



28 June 2023

██████████
Chief
Special Procedures Branch
Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10
SWITZERLAND

Dear ██████████

Thank you for your correspondence of 28 April 2023 in relation to a Joint Urgent Appeal from a number of Special Procedures Mandate Holders, **Reference: UA AUS 1/2023**.

The Australian Government notes with concern the Joint Urgent Appeal from Special Procedures. Australia is strongly committed to protecting and promoting human rights. We regularly raise human rights issues bilaterally, multilaterally and through the Human Rights Council's (HRC) Universal Periodic Review mechanism (UPR). We have strengthened our engagement on human rights globally, including through the appointment of Australia's inaugural Human Rights Ambassador and the world's first Ambassador for First Nations People. The Government supports this international commitment through a range of domestic measures and legislation, including through engagement with business.

Position on death penalty and torture

Australia is strongly opposed to the death penalty in all circumstances and for all people. The death penalty has been abolished in all Australian jurisdictions. Australia's last execution was carried out over 55 years ago, in February 1967. The death penalty is irrevocable, it denies the offender any possibility of rehabilitation, and it is not an effective deterrent. It is also unfair, being used disproportionately against the poor, mentally ill and vulnerable groups.

As a party to the *International Covenant on Civil and Political Rights* and its Second Optional Protocol, Australia has an obligation not only to abolish the death penalty in its jurisdiction, but also to ensure that our laws and policies are consistent with this obligation. We advocate for the global abolition of the death penalty bilaterally, multilaterally and through the UPR.

Australia also has an unwavering commitment to the absolute prohibition against torture and cruel, inhuman or degrading treatment or punishment, for all people and in all circumstances. Australia is a party to the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. We have also been a member of the Global Alliance for Torture-Free Trade since 2018. As per abolition of the death penalty, Australia regularly advocates against torture in our bilateral and multilateral engagements, and through the HRC's UPR mechanism.

Commitment to business and human rights

Businesses domiciled in Australia and/or within Australia's jurisdiction must comply with all Australian laws, including those to implement our international human rights obligations.

As a co-sponsor of the resolution that adopted the UN Guiding Principles on Business and Human Rights (UNGPs), the Australian Government has been committed to supporting the UNGPs since their adoption in 2011. The UNGPs provide an important framework for ensuring better standards and practices by states and businesses. The Australian Government encourages businesses to apply the UNGPs in their operations in Australia and abroad.

Australia is also signatory to the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines), which contain internationally agreed responsible business conduct standards with which the Government expects multinational enterprises to comply. The OECD Guidelines contain a human rights chapter that draws on, and is aligned with, the UN "Protect, Respect and Remedy" Framework and the UNGPs that operationalise that framework.

The Australian Government, as an adherent to the OECD Guidelines, expects multinational enterprises operating in Australia and Australian multinational enterprises operating abroad to act in accordance with the principles set out in the OECD Guidelines and to perform to the standards they recommend. These standards include conducting effective human rights due diligence. The Australian National Contact Point for Responsible Business Conduct (AusNCP) at the Treasury leads the Government's work raising awareness of the OECD Guidelines among Australian companies. It does this by maintaining a website; holding public webinars; promoting the OECD Guidelines and related due diligence processes on Australian Government social media accounts; and ensuring the OECD Guidelines are referenced in online material available to companies. For example, a summary of the OECD Guidelines is on the Australian Embassy in Saudi Arabia's website and Australia's trade promotion agency, Austrade's, online Market Profile for Saudi Arabia – two Government sources of information for Australian companies doing business in Saudi Arabia.

Additionally, the Australian Government provides guidance to businesses that engage in human rights due diligence under the UNGPs in its [Guidance for Reporting Entities](https://modernslaveryregister.gov.au/resources/Commonwealth_Modern_Slavery_Act_Guidance_for_Reporting_Entities.pdf) ([https://modernslaveryregister.gov.au/resources/Commonwealth Modern Slavery Act Guidance for Reporting Entities.pdf](https://modernslaveryregister.gov.au/resources/Commonwealth_Modern_Slavery_Act_Guidance_for_Reporting_Entities.pdf)) as part of Australia's *Modern Slavery Act 2018* (Cth) (Act). The Government continues to drive and support the operation of this landmark Act, including through support to business and public sector understanding of modern slavery risks in global supply chains and compliance with the reporting requirements of the Act.

The Act requires businesses based, or operating, in Australia with over AUD100 million in annual consolidated revenue to submit an annual modern slavery statement, highlighting and addressing modern slavery risks in their operations and supply chains to the Government's Online Register for Modern Slavery Statements (Online Register). Under these requirements, entities are required to describe the actions taken by the reporting entity and any entities it owns or controls to assess and address risks, including due diligence and remediation processes. The requirement to report annually under the Act encourages entities to continually assess their modern slavery risks and improve their responses over time.

As of 1 June 2023, over 7,000 statements have been published on the Online Register covering entities headquartered in over 50 countries. In addition, there have been more than 2 million searches on the Online Register, indicating the high interest generated in the reporting requirements under the Act.

Guidance to business

The Government makes guidance available for how Australian-domiciled enterprises should conduct human rights due diligence through its websites (specifically that of the AusNCP, Export Finance Australia, Austrade and websites for specific diplomatic missions), social media content and public webinars. Any material the Government publishes or promotes through these methods that directs enterprises to the AusNCP's website directs enterprises to the following set of materials on how to conduct due diligence: <https://ausncp.gov.au/responsible-business-conduct/due-diligence-guidance>.

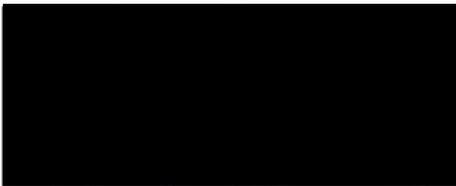
These materials include a copy of the OECD Guidelines on Due Diligence for Responsible Business Conduct (OECD Due Diligence Guidelines). The OECD Due Diligence Guidelines highlight that meaningful stakeholder engagement is important throughout the due diligence process and especially when an entity is identifying actual or potential adverse human rights impacts in the context of its own activities. In this regard, the Guidelines draw attention to the principle of free, prior and informed consent, as set out in Articles 19 and 32 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and the application of this principle in the context of the approval of projects affecting the land and territories or other resources of Indigenous Peoples. Australia supports UNDRIP and shares its underlying commitment to deliver real and lasting improvements for Indigenous Peoples and their communities.

Grievance mechanism

As an adherent to the OECD Declaration on International Investment and Multinational Enterprises, the Australian Government is obliged to operate the AusNCP mechanism. The AusNCP provides a grievance mechanism for individuals or communities who have allegedly been impacted by adverse human rights impacts caused, contributed or directly linked to multinational enterprises domiciled in Australia. A number of Australian-domiciled companies have participated, or are participating in, the AusNCP grievance mechanism. An OECD peer review of the AusNCP conducted in 2021 found it was adequately resourced and operating effectively.

Thank you for contacting us on these matters. I trust this information is of assistance. I have copied this letter to the Australian Ambassador to Saudi Arabia, who will continue to monitor the situation.

Yours sincerely



Ambassador and Permanent Representative
Australian Permanent Mission to the United Nations
Australian Delegation to the Conference on Disarmament