

(Translated from Chinese)

Receipt is hereby acknowledged of the letter dated 26 June 2018 (ref. AL CHN 11/2018) addressed jointly by the United Nations Human Rights Council's Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Chinese Government wishes to make the following reply to that communication:

1. The Chinese Government is deeply concerned by the violent attack on the gold mine development project led by the Hong Kong Junefield Mineral Resources Group Co., Ltd. in Ecuador. China condemns all forms of violence, and supports action to clarify facts and apportion responsibilities by all parties based on the principles of openness and fairness and of resolving differences through consultation or legal means.

According to the information obtained by the Chinese Government and the official notification by Ecuador, there is no factual basis to the allegations in the communication concerning threats to the personal safety of local human rights persons by Chinese-funded enterprises. Ecuagoldmining South America S.A. is an enterprise established in Ecuador by Junefield Mineral Resources Holdings Limited, of Hong Kong, China, as the main shareholder, and is primarily engaged in the development and operation of gold mines. These gold mines were acquired by Hong Kong Junefield Mineral Resources Holdings Limited from a Canadian international mining company in 2013. Having been verified with the Company and ministries of the Ecuadorian Government, this acquisition fulfilled the requirements of Ecuadorian law and relevant administrative procedures. Hong Kong Junefield Mineral Resources Holdings Limited obtained the approval of the Ecuadorian Government for the project prior to initiating mining development. The mine worksite was violently attacked on 9 May 2018; about 10 Chinese managers on site were forced to evacuate to a safe area under the protection of local police and security forces. However, buildings and mining equipment on the project site were destroyed, resulting in direct economic losses of about US\$500,000. Since then, according to Ecuadorian reports, local police have arrested four persons suspected of involvement in the violent attack.

The Chinese Government consistently requires Chinese enterprises to abide by local laws and regulations and respect local customs and living habits when conducting investment cooperation overseas, as clearly provided for in both the Administrative Regulation on Contracting Foreign Projects and the Administrative Measures for Outbound Investment promulgated by the Chinese Government. Expressing opinions and conducting consultations in accordance with the law are the basic principles of a civilized and law-abiding society. Violence, slander and libel are unanimously condemned and opposed by the international community. It is hoped that holders of the relevant special procedures mandates of the Human Rights Council will abide by the Code of Conduct for such mandate holders and carry out their duties on the basis of verified facts, in accordance with the principles of objectivity and impartiality.

2. In recent years, China has actively advocated that Chinese-funded enterprises should carry out overseas investment and transnational operations in accordance with business principles, international management and market-oriented operation, giving full play to their advantages in developing overseas investment and transnational operations, making their own decisions, bearing their own profits and losses, and assuming responsibility for their own risks. At the same time, enterprises are required to abide by the relevant



international conventions as well as the laws and regulations of the countries or regions they operate in. They must scrupulously observe principles concerning honest and trustworthy business, pay attention to the importance of good resource conservation and utilization and ecological and environmental protection, respect local culture, religion and customs, fulfil the necessary social responsibilities and foster a good image of Chinese enterprises operating in accordance with the law, honouring their commitments and being of service to society.

In December 2017, the State Development and Reform Commission of China promulgated the Measures for the Administration of Overseas Investment of Enterprises (hereinafter referred to as the Administrative Measures), which came into effect on March 1, 2018. The Administrative Measures proposed the establishment of a cooperative mechanism to supervise and review overseas investment through online monitoring, interviewing and correspondence, spot checking and verification, along with systematic reporting on project completion, major adverse situations, and major issues inquiries, so as to improve the overall supervision of overseas investment.

Since last year, the relevant departments of the Chinese Government have issued regulations on overseas investment and business operations, requiring Chinese enterprises investing and operating overseas to abide strictly by domestic laws, regulations and regulatory requirements, and by the laws, regulations and regulatory requirements imposed by the Governments of the countries or regions where they operate, in such areas as foreign investment admissions, trade controls, national-security reviews and industrial regulation, as well as combating bribery and money laundering and protecting labour rights, intellectual-property rights, data and the environment. Chinese enterprises are expected to carry out their overseas investment activities in accordance with such laws and regulations, strengthen the compliance management of their overseas business operations, and prevent and respond to overseas investment risks.



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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication [AL CHN 11/2018] dated 26 June 2018, has the honour to transmit the reply by the Chinese Government.

The Permanent Mission of the People's Republic of China avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 15 August 2018

Office of the High Commissioner for Human Rights
Geneva



OHCHR REGISTRY

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Recipients :...SPD.....

Enclosure original.....

联合国人权理事会人权与跨国公司问题工作组、人权与环境问题特别报告员、法外处决问题特别报告员、和平集会与结社自由问题特别报告员、危险物质和废料处置问题特别报告员、“人权卫士”问题特别报告员、土著人权利问题特别报告员、当代形式奴役问题特别报告员 2018 年 6 月 26 日来文[AL CHN 11/2018]收悉。中国政府对来文答复如下：

一、中国政府高度关注香港庄胜矿产资源集团有限公司牵头在厄瓜多尔实施的金矿开发项目遭遇暴力袭击事件。中方谴责各种形式的暴力行为，支持各方本着公开公平的原则，澄清事实，分清责任，通过协商或法律途径解决分歧。

据中国政府掌握的情况及厄瓜多尔官方通报的情况，对于来文中涉及的中资企业威胁当地人权人士人身安全一事，有关指控是缺乏事实依据的。厄瓜多尔南美金矿公司是中国香港庄胜矿产资源集团有限公司为主要股东在厄设立的企业，主要从事金矿开发和运营。而该金矿系由香港庄胜矿产资源集团有限公司于 2013 年从加拿大国际矿山公司手中收购而来。经向该公司和厄政府部门核实，此次收购交易符合厄法律规定及相关行政程序。在香港庄胜矿产资源集团有限公司开始实施矿山开发前，该项目已获得厄政府部门环评许可。2018 年 5 月 9 日，该矿山施工现场遭到暴力袭击，现场约 10 名中方管理人员不得不依靠当地警方和保安的保护撤离到安全地带，但项目现场房屋和矿山设备被毁，造成直接

经济损失约 50 余万美元。此后，据厄方通报，当地警方已拘捕了 4 名暴力袭击肇事嫌疑者。

中国政府一贯要求中国企业在开展对外投资合作时遵守当地法律法规，尊重当地风俗和生活习惯。在中国政府对外公布的对外承包工程管理条例和对外投资管理办法中均有明确的规定。依法表达意见、进行磋商是文明和法制社会的基本准则，暴力和诬陷诽谤则是被国际社会一致谴责和反对的。希望人权理事会有关特别机制遵守《特别机制行为准则》，本着客观公正的原则，在核实事实的基础上履行职责。

二、近年来，中方积极倡导中资企业按照商业原则、国际管理、市场化运作，发挥自身优势开展境外投资和跨国经营，自主决策、自负盈亏、自担风险。同时，要求企业遵守相关国际公约和所在国家或地区法律法规、恪守诚信经营原则，注意资源节约利用和生态环境保护，尊重当地文化、宗教及习惯风俗，履行必要的社会责任，树立中国企业依法经营、重信守诺、服务社会的良好形象。

2017 年 12 月，中国国家发展和改革委员会发布《企业境外投资管理办法》（以下简称《管理办法》），于 2018 年 3 月 1 日施行。《管理办法》提出建立协同监管机制，通过在线监测、约谈函询、抽查核实等方式对境外投资进行监督检查。同时，引入项目完成情况报告、重大不利情况报告、重大事项问询和报告等制度，改进对境外投资的全程监管。

去年以来，中国政府有关部门相继发布关于企业境外投资经营行为的规定，要求中国企业开展境外投资和运营应严

格遵守国内法律法规和监管要求，遵守业务所涉国家（地区）政府关于外资准入、贸易管制、国家安全审查、行业监管、劳工权利保护、环境保护、反贿赂、数据保护、知识产权保护、反洗钱、贸易管制等方面的法律法规和监管要求，依法合规开展境外投资活动，加强海外经营合规管理，防范和应对境外投资风险。