



FROM THE PERMANENT REPRESENTATIVE

AUSTRALIAN PERMANENT MISSION  
GENEVA

10 June 2020

Ms. Beatriz Balbin  
Chief  
Special Procedures Branch  
Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
Palais Des Nations  
1211 Geneva 10  
Switzerland

Dear Madam

**Re: Joint Communication of 17 June 2019 from Special Procedures mandate holders regarding alleged human rights violations associated with the Las Bambas mining project (Ref# AL AUS 6/2019).**

I refer to the joint communication dated 17 June 2019 from the 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 the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders', and the Special Rapporteur on the rights of indigenous peoples, which accompanied your letter of the same date. I apologise for the delay in replying.

The Australian Government notes the concerns expressed in the joint communication and provides the following information in response to the four requests included in the communication.

**Q1) Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**

The Las Bambas mine in Peru's Apurimac region is a joint venture between operator MMG (62.5%), a wholly owned subsidiary of Guoxin International Investment Co. Ltd. (22.5%) and CITIC Metals Co. Ltd (15%). MMG's major shareholder is China Minmetals Corporation (74%), with the remaining 26% owned by public shareholders (listed on the Hong Kong Stock Exchange). MMG de-listed from the Australian Stock Exchange at close of trading on 4 December 2019.

**Q2) Please share information about the policies of your Excellency's Government for Australian businesses operating abroad to respect human rights, especially where such businesses receive support from the State or are state-owned enterprises.**

The Australian Government believes that business and respect for human rights go hand-in-hand. Businesses must comply with all Australian laws, including those in place to implement our international human rights obligations.

Australia has a range of laws and regulations, enacted at the Federal, State and Territory level, that provide direct or indirect protection against human rights abuse, including by business enterprises. They include laws prohibiting the commissioning or involvement in international crimes; equality and anti-discrimination laws; anti-bribery and corruption laws; privacy laws; labour laws; environmental laws; native title laws; and occupational health and safety laws, among others. A number of these laws apply extraterritorially to Australian companies, including foreign bribery and other offences under the Commonwealth Criminal Code, including those prohibiting slavery.

In addition, the Australian Government and each State and territory has procurement guidelines that take into account human rights-related matters. These include consideration of the presence of slavery and/or human trafficking in supply chains; 'dishonest, unethical or unsafe' supplier practices; privacy considerations; sustainability; and indigenous employment and supplier use.

Australia has supported the UN Guiding Principles on Business and Human Rights (in line with the three principles of the 2008 UN 'Protect, Respect and Remedy' Framework on Business and Human Rights) since their inception in 2011, and encourages businesses to apply the Guiding Principles in their operations in Australia and abroad. Australia also implements the OECD Guidelines for Multinational Enterprises through its National Contact Point, which encourages all companies operating in Australia and Australian companies operating overseas to act in accordance with those standards.

The Australian Government provides guidance on business and human rights through specific programs for businesses operating at home and abroad by certain government agencies; and support of the Australian Human Rights Commission (AHRC), which provides guidance on the UN Guiding Principles for business. The AHRC and the UN Global Compact Network Australia convene an annual national dialogue with representatives of a number of Australia's biggest companies, NGOs, government agencies, investors and academia to discuss ways to prevent and address the involvement of Australian companies in adverse human rights impacts in Australia and abroad.

**Q3) Please highlight the steps that the Government has taken, or is considering to take, to protect against human rights abuses by business enterprises, and ensuring that business enterprises domiciled in its territory and/or jurisdiction conduct effective human rights due diligence to identify, mitigate and account for how they address their adverse impacts on human rights throughout their operation, as set forth by the UN Guiding Principles on Business and Human Rights.**

The Australian Government has taken a wide range of actions to ensure that businesses act responsibly and respect human rights both at home and abroad:



- Australia has endorsed or supported a range of international initiatives that require reporting by companies on human rights related issues. These initiatives include the Global Reporting Initiative, UN Global Compact Communication on Progress, Extractive Industries Transparency Initiatives, Kimberly Process and Voluntary Principles on Security and Human Rights.
- In addition, Australia's Modern Slavery Act requires entities operating in Australia with over AU\$100 million annual consolidated revenue to report on their actions to address modern slavery risks within their global operations and supply chains, including their due diligence and remediation processes. The Australian Government has worked with business and civil society experts to develop comprehensive guidance for reporting entities about the MSA, which draws from the Guiding Principles. The Australian Government has also established a dedicated Modern Slavery Business Engagement Unit within the Australian Border Force to provide ongoing support and training for entities required to report under the Act.
- Australia has a National Contact Point (AusNCP) within the Department of the Treasury to conciliate complaints against businesses and promote responsible business conduct in accordance with the OECD Guidelines for Multinational Enterprises. Under that framework, complaints may involve issues of disclosure, human rights, employment and industrial relations, environment, bribery and extortion, consumer interests, science and technology, competition and taxation.
- Australia is currently developing a new National Action Plan to Combat Modern Slavery, which will cover the period of 2020-2024. This builds on the previous National Action Plan to Combat Human Trafficking and Slavery 2015-2019. Developed in consultation with civil society, academia and business, the new National Action Plan will drive Australia's strategic response to these crimes and solidify Australia's position as a global leader in combatting modern slavery.
- The Australian Government is currently chairing the Voluntary Principles Initiative on Security and Human Rights (VPI). The Initiative promotes principles (the Voluntary Principles) that guide extractives companies in maintaining the safety and security of their operations, whilst also ensuring human rights standards are adhered to in their relationships with local communities. Verification processes apply to all members of the VPI to ensure their compliance with the Voluntary Principles.
- Australia co-convenes the Financial Sector Commission on Modern Slavery and Human Trafficking, which aims to strengthen the role of the global financial sector in fighting modern slavery and human trafficking.
- Australia is a co-chair of the Bali Process Government and Business Forum and endorses the 'AAA' (Acknowledge, Act, and Advance) recommendations by

Ministers at the Ministerial Conference & Senior Officials Meeting held in Bali, in August 2018.

- Australia is playing a leadership role in Alliance 8.7. Named for Sustainable Development Goal Target 8.7, this global partnership assists all UN member States, UN agencies and businesses to promote joined up action to eradicate forced labour, modern slavery, human trafficking and all forms of child labour.
- Australia is partnering with the International Labour Organization's Better Work Program to improve workplace standards, including wages, working hours, maternity leave and labour relations, for 2.2 million workers in over 1,300 garment factories in the Indo-Pacific region.
- Foreign Minister Payne announced on 24 September 2018 that Australia would join the EU-led initiative, the Global Alliance to End Trade in Goods Used for Capital Punishment and Torture.

**Q4) Please provide information regarding the measures that Your Excellency's Government is taking, or considering to take, to ensure that those affected by the activities of MMG Limited overseas subsidiaries have access to effective remedies as per the UN Guiding Principles**

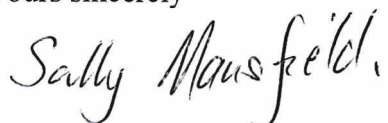
The AusNCP has not received a complaint in relation to the Las Bambas mining.

We note that MMG joined the VPI as an "engaged" or probationary member in 2020. As such, the company's performance in meeting the Voluntary Principles will be supported, and monitored, by the Initiative throughout this year. All companies have their compliance with human rights standards assessed as part of any application for full membership.

### ***Conclusion***

I trust the above information will be of assistance to the Special Procedure mandate holders. I reiterate the Australian Government's longstanding commitment to cooperating with the United Nations and the Australian Government's strong human rights record.

Yours sincerely



Her Excellency  
Sally Mansfield  
Ambassador and Permanent Representative  
Australian Permanent Mission to the Office of the United Nations and Conference on  
Disarmament