



FROM THE PERMANENT REPRESENTATIVE

AUSTRALIAN PERMANENT MISSION  
GENEVA

17 June 2021

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 19 April 2021 from Special Procedures mandate holders regarding potential human rights violations and environmentally damaging consequences of the uranium mining project known as Kuanersuit or Kvanefjeld in Southern Greenland by Greenland Minerals Ltd**

I refer to the joint communication dated 19 April 2021 from the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Working Group on the issue of human rights and transnational corporations and other business enterprises; and the Special Rapporteur on the rights of indigenous peoples. The Australian Government notes the concerns expressed in the joint communication and provides the following information in response to the three requests included in the communication.

**Q1) Please provide any additional information and any comments that you may have on the above-mentioned allegations.**

The Australian Government is broadly aware of the proposed uranium/rare earths mining development known as Kuannersuit or Kvanefjeld in Greenland by Greenland Minerals. Australia's National Contact Point (AusNCP) has not received any complaints or representations relating to Greenland Minerals, to date. We note that the decision to develop, or not develop, the Kuannersuit project is entirely a matter for the appropriate Greenland authorities.

Australia encourages all companies operating in Australia and Australian companies operating overseas, to act responsibly, respect human rights and international and local standards/regulations for environmentally-ethical and sustainable mining. Australia has provided information to Greenland and the Danish Government on Australian practices governing the extraction and exportation of uranium ore concentrates. The information provided by the Australian Safeguards and Non-proliferation Office (ASNO) pertained to safeguards, security, and nuclear cooperation arrangements.

**Q2) Please highlight the steps that your Excellency's Government has taken, or is considering to take, to protect against human rights abuses by business enterprises domiciled in Australian territory and/ or within its jurisdiction, such as Greenland Minerals Ltd. Please provide information on what measures your Excellency's Government has taken to ensure that such business enterprises conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations (including abroad), as set forth in the UN Guiding Principles on Business and Human Rights.**

The Australian Government's human rights obligations generally only apply within our territory, except in certain exceptional circumstances. Australian companies operating outside of Australia are subject to the law of the countries in which they are operating.

The Australian Government has taken a wide range of actions as a matter of policy to ensure that businesses act responsibly and respect human rights both at home and abroad. Australia believes that business and respect for human rights go hand-in-hand. Australian businesses must comply with applicable Australian laws, including those in place to implement Australia's international human rights obligations.

Australia has supported the UN Guiding Principles on Business and Human Rights since their inception in 2011. The Australian Government implements the UN Protect, Respect and Remedy Framework, and actively encourages businesses to apply the Guiding Principles.

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

- domestic laws on anti-discrimination, which prohibit discriminatory conduct by Australian and international businesses in Australia;
- laws criminalising domestic and foreign bribery, including a proposed new corporate offence for failure to prevent bribery of foreign public officials that will incentivise companies to implement adequate compliance measures;
- protections for public and private sector employees who report suspected crimes and misconduct, including corruption and human rights abuses;
- Australia's Bribery Prevention Network (<https://briberyprevention.com>), a public-private partnership that brings together the private sector, government, civil society and academia to support businesses to prevent, detect and address bribery and corruption;
- domestic laws on employment conditions, and criminal offences for serious exploitative practices such as slavery, forced labour, and deceptive recruiting for labour;
- Australia's Modern Slavery Act 2018, which aims to ensure business enterprises operating in the Australian market identify and address modern slavery risks associated with their global business activities;
- establishment of a dedicated Modern Slavery Business Engagement Unit to raise business awareness of modern slavery in supply chains, and provide support and advice to business enterprises regarding modern slavery reporting;
- development and implementation of a new National Action Plan to Combat Modern Slavery 2020-2025 that provides the strategic framework for Australia's response to modern slavery;

- supporting the Finance Against Slavery and Trafficking project to engage with the sector and socialise in the Indo-Pacific the recommendations of the final report of the Financial Sector Commission on Modern Slavery and Human Trafficking (which Australia co-convened with the Liechtenstein and the Netherlands);
- a commitment to encourage compliance with the OECD Guidelines for Multinational Enterprises through the activities of Australia's National Contact Point (AusNCP)
  - the AusNCP encourages businesses to apply the OECD Guidelines for Multinational Enterprises by engaging directly with business and industry sectors, government agencies including overseas posts, and non-government organisations.
- member of the Global Alliance to End Trade in Goods Used for Capital Punishment and Torture;
- membership (and until March 2021, chair) of the Voluntary Principles on Security and Human Rights to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights;
- the trade and development goals of Australia's aid program help deliver Sustainable Development Goal 8 — Decent Work and Sustainable Economic Growth and promote the WTO's aid for trade agenda;
  - Through our Partnerships for Recovery we advise and support partner governments to achieve longer-term economic recovery, revitalise export markets, access finance for trade and investment, and support human capital and job creation, with a particular focus on women.
  - We support least-developed countries through technical assistance initiatives like the Enhanced Integrated Framework; the World Trade Organization (WTO) Trade Facilitation Agreement Facility; and the WTO Standards and Trade Development Facility.
- Australia's co-chairing of the Bali Process Government and Business Forum (GABF), including the August 2018 Ministerial Conference & Senior Officials Meeting where the Forum endorsed the AAA (Acknowledge, Act, and Advance) recommendations by Ministers, which brings together ministers and business leaders from the Indo-Pacific to understand each other's perspectives, priorities and identify best practice from different industries;
  - The GABF which set out a pathway for government and business to jointly contribute to the eradication of modern slavery through raised awareness, policy guidance (one does this by focusing on supply chain transparency, ethical recruitment and redress mechanisms), strengthened legislation, and implementation of ethical business practices.
- continued leadership engagement with (with the US and the UK) on Alliance 8.7 (named for Sustainable Development Goal Target 8.7) that was formed by UN member States, UN agencies, business and civil society to help to assist all UN member States to eradicate forced labour, modern slavery, human trafficking, and all forms of child labour; and
- provision of funding to the Global Compact Network Australia (GCNA), which brings together Australian signatories to the UN Global Compact advance corporate sustainability and the private sector's contribution to sustainable development—including human rights as one of its leadership groups.

**Q3) Please describe any guidance that your Excellency's Government has provided to Australian domiciled business enterprises on respecting human rights throughout their operations in line with the UN Guiding Principles, including by setting out the**

**Government's expectations as to how human rights due diligence should be conducted, how to consult meaningfully potentially affected stakeholders, and how to remedy any negative human rights impacts. Please also indicate whether any guidance was provided with respect to the duty to obtain free, prior and informed consent of indigenous peoples prior to the approval of business activities affecting their land use, as per the UN Declaration on the Rights of Indigenous Peoples.**

Further to the steps and measures outlined in the response to question two, the Australian National Contact Point (AusNCP) in the Department of the Treasury is responsible for promoting and providing advice about the OECD Guidelines for Multinational Enterprises – an international standard on responsible business conduct, including human rights, for multinational enterprises in all sectors.

The AusNCP website contains links to general resources, sector specific guidance (including relating to the extractive sector) and various external organisations who promote responsible business conduct.

The AusNCP also holds webinars and presentations to engage with specific sectors, such as the mining sector, and for professional groups. It also presents at relevant conferences. References to the AusNCP and the OECD Guidelines can be found on various Government department websites and publications frequented by Australian businesses with an international focus, such as Export Finance Australia, Austrade (Australia's trade promotion agency), Home Affairs and the Australian Human Rights Commission.

The AusNCP also provides conciliation services to resolve complaints against multinational enterprises managed by an AusNCP Independent Examiner and a Governance and Advisory Board with representatives from business, government, and non-government organisations.

The Australian Government Department of Foreign Affairs and Trade has a partnership with the Global Compact Network Australia (GCNA) and provides financial contributions to support GCNA's work program. GCNA, in collaboration with KPMG Australia and the University of Technology Sydney, has developed "The Australian Business Guide to Implementing the UN Declaration on the Rights of Indigenous Peoples".

The Guide outlines ways in which Australian businesses can best engage in ways that respect, protect and promote the rights of Australian Indigenous peoples. It is a framework for Australian businesses to actively give effect to the rights outlined in the UNDRIP.

**Q4) Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure that business enterprises domiciled in your territory and/or jurisdiction establish or participate in effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.**

The AusNCP is an example of a grievance mechanism that the Australian Government promotes to resolve human rights and other elements of responsible business conduct under its OECD commitments. As an adhering country to the OECD, the AusNCP serves as a grievance mechanism by providing conciliation services to resolve complaints against multinational enterprises that may arise from the alleged non-observance of the Guidelines.

Companies operating in Australia and Australian companies operating overseas are expected to act in accordance with the principles set out in the Guidelines and to perform to the standards they suggest. The Guidelines are supplemental to Australian law and are not legally binding, and while participation in conciliation is encouraged, it is not required by law.

**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,



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