



**Letter from the Chargé d'Affaires of the Embassy of the Syrian Arab Republic in  
Brussels addressed to  
the Registrar of the International Court of Justice  
Brussels - October 10, 2023**

1. Referring to the correspondence received by the Syrian Arab Republic (Syria) on June 9, 2023 from the International Court of Justice including the joint application (The application) "to initiate proceedings on behalf of Canada and the Kingdom of the Netherlands (Applicants) against Syria", related to "a dispute under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" (Convention against Torture), and the request for the indication of provisional measures, which have been both filed with the Registry on June 8, 2023; the Syrian Arab Republic wishes to indicate the following:

**Introduction**

2. Syria reaffirms its commitment to respect international law and multilateral international treaties, inter alia, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and that it deals with issues related to this very seriously.
3. On this basis, Syria dealt openly and positively with the written correspondence received from the applicants, and tried in serious manner and in good faith to consider their concerns and point of view and to address what was raised by them, whether in the written correspondence between the two sides, or during the two in-person meetings that were held in the city of Abu Dhabi in the United Arab Emirates on April 26, 2022 and on October 5 and 6, 2022 between the delegation of Syria and the delegations of each of the applicants, with the aim of reaching an agreement with them.
4. **Since the first Note Verbal that Syria received from the Kingdom of the Netherlands, and in all subsequent correspondence from the applicants, and in the two meetings, the applicants refused to engage in any serious and real discussions to reach an agreement or even interact with the explanations and inquiries made by Syria, even though they were the parties that took the initiative to raise issues**

related to the application of the Convention against Torture. The applicants kept insisting only on one point, which is to obtain a prior acknowledgement from Syria, without any genuine discussion or actual exchange of information, that Syria "has breached several obligations enshrined in the Convention against Torture", and it bears responsibility of "these breaches of international law that constitute internationally wrongful acts" and "that responsibility gives rise to legal consequences for Syria". It is clear that such an approach based on preconditions- such as that insisted on by the applicants- contradicts and undermines the purpose and concept of the negotiations stipulated in Article 30 of the Convention, and renders these negotiations devoid of content, meaningless and needless, from a practical and legal standpoint.

5. Accordingly, **it was clear that the applicants only aimed to pass the procedural steps and time pointlessly, which contradicts the text and spirit of the Convention against Torture**, especially the main goal and purpose of the Convention, which is "to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world", and also disrupts the means and mechanisms of International Justice, and jeopardizes their credibility.

#### **Prima Facie Jurisdiction and Admissibility**

The applicants rely on Article 36(1) of the Statute and Article 30(1) of the Convention to establish the jurisdiction of the Court. The court needs first to ensure that it has at least prima facie jurisdiction. In this regard, Syria states the following:

6. With regard to the rights and obligations arising from human rights instruments, including the Convention against Torture, the obligation by international law is to respect, protect and implement human rights. And **the obligations arising from these treaties are individual obligations of states, and don't have the potential to create a dispute among the state parties, as long as it is not proven that damage has been caused to another party in conjunction with the existence of a causal relationship between the act and the damage according to the rules of international liability.** That is, these obligations and rights in human rights treaties are, in principle, not of a reciprocal nature. This conclusion is based on a number of legal considerations:
7. Some international conventions dealing with human rights did not hesitate to enshrine a text that gives other state parties the right to raise the responsibility of a state party that violates these obligations contained in the agreement. For example, what was stated in Article 33 of the European Convention on Human Rights<sup>1</sup>. Accordingly, if this type of agreement created mutual obligations, the inclusion of such a text in the agreement would not have been necessary. The authors of the text of the European Convention realized that the agreements create rights and obligations towards another party only in the event that rights they enjoy are violated, but this does not create an inherent right for all states to address any assumed breach of any obligation contained in the Convention. Therefore, a text must be drawn up that clarifies this right granted to all state parties.

---

<sup>1</sup> "Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party".

8. Referring to the Vienna Convention on the Law of Treaties of 1969, there is no text supporting the creation of additional obligations to be imposed on the parties to an international agreement. Rather, this Convention had enshrined the principle of relativity of the effect of treaties (Articles 31, 35, 36 of the Vienna Convention).

**Based on the foregoing, the Court does not have jurisdiction, as the two applicants do not have the right to raise allegations about Syria's responsibility for violating the Convention, since they did not prove the existence of damage to them or the existence of a causality relationship between the act and the damage according to the rules of international liability.**

9. Article 30 of the Convention against Torture (1) states that:

"Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

10. The applicants allege that there is a "dispute" between them and Syria regarding the interpretation and application of the Convention, and that they have made a "serious attempt through negotiations to resolve the dispute regarding Syria's violation of the Convention against Torture," and that "negotiations between the parties had become deadlocked or futile".

11. The Convention established a mechanism with specific steps and a procedural sequence in order to deal with the issue of state's failure to fulfill their obligations under this Convention, in accordance with what is contained in Articles 17 to 20 related to the establishment of the Committee against Torture and its working mechanisms, and Article 21, which deals with the communications "to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention."

12. Article 20 of the Convention states that:

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State

Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24".

13. Article 21 of the Convention states that:

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
  - (a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
  - (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
  - (c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
  - (d) The Committee shall hold closed meetings when examining communications under this article; (e) Subject to the provisions of subparagraph,
  - (e) the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

- (f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
  - I- If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
  - II- If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

In every matter, the report shall be communicated to the States Parties concerned.

14. **Based on the content of these articles of the Convention, it is clear that the Convention has laid down sequential and mandatory procedures and steps that must be followed, without the option of bypassing them, in the event of allegations that a state party has not fulfilled its obligations, before resorting to Article 30 of the Convention;** The sequence of the articles of the agreement is not absurd, but rather a continuous and gradual context to form a logical, binding and implementable whole. These are not just individual detached articles whose inclusion and sequence of application are of no importance or obligatory. Here, **we note that the applicants did not attempt to follow this mechanism or any of the procedures stipulated in Articles 17 to 21 and moved directly to Article 30 of the Convention,** which constitutes a procedural violation by the applicants and, as a result, negates the jurisdiction of the court and the admissibility of their application.
15. It is axiomatic that if states parties were to address the issue of non-fulfillment of the obligations stipulated in the Convention by resorting directly to Article 30 without following the procedures stipulated in Articles 17 to 21 of the Convention, there would have been no reason to include these articles in the Convention in the first place, and they would not have any meaning or there have been any need to be included in the Convention as previous articles in the procedural order of Article 30; Thus, the court must note that allowing the possibility of bypassing these articles negates the reason for their existence and effectiveness.

**Accordingly, the “dispute” referred to in Article 30 of the Convention is the one that can arise with regard to allegations of a state’s failure to fulfill its obligations in the context of the mechanism provided for in Articles 17 to 21. Therefore, Article 30 of the Convention is applicable only after the mechanisms and procedures stipulated in these articles have been met and in the event of a dispute arising therefrom.**

16. On the other hand, even if the Court finds otherwise than the aforementioned, it is necessary to consider the case in which a state party makes a reservation to Article 20 of the Convention in accordance with Article 28 (1), and does not declare that it recognizes the competence of the Committee to “receive communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention” according to Article 21. In this particular case, other states parties to the Convention don’t have in the first place the possibility of resorting to Article 30, and that state party have the same legal status enjoyed by the states that have reservations to Article 30.

In addition to the aforementioned in the previous paragraphs of this letter, if the States Parties to the Convention are not originally authorized- in accordance with the Mechanisms stipulated in the Convention that related to allegations of non-fulfillment by state parties of their obligations with regard to the existence of cases of torture- to raise this issue against the States that have reservations to Article 20 and which have not submitted declaration under Article 21, there would be no possibility of claiming the existence of a "dispute" as provided for in Article 30.

Thus, not conducting a reservation to Article 20 and/or making a declaration under Article 21 is a prerequisite for the applicability of Article 30.

- 17. Based on the above, and the fact that Syria announced in its declaration on August 19, 2004, that "according to Paragraph 28 (1) of the convention, Syria does not recognize the competence of the Committee Against Torture in Article 20", and that Syria has not declared that "it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention"; Syria considers that there is no jurisdiction of the Court and that the joint Dutch-Canadian application should not be admissible.**

#### **The procedural preconditions stipulated in Article 30**

Even if the court finds, however difficult it may be, that the aforementioned legal and procedural aspects does not render it lacking jurisdiction to hear the alleged “dispute”, the applicants have not fulfilled the procedural prerequisites set forth in Article 30.

#### **The existence of a "dispute"**

18. In a number of its previous cases, the Court stated that the conflict exists when there is “a disagreement on a point of law or fact, a conflict of legal views or interests”, and “It must be shown that the claim of one party is positively opposed by the other.”
19. The Court also considers that there is “A dispute between States exists where they hold clearly opposite views concerning the question of the performance or non-performance of certain international obligations” and that “The Court cannot limit itself to noting that one of the parties maintains that a dispute exists, and the other denies it.”
20. It is clear that the arguments presented by the applicants have failed to prove the existence of these elements, as the correspondence and the two meetings show that

Syria did not hold contradictory opinions to those of the applicants, and was trying to understand the concerns raised by them, find out their points of view, and obtain more information about them, with the aim of verifying and dealing with them if necessary or required, and reaching an agreement with the applicants.

21. As for the statements and releases issued by the applicants, they were merely general and not specifically related to the “existence of dispute” according to the Convention against Torture, and they came in the context of the general framework of the developments of the situation in Syria; Also, the correspondence that took place between the parties was of a procedural nature, and in the context of an attempt to understand the aspects raised by the applicants.

### **"negotiations"**

22. According to the Court's jurisprudence, the Court must ascertain whether there was, “at the very least a genuine attempt by one of the disputing parties to engage in discussions with the other disputing party, with a view to resolving the dispute”, and that “the precondition of negotiation is met only when there has been a failure of negotiations, or when negotiations have become futile or deadlocked.”
23. The Court also noted that the requirement that the dispute “cannot be settled through negotiation” could not be understood as referring to a theoretical impossibility of reaching a settlement. It rather implies that, as the Court noted with regard to a similarly worded provision, “no reasonable probability exists that further negotiations would lead to a settlement”
24. **Syria would like to refer to the fact that the note verbales exchanged between the parties did not actually address the substance of the issue, while the first meeting that was held on April 26, 2022, was devoted to agreeing on procedural aspects only**, and it was agreed to continue holding meetings every 3 months without any politicization. Accordingly, correspondence had taken place between the two parties to set a date for the second meeting, and it has been agreed to hold it on October 5 and 6 in Abu Dhabi.
25. The Syrian delegation, in serious manner and in good faith, engaged in the meeting held on October 5 and 6, 2022, where it addressed the "Statement of Facts" and "Statement of Law" submitted by the applicants, and engaged in discussing relevant legal and substantive aspects, as shown clearly in the verbatim minutes of this meeting.
26. **The applicants refused**, either in the meeting held in Abu Dhabi or in the exchanged correspondence, **to provide the required information about the allegations that were raised by them** in the "Statement of Facts" and "Statement of Law", **and did not respond the inquiries, questions, and legal and substantive points raised by the Syrian delegation in This meeting**, the aim of which was to have a better understanding of how to take up what the Netherlands and Canada put forward, and to follow up on that basis. After this meeting, the applicants refused to continue the meetings under the pretext of "failure of negotiations", and they requested direct recourse to arbitration after this meeting. Again, this attitude reflects the absence of any genuine or good faith attempt to reach possible agreement.

27. **Syria asserts that holding only one substantive meeting on October 5 and 6, 2022 in Abu Dhabi, was not sufficient to draw a unilateral theoretical conclusion by the applicants that "sufficient progress has not been made" and that a "deadlocked" has been reached, or that follow-up meetings are "futile."**
28. In the post-meeting correspondence, Syria has consistently confirmed its readiness to engage seriously and in good faith with applicants on the basis of the Convention against Torture<sup>2</sup>, as it indicated in these correspondence that it had evaluated the course of the meeting and the views expressed by the delegations of the applicants at the meeting, and that it has more points to raise and discuss, hoping to achieve the required result during the upcoming meetings, based on the presence of evolution in the positions of the parties.
29. **The applicants did not accept Syria's proposal to hold a new meeting in Abu Dhabi, which had blocked what this meeting could have provided of a reasonable possibility of achieving progress, and it also had reflected the applicants' lack of interest in making any genuine attempt to reach an acceptable settlement.**
30. Despite all this, and as an expression of its goodwill and seriousness, Syria has repeatedly proposed holding a meeting in Abu Dhabi as soon as possible with the agreement of the two parties. Syria reaffirmed that it has more points to raise and discuss in the proposed meeting, in order to give an additional opportunity to achieve the required progress and reach a meaningful outcome (Notes Verbales dated October 27, 2022, November 16, 2022, February 1 2023 and April 10 2023). However, the applicants completely ignored these proposals, which is inconsistent with what they indicated in their joint Notes Verbales regarding the critical importance of the time factor. Had the two applicants agreed at the time to Syria's proposal to hold this meeting, time would not have been wasted without justification, and this would have been a reasonable opportunity to make progress and reach a meaningful result within a reasonable time.
31. While the applicants claim that there are "vast disparities" between the two parties" as stated in their notes verbales dated October 17, 2022 and March 24, 2023, it is clear that this must be in first place addressed by continuing the meetings without wasting any time, especially with the presence of new elements from the other party, which was rejected by the applicants without any reasonable justification, and inconsistent with the letter and the spirit of the Convention.
32. **It is clear from the foregoing that despite the lack of evolution in the position of the applicants and their failure to make any genuine attempt to engage in discussions seriously and reach an agreement, there has been an evolution in the position of Syria, and it has endeavored diligently to bridge the points of view and reach a satisfactory result in accordance with the Convention against Torture.**
33. As explained above, since the beginning, the applicants were insisting only on one point, namely, obtaining prior acknowledgment from Syria, and without any real discussion or effective exchange of information, that Syria had "breached several

---

<sup>2</sup> Syrian notes verbal addressed to the applicants on October 27, 2022, November 17, 2022, and February 1, 2023.



obligations enshrined in the Convention” and that “these breaches of the international law constitute internationally wrongful acts which Syria bears responsibility” and that “this responsibility gives rise to legal consequences for Syria to”: “accept fully its responsibility”, “cease those acts”, “providing assurances and guarantees of non-repetition” and “providing victims full reparation”. The applicants requested to enter into negotiations on the condition that Syria submit in advance this declaration, and to negotiate exclusively “those breaches of the international law committed by Syria and the legal consequences that result from them” (as stated in the first note verbal addressed by the Netherlands to Syria on September 18, 2020).

**Since the first note verbal Syria received from Netherlands, and in all subsequent notes verbales sent by the applicants, and in the two meetings held in Abu Dhabi, the applicants insisted on this precondition that empties any negotiations of their content and makes them meaningless and needless and contradicts and undermines the goal and concept of negotiation stipulated in Article 30 of Convention.**

34. The purpose and concept of “negotiation” according to Article 30 of the Convention against Torture is to negotiate to settle disputes between “States Parties concerning the interpretation or application of this Convention”, and not to negotiate, exclusively and as a precondition, on the method of addressing the “legal consequences” of the alleged “non-application” by one party, meaning that the negotiation must take place on the merits of interpretation or application, or at least begin with them, and not jump directly to negotiation on “responsibility for violations” and “legal consequences.” As the applicants requested as a prerequisite to any negotiations.
35. **In this context, it is necessary for the Court to consider such a situation involving preconditions from one of the parties that contradict and undermine the purpose and concept of the negotiations stipulated in Article 30 of the Convention, and render these negotiations devoid of content, meaningless and needless, from a practical and legal standpoint.**

#### **"arbitration"**

36. All of Syria's repeated attempts to hold a new meeting failed, as the applicants insisted on their unjustified position that the two parties had reached a "deadlock", which impeded the possibility of reaching an agreement, and they requested resorting to arbitration in their joint Note verbale dated November 7, 2022.
37. Syria would like to clarify that this request to resort to arbitration is not consistent with the spirit and letter of Article 30 of the Convention; In addition to what was explained above, this joint Note Verbale included an annex under the title “Basic elements that constitute the basis on which the arbitral tribunal can be organized.” The Note Verbal indicated that: "If and when agreement is reached by the parties to the dispute to negotiate the organization of arbitration on the basis of these elements, Canada and the Netherlands will present a detailed proposal to Syrian Arab Republic". In other words, the applicants set a precondition that impedes any possibility of discussing the issue of arbitration, as they rejected in advance any discussion about arbitration before Syria acknowledged these elements as a basis for arbitration,

knowing that these elements prejudice the results of the arbitration and in advance acknowledgment of them makes the arbitration unnecessary in the first place.

38. Based on all of the above, it is clear that the applicants did not fulfill procedural requirements and prerequisites stipulated in Article 30 of the Convention against Torture, and that they were only aiming to pass procedural steps and time in vain, which is contrary to the letter and spirit of the Convention, violates and misuse the means and mechanisms of international justice, and jeopardizes their credibility.

#### **Provisional Measures**

39. The applicants requested from the Court the indication of provisional measures, and the date for the start of the oral procedures before the Court was set on July 3, 2023, then it was postponed to July 19, without consulting with Syria about the date and the rest of the relevant procedural aspects, noting that one of the basic principles in the Statute is that it cannot decide a dispute without the consent of the States concerned and their acceptance of the jurisdiction of the Court, which of course includes, a fortiori, consultation with it on relevant procedural matters.
40. The Court's jurisprudence, according to previous relevant cases, in the event of indicating provisional measures, is based on the need to prove the availability of a number of elements, namely the existence of "urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision", and that the alleged rights to be protected are "plausible", and that there is a link must exist between the rights whose protection is sought and the provisional measures being requested.
41. Referring to the request to indicate provisional measures submitted by the applicants, it is not possible to find any evidence in law or in facts of the availability of these elements, and in this regard, Syria would like to indicate the following:
42. The so-called "Statement of Facts" and "Statement of Law" were characterized by loose general discourse without any specific cases or facts that could be verified or dealt with in practice.
43. **The applicants refrain from providing, either through written correspondence or during the two meetings in Abu Dhabi, any specific cases or any additional information about what they submitted in the aforementioned "Statements" regarding allegations of violations of the Convention against Torture,** despite the repeated requests that was made by Syria, as documented and proven in written correspondence between the two parties and in the verbatim minutes of the two meetings.

For example, there was a clear request from the Syrian delegation to the delegations of the applicants at the second Abu Dhabi meeting to present the cases and details they have, so that could be addressed and Syria could study, evaluate, and give its opinion on them and provide the data it had in this regard, which would enable the required progress to be achieved and a conclusion reached.

**However, such requests have not been answered, and the response has been that this information will be submitted to the "Court". This confirms that, regardless**

**of the invalidity of the applicants' claims, there is no urgency in the sense that there is a real and imminent risk that needs to be addressed immediately.**

44. In addition to the foregoing, all the content of the so-called "statement of facts" revolves around a period of time ranging between 2011 and 2014, which also denies the character of urgency for the allegations made by the applicants, and is not consistent with the fact that the conditions of urgency are met when "the acts susceptible of causing irreparable prejudice can occur at any moment". Here, it is necessary to refer to Article (9) of the Convention against Torture, as it indicates that "States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings." Also, the applicants did not apply this article, which removes the element of irreparable prejudice from the alleged rights.
45. **The provisional measures requested by the applicants to protect their alleged "rights" are not plausible, exaggerated, and based on assumptions that are not supported by real evidence according to the legal foundations of the concept of evidence,** which Syria addressed in detail during the meeting held in Abu Dhabi on October 5 and 6, 2022.
46. **Also, for the alleged "rights" of the applicants to be plausible, there must be specific cases within the scope of the Convention that can be dealt with (as described above), and it is not enough to practice loose speech about possible rights related to assumed cases that have not been specified or identified.** That is, defining rights needs to identify the cases related to them first. In connection with this, the applicants justify the need to indicate provisional measures by claiming that there is "inexcusable and irreparable harm with respect to each victim of torture...".

In this regard, Syria indicated in the meeting held in Abu Dhabi on October 5 and 6, 2022 that if the applicants have specific credible cases of torture that have not come to the knowledge of the competent Syrian authorities, Syria is ready to consider them and take the necessary measures in accordance with Syrian laws, and in line with the Convention against Torture. Syria explained at the time that if the applicants have credible information and details about such cases, cooperation could take place to study and verify them and take the necessary action. However, no such cases were presented by the applicants, which also contributes to the lack of urgency in indicating provisional measures and the plausibility of the alleged rights to be protected.

Syria reiterates its readiness to consider and deal with any specific cases that are directed to it according to proper procedures in accordance with the legal frameworks and in conformity with the Convention against Torture. Such a renewed reiteration, if used in its correct context, would also negate the need to indicate provisional measures.

47. As mentioned above, Syria has repeatedly submitted proposals to hold a meeting in Abu Dhabi as soon as possible with the agreement of the parties, in order to give an additional opportunity to achieve the required progress and reach a meaningful outcome, and expressed its readiness to consider any specific information; **However, the two applicants completely ignored these suggestions, which is inconsistent with**

what they indicated in their joint Notes Verbales regarding the critical importance of the time factor and the characteristic of urgency. Had the applicants agreed at the time to Syria's proposal to convene this meeting, time would not have been wasted without justification, and this would have provided an opportunity to address any urgent cases since then. It was a fortiori for the applicants to present these alleged urgent cases during the meetings and correspondence rather than waiting to take them to the Court.

48. The provisional measures must be on the merits, and not constitute a prejudgment on the subject itself, especially in sensitive, serious, and complex cases that cannot be decided quickly and superficially. **In fact, the acknowledgment of the provisional measures requested by the applicants at this stage will constitute a prejudgment and a final verdict of the merits, without fulfilling the approved law of evidence basis and without following the procedures stipulated in the Statute and Rules of the Court, will make the court's subsequent consideration of the merits unnecessary and useless.** Therefore, in principle, these issues should be discussed at the stage of examining the merits in accordance with the applicable procedural and legal principles, and not at the stage of examining provisional measures that are considered quickly and superficially. What is meant here in particular is the measures requested in Paragraph 33 of the request for the indication of provisional measures, subparagraphs a-b-d-e.
49. For the sake of justice, it is important for the Court to consider the lack of diplomatic exchange between Syria and the two applicants, and their hostile stances towards Syria, which makes their demands motivated by politicized consideration, which Syria clearly sensed and can be inferred from through their statements related to Syria and through correspondence and the two meetings in Abu Dhabi. **Here, it should be noted the importance of not denying or ignoring the principle of "clean hands" in international law.** Therefore, Syria requests the Court to take this matter into consideration in this particular case, given its special nature, which differs from previous cases in which this principle was referred to before the Court. There are many incidents which prove that applicants are not impartial and even involved in supporting armed groups in Syria in violation of international law.
50. In addition to the fact that the Dutch government has agreed to a recommendation from the Dutch parliament to investigate the case of Dutch Prime Minister Mark Rutte providing "support to an armed Syrian opposition faction" and that an investigation has been conducted into this support provided by the government to a specific faction called "Levant Front" during the period between May 2015 and April 2018, when the Dutch government provided them with more than 25 million euros, foodstuffs, medicine, communication equipment, trucks, tents and military uniforms.

**Numerous international reports have reported on the practice of torture in Syria by the armed groups to which the Netherlands provided support. This issue was raised in the Abu Dhabi meeting on October 5 and 6 by Syria, especially with regard to the existence of instigation, or consent or acquiescence, of Dutch public officials or other persons acting in an official capacity, who provided support to this faction or other, particularly of the acts of torture it/they carried out, according to the definition of torture contained in the Convention Against Torture.**

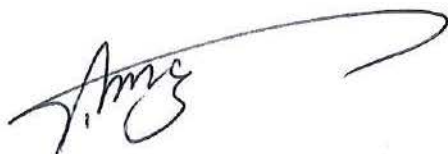
51. According to Article 41 (1) of the Statute, the Court has "the power to indicate, if it considers, that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party." That is, the purpose of the provisional measures is to protect the rights of both parties, and not one party or protect the rights of one party in a way that negatively affects the rights of the other party. **Accordingly, the indication of provisional measures requested by the applicants, as they were presented, will cause severe prejudice that may not be reparable to Syria, and may affect its ability to continue to fulfill its obligations under the Convention against Torture, especially in light of the highly politicized nature of the situation in Syria,** namely issues related to human rights, and the exploitation of this to tarnish the image of Syria, and the misuse of such provisional measures by some parties for purposes that contradict the goal for which they were issued, in a way that affects the rights and interests of Syria that are guaranteed by international law.
52. The applicants also justify referring to provisional measures in the event of "unstable and rapidly changing circumstances" and when there is "continuing tension" and that "no real progress has been made towards the implementation of Security Council Resolution 2254; However, it must be noted here that the territories under the control of the Syrian government are stable in terms of security and military. The conditions in these areas have changed radically from those that prevailed during the period in which terrorist activities were taking place, in addition to the positive and stable atmosphere contributed by the general amnesty decrees and the local settlements and reconciliations. On the other hand, there is no legal, logical, or realistic link between Resolution 2254 and the implementation of the Convention against Torture.
- 53. Based on all of the above, Syria as States Party to the Convention against Torture, respectfully request that the Court:**
- a. Declare that it lacks jurisdiction and non-admissibility of the application, and to remove the case from its general list,
  - b. Reject the request for the indication of provisional measures submitted by the applicants,
  - c. Refrain from indicating any provisional measures that could harm the interests and rights of Syria that are guaranteed to it under international law and the Convention against Torture.
- 54. In the event that the Court finds, despite the difficulty of this, that it has jurisdiction and that there is a need to indicate provisional measures, then the same legal and procedural bases which the Court was relied on to reach this conclusion will necessarily apply to what Syria, as States Party to the Convention against Torture, respectfully request initially from the Court, which are the following:**
- d. The applicants shall not take any measures that may affect the interests and rights of Syria under the Convention against Torture, or any measures against Syria that are intended to force it to accept in advance the allegations and demands they raise.

- e. The applicants shall not use the Convention against Torture as a means to achieve goals that are far from the humanitarian goals and the purposes and principles on which the Convention was established, or in a politicized way that raises doubts about the extent of good faith in applying the provisions of the Convention, or in a manner that violates the mechanisms, procedures and conditions stipulated in the Convention.
- f. The Kingdom of the Netherlands shall provide clarifications on the issue of instigation, or consent or acquiescence, of Dutch public officials or other persons acting in an official capacity, who provided support to armed groups in Syria, of the acts of torture carried out by these groups, according to the definition of torture contained in the Convention Against Torture and based on the obligations imposed on the parties to the Convention (Paragraph 45 of this letter)..
- g. The Kingdom of the Netherlands and Canada shall immediately stop providing support to these armed groups.
- h. The Kingdom of the Netherlands shall not destroy render inaccessible any evidence related to this matter, and preserve relevant information.
- i. The Kingdom of the Netherlands and Canada shall provide a report to the Court on all measures taken by them regarding the aforementioned.

**55. Syria reserves the right to revise, supplement, or amend the content of this Letter, as well as the grounds invoked**

56. For ease of reference, attached are the notes verbales sent by the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva, to the permanent missions of the Kingdom of the Netherlands and Canada in Geneva, after the meeting held in Abu Dhabi on April 26, 2022.

**Chargé d'affaires**  
**Minister Plenipotentiary**  
**Ammar Al-Arsan**



---

The Honorable Philippe Gutier,

The Registrar of the International Court of Justice in the Hague

Peace Palace, Carnegieplein 2, 2517 KJ, the Hague

Kingdom of Netherlands



رسالة موجّهة من القائم بأعمال سفارة الجمهورية العربية السورية في بروكسل

إلى المحترم رئيس قلم محكمة العدل الدولية

بروكسل في 10 تشرين الأول 2023

1. إشارة إلى المراسلات التي تلقتها الجمهورية العربية السورية (سورية) بتاريخ 9 حزيران 2023 من محكمة العدل الدولية (the Court) المتضمّنة الطلب المشترك (الطلب the application) "لمباشرة إجراءات باسم كندا ومملكة هولندا (مقدّما الطلب applicants) ضد سورية، تتعلق "بزراع بموجب اتفاقية مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة" (اتفاقية مناهضة التعذيب)، وطلب الإشارة بتدابير مؤقتة (request for the indication of provisional measures)، والمودعين لدى قلم المحكمة (the Registry) بتاريخ 8 حزيران 2023؛ تود سورية الإشارة إلى ما يلي:

#### مقدّمة

2. تؤكّد سورية من جديد على احترامها للقانون الدولي والاتفاقيات الدوليّة متعدّدة الأطراف، بما في ذلك اتفاقية "مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة"، وتتعامل مع المسائل المتعلّقة بذلك بكل جدّية.
3. على هذا الأساس، تعاطت سورية بانفتاح وإيجابية مع المراسلات الخطية التي وردت إليها من مقدمي الطلب، وحاولت بكل حُسن نية وجدّية الوقوف على مشاغلهم ووجهة نظرهما ومعالجة (address) ما تمّ طرحه من قبلهما سواء في المراسلات الخطية التي جرت بين الجانبين، أو خلال الاجتماعين الذين عقدا بالحضور الشخصي في مدينة أبو ظبي في الإمارات العربية المتحدة في 26 نيسان 2022 وفي 5 و6 تشرين

الأول 2022 بين وفد سورية، ووفدي كل من مقدمي الطلب (الاجتماعين)، وذلك بهدف الوصول إلى اتفاق معهما.

4. منذ المذكرة الأولى التي تلقيتها سورية من مملكة هولندا، وفي كل المذكرات اللاحقة من مقدمي الطلب، وفي الاجتماعين، كان مقدّما الطلب يرفضان الدخول في أي نقاشات جديدة وحقيقية للوصول إلى اتفاق أو حتى التفاعل مع العروض والشروط والاستفسارات التي قدّمها سورية، رغم أنهما الطرف الذي يادر إلى إثارة مسائل تتعلق بتطبيق اتفاقية مناهضة التعذيب، وكنا يصّرّان على نقطة واحدة فقط وهي الحصول على إقرار مُسبق من سورية ودون أي نقاش حقيقي أو تبادل فعلي للمعلومات بأن سورية قد "انتهكت العديد من التزاماتها بموجب الاتفاقية" وأن "هذه الخروقات للقانون الدولي تشكل أفعالاً غير مشروعة دولياً تتحمل سورية المسؤولية عنها" وعن "تبعاتها القانونية". ومن الواضح أنّ مثل هذا النهج القائم على شروط مُسبقة، كالتي قدمها مقدّما الطلب، يتناقض ويقوّض هدف ومفهوم المفاوضات المنصوص عليها في المادة 30 من الاتفاقية، ويجعل من هذه المفاوضات، من الناحية العملية والقانونية، فارغة من مضمونها وغير ذات معنى، ولا داعي لها.

5. وعليه، كان واضعاً أنّ مقدّما الطلب يهدفان فقط إلى تمرير الخطوات الإجرائية والوقت دون طائل، الأمر الذي يتعارض مع نص وروح اتفاقية مناهضة التعذيب، لا سيما الهدف والغرض الرئيسي من الاتفاقية وهو "زيادة فعالية النضال ضد التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية في جميع أنحاء العالم"، كما أنّ ذلك يُخلّ بسبيل وآليات العدالة الدولية ويُسيء استخدامها، ويعرّض مصداقيتها للخطر.

#### الاختصاص الأولي والقبولية (Prima Facie Jurisdiction and Admissibility)

يستند مقدّما الطلب بإقامة اختصاص المحكمة على المادة 36 (1) من النظام الأساسي والمادة 30 (1) من الاتفاقية. وتحتاج المحكمة إلى التأكّد أولاً من أن لها اختصاصاً أولياً. وفي هذا الصدد، تُشير سورية ما يلي:

6. بالنسبة للحقوق والالتزامات المترتبة على صكوك حقوق الإنسان بما في ذلك اتفاقية مناهضة التعذيب فإن الالتزامات التي جاء بها القانون الدولي تلخص في واجب الدول في احترام حقوق الإنسان وحمايتها وأعمالها. والالتزامات الناشئة عن هذه الاتفاقيات هي التزامات فردية للدول ولا تنشئ نزاعاً بين الأطراف إن لم يتم إثبات وجود ضرر يلحق بطرف آخر ووجود علاقة سببية بين الفعل والضرر وفق قواعد المسؤولية



الدولية؛ أي أن هذه الالتزامات والحقوق في معاهدات حقوق الإنسان من حيث المبدأ غير ذات طبيعة تبادلية. ويستند هذا الاستنتاج لعدد من الاعتبارات القانونية:

7. لم تتردد بعض الاتفاقيات الدولية التي تعنى بحقوق الإنسان من تكريس نص يمنح الدول الأطراف الأخرى الحق في إثارة مسؤولية دولة طرف تخرق هذا الالتزامات الواردة في الاتفاقية، ومثال ذلك ما جاء في المادة 33 من الاتفاقية الأوروبية لحقوق الإنسان<sup>(1)</sup>. وعليه لو أن هذا النوع من الاتفاقيات كان يخلق التزامات متبادلة لما كان لإدراج مثل هذا النص في الاتفاقية أي ضرورة، فواضعو نص الاتفاقية الأوروبية كانوا يعلمون أن الاتفاقيات تخلق حقوقاً والتزامات في مواجهة طرف آخر إن تم الاعتداء على حقوق يتمتعون بها لا أكثر، لكن لا يخلق ذلك حقاً أصيلاً لكل الدول لأن تنص على أي خرق مفترض لأي التزام وارد في الاتفاقية، لذا وجب وضع نص يوضح هذا الحق الممنوح لكل الدول الأطراف.

8. بالعودة إلى اتفاقية فيينا لقانون المعاهدات لعام 1969 لا يوجد أي نص يؤيد خلق التزامات إضافية لتلقيها على عاتق أطراف اتفاقية دولية، بل أن هذه الاتفاقية كانت قد كرّست مبدأ نسبية أثر المعاهدات (المواد 31، 35، 36 من اتفاقية فيينا).

بناء على ما سبق لا ينعقد اختصاص للمحكمة، كون مقدّمات الطلب لا يتمتعان بالحق في إثارة مزاعم حول مسؤولية سورية عن انتهاك الاتفاقية، كونهما لم يثبتا وجود ضرر يلحق بهما ووجود علاقة سببية بين الفعل والضرر وفق قواعد المسؤولية الدولية.

9. تنص المادة 30 (1) من اتفاقية مناهضة التعذيب على ما يلي:

"أى نزاع ينشأ بين دولتين أو أكثر من الدول فيما يتعلق بتفسير هذه الاتفاقية أو تنفيذها ولا يمكن تسويته عن طريق التفاوض، يطرح للتحكيم بناء على طلب إحدى هذه الدول فإذا لم تتمكّن الأطراف في غضون ستة أشهر من تاريخ طلب التحكيم، من الموافقة على تنظيم التحكيم، يجوز لأي من تلك الأطراف أن يحيل النزاع إلى محكمة العدل الدولية بتقديم طلب وفقاً للنظام الأساسي لهذه المحكمة".

10. يزعم مقدّمات الطلب أنّ هناك "نزاعاً" قائماً بينهما وبين سورية فيما يتعلق بتفسير وتطبيق الاتفاقية، وأنهما قامتا "بمحاولة جدية من خلال المفاوضات لحل النزاع المتعلق بانتهاك سورية لاتفاقية مناهضة التعذيب"، وأن "المفاوضات بين الطرفين قد وصلت إلى طريق مسدود أو كانت عقيمة".

<sup>1</sup> "Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party".

11. لقد أرسيت الاتفاقية آلية محددة الخطوات والتسلسل الإجرائي فيها يخص التعامل مع مسألة عدم وفاء الدول بالتزاماتها بموجب هذه الاتفاقية، وذلك وفقاً لما هو وارد في المواد من 17 وحتى 20 المتعلقة بإنشاء لجنة لمتاهضة التعذيب وآليات عملها، والمادة 21 المتضمنة كيفية تقديم "بلاغات تفيد أن دولة طرفاً تدعي أن دولة طرف أخرى لا تفي بالتزاماتها بموجب هذه الاتفاقية".

12. تنص المادة 20 من الاتفاقية على ما يلي:

1. إذا تلقت اللجنة معلومات موثوق بها يبدو لها أنها تتضمن دلائل لها أساس قوي تشير إلى أن تعذيباً يمارس على نحو منظم في أراضي دولة طرف، تدعو اللجنة الدولة الطرف المعنية إلى التعاون في دراسة هذه المعلومات، وتحقيقاً لهذه الغاية إلى تقديم ملاحظات بصدد تلك المعلومات.

2. وللجنة بعد أن تأخذ في اعتبارها أية ملاحظات تكون قد قدمتها الدولة الطرف المعنية وآية معلومات ذات صلة متاحة لها، أن تعين، إذا قررت أن هنالك ما يبرر ذلك، عضواً أو أكثر من أعضائها لإجراء تحقيق سرّي وتقديم تقرير بهذا الشأن إلى اللجنة بصورة مستعجلة.

3. وفي حالة إجراء تحقيق بمقتضى الفقرة 2 من هذه المادة، تلتزم اللجنة تعاون الدولة الطرف المعنية. وقد يشمل التحقيق، بالاتفاق مع الدولة الطرف، القيام بزيارة أراضي الدولة المعنية.

4. وعلى اللجنة، بعد فحص النتائج التي يتوصل إليها عضوها أو أعضاؤها وفقاً للفقرة 2 من هذه المادة أن تحيل إلى الدولة الطرف المعنية هذه النتائج مع أي تعليقات واقتراحات قد تبدو ملائمة بسبب الوضع القائم.

5. تكون جميع إجراءات اللجنة المشار إليها في الفقرات 1 إلى 4 من هذه المادة سرّية، وفي جميع مراحل الإجراءات يلتزم تعاون الدولة الطرف. ويجوز للجنة وبعد استكمال هذه الإجراءات المتعلقة بأي تحقيق يتم وفقاً للفقرة 2، أن تقرر بعد إجراء مشاورات مع الدولة الطرف المعنية إدراج بيان موجز بنتائج الإجراءات في تقريرها السنوي المعد وفقاً للمادة 24.

13. تنص المادة 21 (1) من الاتفاقية على ما يلي:

1. لأية دولة طرف في هذه الاتفاقية أن تعلن، في أي وقت، بموجب هذه المادة، أنها تعترف باختصاص اللجنة في أن تتسلم بلاغات تفيد أن دولة طرفاً تدعي أن دولة طرف أخرى لا تفي بالتزاماتها بموجب هذه الاتفاقية في أن تنظر في تلك البلاغات. ولا يجوز تسلم البلاغات والنظر فيها وفقاً للإجراءات المبينة في هذه المادة، إلا في حالة تقديمها من دولة طرف أعلنت اعترافها باختصاص اللجنة فيما يتعلق بها

نفسها. ولا يجوز للجنة أن تتناول، بموجب هذه المادة، أي بلاغ إذا كان يتعلق بدولة طرف لم تقم بإصدار مثل هذا الإعلان. ويتم تناول البلاغات الواردة بموجب هذه المادة، وفقاً للإجراءات التالية:

(أ) يجوز لأي دولة طرف، إذا رأت أن دولة طرفاً أخرى لا تقوم بتنفيذ أحكام الاتفاقية الحالية، أن تلقت نظر تلك الدولة الطرف لهذا الأمر برسالة خطية وعلى الدولة الطرف التي تتسلم الرسالة أن تقدم إلى الدولة الطرف التي بعثت إليها في غضون ثلاثة أشهر من تاريخ تسلمها الرسالة، تفسيراً أو أي بيان خطى يوضح فيه الأمر ويتضمن، بقدر ما هو ممكن وملائم، إشارة إلى الإجراءات ووسائل الانتصاف المحلية التي اتخذت أو ينتظر اتخاذها أو التي تتوفر بالنسبة لهذا الأمر،

(ب) في حالة عدم تسوية الأمر بما يرضى كلاً من الدولتين الطرفين المعنيين في غضون ستة أشهر من تاريخ ورود الرسالة الأولى إلى الدولة المتسلمة يحق لأي من الدولتين أن تحيل الأمر إلى اللجنة بواسطة إخطار توجهه إلى اللجنة وإلى الدولة الأخرى،

(ج) لا تتناول اللجنة أي مسألة تحال إليها بمقتضى هذه المادة إلا بعد أن تتأكد من أنه تم الاتجاه إلى جميع وسائل الانتصاف المحلية المتوفرة بالنسبة لهذا الأمر واستنفادها، وفقاً لمبادئ القانون الدولي المعترف بها عموماً، ولا تسري هذه القاعدة في حالة إطالة مدة تطبيق وسائل الانتصاف بصورة غير معقولة أو في حالة عدم احتمال إنصاف الشخص الذي وقع ضحية لانتهاك هذه الاتفاقية على نحو فعال،

(د) تعقد اللجنة اجتماعات مغلقة عند قيامها بدراسة البلاغات المقدمة لها بموجب هذه المادة، (هـ) مع مراعاة أحكام الفقرة الفرعية (ج)، تتيج اللجنة مساعيها الحميدة للدول الأطراف المعنية بهدف التوصل إلى حل ودي للمسألة على أساس احترام الالتزامات المنصوص عليها في هذه الاتفاقية. وتحقيقاً لهذا الغرض، يجوز للجنة أن تنشئ، عند الاقتضاء، لجنة مخصصة للتوفيق،

(و) يجوز للجنة أن تطلب إلى الدول الأطراف المعنية، المشار إليها في الفقرة الفرعية (ب) أن تزودها بأية معلومات ذات صلة في أية مسألة محالة إليها بمقتضى هذه المادة،

(ز) يحق للدول الأطراف المعنية، المشار إليها في الفقرة الفرعية (ب)، أن تكون ممثلة أثناء نظر اللجنة في المسألة وأن تقدم مذكرات شفوية أو كتابية أو كليهما،

(ح) تقدم اللجنة تقريراً، خلال اثني عشر شهراً من تاريخ استلام الإخطار المنصوص عليه في الفقرة الفرعية (ب)،

"1" في حالة التوصل إلى حل في إطار أحكام واردة في الفقرة الفرعية (هـ)، تقصر اللجنة تقريرها على بيان موجز بالوقائع والحل الذي تم التوصل إليه.

"2" في حالة عدم التوصل إلى حل في إطار أحكام الفقرة الفرعية (ج)، تقصر اللجنة تقريرها على بيان موجز بالوقائع على أن ترفق به المذكرات الخطية ومحضراً بالمذكرات الشفوية التي أعدتها الدول الأطراف المعنية. ويبلغ التقرير في كل مسألة إلى الدول الأطراف المعنية.

14. بناء على مضمون هذه المواد، من الواضح أنّ الاتفاقية قد وضعت إجراءات وخطوات متسلسلة وإلزامية لا بدّ من اتباعها، دون خيار تجاوزها، في حال وجود مزاعم بعدم وفاء إحدى الدول الأطراف بالتزاماتها، وذلك قبل اللجوء إلى المادة 30 من الاتفاقية؛ فتسلسل مواد الاتفاقية ليس عبثياً بل هو سياق متصل ومتدرج ليشكّل كلاً منطقياً ملزماً وقابلاً للتنفيذ، وليس مجرد مواد منفردة لا أهمية أو إلزامية لتسلسل تطبيقها. وهنا نلاحظ أنّ مقدّما الطلب لم يحاول السير وفق هذه الآلية أو أي من الإجراءات المنصوص عليها في المواد من 17 إلى 21، وانتقلا مباشرة إلى المادة 30 من الاتفاقية، الأمر الذي يشكل مخالفة إجرائية من قبل مقدمي الطلب وينفي بالنتيجة اختصاص المحكمة ومقبولية طلبهما.

15. من البديهي بأنه إذا كانت الدول الأطراف ستعالج مسألة عدم الوفاء بالتزامات المنصوص عليها في الاتفاقية من خلال اللجوء مباشرة إلى المادة 30 دون اتباع الإجراءات المنصوص عليها في المواد من 17 إلى 21 من الاتفاقية، فما كان من داعٍ لإدراج هذه المواد أصلاً، ولما كان لها أي معنى، ولما أدرجت في الاتفاقية كمواد سابقة في الترتيب الإجرائي للمادة 30؛ وبذلك لا بدّ وأن تلاحظ المحكمة أنّ إتاحة إمكانية تجاوز هذه المواد ينفي علّة وجودها أو فعاليتها.

وعليه، فإنّ "التزاع" المشار إليه في المادة 30 من الاتفاقية، هو النزاع الذي يُمكن أن ينشأ فيما يخصّ المزاعم المتعلقة بعدم وفاء دولة ما بالتزاماتها وفق الآلية المنصوص عليها في المواد من 17 إلى 21، وبالتالي فإنّ المادة 30 تنطبق فقط بعد استيفاء الآليات والإجراءات المنصوص عليها في هذه المواد، وفي حال وجود نزاع متولد عن ذلك.

16. من جهة أخرى، حتى لو ارتأت المحكمة خلاف المذكور آنفاً، فمن الضروري أن تنظر في مسألة أنّ تحفظ دولة ما على المادة 20 من الاتفاقية وفقاً للمادة 28 (1)، وعدم إعلانها الاعتراف باختصاص اللجنة في أن تتسلم بلاغات تفيد أن دولة طرفاً تدعي أن دولة طرف أخرى لا تفي بالتزاماتها بموجب هذه الاتفاقية" وفقاً لما جاء في المادة 21، لا يتيح للدول الأخرى الأطراف في الاتفاقية أصلاً إمكانية

اللجوء إلى المادة 30، ويعطي هذه الدولة نفس المركز القانوني الذي تتمتع به الدول المتحفظة على المادة 30.

إضافةً إلى ما سبق ذكره في الفقرات السابقة من هذه الرسالة، فإذا كانت الدول الأطراف في الاتفاقية غير مخولة أصلاً وفق الآليات المنصوص عليها في الاتفاقية المرتبطة بمزاعم عدم وفاء الدول الأطراف بالتزاماتها فيما يتعلق بوجود حالات تعذيب، بإثارة ذلك بالنسبة للدول المتحفظة على المادة 20 والتي لم تقدم إعلاناً بموجب المادة 21؛ فلن يكون هناك إمكانية أصلاً لنشوء "النزاع" المنصوص عليه في المادة 30.

وبالتالي فإنّ عدم التحفظ على المادة 20 و/أو تقديم إعلان بموجب المادة 21 هو شرط مُسبق لإمكانية انطباق المادة 30.

17. بناء على ما سبق، وكون سورية قد أعلنت عندما انضمت إلى الاتفاقية في 19 آب 2004، بأنه: "وفقاً للمادة 28 الفقرة 1 من الاتفاقية، لا تعترف سورية باختصاص لجنة مناهضة التعذيب المنصوص عليها في المادة 20"، كما أنّ سورية لم تعلن "أنها تعترف باختصاص اللجنة في أن تتسلم بلاغات تفيد أن دولة طرفاً تدعي أن دولة طرف أخرى لا تفي بالتزاماتها بموجب هذه الاتفاقية"؛ فإنها ترى أنّه لا يوجد اختصاص للمحكمة وأنّ الطلب المشترك الهولندي الكندي يجب ألا يحظى بالمقبولية.

#### الشروط الإجرائية المسبقة التي نصت عليها المادة 30

حتى لو رأت المحكمة، رغم صعوبة ذلك، أن ما سبق ذكره آنفاً من جوانب قانونية وإجرائية لا يجعلها تفتقر للاختصاص للنظر في "النزاع" المزعوم، فإنّ مقدّم الطلب لم يستوفيا الشروط الاجرائية المسبقة المنصوص عليها في المادة 30.

#### وجود "نزاع"

18. في عدد من أحكامها السابقة قضت المحكمة بأن النزاع يكون موجوداً عند "وجود خلاف حول نقطة قانونية أو واقعية، أو تضارب في الآراء القانونية أو المصالح القانونية، أو المعارضة الإيجابية من قبل أحد الأطراف (positive opposition) لادعاء الطرف الآخر.

19. تعتبر المحكمة أيضاً بأنّ هناك "نزاعاً" بين الأطراف "عندما يتمسكون بوضوح بآراء متعارضة فيما يتعلق بأداء أو عدم أداء التزامات دولية معينة"، وأنه "لا يمكن للمحكمة أن تقتصر على ملاحظة أن أحد الطرفين يؤكد وجود نزاع، في حين يقوم الطرف الآخر بنفيه".

20. من الواضح أن الحجج التي جاء بها مقدّما الطلب قد فشلت في إثبات وجود هذه العناصر، حيث تُظهر المراسلات والاجتماعين أن سورية لم تتمكن بآراء متعارضة معهما وكانت تحاول الوقوف على المشغل التي أثارها مقدّما الطلب، وفهم وجهة نظرهما، والحصول على المزيد من المعلومات بشأنها بهدف التحقق منها ومعالجتها إن كان ذلك لازماً، والوصول إلى اتفاق معهما.

21. أما بالنسبة للبيانات والتصريحات الصادرة عن مقدمي الطلب، فقد كانت عامة ولا تتعلق بانفاقية مفاوضات التعذيب بالتحديد، وجاءت في سياق الإطار العام المتعلق بتطورات الوضع في سورية؛ كما أنّ المراسلات التي جرت بين الطرفين كانت ذات طبيعة إجرائية، وفي سياق محاولة فهم الجوانب التي يُثيرها مقدّما الطلب.

وعليه، فإن سورية ليست في حالة "نزاع" مع مقدّمي الطلب حول انفاقية مناهضة التعذيب، وهي لم تُعبّر عن ذلك أو تتصرف على هذا النحو، صراحة أو ضمناً، لا في المراسلات ولا في الاجتماعين مع مقدّمي الطلب.

#### "المفاوضات"

22. وفقاً لفقته المحكمة يجب على المحكمة أن تتحقق ما إذا كانت هناك "على الأقل محاولة حقيقية من جانب أحد الأطراف المتنازعة للدخول في مناقشات مع الطرف المتنازع الآخر، بهدف حل النزاع"، وأنه "لا يُستوفى الشرط المسبق للتفاوض إلا عندما يكون هناك فشل في المفاوضات، أو عندما تصبح المفاوضات عقيمة أو تصل إلى طريق مسدود".

23. كما أشارت المحكمة إلى أنه لا يمكن فهم الشرط القائل بأن النزاع "لا يمكن تسويته من خلال التفاوض على أنه يشير إلى استحالة التوصل إلى تسوية من الناحية النظرية". بل يعني أنه "لا يوجد احتمال معقول بأن تؤدي المفاوضات الإضافية إلى تسوية...".

24. تشير سورية إلى حقيقة أن المذكرات المتبادلة بين الأطراف لم تتناول فعلياً جوهر الموضوع، في حين كان الاجتماع الأول الذي عقد بتاريخ 26 نيسان 2022 مخصصاً للاتفاق على النواحي الإجرائية فقط، وتمّ الاتفاق على مواصلة الاجتماعات دون أي تيسيس كل 3 أشهر. وبناء على ذلك جرت مراسلات بين الطرفين لتحديد موعد الاجتماع الثاني، وتم الاتفاق على عقده في 5 و6 تشرين الأول في أبوظبي.

25. انخرط وفد سورية بجديّة وحُسن نيّة في الاجتماع الذي عُقد في 5 و6 تشرين الأول 2022، حيث تناول "بيان الوقائع" و"بيان القانون" المقدمين من مقدمي الطلب، وانخرط في نقاش الجوانب القانونية والموضوعية ذات الصلة، حسب ما هو ظاهر بوضوح في المحضر الحرفي لهذا الاجتماع.

26. رفض مقدما الطلب، سواء في الاجتماع الذي عقد في أبوظبي أو في المراسلات المتبادلة تقديم المعلومات المطلوبة حول الادعاءات التي تم طرحها من قبلهما في "بيان الوقائع" و"بيان القانون"، ولم يجيبا على الاستفسارات والأسئلة والنقاط القانونية والموضوعية التي طرحت من قبل وفد سورية في هذا الاجتماع، والتي كان الهدف منها هو تكوين فهم أفضل لكيفية تناول ما طرحه كل من هولندا وكندا، والمتابعة على أساس ذلك. وبعد هذا الاجتماع رفض مقدّما الطلب متابعة الاجتماعات تحت ذريعة "فشل المفاوضات"، وطلبنا مباشرة اللجوء إلى التحكيم بعد هذا الاجتماع؛ وهو الأمر الذي يعكس من جديد عدم وجود أي محاولة حقيقية أو حسن نية في الوصول إلى أي اتفاق.

27. تؤكد سورية أنّ عقد اجتماع مضموني واحد فقط في 5 و6 تشرين الأول 2022 في أبوظبي، غير كافٍ للخروج باستنتاج نظري من جانب واحد من قبل مقدّمي الطلب بأنه لم يتم "احراز تقدّم كافٍ" وأنه قد تم الوصول إلى "طريق مسدود" وأن متابعة الاجتماعات "غير مجدية".

28. خلال المراسلات اللاحقة للاجتماع، أكدت سورية باستمرار بأنها مستعدة للانخراط بجديّة وحُسن نيّة مع مقدمي الطلب استناداً إلى اتفاقية مناهضة التعذيب<sup>(2)</sup>، حيث أوضحت في هذه المراسلات بأنّها قد قامت بتقييم مجريات الاجتماع ووجهات النظر التي تم التعبير عنها من قبل وفدي كل من مقدمي الطلب في الاجتماع، وأن لديها المزيد من النقاط لطرحها ومناقشتها، أملاً في تحقيق تطور في مواقف الأطراف خلال الاجتماعات المقبلة، وتحقيق النتيجة المطلوبة.

29. لم يقبل مقدّما الطلب اقتراح سورية بعقد اجتماع جديد في أبوظبي، الأمر الذي قطع الطريق على ما كان هذا الاجتماع يُمكن أن يوفره من احتمال معقول لتحقيق تقدّم، كما أنّ ذلك يُظهر عدم اهتمام مقدّمي الطلب ببذل أي محاولة حقيقية في هذا الإطار للوصول إلى تسوية مقبولة بين الطرفين.

30. رغم كل ذلك وتعبيراً عن حُسن نيتها وجديتها، قدّمت سورية بشكل متكرر اقتراحاً بعقد اجتماع في أبوظبي في أقرب وقت ممكن باتفاق الطرفين، وأكدت أنّ لديها المزيد من النقاط لطرحها ومناقشتها في هذا الاجتماع، وذلك لإعطاء فرصة إضافية لتحقيق التقدم المطلوب والوصول إلى نتيجة مجدية (المذكرات المؤرخة 2022\10\27 و2022\11\16 و2023\2\1 و2023\4\10) ولكن تجاهل مقدّما الطلب هذه

<sup>2</sup> مذكرات سورية الموجهة لمقدمي الطلب بتاريخ 27 تشرين الأول 2022 و17 تشرين الثاني 2022 و1 شباط 2023.

الاقتراحات بشكل كامل، الأمر الذي لا يتسق مع ما أشارت إليه في مذكراتها المشتركة بشأن الأهمية البالغة لعامل الوقت؛ ولو وافق مقدّما الطلب في حينه على مقترح سورية بعقد هذا الاجتماع، لما تم هدر الوقت بدون مبرر، ولشكّل ذلك فرصة معقولة لتحقيق تقدّم والوصول إلى نتيجة مجدّية خلال فترة زمنية معقولة.

31. إذا كان مقدّما الطلب يزعم أن هناك "فوارق شاسعة بين الطرفين" كما جاء في مذكرتهما المؤرخة 17 تشرين الأول 2022 والمذكرة المؤرخة 24 آذار 2023، فمن الواضح أن معالجة ذلك تتمّ بالدرجة الأولى من خلال مواصلة الاجتماعات دون إضاعة أي وقت، خاصة مع وجود عناصر جديدة لدى الطرف الآخر، وهو ما رفضه مقدّما الطلب بدون أي مبرر معقول، وبما لا يتسق مع نص وروح الاتفاقية.

32. من الواضح مما سبق أنه رغم عدم التطور في موقف مقدّم الطلب وعدم قيامهما بأي محاولة حقيقية للتفاعل الجدي والوصول إلى اتفاق، كان هناك تطور في موقف سورية، وسعت بجدّ إلى تقريب وجهات النظر والوصول إلى نتيجة مرضية بما يتسق مع اتفاقية مناهضة التعذيب.

33. كما هو موضّح آنفاً، منذ البداية كان مقدّما الطلب يصرّح فقط على نقطة واحدة وهي الحصول على إقرار مسبق من سورية ودون أي نقاش حقيقي أو تبادل فعلي للمعلومات أن سورية قد "انتهكت العديد من التزاماتها بموجب الاتفاقية" وأن "هذه الخروقات تشكل أفعالاً غير مشروعة دولياً تتحمل سورية المسؤولية عنها"، وأن "وهذه المسؤولية تؤدي إلى تبعات قانونية على سورية في القبول الكامل بمسؤوليتها عن هذه الأعمال غير المشروعة دولياً"، و"وقف هذه الأفعال" و"تقديم تأكيدات وضمائمات بعدم تكرارها" و"تقديم تعويض كامل للضحايا". وطلب مقدّما الطلب الدخول في مفاوضات بشرط تقديم سورية لهذا الإقرار المسبق وحصراً حول "تلك الخروقات للقانون الدولي التي ارتكبتها سورية والتبعات القانونية التي تترتب عليها" (كما جاء في المذكرة الأولى الموجهة من هولندا إلى سورية بتاريخ 18 أيلول 2020).

منذ المذكرة الأولى التي تلقّتها سورية من مملكة هولندا، وفي كل المذكرات اللاحقة من مقدمي الطلب، وفي الاجتماعين الذين عقدا في أبوظبي، أصر مقدّما الطلب على هذا الشرط المسبق الذي يفرغ أي مفاوضات من مضمونها ويجعلها غير ذات معنى، وبالإداعي، والذي يتناقض ويقوض هدف ومفهوم التفاوض المنصوص عليه في المادة 30 من الاتفاقية.

34. إن هدف ومفهوم "التفاوض" حسب المادة 30 من اتفاقية مناهضة التعذيب هو التفاوض للوصول إلى تسوية لأي نزاع ينشأ بين دولتين أو أكثر من الدول فيما يتعلق بتفسير أو تطبيق هذه الاتفاقية"، وليس التفاوض، حصراً وكشروط مسبق، حول طريقة معالجة التبعات القانونية المترتبة على "عدم التطبيق"



المردوم من قبل طرف واحد، أي أن التفاوض يجب أن يجري حول حيثيات التفسير أو التطبيق، أو على الأقل أن يبدأ بهما، وليس أن يتم القفز إلى التفاوض مباشرة حول المسؤولية عن "الانتهاكات" و"التبعات القانونية" كما يطلب مقدما الطلب وأن يكون ذلك شرطاً مسبقاً لأي مفاوضات.

35. في هذا السياق، من الضروري أن تنظر المحكمة في مثل هذه الحالة التي تنطوي على شروط مسبقة من أحد الأطراف تتناقض وتقوض هدف ومفهوم المفاوضات المنصوص عليها في المادة 30 من الاتفاقية، وتجعل من هذه المفاوضات، من الناحية العملية والقانونية، فارغة من مضمونها وغير ذات معنى.

### "التحكيم"

36. فشلت كل محاولات سورية المتكررة لعقد اجتماع جديد، حيث أمرت مقدّما الطالب على موقفها غير المرر بأن الطرفين قد وصلا إلى "طريق مسدود"، الأمر الذي عرقل إمكانية الوصول إلى اتفاق، وطلب اللجوء إلى التحكيم في المذكرة المشتركة المؤرخة 7 تشرين الثاني 2022.

37. تؤدّ سورية التوضيح بأن هذا الطلب باللجوء إلى التحكيم لا يتسق مع روح ونص المادة 30 من الاتفاقية، بالإضافة إلى ما تم إيضاحه آنفاً. تضمنت هذه المذكرة المشتركة مرفقاً تحت عنوان "عناصر أساسية تشكل الأساس الذي يُمكن استناداً إليها تنظيم هيئة التحكيم"، وأشارت المذكرة إلى أنه: "وإذاً أو عندما يتم التوصل إلى اتفاق بين طرفي النزاع على التفاوض بشأن تنظيم التحكيم على أساس هذه العناصر، ستقدم هولندا وكندا اقتراحاً مفصلاً إلى سورية". أي أن مقدّما الطالب وضعها شرطاً مسبقاً يعيق أي إمكانية لمناقشة مسألة التحكيم، حيث رفضت بشكل مُسبق أي نقاش حول التحكيم قبل إقرار سورية بهذه العناصر كأساس للتحكيم، مع العلم أن هذه العناصر تعطي حكماً مسبقاً لنتائج التحكيم وتجعل الإقرار بها من التحكيم غير لازم أصلاً.

38. بناء على كل ما سبق، من الواضح أن مقدمي الطلب لم يستوفيا المتطلبات والشروط الإجرائية المنصوص عليها في المادة 30 من اتفاقية مناهضة التعذيب، وأنهما كانا يهدفان فقط إلى تمرير الخطوات الإجرائية والوقت دون طائل، الأمر الذي يتعارض مع نص وروح اتفاقية مناهضة التعذيب، ويُخل بسبل وآليات العدالة الدولية ويُسيئ استخدامها، مما يعرّض مصداقيتها للخطر.

### التدابير المؤقتة

39. طلب مقدّما الطلب من المحكمة الإشارة بتدابير مؤقتة، وتمّ تحديد موعد بدء الإجراءات المشفوية أمام المحكمة بتاريخ 3 تموز 2023، ثم تأجيل ذلك إلى 19 تموز، وذلك دون التشاور مع سورية حول هذا الموعد وباقي النواحي الإجرائية ذات الصلة، علماً أنّ أحد المبادئ الأساسية لنظامها الأساسي هو أنها لا تستطيع أن تبت في نزاع دون موافقة الدول المعنية وقبولها باختصاص المحكمة، وهذا بالطبع يشمل من باب أولى التشاور معها حول الأمور الإجرائية ذات الصلة.

40. يستند فقه المحكمة وفقاً للحالات السابقة ذات الصلة عند الإشارة بتدابير مؤقتة إلى ضرورة إثبات توفّر عدد من العناصر وبالتحديد وجود "إلحاح بمعنى وجود خطر وشيك وحقيقي يُمكن أن يؤدي إلى ضرر لا يمكن جبره في حقوق الأطراف قبل اتخاذ المحكمة لقرارها النهائي"، وأنّ الحقوق المزعومة المطلوب حمايتها "معقولة" (plausible)، وأنّ هناك رابط بين هذه الحقوق والتدابير المؤقتة المطلوب الإشارة بها.

41. بالرجوع إلى طلب الإشارة بتدابير مؤقتة الذي تقدّم به مقدّما الطلب، لا يُمكن إيجاد أيّ إثبات في القانون أو في الوقائع لتوفّر هذه العناصر، وفي هذا الصدد يُمكن الإشارة إلى ما يلي:

42. اتّسم ما يسمى "بيان الوقائع" و "بيان القانون"، بالحدِيث العام الفضيض دون أي حالات أو وقائع محددة قابلة للتحقق أو للتعامل معها أصلاً بشكل عملي.

43. لم يقدّم مقدّما الطلب سواء من خلال المراسلات الخطية أو خلال الاجتماعين في أبو ظبي، أي حالات محددة أو أي معلومات إضافية عمّا قدمناه في البيانين المشار إليهما أعلاه، حول مزاعم وجود انتهاكات لاتفاقية مناهضة التعذيب، رغم المطالبات المتكررة لهما بذلك من قبل سورية، كما هو موثق في المراسلات الخطية بين الجانبين وفي المحضّر الحرفي للاجتماعين. وعلى سبيل المثال، كان هناك طلب واضح من الوفد السوري لوفدي مقدّمي الطلب في اجتماع أبو ظبي الثاني بضرورة تقديم الحالات والتفاصيل التي لديها ليتم تناولها، وحتى تتمكن سورية من دراستها وتقييمها وإعطاء رأيها فيها وتقديم المعلومات التي لديها بصددّها، مما يُمكن من تحقيق التقدم المطلوب والوصول إلى نتيجة.

ولكن لم تتمّ الاستجابة لمثل هذه المطالبات وكان الجواب بأن هذه المعلومات ستتقدّم إلى "المحكمة"، مما يوكد، بغض النظر عن صحة ادعاءات مقدّمي الطلب، أنّه لا يوجد أي إلحاح أو خطرو شيك وحقيقي يحتاج إلى معالجة فورية.

44. إضافة لما سبق، كل مضمون ما يسمى "بيان الوقائع" يتمحور حول الحدِيث عن فترة زمنية تتراوح بين 2011 و2014، مما ينفي أيضاً صفة الإلحاح (urgency) عن المزاعم التي يدعيها مقدّما الطلب، ولا يتسق مع القول بأن شروط حالة الإلحاح تتحقق "في حال كانت الأفعال، التي يمكن أن تسبب ضرراً لا

يمكن إصلاحه، من الممكن وقوعها في أي لحظة". وهنا لا بدّ من الإشارة إلى المادة (٩) من اتفاقية مناهضة التعذيب لكونها تشير إلى أنه على كل دولة طرف أن تقدم إلى الدول الأطراف الأخرى أكبر قدر من المساعدة فيما يتعلق بالإجراءات الجنائية المتخذة بشأن أي من الجرائم المشار إليها في المادة 4، بما في ذلك توفير جميع الأدلة الموجودة في حوزتها واللائمة للإجراءات". وأيضاً لم يطبق مقديما الطلب هذه المادة مما يترج عنصر الضرر الذي لا يمكن جبره عن الحقوق المزعومة.

45. إن التدابير المؤقتة التي يطلبها مقديما الطلب لحماية "حقوقهما" المزعومة، غير معقولة وفيها مخالفة وقائمة على افتراضات غير مستندة بأدلة حقيقية حسب الأسس القانونية لمفهوم الدليل، وهو ما تناولته سورية بالتنصّل خلال الاجتماع الذي عُقد في 5 و6 تشرين الأول 2022.

46. أيضاً حتى تكون "الحقوق" المزعومة لمقديمي الطلب معقولة، يجب أن يكون هناك حالات محددة ضمن نطاق الاتفاقية يمكن التعامل معها (كما هو موضح آنفاً)، ولا يكفي الحديث العام عن حقوق محتملة تتصل بحالات مفترضة لم يتم تصديدها؛ أي أن تحديد الحقوق يحتاج إلى تحديد الحالات المتصلة بها أولاً. وانصلاً بذلك يترّ مقديما الطلب الحاجة إلى الإشارة بتدابير مؤقتة بالادعاء بأن هناك "ضرراً لا يغتفر ولا يمكن إصلاحه فيما يتعلق بكل ضحية من ضحايا التعذيب...".

وفي هذا الصدد أشارت سورية في الاجتماع الذي عقد في أبو ظبي في 5 و6 تشرين الأول 2022 إلى أنه إذا كان هناك حالات معيّنة ذات مصداقية حول التعذيب لدى مقديمي الطلب لم تصل إلى علم السلطات السورية المختصة، فسورية مستعدة للنظر بها واتخاذ الإجراءات اللازمة وفقاً للقوانين السورية وبما ينسجم مع اتفاقية مناهضة التعذيب. وأوضحت سورية حينها أنه إذا كان لدى مقديمي الطلب أي معلومات ذات مصداقية وتفصيل حول مثل هذه الحالات يمكن أن يتم التعاون لدراسها والتحقق منها واتخاذ الاجراء اللازم. ولكن أيضاً لم يتم تقديم مثل هذه الحالات من قبل مقديمي الطلب، مما يساهم أيضاً في انتفاء صفة الإلحاح عن الإشارة بتدابير مؤقتة والمعقولة عن الحقوق المزعومة المطلوب حمايتها.

في هذا الصدد، تؤكد سورية من جديد استعدادها للنظر في أي حالات محددة يتم نقلها إليها وفق الإجراءات السليمة ومعالجتها وفق الأطر القانونية وبما يتسق مع اتفاقية مناهضة التعذيب، ومثل هذا التأكيد المتجدد من شأنه، إن استُخدم في سياقه الصحيح، أن ينفى أيضاً الحاجة إلى الإشارة بتدابير مؤقتة.

47. كما أشير آنفاً، قدّمت سورية بشكل متكرر اقتراحاً بعقد اجتماع في أبو ظبي في أقرب وقت ممكن باتفاق الطرفين، وذلك لإعطاء فرصة إضافية لتحقيق التقدم المطلوب والوصول إلى نتيجة مجدبة،

وتم التعبير عن استعدادها للنظر في أي معلومات معدّدة؛ ولكن تجاهلن مقدّمًا الطلب هذه الاقتراحات بشكل كامل، الأمر الذي لا يتسق مع ما أشارنا إليه في مذكرتهما المشتركة بشأن الأهمية البالغة لعامل الوقت وصفة الإلحاح؛ ولو وافق مقدّمنا الطلب في حينه على مقترح سورية بعقد هذا الاجتماع، لما تمّ هدر الوقت بدون مبرر، ولنشكل ذلك فرصة لمعالجة أي حالات تحمل صفة الإلحاح منذ ذلك الحين. وكان من باب أولى بمقدّمي الطلب تقديم هذه الحالات التي يزعمان أنها ملحة خلال الاجتماعات بدلاً من الانتظار حتى نقل ذلك إلى المحكمة.

48. إن التنايير المؤقتة يجب أن تكون متصلة بموضوع الطلب (merits)، لا أن تشكل حكماً مسبقاً على الموضوع نفسه، خاصة في القضايا الحساسة والخطيرة والمعقدة التي لا يُمكن البت بها بسرعة وبشكل ظاهري. وفي الواقع إنّ الإقرار بالتنايير المؤقتة التي طلبها مقدّمنا الطلب في هذه المرحلة سيشكل حكماً مسبقاً فاصلاً للموضوع، وذلك دون استيفاء أسس الاثبات القانوني المعتمدة ودون اتباع الإجراءات التي نص عليها النظام الأساسي للمحكمة ولاختبرها، وسيجعل من نظر المحكمة لاحقاً في الموضوع أمراً لا داع له ولا طائل منه، وعليه يجب من حيث المبدأ بحث هذه القضايا في مرحلة النظر في الموضوع وفق الأصول القانونية المتبعة وليس في مرحلة النظر بالتنايير المؤقتة التي يتمّ النظر بها بشكل سريع وظاهري. والمقصود هنا على وجه الخصوص التنايير المطلوب الإشارة بها في الفقرة 33 من طلب الإشارة بتنايير مؤقتة، الفقرات الفرعية أ-ب-د-هـ (a-b-d-e).

49. لحسن سير العدالة من المهم أن تأخذ المحكمة بعين الاعتبار عدم وجود تبادل دبلوماسي بين سورية ومقدّمي الطلب، والموقف العدائي لهما تجاه سورية، الأمر الذي يجعل من مطالبهما ذات دوافع سياسية، وهو ما لمسته سورية بوضوح ويمكن الاستدلال عليه من خلال تصريحاتهما وبياناتهما المتعلقة بسورية ومن خلال المراسلات والاجتماعين في أبوظبي بين الطرفين. وهنا لا بدّ من الإشارة إلى أنّ أهمية مبدأ الأيدي النظيفّة في القانون الدولي لا يمكن إنكارها، وبالتالي تطلب سورية من المحكمة أن تأخذ ذلك بعين الاعتبار في هذه القضية بالتحديد نظراً لطابعها الخاص المختلف عن القضايا السابقة التي أشير فيها إلى هذا المبدأ أمام المحكمة. وهناك العديد من الحوادث التي تثبت أن مقدّمي الطلب غير نزيهين وحتى أنّهما انخرطا في دعم مجموعات مسلحة في سورية خلافاً للقانون الدولي.

50. يُضاف إلى ذلك حقيقة أن الحكومة الهولندية قد وافقت على توصية من البرلمان الهولندي بالتحقيق في قضية قيام رئيس الوزراء الهولندي مارك روتته، بتقديم "دعم لفصيل سوري معارض مسلح"، وأنه قد جرى تحقيق حول هذا الدعم الذي قدمته الحكومة لفصيل معين اسمه "الجبهة الشامية" خلال المدة ما بين أيار 2015 ونيسان 2018، حيث قدّمت لهم الحكومة الهولندية أكثر من 25

مليون يورو ومواد غذائية وأدوية ومعدات اتصال وشاحنات وخيام وزئ عسكري. وقد أفادت الكثير من التقارير الدولية عن ممارسة الجماعات المسلحة التي قدمت هولندا لها الدعم لأعمال تعذيب في سورية. وقد تم طرد هذا الموضوع في اجتماع أبو ظبي في 5 و6 تشرين الأول من قبل سورية، خاصة ما يتعلق بوجود موافقة أو تحريض أو موافقة ضمنية أو سكوت للموظفين الحكوميين الهولنديين الذين قدموا الدعم لهذا الفصيل بالتصديق على أعمال التعذيب التي قام بها، وذلك حسب تعريف التعذيب الوارد في اتفاقية مناهضة التعذيب.

51. حسب المادة 41 (1) من النظام الأساسي للمحكمة "سلطة أن تشير، إذا رأت أن الظروف تتطلب ذلك، بأي تدابير مؤقتة ينبغي اتخاذها للحفاظ على الحقوق الخاصة بأي من الطرفين". أي أن القصد من التدابير المؤقتة هو حماية حقوق الطرفين، وليس طرف واحد أو حماية حقوق طرف بطريقة تؤثر سلباً على حقوق الطرف الآخر. وعليه فإن الإشارة بالتدابير المؤقتة التي يطليها مقدم الطلب، كما قدأما، تلحق ضرراً شديداً قد لا يمكن جبره بسورية، وربما يؤثر على قدرتها على الاستمرار بالوفاء بالتزاماتها بموجب اتفاقية مناهضة التعذيب، خاصة في ظل الطابع عالي التسييس للوضع في سورية، وبالأخص القضايا المتعلقة بحقوق الإنسان، واستغلال ذلك لتشويه صورة سورية، واستخدام مثل هذه التدابير من بعض الدول لأغراض تتعارض مع الهدف الذي أصدرت من أجله، بطريقة تؤثر على حقوق ومصالح سورية المكفولة لها بموجب القانون الدولي.

52. يرد أيضاً مقمداً الطلب الإشارة بتدابير مؤقتة في حال وجود "ظروف غير مستقرة ويمكن أن تتغير بسرعة" وعندما يكون هناك "توتر مستمر"، وأنه "لم يتم إحراز تقدم حقيقي نحو تنفيذ قرار مجلس الأمن رقم 2254؛ ولكن لا بد من الإشارة هنا إلى أن المناطق التي تخضع لسيطرة الحكومة السورية مستقرة من الناحية الأمنية والعسكرية، كما أن الظروف في هذه المناطق قد تغيرت بشكل جذري عن الفترة التي كانت تشهد نشاطات إرهابية فيها، هذا إضافة إلى الأجواء الإيجابية والمستقرة التي ساهمت بها مراسيم العفو العام والتسويات والمصالحات المحلية. ومن جهة أخرى لا يوجد رابط قانوني أو منطقي أو واقعي بين القرار 2254 وتطبيق اتفاقية مناهضة التعذيب.

53. بناء على كل ما سبق، تطلب سورية، كسولة طرف في اتفاقية مناهضة التعذيب، بكل احترام من المحكمة:

- أ- أن تعلن عدم اختصاصها وعدم مقبولية الطلب، وأن تزول القضية من قائمتها العامة.
- ب- أن ترفض طلب الإشارة بتدابير مؤقتة.

ت- عدم الإشارة بأي تدابير مؤقتة يُمكن أن تلحق ضرراً بمصالح وحقوق سورية المكفولة لها بموجب القانون الدولي، واتفاقية مناهضة التعذيب.

54. في حال ارتأت المحكمة، رغم صعوبة ذلك، أن لها اختصاص، وأن هناك حاجة لاتخاذ تدابير مؤقتة، فيما لمقابل، إن نفس الأسس التي تم الاستناد إليها في الوصول إلى هذه النتيجة ستنتطبق بالضرورة على ما تتطلبه سورية، كدولة طرف في اتفاقية مناهضة التعذيب، بشكل أولي وبكل احترام من المحكمة: وهو التالي:

أ- ألا يقوم مقدّما الطلب بأي إجراءات يُمكن أن تمس بمصالح وحقوق سورية بموجب اتفاقية مناهضة التعذيب، أو أي إجراءات ضد سورية يراد منها إكراهها على التسليم مُسبقاً بالمزاعم والمطالب التي يطرحها.

ب- ألا يستخدم مقدّما الطلب اتفاقية مناهضة التعذيب كوسيلة لتحقيق أهداف بعيدة عن الأهداف والمقاصد الإنسانية التي وضعت لأجلها الاتفاقية والمبادئ التي قامت عليها، أو بطريقة مسيسة تُثير شكوكاً حول مدى حسن النية في تطبيق أحكام الاتفاقية، أو بطريقة تخالف الآليات والإجراءات والشروط المنصوص عليها في الاتفاقية.

ت- أن تقدم مملكة هولندا توضيحات حول مسألة وجود تحريض أو موافقة أو سكوت للموظفين الحكوميين الهولنديين أو أولئك الذي يتصرفون بصفة رسمية، الذين قدموا الدعم لجماعات مسلحة في سورية، على أعمال التعذيب التي قامت بها هذه الجماعات، وذلك حسب تعريف التعذيب الوارد في اتفاقية مناهضة التعذيب، وبناء على الالتزامات المفروضة على الأطراف في الاتفاقية (الفقرة 45 من هذه الرسالة).

ث- أن تتوقف مملكة هولندا وكندا فوراً عن تقديم الدعم لهذه الجماعات المسلحة.

ج- أن تتوقف مملكة هولندا فوراً عن تدمير أي أدلة تتعلق بهذا الموضوع أو تجعل الوصول إليها غير ممكناً، والمحافظة على المعلومات ذات الصلة.

ح- أن تقدّم مملكة هولندا تقريراً إلى المحكمة عن جميع الإجراءات المتخذة من قبلها حول ما سبق ذكره.

55. تحتفظ سورية بحقها في مراجعة أو استكمال أو تعديل مضمون هذه الرسالة، بالإضافة إلى الأسس التي تم الاحتجاج بها.

56. لتسهيل الرجوع إليها، رفقاً المذكرات الموجهة من البعثة الدائمة للجمهورية العربية السورية لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف، إلى البعثتين الدائميتين لكل من مملكة هولندا وكندا في جنيف، وذلك بعد الاجتماع الذي عُقد في مدينة أبوظبي في 26 نيسان 2022.

تفضلوا بقبول فائق التقدير.

القائم بالأعمال بالنيابة

الوزير المفوض

عمار العرسان





N° 120 /22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva, and in reference to the previously exchanged notes verbales between the Permanent Mission of the Syrian Arab Republic and the Permanent Missions of the Kingdom of the Netherlands and Canada, and the meeting that was held in Abu Dhabi on 26 April 2022 between the Delegation of the Syrian Arab Republic and the delegations of the Kingdom of the Netherlands and Canada, based on the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, the Permanent Mission of the Syrian Arab Republic would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada:

The Syrian Arab Republic believes that the aforementioned meeting was useful, in which a number of procedural aspects were discussed, and it was agreed to follow up consultations at future meetings in good faith and without any politicization based on the Convention against Torture.

With regard to the timetable, the delegation of the Syrian Arab Republic expressed its approval in principle on the proposal of the delegations of the Kingdom of the Netherlands and Canada to hold future meetings in person every three months. The Delegation also expressed its agreement to hold the next meeting on June 6, 2022, in Abu Dhabi, United Arab Emirates, after the Dutch and Canadian sides contact the Emirati side regarding hosting the meeting and making its required arrangements. In this context, the Syrian Arab Republic considers that it is necessary to organize this meeting in the same way that the April 26 meeting was organized in terms of the duration of the sessions on each day of the meeting, as this was feasible in terms of the optimal use of time and of logistical aspect.

In the event that the Kingdom of the Netherlands and Canada provide the Syrian Arab Republic with written confirmation of the aforementioned details, in addition to identifying a joint point of contact in the Ministry of Foreign Affairs and International Aid in the United Arab Emirates sufficiently in advanced to



make the necessary arrangements, the delegation of the Syrian Arab Republic confirms its readiness to participate in this meeting on June 6 for two days, as this period takes into account the optimal investment of the meetings by giving the opportunity to the delegations to consult, in between the meetings, with their references if needed, and to analyze and evaluate the discussions that took place at the meeting appropriately and then address them during the next meeting.

**The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.**

Geneva, 4 May 2022



**The Permanent Mission of Canada  
Avenue de l'Arianna 5, 1202 Geneve**

-----  
**The Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33, 1202 Geneve**

Permanent Mission  
of the  
Syrian Arab Republic  
Geneva



الجمهورية العربية السورية  
البعثة الدائمة لدى مكتب الأمم المتحدة  
جنيف

N° 138 /22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its Note Verbal No. 120/22 dated 4/5/2022, and to the joint Notes Verbals of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbal No. GENEV-8159 /GEV-PA 77/2022 dated 30/5/2022, and to the meeting held in Abu Dhabi on 26 April 2022 between the delegation of the Syrian Arab Republic and the delegations of the Kingdom of the Netherlands and Canada, on the basis of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva the following:

The Permanent Mission of the Syrian Arab Republic in Geneva indicated in its Note Verbal No. 120/22 dated 4/5/2022 that the delegation of the Syrian Arab Republic had expressed its agreement to hold the next meeting on 6 June 2022 in Abu Dhabi, in the United Arab Emirates, after the two sides, the Kingdom of the Netherlands and Canada, communicate with the Emirati side regarding hosting the meeting and making the necessary arrangements for that. It also confirmed that, in case the Kingdom of the Netherlands and Canada provide the Syrian Arab Republic with written confirmation on the details related to holding the meeting on 6 June, including assigning a joint point of contact at the Ministry of Foreign Affairs and International Cooperation in the United Arab Emirates before sufficient time to make the necessary arrangements, the delegation of the Syrian Arab Republic can confirm its readiness to participate in the meeting.

The Syrian Arab Republic would like to indicate that the Kingdom of the Netherlands and Canada have provided it with the above-mentioned details and confirmed the organization of the meeting on 6 -7 June 2022 in their joint Note Verbal dated 30 May 2022, which was received by the Permanent Mission of the Syrian Arab Republic in Geneva almost at the end of the official working hours of that day, which means that the Syrian Arab Republic will be practically able to address the content of the Note Verbal on 31 May 2022 at least. So there are maximum 5 days left available to

the delegation of the Syrian Arab Republic to make all the necessary arrangements to participate in this meeting, including travel reservations, accommodation, obtaining the required entry visa and other necessary related preparations, bearing in mind that the practical and logistical matters require the Syrian delegation to be in the United Arab Emirates one or two days before the date of the meeting.

The Syrian Arab Republic reconfirms its readiness to participate in a second meeting in Abu Dhabi, however, holding this meeting on 6 -7 June has become unreasonable as the remaining time is insufficient according to what was explained above, bearing in mind that the Kingdom of the Netherlands and Canada had indicated in their joint Note Verbale dated 8 April 2022 that they needed two weeks' notice after receiving the information requested to fix the date of the meeting.

Accordingly, the Syrian Arab Republic proposes to hold the second meeting in the city of Abu Dhabi in the same place on the last week of June. Taking into consideration that the Syrian Arab Republic wished to hold the meeting before this date, but this is impossible due to a prior commitment of the head of the Syrian delegation to participate in the international meeting on Syria in Astana format in Nur-Sultan from 14 to 16 June 2022.

The Syrian Arab Republic reaffirms that it was agreed at the meeting of 26 April in Abu Dhabi to continue the consultations in future meetings, in good faith and without any politicization, based on the Convention against Torture, and that the Syrian delegation has clearly emphasized that during these consultations common concerns will be discussed within the framework of Convention against Torture in order to enhance compliance with its provisions.

The Syrian Arab Republic will provide the Kingdom of the Netherlands and Canada with the composition of their delegation to the next meeting as soon as possible.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to convey to the Permanent Mission of the Kingdom of the Netherlands in Geneva and the Permanent Mission of Canada to the United Nations Office and other International Organizations in Geneva its greetings.



Permanent Mission of Canada  
Avenue de l'Ariana 5  
1202 Geneva

Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33  
1211 Geneva 20



N° 142 /22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its Note Verbal No. 138/22 dated 1/6/2022, and to the joint Notes Verbals of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbal No. GENEV-8173/GEV-PA 78/2022 dated 2/6/2022, and to the meeting held in Abu Dhabi on 26 April 2022 between the delegation of the Syrian Arab Republic and the delegations of the Kingdom of the Netherlands and Canada, on the basis of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva the following:

The Syrian Arab Republic recalls that, during the meeting held on 26 April in Abu Dhabi, in the United Arab Emirates, the Syrian delegation expressed its approval to hold a second meeting on 6 June 2022 in Abu Dhabi. Syria has also confirmed again in its Note Verbale dated 4/5/2022 the readiness of its delegation to participate in this meeting on 6 June 2022, for two days. Regrettably, the Kingdom of the Netherlands and Canada did not provide the details required from them, and they did not confirm the organization of this meeting before a sufficient and reasonable time to allow the necessary arrangements to be made by the delegation of the Syrian Arab Republic, as clarified in the Note Verbale of the Permanent Mission of the Syrian Arab Republic in Geneva dated 1/6/ 2022. Accordingly; the Syrian Arab Republic notes that the meeting proposed for 6 June 2022 has been cancelled.

The Syrian Arab Republic notes that the Kingdom of the Netherlands and Canada in their joint Note Verbale dated 2/6/2022 did not respond to its proposal to hold a second meeting in Abu Dhabi at the same place in the last week of June 2022. Therefore, it hopes to get a positive response to this proposal, and to be informed of the details related to holding the second meeting before sufficient time, not less than two weeks, so that the necessary arrangements can be made to participate in this meeting. The Syrian Arab Republic will provide the Kingdom of the Netherlands and Canada with

the composition of its delegation to the meeting after receiving their confirmation on the date of the meeting.

The Syrian Arab Republic reaffirms that it was agreed at meeting of 26 April in Abu Dhabi to follow up the upcoming meetings in good faith and without any politicization on the basis of the Convention against Torture, and accordingly, Syria is ready to discuss the issues raised by the Kingdom of the Netherlands and Canada regarding the Convention and the obligations emanating from it, including what has been called a "statement on facts" and a "statement on law". The Syrian Arab Republic will also raise issues related to the implementation of the Convention against Torture. In this regard, the Syrian Arab Republic stresses the need for a genuine will for cooperation and exchange of ideas to enhance the implementation of the provisions of the Convention, and to "make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world " as stated in the Convention. To this end, the Syrian Arab Republic remains open to address any constructive ideas related to the foregoing.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to convey to the Permanent Mission of the Kingdom of the Netherlands in Geneva and the Permanent Mission of Canada to the United Nations Office and other International Organizations in Geneva its greetings.

Geneva, 10/6/2022

H.A.

Permanent Mission of Canada  
Avenue de l'Ariana 5  
1202 Geneva  
Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33  
1211 Geneva 20



N° 151 /22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its relevant Notes Verbales, the latest of which is No. 142/22 dated 10 June 2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbale No. GEVEV-8202 / GEV-PA 88/2022 dated 16 June 2022, and to the meeting held in Abu Dhabi on 26 April 2022 between the delegation of the Syrian Arab Republic and the delegations of the Kingdom of the Netherlands and Canada, based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva the following:

The Syrian Arab Republic reaffirms its respect for International Law and multilateral international conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that it addresses the relevant issues with all seriousness and goodwill.

Therefore, the Syrian Arab Republic reaffirms its readiness to participate in a second meeting to address what was agreed upon at the meeting of 26 April 2022, namely the so-called "statement on facts" and "statement on law" submitted by the Kingdom of the Netherlands and Canada (as stated in the verbatim record of that meeting), in addition to addressing the relevant points contained in the joint Dutch-Canadian Note Verbale of June 16, within the scope of the Convention against Torture. The Syrian Arab Republic will also present issues related to the implementation of the Convention and the obligations emanating from it, and will deliver its presentations in this regard. In this context, confirming further the Syrian Arab Republic's keenness to address positively and in good will the aspects related to the implementation of the Convention against Torture, and in order to reach the desired goal and in the hope of achieving the required progress, the Syrian Arab

Republic is ready, in the case there exists any misunderstanding or ambiguity on the side of the Kingdom of the Netherlands and Canada, to address this during the second meeting to be held in person.

It should be noted, in this context, that the Syrian Arab Republic does not believe that stressing in its Note Verbale of 10 June 2022, that "the need for a genuine will for cooperation and exchange of ideas to enhance the implementation of the provisions of the Convention, and to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world, as stated in the text of the Convention", contradicts what was agreed upon at the April 26 meeting and what we are to address at the second meeting. On the contrary, this is in line with the letter and spirit of the Convention and reaffirms the keenness, yet another time, of the Syrian Arab Republic to address what is raised by the Netherlands and Canada about the implementation or even interpretation of the Convention.

The Syrian Arab Republic clarified the rationale for the inability to hold the meeting, which was supposed to be held on June 6, 2022, in its Notes Verbales of June 1<sup>st</sup> and June 10<sup>th</sup>, 2022, and regrets that the Kingdom of the Netherlands and Canada were unable to respond to its proposal to hold the second meeting in Abu Dhabi at the same venue in the last week of June 2022, as stated in its Note Verbale of June 1<sup>st</sup>, 2022. Nevertheless, departing from the belief of the Syrian Arab Republic that what matters in this context is the substance and working in good faith and seriousness to hold the second meeting with a view to reaching the desired goal in accordance with the provisions of the Convention against Torture, it reiterates the readiness of its delegation to participate in the second meeting at any agreed date, and it proposes that the meeting takes place in the second half of July 2022, and hopes to receive this time a positive response without any additional unnecessary delay or politicization contrary to the text and spirit of the Convention.

The Syrian Arab Republic, recalling that it coordinated fully and successfully the convening of the 26 April meeting and informed the Kingdom of the Netherlands and Canada of all relevant details well in advance, and noting that the Kingdom of the Netherlands and Canada have invited the Syrian Arab Republic to coordinate with the United Arab Emirates as the host state for the second meeting, and to inform the Kingdom of the Netherlands and Canada as soon as its approval was confirmed; it would coordinate with the host State, but on its part invites the Kingdom of the Netherlands and Canada to also coordinate with the host state and to inform the Syrian

Arab Republic as soon as its approval is confirmed, this is to jointly ensure good coordination and to prevent any logistical obstacles that may confront all of us.

Referring to what was mentioned in the joint Note Verbale of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva dated 16 June 2022 regarding the dates and venue of the meeting, the Syrian Arab Republic, on its part, confirms its agreement that if the dates are agreed between the parties at least two weeks ahead of time, the Syrian Arab Republic can proceed with the travel arrangements of its delegation for such a meeting on the basis of the previous venue at the Etihad Towers Hotel, provided the venue is formally confirmed by the host state one week ahead of time. For a new venue in the United Arab Emirates, the Syrian Arab Republic would also require two weeks' notice, but such new venue would be subject to agreement pending an inspection of the facilities.

The Syrian Arab Republic remains open to addressing any constructive ideas related to all of the above.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.



**The Permanent Mission of Canada**  
**Avenue de l'Arianna 5, 1202 Geneve**

-----  
**The Permanent Mission of the Kingdom of the Netherlands**  
**Avenue Giuseppe-Motta 31-33, 1202 Geneve**





N° 173/22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its relevant Notes Verbales, including the most recent one No. 151/22 dated 1 July 2022, in which a second meeting was agreed in Abu Dhabi in the United Arab Emirates; the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

The Syrian Arab Republic will contact the Emirati side as soon as possible to obtain a confirmation of the exact date and venue of the second meeting, and will immediately inform the Kingdom of the Netherlands and Canada of the Emirati side's response.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.

Geneva, 2 August 2022



The Permanent Mission of Canada  
Avenue de l'Arianna 5, 1202 Geneve

The Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33, 1202 Geneve



N° 196/22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its relevant Notes Verbales, including the most recent one No. 173/22 dated 2 August 2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbale No. GEVEV-8333 / GEV-PA 105/2022 dated 9 August 2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

As indicated in the aforementioned Note Verbale of the Permanent Mission of the Syrian Arab Republic dated 2<sup>nd</sup> August 2022, and in accordance with what had been agreed on, the Syrian Arab Republic communicated with the United Arab Emirates regarding the hosting of the second meeting. The United Arab Emirates informed the Syrian Arab Republic in writing of the following: "The United Arab Emirates agrees to host the meeting, provided that it will be held during the first half of October 2022. Thus, please specify the day and date and convey them to us as soon as possible to inform the relevant authority in the Ministry of Foreign Affairs and International Cooperation in the UAE to make the necessary arrangements."

Based on that, the Syrian Arab Republic informs the Kingdom of the Netherlands and Canada that it is available for meeting in Abu Dhabi during two days of any of the following sets of dates: 3-6 October 2022 or 10-13 October 2022. The Syrian Arab Republic requests the confirmation of the Kingdom of the Netherlands and Canada as soon as possible if any of these dates are appropriate for them. Upon receipt of the confirmation from the Kingdom of the Netherlands and Canada, the Syrian Arab Republic will inform the United Arab Emirates accordingly to complete the necessary arrangements, and it will make its own arrangements to attend the meeting.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.



**The Permanent Mission of Canada  
Avenue de l'Arianna 5, 1202 Geneve**

-----  
**The Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33, 1202 Geneve**



N° 220/22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its relevant Notes Verbales, including the most recent one No. 196/22 dated 30 August 2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbale No. GENEV-8428 / GEV-PA 118/2022 dated 15 September 2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

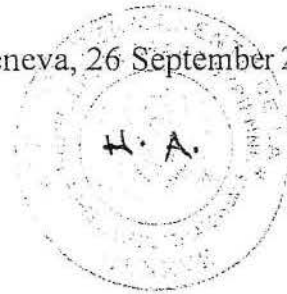
The Syrian Arab Republic has requested the United Arab Emirates to take the necessary measures to hold the meeting at the Etihad Towers Hotel in Abu Dhabi on 5 and 6 October 2022 and to identify a joint contact point, as agreed between the Syrian Arab Republic and both the Kingdom of the Netherlands and Canada. The Syrian Arab Republic has begun to make arrangements for the participation of its delegation on the agreed date.

With regard to what was mentioned in the joint Dutch-Canadian note verbale of 15 September 2022, in which they requested the Syrian Arab Republic to " indicate any particular issues that it would like them to address with regard to the statement of Facts and Statement of Law prior to 28 September 2022", the Syrian Arab Republic would like to clarify that it would like to address the various points contained in the text of what has been called "Statement of Facts" and "Statement of Law" submitted by the Kingdom of the Netherlands and Canada, according to what has been previously agreed on.

As for what has been pointed out regarding not holding a meeting in the second and third quarters of 2022, the Syrian Arab Republic indicates that it has always demonstrated its readiness to hold such a meeting as illustrated in its previous relevant notes verbales.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.

Geneva, 26 September 2022



**The Permanent Mission of Canada  
Avenue de l'Arianna 5, 1202 Geneve**

-----  
**The Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33, 1202 Geneve**



N° 220/22

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva would like to refer to its relevant Notes Verbales, including the most recent one No. 220/22 dated 26 September 2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbale No. GENEV-8456 / GEV-PA 129/2022 dated 28 September 2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

The Emirati side confirmed to us that the venue of the meeting is the Etihad Towers Hotel in Abu Dhabi during the period 5 and 6 October 2022, and that for more details regarding logistical support, it is possible to contact Mr. Rashed Al-Tanji on the phone number 0502722211, and as for the dates, it is possible to contact Ms. Lamia'a Bin Tamim on the phone number 0502296269.

It should be noted that the composition of the Syrian Arab Republic delegation will be the same composition as that participated in the previous meeting that was held on 26 April 2022.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.

Geneva, 29 September 2022

H.A.

The Permanent Mission of Canada  
Avenue de l'Arianna 5, 1202 Geneva

-----  
The Permanent Mission of the Kingdom of the Netherlands  
Avenue Giuseppe-Motta 31-33, 1202 Geneva



N° 236 /22

In reference to the Notes Verbales of the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the joint Note Verbale No. GEV-PA 140/2022, GENEV-8480 dated 17/10/2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

Recalling the aspects that have been reviewed and the explanations that have been provided during the meeting held on 5 and 6 October 2022 in Abu Dhabi, as stated in the verbatim record of that meeting, the Syrian Arab Republic indicates that it believes that the meeting was useful in terms of clearly identifying the views of the parties on the subject under discussion. The Syrian Arab Republic has assessed the proceedings of that meeting and the views expressed by the delegations of the Kingdom of the Netherlands and Canada, and it, therefore, has further explanations and points in this regard and it is ready to continue the meetings in goodwill to achieve the required progress and reach a solution.

The Syrian Arab Republic recalls that one substantive meeting was held between the parties on 5 and 6 October 2022, as the first meeting, which was held on 26 April 2022, was designated to agree on procedural aspects only. In this context, the Syrian Arab Republic reiterates that holding only one substantive meeting is not sufficient to conclude a hasty conclusion that the parties have reached a "deadlock" or that the follow-up of the meetings is "futile", as stated in the Dutch-Canadian aforementioned joint Note Verbale. The Syrian Arab Republic recalls that, during the meeting of 26 April, its delegation expressed its agreement on the proposal of the delegations of the Kingdom of the Netherlands and Canada to hold future in-person meetings every three months, but only one meeting had been held thereafter.

Based on the above, the Syrian Arab Republic proposes to hold a new meeting in the same venue in the first half of January 2023 or earlier by agreement of the parties, in order to provide an additional opportunity to make progress and reach a meaningful outcome, with the belief that if there are goodwill and genuine desire to engage in serious discussions this outcome can be achieved, especially if the Netherlands and Canada provide information on the topics raised by their delegations in the previous meeting, and on the queries, questions, and points that were raised by the delegation of the Syrian Arab Republic, the aim of which was to gain a better understanding of how to address what was presented by the Netherlands and Canada and to follow up on that basis.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada to the United Nations in Geneva.

**The Permanent Mission of Canada**  
Avenue de l'Arianna 5, 1202 Geneve

-----  
**The Permanent Mission of the Kingdom of the Netherlands**  
Avenue Giuseppe-Motta 31-33, 1202 Geneve







N° 246 /22

In reference to the Notes Verbales of the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva, the latest of which is Note Verbale No.236/22 dated 27/10/2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is the Joint Note Verbale Ref: GEVEV-8517 and GEV-PA 151/2022 dated 7/11/2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

The Syrian Arab Republic recalls that during the meeting of 26 April, its delegation expressed its agreement on the proposal of the delegations of the Kingdom of the Netherlands and Canada to hold future meetings in person every three months, and no conditions were presented in this regard by the delegations of the Kingdom of the Netherlands and Canada, Noting that the Syrian Arab Republic has always reaffirmed its readiness to engage in seriousness and goodwill with the Netherlands and Canada based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, out of its keenness to respect International Law and International multilateral conventions, including the Convention against Torture.

The Syrian Arab Republic also recalls that the exchanged Notes Verbales between the parties during the previous period have not actually addressed the substance of the matter taking into consideration that the first meeting, held on 26 April 2022, was designated to agree on procedural aspects only. Accordingly, the Syrian Arab Republic reiterates that holding only one substantive meeting on 5 and 6 October 2022 in Abu Dhabi is not sufficient to draw a theoretical conclusion by the Kingdom of the Netherlands and Canada that there is no "Sufficient progress" has been achieved, a "Deadlock" has been reached or the follow-up of the meetings is "futile". Especially since the Syrian Arab Republic has clarified in the Note Verbale dated 27 October 2022 that it has evaluated the proceedings of that meeting and the views expressed by the delegations of the Kingdom of the Netherlands and Canada, and that the Syrian Arab Republic has further explanations and points to put forward,

in the hope of achieving further development in the positions of the parties during the future meetings.

Based on the above, the Syrian Arab Republic resubmits its proposal to hold a new meeting in Abu Dhabi during the first half of January 2023 or earlier by agreement of the parties, in order to provide an additional opportunity to achieve the required progress and reach a meaningful outcome. The Syrian Arab Republic reiterates its belief that in case of the provision of goodwill and a genuine desire to engage in serious discussions, there is a reasonable probability of achieving such an outcome, especially if the Netherlands and Canada react positively and provide information on the queries, questions, and points that has been raised by the delegation of the Syrian Arab Republic, the aim of which was to gain a better understanding of how to address what was presented by the Netherlands and Canada and to follow up on that basis.

The Syrian Arab Republic underlines that it is necessary not to use the Convention against Torture merely as a tool to achieve goals that fall entirely far from the humanitarian purposes for which it was put to serve and the principles on which it was established. This requires a positive and goodwill engagement, particularly by the party that has invoked issues related to the implementation of the Convention, and not only pass the phases deliberately without making a real and serious attempt to engage in discussions to reach solutions.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to convey its greetings to the Permanent Mission of the Kingdom of the Netherlands and the Permanent Mission of Canada in Geneva.



**The Permanent Mission of Canada**  
Avenue de l'Arianna 5, 1202 Geneve

-----  
**The Permanent Mission of the Kingdom of the Netherlands**  
Avenue Giuseppe-Motta 31-33, 1202 Geneve



N° 32 /23

In Reference to the Notes Verbales of the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva, the latest of which is No. 246 dated 17/11/2022, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is No. GEV-PA 187/2022 and GENEV-8587 dated 20 and 21/12/2022, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

The Syrian Arab Republic has taken note of the joint Note Verbale of the Kingdom of the Netherlands and Canada dated 20 and 21 December 2022.

The Syrian Arab Republic reaffirms that it has engaged seriously and in goodwill with the Netherlands and Canada based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that it is ready to continue such engagement out of its concern to respect International Law and multilateral international conventions, including the Convention against Torture.

The Syrian Arab Republic recalls what it has clarified in its Note Verbale dated 17 November 2022, that the Notes Verbales exchanged between the parties during the past period did not actually address the substance of the matter, while the first meeting, held on 26 April 2022, was devoted only to agreeing on the procedural aspects, and therefore holding only one substantive meeting on 5 and 6 October 2022, in Abu Dhabi, is not enough to draw a theoretical conclusion unilaterally by the Kingdom of the Netherlands and Canada that there is no "sufficient progress" has been achieved, a "Deadlock" has been reached or that the follow-up of meetings is "futile" as stated in the joint Notes Verbales dated 17 October and 7 November 2022. In its Note Verbale dated 27 October 2022, the Syrian Arab Republic clarified that it had evaluated the proceedings of the meeting held on 5 and 6 October 2022 and the views expressed during it by the delegations of the Kingdom of the Netherlands and

Canada, and that it has further points to put forward and discuss, in the hope of achieving further development in the positions of the Parties during the future meetings.

In reference to what has been stated in the joint Note Verbale of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva dated 20 and 21 December 2022, that "all attempts at negotiations have failed to make any progress towards resolving the dispute", the Syrian Arab Republic recalls that it has proposed, in its Note Verbale of 27 October 2022 and its Note Verbale of 17 November 2022, to hold a meeting in Abu Dhabi during the first half of January 2023 or earlier by agreement of the parties, but unfortunately, the Kingdom of the Netherlands and Canada completely ignored this proposal, although such a meeting, in case of the provision of goodwill and genuine desire to engage in serious discussions by the Kingdom of the Netherlands and Canada, would have provided a reasonable probability of achieving progress. The Syrian Arab Republic also points out that disregarding twice by the Netherlands and Canada to its proposal to hold a meeting, which was first presented almost three months ago, is inconsistent with what they referred to in their joint Note Verbale on the critical importance of the time factor. Had the Kingdom of the Netherlands and Canada at that time agreed on the proposal of the Syrian Arab Republic to hold a such meeting, all this time would have not been wasted unjustifiably, and it would have been an opportunity to make progress and reach a meaningful outcome within a reasonable period of time. Therefore, the Syrian Arab Republic resubmits its proposal to hold a meeting in Abu Dhabi as soon as possible with the agreement of the parties.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to convey its greetings to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva.

Geneva, 1 February 2023

**The Permanent Mission of Canada**  
Avenue de l'Arianna 5, 1202 Geneve

-----  
**The Permanent Mission of the Kingdom of the Netherlands**  
Avenue Giuseppe-Motta 31-33, 1202 Geneve





N° 114/23

In reference to the Notes Verbales of the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva, the latest of which is No. 32/23 dated 1/2/2023, and to the joint Notes Verbales of the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva, the latest of which is No. GEV-PA 45/2023 and GEVEV-8678 dated 24 March 2023, the Permanent Mission of the Syrian Arab Republic in Geneva would like to convey the following to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva:

The Syrian Arab Republic has taken note of the joint Note Verbale of the Kingdom of the Netherlands and Canada dated 24 March 2023.

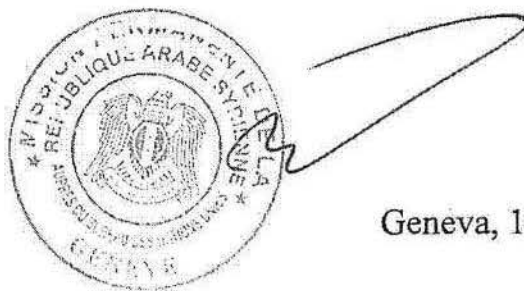
The Syrian Arab Republic reaffirms what was stated in its previous notes Verbales dated 27 October 2022, 17 November 2022 and 1 February 2023, in particular, that holding only one substantive meeting on 5 and 6 October 2022, in Abu Dhabi, is not enough to draw a theoretical conclusion unilaterally by the Kingdom of the Netherlands and Canada that there is no "sufficient progress" has been achieved, a "Deadlock" has been reached, or that the follow-up of meetings is "futile" as stated in the joint Notes Verbales dated 17 October and 7 November 2022, and 24 March 2023.

The Syrian Arab Republic has consistently affirmed that it is ready to engage seriously and in goodwill with the Netherlands and Canada on the basis of the Convention against Torture. This was demonstrated by its constructive engagement in the meeting held on 5 and 6 October 2022 in Abu Dhabi, and what it has clarified after this meeting in the abovementioned notes Verbales, that it has evaluated the proceedings of the meeting and the views expressed within by the delegations of the Kingdom of the Netherlands and Canada, and that the Syrian Arab Republic has further points to put forward and discuss, in the hope of achieving further development in the positions of the Parties during the future meetings.

However, regrettably, the Kingdom of the Netherlands and Canada have not accepted the Syrian Arab Republic's repeated proposal to hold a meeting in Abu Dhabi, which means cutting off the road to what this meeting could have provided of reasonable probability of progress. This also shows the lack of interest of Canada and the Netherlands in making any real attempt in this regard. While the Kingdom of the Netherlands and Canada believe that there are "vast disparities between the parties", as stated in their note verbale of 24 March, It is clear that addressing this matter is by continuing the meetings without wasting any time, which the Kingdom of the Netherlands and Canada have so far rejected without any reasonable justification, as it has caused and is causing the waste of all this time which could have been invested in reaching the desired result, and therefore they bear the responsibility for that.

Despite all that, and as an expression of its goodwill and seriousness, the Syrian Arab Republic resubmits its proposal to hold a meeting in Abu Dhabi as soon as possible by agreement of the parties, noting that it has more points to raise and discuss in this meeting, in order to give an additional opportunity to achieve the required progress and reach a meaningful outcome.

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to convey its greetings to the Permanent Missions of the Kingdom of the Netherlands and Canada in Geneva.



Geneva, 10 April 2023

**The Permanent Mission of Canada**  
Avenue de l'Arianna 5, 1202 Geneve

**The Permanent Mission of the Kingdom of the Netherlands**  
Avenue Giuseppe-Motta 31-33, 1202 Geneve