targeted indicators listed above.

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Social: Customers

Anticompetitive Practices

ESG controversies related to a firm's anti-competitive business practices.

Topics covered under this indicator include issues such as price fixing, collusion, bid rigging and predatory pricing. Business-to-business claims are generally not covered unless a regulator joins the suit. Similarly, standard pre-merger regulatory inquiries are not considered controversial.

Marketing & Advertising

ESG controversies related to a firm's marketing and advertising practices.

Topics covered under this indicator include issues such as false or deceptive marketing or advertising, marketing of products for off-label uses, controversies regarding the marketing of products to children or other vulnerable populations, the labeling of such products, and spam or adware.

ESG controversies about known product safety issues are covered under the Product Safety & Quality Theme.

Product Safety & Quality

ESG controversies related to the quality and/or safety of a firm's products and services.

Topics covered under this indicator include issues such as food safety, controversial media content, product recalls, service disruptions and the use of chemicals of concern in products.

Customer Relations

ESG controversies related to how a firm treats its customers or potential customers.

Topics covered under this indicator include issues such as fraudulent or improper billing, excessive or hidden fees, predatory financial products and restricted or discriminatory access to products or services.

Privacy & Data Security

ESG controversies related to a firm's privacy and data security practices.

Topics covered under this indicator include issues such as controversial legal uses of personal data, security breaches, regulatory action against the company related to

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these, and changes to a company's policies or practices that may affect or violate customer privacy.

Privacy issues affecting employees are captured under the Labor Management Theme in the Labor & Supply Chain Sub-Pillar. Government surveillance and related issues are captured under the Civil Liberties Theme in the Human Rights & Community Impact Sub-Pillar.

Other

Any customer issues that fall outside of the more targeted indicators listed above.

Social: Human Rights & Community Impact

Impact on Communities

ESG controversies related to a firm's interactions with communities in which it does business.

Topics covered under this indicator include issues such as land use disputes, negative economic impacts resulting from environmental damage or from the presence of company operations, disputes over access to economic opportunities or jobs, impacts of facility closures, and disputes over access to clean water, clean air or other natural resources.

ESG controversies that are primarily about environmental impact are classified under the appropriate Environment Pillar Thematic Indicator (e.g., Biodiversity & Land Use, Toxic Emissions & Waste). A case in which there are substantial environmental impacts in addition to community impacts may be logged and assessed under and environmental Themes as well as under Impact on Communities.

Civil Liberties

ESG controversies related to the impact of a firm's operations on civil liberties.

Topics covered under this indicator include issues such as cooperation with repressive governments requiring censorship, conducting surveillance or limitations on other civil liberties such as freedom of movement and freedom of the press.

Violations of customer privacy are captured under the Privacy & Data Security Theme in the Customers Sub-Pillar. Violations of employee privacy are captured under the Labor Management Relations Theme in the Labor & Supply Chain Sub-Pillar.

Human Rights Concerns

ESG controversies related to the impact of a firm's operations on human rights.

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Topics covered under this indicator include issues such as complicity in killings, physical abuse, displacement or other rights violations, as well as complicity with such actions by governments or other parties.

Other

Any human rights or community issues that fall outside of the more targeted indicators listed above.

Social: Labor Rights & Supply Chain

Labor Management Relations

ESG controversies related to a firm's labor-management relations.

Topics covered under this indicator include issues such as instances of wrongful termination, reductions in benefits, mistreatment of either employees or contractors, controversial workforce reductions, ESG controversies over wages and hours, employee privacy issues and forced labor.

Health & Safety

ESG controversies related to the health and safety of a firm's employees, temporary employees and contractors, and franchisee employees.

Topics covered under this indicator include issues such as on-the-job accidents, injuries and fatalities; mental health issues; as well as kidnappings and physical harm experienced by employees in the field.

This Theme does not include health and safety issues in the supply chain, for example in supplier factories; those issues are captured under the Supply Chain Labor Standards Theme.

Collective Bargaining & Unions

ESG controversies related to a firm's union relations practices.

Topics covered under this indicator include issues such as anti-union activities; efforts to prevent nonunionized employees from unionizing; strikes, lockouts, and the use of replacement workers; acrimonious contract negotiations; and ESG controversies regarding alleged breaches of union contracts. Organized strikes by nonunionized employees are also captured under this Theme.

Union issues in the supply chain are captured under the Supply Chain Labor Standards Theme. Health and safety issues raised by a union but not primarily about

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the company's relationship with the union are captured under the Health & Safety Theme.

Discrimination & Workforce Diversity

ESG controversies related to a firm's workforce diversity, including its own employees as well as temporary employees, contractors, and franchisee employees.

Topics covered under this indicator include issues such as allegations of discrimination on the basis of gender, race, ethnicity or other characteristics.

Discrimination at supplier facilities is captured under the Supply Chain Labor Standards Theme. Discrimination on the basis of unionization or union sympathies is captured under the Collective Bargaining & Unions Theme.

Child Labor

Child labor ESG controversies in a firm's own operations or its supply chain.

Topics covered under this indicator include issues such as allegations that the company uses or has used underage workers or that underage workers are present at supplier facilities.

Supply Chain Labor Standards

ESG controversies related to workers in a firm's supply chain.

Topics covered under this indicator include issues such as allegations of unsafe working conditions, inadequate pay, excessive working hours or overtime, union issues at supplier facilities, the use of forced labor or prison labor by suppliers and discrimination.

Underage labor in supplier operations is captured under the Child Labor Theme.

Other

Any labor issues that fall outside of the more targeted indicators listed above.

Governance

Bribery & Fraud

ESG controversies related to a firm's business ethics practices.

Topics covered under this indicator include issues such as bribery, tax evasion, insider trading, money laundering, tax evasion or avoidance, violations of government sanctions and accounting irregularities.

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Governance Structures

ESG controversies related to a firm's corporate governance practices.

Topics covered under this indicator include: issues such as shareholder- or board-level objections to pay practices and governance structures, shareholder resolutions seeking change to governance practices, and conflicts of interest or unethical behavior by, or misrepresentation of, or lack of qualifications on the part of, directors or senior executives.

Controversial Investments

ESG controversies related to the social and environmental impact of a firm's lending, underwriting and financing activities.

Topics covered under this indicator include issues such as financing projects that are controversial because of their actual or anticipated environmental or social impact, as well as criticism of mining companies, real estate investment trusts and similar companies that receive royalties or own shares in a particular project that they neither own nor operate.

Other

Any governance issues that fall outside of the more targeted indicators listed above.

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Appendix B – Criteria for determining Scale of Impact and Nature of Harm

Below is an indicative list of criteria used to determine the Scale of Impact and Nature of Harm of an ESG controversy case, arranged by Pillar. The measurements take different forms depending on the type of impact. Note that the criteria listed below are representative but not comprehensive.

Environmental Pillar

In general, the scale of an Environmental ESG controversy is determined by the size of the area affected, whether of land, water, air or wildlife, and the degree of damage caused.

Scale	Nature of Harm
Extremely Widespread: • ≥100 km², whole watershed system. • Impact on global species. • > 60,000 barrels spilled. • Top 10 contributors (by sales or production) involved in high impact activity. • Events or activities causing long-lasting (over 5 years) and very severe harm across multiple sovereign states. **Extensive:** • 10-99 km², large bay or portion of river. • Regional/country species impact. • 5,000-59,999 barrels spilled. • One of many companies involved in the activity or business. **Limited:** • 1-9 km², stream/small river, lake. • Local wildlife impact. • Spill 1,500-4,999 barrels. **Low:** • Scale of Impact is insignificant or not determined.	**Very Serious** • Plant/wildlife death. • Habitat/ecosystem destruction. **Serious** • Debilitation plant/wildlife injury/illness. • Major habitat/ecosystem damage (not easily remediated). **Medium** • Short-term damage to plant/wildlife. • Short-term habitat/ecosystem damage. • General pollution with damages not specified. **Minimal** • Impact is projected or not scoped out.

Social Pillar

In general, the scale of a Social ESG controversy is determined by the number of people or properties (for example, in the case of activities damaging home values) affected. With three underlying Sub-Pillars (Customers, Human Rights & Community Impact, and Labor Rights & Supply Chain), the Nature of Harm of a social ESG

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controversy may vary by the type of stakeholder involved. In general, it is determined by focusing on the rights that were (or may have been) violated and, if so, the severity of those violations.

Scale	Nature of Harm
Extremely Widespread: • 1,000+ people. • 2,000+ properties. • Top 10 contributors (by sales or production). • Events or activities causing long-lasting (over 5 years) and very severe economic harm (greater than USD 10B) across multiple sovereign states. **Extensive:** • 25-999 people. • 100-1,999 properties. • One of many companies involved in the activity or business. **Limited:** • 10-24 people. • 10-99 properties. **Low:** • Scale of Impact is insignificant or not determined.	**Very Serious** • Death, permanent disability, torture, rape, enslavement, human rights violation signifying most serious crimes. • Destruction of livelihood or traditional way of life, property destruction. • Product or practice is one of the leading causes of death, permanent disability. **Serious** • Debilitating injury/illness. • Major property damage. • impairment of livelihood or traditional way of life, displacement. • Labor and civil rights violation (e.g., privacy, collective bargaining) with evidence of concrete resulting harm. • Product or practices poses health risk. **Medium** • Treatable short-term injury/illness. • Non-serious property damage (easily repaired). • Non-serious impairment to livelihood or traditional way of life. • Products or practices that could be associated with adverse impact without direct causality. **Minimal** • Impact is projected or not scoped out.

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Governance Pillar

In the Governance Pillar, when assessing scale and Nature of Harm, we distinguish between Business Ethics issues and Governance Structures issues.

For Business Ethics issues, scale is generally measured by size of the market or government affected, or the scale on which either company executives or external parties such as government officials were involved.

For Governance Structures issues, measurements of scale vary depending on the nature of the ESG controversy but generally include metrics such as the percentage of shareholder votes or number of shareholders voicing an opinion, number and position of executives or directors involved, number and type of external parties voicing an opinion, or the portion of the company that is affected or implicated. Measures of the Nature of Harm are focused around impacts on investment value and on shareholder rights. Most cases are assumed to be of medium impact, barring circumstances that go beyond typical scenarios and indicating more serious potential harm.

Measures of the Nature of Harm vary by the type of violation that occurred and include factors such as financial impact on the company or other impacted parties, the value of bribes or ill-gotten gains and other negative impacts that resulted from illicit or unethical activities.

Scale	Nature of Harm
Extremely Widespread: • Global or 3+ G20 countries involved, 1,000+ people involved. **Extensive:** • 1 of G20 countries or 3+ non-G20 countries involved, 25+ people involved. **Limited:** • 1-2 non-G20 countries/local municipalities involved, 10-24 people involved. **Low:** Scale of Impact is insignificant or not determined.	**Very Serious** • Activity substantially destabilized a national government or economy. • Total bribes paid or losses to company exceed USD 1B or value of contracts or other ill-gotten gains (e.g., taxes avoided) obtained exceeds USD 10B. **Serious** • Activity bankrupts the company or a non-govt customer; material financial impact on a govt body (incl public pension funds). • Total bribes paid exceed USD 100M or Value of contracts obtained exceeds USD 5B. **Medium** • Corruption & fraud allegations among business entities, not affecting individual customers • Most corruption & government fraud activities: harm is real but diffused. **Minimal** • Impact is projected or not scoped out

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Appendix C – Disputed Territories

MSCI ESG Research defines Disputed Territories using United Nations status as the main criteria, as follows:

Regions whose sovereign status is contested, if at least two of the three criteria below are met:

1. Not a member of the United Nations (UN),
2. No or partial recognition as a sovereign state by UN Members, and
3. Current status (i.e., sovereignty or independence) challenged by either UN General Assembly or UN Security Council resolutions.

Exhibit 17 - List of Disputed Territories

Territory/ Region	Member of the UN	Partial recognition as sovereign state by UN Members	Existing UN General Assembly or UN Security Council Resolutions
West Bank, Gaza Strip, East Jerusalem	Palestine is observer state	Partial	Yes
Golan Heights	Syria is member state	No	Yes
Crimea	Ukraine is member state	Partial	Yes
Luhansk	Ukraine is member state	Partial	Yes
Donetsk	Ukraine is member state	Partial	Yes
Zaporizhia	Ukraine is member state	Partial	Yes
Kerson	Ukraine is member state	Partial	Yes
Western Sahara	No	Partial	Yes
Somaliland	No	No	No
Kosovo	No	Partial	Yes
Abkhazia	No	Partial	No
South Ossetia	No	Partial	No
Nagorno-Karabakh	No	No	No
Transnistria	No	No	No
Northern Cyprus	No	Partial	Yes
Taiwan (Republic of China)	No	Partial	Yes

Source: United Nations, as of January 2023.

The list of Disputed Territories will typically undergo an annual review.

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MSCI ESG Research does not proactively identify companies operating or sourcing from such territories, and only opens a controversy case if and when allegations of harm are presented in public sources. Such controversies are captured within the Human Rights & Community Impact Sub-Pillar.

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Appendix D – Vulnerable Demographics

The definition of vulnerable demographics is limited to national, ethnic, racial and religious groups (including indigenous people) currently subject to serious, systemic and prolonged human rights violations as defined by international bodies and standards, such as the Rome Statute of the International Criminal Court articles 6 to 8b, United Nations Convention on the Prevention and Punishment of the Crime of Genocide and the United Nations Declaration on the Rights of Indigenous Peoples, and investigated by the United Nations Human Rights Council ("HRC") or the United Nations Office of the High Commissioner for Human Rights ("OHCHR").

We apply the Vulnerable Demographics exacerbating factor for the following:

- **Indigenous populations:** According to the United Nations and the World Bank,[3] "indigenous peoples are suffering systematic human rights violations, internal displacement, the loss of cultural identity, the destruction of livelihoods, poverty, permanent environmental damage, pollution, and the loss of biodiversity in their traditional lands and territories."
- **Civilians and refugees** located and/or originating from countries that currently are, or historically have been (since 2006), investigated by the HRC or by the OHCHR (see Exhibit 17).
- **Civilians and refugees** located in and/or originating from Disputed Territories with ongoing conflicts (based on the Geneva Academy of International Humanitarian Law and Human Rights' Rule of Law in Armed Conflicts ["RULAC"] project) (see Exhibit 18).

The list of countries and territories in scope for this analysis will undergo a review, typically annually, to account for updates to the UN resolutions, OHCHR- and HRC-mandated investigations and the Geneva Academy's RULAC project.

We do **not** apply the Vulnerable Demographics exacerbating factor for the following groups:

- Local communities, which differ from indigenous populations.
- People defined by age (e.g., children, elderly), gender or sexual orientation (e.g., women, LGBTQ+) unless they belong to the national, ethnic and racial groups in scope of the assessment.

[3] *State of the World's Indigenous Peoples: Rights to Lands, Territories and Resources*. 5th volume. Department of Economic and Social Affairs of the United Nations Secretariat. 2021; World Bank. Indigenous Peoples. Accessed January 2023.

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- Refugees from areas not characterized by ongoing conflict (see Exhibit 17) or territorial dispute (see Exhibit 18), undocumented immigrants or seasonal migrants.

Exhibit 18: List of countries and regions named and investigated by the UN Human Rights Council or by the UN Office of the High Commissioner on Human Rights[4]

Country/Region	National, ethnic and religious groups listed in UN reports
Burundi	Civilians Political affiliation or ethnic background - indigenous groups of Hutu, Tutsi and Twa
Central African Republic	National
China – Xinjiang Autonomous Region	Uyghurs
Côte d'Ivoire	Civilians
Democratic Republic of the Congo	Ethnic (not specified)
Eritrea	Religious and Ethnic - Eritrean Orthodox, Roman Catholic, Evangelical Lutheran and Sunni Islam (four religious denominations are recognized in the report)
Ethiopia	Ethnic – Amhara, Oromo, Somali and Tigrayan
West Bank, Gaza Strip, East Jerusalem	Ethnic - Jewish and Palestinian citizens
Iran	Civilians
Iraq	Yezidi in particular, Faili Kurdish, Christian, Turkmen, Shabaks, Kaka'e, Sabaeans and Shi'a communities
Lebanon	Civilians
Libya	Civilians including women and children, migrants, prisoners and civil society National and Ethnic- Mashashiya, Warshafana and Tawergha
Myanmar	Ethnic - Rohingya
Nicaragua	Civilians
North Korea	Ethnic - Ethnic Koreans from the Republic of Korea and Japan
South Sudan	Systemic National
Sri Lanka	Ethnic - Tamils and Non Tamilians
Sudan (Darfur region)	Zaghawas, Masaalit and Fur
Syria	Civilians
Ukraine	Civilians
Venezuela	Civilians and indigenous populations
Yemen	Religious and Ethnic (self-identifying) groups - Zaydi Shiites, Ismaili Shiites, mainstream (Shafi'i) Sunnis and Salafi (Wahhabi) Sunnis

Sources: Human Rights Council-mandated Investigative Bodies list of current and past mandates (accessed January 2023). OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China, August 2022.

[4] Human Rights Council-mandated Investigative Bodies. Accessed January 2023.

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Exhibit 19: Applying Vulnerable Demographics exacerbating factor: Disputed Territories with ongoing Active Conflict

Territory/Region	Ongoing Armed conflict	Vulnerable Demographic factor applied
West Bank, Gaza Strip, East Jerusalem	Yes	Yes
Golan Heights	Yes	Yes
Crimea	Yes	Yes
Luhansk	Yes	Yes
Donetsk	Yes	Yes
Zaporizhia	Yes	Yes
Kerson	Yes	Yes
Western Sahara	Yes	Yes
Somaliland	No	No
Kosovo	No	No
Abkhazia	Yes	Yes
South Ossetia	Yes	Yes
Nagorno-Karabakh	Yes	Yes
Transnistria	Yes	Yes
Northern Cyprus	Yes	Yes
Taiwan (Republic of China)	No	No

Sources: MSCI ESG Research, United Nations, Geneva Academy of International Humanitarian Law and Human Rights: Rule of Law in Armed Conflicts (RULAC). Data as of January 2023.

Key Definitions

MSCI ESG Research relies on the following definitions:

Indigenous People

According to the United Nations and the World Bank, over 476 million indigenous people across 5,000 distinct groups and spread over 90 countries make up about 6% of the global population. While the UN Declaration on the Rights of Indigenous Peoples does not include a definition of indigenous people, self-identification as indigenous is considered a fundamental criterion.

The UN identifies common factors among indigenous populations:

- A historical continuity with a given region prior to colonization and a strong link to their lands.
- Distinct social, economic and political systems.

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- Distinct languages, cultures, beliefs and knowledge systems.

Systematic abuse of indigenous populations specifically is defined by the UN Declaration on the Rights of Indigenous Peoples Article 8 and includes:

- Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.
- Any action which has the aim or effect of dispossessing them of their lands, territories or resources.
- Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights.
- Any form of forced assimilation or integration.
- Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them." [5]

Refugees

The United Nations defines refugees as "persons who are outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and, as a result, require international protection."

Key References

- United Nations Declaration of Human Rights.
- United Nations Declaration on the Rights of Indigenous Peoples.
- International Labour Organization Convention No. 169: Indigenous and Tribal Peoples.
- International Labour Organization Convention No. 105: Abolition of Forced Labour Convention.
- United Nations Minorities Declaration.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- International Convention for the Protection of All Persons from Enforced Disappearance.

[5] United Nations. 2008. *United Nations Declaration on the Rights of Indigenous Peoples*. United Nations.

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- International Convention on the Elimination of All Forms of Racial Discrimination.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- International Covenant on Civil and Political Rights.
- International Covenant on Economic, Social and Cultural Rights.
- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

Convention on the Prevention and Punishment of the Crime of Genocide.

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MSCI ESG Controversies and Global Norms Methodology – Process

MSCI ESG Research

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MSCI ESG Controversies overview

This document outlines key principles and procedures applied in supporting publication and maintenance of MSCI ESG Controversies and Global Norms. MSCI ESG Controversies is designed to provide timely and consistent assessments of ESG-related controversies, whether actual or alleged, involving publicly traded companies and fixed income issuers in our coverage universe. MSCI ESG Global Norms screens leverage MSCI ESG Controversies Flags to identify publicly traded companies and fixed income issuers involved in controversies that may constitute a breach of those global norms and conventions. Please refer to "MSCI ESG Controversies and Global Norms Methodology" for key definitions, scoring criteria, and other aspects of the methodology.

ESG Controversy assessment process

ESG Controversies sources

MSCI ESG Research relies only on public sources to assess companies' involvement in controversial events or activities that may lead to conflicts or disputes with internal and external stakeholders (e.g., employees, consumers, public activist groups, local communities, etc.).

Examples of external public sources include:

News media: Major global news publications, including local language sources across a range of markets, local news publications, newsletters and magazines accessed through online databases such as LexisNexis

Multilateral and non-governmental organizations (NGOs): press releases and reports published by NGOs and multilateral organizations.

Government data: Press releases and published reports from government agencies.

Legal materials: legal journals, court records.

MSCI ESG Research does not use social media publications (e.g., Facebook, Twitter) as a source. However, with many companies switching from RSS news feeds to Twitter notifications, we monitor social media for references to external publications that meet our source criteria.

Source criteria for publications include:

- Availability of a formal editorial policy.
- At least 5-year tenure of publication.

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- No evidence of involvement in Severe or Very Severe controversies related to content quality.

Interactions with companies

MSCI ESG Research is committed to providing objective representation of controversial situations that balances external viewpoints with companies' responses. MSCI ESG Research does not act in a journalistic or investigative capacity. As such, we do not fact-check or evaluate the merit or validity of the allegations put forward in the public sources cited in our company ESG Controversies reports. Rather, our role is to provide information about the types and extent of allegations companies might be facing based on public controversies. For this reason, in reviewing relevant materials pertaining to individual cases, we typically also take the following steps:

- **Review corporate documents:** annual reports, sustainability reports, press releases and securities filings for any additional details pertaining to the controversy.
- **Provide corporate issuers with free access to the latest company ESG Controversies reports** through company-initiated automated alerts to flag the latest report updates.
- **Invite companies to review our publicly available MSCI ESG Controversies and Global Norms Methodology documents and company ESG Controversies** reports through our dedicated online ESG portal, the MSCI ESG Issuer Communications Portal.
- **Include companies' responses** to company ESG Controversies reports shared through publicly available statements as well as through communication with MSCI ESG Research. In line with MSCI's methodology and process, we will review all additional publicly available information a company wishes to share with us in connection to the allegations, and provide a short summary of the response in the ESG Controversies report. Upon a company's request, an official company statement may be incorporated into the company's ESG Controversies report verbatim (subject to a 5,000-character limit, plain text format). We reserve the right to decline inclusion of the company statement into the report.
- **Respond to company-initiated requests** for more information through a dedicated, global ESG Issuer Communications team.

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Cases review and monitoring

ESG Controversies related to companies within the MSCI ESG Controversies coverage universe (the MSCI ESG Controversies and Global Norms coverage universe is determined by issuers' inclusion in certain equity and fixed income indexes) are monitored, updated and published frequently based on publication schedule and availability of new information. ESG controversy assessments, scores and flags can change as part of the research and update processes.

Daily monitoring On a daily basis, analytical staff scan global, regional and national news sources as well as government and NGO reports for significant new ESG controversies or material developments in existing ESG controversies for companies in the coverage universe. Updates to company ESG Controversies reports are prioritized according to the severity of ESG controversies and company size.

Targeted reviews: ESG controversy cases for which no new information is found via daily monitoring are subject to a scheduled targeted review. The timing of these reviews is determined by the Severity assessment level of existing cases.[1] For example, Very Severe Red Flag cases are typically reviewed on a quarterly basis, while the rest of Very Severe and Severe cases are typically reviewed annually. Cases with Moderate and Minor severity are not subject to a targeted review.

Quality review processes and escalations

MSCI ESG Research LLC (ESG Research) uses a committee structure to provide oversight and governance for the design, calculation and maintenance of ESG Research methodologies.

The consistency of ESG controversies assessments and scoring based on MSCI ESG Controversies and Global Norms Methodology is ensured through ongoing peer review and MSCI ESG Controversies Methodology Committee (CMC) reviews. The CMC has direct oversight of the content of the company ESG Controversies reports and of the consistent application of the methodology.

The ESG Methodology Committee (EMC) oversees and supervises the CMC and is an escalation point for the CMC for subjects related to changes to the ESG Controversies and Global Norms methodology or research process.

[1] MSCI ESG Research assesses controversy cases based on Severity (Very Severe, Severe, Moderate, Minor), Role of the company (Direct or Indirect), and Status of the case (Ongoing, Partially Concluded, or Concluded). The combination of these assessments results in an ESG Controversy Case Score and a corresponding color Flag. A Red Flag indicates a company's Direct involvement in a Very Severe case that is considered to be Ongoing due to unresolved disputes. For further details, please refer to "MSCI ESG Controversies and Global Norms Methodology."

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The ESG Assessment Committee (EAC) presides over methodology application cases escalated by the CMC or otherwise critical company-, sovereign- or industry-specific applications of ESG Research methodologies.

The following situations require CMC review and approval:

- Review new and existing Very Severe controversy cases resulting in a Red Flag with the final assessment subject to approval by the EAC.
- Confirm that appropriate processes are applied in reviewing and approving assessment of Orange Flag cases and Severe or Very Severe cases with a score changes of 3 points, either up or down.
- Review and approve proposals for MSCI ESG Controversies and Global Norms Methodology; methodology changes are subject to approval by the EMC.
- Review and escalate deviations from standard assessment methodology or overrides of controversy case assessments to the EAC.
- Review and approve the additions to controversy case categories and corresponding mapping to international Global Norms and conventions included in the scope of MSCI ESG product solutions (e.g., the United Nations Global Compact Principles).
- Review and approve changes to data sources (news and academic publications, NGOs, industry organizations, and government sources).

In case of exceptional circumstances that may limit or reduce access to relevant or reliable input data or proposals, the CMC may decide to change its internal documentation and processes. Such circumstances could include, but are not limited to, significant geopolitical conflicts, market upheaval, force majeure or a similar extraordinary situation escalated by the EMC, the EAC, or the Global Head of ESG Research. MSCI ESG Research will inform clients in the event of any such change or adjustment and communicate the planned implementation timing and method.

Corporate actions and ESG Controversy assessments that implicate a related entity

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Monitoring of corporate actions and related changes

The coverage universe may change due to coverage expansions initiated by MSCI ESG Research and due to changes in index constituents. Updates are made on an ongoing basis to reflect any corporate actions and changes to index constituents.

Additions to MSCI Indexes in the ESG Controversies coverage universe

- We aim to assess additions to the MSCI World Index, the MSCI Emerging Markets Index or the MSCI USA Investable Market Index (IMI) within one quarter of their inclusion in the relevant index.
- We aim to assess additions to any other indexes in the ESG Controversies coverage universe within two quarters of index inclusion.

Spin-offs

- If the new entity is a constituent of the MSCI World Index, the MSCI Emerging Markets Index, the MSCI USA IMI or any other indexes in the ESG Controversies coverage universe, we aim to research and assess it as a standalone entity within one quarter of the spin-off announcement.

Acquisitions

- If an acquiring company has an existing company ESG Controversies report, the acquiring company's assessment will consider the newly acquired entity within one quarter of the acquisition announcement.

Mergers:

- If a merger creates a new entity that is on the MSCI World Index, the MSCI Emerging Markets Index, the MSCI USA IMI or any other indexes in the ESG Controversies coverage universe, it will be researched and assessed within one quarter.

Name changes

- The name of a company as listed in the MSCI ESG platforms will reflect the new name as of the following month. However, the body of the company's ESG Controversies report will continue to refer to its original name until the next full review.
- When a company is removed from ESG Controversies' coverage universe — for example, due to turnover in index constituents or corporate actions — the

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company's ESG Controversies report will no longer be available on the MSCI ESG platforms.

Treatment of cases following corporate actions

Acquisitions

- When a company acquires another company, it typically inherits all of the acquired company's ESG controversy cases, subject to the following rules:
- If the acquiring company inherits the liability, the Severity assessment of the case is unchanged and the Role the acquiring company is assessed as Direct.
- If the acquiring company does not inherit the liability, the Severity assessment of the case is unchanged, but the Role of the acquiring company is assessed as Indirect.
- If a company acquires from another company a unit that has one or more ESG controversies associated with it, the acquiring company inherits those cases, subject to the same rules stated above.

Divestitures

- When a company sells to another company a unit that has one or more ESG controversies associated with it, the company retains the associated cases, subject to the following rules:
- If the selling company retains the liability associated with the case, the Severity assessment and the company's Direct Role remain unchanged.

  If the selling company does not retain the liability associated with the case, the severity assessment remains the same, but the company's Role may be changed to Indirect. Depending on additional criteria reviewed for case remediation, divestment from controversial operations may lead to a change in the case Status to Partially Concluded.

Jointly owned projects

- For ESG controversies involving projects or operations with multiple owners, if an entity has 30% ownership or higher or is a primary operator in a joint venture project, it is assessed as having significant control and would be noted as Directly involved in related controversies. Co-owners with less than 30% ownership are assessed as Indirectly involved in related controversies.

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Flagging controversies that implicate a related entity

Where multiple entities in the same corporate tree are separately included in the ESG Controversies coverage universe, one key question is whether a given entity should be flagged for controversies that implicate a parent, subsidiary or other related entity.

- Controversies are assessed at the lowest possible level within the corporate tree.
- Holding companies may or may not inherit controversies assessments of their subsidiaries based on an assessment of the ownership ties between the entities within the corporate tree. Whether the controversy will be applied to the holding company (the investing entity) depends on the level of ownership and the severity of the case (see Exhibit 1).
- Cases do not generally flow downwards, i.e., a controversy case at the investing entity is not added to subsidiaries or associates.
- **Exception**: Cases at the investing entity assessed as Very Severe may be added to subsidiaries or associates if there is a compelling reason to do so. The role of the associated entity in the controversy will then be determined based on the specific case details.
- **Note**: MSCI offers data inheritance as an option. Where that option is selected, financing companies and other subsidiaries may inherit a case from a parent entity where the inheriting entity is not assessed on a standalone basis.

Exhibit 1: Adding a case to an investing entity from an associated entity

Ownership stake of investing entity in associated entity		What is the Severity of the controversy for the associated entity?	Would the controversy be added to the investing entity?	How would the Role of the investment entity be assessed?
≥50%	*The investing entity has a 50% or more stake in the business entity subject to controversy*	Any	Yes	Direct
≥20% and <50%	*The investing entity has less than a 50% but at least a 20% stake in the business entity subject to controversy*	Very Severe	Yes	If ≥ 30% = Direct If <30% = Indirect
		Severe Moderate, or Minor	No	n/a
<20%	*The investing entity has less than a 20% stake in the business entity subject to controversy*	Any	No	n/a

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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

Human rights situation in Palestine and other occupied Arab territories

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 Office of the United Nations High Commissioner for Human Rights (OHCHR) has prepared the present report, pursuant to Human Rights Council resolution 31/36 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, on producing a 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 (A/HRC/22/63) ("listed activities"). It describes the state of progress made towards the consolidation of the database, including the methodology adopted by OHCHR, recalls the normative framework used, and makes a preliminary analysis of the most common explanations given by companies for their involvement in the listed activities, and makes recommendations.

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I. Introduction

A. Background

1. The present report of the United Nations High Commissioner for Human Rights is submitted to the Human Rights Council pursuant to resolution 31/36, on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, adopted by the Council on 24 March 2016. In paragraph 17 of resolution 31/36, the Council requested the United Nations High Commissioner for Human Rights to produce a database of all business enterprises engaged in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory, in consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, and to transmit the data therein in the form of a report to the Council at its thirty-fourth session. The Council also requested that the database be updated annually.

2. On 13 February 2017, the Human Rights Council, pursuant to the recommendation of the High Commissioner, decided to defer consideration of the report to allow for additional time to consider the inputs received in the context of an open call for submissions, and to ensure a fair process for concerned stakeholders (see A/HRC/34/77).

B. Mandate

3. Human Rights Council resolution 31/36 establishing the database follows up 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 (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"). In resolution 31/36, the Council defined the parameters of activities to be reflected in the database by reference to the list compiled by the mission in its report, which comprised:

(a) The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures;

(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) Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements;

(j) 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.

4. OHCHR notes that six of the 10 listed activities – (a), (b), (d), (e), (f) and (i) – refer to activities that are explicitly linked to the settlements, while the remaining four – (c), (g), (h) and (j) – refer to activities that may not be geographically connected to settlements, but form part of the processes that "enable and support the establishment, expansion and maintenance of Israeli residential communities beyond the Green Line". [1] For example, OHCHR notes that a company that is operating a quarry on Israeli-confiscated land in the West Bank will be considered to fall under category (g) regardless of whether it is located in or connected to a defined settlement community. Its presence in the Occupied Palestinian Territory and the use of its natural resources for business purposes is sufficient to fall within the scope of the database, as required by resolution 31/36.

5. The parameters of the database encompass local and international companies, whether domiciled in Israel, the Occupied Palestinian Territory or abroad, carrying out listed activities in relation to the Occupied Palestinian Territory. Companies engaged in activities related to the occupied Syrian Golan do not fall within the mandate.[2]

6. The mandate for producing the database established by resolution 31/36 is strictly confined to the 10 activities listed in paragraph 3 above. The database does not cover all corporate activity related to settlements, nor does it extend to all corporate activity in the Occupied Palestinian Territory that may raise human rights concerns.[3] In addition, while there may be other types of entities engaged in significant corporate activity related to the settlements, only those entities established as business enterprises are considered; non-governmental organizations, charities, sports associations or federations, and other entities are therefore excluded from consideration.

C. Methods of work

7. As with all other mandates, in performing the present mandate assigned to it by the Human Rights Council in resolution 31/36, OHCHR was guided by the principles of independence, impartiality, objectivity, credibility and professionalism. OHCHR formulated its methodology in accordance with these principles, based on best practices, the advice and guidance of the Working Group on the issue of human rights and transnational corporations and other business enterprises, and consultations with stakeholders (see paras. 23-25 below).

8. The work conducted by OHCHR in producing the database is in full compliance with resolution 31/36 and does not purport to constitute a judicial process of any kind. OHCHR is mandated to make factual determinations of whether businesses enterprises are engaged in the listed activities.

9. It is the view of OHCHR that the work performed in consolidating and also in communicating the information in the database to the Human Rights Council can assist both Member States and business enterprises in complying with their respective legal obligations and responsibilities under international law, including through constructive engagement and dialogue and by serving as a source of information to promote transparency.

[1] The fact-finding mission defined Israeli settlements as encompassing "all physical and non-physical structures and processes that constitute, enable and support the establishment, expansion and maintenance of Israeli residential communities beyond the Green Line of 1949 in the Occupied Palestinian Territory" (see A/HRC/22/63, para. 4).

[2] While resolution 31/36 refers to the occupied Syrian Golan, paragraph 17 establishing the mandate to produce a database and the report of the fact-finding mission to which it refers pertain to the Occupied Palestinian Territory only.

[3] For instance, the mandate for the database does not extend to companies involved in supplying the Israel Defense Forces with weapons or other equipment used during military operations, nor does it encompass companies involved in controlling access to and from Gaza.

1. Standard of proof

10. 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 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 engaged in one or more of the listed activities where OHCHR has reviewed a reliable body of information, consistent with other material, based on which a reasonable and ordinarily prudent person would have reason to believe that the business enterprise is involved in such activities.

11. The same standard will be used to make determinations as to whether business enterprises are no longer engaged in one or more of the listed activities; thus, if subsequently, based on the totality of information reviewed by OHCHR, there are reasonable grounds to believe that a business enterprise is no longer engaged in the listed activities, the business enterprise will be removed from the database.

2. Information-gathering process

(a) Initial steps taken to collect information

12. OHCHR examined information relevant to the mandate that was available to it, initially gathered through the following methods:

- A desk review of publicly-available information, including reports by the United Nations, civil society organizations (Israeli, Palestinian and international), media reports, academic writings
- Information received in response to notes verbales sent on 11 October 2016 to all Member States inviting them to provide inputs relevant to the implementation of resolution 31/36
- Information received in response to an open invitation to all interested persons, entities and organizations to submit relevant information and documentation

(b) Screening exercise

13. OHCHR reviewed information pertaining to 307 companies that were named in the notes verbales or in the responses received through the open call for submissions. OHCHR excluded those that met the following criteria:

(a) Business enterprises that were not, on the face of the submissions, covered by the mandate; these included companies that were alleged to have engaged in human rights abuses or supported the occupation through their corporate activity, but were not alleged to have engaged in any of the listed activities;

(b) Business enterprises about which there were insufficient facts in the submissions or in the public domain to support allegations of involvement in the listed activities;

(c) Business enterprises that were no longer engaged in the alleged activities because of corporate restructuring (for example, if a part of the business had been sold), dissolution or other corporate action;

(d) Business enterprises with a minimal or remote connection to the listed activities.

14. Of the 307 companies reviewed, 115 companies were excluded on the basis of the criteria set out in paragraph 13 above. The 192 remaining companies formed the initial group of "screened" companies that were subject to further research and consideration. The majority of these 192 companies are domiciled in Israel or the settlements, followed by the United States of America, Germany, the Netherlands and France.

(c) Further communications

15. OHCHR sent notes verbales on 11 July 2017 to the 21 Member States in which the initial 192 screened companies were domiciled, identifying companies domiciled in that Member State. The purpose was to inform those Member States that information had been received alleging that business enterprises domiciled in their territories and/or under their jurisdiction were engaged in one or more listed activities, and to invite any comments or observations concerning measures taken to ensure implementation of resolution 31/36. Fifteen of the 21 Member States responded by the deadline of 1 September 2017. Five of these Member States expressed a position in the notes verbales or in confidential meetings that supported OHCHR being in direct contact with companies. Six of the 15 Member States did not comment on this point, while four Member States expressed a position in the notes verbales or in confidential meetings that did not support direct contact between OHCHR and companies.[4]

16. In reviewing past practices, consulting with the Working Group on the issue of human rights and transnational corporations and other business enterprises, after having duly considered the responses and positions of Member States, considering the complexity of business relationships involved in each situation concerning listed activities, which often encompassed business enterprises domiciled in multiple States, and to offer a procedural safeguard designed to provide fairness, consistency, reasonableness and absence of arbitrariness of potential decisions that may affect the interests of business enterprises, OHCHR decided to communicate with the initial list of all 192 screened companies – not just those domiciled in the States that indicated they were in favour of such an approach – to provide them with an opportunity to respond to the information presented.

17. Of the 192 screened companies, OHCHR first contacted the companies concerning which the strongest allegations of a clear connection to listed activities had been received. To supplement information received in notes verbales from Member States and through the open call for submissions from interested stakeholders, OHCHR conducted further research into this subset of companies. This stage of the research included analysing public annual financial reports, official websites from companies in English and Hebrew, financial websites and media in English and Hebrew, the Israeli and other stock exchange markets, the websites of Israeli government offices[5] and websites of settlement industrial zones and settlement councils.

18. When contacting companies, OHCHR included in the communications, wherever possible, all relevant entities with respect to that particular situation of concern, including parent companies and their subsidiaries, franchisors and franchisees, local distributors of international companies, partners and other entities in relevant business relationships. In some of these cases, further research by OHCHR revealed relevant business entities, such as parent companies or subsidiaries, that were not initially named in the submissions received in notes verbales from Member States or through the open call for submissions from interested stakeholders. This necessitated adding 14 companies to the initial list of 192 screened companies, resulting in a total of 206 companies reviewed at the time of writing (see table below paragraph 22).

19. OHCHR was given limited resources to carry out the mandate within the anticipated time frame, which required it to calibrate its research and engagement with companies accordingly. Not all companies about which OHCHR had received information could be contacted by the time of submission of the present report. At the time of writing, OHCHR

[4] Notably, one Member State acknowledged awareness of the alleged activity of a company domiciled in its territory, and informed OHCHR that the Government had decided in August 2017 to conduct a baseline study to assess the degree of implementation of the Guiding Principles on Business and Human Rights in domestic legislation. OHCHR looks forward to the results of that study.

[5] These included the Israeli Companies Registrar (http://havarot.justice.gov.il), the Bank of Israel (www.boi.org.il/heb/Pages/HomePage.aspx), the Knesset Research and Information Centre (www.knesset.gov.il/mmm/heb/index.asp), the Ministry of Environmental Protection (www.sviva.gov.il) and the Ministry of National Infrastructures, Energy and Water Resources (http://energy.gov.il/).

had contacted 64 of the 206 companies involved in 33 different situations concerning the listed activities.[6]

20. In the letters addressed to the companies concerned, OHCHR informed them of the listed activities that they appeared to be engaged in (based on the totality of information reviewed by OHCHR), and set out the basic facts of the companies' involvement in the listed activity or activities. Companies were requested to respond in writing within 60 days for an initial response, providing any clarification or update of the information. Companies were informed that they could request that the substance of their written responses be kept confidential; a number of companies made such a request.

21. OHCHR was also contacted by a number of companies that had not received letters from the Office, but had either seen news of the database in the media or had been informed by their governmental authorities of their inclusion in the notes verbales addressed to Member States on 11 July 2017.

22. Responses from companies included those that (a) objected to the mandate of OHCHR and declined to provide a substantive response to the information presented; (b) rejected the information presented and objected to being included in the database; (c) confirmed the information presented concerning their involvement in one or more of the listed activities, and provided explanations; (d) provided updated information that indicated they were no longer engaged in one or more of the listed activities; and (e) provided additional information and clarifications that will require further discussion and analysis before a determination can be made. OHCHR is considering the responses received to date, and offers preliminary observations to the most common explanations put forth by companies for their involvement in the listed activities (see paras. 50-60 below). Where companies declined to provide a substantive response or failed to respond entirely, this will not prevent a determination as to their involvement in listed activities from being made.

[6] Not all parent companies or other ownership structures were contacted. For instance, if a company was acquired by a hedge fund or private investment firm, these were not included for reasons of practicality, given the lack of publicly available information concerning their portfolios.

Summary of screening exercise and communication with companies at the time of submission[a]

State concerned	Total number of companies reviewed	Number of companies screened from initial list	Number of companies excluded	Number of additional companies screened	Total number of screened companies[b]	Number of companies contacted to date	Number of companies not yet contacted
Israel or Israeli settlements	186	131	43	12	143	45	98
United States of America	54	20	32	2	22	7	15
Germany	21	7	14	--	7	1	6
Netherlands	7	5	2	--	5	3	2
France	8	4	4	--	4	2	2
Republic of Korea	3	3	0	--	3	1	2
Italy	3	3	0	--	3	0	3
United Kingdom of Great Britain and Northern Ireland	6	3	3	--	3	1	2
Canada	2	2	0	--	2	0	2
Japan	3	2	1	--	2	1	1
Switzerland	12	2	10	--	2	0	2
Ireland	2	1	1	--	1	0	1
Mexico	1	1	0	--	1	1	0
Denmark	1	1	0	--	1	0	1
Russian Federation	1	1	0	--	1	0	1
Singapore	1	1	0	--	1	0	1
Turkey	1	1	0	--	1	0	1
Sweden	2	1	1	--	1	1	0
Spain	2	1	1	--	1	0	1
Belgium	1	1	0	--	1	1	0
South Africa	1	1	0	--	1	0	1
Others	3	0	3	--	0	0	0
Total	**321**	**192**	**115**	**14**	**206**	**64**	**142**

(d) Consultations

23. Throughout the process, as mandated by Human Rights Council resolution 31/36 and in preparation for the report, OHCHR carried out five in-person consultations with the Working Group on the issue of human rights and transnational corporations and other business enterprises and exchanged additional written correspondence. The feedback, guidance and advice from the Working Group were critical to the development of the methodology used to implement the mandate.

24. In addition, OHCHR held extensive discussions with Member States and was in regular contact with Israeli, Palestinian and international civil society, think tanks, academics, employer organizations, and other interested parties.

[a] Does not include companies that contacted OHCHR proactively (see para. 21 above).

[b] Reflects the number of companies screened from the initial list plus the number of additional companies screened after further research (see para. 18 above).

25. A number of Member States, civil society organizations and other entities have repeatedly voiced strong opposition, both publicly and privately, against Council resolution 31/36 mandating the High Commissioner to produce a database. Other Member States have expressed support, along with Israeli, Palestinian and international civil society, academics and think tanks. This includes a petition signed by over 400 members of Israeli civil society, including a former attorney general and former members of the Knesset, retired diplomats, and other prominent individuals;[7] a joint statement by 56 non-governmental organizations;[8] and a letter signed by almost 60 Member States addressed to the High Commissioner.[9]

(e) Next steps

26. More resources are required for OHCHR to continue its dialogue with and issue communications to relevant business enterprises, adding information to the database and updating existing information in the database as required by resolution 31/36. Once 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.

II. Normative framework

A. The obligations of Israel as the occupying Power

27. As stated above, the creation of the database is not a judicial process. In this respect, the work of OHCHR is guided by Council resolution 31/36, in which paragraph 17 sets out the tasks given to OHCHR. The preamble to resolution 31/36 reflects the normative framework with regard to Israel as the occupying Power.[10]

28. Since the adoption by the Human Rights Council of resolution 31/36, the Security Council, on 23 December 2016, in its resolution 2334 (2016), reaffirmed its position that the establishment by Israel of settlements in the Occupied Palestinian Territory, including East Jerusalem, had no legal validity, and constituted a flagrant violation under international law. As recognized in numerous reports of the High Commissioner and the Secretary-General, continued expansion of settlements not only undermines the possibility of a two-State solution, but is also at the core of many human rights violations in the West Bank (see for example A/HRC/28/80, A/HRC/31/42, A/HRC/31/43 and A/HRC/34/39).

Human rights situation

29. The extensive human rights impact of settlements on the human rights of Palestinians has been well documented in successive reports of the High Commissioner, the

[7] See "Hundreds of Israelis urge publication of UN settlement database", Middle East Monitor, 4 December 2017.

[8] "Joint NGO Statement in Support of the UN Human Rights Database on Business Activities related to Settlements in the Occupied Palestinian Territory", Worldwide Movement for Human Rights, 30 November 2017.

[9] On file with OHCHR.

[10] In the preamble to resolution 31/36, the Human Rights Council recalls, inter alia, relevant reports of the Secretary-General, OHCHR and the fact-finding mission; relevant resolutions of the Commission on Human Rights, the General Assembly, the Human Rights Council and the Security Council reaffirming, inter alia, the illegality of the Israeli settlements in the occupied territories, including in East Jerusalem; the advisory opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory rendered on 9 July 2004 by the International Court of Justice, which concluded that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, had been established in breach of international law; the treaty bodies monitoring compliance with the human rights treaties to which Israel is a party; relevant provisions of the Fourth Geneva Convention and customary law; and the Guiding Principles on Business and Human Rights.

Secretary-General and the fact-finding mission (see for example A/HRC/22/63, A/HRC/25/38, A/HRC/28/44, A/HRC/31/42 and A/HRC/34/39). The reports detailed how the settlements are extensively altering the demographic composition of the Occupied Palestinian Territory and fundamentally threatening the Palestinians' right to self-determination. The violations of human rights associated with the settlements are pervasive and devastating, reaching every facet of Palestinian life. Owing to settlement development and infrastructure, Palestinians suffer from restrictions on freedom of religion, movement and education; their rights to land and water; access to livelihoods and their right to an adequate standard of living; their rights to family life; and many other fundamental human rights.

B. Obligations of States for business and human rights in the Occupied Palestinian Territory

30. The Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by all States Members of the Human Rights Council in its resolution 17/4, set out the international human rights law obligations of States concerning business enterprises. They do not create new legal obligations, but rather clarify the implications of relevant existing international human rights standards, and provide practical guidance on how they can be operationalized.[11] These include the State duty to protect against human rights abuses by third parties, which includes business enterprises. States may be held responsible for abuse by business enterprises where the conduct can be attributed to them (for example, in the case of a State-owned enterprise) or where States fail to take appropriate steps to prevent, investigate, punish and redress abuse.[12]

31. The Guiding Principles specifically address the issue of business operations in conflict-affected areas, which includes situations of occupation. In conflict-affected areas, the Guiding Principles recognize that the "host State"[13] may not be able to adequately protect human rights because of a lack of effective control or involvement in abuses itself.[14] In these situations, the Working Group on the issue of human rights and transnational corporations and other business enterprises acknowledges that "home States"[15] of transnational corporations have a crucial role to play. In the context of the Israeli settlements, Israel as the occupying Power is considered to have obligations equivalent to those of a "host State".[16] Given the direct involvement of Israel in establishing, maintaining and expanding the settlements, OHCHR considers that the role of homes States of transnational corporations is essential in assisting both corporations and Israel to ensure that businesses are not involved in human rights abuses.[17]

32. States' obligations specifically concerning business operations connected to Israeli settlements have been the subject of a number of United Nations reports and resolutions (for example, A/HRC/22/63, para. 117 and A/HRC/34/39, paras. 34-39, and Human Rights Council resolutions 28/26 and 34/31, para. 13 (*b*)). In its resolution 2334 (2016), the Security Council called upon all States to distinguish between the territory of Israel and the

[11] See *Frequently Asked Questions about the Guiding Principles on Business and Human Rights* (OHCHR, New York and Geneva, 2014), p. 8.

[12] Guiding Principle 1.

[13] A "host State" is defined as the country in which a business operates. See *Frequently Asked Questions about the Guiding Principles* (see footnote 11), p. 23.

[14] See Working Group on the issue of human rights and transnational corporations and other business enterprises, statement on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the Occupied Palestinian Territory, 6 June 2014, p. 3.

[15] A "home State" is defined as a State where a company is incorporated or has its headquarters or primary seat. See *Frequently Asked Questions about the Guiding Principles* (see footnote 11), p. 23.

[16] The Working Group recognized that the term "host State" is ambiguous in situations of occupation, and that it would be more accurate to refer to the State that exercises effective control over an occupied territory as having obligations equivalent to those of a "host State". See statement of the Working Group (see footnote 14), pp. 6-8.

[17] In accordance with the statement of the Working Group, ibid., pp. 3-4 and 7.

territories occupied since 1967. With regard to the role of home States, the fact-finding mission called upon all Member States to take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements respect human rights throughout their operations (A/HRC/22/63, para. 117).

33. Some States have taken steps towards fulfilling their obligations towards businesses operating in settlements. In November 2015, the European Union issued guidelines on the labelling of products made in Israeli settlements.[18] As at December 2017, 18 States members of the European Union had issued advisories warning businesses of the financial, legal and reputational risks incurred by becoming involved in settlement activities.[19]

34. Some States have argued that they do not have an obligation to regulate extraterritorial activities of businesses domiciled in their territory and/or jurisdiction. While States are not generally required under international human rights law to do so, according to the Guiding Principles on Business and Human Rights, there are "strong policy reasons" for homes States to clearly set out expectations that businesses respect human rights abroad. States also have additional obligations as economic actors in their own right when it comes to State-owned enterprises. In its report submitted to the Council at its thirty-second session, the Working Group on the issue of human rights and transnational corporations and other business enterprises stated that there were compelling reasons for "greater action on the part of States with regard to State-owned enterprises" so that they lead by example (A/HRC/32/45).

C. Responsibilities of businesses

35. While States remain the primary duty bearers for the protection and promotion of human rights, international law has increasingly evolved to recognize that non-State actors – including business enterprises – also have responsibilities. The Guiding Principles on Business and Human Rights set out a "protect, respect and remedy" framework for business and human rights, which recognizes that while States have a duty to protect the rights of all against violations by third parties, there is an independent and complementary corporate responsibility to respect all internationally recognized human rights standards. In addition to human rights, humanitarian law standards also apply to business enterprises in situations of armed conflict.[20]

36. Under the Guiding Principles, all companies, regardless of size, industry, location, ownership or legal structure, have a responsibility to conduct due diligence to identify, prevent, mitigate and account for how they address their adverse human rights impacts (principle 14). In its statement on the implications of the Guiding Principles in the context of Israeli settlements in the Occupied Palestinian Territory of 6 June 2014, the Working Group declared that businesses have a responsibility:

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

(b) To 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.

37. The Guiding Principles recognize that businesses operating in conflict-affected areas – which include areas under occupation – face heightened risks of involvement in human rights abuses, including gross human rights abuses committed by other actors (Principle 7).

[18] European Commission, Interpretative Notice on indication of origin of goods from the territories occupied by Israel since June 1967 (11 November 2015).

[19] For excerpts of each State's advisory, see www.ecfr.eu/article/eu_member_state_business_advisories_on_israel_settlements.

[20] International Committee of the Red Cross, *Business and International Humanitarian Law: an Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law*, ICRC, Geneva, 2006).

In such situations, the Working Group clarified in the above-mentioned statement that where businesses have an increased risk, "enhanced" due diligence (namely, the "heightened care" with which due diligence processes should be executed) is required. The Working Group also highlighted a number of actions that enhanced due diligence may require, including formally integrating human rights principles into relevant contracts; exercising extreme caution in all business activities and relationships involving the acquisition of assets in conflict zones; and seeking advice from international organizations and mechanisms.

38. As part of the due diligence process, particularly in relation to a complex operating environment like the Occupied Palestinian Territory, businesses enterprises may need to consider whether it is possible to engage in such an environment in a manner that respects human rights. To do so, businesses would have to be able to show that they (in the words of the Working Group in its statement) do not "support the continuation of an international illegality nor are complicit in human rights abuses", and that they can effectively prevent or mitigate the risks to the human rights of Palestinians. This includes ensuring that businesses are not acquiring resources and property without the "freely given consent of the owner".[21]

39. In its report, the fact-finding mission emphasized that companies must assess the human rights impact of their activities and take all necessary steps – including by terminating their business interests in the settlements – to ensure that they do not have an adverse impact on the human rights of the Palestinian people, in conformity with international law and the Guiding Principles (A/HRC/22/63, para. 117).[22]

40. The scale, scope and immitigability of the human rights impacts caused by settlements must be taken into consideration as part of businesses' enhanced due diligence exercises.[23] The Guiding Principles do not explicitly require companies to terminate operations where they are involved in human rights abuses; they do stipulate, however, that such companies should be prepared to "accept any consequences – reputational, financial or legal – of the continuing connection."[24]

41. OHCHR notes that, considering the weight of the international legal consensus concerning the illegal nature of the settlements themselves, and the systemic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law. This view was reinforced in Human Rights Council resolution 34/31 on the Israeli settlements, in which the Council referred to the immitigable nature of the adverse impact of businesses' activities on human rights.

III. Involvement of business in settlements

A. Overview

42. Businesses play a central role in furthering the establishment, maintenance and expansion of Israeli settlements. They are involved in constructing and financing settlement homes and supporting infrastructure, providing services to the settlements, and operating out of them. In doing so, they are contributing to Israel's confiscation of land, facilitate the transfer of its population into the Occupied Palestinian Territory, and are involved in the exploitation of Palestine's natural resources (see A/HRC/34/39, para. 11).

[21] Ibid., p. 22.

[22] See also the statement of the Working Group (see footnote 14) and Guiding Principles 17 to 19.

[23] The commentary to Guiding Principle 14 provides that the severity of impact is judged by its scale, scope and irremediable character. See also Guiding Principle 17 on human rights due diligence.

[24] Commentary to Guiding Principle 19.

B. How Israeli authorities encourage settlement businesses

43. The Government of Israel actively encourages economic development of and for the settlements through the Israeli and international private sector by creating an attractive financial business market, by providing key financial incentives to companies to operate in the settlements. Ninety settlements have been designated as "national priority areas", which allows businesses operating within them to benefit from reductions in the price of land, grants for the development of infrastructure, and preferential tax treatment (A/HRC/34/39, para. 24). Businesses in settlements can also take advantage of functional immunity from labour law with respect to the treatment of Palestinian workers.[25] According to the fact-finding mission, business owners are able to cut their costs by paying lower rates to Palestinian workers than their Israeli counterparts, with substandard work conditions. This is largely due to a lack of supervision or regulation of employers in the settlements by Israeli officials (A/HRC/22/63, paras. 94-95).

44. Furthermore, Israeli authorities use their permit and licensing regime to encourage international and Israeli business engagement with the settlements. Permits and licenses are readily provided to businesses operating in or servicing settlements, but are rarely granted to companies engaged in providing similar services to Palestinians.[26] Israeli and international companies are regularly given quarrying licenses in Israeli-controlled territory in the West Bank, whereas, according to the Palestinian Union of Stone and Marble, no new permits have been issued to Palestinian businesses to open quarries in Area C[27] since 1994.[28]

45. Domestic laws and regulations in Israel also play a role in inducing businesses to serve individuals in the settlements. The Consumer Protection Law (1981) was amended in 2017 in response to alleged discrimination against consumers living in settlements. The revised law makes it mandatory for businesses to state clearly before any transaction is finalized whether they are not willing or able to provide services to settlements. The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law (2000), was amended at the same time to include customers' "place of residence" to the list of prohibited grounds for discrimination. It applies to any business that provides public services, even if it is privately owned, such as transportation services, communications services, entertainment, tourism or financial services intended for public use.[29] While these laws do not compel businesses to provide services to individuals in the settlements, they make it more difficult not to do so.

C. How businesses contribute to and benefit from the establishment, maintenance and growth of settlements

46. OHCHR notes that businesses play a key role in facilitating the overall settlement enterprise, contributing to Israel's confiscation of land and the transfer of its population through commercial development. Some are directly involved in the confiscation of land by carrying out demolitions that make way for settlement residential communities or associated infrastructure, or by financing or executing settlement construction itself. Others provide services that ensure the sustainability of residential settlement communities, such

[25] Human Rights Watch, "Occupation, Inc.: How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights", 19 January 2016.

[26] Ibid.

[27] Under the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II) of 1995, the West Bank, excluding East Jerusalem, was divided into three temporary administrative zones, referred to as Areas A, B and C. Israel retains almost exclusive control over Area C, including control over law enforcement, building and planning (see www.ochaopt.org/location/area-c).

[28] World Bank, "West Bank and Gaza: Area C and the Future of the Palestinian Economy", Washington, D.C., 2013, para. 30.

[29] According to articles 1 to 3 of the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law (2000), "financial services" include banking services and the provision of credit and insurance.

as transport services that connect the settlements to Israel proper, tourism activities that contribute to the profitability of the settlements, and telecommunication services. Those that are located in the settlements help to perpetuate their existence through the payment of taxes to settlement regional councils and Israeli authorities and the provision of jobs to settlers, and by occupying confiscated land.

47. The involvement of businesses in the settlements extends across all main industries and sectors, including:

- The banking industry, which helps to finance construction and infrastructure projects in settlements, provide loans and financial services to settlement councils, and provide mortgage loans to home buyers[30]
- The tourism industry, including tour companies, online accommodation and travel booking sites, and rental car companies, all of which help to make the settlements profitable and sustainable[31]
- The private security industry, which includes companies involved in providing security for companies or residences in settlements, as well as those involved in the checkpoints throughout the West Bank, including East Jerusalem[32]
- The technology industry, which provides surveillance and identification equipment for use in the settlements, the wall and checkpoints
- The construction and demolition industries, including heavy machinery suppliers, which help to facilitate and entrench Israel's confiscation of Palestinian land for settlements and associated infrastructure[33]
- The real estate industry, including companies involved in marketing, renting and selling properties in settlements, which helps settlements to function as viable housing markets, enabling the transfer of Israel's population[34]
- The extractive industry, including mining and quarrying, which contribute financially to the sustainability of settlements through the payment of fees to settlement municipalities and the Israeli Civil Administration[35]
- The telecommunications industry, which includes mobile networks and Internet providers servicing settlements
- The agricultural industry, which includes companies involved in crop and livestock production, the wine industry and export companies
- The transportation industry
- The manufacturing industry, which includes companies that use raw materials from occupied territory
- Others

[30] See Who Profits, "Financing Land Grab: The Direct Involvement of Israeli Banks in the Israeli Settlement Enterprise", February 2017, and A/HRC/22/63, para. 97. Owing to the involvement of the banking industry in servicing and supporting the settlements, a number of pension funds in different countries have reportedly withdrawn their investments in Israeli banks; see for example PGGM, "Statement regarding exclusion of Israeli banks", 8 January 2014; Linda Bloom, "Israeli banks on ineligible list for pension agency", United Methodist Church, 13 January 2016; and Middle East Monitor, "Danish pension fund excludes four companies for role in Israeli occupation", 11 October 2017.

[31] Who Profits, "Touring Israeli settlements: business and pleasure for the economy of occupation", flash report, September 2017.

[32] Who Profits, *Private Security Companies and the Israeli Occupation*, Tel Aviv, January 2016.

[33] Who Profits, Facts on the Ground: Heavy Engineering Machinery and the Israeli Occupation, Tel Aviv, July 2014.

[34] Human Rights Watch, "Occupation, Inc." (see footnote 27).

[35] Ibid.

48. In addition to the financial benefits provided by the Israeli authorities for operating in the settlements, businesses engaged in certain sectors are able to take advantage of captive Palestinian markets for Israeli goods. According to the United Nations Conference on Trade and Development (UNCTAD), the Occupied Palestinian Territory operates as a captive market for Israeli exports due to the imbalanced customs arrangements enshrined in the Paris Protocol on Economic Relations and restrictions on movement and other obstacles to trade.[36] With regard to the economic consequences of situations of occupation, UNCTAD had noted that they always involved the exploitation, impoverishment, marginalization, displacement and appropriation of resources of the occupied indigenous people. Such acts often deprived the people under colonial rule of the internationally recognized human right to development by confiscating their national resources, preventing them from accessing and utilizing those resources, depriving them of the ability to produce and thus forcing them to consume products produced by the occupier.[37]

49. An example of how Israeli companies are benefiting from a captive Palestinian market can be seen, for example, in the telecommunications industry. Palestinian mobile and landline companies are prevented from operating fully and effectively in the West Bank, including East Jerusalem, owing to restrictions on the import of necessary equipment, which is often identified by Israeli authorities as "dual use"; restrictions on the movement of goods and people; the inability to have independent access to international networks; restrictions on the building of the necessary infrastructure in Area C following the rejection of permit requests; and the provision of limited frequencies by the Israeli authorities.[38] Palestinian mobile providers are reportedly prohibited from operating inside Israel and annexed areas, including East Jerusalem, which forces users to rely on Israeli mobile providers.[39] Israeli telecommunications operators are authorized under the Oslo Agreement to provide services to settlements and settlement roads, but their infrastructure now covers large areas of the West Bank. According to World Bank estimates, between 10 and 20 per cent of the mobile market share in the West Bank has been captured by unauthorized Israeli operators, largely due to the fact that Palestinian companies do not have access to more than 60 per cent of Area C. In 2014, the Office of the Quartet Representative estimated that the quota captured by Israeli operators was even higher, between 20 and 40 per cent of total market share.[40]

IV. Preliminary observations of responses of business enterprises

50. In communicating with companies and reviewing publicly available information, OHCHR encountered a number of companies that acknowledged some connection to the settlements and provided explanations of their involvement on a number of grounds. A summary of the most common explanations are set out below. OHCHR offers the following observations in response in the interest of continuing the dialogue with companies.

51. A major argument used by companies to explain their involvement in listed activities is that they provide jobs to Palestinian families and help to support the Palestinian economy.

52. OHCHR observes that this argument does not recognize that the presence of the settlements in the Occupied Palestinian Territory, which is unlawful, serves to depress the

[36] Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory (UNCTAD/APP/2016/1), para. 20.

[37] *Official Records of the General Assembly, Seventieth Session, Supplement No. 35* (A/70/35), annex, para. 6.

[38] World Bank Group, *The Telecommunication Sector in the Palestinian Territories: A Missed Opportunity for Economic Development* (World Bank, Washington, D.C., 2016); see also World Bank, West Bank and Gaza: Area C and the Future of the Palestinian Economy, Washington, D.C., 2014, paras. 52-62.

[39] "Israeli mobile companies banned from PA cities", Ma'an News Agency, 1 April 2010.

[40] Office of the Quartet Representative, Initiative for the Palestinian Economy: Summary Overview, March 2014 (available at www.quartetrep.org/files/image/initiative.pdf).

Palestinian economy and to reduce opportunities for Palestinian businesses to thrive. As pointed out by the fact-finding mission, the agricultural sector, which lies at the heart of the Palestinian economy, has been in a continuous decline since 1967 owing to the dispossession of land and the denial of access of Palestinian farmers to agricultural areas, water resources and trade markets (A/HRC/22/63, para. 89). According to the Office for the Coordination of Humanitarian Affairs, 70 per cent of Area C is "off limits for Palestinian use and development", as it falls within the boundaries of regional settlement councils. Palestinian construction is heavily restricted in 29 per cent of Area C, and only the remaining 1 per cent has been planned for Palestinian development.[41] The World Bank has acknowledged that the land allocated for settlement activity in Area C has "significantly reduced land available for use by the Palestinian private sector".[42] In East Jerusalem the situation is similar, as 35 per cent of land has been allocated to settlements and only 13 per cent is zoned for Palestinian construction.[43]

53. The depressed Palestinian economy has had a direct effect on the job market in the Occupied Palestinian Territory. According to UNCTAD, Israel's full control over Area C, which accounts for over 60 per cent of the area of the West Bank, has contributed to a "permanent unemployment crisis" in the Occupied Palestinian Territory that forces thousands of unemployed Palestinians to seek employment in Israel and in settlements in low-skill, low-wage manual activities (TD/B/63/3, para. 6). In 2017, the International Labour Organization reported that the "stagnating labour market in the West Bank pushes Palestinians to take up work wherever it is to be found."[44]

54. OHCHR notes that the employment of Palestinians, even on favourable terms, does not exempt businesses of their responsibilities under the Guiding Principles concerning their overall engagement in or with the settlements. The Guiding Principles make clear that, while business enterprises may undertake certain commitments or activities to support and promote human rights, these "do not offset a failure to respect human rights throughout their operations."[45]

55. Another argument used by some business enterprises to explain their involvement in listed activities was that they did not take a political position in the conflict between Israel and the Occupied Palestinian Territory, nor did they actively support Israel's occupation of Palestine. OHCHR recalls, however, that the political position of business enterprises is not a relevant consideration in determining whether their actions are consistent with the Guiding Principles or whether their business activities fall within the ambit of Human Rights Council resolution 31/36.

56. Some companies that acknowledged operating in or with the settlements highlighted the fact that they were acting in compliance with Israeli national laws and in accordance with all required permits and authorizations.

57. According to the commentary to Guiding Principle 11, the corporate responsibility to respect human rights "exists over and above compliance with national laws and regulations protecting human rights".[46] Compliance with the national laws and regulations of a State does not necessarily equate to compliance with the Guiding Principles or international law. In the case of Israel, its national laws and regulations that allow for the establishment, maintenance and existence of the settlements are in direct conflict with

[41] Office for the Coordination of Humanitarian Affairs, Area C of the West Bank: Key Humanitarian Concerns, update August 2014.

[42] World Bank Group, *Prospects for Growth and Jobs in the Palestinian Economy: A General Equilibrium Analysis*, November 2017.

[43] Office for the Coordination of Humanitarian Affairs, East Jerusalem: Key Humanitarian Concerns, update August 2014.

[44] International Labour Office, The situation of workers of the occupied Arab territories, report of the Director-General, International Labour Conference, 106th session, 2017, para. 21.

[45] Commentary to Guiding Principle 11.

[46] See also Working Group on the issue of human rights and transnational corporations and other business enterprises, statement (see footnote 14), pp. 11-12.

international law, as settlements are widely recognized by the United Nations and the international community as being illegal.

58. Some companies indicated that they had no knowledge or control over the actions of other entities with which they had business relationships, such as distributors, partners or other entities in their value chains, and therefore they should not be held responsible for any harm caused by those entities.

59. According to the Guiding Principles, the responsibility of businesses to respect human rights extends to their business relationships. Guiding Principle 13 states that businesses are responsible for preventing or mitigating adverse human rights impacts directly linked to their operations, products or services through their business relationships, even if they have not contributed to them; this includes impacts caused by both actions and omissions.[47] The responsibility to conduct due diligence – and in the occupied territory this involves enhanced due diligence (see para. 37 above) – entails taking active steps to identify and assess any actual or potential adverse human rights impacts made as a result of business relationships.

60. Furthermore, in its report, the fact-finding mission stated that business enterprises conduct their activities in the settlements with "the full knowledge of the current situation and the related liability risks" and "contribute to their maintenance, development and consolidation" (A/HRC/22/63, para. 97).

V. Recommendations

61. **The United Nations High Commissioner for Human Rights urges all businesses with which OHCHR has been or may be in contact in carrying out its mandate under Human Rights Council resolution 31/36 to cooperate with OHCHR with a view to engaging in constructive dialogue.**

62. **The High Commissioner acknowledges with appreciation the extension granted by the Human Rights Council for OHCHR to implement the mandate under resolution 31/36. Recognizing that this was the first time OHCHR has been tasked with such a mandate, the High Commissioner is satisfied that significant progress has been made. However, while the dialogue with concerned business enterprises is continuing, the work remains ongoing. For the High Commissioner to update the database as required by resolution 31/36, more resources are required.**

[47] Commentary to Guiding Principle 13.

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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

Human rights situation in Palestine and other occupied Arab territories

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 United Nations High Commissioner for Human Rights has prepared the present report pursuant to Human Rights Council resolution 31/36 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan.

* Reissued for technical reasons on 22 July 2020.

** The present report was submitted after the deadline in order to reflect the most recent information.

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I. Background

1. The present report is submitted to the Human Rights Council pursuant to its resolution 31/36, on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, adopted on 24 March 2016.[1]

2. In paragraph 17 of that resolution, the Human Rights Council requested the production of a database of all business enterprises involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory, to be updated annually, and to transmit the data therein in the form of a report to the Council.

3. In 2018, a report on the matter was submitted to the Human Rights Council at its thirty-seventh session (A/HRC/37/39). That report contained the methodology used to respond to the request of the Council.

4. Also in that report, it was noted that the Office of the United Nations High Commissioner for Human Rights (OHCHR) had reviewed information on 321 business enterprises following the transmittal of notes verbales to States, the issuance of an open invitation for submissions and on the basis of its own research. A total of 206 business enterprises were assessed at that time for further consideration.

5. It was also noted that, once OHCHR had been in contact with all 206 companies, and subject to determinations of their responses and non-responses, OHCHR expected to provide the names of the companies engaged in listed activities in a future update. Before the determinations on the companies were made public, OHCHR would notify the companies concerned.

II. Mandate

6. The request for the production of a database made by the Human Rights Council in paragraph 17 of 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 (A/HRC/22/63). In paragraph 96 of its report, the fact-finding mission set out a list of activities that had raised particular human rights concerns (referred to as “listed activities”). In its resolution 31/36, the Council defined the database by reference to 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;

[1] While the Human Rights Council referred, in its resolution 31/36, to the occupied Syrian Golan, in paragraph 17 of that same resolution it requested the production of a database based on information contained in a report (A/HRC/22/63) that pertains to the Occupied Palestinian Territory only. Business enterprises involved in activities related to the occupied Syrian Golan are not therefore considered for the purposes of the present report.

(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) The use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.

7. The parameters of the database encompass business enterprises, whether domiciled in Israel, the Occupied Palestinian Territory or abroad, carrying out listed activities in relation to the Occupied Palestinian Territory (A/HRC/37/39, para. 5).

8. The database produced in response to the request made by the Human Rights Council in its resolution 31/36 includes only business enterprises involved in the 10 activities listed above. 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. In addition, while there may be other types of enterprises involved in significant business activities related to settlements, only business enterprises are considered; non-business enterprises are excluded from consideration.

III. Definitions

9. The mandate set out in Human Rights Council resolution 31/36 requires the identification of three cumulative elements: (a) "business enterprises"; (b) "involved"; and (c) in one or more listed activities. For the purpose of the present report, each of those elements is understood as set out below.

Business enterprises

10. As OHCHR has already noted (A/HRC/37/39, para. 18):

> When contacting companies, OHCHR included in the communications, wherever possible, all relevant entities with respect to that particular situation of concern, including parent companies and their subsidiaries, franchisors and franchisees, local distributors of international companies, partners and other entities in relevant business relationships. In some of these cases, further research by OHCHR revealed relevant business entities, such as parent companies or subsidiaries, that were not initially named in the submissions received in notes verbales from Member States or through the open call for submissions from interested stakeholders.

11. In assessing whether an entity was a "business enterprise", for the purposes of the present report OHCHR considered 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.

Involved

12. In assessing whether an entity was "involved", for the purposes of the present report OHCHR considered whether there were substantial and material business activities that had a clear and direct link to one or more of the listed activities, encompassing the following business forms:

(a) A business enterprise itself engaged in a listed activity in the Occupied Palestinian Territory;

(b) A parent company owning a majority share of a subsidiary engaged in a listed activity in the Occupied Palestinian Territory (a business enterprise owning a minority share in a subsidiary was not considered to be "involved" for the purposes of the present report);

(c) A business enterprise granting a relevant franchise or licence to a franchisee or licensee engaged in a listed activity in the Occupied Palestinian Territory.

13. In temporal terms, OHCHR required the involvement to have taken place during the period from 1 January 2018 to 1 August 2019.

Listed activities

14. As already noted in paragraph 6 above, the Human Rights Council defined the specific activities to be reflected in the database by reference to those set out by the fact-finding mission (A/HRC/22/63, para. 96).

15. Due to the specific formulation of certain listed activities, the additional considerations set out below were taken into account.

Activities listed in paragraph 6 (a), (b), (c) and (d) above: activities of "supply"

16. The activities listed in the report of the fact-finding mission and reproduced in para. 6 (a), (b) and (d) above involve the supply of equipment, services or materials for certain purposes, uses or effects. The notion of "supply" was considered to encompass, as relevant, processes of manufacture, provision and/or distribution of equipment, services and/or materials that have been employed for those purposes, uses or effects.

17. In relation to paragraph 6 (c), the listed activity is formulated more restrictively to indicate that the relevant equipment must be specifically supplied for the particular purpose of demolishing or destroying the forms of property set out in that subparagraph.

Activity listed in paragraph 6 (g) above

18. The activity listed in paragraph 6 (g) above refers to the use of natural resources, in particular water and land, for business purposes. As such, it includes business enterprises that are physically located in the Occupied Palestinian Territory and those that benefit commercially from the use of natural resources located in the Occupied Palestinian Territory, irrespective of their physical presence there.

IV. Methods of work

19. In fulfilling the mandate contained in Human Rights Council resolution 31/36, OHCHR applied the comprehensive methodology already outlined in the previous report on the matter (A/HRC/37/39, paras. 7–25). The work done by OHCHR to produce the database, in full compliance with the above-mentioned resolution, is not and does not purport to constitute a judicial or quasi-judicial process of any kind or to provide any legal characterization of the listed activities or business enterprises' involvement in them. Rather, it provides the Council with the requested factual determinations as to those business enterprises that were involved in the listed activities (A/HRC/37/39, para. 8).

20. The direct contact held between OHCHR and all screened business enterprises, in consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, sought to ensure procedural fairness and consistency in the conclusions reached.

21. Since the previous report, a further analysis was carried out of the 206 business enterprises assessed, which in turn resulted in 188 business enterprises being identified for additional consideration. The enterprises that were not included for additional consideration were set aside, in particular, because there was insufficient factual basis in the submissions or in the public domain to support the contentions of their involvement in the listed activities. The 188 business enterprises were contacted between September 2017 and October 2018.

22. By letter, OHCHR informed each of the above-mentioned 188 business enterprises of the listed activities that they appeared to be involved in, based on the totality of information reviewed by it, and set out the basic facts of the enterprises' alleged involvement in the listed activity or activities. The business enterprises were requested to

respond in writing within 60 days with an initial response, providing any clarification or update of the information. Moreover, they were informed that they could request that the substance of their written responses be kept confidential; a number of enterprises made such a request (A/HRC/37/39, para. 20). In some cases, lengthier processes of dialogue developed between OHCHR and business enterprises. In other cases, no response was received.

23. At the conclusion of that process, OHCHR assessed all the information available to it against the definitions of the three necessary elements set out in paragraph 9 above, whether, as a factual matter, the standard of reasonable grounds to believe involvement in the listed activities had been met.

V. OHCHR engagement with business enterprises

24. OHCHR engaged with business enterprises throughout all stages of its work on the database. The direct communication facilitated the exchange of information and offered business enterprises the opportunity to provide views on their alleged involvement in listed activities. In several instances, business enterprises denied any involvement in the listed activities. These business enterprises were not included in the database. Some business enterprises requested further information on the methodology and mandate, to which OHCHR responded.

25. As already noted in the previous report (A/HRC/37/39, para. 22), responses from business enterprises included: (a) objection to the mandate of OHCHR and a refusal to provide a substantive response to the information presented; (b) rejection of the information presented and objected to being included in the database; (c) confirmation of the information presented concerning their involvement in one or more of the listed activities, and the provision of explanations; and/or (d) provision of updated information that indicated they were no longer involved in one or more of the listed activities.

26. OHCHR responded to business enterprises' queries on the mandate and presented, as necessary, further detailed information concerning the alleged involvement in listed activities.

27. All those business enterprises that met the standard of proof for inclusion in the database were informed in writing of their inclusion and of the procedure by which they could be removed. OHCHR invited the business enterprises to continue to engage with it, in line with the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex).

28. OHCHR rescreened all business enterprises prior to the submission of the present report to confirm that the activity or activities for which they were included in the database met the applicable standard of proof during the period under review.

29. A number of business enterprises communicated to OHCHR that they were no longer involved in the relevant activity or that the nature of their involvement had fallen outside the scope of the mandate. In those cases, OHCHR assessed the information provided and discontinued its consideration of those business enterprises no longer assessed to be involved in the listed activities.

30. Where business enterprises did not provide additional information or clarifications, OHCHR relied on desk research to assess the information received from Member States and other stakeholders.

VI. Database of business enterprises

31. OHCHR found that 112 of the 188 business enterprises considered for inclusion in the database met the required standard of reasonable grounds to believe that they were

involved in one or more of the listed activities (see table below). The remaining 76 business enterprises did not meet the standard of proof and were not included in the database.[2]

Business enterprises involved in listed activities

No.	*Business enterprise*	*Subparagraph of listed activity*	*State concerned*
1.	Afikim Public Transportation Ltd.	(e)	Israel
2.	Airbnb Inc.	(e)	United States of America
3.	American Israeli Gas Corporation Ltd.	(e), (g)	Israel
4.	Amir Marketing and Investments in Agriculture Ltd.	(g)	Israel
5.	Amos Hadar Properties and Investments Ltd.	(g)	Israel
6.	Angel Bakeries	(e), (g)	Israel
7.	Archivists Ltd.	(g)	Israel
8.	Ariel Properties Group	(e)	Israel
9.	Ashtrom Industries Ltd.	(g)	Israel
10.	Ashtrom Properties Ltd.	(g)	Israel
11.	Avgol Industries 1953 Ltd.	(g)	Israel
12.	Bank Hapoalim B.M.	(e), (f)	Israel
13.	Bank Leumi Le-Israel B.M.	(e), (f)	Israel
14.	Bank of Jerusalem Ltd.	(e), (f)	Israel
15.	Beit Haarchiv Ltd.	(g)	Israel
16.	Bezeq, the Israel Telecommunication Corp Ltd.	(e), (g)	Israel
17.	Booking.com B.V.	(e)	Netherlands
18.	C. Mer Industries Ltd.	(b)	Israel
19.	Café Café Israel Ltd.	(e), (g)	Israel
20.	Caliber 3	(d), (g)	Israel
21.	Cellcom Israel Ltd.	(e), (g)	Israel
22.	Cherriessa Ltd.	(g)	Israel
23.	Chish Nofei Israel Ltd.	(g)	Israel
24.	Citadis Israel Ltd.	(e), (g)	Israel
25.	Comasco Ltd.	(a)	Israel
26.	Darban Investments Ltd.	(g)	Israel
27.	Delek Group Ltd.	(e), (g)	Israel

[2] With respect to three listed activities (see para. 6 (c), (i) and (j) above), OHCHR did not find any business enterprise satisfying the standard of reasonable grounds to believe involvement consistent with the definitions set out above.

No.	*Business enterprise*	*Subparagraph of listed activity*	*State concerned*
28.	Delta Israel	(g)	Israel
29.	Dor Alon Energy in Israel 1988 Ltd.	(e), (g)	Israel
30.	Egis Rail	(e)	France
31.	Egged, Israel Transportation Cooperative Society Ltd.	(e)	Israel
32.	Energix Renewable Energies Ltd.	(g)	Israel
33.	EPR Systems Ltd.	(e), (g)	Israel
34.	Extal Ltd.	(g)	Israel
35.	Expedia Group Inc.	(e)	United States
36.	Field Produce Ltd.	(g)	Israel
37.	Field Produce Marketing Ltd.	(g)	Israel
38.	First International Bank of Israel Ltd.	(e), (f)	Israel
39.	Galshan Shvakim Ltd.	(e), (d)	Israel
40.	General Mills Israel Ltd.	(g)	Israel
41.	Hadiklaim Israel Date Growers Cooperative Ltd.	(g)	Israel
42.	Hot Mobile Ltd.	(e)	Israel
43.	Hot Telecommunications Systems Ltd.	(e)	Israel
44.	Industrial Buildings Corporation Ltd.	(g)	Israel
45.	Israel Discount Bank Ltd.	(e), (f)	Israel
46.	Israel Railways Corporation Ltd.	(g), (h)	Israel
47.	Italek Ltd.	(e), (g)	Israel
48.	J.C. Bamford Excavators Ltd.	(a)	United Kingdom of Great Britain and Northern Ireland
49.	Jerusalem Economy Ltd.	(g)	Israel
50.	Kavim Public Transportation Ltd.	(e)	Israel
51.	Lipski Installation and Sanitation Ltd.	(g)	Israel
52.	Matrix IT Ltd.	(e), (g)	Israel
53.	Mayer Davidov Garages Ltd.	(e), (g)	Israel
54.	Mekorot Water Company Ltd.	(g)	Israel
55.	Mercantile Discount Bank Ltd.	(e), (f)	Israel
56.	Merkavim Transportation Technologies Ltd.	(e)	Israel
57.	Mizrahi Tefahot Bank Ltd.	(e), (f)	Israel
58.	Modi'in Ezrachi Group Ltd.	(e), (d)	Israel
59.	Mordechai Aviv Taasiot Beniyah 1973 Ltd.	(g)	Israel
60.	Motorola Solutions Israel Ltd.	(b)	Israel

No.	*Business enterprise*	*Subparagraph of listed activity*	*State concerned*
61.	Municipal Bank Ltd.	(f)	Israel
62.	Naaman Group Ltd.	(e), (g)	Israel
63.	Nof Yam Security Ltd.	(e), (d)	Israel
64.	Ofertex Industries 1997 Ltd.	(g)	Israel
65.	Opodo Ltd.	(e)	United Kingdom
66.	Bank Otsar Ha-Hayal Ltd.	(e), (f)	Israel
67.	Partner Communications Company Ltd.	(e), (g)	Israel
68.	Paz Oil Company Ltd.	(e), (g)	Israel
69.	Pelegas Ltd.	(g)	Israel
70.	Pelephone Communications Ltd.	(e), (g)	Israel
71.	Proffimat S.R. Ltd.	(g)	Israel
72.	Rami Levy Chain Stores Hashikma Marketing 2006 Ltd.	(e), (g)	Israel
73.	Rami Levy Hashikma Marketing Communication Ltd.	(e), (g)	Israel
74.	Re/Max Israel	(e)	Israel
75.	Shalgal Food Ltd.	(g)	Israel
76.	Shapir Engineering and Industry Ltd.	(e), (g)	Israel
77.	Shufersal Ltd.	(e), (g)	Israel
78.	Sonol Israel Ltd.	(e), (g)	Israel
79.	Superbus Ltd.	(e)	Israel
80.	Supergum Industries 1969 Ltd.	(g)	Israel
81.	Tahal Group International B.V.	(e)	Netherlands
82.	TripAdvisor Inc.	(e)	United States
83.	Twitoplast Ltd.	(g)	Israel
84.	Unikowsky Maoz Ltd.	(g)	Israel
85.	YES	(e)	Israel
86.	Zakai Agricultural Know-how and inputs Ltd.	(g)	Israel
87.	ZF Development and Construction	(g)	Israel
88.	ZMH Hammermand Ltd.	(g)	Israel
89.	Zorganika Ltd.	(g)	Israel
90.	Zriha Hlavin Industries Ltd.	(g)	Israel

Business enterprises involved as parent companies

No.	*Business enterprise*	*Subparagraph of listed activity*	*State concerned*
91.	Alon Blue Square Israel Ltd.	(e), (g)	Israel
92.	Alstom S.A.	(e), (g)	France
93.	Altice Europe N.V.	(e)	Netherlands
94.	Amnon Mesilot Ltd.	(e)	Israel
95.	Ashtrom Group Ltd.	(g)	Israel
96.	Booking Holdings Inc.	(e)	United States
97.	Brand Industries Ltd.	(g)	Israel
98.	Delta Galil Industries Ltd.	(g)	Israel
99.	eDreams ODIGEO S.A.	(e)	Luxembourg
100.	Egis S.A.	(e)	France
101.	Electra Ltd.	(e)	Israel
102.	Export Investment Company Ltd.	(e), (f)	Israel
103.	General Mills Inc.	(g)	United States
104.	Hadar Group	(g)	Israel
105.	Hamat Group Ltd.	(g)	Israel
106.	Indorama Ventures P.C.L.	(g)	Thailand
107.	Kardan N.V.	(e)	Netherlands
108.	Mayer's Cars and Trucks Co. Ltd.	(e)	Israel
109.	Motorola Solutions Inc.	(b)	United States
110.	Natoon Group	(e), (d)	Israel
111.	Villar International Ltd.	(g)	Israel

Business enterprises involved as licensors or franchisors

No.	*Business enterprise*	*Subparagraph of listed activity*	*State concerned*
112.	Greenkote P.L.C.	(g)	United Kingdom

VII. Removal from the database

32. A business enterprise may provide information indicating that it is no longer involved in the relevant listed activity. Should there be reasonable grounds to believe that, based on the totality of the information available, the business enterprise is ceasing or is no longer involved in the relevant activity, the business enterprise would be removed from the database.

VIII. Recommendation

33. **With reference to any updating of the database, OHCHR would recommend that the Human Rights Council establish a group of independent experts, with a time-bound mandate, to report directly to the Council for such a purpose.**



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

30 June 2023

Introduction

1. The United Nations Human Rights Council, in its resolution 31/36, on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, adopted on 24 March 2016, requested "the United Nations High Commissioner for Human Rights, in close consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, 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, and as a necessary step for the implementation of the recommendation contained in paragraph 117 thereof, to produce a database of all business enterprises involved in the activities detailed in paragraph 96 of the afore-mentioned report, to be updated annually, and to transmit the data therein in the form of a report to the Council at its thirty-fourth session".[1]

2. In response to this request, the Office of the United Nations High Commissioner for Human Rights submitted an interim report to the Human Rights Council, setting out methodology used for the production of the database (A/HRC/37/39), and a further report containing the database of 112 business entities based on relevant activity of such entities to 1 August 2019 (A/HRC/43/71). That report further stated, in its paragraph 32, that a business enterprise may provide information indicating that it was no longer involved in the relevant listed activity, and that, where there were reasonable grounds to believe that the business enterprise was ceasing or was no longer involved in the relevant activity, the business enterprise would be removed from the database.

3. Since the publication of that report in February 2020, a number of companies provided OHCHR with information indicating that they were ceasing or were no longer involved in the relevant activity. In addition, OHCHR became aware of information that a number of business enterprises had seen changes in their structure, ownership and/or operations with implications on their involvement in relevant listed activities in the Occupied Palestinian Territory.

4. In absence of regular budget resources required for annual updating of the database on an open-ended basis, the present update has been prepared within existing resources, on an exceptional basis, and without prejudice as to any future decision.

Scope of update and methods of work

5. To prepare the present update, OHCHR reviewed the 112 business enterprises listed in its February 2020 report (A/HRC/43/71). Its scope encompasses re-assessment, on the basis of information available to OHCHR, of the situation of these business entities in relation to their structure, ownership, and operations as relevant to their involvement in relevant listed activities from 1 August 2019 through 31 December 2022. Accordingly, the present update does not purport to provide a complete list of business enterprises engaged in certain activities in relation to Israeli settlement activity in the Occupied Palestinian Territory.

6. The work conducted by OHCHR in producing the present update followed the same parameters as applied to the initial production of the database set out in A/HRC/43/71. While the establishment and expansion of settlements in the Occupied Palestinian Territory amounts to transfer by Israel of its own civilian population into the territory it occupies which is

[1] Human Rights Council resolution A/HRC/31/36, para. 17.

prohibited under international law,[2] the present update, as with respect to A/HRC/43/71, is not and does not purport to constitute a judicial or quasi-judicial process of any kind, or to provide any legal characterization of the listed activities or business enterprises' involvement therein.

7. In resolution 31/36, the Human Rights Council defined the parameters of activities to be reflected in the database by reference to the list compiled by 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 (A/HRC/22/63), which comprised:

(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) The use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.

8. In line with the methodology applied in A/HRC/43/71, the parameters of activities considered for inclusion in the present update have been strictly confined to these 10 activities, in relation to business enterprises domiciled in Israel, in the Occupied Palestinian Territory or abroad, carrying out listed activities in relation to the Occupied Palestinian Territory.[3] In temporal terms, the relevant period considered was from 1 August 2019 through 31 December 2022.

9. For purposes of the present update, OHCHR analysed information received from the business enterprises themselves in response to OHCHR's communication to each of the 112 entities listed in the database, which was taken into consideration, as well as publicly available information, including business enterprises' own websites and resources, and reports by the United Nations, civil society organizations (Israeli, Palestinian and international) and media sources. OHCHR updated the Working Group on the issue of human rights and transnational corporations and other business enterprises with respect to conceptual and methodological matters. The determinations as to individual entities in this update are OHCHR's alone. With respect to the 112 business enterprises listed in the February 2020 report, OHCHR sent each entity a letter in July 2022, informing as to the review of the database and inviting provision of

[2] See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136; and, *inter alia*, Security Council resolutions 465 (1980) and 2334 (2016); General Assembly resolutions 71/97 and 72/86; and Human Rights Council resolution 31/36.
[3] Business enterprises engaged in activities related to the occupied Syrian Golan do not fall within the scope of paragraph 17 of Human Rights Council resolution 31/36.

any further relevant information as to their structure, ownership or involvement with the listed activities, within a period of 60 days.

10. In response to these letters, 13 of the 112 business enterprises responded. Responses from business enterprises included one or more of the following general approaches: (a) request to be removed from the database; (b) provision of updated information indicating that an entity was ceasing or no longer involved in one or more of the listed activities; (c) confirmation of an entity's involvement in one or more of the listed activities; (d) objection to the mandate of OHCHR to perform such a function; (d) refusal to provide a substantive response to the invitation presented; and/or (e) enquiries about the mandate and/or process of update. OHCHR responded to all queries. In some cases, processes of dialogue developed between OHCHR and the business enterprises. Direct communication facilitated exchange of information and offered business enterprises the opportunity to share further views and provide more information on their extent of involvement in the listed activities. In some cases, business enterprises failed to respond entirely.

11. Based on the totality of the information available to it, OHCHR assessed, for each business enterprise, whether there were reasonable grounds to believe it that it was ceasing or was no longer involved in the relevant activity. In that case, the business enterprise was removed from the database.

12. At the conclusion of the process, OHCHR informed all 112 business enterprises in writing of removal or continued inclusion in the database, as applicable.

Updated database

13. Of the 112 business enterprises included in the 2020 database report A/HRC/43/71, OHCHR found reasonable grounds for the removal of 15 business enterprises on basis that they were ceasing or were no longer involved in one or more of the listed activities in the Occupied Palestinian Territory, according to the standard described above. They were, as a result, removed from the updated database set out in Section A below.

14. Where a business enterprise was found to have ceased or to no longer be involved in one or more of the listed activities, its parent company itself, where included in the database based exclusively on its corporate relationship with it, was likewise removed from the updated database. The remaining 97 business enterprises[4] continued to meet the standard of reasonable grounds to believe that they continued to be involved in one or more of the listed activities. They were, as a result, retained in the updated database in Sections B, C or D below.

15. Where formal name and/or State of domicile of a business enterprise changed during the period under review, in absence of reasonable grounds to believe cessation of involvement in one or more listed activities, the new name and/or State of domicile of the business enterprise was used in the updated database in place of original name and/or State of domicile.

A. Business enterprises no longer involved in listed activities:

	Business enterprise	*Sub-paragraph of listed activity (2020 report)*	*State concerned*
1.	Amnon Mesilot Ltd.	(e)	Israel
2.	Ashtrom Properties Ltd	(g)	Israel
3.	Avgol Industries 1953 Ltd.	(g)	Israel
4.	Bank Otsar Ha-Hayal Ltd.	(e), (f)	Israel
5.	Brand Industries Ltd.	(g)	Israel
6.	Citadis Israel Ltd.	(e), (g)	Israel
7.	Darban Investments Ltd.	(g)	Israel
8.	Energix Renewable Energies Ltd.	(g)	Israel
9.	General Mills Inc.	(g)	United States of America
10.	General Mills Israel Ltd.	(g)	Israel
11.	Indorama Ventures P.C.L.	(g)	Thailand
12.	Jerusalem Economy Ltd.	(g)	Israel
13.	Municipal Bank Ltd.	(f)	Israel
14.	Pelegas Ltd.	(g)	Israel
15.	Zorganika Ltd.	(g)	Israel

B. Business enterprises involved in listed activities:

n°	*Business enterprise*	*Sub-paragraph of listed activity*	*State concerned*
1.	Airbnb Inc.	(e)	United States of America
2.	American Israeli Gas Corporation Inc.	(e), (g)	Israel
3.	Amir Marketing and Investment in Agriculture Inc.	(g)	Israel
4.	Amos Hadar Properties and Investments Ltd.	(g)	Israel
5.	Angel Bakeries	(e), (g)	Israel
6.	Archivists Ltd.	(g)	Israel
7.	Ariel Properties Group	(e), (g)	Israel
8.	Ashtrom Industries Ltd.	(g)	Israel
9.	Bank Hapoalim B.M.	(e), (f), (g)	Israel
10.	Bank Leumi Le-Israel B. M.	(e), (f), (g)	Israel
11.	Bank of Jerusalem Ltd.	(e), (f), (g)	Israel
12.	Beit Haarchiv Ltd.	(g)	Israel
13.	Bezeq the Israel Telecommunication Corp. Ltd.	(e), (g)	Israel
14.	Booking.com B. V.	(e)	Netherlands
15.	C Mer Industries Ltd.	(b)	Israel
16.	Café Café Israel Ltd.	(e), (g)	Israel
17.	Caliber 3	(d), (g)	Israel

18.	Cellcom Israel Ltd.	(e), (g)	Israel
19.	Cherriessa Ltd.	(g)	Israel
20.	Chish Nofei Israel Ltd.	(g)	Israel
21.	Comasco Ltd.	(a)	Israel
22.	D.B.S Satellite Services Ltd.[5]	(e)	Israel
23.	Delek Group Ltd.	(e), (g)	Israel
24.	Delta Israel Brands Ltd.[6]	(g)	Israel
25.	Dor Alon Energy in Israel 1988 Ltd.	(e), (g)	Israel
26.	Egis Rail	(e)	France
27.	Egged Transportation Ltd.[7]	(e)	Israel
28.	Electra Afikim[8]	(e)	Israel
29.	EPR Systems Ltd.	(e), (g)	Israel
30.	Extal Ltd.	(g)	Israel
31.	Expedia Group Inc.	(e)	United States of America
32.	Field Produce Ltd.	(g)	Israel
33.	Field Produce Marketing Ltd.	(g)	Israel
34.	First International Bank of Israel Ltd.	(e), (f), (g)	Israel
35.	Galshan Shvakim Ltd.	(e), (d)	Israel
36.	Hadiklaim Israel Date Growers Cooperative Ltd.	(g)	Israel
37.	Hot Mobile Ltd.	(e), (g)	Israel
38.	Hot Telecommunications Systems Ltd.	(e), (g)	Israel
39.	Mivne Real Estate (K.D) Ltd.[9]	(g)	Israel
40.	Israel Discount Bank Ltd.	(e), (f), (g)	Israel
41.	Israel Railways Corporation Ltd.	(g), (h)	Israel
42.	Italek Ltd.	(e), (g)	Israel
43.	J.C. Bamford Excavators Ltd.	(a)	United Kingdom of Great Britain and Northern Ireland
44.	Kavim Public Transportation Ltd.	(e)	Israel
45.	Lipski Installation and Sanitation Ltd.	(g)	Israel
46.	Matrix IT Ltd.	(e), (g)	Israel
47.	Mayer Davidov Garages Ltd.	(e), (g)	Israel
48.	Mekorot Water Company Ltd.	(e), (g)	Israel
49.	Mercantile Discount Bank Ltd.	(e), (f), (g)	Israel
50.	Merkavim Transportation Technologies Ltd.	(e)	Israel
51.	Mizrahi Tefahot Bank Ltd.	(e), (f), (g)	Israel
52.	Modi'in Ezrachi Group Ltd.	(d), (e), (g)	Israel
53.	Mordechai Aviv Tassiot Beniyah 1973 Ltd.	(g)	Israel
54.	Motorola Solutions Israel Ltd.	(e), (d)	Israel
55.	Naaman Group Ltd.	(e), (g)	Israel
56.	Nof Yam Security Ltd.	(e), (d)	Israel
57.	Ofertex Industries 1997 Ltd.	(g)	Israel

[5] Formerly listed as "Yes".
[6] Formerly listed as "Delta Israel".
[7] Formerly listed as "Egged, Israel Transportation Cooperative Society Ltd."
[8] Formerly listed as "Afikim Public Transportation Ltd."
[9] Formerly listed as "Industrial Buildings Corporation Ltd".

58.	Opodo Ltd.	(e)	United Kingdom of Great Britain and Northern Ireland
59.	Partner Communication Company Ltd.	(e), (g)	Israel
60.	Paz Oil Company Ltd.	(e), (g)	Israel
61.	Pelephone Communications Ltd.	(e), (g)	Israel
62.	Proffimat S. R. Ltd.	(g)	Israel
63.	Rami Levy Chain Stores Hashikma Marketing 2006 Ltd.	(e), (g)	Israel
64.	Rami Levy Hashikma Marketing Communications Ltd	(e), (g)	Israel
65.	Re/Max Israel	(e), (g)	Israel
66.	Shalgal Food Ltd.	(g)	Israel
67.	Shapir Engineering and Industry Ltd.	(e), (g)	Israel
68.	Shufersal Ltd.	(e), (g)	Israel
69.	Sonol Israel Ltd.	(e), (g)	Israel
70.	Superbus Ltd.	(e)	Israel
71.	Supergum Industries 1969 Ltd.	(g)	Israel
72.	Tahal Group International B.V.	(e)	Netherlands
73.	TripAdvisor Inc.	(e)	United States of America
74.	Twitoplast Ltd.	(g)	Israel
75.	Unikowsky Maoz Ltd.	(g)	Israel
76.	Zakai Agriculture Know-how and inputs Ltd.	(g)	Israel
77.	ZF Development and Construction	(g)	Israel
78.	ZMH Hammerman Ltd.	(e), (g)	Israel
79.	Zriha Hlavin Industries Ltd.	(g)	Israel

C. Business enterprises involved as parent companies:

n°	*Business enterprise*	*Sub-paragraph of listed activity*	*State concerned*
80.	Alon Blue Square Israel Ltd.	(e), (g)	Israel
81.	Alstom S.A.[10]	(e), (g)	France
82.	Altice International Ltd.[11]	(e), (g)	Luxembourg
83.	Ashtrom Group Ltd.	(g)	Israel
84.	Booking Holdings Inc.	(e)	United States of America
85.	Delta Galil Industries Ltd.	(g)	Israel
86.	eDreams ODIGEO S.A.	(e)	Spain
87.	Egis Group[12]	(e)	France
88.	Electra Group Ltd.[13]	(e), (g)	Israel

[10] "Alstom S.A.", formerly listed as parent of "Citadis Israel Ltd.", is retained in the present update as parent of "Bombardier Transportation Israel Ltd."
[11] Formerly listed as "Altice Europe N.V."
[12] Formerly listed as "Egis S.A."
[13] Formerly listed as "Electra Ltd."

89.	Export Investment Company Ltd.	(e), (f), (g)	Israel
90.	Hadar Group	(g)	Israel
91.	Hamat Group Ltd.	(g)	Israel
92.	Kardan N.V.	(e)	Netherlands
93.	Mayer's Cars and Trucks Co. Ltd.	(e)	Israel
94.	Motorola Solutions Inc.	(e), (d)	United States of America
95.	Natoon Group	(e), (d)	Israel
96.	Villar International Ltd.	(g)	Israel

D. Business enterprise involved as licensors or franchisors:

n°	*Business enterprise*	*Sub-paragraph of listed activity*	*State concerned*
97.	Greenkote P.L.C.	(g)	United Kingdom of Great Britain and Northern Ireland

16. As per paragraph 32 of the 2020 report (A/HRC/43/71), a business enterprise may provide information indicating that it is no longer involved in the relevant listed activity and, should there be reasonable ground to believe that, based on the totality of information available, the business enterprise is ceasing or is no longer involved in the relevant activity, the business enterprise would be removed from the database.

Conclusion

17. In OHCHR's view, the process of preparing the present update has facilitated continuing constructive engagement with business enterprises in particular. The update, in complement with the February 2020 report, serves to promote clarity and transparency with respect to the activities in question, and in turn to assist both Member States and business enterprises in complying with respective obligations and responsibilities applicable under international law.

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ACT Company Investment Exposures

Stock Holdings Identified by OHCHR

ISIN	Company	Shares	Value	Industry	Sub-Industry	ESG Controversies	Reason
IL0006046119	Bank Leumi	57,275	$687,652	Banks	Banks	Yellow Flag	Criticism over commercial involvement in disputed territories (Assessment - Severe)
IL0006954379	Bank Mizrahi Tefahot	4,209	$244,276	Banks	Banks	Yellow Flag	Criticism over commercial involvement in disputed territories (Assessment - Severe)
IL0006912120	Bank Israel Discount	36,479	$272,434	Banks	Banks	Yellow Flag	Criticism over commercial involvement in disputed territories (Assessment - Severe)
IL0006625771	Bank Hapoalim	34,220	$458,203	Banks	Banks	Yellow Flag	Criticism over commercial involvement in disputed territories (Assessment - Severe)
US0090661010	Airbnb Inc	12,984	$2,590,521	Consumer Services	Internet Media & Services	Yellow Flag	Criticism over property listings in Israeli settlements in disputed territories
FR0010220475	Alstom SA	10,447	$205,995	Capital Goods	Railroad Rolling Stock	Yellow Flag	Criticism over commercial involvement in disputed territories (Assessment - Severe)
US09857L1089	Booking Holdings Inc	1,119	$5,817,160	Consumer Services	Internet Media & Services	Yellow Flag	Criticism over property listings in Israeli settlements in disputed territories
US30212P3038	Expedia Group Inc	4,487	$998,141	Consumer Services	Internet Media & Services	Yellow Flag	Criticism over property listings in Israeli settlements in disputed territories
US6200763075	Motorola Solutions Inc	5,048	$2,316,228	Technology Hardware & Equipment	Communications Equipment	Yellow Flag	Criticism over provision of surveillance equipment for Israeli settlements in disputed territories
			$13,590,609				

Airbnb Inc

- Yellow flag
- **MSCI Assessment**: No specific 'involvement in disputed territories' controversy addressed in MSCI assessment
- Issue found in other sources: accusations that the company was benefitting from rentals in the illegal outposts. Airbnb has said it will not accept profits from the area and will instead donate to charity such revenue made. "Airbnb will not move forward with implementing the removal of listings in the West Bank from the platform," the San Francisco-based company said on Tuesday "We will continue to allow listings throughout all of the West Bank, but Airbnb will take no profits from this activity in the region."

Alstom SA

- Yellow flag
- Alstom SA (Alstom), along with other international companies have been criticized by several international human rights nonprofit organizations and multilateral organizations for its role in allegedly enabling the expansion of Israeli settlements in the Palestinian territories, and in particular, its role in the Jerusalem Light Rail intended to link Israeli settlements in East and West Jerusalem
- **MSCI Assessment**: Severe, non-structural, partially concluded

Bank Hapoalim BM

- Yellow flag
- Bank Hapoalim B.M. (Bank Hapoalim) along with several other financial institutions in Israel, has been repeatedly criticized by several international human rights groups and multinational organizations for their alleged role in enabling the expansion of Israeli settlements in Palestinian territories. Since 2010, NGO Who Profits, followed by Human Rights Watch in 2018 and the United Nations Human Rights Council in 2020, have claimed that several Israeli banks, including Bank Hapoalim, were providing services enabling the expansion of Israeli settlements and government projects in disputed territories
- **MSCI Assessment**: Severe, non-structural, ongoing

Bank Leumi Le-Israel BM

- Yellow flag
- Bank Leumi Le Israel B.M. (Bank Leumi) along with several other financial institutions in Israel, has been repeatedly criticized by several international human rights groups and multinational organizations for their alleged role in enabling the expansion of Israeli settlements in Palestinian territories. Since 2010, NGO Who Profits, followed by Human Rights Watch in 2018 and the United Nations Human Rights Council in 2020, have claimed that several Israeli banks,

including Bank Leumi, were providing services enabling the expansion of Israeli settlements and government projects in disputed territories.
- **MSCI Assessment**: Severe, non-structural, ongoing

Booking Holdings Inc
- Yellow flag
- **MSCI Assessment**: No specific 'involvement in disputed territories' controversy addressed in MSCI assessment
- Issue found in other sources: accusations that the company was benefitting from rentals in the illegal outposts.

Expedia Group Inc
- Yellow flag
- **MSCI Assessment**: No specific 'involvement in disputed territories' controversy addressed in MSCI assessment
- Issue found in other sources: accusations that the company was benefitting from hotels, rentals, travel products in the illegal outposts. Note Expedia says "Expedia Group does not operate hotels, vacation rentals or travel products itself. We allow any accommodation provider to sign up to our platform in accordance with laws applicable to Expedia Group".

Israel Discount Bank Ltd
- Yellow flag
- Israel Discount Bank Limited, along with several other financial institutions in Israel, has been repeatedly criticized by several international human rights groups and multinational organizations for their alleged role in enabling the expansion of Israeli settlements in Palestinian territories. Since 2010, NGO Who Profits, followed by Human Rights Watch in 2018 and the United Nations Human Rights Council in 2020, have claimed that several Israeli banks, including Israel Discount Bank Limited, were providing services enabling the expansion of Israeli settlements and government projects in disputed territories.
- **MSCI Assessment**: Severe, non-structural, ongoing

Mizrahi Tefahot Bank Ltd
- Yellow flag
- Mizrahi Tefahot Bank Ltd, along with several other financial institutions in Israel, has been repeatedly criticized by several international human rights groups and multinational organizations for their alleged role in enabling the expansion of Israeli settlements in Palestinian territories. Since 2010, NGO Who Profits, followed by Human Rights Watch in 2018 and the United Nations Human Rights Council in 2020, have claimed that several Israeli banks, including Mizrahi Tefahot Bank Ltd, were providing services enabling the expansion of Israeli settlements and government projects in disputed territories.
- **MSCI Assessment**: Severe, non-structural, ongoing

Motorola Solutions Inc
- Yellow flag

- Motorola Solutions (Motorola), along with other international and Israeli corporations, has been criticized by several international human rights non-governmental organizations (NGOs) and multinational organizations for allegedly enabling the expansion of Israeli settlements in disputed territories and thus impeding a peaceful resolution of the conflict in the region. In June 2023, the Office of the United Nations High Commissioner for Human Rights (OHCHR) updated its database of all businesses involved with Israeli settlements. Motorola Solutions was listed among the companies that: supply security services, equipment and materials to enterprises operating in settlements; provide services and utilities supporting the maintenance and existence of settlements including transport.
- **MSCI Assessment**: Severe, non-structural, ongoing

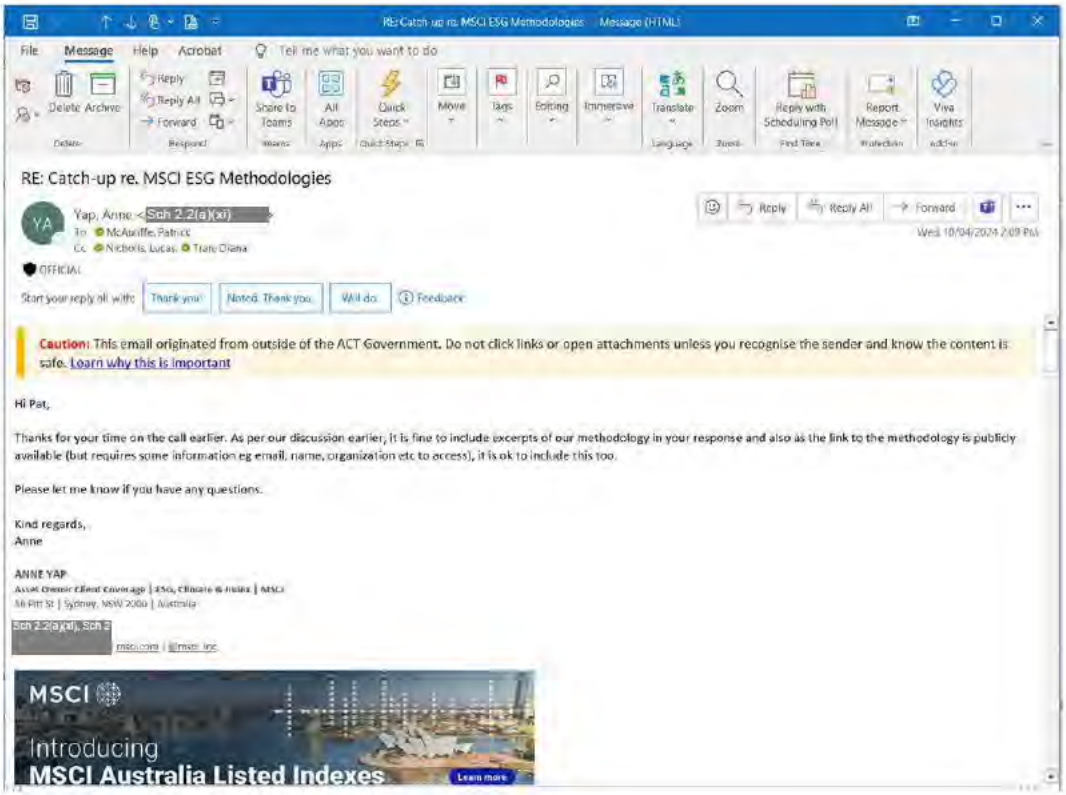
From: McAuliffe, Patrick
Sent: Wednesday, 24 April 2024 11:40 AM
To: Sch 2.2(a)(ii)
Cc: Tran, Diana; Nicholls, Lucas
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

Hi Kerrie and Christine

Below is the confirmation we have received from MSCI about using the publicly available methodology.
What cannot be used is the underlying company research.

We do have the option I guess, if we thought it appropriate or necessary, to have MSCI review the advice as part of the development, however base on the below, I 'm not sure that will be necessary.

Please let us know if you require anything further at this time.
Pat



Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob Sch 2.2(a)(ii) Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

From: Sch 2.2(a)(ii)
Sent: Wednesday, April 24, 2024 11:20 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Christine Cameron <christine@cameronconsult.net.au>
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Pat

To follow up your discussion with Christine re the use of MSCI content in our response, the disclaimer below was the reason for my query, but if you're able to provide the document you have to give us comfort in including the MSCI schematics and definitions that would be great.

This document and all of the information contained in it, including without limitation all text, data, graphs, charts (collectively, the "Information") is the property of MSCI Inc. or its subsidiaries (collectively, "MSCI"), or MSCI's licensors, direct or indirect suppliers or any third party involved in making or compiling any Information (collectively, with MSCI, the "Information Providers") and is provided for informational purposes only. The Information may not be modified, reverse-engineered, reproduced or redisseminated in whole or in part without prior written permission from MSCI. All rights in the Information are reserved by MSCI and/or its Information Providers.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Monday, 22 April 2024 4:25 PM
To: Sch 2.2(a)(ii)
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Kerrie

In terms of timeframe, we certainly have time up our sleeve – I have really just been trying to get on top of this.

- Working backwards we need to have the Treasurer approve the cabinet Submission Exposure Draft by Monday, 8 July
- Between now and then we need to finalise the Board advice to the Treasurer
- We (Tsy) will then prepare on the back of that, the cabinet submission and the Government Response

So we don't need to necessarily rush anything through this week, but a meeting sometime this week would be useful to take stock of thoughts/comments etc

In terms of changing the controversies exclusion target from red to yellow (noting there is an orange in between), the impact on the portfolios would be untenable.

- We can discuss this further once you and Christine have the opportunity to discuss, just being mindful about to what extent the paper focuses on principles, process etc as opposed to actual portfolio implications, individual companies etc.

Sch 2.2(a)(xi), Sch 2.2(a)(xii)

Perhaps once you have had a chance to consult with Christine we can work out a time for a call, if that works this week, else we can lock something in for next week.

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
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220 London Circuit | www.act.gov.au

From: Sch 2.2(a)(ii)
Sent: Monday, April 22, 2024 3:49 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Sch 2.2(a)(ii)
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Pat and team

Thank you for the work you've put into this. I had an initial review of the document last night and think it's coming together well, but will be able to review in more detail tomorrow night. For the Cons section are you able to provide us with the number of stocks that would currently be left (or excluded) if we shift from Very Severe to Severe for our screening.

I'm tied up in a couple of strategy days for one of my boards at the moment and unavailable until Wednesday so hope that suits for a catch-up. I'm wondering whether it might be best if Christine and I have a chat Wednesday morning before a Teams meeting later that day so that we can be clear about how to bring this to completion. (Christine, perhaps let me know your thoughts and availability re this). I'm also available on Friday if necessary but appreciate that's later in the week than you had in mind.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Friday, 19 April 2024 4:11 PM
To: Sch 2.2(a)(ii)
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Christine and Kerrie

I have just uploaded the first working draft advice document for your consideration, review and comments.

I think we are going to need some direction from you about your thoughts as to whether this is meeting the requirements of the TOR and if there are any other items you think should be addressed etc.

If you open the document, you should be taken to a different tab. I have turned track changes on, therefore you should be able to click on reviewing and then open the document in Desktop, where you can work on it.



Please let me know if you have any issues.

Perhaps we can set up a call early next week after you have had the chance to review.

Have a good weekend
Pat

From: McAuliffe, Patrick
Sent: Thursday, April 18, 2024 4:30 PM
To: Sch 2.2(a)(ii)
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Sch 2.2(a)(ii)
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

Hi Christine
The documents I have loaded **are not for editing**, they are simply the background documents to the issue.
We will load a Word Version of the draft Advice we have been working on by end of day tomorrow – we hope.
Let me upload a test word document now, to see if you can edit etc – track changes, insert notes etc.

Test document is uploaded

Pat

From: Sch 2.2(a)(ii)
Sent: Thursday, April 18, 2024 4:14 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Sch 2.2(a)(ii)
Subject: RE: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Patrick,

I have read through the background documents and updated any of the downloads.
I can mark up the documents with rudimentary comments in pen such as how and why but I can't type in any questions or suggestions to the pdfs.
I can also create a new document, but I can't do mark ups on an existing pdf. I assume it will be possible on the word version of the draft advice document.

I am away for a long weekend but will be back on Monday afternoon.
When do we need our comments back to you?

Kind regards,
Christine

Christine Cameron
Sch 2.2(a)(ii)

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, April 17, 2024 3:47 PM
To: Kerrie William Sch 2.2(a)(ii) Christine Cameron Sch 2.2(a)(ii)
Cc: Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: Patrick is inviting you to collaborate on ACT Treasury Investment Advisory Board

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Hi Christine and Kerrie

I refer to the attached emails that you would have received in relation to the separate 'Advice' library we have established on our SharePoint site.

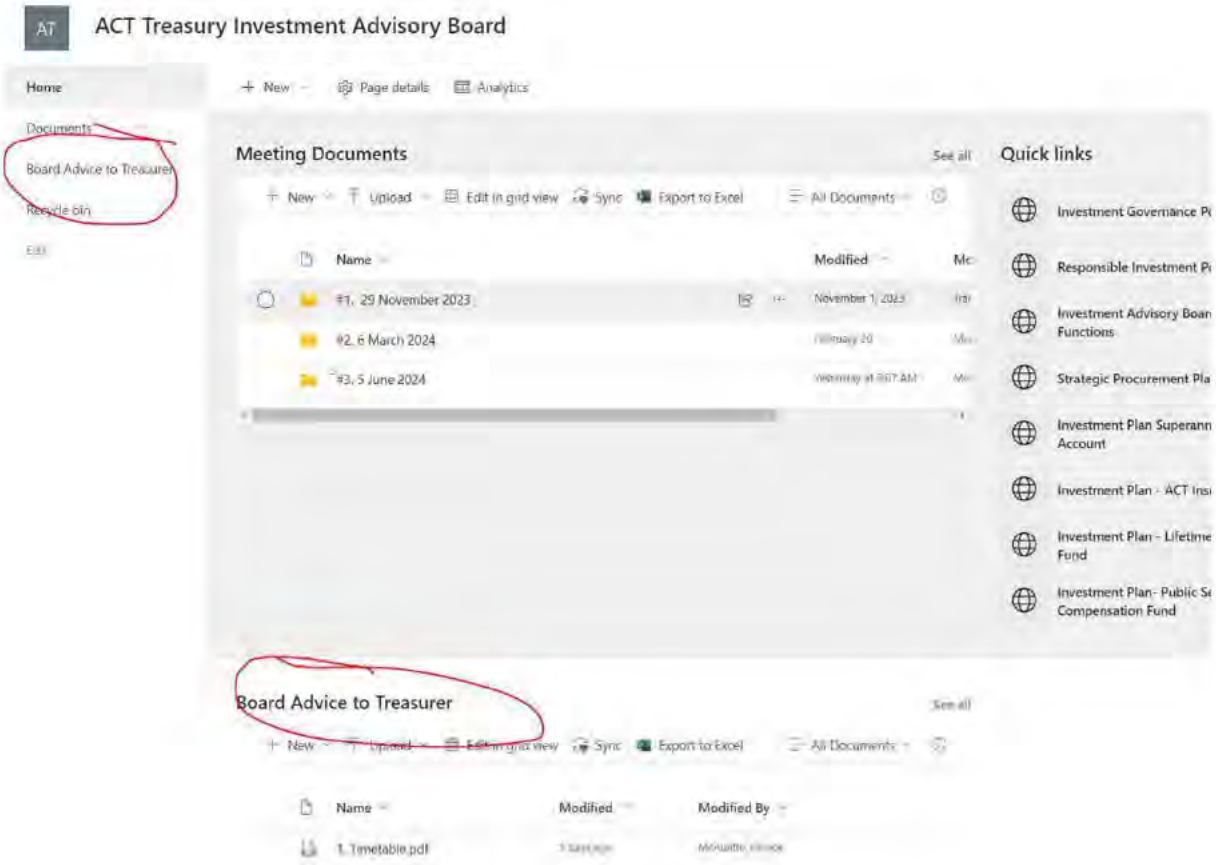
When you have a chance, please let me know that you can see the new Library.

I have put some initial background .pdfs in it so far. We are hoping to have an initial draft word document loaded by the end of the week.

You both should have ***read and write access*** to this site which might make it easier to provide edits and comments to the advice document (ensuring track changes remains on).

Let's touch base once we have a version available.

Kind regards
Pat



Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: [redacted] Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

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ACT Government
Chief Minister, Treasury and Economic Development

INVESTMENT ADVISORY BOARD

Not sure about letterhead?

ADVICE TO THE ACT CHIEF MINISTER & TREASURER, MR ANDREW BARR MLA

LEGISLATIVE ASSEMBLY RESOLUTION OF 7 FEBRUARY 2024

HUMAN RIGHTS INCOMPLIANT COMPANIES DIVESTMENTS'

Working Draft

Ms Christine Cameron
Chair, Investment Advisory Board

Ms Kerrie Williams
Member, Investment Advisory Board

zz May 2024

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1. Executive Summary

1.1 Overall Conclusion

The Investment Advisory Board ("Board") finds that the ESG Controversies research methodologies and rating assessment processes are comprehensive, robust and consistently applied across all listed company investments.

The ongoing listed company ESG Controversies assessments help to identify and exclude investment in companies involved in very severe ESG-related incidents that may impact stakeholders, the environment, company operations and investment sustainability.

The ESG Controversies assessments continue to support portfolio investment decisions and improve portfolio resilience.

1.2 Key Findings

The Government's Responsible Investment policy maintains a comprehensive and dynamic framework that continually monitors and assesses listed companies across a broad and evolving range of business activities and environmental, social and governance ("ESG") risks and ESG-related controversies to reduce financial risks and improve the sustainability of long-term returns.

The framework is supported by established and extensive ESG-related controversy assessment research methodologies and rating processes to allow for the timely and consistent assessment of over 1,600 listed companies in the ACT's allowable investment universe.

The ESG Controversy screen provides ongoing assessments of ESG-related controversies, whether actual or alleged, in which company operations and/or products allegedly have a negative environmental, social and/or governance impact as reported by the media, nongovernmental organisations ("NGOs"), civil society groups, academia, regulators and other stakeholders, including the United Nations Human Rights Office of the High Commissioner and the Human Rights Council Resolutions.

Cases include alleged company violations of existing laws and/or regulations to which they are subject to, or an alleged company action or event that violates commonly accepted international norms and conventions. The policy framework provides a systematic process and set of principles to assist in how investment decisions are facilitated and informed.

The Board acknowledges there will always be diversity of views expressed by stakeholders, other organisation and individuals when assessing company ESG-related controversy severity, impact, accountability and corporate behaviors. However, recognising the multitude of issues associated with any screening policy, individual views and the relative assessment of the degree of severity or impact, consideration of individual investment exclusions outside of the

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ESG-related controversies framework will be inefficient, inconsistent, complicated and not supported by independent research or a robust assessment framework.

1.3 Recommendations

The Board recommends:

1.3.1 maintaining the chosen level of ESG-related controversy severity assessment applied to investment exclusion as this continues to remain balanced, effective and fit for purpose for the Government's Responsible Investment policy framework; and

1.3.2 maintaining the established ESG-related controversy assessment framework which is supported by independent research, clear methodologies and processes, with assessment criteria aligned with accepted international norms and conventions.

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2. Introduction

2.1 Purpose

The purpose of this review by the Investment Advisory Board is to assess the Government's current Responsible Investment policy and the research methodologies supporting the Environmental, Social and Corporate Governance controversy assessments and determine if they remain efficient, effective and fit for purpose.

2.2 Approach

In conducting the review and preparing the advice the Board has had regard to:

a. The ACT Legislative Assembly Resolution (the "Resolution" (**Appendix 1**);
b. The Terms of Reference for the Review;
c. United Nations Human Rights Council ("HRC") (**Appendix 2**);
d. United Nations Office of the High Commissioner for Human Rights ("UNOHCHR") (**Appendix 3**);
e. HRC Resolution 31/36 (**Appendix 4**);
f. Reports of the UNOHCHR (**Appendix 5**);
g. MSCI ESG investment research expertise, products and services; and
h. MSCI's ESG Controversy Methodology and Process policies (MSCI_ESG-and-Climate-Methodologies).

2.3 Terms of Reference

The Investment Advisory Board (the "Board") is requested to provide the Treasurer with advice ("Advice") on the Government's Responsible Investment policy framework in relation to the individual company Environmental, Social and Corporate Governance ("ESG") controversy assessments.

The Advice is to have regard to:

- the *ACT Government's Responsible Investment Policy* (version March 2023);
- the research and methodology policies and frameworks supporting the ESG controversy assessments underpinning the Responsible Investment policy;
- the outcomes under the current Responsible Investment policy settings; and
- the pros and cons of any deviations in the framework by reference to paragraphs 4 and 5 of the Assembly resolution.

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3. ACT Government Investment Framework

3.1 Investment Objective

The purpose and role of the financial investment assets managed by Treasury, for the Government, is to derive competitive financial returns, based on prudent financial and portfolio management principles, within a rigorous investment framework, incorporating Responsible Investment policies.

3.2 Responsible Investment Policy

A key requirement of the Responsible Investment policy framework is to incorporate environmental, social and governance issues/risks into investment analysis and decision-making processes to mitigate investment risks and improve the sustainability of returns over the long term.

The approach in developing and implementing the Responsible Investment policy has been considered and incorporates a comprehensive and dynamic screening framework that continually monitors and assesses companies across a broad and evolving range of business activities, climate change and low carbon transition risks and environmental, social and governance risks and controversies.

The Responsible Investment policy framework excludes investment in companies that are involved in business activities that are seen as harmful to society including:

a. manufacture of tobacco products, such as cigars, blunts, cigarettes, e-cigarettes, inhalers, beedis, kreteks, smokeless tobacco, snuff, snus, dissolvable and chewing tobacco or grow or process raw tobacco leaves;

b. gambling operations where a company derives greater than 10 per cent of revenue through owning or operating gambling facilities such as casinos, racetracks, bingo parlours, or other betting establishments, including horse, dog or other racing events that permit wagering, lottery operations, online gambling, pari-mutuel wagering facilities, bingo, pachislot and pachinko parlours, slot machines, mobile gambling and sporting events that permit wagering;

c. gambling support where are company derives greater than 10 per cent of revenue through providing key products or services fundamental to gambling operations including slot machines, roulette wheels, lottery terminals, gambling technology and support such as IT maintenance, software design, security or surveillance systems and lottery ticket printing and gambling-related services such as credit lines, casino management and consultation;

d. involvement in controversial weapons, comprising cluster munitions, landmines, biological/chemical weapons, depleted uranium weapons, blinding laser weapons, incendiary weapons, and/or non-detectable fragments; and

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e. manufacture of nuclear weapons including warheads and missiles, nuclear components and delivery platforms, or that are involved in the production and/or storage of fissile materials used in/for nuclear weapons, or that provide auxiliary services related to nuclear weapons, such as repair and maintenance.

The Responsible Investment policy framework excludes investment in companies exposed to increased risks from climate change and the transition to a low carbon environment including companies that:

a. own proven fossil fuel reserves including oil and gas and proven or probable coal reserves, including metallurgical and thermal coal reserves;

b. have greenhouse gas emissions (Scope 1&2) greater than 40 million metric tonnes, based on the most recently reported or estimated Scope 1&2 emissions; and

c. have carbon intensity of business operations greater than 3,000 metric tonnes, based on the most recently reported or estimated Scope 1&2 emissions intensity.

The Responsible Investment policy framework also excludes investment in companies exposed to increased environmental, social and governance risks and controversies including companies that:

a. have been assessed as having the highest environmental, social and governance risks, relative to industry peers; and
b. have been assessed as having direct involvement in a very severe ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global norms and conventions.

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4. ESG Controversy Screen and Assessment Framework

4.1 Background

The Policy framework includes the integration of an ESG controversy assessment in relation to the listed company investments.

The framework is supported by established and extensive ESG-related controversy assessment research methodologies and rating processes to allow for the timely and consistent assessment of over 1,600 listed companies in the ACT's allowable investment universe.

The ESG Controversy screen provides timely and consistent assessments of ESG-related controversies, whether actual or alleged. An ESG controversy is defined as either an event or an ongoing situation in which company operations and/or products allegedly have a negative environmental, social and/or governance impact as reported by the media, nongovernmental organisations ("NGOs"), civil society groups, academia, regulators and other stakeholders.

Cases include alleged company violations of existing laws and/or regulations to which they are subject to, or an alleged company action or event that violates commonly accepted international norms and conventions including:

- The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises;
- The United Nations Global Compact Principles;
- The United Nations Guiding Principles on Business and Human Rights;
- The Universal Declaration of Human Rights;
- The International Labour Organisation's conventions;
- The Rio Declaration on Environment and Development; and
- The United Nations Convention against Corruption.

A case can be a single event such as a spill, accident or regulatory action, or a set of closely linked events or allegations such as health and safety fines at the same facility, multiple allegations of anticompetitive behavior related to the same product line, multiple community protests at the same company location, or multiple individual lawsuits alleging the same type of discrimination.

The international norms-based risk assessment considers involvement in one or more very severe ESG controversies related to a company's operations and/or products.

4.2 Methodology Framework

The framework organises ESG controversies within the three main pillars (Environment, Social and Governance) and 28 underlying themes.

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Exhibit 1: MSCI ESG Controversies thematic framework



Source: MSCI ESG-Research-Controversies-Methodology

Each ESG controversy case is assessed for the severity of its impact on society or the environment as Very Severe, Severe, Moderate or Minor, and receives a score based on a combination of the assessed severity of the controversy as well as the assessments of the company's alleged role ('Direct' or 'Indirect') and the status of the case remediation and resolution.

The severity of each case is assessed based on the nature of harm and the alleged scale of impact of the event, practices, products or businesses on the environment, society and economy.

A company's alleged role is considered to have a direct involvement in an ESG controversy if the negative impact is directly attributed to the company's actions, practices, products or businesses, whereby harm could not have happened without such actions or activities.

A company's alleged role is indirect in an ESG controversy if the negative impact may have been facilitated by the company's actions, practices, products or businesses, but the company is not considered as playing a critical or essential role in the ESG controversy.

Each ESG controversy case is monitored on an ongoing basis to determine the status of remediation activities.

4.3 Assessment Process

The controversy assessment identifies and excludes investment where a company is assessed as having a very severe direct ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global conventions and norms.

ESG controversy cases are scored on a combination of Severity, Role and Status. Companies identified to be directly involved in very severe ESG controversies are excluded from investment. The controversy scoring matrix is outlined below.

Exhibit 2: MSCI ESG controversy assessment scoring matrix (effective for controversy cases reviewed after June 20, 2022)

Severity of the case	Company role	Status of the case		
		Ongoing	Partially Concluded	Concluded
Very Severe	Direct	0	1	2
Very Severe	Indirect	1	2	3
Severe	Direct	1	2	3
Severe	Indirect	2	3	4
Moderate	Direct	4	5	6
Moderate	Indirect	5	6	7
Minor	Direct	6	7	8
Minor	Indirect	7	8	9

Source: MSCI ESG-Research-Controversies-Methodology

The scoring matrix results reflect the following assessment:

- Red indicates that a company is directly involved in one or more Very Severe Ongoing controversies.
- Orange indicates that a company has either:
  - Settled most but not all of the stakeholders' concerns related to its direct involvement in one or more Very Severe controversies;
  - Continues to be indirectly involved in one or more Very Severe controversies, or
  - Is directly involved in one or more Severe controversies.
- Yellow indicates that a company either:
  - Has been implicated in one or more Concluded Very Severe or Severe controversies;
  - Has settled most or all of the stakeholders' concerns related to its alleged direct involvement in one or more Severe controversies or indirect involvement in one or more Very Severe controversies, or
  - Continues to be indirectly involved in one or more Severe controversies or directly involved in one or more Moderate controversies.
- Green indicates that a company either:
  - Has fully or partially settled one or more Moderate severity controversies in which it was directly involved,
  - Is indirectly implicated in one or more Moderate controversies,
  - Is either directly or indirectly implicated in one or more Ongoing or Concluded Minor controversies, or

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- Has not been implicated in any controversy.

The assessment framework provides a consistent evaluation of environmental, social and governance-related controversies supported by a structured and transparent process.

The process involves the use of:

- A wide range of source data underpinning the research
  - News media; multilateral and non-governmental organizations (NGOs) press releases and published reports; Government data; and legal materials such as legal journals and court reports
- Ongoing interaction with companies
  - Undertake reviews of annual reports, press releases and securities filings;
  - provide companies with free access to latest ESG controversies reports and invite companies to review publicly available MSCI ESG Controversies and Global Norms Methodology documents and company ESG Controversies;
  - include companies' responses to company ESG Controversies reports shared through publicly available statements as well as through communication with MSCI ESG Research; and respond to company initiated requests.
- Regular case reviews and monitoring
  - Daily monitoring: on a daily basis scan global, regional and national news sources as well as government and NGO reports for significant new ESG controversies or material developments in existing ESG controversies for companies in the coverage universe, with updates to company ESG Controversies reports prioritised according to the severity of ESG controversies and company size.
  - Targeted reviews: ESG controversy cases for which no new information is found via daily monitoring are subject to a scheduled targeted review with the timing of the reviews determined by the Severity assessment level of existing cases.
- Quality review process involving peer review, the MSCI ESG Controversies Methodology Committee ("CMC") and the ESG Assessment Committee ("EAC").
  - The ESG Controversies research process uses a committee structure to provide oversight and governance for the design, calculation and maintenance of ESG Research methodologies.
  - The consistency of ESG controversies assessments and scoring based on MSCI ESG Controversies and Global Norms Methodology is ensured through ongoing peer review and CMC reviews. The CMC has direct oversight of the content of the company ESG Controversies reports and of the consistent application of the methodology.

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- The ESG Methodology Committee ("EMC") oversees and supervises the CMC and is an escalation point for the CMC for subjects related to changes to the ESG Controversies and Global Norms methodology or research process.
- The EAC presides over methodology application cases escalated by the CMC or otherwise critical company-, sovereign- or industry-specific applications of ESG Research methodologies.

Insert some more details about the process from *MSCI ESG Controv & Global Norms Metholgy Process_Aug2023.pdf*

4.4 Summary

The Board finds the ESG Controversy assessment process to be transparent, structured, and evidence-based.

The process involves the use of a wide range of source data underpinning the research, ongoing interaction with companies, regular case reviews and monitoring, and a quality review process involving peer review, the MSCI ESG Controversies Methodology Committee and the ESG Assessment Committee.

The Board considers the research methodologies and rating assessment processes are comprehensive, robust and consistently applied across all listed company investments. The ESG Controversies assessments continue to support portfolio investment decisions and improve portfolio resilience.

5. Current Investment Policy Settings

5.1 ESG Controversy Assessments

The companies identified in the Resolution have been assessed under the ESG Controversies methodology framework as the UNOHCHR previously published a report (A/HRC/43/71) containing a database listing 112 business entities on 12 February 2020.

The Board considers the ESG Controversy rating assessments are consistent with the ESG Controversies methodology framework with the research finding that the highest underlying controversies assessments as Severe and Indirect.

The ESG controversies assessments applying to each of the identified companies is not currently requiring investment exclusion and divestment.

5.2 Outcomes

The Responsible Investment policy incorporates a dynamic policy framework that continually monitors companies across a broad and evolving range of business activities,

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climate change risks and environmental, social and governance risks, issues and controversies.

Approximately 141 listed companies are currently excluded from investment under the policy framework, with over 20 per cent of the market capitalisation of the Australian shares parent index excluded from investment, and over 9 per cent of the market capitalisation of the global developed market shares parent index excluded from investment.

Investment performance of the listed shares portfolio has not been adversely impacted by the investment exclusions and has achieved returns in excess of the parent market indices over the last five years to end December 2023 of 12.6 per cent per annum versus the comparable parent index market return of 12.2 per cent per annum.

The Responsible Investment policy framework is delivering clear and tangible outcomes that are consistent with the Responsible Investment policy objectives.

5.3 Summary

The Board supports the chosen level of ESG-related controversy severity assessment applied to investment exclusion as this continues to remain balanced, effective and fit for purpose for the Government's Responsible Investment policy framework.

The Board acknowledges there will always be diversity of views expressed by stakeholders, other organisations and individuals when assessing company ESG-related controversy severity, impact, accountability and corporate behaviors.

6. ESG Controversies Framework

6.1 Deviations (pros) (heading to be modified)

Recognising the multitude of issues associated with any screening policy, and taking into consideration of individual views and relative assessment of the degree of severity or impact, the Board supports maintaining the current ESG controversies framework.

Using a robust framework, with clear methodologies and processes allows for consistent application of the assessment framework with assessment criteria aligned with accepted international norms and conventions.

The assessments are undertaken by independent research specialists, that are well resourced and able to monitor a vast range of information sources and data efficiently and effectively on an ongoing basis with company assessments regularly reviewed. The comprehensive research coverage encompasses some 12,500 companies globally.

- Global research analysts assess performance, looking for instances where companies are involved in major controversies or have breached the standards set by international bodies.

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- The research process:
  - identifies news-based controversies linked to specific global norms and conventions;
  - Identifies companies which fail a specific set of global norms;
  - Identifies 'watchlist' companies for monitoring purposes; and
  - Uses detailed reports to support engagement activities.

to Insert some more details about the full extent of coverage under MSCI research e.g. 8,500 companies etc (from fact sheets), plus anything else

6.2 Deviations (cons) (heading to be modified)

Deviations away from the ESG controversies framework with ongoing individual company assessments would be complicated, resource-intensive, not cost effective, and would lack accountability, transparency and a clear decision-making framework.

Insert more points: Once of exclusion decisions are not necessarily supported by tangible research and evidence; implementation of exclusions outside the establish framework likely to be administratively inefficient; result in difference between target portfolio policy metric targets and actual exposures

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Appendix 1

ACT Legislative Assembly Resolution

Speaker

Mr Andrew Barr MLA
Treasurer
Legislative Assembly for the ACT
CANBERRA ACT 2601

Dear Treasurer

Human rights incompliant companies—Divestments

At its meeting on Wednesday, 7 February 2024, the Assembly passed the following resolution:

"That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community;

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(g) as individuals and in our collective society we all have responsibility to act with humanity in our actions and reactions;

(h) the conflict in Gaza and Israel has and continues to challenge the commitment to humanity of the actors of this conflict as well as the global community; and

(i) the impacts of the conflict and the decades of struggle that have led to this point are felt deeply in the ACT community;

(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

Legislative Assembly for the Australian Capital Territory | 196 London Circuit, CANBERRA ACT 2601, AUSTRALIA
(+61) 02 6205 0200 · speaker@parliament.act.gov.au · parliament.act.gov.au

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

(a) act with responsibility and thoughtfulness as representatives of the ACT community, to ensure to the best of our ability that all members in our community have their rights upheld, and that our actions serve to alleviate the negative impacts this conflict is having on ACT residents;

(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

(viii) Mizrahi Tefahot Bank Ltd; and

(ix) Motorola Solutions Inc; and

(c) the ACT Government's Responsible Investment Policy of March 2023 includes an Environment, Social and Corporate Governance (ESG) controversy assessment that identifies and excludes investment where a company is assessed as having a very severe ESG controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global norms;

(5) calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories; and

(6) requests that the Speaker convey to the Israeli Embassy and Palestinian General Delegation a copy of this motion on behalf of the Assembly.".

Yours faithfully

Joy Burch MLA
Speaker of the Legislative Assembly
February 2024

Appendix 2

United Nations Human Rights Council (UNHRC)

Source: UNHRC - About-Council

About

- The Human Rights Council is an intergovernmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe and for addressing situations of human rights violations and making recommendations on them. It can discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the United Nations Office at Geneva (UNOG).
- The Council benefits from substantive, technical, and secretariat support from the Office of the High Commissioner for Human Rights (OHCHR).

What is does

- Serves as an international forum for dialogue on human rights issues with UN officials and mandated experts, states, civil society, and other participants;
- Adopts resolutions or decisions during regular sessions that express the will of the international community on given human rights issues or situations. Adopting a resolution sends a strong political signal which can prompt governments to take action to remedy those situations;
- Holds crisis meetings known as special sessions to respond to urgent human rights situations, 36 of which have been held to date;
- Reviews the human rights records of all United Nations Member States via the Universal Periodic Review;
- Appoints the Special Procedures, independent human rights experts who serve as the eyes and ears of the Council by monitoring situations in specific countries or by looking at specific themes; and
- Authorizes commissions of inquiry and fact-finding missions, which produce hard-hitting evidence on war crimes and crimes against humanity.

Working Draft

Appendix 3

United Nations Office of the High Commissioner for Human Rights (UNOHCHR)

Source: UNOHCHR - About-Us

About

- The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) is the leading UN entity on human rights. The OHCHR represents the world's commitment to the promotion and protection of the full range of human rights and freedoms set out in the Universal Declaration of Human Rights.
- Both the High Commissioner and the Office have a unique role to:
  - Promote and protect all human rights;
  - Help empower people;
  - Assist Governments; and
  - Inject a human rights perspective into all UN programmes.

The role of the High Commissioner for Human Rights

- The High Commissioner for Human Rights is the principal human rights official of the United Nations.
- The United Nations High Commissioner for Human Rights is accountable to the Secretary-General and is responsible for all the activities of OHCHR, as well as for its administration.
- The High Commissioner:
  - Carries out the functions specifically assigned to him or her by the General Assembly in its resolution 48/141 of 20 December 1993 and subsequent resolutions of policy-making bodies;
  - Advises the Secretary-General on the policies of the United Nations on human rights;
  - Ensures that support is given to the projects, activities, organs and bodies of the human rights programme;
  - Represents the Secretary-General at meetings of human rights organs and at other human rights events; and carries out special assignments as decided by the Secretary-General.
- In accordance with General Assembly resolution 48/141, the United Nations High Commissioner for Human Rights is appointed by the Secretary-General of the United Nations and approved by the General Assembly, with due regard to geographical rotation for a fixed term of four years with a possibility of one renewal for another fixed term of four years.

Working Draft

Appendix 4

Human Rights Council Resolution 31/36

Source: Human Rights Council Resolution 31/36

Mandate

- On 24 March 2016, at its 31st session, the **Human Rights Council** (HRC) adopted **resolution 31/36** entitled "**Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan**".
    - The HRC is an intergovernmental body, made up of 47 Member States. Resolutions are voted on and adopted by these Member States.
- Paragraph 17 of this resolution requests the United Nations High Commissioner for Human Rights produce a database of all business enterprises engaged in certain Israeli settlement activity in the occupied Palestinian territory, in consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises.

Scope of the Database

- As specified in resolution 31/36, the parameters of the business activities to be reflected in the database are defined by 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 (A/HRC/22/63).
- Paragraph 96 of A/HRC/22/63 reads as follows:
    - 96. Information gathered by the mission showed that business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements. In addition to the previously mentioned violations of Palestinian worker rights, the mission identified several business activities and related issues that raise particular human rights violations concerns. They include:
        - The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures.
        - The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements.
        - The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olives groves and crops.
        - The supply of security services, equipment and materials to enterprises operating in settlements.

Working Draft

- The provision of services and utilities supporting the maintenance and existence of settlements, including transport.
- Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses.
- The use of natural resources, in particular water and land, for business purposes.
- Pollution, and the dumping of waste in or its transfer to Palestinian villages.
- Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.
- 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.

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Appendix 5

Reports of the UNOHCHR in Relation to the Human Rights Council Resolution 31/36

The UNOCCHR has prepared the following reports in relation to the Human Rights Council Resolution 31/36.

- 2018: On 20 March 2018, UNOHCHR published an interim report (A/HRC/37/39), setting out methodology used to discharge the mandate (UNOHCHR Report (A/HRC/37/39))
- 2020: On 12 February 2020, UNOHCHR published a report (A/HRC/43/71) containing a database listing 112 business entities (UNOHCHR Report (A/HRC/43/71))
- 2023: On 30 June 2023, UNOHCHR published an update containing a review of the 112 business entities (UNOHCHR Update Report 30June2023)

Working Draft

From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Nicholls, Lucas; Tran, Diana
Subject: RE: Updating ACT Advice
Date: Monday, 29 April 2024 5:01:00 PM

Very helpful. Thank you!

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

From: Sch 2.2(a)(ii)
Sent: Monday, April 29, 2024 4:24 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Christine Cameron Sch 2.2(a)(ii)
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Updating ACT Advice

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. Learn why this is important

Hi Pat – no pressure!

It was along the lines of: Targeted divestments that are outside the existing framework would allow the ACT Government to actively choose to focus on specific issues or areas of concern on an ad hoc basis. However, in the Board's view, ad hoc deviations present disadvantages from an investment and framework perspective, including a lack of consistency in the approach, reduced transparency, lack of independent research for the decisions taken, difficulty in the application and monitoring of positions and less clarity around the reversal of such decisions.

Or something along those lines.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Monday, 29 April 2024 3:29 PM
To: Christine Cameron Sch 2.2(a)(ii) ; Kerrie Williams Sch 2.2(a)(ii) >
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Subject: RE: Updating ACT Advice

Hi Christine and Kerrie
Thanks for meeting.
As discussed I have sent two placeholder meetings for next week.

Kerrie, any chance you can recall the couple of sentences you spoke to when we were talking about the deviation 'pros' and could email something back

Thanks
Pat

From: Christine Cameron Sch 2.2(a)(ii)
Sent: Friday, April 26, 2024 12:18 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
Cc: Kerrie Williams <Sch 2.2(a)(ii)
Subject: Updating ACT Advice

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I think the document is looking in good shape and think we should be able to finish it next week.

Kind regards,
Christine

Christine Cameron
Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)
Sent: Friday, April 26, 2024 9:22 AM
To: Christine Cameron Sch 2.2(a)(ii)

Subject: RE: ACT Advice

That looks good to me Christine.

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Kind regards
Kerrie

From: Christine Cameron <Sch 2.2(a)(ii)
Sent: Thursday, 25 April 2024 4:35 PM
To: Sch 2.2(a)(ii)
Subject: RE: ACT Advice

Hi Kerrie,

You have done a great job on the document. I think you have provided a direct linkage between the terms of reference and the advice which is what I was concerned about. I added the odd sentence here and there but nothing substantial until I got to the Pros and Cons section.

I agree we don't have any positives. I tried to suggest that while the pros may appear to be quick and simple there would be unintended consequences that would be unacceptable from an investment perspective and that is what the IAB must ultimately be focussed on. I did say if the ESG Controversy changed for any of the nine companies to a red flag then we would exclude. I am not sure what other concessions we can make.

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Once again, many thanks.

Kind regards,
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Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)
Sent: Thursday, April 25, 2024 12:22 AM
To: Christine Cameron Sch 2.2(a)(ii)
Subject: ACT Advice

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From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Nicholls, Lucas; Tran, Diana
Subject: RE: Updating ACT Advice
Date: Monday, 29 April 2024 3:49:00 PM

Hi again Christine and Kerrie

I have reworked sections 6.1 and 6.2.

- Be grateful if you could have a look and make any updates as you see fit/appropriate.

As discussed we will add some further information (examples) in relation to red, orange and yellow flags (section 4.3) to try and better highlight the differences between these levels.
We will then undertake some internal consultation and revert.

Thanks and regards
Pat

From: McAuliffe, Patrick
Sent: Monday, April 29, 2024 3:29 PM
To: Christine CameronSch 2.2(a)(ii)
Cc: Nicholls, Lucas <Lucas.Nicholls@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>
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Cc: Kerrie Williams Sch 2.2(a)(ii)
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Christine

Christine Cameron
Sch 2.2(a)(ii)
[redacted]

From: Sch 2.2(a)(ii) [redacted]
Sent: Friday, April 26, 2024 9:22 AM
To: Christine CameronSch 2.2(a)(ii)
Subject: RE: ACT Advice

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To: Sch 2.2(a)(ii) [redacted]
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Sch 2.2(a)(ii) [redacted]

From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Nicholls, Lucas; Tran, Diana
Subject: RE: Updating ACT Advice
Date: Monday, 29 April 2024 5:22:00 PM

Hi Christine and Kerrie
I have updated:

- section 4.3, sub-point a.
  - have added a point about the red flag being: "*Businesses that are directly complicit in alleged violence, human rights abuses or human rights violations*"
- section 5.3
  - modified a sentence to include "*Businesses that are directly complicit in alleged violence, human rights abuses or human rights violations*"
- sections 6.1, 6.2 and 6.3
  - reworked this, including Kerrie suggested text

Let me know if there is anything else at this time, otherwise I will have reviewed internally (still as a draft) before we start moving toward a more final document
Thanks
Pat

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Sch 2.2(a)(ii)
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Kerrie Williams
Sch 2.2(a)(ii) [redacted]

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From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Campbell, Russ; Tran, Diana; Nicholls, Lucas
Subject: RE: Updating ACT IAB Advice
Date: Thursday, 23 May 2024 2:26:00 PM

Thank you Kerrie.
Please note I have also made a small amendment to the Cover Letter for consideration.
Kind regards
Pat

From: Sch 2.2(a)(ii)
Sent: Thursday, May 23, 2024 2:11 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Christine Cameron Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

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Hi Pat

I think this has come together well and am happy to support this version.

I've made three minor edits in section 4.2 so that headings match the schematic, but otherwise have no further comments.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, 22 May 2024 10:14 AM
To: Kerrie Williams Sch 2.2(a)(ii) ; Christine Cameron Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

OFFICIAL

Hi Kerrie and Christine
Final draft version (in word and .pdf format) for your final proof read.
n. IAB Advice to Treasurer - FinalDraft 22.05.2024
thanks

Pat

From: Sch 2.2(a)(ii)
Sent: Tuesday, May 21, 2024 8:24 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Christine Cameron Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

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Hi Pat

I think that's a good suggestion and agree with making that change. It also means the red/yellow flag descriptors then appear before this passage of text providing some context.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Tuesday, 21 May 2024 9:34 AM
To: Christine Cameron Sch 2.2(a)(ii) ; Kerrie Williams Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

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Hi everyone

I have completed a full review of current draft, therefore a clean version now in sharepoint.

I only have one question for consideration and have left a comment in the draft in relation to the placement of the text around the impact of changing from red to yellow for views:

- Section 3.2 discusses the current Responsible Investment Policy - simply a factual summary.
- This is where the additional text has been included about a broad change to controversy target (red to yellow) and the impact.
- I am thinking the highlighted text (in that section) might be better placed later in the document under section 5 which deals with *Outcomes Under the Current Responsible Investment Policy Settings*, under a new sub-heading 5.2 along the lines of *'potential alternate policy settings'*?

- On reflection is just seem to be out of place where currently located

Appreciate thoughts and I can amend appropriately.

Thanks
Pat

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To: Christine Cameron Sch 2.2(a)(ii) ; Kerrie Williams Sch 2.2(a)(ii)
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Subject: Re: Updating ACT IAB Advice

Thanks Kerrie
The draft you have reviewed has all data updated to 31 March.
I will complete a full proof review next and then advise.
Kind regards
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Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Sch 2.2(a)(ii) | patrick.mcauliffe@act.gov.au |
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic a Development Directorate| ACT Government

Level 1 220 London Circuit | Box 158 Canberra ACT 2601 | www.act.gov.au

---

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Once Kerrie has a chance to review this current version I will then tidy everything up so there is a clean version and we will then work out next steps.

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Christine Cameron
Sch 2.2(a)(ii)

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Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
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OFFICIAL

Hi Christine and Kerrie

Further to below, the current draft working version has some further suggested edit (working version dated 20 May).

Look forward to your feedback.

Feel free to accept changes and/or amend as you review.

Kind regards
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Subject: RE: Updating ACT IAB Advice

Hi Christine and Kerrie
See my comments following:

I agree with Kerrie's comments on diversification/ risk and lower investment outcomes. Noted

I am not sure what we should call UN OHCHR are they a regulator or other? I recall Russ said they are not an NGO. How does the MSCI frame the organisations they survey such as the OECD and UN? We will review the relevant text against the MSCO methodology and update as required.

I thought there was a sentence on pg 12 that was incomplete. I have suggested a change but please ensure I have not changed the meaning. Please see relevant extract from the 2023 report below, highlighted sentence is relevant.

I am happy for you to update to March data as long as it is consistent with the other data in the document. Yes, that is the reason for the update to ensure consistency. We will update as required.

5. To prepare the present update, OHCHR reviewed the 112 business enterprises listed in its February 2020 report (A/HRC/43/71). Its scope encompasses re-assessment, on the basis of

information available to OHCHR, of the situation of these business entities in relation to their structure, ownership, and operations as relevant to their involvement in relevant listed activities from 1 August 2019 through 31 December 2022. Accordingly, the present update does not purport to provide a complete list of business enterprises engaged in certain activities in relation to Israeli settlement activity in the Occupied Palestinian Territory.

9. For purposes of the present update, OHCHR analysed information received from the business enterprises themselves in response to OHCHR's communication to each of the 112 entities listed in the database, which was taken into consideration, as well as publicly available information, including business enterprises' own websites and resources, and reports by the United Nations, civil society organizations (Israeli, Palestinian and international) and media sources. OHCHR updated the Working Group on the issue of human rights and transnational corporations and other business enterprises with respect to conceptual and methodological matters. The determinations as to individual entities in this update are OHCHR's alone. With respect to the 112 business enterprises listed in the February 2020 report, OHCHR sent each entity a letter in July 2022, informing as to the review of the database and inviting provision of any further relevant information as to their structure, ownership or involvement with the listed activities, within a period of 60 days.

10. In response to these letters, 13 of the 112 business enterprises responded. Responses from business enterprises included one or more of the following general approaches: (a) request to be removed from the database; (b) provision of updated information indicating that an entity was ceasing or no longer involved in one or more of the listed activities; (c) confirmation of an entity's involvement in one or more of the listed activities; (d) objection to the mandate of OHCHR to perform such a function; (d) refusal to provide a substantive response to the invitation presented; and/or (e) enquiries about the mandate and/or process of update. OHCHR responded to all queries. In some cases, processes of dialogue developed between OHCHR and the business enterprises. Direct communication facilitated exchange of information and offered business enterprises the opportunity to share further views and provide more information on their extent of involvement in the listed activities. In some cases, business enterprises failed to respond entirely.

11. Based on the totality of the information available to it, OHCHR assessed, for each business enterprise, whether there were reasonable grounds to believe it that it was ceasing or was no longer involved in the relevant activity. In that case, the business enterprise was removed from the database.

12. At the conclusion of the process, OHCHR informed all 112 business enterprises in writing of removal or continued inclusion in the database, as applicable.

13. Of the 112 business enterprises included in the 2020 database report A/HRC/43/71, OHCHR found reasonable grounds for the removal of 15 business enterprises on basis that they were ceasing or were no longer involved in one or more of the listed activities in the Occupied Palestinian Territory, according to the standard described above. They were, as a result, removed from the updated database set out in Section A below.

Kind regards
Pat

From: Christine Cameron Sch 2.2(a)(ii)
Sent: Wednesday, May 15, 2024 10:25 AM
To: Kerrie Williams Sch 2.2(a)(ii) ; McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
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I thought there was a sentence on pg 12 that was incomplete. I have suggested a change but please ensure I have not changed the meaning.
I am happy for you to update to March data as long as it is consistent with the other data in the document.

Kind regards,
Christine

Christine Cameron
Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)
Sent: Monday, May 13, 2024 10:51 PM
To: 'McAuliffe, Patrick' <Patrick.McAuliffe@act.gov.au>; Christine Cameron Sch 2.2(a)(ii)
Cc: 'Campbell, Russ' <Russ.Campbell@act.gov.au>; 'Tran, Diana' <Diana.Tran@act.gov.au>; 'Nicholls, Lucas' <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

Hi Pat/Christine

I've marked up some (mostly minor) changes to the document and included a couple of comments for consideration. Let me know if you have any questions.

I think it would be good to update any data to end March, although obviously checking that any commentary on the data remains appropriate.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Monday, 13 May 2024 12:10 PM
To: Kerrie Williams Sch 2.2(a)(ii) >; Christine Cameron Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

OFFICIAL

Hi Christine and Kerrie
Thanks for your time this morning.

As discussed, I have cleaned up the current working draft version of the document for your further review and any comments.

Would you like us to update any references that we have to numbers of current exclusions, potential impact and performance history to end-March 2024?

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

-----Original Appointment-----
From: McAuliffe, Patrick
Sent: Monday, April 29, 2024 3:26 PM
To: McAuliffe, Patrick; Sch 2.2(a)(ii) ; Christine Cameron
Cc: Campbell, Russ; Tran, Diana
Subject: Updating ACT IAB Advice [placeholder]
When: Monday, 13 May 2024 11:15 AM-11:45 AM (UTC+10:00) Canberra, Melbourne, Sydney.
Where: Microsoft Teams Meeting

Microsoft Teams Need help?

Join the meeting now

Dial-in by phone

+61 2 8318 0090,,931470719# Australia, Sydney

Find a local number

Phone conference ID: 931 470 719#

For organizers: Meeting options | Reset dial-in PIN



Org help | Privacy and security

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From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Cc: Campbell, Russ; Tran, Diana; Kerrie Williams; Nicholls, Lucas
Subject: RE: Updating ACT IAB Advice -- FINAL
Date: Wednesday, 29 May 2024 9:33:00 AM
Attachments: image001.jpg

Hi Christine
I think electronic signature is fine.
I would suggest inserting signatures into the word document and then saving that as a .pdf. Just means your signature is then properly embedded into the final .pdf document, not just an image which can be lifted.
And yes, email to the addresses on the cover letter.
Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

From: Christine Cameron Sch 2.2(a)(ii) >
Sent: Wednesday, May 29, 2024 9:21 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Kerrie Williams Sch 2.2(a)(ii) >; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice -- FINAL

OFFICIAL: Sensitive

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Thanks Patrick for all your work.

I will have a better look at this tomorrow and try and coordinate with Kerrie for sign off.
I am assuming that we use an electronic signature on the pdf version and then email the signed letter and dated advice to the Treasurer. Is the word version just for filing?

Kind regards,
Christine

Christine Cameron
Sch 2.2(a)(ii)

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Wednesday, May 29, 2024 8:58 AM
To: Christine Cameron Sch 2.2(a)(ii) ; Kerrie Williams Sch 2.2(a)(ii)
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice -- FINAL
Importance: High

OFFICIAL: Sensitive

Morning Christine and Kerrie

Just to let you know we have completed our proof review of the advice document and cover letter.

Subject to any last minute changes you would like, we advise the versions (word and .pdf) in the Sharepoint folder are final and are essentially now in your hands to sign (cover letter) and date (advice) and respond to the Treasurer.

Please let me know if you would like to discuss or require any clarification.

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) | Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

From: Christine Cameron Sch 2.2(a)(ii)
Sent: Friday, May 24, 2024 10:04 AM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Kerrie Williams Sch 2.2(a)(ii) ; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

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Hi Pat,

I've completed a full review of the advice and cover letter and agree with the final changes of flag descriptors being moved to the outcomes section. I think the document needs some final formatting but the content provides a well-reasoned and logical argument for leaving the Responsible Investment Policy as is and not making any divestments. I hope it persuades the Legislative Assembly.
Many thanks to you and the team for all their work.

Kind regards,
Christine

Christine Cameron
Sch 2.2(a)(ii)
[redacted]

From: Sch 2.2(a)(ii) [redacted]
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5. To prepare the present update, OHCHR reviewed the 112 business enterprises listed in its February 2020 report (A/HRC/43/71). Its scope encompasses re-assessment, on the basis of information available to OHCHR, of the situation of these business entities in relation to their structure, ownership, and operations as relevant to their involvement in relevant listed activities from 1 August 2019 through 31 December 2022. Accordingly, the present update does not purport to provide a complete list of business enterprises engaged in certain activities in relation to Israeli settlement activity in the Occupied Palestinian Territory.

9. For purposes of the present update, OHCHR analysed information received from the business enterprises themselves in response to OHCHR's communication to each of the 112 entities listed in the database, which was taken into consideration, as well as publicly available information, including business enterprises' own websites and resources, and reports by the United Nations, civil society organizations (Israeli, Palestinian and international) and media sources. OHCHR updated the Working Group on the issue of human rights and transnational corporations and other business enterprises with respect to conceptual and methodological matters. The determinations as to individual entities in this update are OHCHR's alone. With respect to the 112 business enterprises listed in the February 2020 report, OHCHR sent each entity a letter in July 2022, informing as to the review of the database and inviting provision of any further relevant information as to their structure, ownership or involvement with the listed activities, within a period of 60 days.

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11. Based on the totality of the information available to it, OHCHR assessed, for each business enterprise, whether there were reasonable grounds to believe it that it was ceasing or was no longer involved in the relevant activity. In that case, the business enterprise was removed from the database.

12. At the conclusion of the process, OHCHR informed all 112 business enterprises in writing of removal or continued inclusion in the database, as applicable.

13. Of the 112 business enterprises included in the 2020 database report A/HRC/43/71, OHCHR found reasonable grounds for the removal of 15 business enterprises on basis that they were ceasing or were no longer involved in one or more of the listed activities in the Occupied

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Christine Cameron
Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii)
Sent: Monday, May 13, 2024 10:51 PM
To: 'McAuliffe, Patrick' <Patrick.McAuliffe@act.gov.au>; Christine Cameron Sch 2.2(a)(ii)
Cc: 'Campbell, Russ' <Russ.Campbell@act.gov.au>; 'Tran, Diana' <Diana.Tran@act.gov.au>; 'Nicholls, Lucas' <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

Hi Pat/Christine

I've marked up some (mostly minor) changes to the document and included a couple of comments for consideration. Let me know if you have any questions.

I think it would be good to update any data to end March, although obviously checking that any commentary on the data remains appropriate.

Kind regards
Kerrie

From: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Sent: Monday, 13 May 2024 12:10 PM
To: Kerrie Williams Sch 2.2(a)(ii) Christine Cameron Sch 2.2(a)(ii) >
Cc: Campbell, Russ <Russ.Campbell@act.gov.au>; Tran, Diana <Diana.Tran@act.gov.au>; Nicholls, Lucas <Lucas.Nicholls@act.gov.au>
Subject: RE: Updating ACT IAB Advice

OFFICIAL

Hi Christine and Kerrie
Thanks for your time this morning.

As discussed, I have cleaned up the current working draft version of the document for your further review and any comments.

Would you like us to update any references that we have to numbers of current exclusions, potential impact and performance history to end-March 2024?

Kind regards
Pat

Patrick McAuliffe | Executive Branch Manager
Phone: 02 6207 0187 | Mob: Sch 2.2(a)(ii) Email: patrick.mcauliffe@act.gov.au
Investments & Borrowings | Treasury | Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
220 London Circuit | www.act.gov.au

-----Original Appointment-----
From: McAuliffe, Patrick
Sent: Monday, April 29, 2024 3:26 PM
To: McAuliffe, Patrick; Sch 2.2(a)(ii) ; Christine Cameron
Cc: Campbell, Russ; Tran, Diana
Subject: Updating ACT IAB Advice [placeholder]
When: Monday, 13 May 2024 11:15 AM-11:45 AM (UTC+10:00) Canberra, Melbourne, Sydney.

Where: Microsoft Teams Meeting

Microsoft Teams [Need help?]

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From: McAuliffe, Patrick
To: Sch 2.2(a)(ii)
Subject: FW: Trial send of IAB Advice and Cover Letter
Date: Thursday, 30 May 2024 12:39:00 PM
Attachments: Duplicate
n. IAB Advice to Treasurer - Final 30.05.2024.pdf

Hi Christine
Looks good.
I made a small amend in the cover letter – just realigned Kerrie's name under her signature.
I have also password protected both documents so they cannot be edited without password access.
Password is IAB_Advice
Kind regards
Pat

From: Christine Cameron Sch 2.2(a)(ii) >
Sent: Thursday, May 30, 2024 12:29 PM
To: McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Kerrie Williams Sch 2.2(a)(ii)
Subject: Trial send of IAB Advice and Cover Letter

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Hi Pat and Kerrie,
Can you check how the pdf versions of our precious document emails?
Finally I was going to re-copy the following paragraph to the Treasurer. Do I use "Yours sincerely" to finish an email?
Christine

Dear Chief Minister & Treasurer

Legislative Assembly Resolution in relation to the Territory's investment exposures and current Responsible Investment Policy settings

Thank you for your letter of 4 April 2024 advising of the ACT Legislative Assembly's Resolution (attached) calling on the Investment Advisory Board (the "Board") to provide you with advice about the Government's Responsible Investment Policy framework in relation to Environmental, Social and Corporate Governance controversy assessment considerations, including in relation to the pros and cons of any deviations in the framework, by reference to paragraphs 4 and 5 of the Resolution in relation to the occupation of Palestinian territories.

Please find our advice attached which we have prepared on the basis that it will be considered by Cabinet and will potentially be publicly released.

Yours sincerely,
Christine Cameron

Christine Cameron
Sch 2.2(a)(ii)
[redacted]

From:	Sch 2.2(a)(ii)
To:	BARR; CMCDDLO@act.gov.a
Cc:	McAuliffe, Patrick; Sch 2.2(a)(ii)
Subject:	Advice from IAB on the Government"s Responsible Investment Policy Framework in relation to ESG controversy assessments
Date:	Thursday, 30 May 2024 2:38:39 PM
Attachments:	image001.png Duplicate n. IAB Advice to Treasurer - Final 30.05.2024.pdf
Importance:	High

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Dear Mr Barr MLA,

Thank you for your letter of 4 April 2024 advising of the ACT Legislative Assembly's Resolution calling on the Investment Advisory Board (IAB) to provide you with advice about the Government's Responsible Investment Policy framework in relation to Environmental, Social and Corporate Governance (ESG) controversy assessment considerations, including in relation to the pros and cons of any deviations in the framework, by reference to paragraphs 4 and 5 of the Resolution in relation to the occupation of Palestinian territories.

Please find our advice and a cover letter attached which we have prepared on the basis that it will be considered by Cabinet and will potentially be publicly released.

Yours sincerely,

Christine Cameron
Sch 2.2(a)(ii)

ACT Government
Chief Minister, Treasury and Economic Development

INVESTMENT ADVISORY BOARD

Mr Andrew Barr, MLA
Treasurer
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

By email: barr@act.gov.au
CMCDDLO@act.gov.au

Dear Chief Minister & Treasurer

Legislative Assembly Resolution in relation to the Territory's investment exposures and current Responsible Investment Policy settings

Thank you for your letter of 4 April 2024 advising of the ACT Legislative Assembly's Resolution (attached) calling on the Investment Advisory Board (the "Board") to provide you with advice about the Government's Responsible Investment Policy framework in relation to Environmental, Social and Corporate Governance controversy assessment considerations, including in relation to the pros and cons of any deviations in the framework, by reference to paragraphs 4 and 5 of the Resolution in relation to the occupation of Palestinian territories.

Please find our advice attached which we have prepared on the basis that it will be considered by Cabinet and will potentially be publicly released.

Please advise us if you or your Office would like any clarification or additional information.

Thank you for the opportunity to assist you with this matter.

Yours sincerely,

Sch 2.2(a)(ii)

Ms Christine Cameron
Chair, Investment Advisory Board
Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Ms Kerrie Williams Member,
Investment Advisory Board
Sch 2.2(a)(ii)

30 May 2024

ACT Government

Andrew Barr MLA
Chief Minister
Treasurer
Minister for Climate Action
Minister for Trade, Investment and Economic Development
Minister for Tourism

Member for Kurrajong

High Commissioner Volker Türk
United Nations High Commissioner for Human Rights
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva 10, Switzerland

Dear High Commissioner Türk

I am writing to you regarding the database your office has prepared, relating to business enterprises engaged in certain Israeli settlement activity in occupied Palestinian Territory. As Chief Minister and Treasurer of the Australian Capital Territory, my Government established a Responsible Investment Policy framework that continually monitors and assesses listed companies across a broad and evolving range of business activities and environmental, social and governance ("ESG") risks and ESG-related controversies.

In regognition of the limitation of ESG screening tools, my Government has undertaken to consider the divestment of ACT Government investment funds in companies captured by your database. I understand that the database was created following a resolution of the UN on 24 March 2016, requiring the Office of the High Commissioner for Human Rights to prepare the database, with annual updates.

Given the depth of analysis undertaken in the preparation of this database, and its subsequent updates, the database appears to provide a potentially reliable ongoing source of information on business enterprises engaged in Israeli settlement activity, that may be of use in the context of the ACT Government's Responsible Investment Policy Framework.

I understand that recent updates have proceeded with some uncertainty regarding future updates and ongoing funding for the database's maintenance. In this regard, I was hopeful that I

might be able to inform ACT Government Officials regarding your expectations around two issues to facilitate their consideration of the use of your database as part of the ACT Government's Responsible Investment Policy, namely:

1) Are there any planned future updates to the database, and if so, their frequency (eg, annual public releases, or *ad hoc* public updates)?; and
2) Is the research and methodology underpinning the database likely to change, and are business enterprises monitored between public updates?

I would like to congratulate your office on the efforts taken to date on this database, and would appreciate any advice you may be able to provide on these matters.

If it is suitable to you, I would like to nominate my Under Treasurer, Mr Stuart Hocking as an officials-level contact. Mr Hocking can be contacted at stuart.hocking@act.gov.au should you or your office require any further clarification of these questions.

I have also provided a copy of this letter to the Australian Minister for Foreign Affairs, Senator the Hon Penny Wong.

Yours sincerely

Andrew Barr MLA
Chief Minister of the Australian Capital Territory
26 July 2024

From:	Cameron, Susan
To:	Sch 2.2(a)(ii)
Cc:	Birkett, Joice; Cameron, Susan; Hocking, Stuart; Campbell, Russ; McAuliffe, Patrick
Subject:	RE: Request for Assistance - Permanent Mission to the United Nations Office and other international organizations in Geneva [SEC=UNOFFICIAL]
Date:	Wednesday, 14 August 2024 4:29:56 PM
Attachments:	image001.jpg image002.png

UNOFFICIAL

Sch 2.2(a)(ii),

Good afternoon.

With regard to the below emails, could you please contact Joice Birkett, EA to the Under Treasurer (joice.birkett@act.gov.au) to set up a mutually convenient time.

Kind regards
Susan

From: Sch 2.2(a)(ii)
Sent: Wednesday, August 14, 2024 4:02 PM
To: Campbell, Russ <Russ.Campbell@act.gov.au>
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>; Sch 2.2(a)(ii)
Subject: RE: Request for Assistance - Permanent Mission to the United Nations Office and other international organizations in Geneva [SEC=UNOFFICIAL]

UNOFFICIAL

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Dear Russ

Thank you for your email. We'd be happy to arrange a phone call. My assistant Sch 2.2(a)(ii), copied in, will be in touch to find a suitable time.

Kind regards
Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

Ambassador for Human Rights/Assistant Secretary Human Rights Branch
Multilateral Policy and Human Rights Division
Department of Foreign Affairs and Trade
Sch 2.2(a)(ii) | Sch 2.2(a)(ii)
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We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

From: Campbell, Russ <Russ.Campbell@act.gov.au>
Sent: Monday, August 12, 2024 3:22 PM
To: Sch 2.2(a)(ii)
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; McAuliffe, Patrick <Patrick.McAuliffe@act.gov.au>
Subject: Request for Assistance - Permanent Mission to the United Nations Office and other international organizations in Geneva

UNOFFICIAL

Good afternoon Sch 2.2(a)(ii) . Firstly apologies for emailing cold on this, but I thought it would be the best approach initially.

Following consultation with the Office of the Foreign Minister, Senator the Hon Penny Wong, the Chief Minister of the Australian Capital Territory, Mr Andrew Barr, recently wrote to High Commissioner Volker Türk,
United Nations High Commissioner for Human Rights regarding a request for further information on the OHCHR database prepared as a result of a Human Rights Council resolution 31/36 entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan".
The adopted resolution requested that the United Nations High Commissioner for Human Rights produce a database of all business enterprises engaged in certain Israeli settlement activity in the occupied Palestinian Territory.

The Chief Minister wrote the attached letter seeking further information, and requested that we follow-up with Australian Government officials to help facilitate further engagement with the OHCHR.

I was hoping I could possibly speak to either of you briefly on this, to discuss any appropriate next steps through the Australian Government and our Permanent Mission in Geneva. I have copied the Under Treasurer, Mr Stuart Hocking into this correspondence, as well as Patrick McAuliffe who is leading our work on our Responsible Investment Policy Frameworks.

Regards
Russ

Russ Campbell
Deputy Under Treasurer
Budget, Procurement ACT, Investments & Borrowing, and Shared Services Finance
Chief Minister, Treasury and Economic Development Directorate
Ph:Sch 2.2(a)(ii)
220 London Circuit | GPO Box 158 Canberra ACT 2601 | www.act.gov.au



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From: Birkett, Joice
To: Sch 2.2(a)(ii)
Subject: RE: Organising call with Ambassador for Human Rights. [SEC=OFFICIAL]
Date: Thursday, 15 August 2024 2:12:39 PM
Attachments: image002.png
image003.png

OFFICIAL

Good afternoon Sch 2.2(a)(ii)

Thank you for your email.

Mr Hocking, Mr Campbell and Mr McAuliffe will be available on Wednesday, 21 August at 3.00-3.30pm.

Can you please let me know your preference for the meeting format. Would you prefer to meet via Webex or Microsoft Teams.

I look forward to your response.

Kind regards
Joice

Joice Birkett
Executive Assistant to **Stuart Hocking PSM, Under Treasurer**
Phone: +61 2 6207 0261 | Email: joice.birkett@act.gov.au
Office of The Under Treasurer| Chief Minister, Treasury and Economic Development Directorate| **ACT Government**
Level 1, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Sch 2.2(a)(ii)
Sent: Thursday, August 15, 2024 1:09 PM
To: Birkett, Joice <Joice.Birkett@act.gov.au>
Subject: Organising call with Ambassador for Human Rights. [SEC=OFFICIAL]

You don't often get email from Sch 2.2(a)(ii) Learn why this is important

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OFFICIAL

Dear Joice,

I hope you are having a good day today,

I am contacting you to organise a time for a phone call between the Ambassador for Human Rights, Sch 2.2(a)(ii) and Mr Russ Campbell, Mr Stuart Mr Hocking and Patrick McAuliffe.

Would you please suggest some available time slots next week? Sch 2.2(a)(ii) has very good availability on Wednesday 21, Thursday 22 and Friday 23 August.

Looking forward to hearing from you,

Regards

Sch 2.2(a)(ii)

Corporate Support Officer
Multilateral Policy and Human Rights Division, MPD
Department of Foreign Affairs and Trade
P: Sch 2.2(a)(ii) | Sch 2.2(a)(ii)

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Chief Minister, Treasury and Economic Development Directorate

To:	Treasurer	**Tracking No.: CMTEDD2024/2534**
Date:	07/08/2024	
From:	Executive Branch Manager, Investments & Borrowings	
Subject:	Cabinet Business Paper – Government Response to Assembly Resolution 'Human Rights Incompliant Companies – Divestments'	
Critical Date:	16/08/2024	
Critical Reason:	Lodgement of the Cabinet Business Paper with the Cabinet Office is due by 10am Friday, 16 August 2024 to meet scheduled Cabinet Meeting on Monday, 26 August 2024	

Recommendations

That you:

1. Agree to the attached Cabinet Business Paper at Attachment 1;

Agreed / Not Agreed / Please Discuss

2. Agree to the lodgement of the Cabinet Business Paper with the Cabinet Office by 10am Friday, 16 August 2024;

Agreed / Not Agreed / Please Discuss

3. Note the Cabinet Business Paper incorporating the draft Government Response is scheduled to be considered by Cabinet on Monday 26 August 2024; and

Noted / Please Discuss

4. Note the Government response is to be tabled in the Assembly in the sitting week of 27-29 August 2024.

Noted / Please Discuss

Andrew Barr MLA …….. …../…../…..

Minister's Office Feedback

Background

1. On 7 February 2024 the Legislative Assembly made a Resolution titled "*Human rights incompliant companies – Divestments*". Part of the Resolution related specifically to the Territory's investment exposures, specifically:

   > The Assembly "*calls on the ACT Government, following advice from the Investment Advisory Board regarding the current policy settings, to report back to the Assembly by the end of August 2024 on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories"*.

2. As required by the Resolution, the Investment Advisory Board (the "IAB") was required to provide you advice in relation to the current policy settings (the "current Responsible Investment Policy").

3. Following the finalisation of that advice, it is necessary to prepare a Government Response to the Resolution which is required to be considered by Cabinet.

4. The timetable for the key tasks required to complete this process are:

Task	**Due Date**	**Status**
IAB Advice	Thursday, 30 May 2024	**Complete**
Cabinet Business Paper to Cabinet Office	10am Friday, 16 August	**This Brief**
Cabinet Business Paper considered by Cabinet	Monday, 26 August 2024	Outstanding
Gov Response Tabled in the Assembly	27-29 August 2024	Outstanding

Issues

IAB Advice

5. The IAB completed its review and provided it's final report to you on 30 May 2024 (Att 1a).

6. The Investment Advisory Board recommends:

   a. maintaining the chosen level of ESG-related controversy severity assessment applied to investment exclusion ('*Very Severe and Direct*') as this continues to remain balanced, effective and fit for purpose for the ACT Government's Responsible Investment Policy framework; and

   b. maintaining the established ESG-related controversy assessment framework which is supported by independent research, clear, consistent and transparent methodologies and processes, with assessment criteria aligned with accepted international norms and conventions.

Treasury Advice

7. On 15 July 2024 (CMTEDD2024/3017) we provided you information about the IAB advice and recommended that the IAB advice be adopted and the current investment screening framework be maintained. Refer Attachment A.

a. You requested additional advice about:

i. amending the current ESG rating threshold from the 'Red' rating per the ESG controversies rating matrix to 'Orange'; and

ii. the database established by the United Nations Office of the High Commissioner for Human Rights (UNOHCHR).

b. You agreed to bring forward an Assembly Business Paper to settle the Government's response to the Resolution.

8. On 24 July 2024 (CMTEDD2024/3075) we provided you the requested additional information. Refer Attachment B.

a. We confirmed that lowering the ESG controversy screening threshold from the 'Red' rating to the 'Orange' rating would not capture any of the nine companies identified in the Resolution.

b. In relation to the UNOHCHR database, we supported the findings of the IAB that database established by the UNOHCHR has not had regular or annual assessments and does not appear to have ongoing funding allocated at this time, and the reliability and robustness of the database as a standalone determinant of company exclusions does not provide sufficient assurance or reliability for inclusion in the ACT Government's Responsible Investment Policy framework.

i. For these reasons, Treasury recommended seeking further information and assurances around the database and its future maintenance from the UNOHCHR before any further consideration of incorporating the database into the Responsible Investment Policy framework.

9. On 26 July 2024 you wrote to Commissioner Volker Türk, United Nations High Commissioner for Human Rights requesting information about the database. And Treasury officials approached the relevant officials in the Department of Foreign Affairs and Trade (DFAT) on Monday 12 August 2024 to seek advice on appropriate next steps as follow-up to your letter. We will provide ongoing updates as soon as we receive advice back from DFAT.



11. The next steps and key dates for progressing this matter include:

a. Lodge the Cabinet Business Paper with the Cabinet Office by 10am Friday, 16 August 2024;

b. The Cabinet Business Paper incorporating the draft Government Response is scheduled to be considered by Cabinet on Monday 26 August 2024; and

c. The Government response is to be tabled in the Assembly in the sitting week of 27-29 August 2024.

Financial Implications

12. n/a.

Consultation

Internal

13. nil response.

Cross Directorate

14. Nil response.

External

15. independent external Investment Advisory Board and MSCI.

Work Health and Safety

16. n/a

Benefits/Sensitivities

17. This matter will continue to be of ongoing interest to many members of the Legislative Assembly.

Communications, media and engagement implications

18. Media attention may occur following the tabling of the ACT Government Response.

Signatory Name: Patrick McAuliffe Phone: 70187

Attachments

Attachment	**Title**
Attachment A	TSR Brief – Investment Advisory Board Advice (CMTEDD2024/3017)
Attachment B	TSB – Further Information (CMTEDD2024/3075)
Attachment C	Cabinet Business Paper, *comprising*
Attachment 1a	Assembly Resolution – 7 Feb 2024
Attachment 1b	Investment Advisory Board Advice
Attachment 1c	Table of comments
Attachment 1d	Government Response
Attachment 1e	Open Access Assessment: Cabinet Decision and Wellbeing Impact Assessment summary
Attachment 1f	Wellbeing Impact Assessment

Chief Minister, Treasury and Economic Development Directorate

To:	Treasurer	**Tracking No.: CMTEDD2024/3075**
Date:	24/07/2024	
From:	Executive Branch Manager, Investments & Borrowings	
Subject:	Assembly Resolution 'Human Rights Incompliant Companies – Divestments' – Further advice regarding the database of the Office of the United Nations High Commissioner for Human Rights (OHCHR)	
Critical Date:	05/08/2024	
Critical Reason:	Cabinet meeting to consider Assembly Business Paper (Government Response) is Monday, 26 August, paper due with Cabinet on 16 August	

Recommendations

That you:

1. Note that lowering the ESG controversy screening threshold from 'Very Severe and Direct' (RED) to 'Very Severe and Direct / Very Severe and Indirect' (ORANGE) will not capture any of the nine companies identified in the Resolution;

Noted / Please Discuss

2. Agree to not lower the current screening threshold, noting the advice outlined in Recommendation 1;

Agreed / Not Agreed / Please Discuss

3. Agree either that:

    a. you seek more information from the OHCHR about their research and assessment processes, ongoing coverage of the database, frequency and resourcing by writing to the United Nations High Commissioner for Human Rights, following confirmation of a suitable transmittal process through the Australian Government (draft letter at Attachment C);

Agreed / Not Agreed / Please Discuss

~~OR~~ AND

    a. you task Treasury officials with seeking further advice from Commonwealth officials about how additional information on the

database might be sought at an officials level, using representation at the Australian Permanent Mission to the Office of the United Nations in Geneva;

Agreed / Not Agreed / Please Discuss

4. Agree that Treasury develop an Assembly Business Paper that reports back on the findings of the Investment Advisory Board report, and notes that you are seeking further information regarding the reliability and enduring nature of the OHCHR database, before deciding whether to adopt it as a part of the Government's investment screening framework and make divestments related to the currently listed companies; and

Agreed / Not Agreed / Please Discuss

5. Note that we will continue to liaise with your office on the preferred timing of the Assembly Business Paper (Government Response) for consideration, noting that current advice is for consideration on Monday, 26 August 2024 with an Assembly Business Paper due to Cabinet Office by 10am Friday, 16 August 2024.

Noted / Please Discuss

Andrew Barr MLA 6./8./24

Minister's Office Feedback

Background

1. In response to our brief CMTEDD2024/3017, on 17 July 2024 you requested further advice, including:

    a. expanding ACT Government investment exclusions to include 'orange' ESG scoring matrix (Page 13 of the report prepared by the Investment Advisory Board dated 30 May 2024 "*Advice to the ACT Chief Minister & Treasurer, Mr Andrew Barr MLA, Legislative Assembly Resolution of 7 February 2024 Human Rights Incompliant Companies Divestments*"; and

    b. seeking further information from the UN on the database established by the High Commissioner for Human Rights.

2. You also agreed to bring forward an Assembly Business Paper to settle the Government's response to the Resolution.

    a. It is proposed that the Government response would be ready for tabling in the Assembly in the sitting week of 27-29 August 2024.

Issues

<u>Expand Current ESG Controversy Policy Rating Threshold</u>

3. The current Policy framework excludes companies identified to be ***Directly*** involved in ***Very Severe*** ESG controversies.

    a. Red indicates that a company is directly involved in one or more Very Severe Ongoing controversies. In relation to human rights and community: Businesses that are directly complicit in alleged violence, human rights abuses or human rights violations.

4. The controversy scoring matrix is outlined below:

		Status of the case		
Severity of the case	Company role	Ongoing	Partially Concluded	Concluded
Very Severe	Direct	0	1	2
Very Severe	Indirect	1	2	3
Severe	Direct	1	2	3
Severe	Indirect	2	3	4
Moderate	Direct	4	5	6
Moderate	Indirect	5	6	7
Minor	Direct	6	7	8
Minor	Indirect	7	8	9

Source: MSCI ESG-Research-Controversies-Methodology

5. Sch 1 1.6



United Nations High Commissioner for Human Rights database

8. The Office of the United Nations High Commissioner for Human Rights (OHCHR) established a database of business enterprises engaged in certain Israeli settlement activity in the occupied Palestinian Territory.

9. There is limited publicly available information available about the research methodology, assessment process, company engagement process, and resources of the OHCHR that underpins the development and ongoing monitoring of companies either already included in the database or other companies operating in the target region.

10. The original resolution requiring the OHCHR to produce the database was adopted on 24 March 2016, and this required that the database be updated annually. As can be seen from the timeline of updates at Attachment B:

    a. An interim report was not prepared until 20 March 2018;

    b. A subsequent report was then published on 12 February 2020; and

    c. The most recent report was published on 30 June 2023.

11. Notably in its interim report, the OHCHR advised that '*OHCHR was given limited resources to carry out the mandate within the anticipated time frame, which required it to calibrate its research and engagement with companies accordingly*'.

    a. This was re-stated in its February 2020 report and most recently in the June 2023 report, OHCHR advised: '*In absence of regular budget resources required for annual updating of the database on an open-ended basis, the present update has been prepared within existing resources, on an exceptional basis, and without prejudice as to any future decision*'.

12. As advised by the Investment Advisory Board:

    a. Recognising the multitude of issues associated with any screening policy, individual views and the relative assessment of the degree of severity or impact, consideration of individual investment exclusions outside of the ESG-related controversies framework require reliable and robust evidentiary material before any departures should be contemplated.

    b. The database established by the OHCHR has not had regular or annual assessments and does not appear to have ongoing funding allocated at this time, and the reliability and robustness of the database as a standalone determinant of company exclusions does not provide sufficient assurance or reliability for inclusion in the ACT Government's Responsible Investment Policy framework.

13. Treasury agrees with the advice of the Investment Advisory Board and considers it essential that the inclusion of any additional investment screening outside the established policy framework be based on a reliable, robust and fully transparent research and assessment structure.

    a. Accordingly, following your feedback, we have proposed two options for seeking further information and assurances around the database and its future maintenance.

    b. One option is a direct approach from yourself to the United Nations High Commissioner for Human Rights. If this was your preferred approach, we would recommend seeking further advice from the Commonwealth around the most appropriate transmittal mechanism to achieve a response, as well as

to confirm an agreed way forward with the Commonwealth for these communications.

i. A second option could be to task Treasury with seeking advice at an officials level from the Commonwealth on the appropriate mechanism for seeking this additional information and exploring whether this information could be gleaned at a working officer level through the Australian Permanent Mission to the Office of the United Nations in Geneva.

c. Regardless of the option chosen, Treasury would recommend that communications with the Commonwealth be undertaken prior to any engagement of the UN, given the Commonwealth's UN role.

d. Treasury recommends that until additional information on the UN database is received, it would be advisable to follow the advice of the Investment Advisory Board to maintain the current investment screening framework, given the need to ensure a cohesive, reliable and robust framework is structured around the ACT Government's responsible investment framework.

e. Once further information on the database's reliability as an arms-length screening tool is received, we will provide you with further advice on whether the database could be used as a robust ongoing screening tool, should you wish to propose a divestment of one or more of the identified companies.

<u>Assembly Business Paper and Government Response</u>

14. Following your agreement to bring forward an Assembly Business Paper to settle the Government's Response to the Resolution, this matter has been added to Cabinet's agenda for Monday, 26 August 2024.

a. The final lodgement (including Cabinet brief) of the Assembly Business Paper is due to Cabinet Office by 10am Friday, 16 August 2024.

i. No exposure draft is required for an Assembly Business Paper.

b. It is proposed that the Government response be tabled in the Assembly in the sitting week of 27-29 August 2024.

15. As noted above, recognising that it may take some time before further information is available from the OHCHR on its database, it is proposed that the drafting of the Assembly Business Paper and Government Response reflect, amongst other information, that at the present time no action or decision about divestment, or otherwise, can be taken at this time because of the necessary process to seek additional information about the OHCHR database from the OHCHR.

Financial Implications

16. n/a

Consultation

Internal

17. n/a

Cross Directorate

18. n/a

External

19. independent external Investment Advisory Board and MSCI.

Work Health and Safety

20. n/a

Benefits/Sensitivities

21. This matter will continue to be of ongoing interest to many members of the Legislative Assembly.

Communications, media and engagement implications

22. Media attention may occur following the tabling of an ACT Government Response.

Signatory Name: Patrick McAuliffe Phone: 70187

Attachments

Attachment	**Title**
Attachment A	Summary of Company Assessments
Attachment B	OHCHR timeline of process
Attachment C	Draft transmittal letter to OHCHR - CM

Attachment B

Office of the United Nations High Commissioner for Human Rights Reporting

24 March 2016	• Human Rights Council adopted resolution 31/36 entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan". • Paragraph 17 of this resolution requests the United Nations High Commissioner for Human Rights produce a database of all business enterprises engaged in certain Israeli settlement activity in the occupied Palestinian Territory. • The database to be updated annually.
20 March 2018	• The Office of the United Nations High Commissioner for Human Rights (OHCHR) published an 'interim report' (A/HRC/37/39) setting out the methodology to discharge the mandate. OHCHR attestation: - The work conducted by OHCHR in producing the database is in full compliance with resolution 31/36, is not and does not purport to constitute a judicial or quasi-judicial process of any kind, or to provide any legal characterization of the listed activities or business enterprises' involvement therein. - OHCHR is mandated to make factual determinations of whether businesses enterprises are engaged in the listed activities. • Screening exercise (commenced in 2016): - Initial companies reviewed 307 - 115 excluded - OHCHR commenced communication with the remaining 192 and also added another 14 companies to the list – total of 206 • OHCHR was given limited resources to carry out the mandate within the anticipated time frame, which required it to calibrate its research and engagement with companies accordingly. - Not all companies about which OHCHR had received information could be contacted by the time of submission of the present report. - At the time of writing, OHCHR had contacted 64 of the 206 companies involved in 33 different situations concerning the listed activities. • The initial report notes: - More resources are required for OHCHR to continue its dialogue with and issue communications to relevant business enterprises, adding information to the database and updating existing information in the database as required by resolution 31/36. - Once 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.

	- For the High Commissioner to update the database as required by resolution 31/36, more resources are required.
12 February 2020	• OHCHR published a 'report' (A/HRC/43/71) containing a database listing 112 business entities. • Since the previous report identifying 206 companies, 188 were identified for further consideration. - The 188 business enterprises were contacted between September 2017 and October 2018 - By letter, OHCHR informed each of the above-mentioned 188 business enterprises of the listed activities that they appeared to be involved in, based on the totality of information reviewed by it, and set out the basic facts of the enterprises' alleged involvement in the listed activity or activities - The business enterprises were requested to respond in writing within 60 days with an initial response, providing any clarification or update of the information. ▪ In some cases, lengthier processes of dialogue developed between OHCHR and business enterprises. In other cases, no response was received. • There is no information available about the resourcing available to conduct the research, no information about the quality or quantity of responses from companies
30 June 2023	• OHCHR published an 'update' containing a review of the 112 business entities. • In absence of regular budget resources required for annual updating of the database on an open-ended basis, the present update has been prepared within existing resources, on an exceptional basis, and without prejudice as to any future decision. • With respect to the 112 business enterprises listed in the February 2020 report, OHCHR sent each entity a letter in July 2022, informing as to the review of the database and inviting provision of any further relevant information as to their structure, ownership or involvement with the listed activities, within a period of 60 days. - In response to these letters, 13 of the 112 business enterprises responded. - Of the 112 business enterprises included in the 2020 database report A/HRC/43/71, OHCHR found reasonable grounds for the removal of 15 business enterprises. • The remaining 97 business enterprises continued to meet the standard of reasonable grounds to believe that they continued to be involved in one or more of the listed activities.

Sources:

- Human Rights Council Resolution 31/36: Human Rights Council Resolution 31/36
- 2018: On 20 March 2018, UNOHCHR published an interim report (A/HRC/37/39), setting out methodology used to discharge the mandate (UNOHCHR Report (A/HRC/37/39))
- 2020: On 12 February 2020, UNOHCHR published a report (A/HRC/43/71) containing a database listing 112 business entities (UNOHCHR Report (A/HRC/43/71))
- 2023: On 30 June 2023, UNOHCHR published an update containing a review of the 112 business entities (UNOHCHR Update Report 30June2023)

Appendix 1

ACT Legislative Assembly Resolution

Speaker

Mr Andrew Barr MLA
Treasurer
Legislative Assembly for the ACT
CANBERRA ACT 2601

Dear Treasurer

Human rights incompliant companies—Divestments

At its meeting on Wednesday, 7 February 2024, the Assembly passed the following resolution:

"That this Assembly:

(1) notes:

(a) the Hamas attacks commencing 7 October 2023 involving the targeting and death of Israeli civilians, including women and children, the taking of hostages, and widespread rocket fire into civilian areas;

(b) the immense loss of life and human suffering occurring in the Gaza Strip, including that of women and children due to Israeli military action;

(c) this escalating conflict has occurred in the context of ongoing occupation of the Palestinian territories, construction of illegal settlements, and displacement of the Palestinian people;

(d) that the International Court of Justice has ruled that all steps to prevent genocide in Gaza must be taken;

(e) the impacts of the conflict and the decades of struggle are felt deeply in the ACT community;

(f) as a result, many communities and individuals here in Canberra:

(i) are facing an extremely challenging time, concerned about the safety of family, friends, and loved ones; and

(ii) have been subject to racist slurs and taunts based on their ethnicity or religious beliefs;

(g) as individuals and in our collective society we all have responsibility to act with humanity in our actions and reactions;

(h) the conflict in Gaza and Israel has and continues to challenge the commitment to humanity of the actors of this conflict as well as the global community; and

(i) the impacts of the conflict and the decades of struggle that have led to this point are felt deeply in the ACT community;

(2) that all Members of this Assembly accordingly voice their support for:

(a) key elements of the Prime Minister's motion of 16 October 2023, as passed with bipartisan support in the House of Representatives, and in particular:

Legislative Assembly for the Australian Capital Territory | 196 London Circuit, CANBERRA ACT 2601, AUSTRALIA
(+61) 02 6205 0200 • speaker@parliament.act.gov.au • parliament.act.gov.au

(i) justice and freedom for Israelis and Palestinians alike;

(ii) international efforts to establish and maintain humanitarian access into Gaza, including safe passage for civilians;

(iii) the Australian Government's ongoing efforts to provide consular assistance to affected Australians and to facilitate the departure of those who want to leave the region;

(iv) the motion's condemnation of all forms of hate speech and violent extremist activity, including antisemitism and Islamophobia; and

(v) affirmation in the strongest possible terms that hateful prejudice has no place in Australia;

(b) a permanent humanitarian ceasefire;

(c) release of all hostages and political prisoners;

(d) all perpetrators of human rights violations and unlawful killings to be held accountable for their actions in accordance with international law;

(e) restoration of humanitarian aid to the civilian population; and

(f) withdrawal from internationally agreed Palestinian territories;

(3) further calls on all Members of this Assembly to:

(a) act with responsibility and thoughtfulness as representatives of the ACT community, to ensure to the best of our ability that all members in our community have their rights upheld, and that our actions serve to alleviate the negative impacts this conflict is having on ACT residents;

(b) continue to condemn antisemitism, islamophobia, and racism, and state these have no place here in the ACT; and

(c) voice their support for Canberra's Jewish, Palestinian, and other affected communities and individuals during this challenging time, including people seeking refuge in the ACT;

(4) that this Assembly further notes:

(a) the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) maintains a database of companies involved in one of ten defined activities (paragraph 96 A/HRC/22/63) that raise particular human rights violations concerns regarding Israeli settlements throughout the Occupied Palestinian Territory, with 97 companies currently listed that have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements;

(b) as of 31 December 2023, the ACT Government held investments in the following companies listed in the UNOHCHR database:

(i) Airbnb Inc;

(ii) Alstom SA;

(iii) Bank Hapoalim BM;

(iv) Bank Leumi Le-Israel BM;

(v) Booking Holdings Inc;

(vi) Expedia Group Inc;

(vii) Israel Discount Bank Ltd;

ACT Government

TABLE OF COMMENTS

Attachment 1C

EXPOSURE DRAFT COMMENTS – 24/164 ACT Government Response to the Legislative Assembly Resolution of 7 February 2024 in relation to Human Rights Incompliant Companies - Divestments

Exposure circulation undertaken: Full exposure circulation

Dates circulated: Provide dates circulated

Directorate	Comment	Response
CMTEDD	Lead Directorate.	N/A
JACS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
HD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CHS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EDU	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
TCCS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CSD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EPSDD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
MPC	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
Statutory Office Holder	Choose an item. [Provide comments.]	[Drafting directorate to provide response]

FINAL COMMENTS – 24/164 ACT Government Response to the Legislative Assembly Resolution – Human Rights Incompliant Companies - Divestments

Final circulation undertaken: Yes

Dates circulated: Provide dates circulated

Directorate	**Comment**	**Response**
CMTEDD	Lead Directorate.	N/A
JACS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
HD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CHS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EDU	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
TCCS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CSD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EPSDD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
MPC	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
Statutory Office Holder	Not applicable.	Not applicable.

2024

THE LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

TENTH ASSEMBLY

Human rights incompliant companies – Divestments

Assembly Resolution of 7 February 2024

Government Response

Presented by
Andrew Barr MLA
Treasurer
August 2024

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Madam Speaker, following the Assembly resolution of 7 February 2024, in relation to ***Human rights incompliant companies – Divestments***, today I am providing an update on the Government's position in relation to investment holdings in companies identified in the database maintained by the United Nations Office of the High Commissioner for Human Rights, that raise criticisms over commercial involvement within Israeli settlements in disputed territories.

The Assembly resolution called on the Government to report back by the end of August, on divestments that have, or may be taken in relation to these companies, following advice from the Investment Advisory Board on current policy settings dealing with Environmental, Social and Corporate Governance (ESG) controversy assessments.

Today I am tabling the advice provided by the Board regarding the Government's Responsible Investment Policy, current policy settings and consideration of any deviations in the framework by reference to the companies identified in paragraphs 4 and 5 of the Assembly Resolution.

Investment Advisory Board Findings

The Investment Advisory Board concluded that:

- the ESG Controversies research methodologies and rating assessment processes as part of the ACT Government's Responsible Investment Policy framework are comprehensive, robust and consistently applied across all listed company investments;
- the comprehensive and ongoing assessments of listed company ESG Controversies help to identify and exclude investment in companies involved in "very severe" ESG-related incidents that will impact stakeholders, the environment, company operations and investment sustainability;
- the ESG Controversies investment screen provides ongoing assessment of ESG-related controversies, whether actual or alleged, in which company operations and/or products allegedly have a negative environmental, social and/or governance impact as reported by the media, nongovernmental organisations, civil society groups, academia, regulators, international organisations and other stakeholders; and
- the ESG controversy research aligns to the underlying principles of global norms comprising, for example, the UN Global Compact, the UN General Principles of Business and Human Rights, the International Labour Organization Conventions and the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises.

Crucially, the Board also found that while it is always the case that different policy-makers and members of the Legislative Assembly will form views about the severity of particular incidents or situations, the current framework of the Government allows for a considered, consistent and reliable assessment approach across a wide range of situations, including those in relation to Israeli settlements, the subject of paragraphs 4 and 5 of the Resolution.

As the Advisory Board noted, using this framework the nine companies identified in Paragraph 4(b) of the Resolution have been assessed under the Responsible Investment Policy ESG Controversies methodology and framework as having a rating of 'Severe and Indirect' reflecting the relevant controversy related to their operations, governance practices, and/or products and services that allegedly violates national or international laws, regulations and/or commonly accepted global conventions and norms.

This scoring level, will not lead to a divestment of the companies at this point in time, as the framework results in divestment only when the scoring level reaches a rating of "Very severe and Direct".

As the Board notes, if we were to ensure companies in the Assembly Resolution were excluded from our investments under the current framework, this would mean adopting ESG Controversy company exclusions down to the "Severe and Indirect" rating, which would also capture a significant number of other companies. This would have an adverse impact and result in a significant narrowing of the ACT Government's investment universe, and over time, impact on investment outcomes for the Territory.

The indicative impact on the listed share investment portfolios, based on exposures as at March 2024, would be a reduction in Australian company holdings of around 15 per cent equating to an estimated 51 per cent of market investment value ($577 million) and a reduction in international company holdings of around 40 per cent equating to an estimated 65 per cent of market investment value ($1.693 billion).

As the Board points out, if the Government were to instead make an ad-hoc exclusion of specific companies, it would not be supported by the same level of comprehensive ESG controversy research and methodologies applying to all other listed shares exposures.

In order to keep abreast of developments for the specific nominated companies, there would need to be regular updates and evaluation undertaken by specialists.

The Investment Advisory Board has advised that the database established by the United Nations Office of the High Commissioner for Human Rights does not appear to have had regular or

annual assessments and does not appear to have ongoing funding allocated at this time, and the reliability and robustness of the database as a standalone determinant of company exclusions does not provide sufficient assurance or reliability for inclusion in the ACT Government's Responsible Investment Policy framework.

In addition, recognising the multitude of issues associated with any screening policy, individual views and the relative assessment of the degree of severity or impact, consideration of individual investment exclusions outside of the ESG-related controversies framework require reliable and robust evidentiary material before any departures should be contemplated.

In this regard, the Government does not have independent expertise that would support ongoing individual company assessments identified in the resolution, and any subjective assessments made would be complicated, resource-intensive, unlikely to be cost effective, and lack independent research for the ongoing exclusion decisions within a clear decision-making framework.

I consider it essential that the inclusion of any additional investment screening outside the established policy framework be based on a reliable, robust and fully transparent research and assessment structure.

Recognising there is limited publicly available information available about the research methodology, assessment process, company engagement process, and resources of the United Nations Office of the High Commissioner for Human Rights that underpins the development and ongoing monitoring of companies either already included in their database or other companies operating in the target region, I have written to the United Nations High Commissioner for Human Rights seeking further information regarding the reliability and enduring nature of the their database referenced in the Assembly Resolution as a possible screening tool, before deciding whether to adopt it as a part of the Government's investment screening framework.

Until this additional information on the database is received and full and proper consideration can be given to this as a screening tool, it is the Government's position that will maintain the current investment assessment framework, which includes ongoing assessments of the companies identified in the Assembly resolution as part of the global assessments for the Government's Responsible Investment Policy, to ensure a cohesive, reliable and robust framework continues to be applied.

The ESG Controversies research methodologies and rating assessment processes as part of our Responsible Investment Policy framework are comprehensive, robust and consistently applied

across all listed company investments. Importantly, the ESG-related controversy assessment framework is supported by independent research, clear, consistent and transparent methodologies and processes, with the assessment criteria aligned with accepted international norms and conventions.

That said, it remains the firm view of the Government that the sentiment and concerns raised by the Assembly remain as serious as they have ever been, and we restate our support for the Australian Government's efforts to address these issues through diplomatic and other channels to ensure an end to the suffering and loss of life and livelihood that sadly continues to play out.

ACT Government

OPEN ACCESS ASSESSMENT

CABINET DECISION AND WELLBEING IMPACT ASSESSMENT SUMMARY

Attachment 1E

The Chief Minister must proactively release the information described in section 23 of the *Freedom of Information Act 2016* (the FOI Act) unless the information is contrary to the public interest in accordance with sections 16 and 17, and schedules 1 and 2 of the FOI Act. Please refer to the Cabinet SharePoint Site for further guidance on what is within the scope of Open Access requirements.

If you believe that release of this information is within the scope of Open Access requirements and would be contrary to the public interest, please complete Part B.

Cabinet Number and title: 24/164 Human Rights Incompliant Companies - Divestments

Please select one of the following:

Proposed Release of Cabinet Decision Summaries - Please Complete Part A Only

PART A: Proposed Release or Delayed Release

Proposed Summary of the decision for public release
Table and present ACT Government Response in the ACT Legislative Assembly in the 27-29 August 2024 sitting.

Proposed summary of the Wellbeing Impact Assessment for public release
Cabinet note that while there are no direct wellbeing impacts associated with this Submission, the value the ACT Government's Responsible Investment Policy framework (and including the ESG assessment processes) delivers for the community includes more sustainable financial investment returns, a stronger alignment with values, increased public confidence in investment practices and processes, accountability and transparency.

If a Wellbeing Impact Assessment is not required, please select from the following:

Choose an item.

Other releases – how will the community be informed of the decision of Cabinet?

Expected Milestone for Release	Tabled and/or presented in the Legislative Assembly 29/08/2024
Expected milestone completion date	29/08/2024
Overview **of what will be publicly released in addition to the Cabinet decision and Wellbeing Impact Assessment summaries.** The ACT Government Response will be tabled and presented in the ACT Legislative Assembly in the 27-29 August 2024 sitting	

ACT Government

WELLBEING IMPACT ASSESSMENT

Attachment 1F

Cabinet number	CAB2024/164
ACT Government Response to the Legislative Assembly Resolution of 7 February 2024 in relation to Human Rights Incompliant Companies - Divestments	CMTEDD

Purpose of proposal

Cabinet Business Paper for the ACT Government Response to the Legislative Assembly Resolution of 7 February 2024 in relation to Human Rights Incompliant Companies - Divestments, specifically reporting back to the Assembly on divestments that have or may be undertaken, to ensure that company ESG controversy exclusions fully consider companies involved in, or profiting from, any human rights violations, including the illegal occupation of the Palestinian Territories.

The purpose of this submission is to signal the Government's commitment to a Responsible Investment policy that incorporates a comprehensive and dynamic framework that continually monitors and assesses listed companies across a broad and evolving range of business activities and environmental, social and governance ("ESG") risks and ESG-related controversies to reduce financial risks and improve the sustainability of long-term returns.

Critically, the Responsible Investment framework is supported by established, well documented and extensive ESG-related controversy assessment research methodologies and rating processes to allow for the timely and consistent assessment of over 1,600 listed companies in the ACT Government's allowable investment universe.

Impact description

The comprehensive and ongoing assessments of listed company ESG Controversies helps to identify and exclude investment in companies involved in Very Severe Direct ESG-related incidents that may impact stakeholders, the environment, company operations and investment sustainability.

Magnitude of impact

Minor - indirect.
The Government recognises that financial as well as ESG performance of companies can impact long-term investment value. The Government incorporates ESG risks and ownership responsibilities in investment decision-making processes to mitigate investment risk and improve the sustainability of returns over the long term.

Will the proposal have an impact on Climate Change?

No

Who is affected?

Nil direct impact on ACT Community.
The Government's Responsible Investment policy excludes investment in companies involved in Very Severe Direct ESG-related incidents that may impact stakeholders, the environment, company operations and investment sustainability.

Will the proposal have a disproportionate impact (positive or negative) on specific groups?

Not applicable

Across gender	Aboriginal and Torres Strait Islander people	Carers	Children and young people	Culturally and linguistically diverse people	LGBTIQ+ people	Older Canberrans	People with a disability
☐	☐	☐	☐	☐	☐	☐	☐

Please provide additional information below on the impact of the proposal across the community.

In assessing gender impacts consider cisgender, transgender and non-binary experiences. See the drafting guide for definitions and further information around gender, age, education and income levels.

Gender – will your proposal impact:		Age – will your proposal impact:		Education – will your proposal impact:	
Predominantly women (>80%)	☐	0-4 years	☐	Lower-educated individuals	☐
Women (60-79%)	☐	5-17 years	☐	Higher-educated individuals	☐
Gender balanced	☐	18-29 years	☐	**Income – will your proposal impact:**	
Men (60-79%)	☐	30-49 years	☐	Lower income	☐

Predominantly men (>80%)	☐	50-64 years	☐	Middle income	☐
		65+ years	☐	Higher income	☐

Impacts on Aboriginal and Torres Strait Islander people

This Submission will not have any impacts on Aboriginal and Torres Strait Islander people.

Impacts on future generations

The Government incorporation of ESG risks and ownership responsibilities in investment decision-making processes is to mitigate investment risk and improve the sustainability of returns over the long term.

Wellbeing domain

Governance and institutions	The Government's Responsible Investment policy excludes investment in companies involved in Very Severe Direct ESG-related incidents that may impact stakeholders, the environment, company operations and investment sustainability.

Timeframe

Five years plus	

Evidence base and data

What do we know?

Not applicable

What do we need to know?

Not applicable

Collaboration and Engagement

There is no new proposal being considered.
The Government is maintaining its commitment to a Responsible Investment policy that incorporates a comprehensive and dynamic framework that continually monitors and assesses listed companies across a broad and evolving range of business activities and environmental, social and governance ("ESG") risks and ESG-related controversies to reduce financial risks and improve the sustainability of long-term returns.

Measures of success

How will the Government know this proposal has been successful?

The Government will continue to maintain a contemporary Responsible Investment policy.

How will the Government know this proposal has achieved the anticipated wellbeing impacts?

The effectiveness of the Government's Responsible Investment policy is assessed on an ongoing basis by ensuring actual investment exposures comply with the established investment exclusion criteria.

Planned Evaluation

Information about evaluation, including how to identify whether your proposal should have an evaluation plan, is available through the wellbeing toolkit resource: Evaluation in Wellbeing Impact Assessments.

Not applicable

Open Access Wellbeing Impact Summary (Cabinet Submission WIAs only)

There are no direct wellbeing impacts associated with this Submission, however the value the ACT Government's Responsible Investment Policy framework (and including the ESG assessment processes) delivers for the community includes more sustainable financial investment returns, a stronger alignment with values, increased public confidence in investment practices and processes, accountability and transparency.

Chief Minister, Treasury and Economic Development Directorate

To:	Treasurer	**Tracking No.: CMTEDD2024/3784**
Date:	6 January 2025	
From:	Executive Branch Manager, Investments & Borrowings	
Subject:	Cabinet Business Paper – Government Response E-PET-034-24 Human Rights & Palestine	
Critical Date:	16/01/2025	
Critical Reason:	*24/512 Government Response to E-PET-034-24 Human Rights and Palestine* has been scheduled for Cabinet on Wednesday, 29 January 2025. Final lodgement is due to Cabinet Office by **10am Monday, 20 January 2025**.	

Recommendations

That you:

1. Agree to the attached Cabinet Business Paper (Attachment A);

Agreed / Not Agreed / Please Discuss

2. Agree to lodge the Cabinet Business Paper with the Cabinet Office by 10am Monday, 20 January 2025;

Agreed / Not Agreed / Please Discuss

3. Note the Cabinet Business Paper incorporating the draft Government Response is scheduled to be considered by Cabinet on Wednesday, 29 January 2025.

Noted / Please Discuss

4. Note the Cabinet Brief for the Cabinet meeting (Attachment B).

Noted / Please Discuss

Chris Steel MLA 15/1/24

Background

1. On Tuesday, 27 August 2024 Mr Andrew Braddock MLA lodged petition E-PET-034-24 Human Rights and Palestine in the ACT Legislative Assembly (Attachment A, 1A).
2. A Ministerial response was technically due within three months of lodgement (by 26 November 2024) but due to the recent government caretaker period and election process, the Ministerial response deadline was missed.
3. The revised timeframe for the tabling of the Government Response is the February 2025 sitting week (4-6 February).
4. A proposed Government Response will need to be considered by Cabinet.
    a. *24/512 Government Response to E-PET-034-24 Human Rights and Palestine* has been scheduled for Cabinet on Wednesday, 29 January 2025.
    b. Final lodgement is due to Cabinet Office by **10am Monday, 20 January 2025**.

Issues

5. The matters raised in the petition are wide-ranging, dealing with:
    a. ACT Government listed shares investment exclusions;
        i. this matter is related to Cabinet Brief 24/164 – Government Response to the Legislative Assembly Resolution of 7 February 2024 in relation to Human Rights Incompliant Companies – Divestments;
    b. Enacting legislation banning 'settlement' goods and services from entering the ACT marketplace;
    c. reviewing all ACT Government economic relationships, investments, trade agreements, cooperation schemes and-programs with companies that has ties with Israel and cancel them immediately; and
    d. the Assembly voicing its support for: an immediate and permanent ceasefire; all perpetrators to be held accountable for their actions in accordance with international law; ending the illegal occupation of the Palestinian territories and apartheid against the Palestinian population; condemn islamophobia, and racism; and state these have no place here in the ACT; and Canberra's Palestinian and other Muslim communities during this challenging time, including for people seeking refuge in the ACT.

6. The attached Cabinet Business Paper and Government Response recommends addressing each of these matters as follows:

Divestments

7. Not agreed.

a. The Government has previously stated its position in relation to the divestment of ACT Government shares investments linked to the Israeli/Palestine conflict.

b. This latest call to further expand the range of requested divestments continues to be based on a database of companies produced by the United Nations Office of the High Commissioner for Human Rights (UNOHCHR).

c. We have no new advice or information to change the previously formed position that the reliability and robustness of the database as a standalone determinant of company exclusions does not provide sufficient assurance or reliability for inclusion in the ACT Government's Responsible Investment Policy framework.

Banning of Goods & Services and Economic Relationships

8. Not agreed.

a. The proposed actions are these matters are complex and pose a range of significant legal and jurisdictional questions.

b. These matters would require further investigation before any action could be considered. Such investigations would be significant and would likely require dedicated resourcing, supported by new budget funding.

c. The recommended strategic objective of the Submission is for the Government to focus on supporting those affected in practical and importantly, effective ways where possible.

Sch 1 1.6

Assembly Voicing its Support

9. The subject matter of the petition is clearly a humanitarian crisis with the ongoing suffering and loss of life and livelihood and is a matter that this Government, and indeed, no Government's should ignore.

10. As reflected by the petition that has been lodged, there are cohorts of the ACT community who are impacted by the events occurring in Palestine.

a. Notably, the Office of Multicultural Affairs, Community Services Directorate was consulted in the preparation of this Submission and advised that it has not had any recent engagement or consultation with the Palestinian community.

11. It is recommended the Government's focus should be on recognition and support for the human rights of civilians who are caught up in this conflict and are fleeing human

rights abuses, including any affected Canberrans and look at any tangible actions that the Government can take to address this humanitarian crisis.

12. It is further recommended the Government should maintain its support for the Australian Government's efforts to address these issues through diplomatic and other channels to ensure an end to the suffering and loss of life and livelihood that continues to play out.

13. The next steps and key dates for progressing this matter include:

    a. Lodge the Cabinet Business Paper with the Cabinet Office by 10am Monday, 20 January 2025;

    b. The Cabinet Business Paper incorporating the draft Government Response is scheduled to be considered by Cabinet on Wednesday, 29 January 2025;

        i. A draft Cabinet Meeting Brief is at Attachment B; and

    c. The Government response is to be provided to the Clerk of the Assembly for the sitting week of 4-6 February 2025.

Financial Implications

14. n/a.

Consultation

Internal

15. Treasury Finance & Budget Group.

    a. Nil comments and noted the nil financial impact.

Cross Directorate

16. CMTEDD Strategic Finance.

    a. Nil comment.

17. Regional, Infrastructure, Planning and Transport Branch, Policy & Cabinet Division, CMTEDD.

    a. Nothing substantive. Requested clarification around whether this matter is to be referred to the Standing Committee on Public Accounts. We have been advised that this requirement lapsed upon the dissolvement of the former Public Accounts Committee on 19 October 2024.

18. Multicultural Affairs, CSD.

    a. Advised that it has not had any recent engagement or consultation with the Palestinian community.

External

19. n/a.

Work Health and Safety

20. n/a

Benefits/Sensitivities

21. This matter will likely continue to be of ongoing interest to many members of the Legislative Assembly, in particular the ACT Greens.

Communications, media and engagement implications

22. Media attention may occur following the tabling of the ACT Government Response.

Signatory Name: Patrick McAuliffe Phone: 70187

Attachments

Attachment	**Title**
Attachment A	Cabinet Business Paper (24-512), *comprising*
Attachment 1A	Petition E-PET-034-24 Human Rights and Palestine, 27 Aug 2024
Attachment 1B	Letter from Treasurer to Clerk - Response to Petition
Attachment 1C	Wellbeing Impact Assessment
Attachment 1D	Open Access Assessment: Cabinet Decision and Wellbeing Impact Assessment summary
Attachment 1E	Table of Comments
Attachment B	Cabinet Meeting Brief

Mr Andrew Barr
Chief Minister
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Mr Steel

PETITION RECEIVED BY THE ASSEMBLY

Human Rights and Palestine

Standing order No. 100 of the ACT Legislative Assembly requires that a copy of every petition lodged with the Clerk and received by the Assembly shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition.

Attached please find a copy of the terms of petitions E-PET-034-24, lodged by Mr Andrew Braddock MLA, and received by the Assembly on 27 August 2024.

Standing order 100 also requires that the Minister must respond within three months of the tabling of the petition by lodging a response with the Clerk for presentation to the Assembly, such response being announced at the end of the petition's announcement. Accordingly, a response is due by 26 November 2024.

A copy of this letter has been forwarded to the office of the Member who lodged the petition.

Yours sincerely

Tom Duncan
Clerk

27 August 2024

Cc Mr Andrew Braddock MLA
cc The Manager, Government Business Co-ordination

I CERTIFY THAT THIS PETITION CONFORMS WITH THE STANDING ORDERS
Deputy Clerk

ACT Legislative Assembly E-Petition

Petition Number:	E-PET-034-24
Subject:	Palestine petition
Closing Date:	2024-08-26
Sponsoring Member:	Braddock, Andrew
Principal Petitioner:	Mr Mussa Hijazi
Number of Signatures:	912

TO: The Speaker and Members of the Legislative Assembly for the Australian Capital Territory

The following residents of the ACT draw the attention of the Assembly to the State of Israel's genocidal war on the Palestinian territory of the Gaza Strip. This horrific war has been going for almost ten months, but the suffering of the Palestinian people has been ongoing for much longer. This Palestinian territory of Gaza has been subjected to a siege by Israel since 2006, as well as ongoing attacks by the Israel Defence Force. Just like the Gaza Strip, the West Bank has been occupied by the State of Israel since 1967 and the Palestinian people have been subjected to constant attacks and harassment by settlers, increasing significantly in the last 10 months.

The unlawful annexation of Palestinian land and expansion of Israeli settlements continues, preventing the Palestinian right to self-determination. The International Court of Justice on 26 January 2024 issued a ruling confirming that it is plausible that Israel is committing a genocide against Palestinians in Gaza, whilst the prosecutor of the International Criminal Court has sought arrest warrants for the Israeli Prime Minister and Defence Minister in relation to war crimes and crimes against humanity. The International Court of Justice made a further ruling on 19 July 2024, finding that:

1. the occupation of Palestine by the state of Israel is illegal;
2. Israel is practicing apartheid;
3. Israeli settlements are to be dismantled;
4. Palestinians have the right to return to their lands; and
5. Israel should pay reparations for its crimes.

The ruling places a positive obligation upon all states and territories, including ours, to urgently act to ensure an end to our complicity in Israeli crimes. In section 31 of the ACT Human Rights Act 2004, it states that "international law and the judgments of foreign and international courts and tribunals relevant to a human right may be considered in interpreting a human right". It is clear that the ACT has obligations based on international law. Palestinian and Muslim communities living in the ACT have faced increasing racism and Islamophobia since the war in Gaza began.

We call on the ACT Government to demonstrate its commitment to human rights by aligning itself with the positions stated by international law and

therefore showing overdue solidarity with communities impacted by the genocide here in the ACT.

Your petitioners, therefore, request the Assembly to:

1. Act on the divestment motion introduced by the Greens and agreed to by Labor on 7 February of this year.
2. Enact legislation banning settlement goods and services from entering the ACT marketplace.
3. Undertake an extensive review and urgent inquiry, with the purpose of identifying the ACT Government economic relationships, investments, trade agreements, cooperation schemes and programs with companies that has ties with Israel and cancel them immediately.
4. Immediately divest and cut ties with weapons manufacturers and financial institutions listed by the United Nations OHCHR on 20 June 2024 which are complicit in human rights violations and possibly genocide.
5. Voice their support for:
   a. an immediate and permanent ceasefire;
   b. all perpetrators to be held accountable for their actions in accordance with international law;
   c. ending the illegal occupation of the Palestinian territories and apartheid against the Palestinian population;
   d. Condemn islamophobia, and racism; and state these have no place here in the ACT;
   e. Canberra's Palestinian and other Muslim communities during this challenging time, including for people seeking refuge in the ACT.

Chris Steel MLA
Treasurer
Minister for Planning and Sustainable Development
Minister for Heritage
Minister for Transport

Member for Murrumbidgee

Mr Tom Duncan
Clerk
ACT Legislative Assembly
tom.duncan@parliament.act.gov.au

Dear Mr Duncan

Thank you for your letter of 27 August 2024 regarding petition E-PET-034-24 lodged by Mr Andrew Braddock MLA in the ACT Legislative Assembly on 27 August 2024 about Human Rights and Palestine.

The ACT Government acknowledges the distress in the Canberra community about the ongoing conflict in the Middle East, particularly in relation to loss of innocent civilian lives and the evolving humanitarian crisis. The ACT Government appreciates the Australian Government's efforts to address these issues through diplomatic and other channels to see an end to the suffering and loss of life and livelihood.

The ACT Government notes the recent developing context in relation to the Israel-Palestine conflict both internationally and domestically.

On 15 January 2025, a ceasefire deal between Israel and Hamas was announced and is now well underway. The ACT Government welcomes the ceasefire and will continue to provide support in practical and effective ways where possible.

As the Assembly would be aware, on 29 August 2024 the former Treasurer, Mr Barr, tabled a response from the Government to the Assembly Resolution of 7 February 2024 about 'Human rights incompliant companies – Divestments'.

As advised in that response, Mr Barr wrote, on 26 July 2024, to the United Nations High Commissioner for Human Rights seeking further information regarding the reliability and enduring nature of their database, necessary before deciding whether to adopt the United Nations Office of the High Commissioner for Human Rights (UNOHCHR) database as a part of the Government's investment screening framework. The ACT Government awaits a response from the Commissioner.

The ACT Government is committed to a responsible investment framework and is committed to ongoing and regular reviews of the Responsible Investment Policy to ensure a cohesive, reliable and robust framework continues to be applied.

I acknowledge the other requests of the petitioners, many of which are complex and pose a range of significant legal and jurisdictional questions which would require further investigation before any action could be taken. At this stage, the ACT Government is not in a position to pursue these activities.

The ACT Government is committed to continue supporting our local multicultural community that has been affected by this conflict. The ACT Government recognises the importance of multiculturalism, and the significant value Canberra's growing cultural and linguistic diversity contributes to the city and our community. Canberra is an accredited Advanced level Welcoming City and is a proud Refugee Welcome Zone.

The ACT Government is gravely concerned by the significant rise in antisemitism and islamophobia that has occurred across Australia since the outbreak of the conflict. The ACT Government welcomes the convening of National Cabinet to tackle the rapidly evolving situation across the country with a rise in antisemitic violence and will work collaboratively with the Australian Government and other states and territories to deliver a national response.

I thank the petitioners for raising this matter with the Assembly. I trust this response is of assistance.

Yours sincerely



Chris Steel MLA
Treasurer
31/01/2025

The Chief Minister must proactively release the information described in section 23 of the *Freedom of Information Act 2016* (the FOI Act) unless the information is contrary to the public interest in accordance with sections 16 and 17, and schedules 1 and 2 of the FOI Act. Please refer to the **Cabinet SharePoint Site** for further guidance on what is within the scope of Open Access requirements.

If you believe that release of this information is within the scope of Open Access requirements and would be contrary to the public interest, please complete Part B.

Cabinet Number and title: 24/512 Petition E-PET-034-24 'Human Rights and Palestine'

Please select one of the following:

Proposed Release of Cabinet Decision Summaries - Please Complete Part A Only

PART A: Proposed Release or Delayed Release

Proposed Summary of the decision for public release
Table the ACT Government Response in the ACT Legislative Assembly in the 4-6 February 2025 sitting.

Proposed summary of the Wellbeing Impact Assessment for public release
Cabinet note that while there are no direct wellbeing impacts associated with this Submission, the value the ACT Government's Responsible Investment Policy framework (and including the ESG assessment processes) delivers for the community includes more sustainable financial investment returns, a stronger alignment with values, increased public confidence in investment practices and processes, accountability and transparency.

If a Wellbeing Impact Assessment is not required, please select from the following:

Choose an item.

Other releases – how will the community be informed of the decision of Cabinet?

Expected Milestone for Release	Tabled and/or presented in the Legislative Assembly 6/02/2025
Expected milestone completion date	06/02/2025
Overview **of what will be publicly released in addition to the Cabinet decision and Wellbeing Impact Assessment summaries.** The ACT Government Response will be tabled in the ACT Legislative Assembly in the 4-6 February 2025 sitting	

FINAL COMMENTS – 24/512 Response to Petition E-PET-034-24 'Human Rights and Palestine'

Final circulation undertaken: Yes

Dates circulated: Provide dates circulated

Directorate	Comment	Response
CMTEDD	Lead Directorate.	N/A
JACS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
HD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CHS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EDU	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
TCCS	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
CSD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
EPSDD	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
MPC	Choose an item. [Provide comments.]	[Drafting directorate to provide response]
Statutory Office Holder	Not applicable.	Not applicable.