



# General Assembly

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## Human Rights Council

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Agenda item 3

### Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

**Armenia,\* Australia,\* Austria,\* Belgium, Canada,\* Chile, Colombia, Croatia,\* Cyprus, Czechia, Denmark,\* Finland,\* France, Germany, Greece,\* Iceland, Ireland,\* Italy,\* Liechtenstein,\* Lithuania,\* Luxembourg,\* Marshall Islands, Mexico, Montenegro,\* Netherlands (Kingdom of the), New Zealand,\* Norway,\* Portugal,\* Slovakia,\* Slovenia,\* South Africa, Spain, Sweden,\* Switzerland, Ukraine\* and United Kingdom of Great Britain and Northern Ireland\*: draft resolution**

### 59/... Impact of arms transfers on human rights

*The Human Rights Council,*

*Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,*

*Recalling the obligations of States to respect, promote and protect the human rights of all individuals within their jurisdictions,*

*Recalling also the inherent right to the individual or collective self-defence of States, as recognized in Article 51 of the Charter,*

*Reaffirming that everyone has the right to life, liberty and security of person and is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,*

*Acknowledging that peace and security, development and human rights are the pillars of the United Nations system and the foundation for collective security, and recognizing that peace and security, development and human rights are interlinked and mutually reinforcing,*

*Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 12 August 1949, the Protocols Additional thereto of 8 June 1977, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Suppression and Punishment of the Crime of Apartheid, other relevant international human rights law and international humanitarian law instruments and the Vienna Declaration and Programme of Action,*

*Recalling also Human Rights Council resolutions 24/35 of 27 September 2013, 32/12 of 1 July 2016, 38/10 of 5 July 2018, 41/20 of 12 July 2019, 45/13 of 6 October 2020, 47/17 of 13 July 2021, 50/12 of 7 July 2022 and 53/15 of 13 July 2023,*

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\* State not a member of the Human Rights Council.



*Acknowledging* that international human rights law and international humanitarian law are complementary and mutually reinforcing,

*Acknowledging also* that millions of people around the world are affected by varied serious human rights violations and abuses resulting from or facilitated by the diversion of arms and unregulated or illicit arms transfers, and that these have a multiplier effect on human rights abuses and violations, including all rights pertaining to life, liberty and security of person, education, the enjoyment of the highest attainable standard of physical and mental health, and a clean, healthy and sustainable environment, among other civil, political, economic, social and cultural rights,

*Acknowledging further* that ownership and use of arms are closely linked to specific dynamics of control, power, domination and strength, which also contributes to perpetuating gender-based violence and that addressing gendered root causes of violence is essential,

*Recognizing with concern* that the diversion of arms and unregulated or illicit arms transfers have negative humanitarian, development and socioeconomic consequences, exacerbate armed conflicts and violence and have a negative impact on the enjoyment of human rights, including through the commission and facilitation of sexual and gender-based violence, particularly against women and girls, serious violations and abuses of the rights of children and youth, including the recruitment and use of child soldiers, and other types of violations and abuses of international law, including human rights law and violations of international humanitarian law,

*Recalling* States' obligations and commitments under international human rights law and international humanitarian law, as well as other principles and provisions relating to international human rights law and international humanitarian law and to the promotion of responsible action by States, including exercising due diligence, as contained in the Arms Trade Treaty and in the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and other relevant instruments,

*Recalling also* that States bear the primary responsibility under international law to respect, protect and fulfil all human rights and fundamental freedoms, and that such responsibility entails taking all appropriate measures, which may include enacting and enforcing relevant national legislation and implementing related policies and practices, including administrative practice and risk assessments on arms transfers, and encouraging business enterprises involved in arms transfers and their employees to be aware of the requirements under international human rights law and international humanitarian law and other applicable laws,

*Emphasizing* the need for international cooperation, technical assistance and capacity-building, including technology transfers, on mutually agreed terms, to support States in strengthening national and regional frameworks for arms control, border management, tracing and reporting,

*Taking note* of the report of the Secretary-General on the protection of civilians in armed conflict,<sup>1</sup> in particular the recommendation contained therein that States, United Nations actors, international and civil society organizations should further develop and improve understanding of the patterns and types of civilian harm in contemporary conflicts, including how it affects different groups, such as older persons and persons with disabilities, as the basis for identifying effective legal, policy and operational responses to civilian harm,

*Stressing* the importance of preventing, mitigating and addressing the negative human rights impacts of the diversion of arms and unregulated or illicit arms transfers, including by adopting a human rights approach to arms transfer governance that takes into account, inter alia, the importance of meaningful public participation, the freedom to seek, receive and impart information, accountability, the rule of law, equality and non-discrimination, with a view to promoting transparency and combating corruption,

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<sup>1</sup> S/2024/385.

*Recalling* the Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011, and that all business enterprises have the responsibility to respect human rights and should, inter alia, carry out human rights due diligence, appropriate to their size and circumstances, to identify, prevent, mitigate and account for how they address their impact on human rights, and that those business enterprises whose operations or operating contexts pose risks of human rights impacts should report formally on how they address them,

*Bearing in mind* the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,<sup>2</sup> including target 16.4 of the Sustainable Development Goals, on significantly reducing illicit financial and arms flows by 2030, target 16.7, on ensuring responsive, inclusive, participatory and representative decision-making at all levels, target 16.6, on developing effective, accountable and transparent institutions at all levels, and target 16.3, on promoting the rule of law at the national and international levels and ensuring equal access to justice for all,

*Reaffirming* that States have a duty to protect individuals, within their jurisdiction, from harm caused by third parties, including other States and business enterprises, in the context of arms transfers, including diversion of arms and unregulated or illicit arms transfers, through legal, institutional and practical measures to effectively govern arms transfers and activities related thereto, exercising due diligence, in accordance with international law, including human rights law and international humanitarian law and situations of foreign occupation,

*Acknowledging* that the private sector, including all business enterprises within the arms sector, should respect international human rights law and international humanitarian law, including by implementing a due diligence process, assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses and communicating how impacts are addressed,

*Taking note with appreciation* of the reports of the Office of the United Nations High Commissioner for Human Rights,<sup>3</sup>

1. *Reaffirms* the need to ensure the prevention and cessation of all violations of international law, including violations and abuses of international human rights law and all violations of international humanitarian law that may result from arms transfers, in particular the diversion of arms and unregulated or illicit arms transfers, and to ensure the full respect of obligations under applicable international legal frameworks;

2. *Expresses its deep concern* at the fact that the diversion of arms and unregulated or illicit arms transfers continue to contribute to seriously undermining the human rights of individuals, especially women, children, youth, particularly those recruited as child soldiers, older persons, persons with disabilities and persons in vulnerable, marginalized, conflict or crime-related situations;

3. *Notes with concern* that the diversion of arms and unregulated or illicit arms transfers have a severely negative impact on the full enjoyment of all human rights of all people, in particular women, children and youth and persons in vulnerable situations, and that lack of transparency and access to information on arms transfers may exacerbate that negative impact and may increase the risk of corruption involving both the public and the private sectors;

4. *Urges* all States to refrain from transferring arms when they assess, in accordance with applicable domestic laws, regulations and procedures, international obligations and other commitments, including exercising due diligence, that there is a clear risk that such arms might be used to commit or facilitate serious violations or abuses of international human rights law or serious violations of international humanitarian law;

5. *Calls upon* States to implement, as appropriate, the recommendations contained in the aforementioned reports of the Office of the United Nations High

<sup>2</sup> General Assembly resolution 70/1.

<sup>3</sup> A/HRC/56/42 and A/HRC/58/41.

Commissioner for Human Rights, and to establish a comprehensive approach for safeguarding human rights from the negative impact of the uncontrolled proliferation of arms;

6. *Also calls upon* States to consider adopting appropriate measures to enable the tracing of arms in their production, sale and transfer, including by requiring human rights due diligence, in order to avoid risks of diversion of arms, unregulated or illicit arms transfers or illicit arms trafficking;

7. *Requests* the Office of the High Commissioner to prepare, in consultation with States, United Nations agencies and other relevant stakeholders, a study on the role of States and the private sector in preventing, addressing and mitigating the negative human rights impact of arms transfers, particularly in relation to identifying practical measures and good practices adopted, and steps taken, by States to prevent unlawful arms transfers by third parties, including the regulation of the arms sector, exercise of control over transit and transshipment of arms, and the investigation, prosecution and punishment of conduct related to arms exports prohibited by international law, and to present the study to the Human Rights Council at its sixty-sixth session;

8. *Also requests* the Office of the High Commissioner to organize a full-day intersessional workshop, in virtual format only, to inform the preparation of the aforementioned study, to be held before the sixty-fourth session of the Human Rights Council and open to the participation of States, relevant treaty bodies and mandate holders and members of academia, civil society and other relevant stakeholders;

9. *Invites* all relevant special procedures, commissions of inquiry and other relevant mechanisms of the Human Rights Council and human rights treaty bodies to bear the present resolution in mind within the framework of their respective mandates;

10. *Decides* to remain seized of this issue.

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