

**PERMANENT MISSION OF DENMARK TO THE UNITED NATIONS**  
Geneva

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Enclosure(s)

Case/ID No.

2021 - 11679

Department

Date

20-05-2021

Please find enclosed the response to your letter dated 12 March 2021 (AL DNK 2/2020) from the Government of the Kingdom of Denmark.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Jespersen'.

Morten Jespersen  
Ambassador  
Permanent Representative

**OHCHR mandates holder:** the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on trafficking in persons, especially women and children.



**Response by the Government of the Kingdom of Denmark to joint communication from special procedures AL DNK 2/2020**

In response to the communication, and as a follow up to our initial letter dated 26 March 2021, the Danish Government has the honour to provide the following information.

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

At the outset, the Danish Government wishes to reiterate its support for and commitment to the respect and protection of human rights – nationally as well as globally.

Forced labour, trafficking in persons for labour exploitation, and arbitrary detention are unacceptable practices, which Denmark strongly condemns. No one should ever be subjected to such abuses – not by their government, not by businesses. As actors in society, businesses must live up to their responsibility of respecting human right standards.

Denmark is engaged in the promotion of international standards for businesses' conduct based on the UN Guiding Principles (UNGPs) in international fora. The most effective effort for lasting change requires joint collaboration by countries and companies. Currently, as a member of the UN Human Rights Council, Denmark works to preserve and strengthen the UNGPs in relevant Council resolutions and processes.

Denmark was among the first countries to develop a national action plan in 2014. Denmark is also working to advance the UNGPs in other countries. In close collaboration with the Danish Institute for Human Rights and DanChurchAid, Denmark cooperates with a number of countries to facilitate their development of national action plans and/or other relevant initiatives.

As explained in letter dated 26 March 2021, Denmark has continuously raised concern regarding the situation in Xinjiang on numerous occasions. Denmark has also called upon the Chinese government to facilitate full access to Xinjiang and Tibet for all relevant UN special procedures. The Danish Minister of Foreign Affairs raised the matter with his Chinese counterpart 22 January including through his concern about Xinjiang and the issue of forced labour.

The Danish Government regards these allegations with the utmost seriousness and stands ready to cooperate with UN special procedures should there be any need for further clarification.

On 22 March 2021, the EU designated four persons and one entity from China with relations to human rights violations against Uyghurs in Xinjiang under the EU restrictive measures against serious human rights violations and abuses, cf. Council Decision 2021/481. The Ministry of Foreign Affairs has forwarded the joint communication from special procedures AL DNK 2/2020 to the Danish Business Authority with a view to investigate whether the alleged activities of Bestseller through their supply chains *may* have violated the prohibition of making funds or resources available to designated persons or entities under the EU restrictive measures.

**2. In regard to the above allegations, please highlight the steps and/or legal policy measures that your Excellency's Government has taken, or is considering to take, to ensure that business enterprises domiciled in its territory and/or jurisdiction, respect human rights throughout their operations and supply chain.**

*The Mediation and Complaints-Handling Institution for Responsible Business Conduct*

In June 2012, the Danish Parliament adopted the Danish Act no. 546 on a Mediation and Complaints-Handling Institution for Responsible Business Conduct (The Danish national contact point to the OECD Guidelines "NCP Denmark"). NCP Denmark is a non-judicial grievance mechanism mandated to handle complaints against Danish companies, Danish civil society organisations or Danish public authorities concerning non-observance of the OECD Guidelines for Multinational Enterprises, including human rights as based on the principles of the UNGPs. Globally, NCP Denmark is the only national contact point with an extended mandate to handle cases concerning public authorities and civil society organisations, and with a mandate to handle cases on its own instigation.

Moreover, NCP Denmark has a mandate to promote the OECD Guidelines and guide Danish businesses in responsible business conduct (RBC). The promotional mandate is inter alia exercised through events, development of RBC guides, and training sessions for practitioners within the field.

*Non-financial reporting directive*

Since 2009, the Danish Financial Statements Act, cf. Section 99a, has required the largest Danish companies and all state-owned limited liability companies to report on Corporate Social Responsibility (CSR) in their annual reports. Since the 2013 financial year, undertakings have also been specifically required to consider climate issues and human rights. If the undertaking does not have policies for climate issues or human rights, this must be disclosed. The regulation was revised in 2015 to implement Directive 2014/95/EU as regards disclosure of non-financial information by certain large undertakings and groups (NFRD).

The revised regulation includes a larger scope of companies than required according to the directive as the requirements of the Danish Financial Statements Act section 99 a apply to large undertakings that are subject to the requirements in accounting class C, and to all undertakings that are subject to the requirements in accounting class D (i.e. to listed companies and to state-owned limited liability companies, irrespective of their size).

In 2018, the Danish Parliament passed a bill ensuring that in the future, these companies must also explicitly state in their annual reports which measures they are taking to ensure respect for environmental, social and employee matters, as well as respect for human rights, anti-corruption and bribery matters, and to report if they do not have such measures in place. It must be stated for each policy area how the undertaking puts its CSR policy into practice, and any systems or procedures in this respect must be described. The undertaking must also assess for each policy the results of its work with CSR during the financial year and its expectations on the future work.

The undertaking must furthermore disclose the material risks regarding environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters in relation to the undertaking's business activities.

Details must also be given of the due diligence processes applied, if the undertaking uses such processes.

Directive 2014/95/EU is currently under revision in the EU.

*Expectations regarding business and human rights in the Danish Covid-19 compensation scheme*

In the Danish Parliament's June 2020 agreement on Danish compensation schemes in response to the Covid-19 crisis, the Danish Government expressed the expectation that Danish companies who receive compensation should adhere to the UN Guiding Principles on Business and Human rights (UNGPs). When companies apply for compensation, the applicant will be presented with information about the UNGPs as part of the application form. Further information and guidance to businesses are provided on the website [Samfundsansvar.dk](http://Samfundsansvar.dk). Furthermore, applicants receive a reminder about the requirements of the UNGPs when they receive notice of compensation payments. The objective is to make it clear for companies that they are expected to act in coherence with the UNGPs.

**3. Please indicate the measures taken by your Excellency's Government to ensure that its public procurement of goods and services is only from business enterprises which have not caused, contributed to, or are directly linked to human rights abuses such as those alleged in the present letter.**

According to executive order no. 9471/2014, Danish central government authorities are obliged to have a labour clause in all public works contracts. The executive order no. 9471/2014 is an implementation of ILO convention no. 94.

For Danish sub-central contracting authorities, labour clauses are not mandatory to apply in contracts, but there is significant political focus on the issue of fair wages and other working conditions. Therefore, labour clauses are also widely used by these contracting authorities.

Besides these national initiatives, the applicable EU public procurement rules provide opportunities to exclude economic operators, when the contracting authority can demonstrate that the economic operator is guilty of grave professional misconduct which renders its integrity questionable.

Economic operators guilty of the allegations described in the present letter would most certainly be subject to exclusion under these rules.

**4. Please indicate the steps that you Excellency's Government has taken, or is considering to take, to ensure effective access to domestic judicial mechanisms for victims of business-related human rights abuses, including overseas victims of serious human rights abuses such as those alleged in the present letter.**

The non-judicial grievance mechanism, NCP Denmark, offers a platform for remedy to anyone who wants to complain, Danish or non-Danish citizens, organizations etc. There are no expenses connected

to the complaint procedure and NCP Denmark has a dedicated budget that can cover expenses for a counsellor/representative to ensure equal representation during the process.

**5. Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure that business enterprises domiciled in its territory and/or jurisdiction establish effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.**

NCP Denmark's platform for dialogue and mediation is open for any company that wishes to find a solution on cases of adverse impacts on e.g. human rights. The complaints-procedure is designed to encourage companies to participate in the NCP-process inter alia by emphasizing confidentiality. If a company does not cooperate during the process, NCP Denmark will still publish a statement with recommendations for improvements and follow up on these until the company has satisfactorily addressed NCP Denmark's recommendations. NCP Denmark has yet to experience that a company does not participate constructively in the NCP-process.

**6. Please indicate if your Excellency's Government has the intention of introducing legislation, which would require a disclosure of contemporary forms of slavery, including forced labour, in activities of all Denmark-based businesses overseas, similar to the UK Modern Slavery Act.**

The Danish Government welcomes the European Commission's initiative to introduce a legislative proposal on mandatory due diligence that encourages sustainable and responsible business conduct globally by contributing to an efficient smart mix of mandatory and voluntary measures. With the aim to introduce harmonized EU regulation, the Danish Government is preliminarily positively considering a horizontal due diligence regulation that is cross-sectorial and cross thematic, covering human rights, social and environmental matters and are in line with both the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Companies and Social Policy and the OECD Guidelines for Multinational Enterprises.