



PERMANENT MISSION OF THE
REPUBLIC OF INDONESIA TO THE UNITED NATIONS
WORLD TRADE ORGANIZATION (WTO)
AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

No. 59/POL-II/V/2021

Geneva, 3 May 2021

Dear Madame and Sirs,

With reference to your letter No. REF AL IDN 5/2021 dated 4 March 2021, please find below information, explanations, and clarifications on the points you raised with regard to the allegations of human rights violations and abuses committed in the implementation of the Mandalika urban development and tourism project by the Indonesian Tourism Development Corporation ("ITDC") in the Mandalika region, West Nusa Tenggara province:

Background

1. The Mandalika project (hereinafter referred to as "Mandalika") is one of Indonesia's priority programs for the development of Special Economic Zones ("SEZ") in the tourism sector, with the objective to build a world-class tourism destination in the Lombok region, Indonesia. The Mandalika area is developed by the Government of Indonesia through ITDC based on Government Regulation Number 52/2014 concerning the Mandalika Special Economic Zone, which aims to accelerate economic development as well as equitable distribution of national and regional development in Lombok, Indonesia.
2. **The development of Mandalika is carried out with the concept of developing eco-friendly tourism which are oriented towards the preservation of the value and quality of the environment in the community.** This notion was emphasized by the President of Republic of Indonesia, Joko Widodo, during his remarks at the inauguration of Mandalika in which he invited provincial, regency and regional officials to develop Mandalika as a green zone, among other by growing plants and vegetation, including in less vegetated areas.
3. Mandalika is projected to become a world-class tourism destination and one of the venues for the world's largest motorcycle racing event, the Moto GP. It will create plenty job opportunities and improve the livelihoods of the surrounding communities, by construction of core infrastructures, including Tourism Villages and invigorating the creation of various Small and Medium Enterprises.

Mr. Saaf Alfarargi, Special Rapporteur on the right to development

Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders

Mr. Obiora C. Okafor, Independent Expert on human rights and international solidarity

Mr. Dante Pesce, Chair Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Mr. Balakrishnan Rajagopal, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mr. Olivier De Schutter, Special Rapporteur on extreme poverty and human rights

Mr. Livingstone Sewanyana, Independent Expert on the promotion of a democratic and equitable international order

Mr. Jose Fransisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples

4. The investments in tourism-related infrastructure will bring forth tens of trillions of Rupiah to revitalize the local economy. The Project will not only promote sustainable development, but equally contribute to become a locomotive for poverty alleviation in the eastern part of Indonesia, especially in Lombok Island, West Nusa Tenggara Province.

History of Land Acquisition

5. Since 2008, the ITDC has received an additional state asset in the form of an area of approximately 1,175 ha, located in Pujut District, Central Lombok Regency, West Nusa Tenggara, or currently known as The Mandalika. The land was handed over to ITDC in 2008 based on the Minutes of the Hand Over Meeting of Guarantee Document Number BA-52/KN3/2008 dated 19 December 2008 and Government Regulation Number 50 of 2008 concerning Addition of Government of Indonesia's Capital Participation to the Share Capital of the Bali Tourism Development Company (now known as "ITDC").
6. Essentially, the lands transferred to ITDC originated from lands under the Land Mastery Rights ("HPL") Certificate on behalf of the Nusa Tenggara Barat Provincial Government and Building Use Rights ("HGB") Certificate on behalf of PT Lombok Tourism Development ("LTDC"), which was the previous enterprise managing tourism development in Lombok. ITDC then succeeded land acquisition which has been carried out by the Lombok Tourism Development Corporation (LTDC).
7. The ITDC has applied for registration of HPL certificates for the lands, supported by evidence of land acquisition documents which have been implemented by LTDC in the past. Based on ITDC's application, the National Land Agency has issued Decree 22/HPL/BPN RI/2009 and Decree 23/HPL/BPN RI/2009 on August 2009 regarding the Granting of Management Rights on behalf of ITDC for the Mandalika Land.
8. However, the certificate for the 135ha land are unable to be issued since there are still claims from the Community. To settle these problems, based on the President's instructions, verification was carried out by the Provincial Government of Nusa Tenggara Barat through the Team for the Acceleration of Settlement of Disputed Lands in the Mandalika SEZ ("the Team").
9. **The ITDC and the Team have conducted a series of verification processes** by tracing land records, conducting document verification, field checks, hearings, and comparison of land documents between community documents and land documents owned by ITDC from 2015 to 2016. **These efforts were conducted in a transparent manner and respecting the rights of the local communities.** The verification process has found that 109,59 ha from 135 ha are legally owned by ITDC but is being used by the community as cultivated land. The ITDC announced the verification result in the mass media to allow the community to claim any objection to the ITDC land.
10. There are 96 residents who have been identified and verified as land cultivators at the HPL ITDC location. **To respect their rights and livelihoods, the ITDC has allocated compensation in the amount of IDR 4,500,000 per are (per 100 m2) to 96 residents.** This compensation process was carried out under the supervision of the Indonesian Financial and Development Supervisory Agency (BPKP).
11. After completion of the payments, the ITDC declared the land settlement process as resolved. Furthermore, **the Government of Indonesia has also provided legal avenues for the community for claims and objections as set forth by prevailing regulations.** This pathway guarantees legal certainty for ITDC as state-owned

enterprise do not have the mandate to make payment transactions for land which has been legally acquired and recorded as an ITDC asset.

12. **All of the settlement efforts were made under the voluntary and genuine approval of the affected communities**, with payment of compensation and temporary facility provided by ITDC. Moreover, it has been conducted in an open, transparent and accountable manner. Therefore, it should be emphasized that the **allegation, which alludes to ITDC controlling 92.7% of the free land in Mandalika without accurate data/documents, is completely unfounded**.
13. With regard to the Enclave Land, which was legally owned by the community, the land acquisition has been executed without any compulsion and done under the procedure as stipulated in Law No. 2/2012.
14. The ITDC always prioritizes dialogue and attends to the wishes and aspirations of local community leaders throughout the process, as well as respecting their rights. The value of the lands was also determined by professional appraisers as independent party. The appraisals cover land, spaces, buildings, plants, and other valuable losses. Any person/party who disagreed with the value were also provided with rights to engage in dialogue and to file lawsuits against the Government in the Court as stipulated by Law No. 2/2012.
15. It has been recorded that since 2016, ITDC has received 28 lawsuits through the courts, two of which were won by the plaintiff under the applicable law, while seven cases are still in court proceedings. This proves that the lawsuit was considered and decided based on the applicable law and the court's authority, without any intervention from the Government or the ITDC. In this case, the Government and ITDC are encouraging the parties with valid evidence to file a lawsuit, so that ITDC can have strong legal basis to further process payments in an accountable manner and settlement of outstanding claims. In essence, the Government is fully committed to provide all parties with equal recognition before the law.
16. As elaborated before, the land acquisition process is being carried out in accordance with the procedures as stipulated in Law No. 2/2012, including through independent third-party appraisal as well as proper land clearing procedures. The Law regulates the compensation process for land used for public interest so that it is implemented fairly and properly. To all persons which are in possession of valid legal land documents, they will be compensated with the value determined based on the appraisal of the third party.

Providing sustainable livelihoods through resettlement

17. The ITDC has always paid attention to the rights of the affected communities settling in the ITDC owned land. ITDC is facilitating permanent relocation to residences in Dusun Ngolang. This location is currently under construction by Local Government, Ministry of Public Works and Community Housing and the Ministry of Tourism. While road access, clean water and relocation facilities will be provided by ITDC through AIIB funding. This area is located around 2 kilometers from Mandalika and will be constructed under the concept of “*Sarana Hunian Pariwisata*” or “Sarhunta” (Tourism Village Facilities) to support better livelihood for the affected communities. They will also be given guidance on how to develop a thriving tourist village by ITDC.
18. Dusun Ngolang is located on a hill at an altitude of 76-109 meters above sea level with view of the beach and sea. The natural beauty and charm of Dusun Ngolang is part of the plan to build an inclusive economic activity involving the locals. The development of the area is expected to attract visitors to stay in tourist accommodation owned and

managed by the local residents. This will benefit the community by bringing positive impact to their livelihoods and create a supporting area to the Mandalika project. The final relocation process to Dusun Ngolang will be carried out in mid-2022.

19. While waiting for the construction of permanent residences in Dusun Ngolang, the ITDC provides temporary housing in the ITDC owned land of 2,5 hectares in the HPL 94 Area for the 121 families who have been occupying the land owned by ITDC. HPL 94 is equipped with access to public utilities (water, sanitation, and electricity), community center, mosque, roads and lighting, toilets, as well as pens and livestock to support their livelihoods.
20. From on the ground consultation by the Government of Indonesia, the *Majelis Adat Suku Sasak*/Sasak Tribe Customary Council has affirmed that the process of development and land acquisition related to Mandalika has been carried out humanely and persuasively, with respect to the law. The Sasak Tribe Customary Council also **confirmed that there is no forced land grabbing, eviction, or forced relocation executed by the Government Authorities, ITDC, or Police/security.**
21. Community dialogue and communication are at the forefront in carrying out land clearing, while also consistently avoiding any criminalization. ITDC always put land clearing as last resort. In this matter, the ITDC will not clear the land before the construction on the land is yet to be implemented.
22. The relocation of land settlers is always executed through humanist and persuasive approaches, with prior notification to the community. ITDC always prioritizes engagement with the community to facilitate voluntarily relocation. In this matter, the ITDC helps the community to move to their new home by using ITDC facilities, including providing temporary housing.
23. The RAP document has clearly explained that replacement consists of relocation and shelter facilities as well as physical compensation (including compensation for agricultural products) and non-physical (technical assistance, transportation, and relocation personnel).

Access to clean water, sanitation, and public infrastructure

24. Access to clean water in Mandalika has always become one of ITDC's main concerns. Naturally, the availability of access to clean water has always been a challenge for the communities in this area. The watershed in the Mandalika SEZ is almost entirely rainfed rivers, however, the precipitation rate in the larger area of Lombok is very low which caused the river to be dry for most of the year.
25. To contribute to addressing the issue, the ITDC conducted cooperation with the private sector to process seawater into clean water with a capacity of 18,000m³ / day which will become a source of clean water in the Mandalika. This clean and fresh water will also be distributed to communities living around the Mandalika as part of the ITDC's commitment to support the local community.
26. Furthermore, the Government through the Ministry of Public Works and Housing is also building various infrastructure supports that will also be enjoyed by the communities around the Mandalika area, namely the construction of the Mandalika flood control channel, construction of main road to the airport, improvement of final processing sites and construction of a drinking water supply system for the community. The Ministry of Public Works and Public Housing also contributes through programs to improve the quality of self-help houses and the construction of self-help houses.

27. All of the efforts elaborated above are a form of positive contribution and implementation of human rights obligations in the form of improving the quality of life of the community which will benefit the people around the Mandalika.

Ensuring inclusivity: consultation with local community in the Mandalika and surrounding Adat Community

28. The existence of *Masyarakat Hukum Adat* in Indonesia continues to be acknowledged, valued and highly respected in policy making and national legislations. Their value is recognized under the Constitution and a number of legislations including the Regulation of the Minister of Home Affairs No. 52/2014 regarding the Guidelines for the Recognition and Protection of Customary Law Communities.
29. Regarding Mandalika, the Government and ITDC are aware of the presence of the Sasak Adat community in Central Lombok Regency, however, they were known to occupy the surroundings area of the Mandalika. ITDC was never informed of the presence of Sasak Adat community residing within the Mandalika development area under applicable laws. In spite of this, ITDC has continuously been in close coordination with the local government to establish and maintain good relations with the leaders of the Sasak Adat community, communities as well as religious leaders around the project area.
30. The *Majelis Adat Suku Sasak* (The Sasak Tribe Customary Council), as the protector of the Sasak adat community in Central Lombok, **has reiterated the community's full support to the development of the Mandalika**. This project is believed to bring positive impacts towards the livelihood and overall welfare of the communities around the area.
31. Furthermore, since the beginning of the development, the **ITDC has been coordinating closely with the leaders of the communities, as well as local government officials in resolving any problems related to the development of the Mandalika project**. Dispute settlements is primarily based on the customs and local wisdom of the Sasak Adat community to maintain social harmony. While settlement via legal procedures is put as the last resort.

Protecting religious and cultural values of local communities

32. In respecting the local communities and religious facilities in Mandalika project area, **the relocation of mosques and graveyards are only carried out under approval and guidance by the related Local Communities** without any intimidation, coercion, or violence. The relocation is accomplished under religious edicts on the instruction provided by local religious and customary leaders. **The ITDC built the Nurul Bilad Grand Mosque to adopt the local wisdom values, with modern and environmentally friendly designs**. This mosque can be accessed and utilized by the public.
33. **The ITDC also actively supports and preserves the adat/customary activities or rituals of *Bau Nyale*** in Seger beach, which is located inside the Mandalika compound. This annual adat ritual is always eagerly awaited by the community, not only those around the Mandalika but also by the people of Central Lombok in general.

Well-structured Resettlement Action Plan, in compliance with the Environmental and Social Framework standards set by the AIIB

34. Financing for the Mandalika project was carried out based on a loan agreement between AIIB and ITDC dated 31 December 2019. The AIIB has issued a **Mandalika Urban and Tourism Infrastructure Project (MUTIP)** Project Document No. PD000069-IDN dated 7 December 2018, whereby in the Key Covenant section states that all of the project activities shall be carried out under the environmental and social safeguard instruments acceptable to AIIB, including the Environmental and Social Management Plan (ESMP), Resettlement Planning Framework (RPF) and Indigenous Peoples Development Plan (IPDP). These terms are also included in the Loan Agreement dated 31 December 2018 in Part I. Implementation Arrangements for point D. Environmental and Social Requirements.
35. As a project that has received "Category A" classification, namely a project with high environmental and social impacts, ITDC has compiled various documents which are constantly implemented and supervised, as guidelines in the development and management of the Mandalika by ITDC as the commitment to the AIIB, as stipulated in the ESIA / ESMP, RPF, IPDP, RAP, and IFC Performance Standard of Environmental & Social Sustainability documents. These documents are frameworks that have been prepared based on the AIIB Directive on Environment & Social Policy document and are continuously updated according to the AIIB provisions. All of those regulations and commitments have been implemented as a guideline in the implementation of development and management of Mandalika by ITDC.
36. For this matter, the ITDC has prepared a document as a guide in implementing Environment & Social Safeguard which consists of:
- a. Environmental Impact Analysis addendum conducted on 10 April 2018 and is monitored periodically every 6 months.
 - b. The ESIA-ESMP document Environmental and Social Impact Assessment (ESIA) / Environment and Social Management Plan (ESMP) of the Mandalika Urban and Tourism Infrastructure Project issued by the ESC consultant on September 28, 2018, complete with attachments to the Public Consultations.
 - c. RPF (Resettlement Planning Framework) of The Mandalika Urban and Tourism Infrastructure Project document issued by an ESC consultant on 28 September 2018.
 - d. IPDP document on the Indigenous People Development Plan of the Mandalika Urban and Tourism Infrastructure Project issued by an ESC consultant on 28 September 2018.
 - e. Land Study Documents and Due Diligence Report on Legal Aspects of Land Assets in the Mandalika SEZ (Legal Due Diligence Report on Land Assets at the KEK Mandalika).
 - f. The "Project Affected People" census from 19 August 2019 to 4 September 2019 which was used as the basis for the preparation of the RAP Resettlement Action Plan document carried out by Greencorp consultants.
37. Referring to the six documents above, a due diligence process has been performed before the physical construction of the MUTIP project and in the implementation of this project, it has been submitted to the Central Lombok Government.
38. The Central Lombok Government supported the implementation of this project with the issuance of the Central Lombok Regent Decree Number 300 of 2020 concerning "Recipients of Stimulant Fund for Relocation of Residents Affected by the Construction of Roads and Other Public Facilities in the Special Economic Zone (KEK) of Kuta Village, Pujut District (Phase I)"; and Central Lombok Regent Decree Number 349 of 2020 concerning "Recipients of Stimulant Fund for Relocation of Residents Affected by the Construction of Roads and Other Public Facilities in the Special Economic Zone (KEK) of Kuta Village, Pujut District (Phase II)" of 30 July 2020.

Census to ascertain the number of affected families

39. Regarding differences in the number of affected residents between the RAP/Census document with the Regent Decree, it was due to the characteristics of the people around the Mandalika who often changed their place of residence. The cultural background and livelihoods of the people are farmers and herders. These local dynamic and wisdom influenced the fluctuation of the number of families mentioned at the RAP document and census (136 families) and the Regent's Decree (120 families).
40. To address the discrepancies, the Government and ITDC are working together to truly determine the number of families affected through final calculation based on the census that has been carried out from 3 to 15 March, 2021. This effort has recorded the final determination of the number of affected families which is as many as 190 families.

Ensuring satisfactory follow-up to Recommendations submitted by The National Commission on Human Rights (Komnas HAM)

41. The National Commission on Human Rights (Komnas HAM) has submitted a set of recommendations to the ITDC to pay compensations, undertake document verification of the land, ensure the existence of communication channels, prioritize the use of dialogue, and refrain itself from using security forces in dispute settlement. In response to this, the ITDC has sent a formal explanation through Letter no. 0035/DIR/ITDC.01/II/2021 dated 4 February 2021, to elaborate and clarify the facts found on the ground:
 - a. The ITDC has been able to show the legal evidence of land acquisition process and documents.
 - b. Dialogue and mediation in accordance with the national law are always prioritized to solve various problems between the ITDC and the community.
42. The recommendations of Komnas HAM are highly valued and have been implemented accordingly by the ITDC, as follow:
 - a. Komnas HAM's recommendation on compensation payment is ensured to have been fulfilled by the ITDC. All land acquisition process, including compensations payment to those entitled, has been carried out according to the legal procedures as stipulated in Law No. 2/2012 by the Land Procurement Team of the National Land Agency in Central Lombok and the process consistently respects the rights of the community.
 - b. Regarding Komnas HAM's recommendation to undergo re-verification, the ITDC along with the Team for the Acceleration of Settlement of Disputed Lands in the Mandalika have concluded verification on 17 land portions owned by ITDC but claimed by 15 community members. These verification efforts have concluded that:
 - i. ITDC legally owns the titles over 17 lands claimed by the community members.
 - ii. Regarding the enclave lands, two locations have been determined based on the Decree of Central Lombok Regent and the acquisition process has been carried out over these lands in accordance with Law No. 2/2012 and its regulatory amendments.

- iii. On the three lands claimed under the name of Subawai/Sibawaih, Praya District Court has issued their verdict which stated that all three lands are under ITDC's legal ownership.
 - iv. Community members who disagree with the verdicts are encouraged to file a lawsuit through the Court under the applicable laws and provisions.
 - c. Komnas HAM's recommendations to prioritize dialogue and refrain from using security forces have also been adhered to. Humanist approach has consistently been implemented by the ITDC and dialogues with the community members are highly prioritized to find applicable solutions to various problems that may arise in the field. The ITDC also refrains from using security officers in settling any disputes, as the role of the security officers are solely to protect and secure the project site.
 - d. In order to settle dispute, ITDC has provided dispute resolution mechanisms through both litigation and non-litigation paths:
 - i. Non-litigation, by giving compensation in the form of cash allowance as a form of compensation and providing land for relocation in Dusun Ngolang, including the temporary relocation in HPL 94; and
 - ii. Litigation, by allowing community members with claims of land rights to file a lawsuit as stipulated in the Law 2/2012.
 - e. In addition to providing the land for relocation, the ITDC also provides access to the fulfillment of adequate social and economic needs of the relocated community, including through various training, as well as education and health services implemented through CSR and community empowerment programs.
 - f. CSR programs are being carried out in various programs with focus on education, social, and culture that will support the needs of the community, and support modalities to enable the community to gain economic benefits from the Mandalika project and take part in the development of the Lombok region in general. Some of the programs implemented include the construction of community facilities such as toilets, mosques and schools, creation of entrepreneurship and tourism training programs, English language training, gardening and accounting, health and nutrition assistance, as well as supports in overcoming the impact of the COVID-19 pandemic. ITDC also supports the community during recovery after the earthquake in Lombok in 2018.
 - g. Regarding the recommendation to uphold human rights values in the business and development processes and to establish channels of dialogue with the community, the ITDC agrees to continue to intensify communication with all parties to address complaints from the community and prevent misinformation relating to the development of the Mandalika in the future. ITDC has stated its willingness to cooperate with Komnas HAM in applying business principles that are centered on the value of respecting human rights.
 - h. To strengthen the Government's commitment to respect human rights and mainstream the human rights principles as well as harmonizing business activities and the implementation of human rights principles by the state-owned enterprises, the ITDC has committed to preparing the human rights periodic reports to the Government and the Komnas HAM.
43. With this elaboration and the practice currently undertaking by the Government and the ITDC, it is evident that the development and management of the Mandalika project

upholds the ethics of transparent, fair, and accountable business according to the principles of Good Corporate Governance, which includes implementing the recommendations given by Komnas HAM and other parties by the law.

Humanistic and Human Rights approach to ensure security and order in the development of Mandalika SEZ

44. As previously stated, the development of the Mandalika project consistently upholds the value of respecting human rights and highly prioritizes the interest of the community. Threats, intimidation, and criminalization have never been used against human rights defenders or any members of the community in general, as any dispute that have or may arise, has and will be settled through measures based on the local wisdom of the community.
45. Security officers is only involved to provide security support in the Mandalika area, as well as to keep the situation on the ground conducive for development, following procedures which are stipulated in the Chief of National Police Regulation Number 13/2017 concerning the provision of assistance, safeguarding national vital objects and certain objects.
46. In this case, security forces constantly apply preventive, humanist, instructive approach, without intimidation. It should be emphasized that they are barred from committing repressive security activities against the public, as regulated in the National Chief of Police edict on security procedure/guidelines.
47. In the cases where community members squat (build residences and planted crops) in the area legally owned by the ITDC, it will respond by firstly informing the said community members regarding the status of the land. Letter of notification will be sent twice and, if ignored, the ITDC will send one more written statement to formally ask the community members to vacate the land belonging to the ITDC. This process will be done in a decent and appropriate manner with no threat or intimidation.
48. The ITDC respects and believes in the objectivity and independence of the legal system in Indonesia. However, legal action is considered as a last resort in solving any disputes related to the development of Mandalika. Priority is given to dialogue and communication based on local wisdom. Legal action under the national law will only be taken if there is a violation of the legal rights of the ITDC and all non-litigation measures have failed to solve the issue.
49. In regard to the presence of security officers in the Mandalika, it is guaranteed that the sole purpose is to protect and secure the area which has been designated as a Special Economic Zone for tourism and one of the prioritized National Strategic Projects. On the occasion where consultation needs to be done between the community and security officers, police officers with proper training on community engagement are delegated to conduct the process to ensure a humanist approach and create a conducive situation.
50. Furthermore, the Government of Indonesia must clarify a misleading interpretation of the statement made by President Joko Widodo as described in the joint communication. The context of the statement to "hunt and assault" is addressed to any government officials who complicate the licensing process and therefore unnecessarily lengthen and hinder the infrastructure development which was supposed to bring equal distribution of development and positive impacts to the welfare of the people. It is therefore incorrect to interpret this statement as authorization of threat, intimidation, or even criminalization of the people.

51. On the contrary, this is a form of informal communication that essentially shows the commitment of President Joko Widodo to advance the interest and welfare of the community. This communication is also a form of closeness between President Joko Widodo and the Indonesian people, by prioritizing the interests of the people and kinship and communicating in the way that is understood by the public.

Access to Effective Remedies Provided to Affected Communities

52. In terms of land acquisition, Law 2/2012 has regulated a remedy mechanism related to land acquisition, namely through court proceedings under the applicable laws. The law has regulated various legal rights of the affected community to fight for their rights, either from objections to the amount of compensation or mechanisms if there are parties who object to the land acquisition.
53. To provide access to the community and fulfillment of remedies, various efforts and facilities have been provided by the Government and ITDC, including the following.
- a. Mechanisms for submitting objections by the community to the ITDC, relating to environmental problems such as noise, dust, and water quality disturbances, or other things deemed detrimental to the interests of the community. This effort is one of the requirements set by AIIB in the process of financing the Mandalika SEZ project.
 - b. Nusa Tenggara Barat Provincial Office of the Ministry of Law and Human Rights also provides free legal aid services for the community as well as *Pos Yankomas* (*Pos Layanan Komunikasi Masyarakat/Public Communication Service Post*) located throughout the Ministry of Law and Human Rights Offices in NTB Province (including prisons and immigration offices), which can be a means for the community to achieve remedies.
54. In the context of paying attention to the form of recovery for the affected communities, ITDC has also provided temporary and permanent relocation facilities with a system that favors the interests of the community.

Reaffirming Commitment to Respect Human Rights in all development aspects of the Mandalika

55. As Mandalika is one of Indonesia's Super-Priority Tourist Destination, the Government of Indonesia has since the beginning anticipated aspects of development in the Mandalika Tourism Area that could potentially intersect with human rights issues, such as land resettlement and environmental issues.
56. This is part of the Government's commitment to reinforce the promotion and protection of human rights as an important pillar of national development. The President of the Republic of Indonesia, Joko Widodo has reiterated in his State Address on 16 August 2020 that the principles of human rights and the environment must be mainstreamed in every development policy.
57. In addition to anticipating the impact on human rights, the Government, through various related Ministries, Institutions, and State-Owned Enterprise ITDC, monitors the development of the area to ensure that it is consistent with the Government's human rights commitments, including international conventions which has been ratified by Indonesia. In particular, the Government of Indonesia observes the guidelines for relocation according to ICESCR's general comments number 7 by which the Government and ITDC must ensure, among others, that: eviction must not make

individuals homeless, the need for socialization of the impact, effective remedy for the affected, and procedural protection.

58. From these monitoring, several problems have been promptly identified and reported, including disputes in land resettlement, alleged use of intimidation by officials in land clearing process, and loss of customary rights and access to clean water. These issues have also been brought to the attention of the National Human Rights Commission (Komnas HAM).
59. To immediately respond and resolve these human rights and security questions that have been raised, the Government has conducted several coordination meetings and field verification visits by involving related Ministries and Agencies, both at the central and regional levels, ITDC, and Komnas HAM to find the facts of the issues, as well as allegations that were submitted by the SPMH to the Government of Indonesia.
60. One of the outputs of the series of meetings, is strengthening the commitment of the Government of Indonesia and State-Owned Enterprises to respect human rights in business activities. In concrete terms, as has been previously stated, the ITDC has committed to prepare human rights periodic reports to the Government and the Komnas HAM. Through this mechanism, Indonesia has set a good example of multi-stakeholder partnership efforts in responding to and resolving alleged human rights issues related to corporate activities.
61. In a broader framework, to fulfil the commitment of the Government of Indonesia on human rights in the business sector, the Government has formed a National Task Force on Business and Human Rights under the coordination of the Director-General for Human Rights Cooperation, of the Ministry of Law and Human Rights and has launched a web-based voluntary self-assessment application serve to assess companies' operational risks related to human rights abuses, named as the PRISMA (*Penilaian Resiko Bisnis dan HAM*). The applications is accessible to companies in Indonesia free of charge, through <https://prismaham.id/>.
62. The Government of Indonesia is also in the process of establishing National Action Plan/Strategy on Business and Human Rights and is in the preparation stage to host a Regional Conference of Business and Human Rights on 2021.
63. The Government of Indonesia finds it regrettable that the SPMH has chosen to publicize news release on the alleged human rights concerns in the Mandalika tourism project on 31 March 2021, at the time where inclusive verification process by the Government and all related stakeholders was in progress. This conduct is even more concerning when at the end of the verification process, it was revealed that the allegations submitted by SPMH were not fully grounded and there were many positive developments in the field related to aspects of development and human rights in the Mandalika project. We have issued a press statement in respond to the aforementioned news release as you can find attached to this letter.
64. We wish to reiterate our deep concern over the politicization and “one side of the story” megaphone approach which will not only further erode the trust that States have towards the professionalism and performance of the SPMH, but will also continue to be a direct affront to Resolution 60/251 establishing the Human Rights Council, as well as Human Rights Resolution 5/2 on the Code of Conduct for Special Procedures Mandate-holders. Indonesia reaffirms its stands against such a practice, which undermines the system of special procedures, and most importantly, weakens the trust of States, civil society, and other relevant stakeholders.
65. As a member of Human Rights Council, Indonesia will continue to support the work of the UN human rights bodies and mechanisms. Indonesia wishes to underline the

importance of constructive dialogue to provide verified information on potentials and challenges of the Mandalika SEZ project. This would also establish a better understanding on the objective of the project which is precisely to empower local communities, as well as enhance their livelihoods and participation in decision-making.

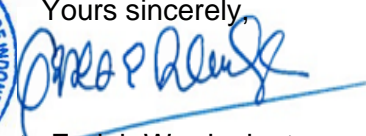
66. As a State Party to the International Covenant of the Economic Social and Cultural rights, Indonesia will continue to fully implement the Covenant for the benefit of all Indonesians. This includes guaranteeing basic rights for all persons, including access to water and right to food, that will be fulfilled through various sustainable development projects throughout the country. Indonesia will also continue to advance the inclusive participation of all segments of society, including local communities, in decision-making processes. In this regard, support from all stakeholders, including from the SPMH, is very much welcomed.

I trust that my explanation has addressed the salient points raised in your joint communication. I continue to have confidence that the Special Procedure Mandate Holders could play its vital role constructively, objectively, and impartially. On a final note, I appreciate your commitment to maintaining dialogue with the Government of Indonesia.

Please accept, Madame and Sirs, the assurances of my highest consideration.



Yours sincerely,


Grata Endah Werdaningtyas
Ambassador/ *Chargé d'Affaires*



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WORLD TRADE ORGANIZATION (WTO)
AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

No: 47/POL-II/III/2021

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO, and Other International Organizations in Geneva, present its compliments to the Secretariat of the Human Rights Council, and with reference to the publication of the news release from several mandate holders, entitled "Indonesia: UN experts flag rights concerns over 3bln tourism project" on 31 March 2021, has the honour to transmit herewith, the press statement of the Permanent Mission of the Republic of Indonesia in response to the aforementioned news release. The press statement can also be accessed at the Permanent Mission of the Republic of Indonesia's website at <https://mission-indonesia.org/2021/03/31/press-statement-response-to-the-the-news-release-by-several-spmh-indonesia-un-experts-flag-rights-concerns-over-3bln-tourism-project-31-march-2021/>.

The Permanent Mission of the Republic of Indonesia to the UN, WTO, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Secretariat of the Human Rights Council, the assurances of its highest consideration.

Geneva, 31 March 2021



Secretariat of the Human Rights Council
Office of the United Nations High Commissioner
For Human Rights
Palais des Nations
CH-1211 Geneva 10, Switzerland
+41 22 917 9220



Permanent Mission
of the Republic of Indonesia to the UN, WTO,
and Other International Organizations
in Geneva

PRESS STATEMENT
RESPONSE TO THE THE NEWS RELEASE BY SEVERAL SPMH
“INDONESIA: UN EXPERTS FLAG RIGHTS CONCERNS
OVER \$3BLN TOURISM PROJECT

31 March 2021

1. The Government of the Republic of Indonesia rejects the news release by several *Special Procedures Mandate Holders*, entitled “Indonesia: UN experts flag rights concerns over \$3bln tourism project” of 31 March 2021. The news release has unfortunately misrepresented cases of legal disputes related to the sale of land, subjecting it into the false and hyperbolic narrative of putting “...Indonesia’s laudable commitments to the Sustainable Development Development Goals and its underlying human rights obligations to the test”.
2. Since the inception of the Sustainable Development Goals (SDGs), as an active proponent, Indonesia has always underlined that the SDGs can only be achieved by advancing the pillars of economic growth, social development, and environmental protection, in a balanced manner.
3. At the national level, Indonesia has mainstreamed the SDGs in its national development planning policies. At the same time, Indonesia has also undergone 2 (two) voluntary national reviews on the implementation of the SDGs, and is currently preparing for the third voluntary national review scheduled for later this year. This strong commitment proves, once again, that Indonesia has no intention to slow down the national trajectory towards achieving the SDGs.

4. The aforementioned news release is indicative of an SPMH practice that has been subject to vast criticism by many UN Member States, namely the lack of any willingness on the part of the relevant mandate holders to conduct constructive dialogue with the concerned country on an issue that they wish to highlight.
5. Had a consultative process been given, the relevant mandate holders would have been better informed of the Mandalika project; its potentials and challenges, as well as the efforts that the Government of Indonesia have and will take to overcome such challenges, including, inter-alia, information on the available avenues for registering legal grievances and remedies pertaining to the related disputes.
6. Through a constructive dialogue, the relevant mandate holders would also have had a better understanding that the aim of the Mandalika project is precisely to empower local communities, as well as enhance their livelihoods and participation in decision-making.
7. As a State Party to the International Covenant of the Economic Social and Cultural rights, Indonesia will continue to fully implement the Covenant for the benefit of all Indonesians. This includes guaranteeing basic rights for all persons, including access to water and right to food, that will be fulfilled through various sustainable development projects throughout the country.
8. Moreover, Indonesia reiterates that the right to development should continue to be guaranteed, so as to equitably meet the developmental and environmental needs of the present and future generations. As a member of the Human Rights Council, Indonesia will also continue to advance the inclusive participation of all segments of society, including local communities, in decision-making processes. In this regard, support from all stakeholders, including from the SPMH, is key.
9. It is therefore also regrettable to note that the concerns expressed by the mandate holders in the news release have also been communicated to the Government of Indonesia through a joint letter dated 11 March 2021,

whereby a response to this letter can be expected very soon. The response from the Government of Indonesia will certainly offer a comprehensive, factual and objective review of the SPMH's concerns, as well as be guided by the rule of law. In this context, there is clearly no value in taking a "one-side of the story" megaphone approach.

10. A politicized stance towards an issue of concern will not only further erode the trust that States have towards the SPMH, but will also continue to be a direct affront to resolution 60/251 establishing the Human Rights Council, as well as Human Rights Resolution 5/2 on the Code of Conduct for Special Procedures Mandate-holders.
11. This "one-side of the story" megaphone approach will certainly further contribute to the growing concern and mistrust in the Human Right Council towards the professionalism and performance of certain mandate holders. Indonesia stands against such a practice, which undermines the system of special procedures, and most importantly, weakens the trust of States, civil society, and other relevant stakeholders.
12. As a member of Human Rights Council, Indonesia will continue to support the work of the UN human rights bodies and mechanisms. Indonesia therefore, will continue to preserve the transparency and accountability of the work of the Special Rapporteur.

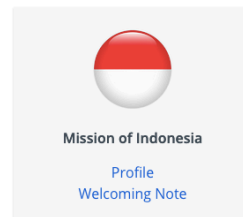
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PRESS STATEMENT RESPONSE TO THE NEWS RELEASE BY SEVERAL SPMH "INDONESIA: UN EXPERTS FLAG RIGHTS CONCERNS OVER \$3BLN TOURISM PROJECT, 31 MARCH 2021

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