CAF's PUBLIC COMMUNICATION ON THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) 2026 DATABASE UPDATE AND THE JERUSALEM LIGHT RAIL PROJECT (PROJECT)

I. Context and nature of the database

CAF was first included in the OHCHR database of business enterprises involved in the activities referred to in paragraph 96 of report A/HRC/22/63 through the update published in Report A/HRC/60/19 on 26 September 2025. On 25 September 2026, the OHCHR published an advance edited version of the Report A/HRC/63/20[1] (the Report) maintaining CAF in the database and including a classification of the type of involvement of listed business enterprises under the United Nations Guiding Principles on Business and Human Rights (UNGPs) [2]. As a result of this update, 61 companies were incorporated into the database.

CAF published a statement in September 2025[3] after its inclusion in the database. CAF reaffirms the position set out in that statement and continues to maintain that its activities do not justify its inclusion in the database.

The purpose of the database is to identify companies that participate in certain listed activities with potential Human Rights risks, reflecting a mere factual -not legal- assessment according to paragraph 21 of the Report. In addition, as stated in all previous related reports, paragraph 19 of the Report reaffirms once again that, *"The work on the present update does not purport to constitute a judicial or quasi-judicial process of any kind, nor does it provide any legal characterization of the listed activities or business enterprises' involvement therein. It is designed to serve as a tool to inform States, business enterprises and other stakeholders of where there are reasonable grounds to believe that a company is involved in one or more of the listed activities and to assist them in complying with their respective legal obligations and responsibilities under international law."*.

Accordingly, the database is a non-judicial, technical and preventive mechanism for the listed companies to take appropriate action to address real or potential adverse impacts on Human Rights, without any declaratory function. The inclusion in the database does not anticipate or imply any finding or presumption of illegality, misconduct or breach of international law, nor does it generate, on its own, any legal consequences.

In this regard, the Report reaffirms what was established in previous related reports: "*Where business enterprises are involved in listed activities, they should take appropriate action to address the adverse human rights impacts with which they are involved*". Thus, the consequence of a company's inclusion in the database is its duty to undertake due diligence measures. In that respect, CAF is already complying with the highest requirements of human rights due diligence, applying specific and tailored due diligence measures.

CAF remains firmly committed to the United Nations, the UNGPs and heightened human rights due diligence; however, it respectfully but firmly disagrees with its continued inclusion in the database and with the classification of its involvement for the reasons set out below.

II. The Project, legal monitoring and Human Rights Due Diligence applied by CAF

The Project was awarded in 2019, following a competitive public tender process, to a company owned equally by CAF and an Israeli partner. It covers construction of the Green Line and extension of the Red Line, running partly through East Jerusalem, with operation and maintenance through another equally owned company.

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[1] https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session63/advance-versions/a-hrc-63-20-aev.pdf

[2] https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

[3] https://www.ohchr.org/sites/default/files/documents/issues/business/pot-db/38-construcciones-auxiliar-ferrocarriles-sa-caf.pdf

Beyond compliance with the applicable regulatory framework, CAF is firmly committed to business ethics and the respect for human rights, based on the highest standards of accountability and transparency. CAF has consistently adhered to the UNGPs and the OECD Guidelines for Multinational Enterprises[4] and has established a set of rules, procedures, and systems, adopted at the highest level, which together constitute a comprehensive Compliance System applicable within the scope of its activities and value chain.

Particularly in the area of human rights, CAF has adopted a specific Due Diligence Policy[5], further developed through several detailed procedures, which reinforces at the highest level its ethical commitment across all its activities and business relationships.

Accordingly, throughout the execution of the Project, CAF has implemented specific due diligence measures with three levels of intensity (general, enhanced, and heightened), in accordance with the Guide on Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts, published by the United Nations, in order to identify, prevent and mitigate, where appropriate, any adverse impact on human rights, while contributing to the provision of essential infrastructure without discrimination and in a manner consistent with the respect of human rights.

As part of this process, throughout the execution of the Project and to date, CAF has closely monitored the resolutions issued by various international bodies, always cross-checking them with external advisors and independent experts, who have consistently confirmed the absence of any breach due to CAF participation in the Project. Furthermore, CAF has conducted an initial risk assessment of the Project, followed by subsequent reassessments, without identifying any human rights violations or the materialization of any adverse impact to date. On the contrary, the independent reports conclude that the Project has a positive, non-discriminatory impact, providing access to basic social services and sustainable, eco-friendly infrastructure, while also underscoring CAF's high level of compliance with key international standards on corporate social responsibility, sustainability and human rights Due Diligence, in line with the UNGPs and the OECD Guidelines.

CAF reports annually, through its Non-Financial Information Statements – Sustainability Reports, on the due diligence measures applied to its projects, with specific reference, in a dedicated section, to those related to the Project[6], subject to independent external verification, with satisfactory reports to date.

III. Disagreement with the inclusion of CAF in the database

CAF has engaged with OHCHR openly, extensively and in good faith, including through detailed communications supported by independent expert reports, legal analyses, due diligence materials and supporting evidence. In those submissions CAF explained why it should not be included in the database and invited OHCHR to engage in further dialogue, independent review and a first-hand visit to the Project. Notwithstanding the extensive information and explanations provided by CAF, OHCHR decided in 2025 to include the company in the database — a determination which CAF considers unfounded in light of the evidence and arguments submitted.

CAF's contractual role in the Project is technical and operational: the design, supply, installation, operation and maintenance of an intra-urban public railway system under a public procurement framework. CAF does not determine any settlement policy, territorial planning or land allocation. CAF's activities concern a public transport service whose conditions of access do not distinguish between passengers on grounds of nationality, ethnicity, religion or any other status.

Historical experience also demonstrates that civilian rail infrastructure can remain useful independently of the political authority under which it was built and does not predetermine

[4] https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990/81f92357-en.pdf
[5] https://admin.cafmobility.com/uploads/SGC_0116_Politica_diligencia_Derechos_Humanos_EN_0782afefff.pdf
[6] https://admin.cafmobility.com/uploads/2026_02_27_EINF_IS_25_EN_compressed_f2a926e2f2.pdf

sovereignty. The Jerusalem tramway is not, by its nature, irreversible political infrastructure and does not determine the future legal status of the city.

The material submitted to OHCHR demonstrates that CAF has not engaged in any activity that, properly assessed in its factual context, meets the material and functional thresholds established by the database mandate. CAF has neither caused nor contributed to the construction or expansion of settlements, nor has it facilitated any conduct that removes or reduces the Palestinian population's ability to enjoy human rights.

On the contrary, the Project responds, within the scope of a public transport infrastructure, to well-documented mobility concerns affecting Palestinian residents of East Jerusalem: the need for improved mobility and access to essential services. The Project stands as a catalyst for inclusion, guaranteeing and enabling the exercise of the human rights related to freedom of movement, availability of healthcare, education, economic and work opportunities without discrimination, with particular benefit to the most vulnerable population, regardless of the identity, ethnic origin, religious beliefs or any other grounds or status of the passengers.

According to the latest available data corresponding to the survey carried out at the end of the 2025 financial year, it should be noted that 29% of tram users belong to the Arab sector, of which 68% use it 3 or more times a week (47.4% use it 5 or more times a week) and about 54% use it to access their jobs. Likewise, almost 90% of Arab users are satisfied or very satisfied with the tram. In fact, about 97% of Arab users request an increase in the urban transport system, of which 70% would like to have this increase done through an expansion of the tram network.

During the implementation of the Project, specific measures to prevent any discrimination have been taken. Among others, the transport system is accessible to any person without discrimination on ethnic, nationality, religious or other grounds; signs and signals are kept multilingual (including Arabic and Hebrew) and the passenger service office operates with representation of multiple cultural groups.

Additionally, the company in charge of the operation and maintenance of the system follows a strict policy of inclusive and non-discriminatory hiring – by the end of the 2025 financial year around 34% of the employees are Palestinian.

These positive impacts are not an attempt to "*offset*" an adverse impact. Rather, they form part of the overall assessment of the human rights implications of the Project, including its effects on freedom of movement and access to essential services. Under Articles 1 of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights[7], by virtue of the right to self-determination, peoples "*freely pursue their economic, social and cultural development*". In this regard, the access to employment, education, healthcare and places of worship provided by the Project is directly relevant to ensure the abovementioned rights and, therefore, any assessment of the Project's human rights implications would be inaccurate without considering the positive impacts of the Project.

CAF is not indifferent to the broader challenges affecting the region and its communities, which can only be addressed by the competent political actors and through the appropriate international and governmental processes. In this context, CAF does not suggest that public transport can resolve wider political issues or offset any adverse impact. Nevertheless, within the limits of its role as a private company, CAF's responsibility to respect human rights includes ensuring that the services in which it participates are accessible, inclusive and non-discriminatory.

For all these reasons, CAF firmly rejects any characterization suggesting that its operations are intended to advance settlement policies or to contribute, directly or indirectly, to any violation of the right to self-determination, of any other human right, or of international law. CAF's business model remains focused on providing transportation solutions, whose nature and practical effects

[7] https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights and https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

are fundamentally different from those of activities designed to restrict, separate, or discriminate between communities.

IV. Lack of evidentiary and substantive basis for the 2026 classification

Under OHCHR's July 2026 Information Note[8] and the Report, assessing involvement requires a "*contextual and deep, fact-specific analysis*" of each situation. The classification must therefore rest on a separate, company-specific analysis. Nevertheless, the Report contains no meaningful explanation of the factual, legal or evidentiary basis for the conclusion reached. At no stage prior to publication was CAF provided with a sufficiently detailed explanation of the acts or omissions attributed to it, the specific causal or contributory nexus relied upon, or the reasoning by which OHCHR considered that CAF's activities met the relevant threshold under the UNGPs. As a result, CAF was not afforded an effective opportunity to provide an informed rebuttal of the classification before it was made public.

This lack of explanation is particularly significant in light of the specific criteria that OHCHR itself identifies for determining whether a company has contributed to an adverse impact. OHCHR's Information Note identifies different requirements for the classification as "*Contribution*". The OECD Guidelines for Multinational Enterprises, to which the Note refers, further indicate that contribution must be substantial and does not cover minor or trivial contributions.

CAF considers that none of these considerations supports its classification: CAF has not incentivized or influenced any settlement policy; its role concerns the design, supply and installation of railway systems and participation in the operation and maintenance of the Project; the service is provided without distinction based on nationality, ethnicity or religion, and the Project is subject to CAF's heightened due diligence for conflict-affected contexts, supported by periodical independent social impact and Due Diligence assessments.

The fact that 200 out of the 214 companies currently included in the 2026 Database — approximately 93.5% — are classified as "*Contribution*" further underscores the need for a genuinely differentiated, company-specific and fact-sensitive assessment. In CAF's view, placing within the same category companies whose activities consist of providing an inclusive, non-discriminatory public transport service and companies whose activities involve the direct construction or expansion of settlements risks obscuring material differences in the nature, purpose, effects and causal connection of their respective activities. Such an approach may also create a counterproductive disincentive for companies to undertake activities capable of generating tangible positive human rights impacts.

In light of the foregoing, CAF firmly maintains that its activities in connection with the Project cannot reasonably be characterized as a "*Contribution*" to adverse human rights impacts.

V. CAF's commitments to Business Ethics, Human Rights and transparency

CAF is deeply aware of the challenges associated with business and human rights, particularly in complex and conflict-affected environments. Throughout its involvement in the Project, CAF has at all times acted in accordance with the expectations expressly restated in paragraph 47 of the Report. In particular, CAF, as already mentioned in Section II above, has maintained policies and processes enabling it both to know and to show that it respects human rights in practice and has remained prepared to communicate transparently how it identifies and addresses potential human rights impacts, including when concerns are raised by or on behalf of affected stakeholders.

CAF reiterates its unwavering commitment to act in accordance with the highest standards of responsible business conduct, and transparency in all jurisdictions where it operates, and to prioritize the monitoring of any material issue relating to ethics and human rights, as well as of the

[8] https://www.ohchr.org/sites/default/files/documents/form/ungps-involvement-framework-information-note-challenging-contexts-businesses-1-en.pdf

regulatory framework under which it operates. CAF respects international law, including international humanitarian law and the internationally recognised human rights, including the right to self-determination.

CAF reaffirms its full readiness to pursue its collaboration with the OHCHR and other relevant stakeholders. In this regard, CAF maintains – and will continue to maintain – a constructive, transparent and ongoing engagement with the OHCHR.

In Beasain on 5 October 2026
Construcciones y Auxiliar de Ferrocarriles S.A. (CAF)