

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: AL OTH 113/2025
(Please use this reference in your reply)

10 September 2025

Dear Mr. Jun-Yong Lee,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 53/3, 57/31, 53/4, 52/9, 59/4, 52/4, 54/10 and 51/19.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning the actual and potential adverse human rights impacts of a critical

Mirae Asset Global Investments

mineral sands development project in South-West Madagascar – the Base Toliara Project – operated by Base Resources, owned by United States-based Energy Fuels Inc. Energy Fuels’ main investors BlackRock Inc., Alps Advisors Inc., both based in the United States, and Mirae Asset Global Investments, based in the Republic of Korea. The Base Toliara Project would encroach on the lands of communities, and as a result those communities members may lose their lands and livelihoods as they fully depend on these lands and natural resources. The project would also pose severe environmental threats that impact local livelihoods and health. Public protests from local communities against the project have been reportedly violently suppressed, resulting this year in the killing of three people on 23 March 2025 and the detention of twenty others from March to May 2025.

According to the information received:

The **Base Toliara Project** aims to extract critical mineral sands – containing rutile, ilmenite, and zircon – from South-West Madagascar. Estimated at USD 591 million in capital expenditure, it is one of the largest foreign investments in the country. The project was halted in 2019 due to tensions with local communities and ongoing negotiations over fiscal terms, then resumed in January 2025 after a Memorandum of Understanding was concluded between the company and the Government.

Formerly Australia-based, Base Resources was acquired in April 2024 by United States-based Energy Fuels Inc. Energy Fuels’ main investors include BlackRock Inc., Alps Advisors Inc., and Mirae Asset Global Investments of South Korea.

The Base Toliara mining concession covers approximately 407.53 km², across twelve communes – Ankililoake, Ankilimalinike, Tsianisiha, Maromiandra, Analamisampy, Benetsy, Belalanda, Manombo sud, Saint- Augustin, Beheloke, Behompy, Andranovory – in the Atsimo-Andrefana region, affecting an estimated population of over 30,000 people.

The mining facilities consists of three research zones located in the Manombo – Morombe coastal dune system and a mining zone located in the Ranobe deposit, in the communes of Tsianisiha and Ankilimalinike in south-west Madagascar, 45 kilometres north of the town of Toliara. The Base Toliara project foresees the construction of processing facilities at the mine site, a 55 km haul road to the port of Toliara, and a bridge across the Fiherena River.

Main human rights impacts caused by Base Toliara project

Land rights:

The construction of the haul road and full-scale mining operations put approximately one thousand people at risk of eviction and loss of access to grazing and farming lands. The planned haul road will cut through grazing lands on which local farmers and their livestock depend. Many community members do not hold formal land titles despite long-standing customary tenure and may be evicted without compensation.

Additionally, approximately 400 hectares of a protected area at PK 32 Ranobe – will be destroyed for the road. A 2020 audit by the Court of Auditors warned of the risk of encroachment on this protected area and highlighted that traditional land rights were ignored, as no lease or formal agreement was concluded with affected communities.¹

Impacts to the right to a clean, healthy and sustainable environment and the right to health:

The Toliara Project holds a 40-year mining license (PDE 37242), re-issued on 23 October 2017. The 2020 report by the Court of Auditors noted irregularities in the granting of mining and environmental permits.²

The company's own pre-feasibility study of December 2023³ acknowledges significant health risks due to monazite's uranium and thorium content. These risks include:

- Occupational exposure to radioactive materials and dust;
- Radioactive contamination of soil, water, and food;
- Transport risks such as contamination via accidents, port incidents, or maritime spills; and
- Exposure to local communities and ecosystems.

Similarly, the 2013 draft Environmental and Social Impact Assessment undertaken by the former owner of the project – World Titanium Resources, and subsequent studies of 2014 and 2021 conducted by scientists of the University of Antananarivo⁴ warned of high levels of deforestation and radiation. Ranobe ilmenite contains thorium-232 at 10,600-10,700 Bq/kg – exceeding the International Atomic Energy Agency safety threshold of 10,000 Bq/kg. This radioactivity threatens local biodiversity and public health.

In addition, water consumption by the Base Toliara project will be substantial in a region already facing water scarcity which is exacerbated by climate change and environmental degradation. This may also impact ecosystems services, playing a key role in terms of climate adaptation and preventing further negative human rights impacts in the context of climate change. The project involves high levels of water consumption which may significantly reduce the availability of water for the local communities which suffer in decent decades from more frequent periods of drought. In addition, public information on how contaminated water will be treated is lacking.

¹ <https://ccomptes.mg/uploads/RAPPORT-PUBLIC-2020-1637605105.pdf>

² <https://ccomptes.mg/uploads/RAPPORT-PUBLIC-2020-1637605105.pdf>

³ <https://mb.cision.com/Public/22548/3893356/89a168c3d231921e.pdf>

⁴ EM de Base Toliara et d'autres exploitations minières actives dans cette région aboutiront à la perte d'environ 58 138 ha de forêt naturelle avec un net recul de couvert forestier dans le camp minier

Due to expected land deprivation and contamination of lands and water, negatively impacting the human right to a clean, healthy and sustainable environment of the population, community members mostly made of farmers and fishers will lose most of their livelihoods.

Lack of engagement with local population:

Civil society organizations and community members have denounced the lack of meaningful engagement with the company and the relevant public authorities, in addition to a lack of transparent information in relation to the adverse impacts. The requirement of public consultation in the context of environmental and social assessment has not been met by the company and administrative authorities.

Despite some groups of people mostly farmers and cattle breeders have consented to the displacement from their villages and their relocation for the project's implementation, a large part of the local population, mainly fishing communities, have publicly opposed to being displaced from their lands.

Suppression of civic space:

Since January 2025 and the announcement of the start of the project, civil society organisations and communities representatives have been organizing demonstrations and protests. Nevertheless, the government has been communicating its support to the project and has made numerous visits to the site to convince and inform local stakeholders. Some of these protests have resulted in deaths, injuries and detentions.

- On Sunday 23 March 2025 a march of 2,000 people took place in the city of Toliara from the locality of Anketraka to the Andaboy beach (in Toliara II) The public security forces (gendarmerie) violently suppressed the protest, resulting in three deaths and eight persons injured (including two police officers). The incidents were filmed and widely shared on social media.
- On 26 March, a local community leader and retired colonel, Colonel Fanampera, considered the leader of the movement against Base Toliara, was arrested and transferred to Fianarantsoa where is being held in custody.
- On 06 April, protesters gathered at a rally called by Siteny Randrianasoloniaiko – a member of the parliament from the opposition – in the city of Toliara as regards to Base Toliara issues. The defense and public security forces (gendarmerie) intervened to prevent such unauthorized demonstration. They fired tear gas, arrested eight protesters and injured several others. On 27 April 2025, a protest was held in Benetse. Six people were detained and five were put in preventive detention by the judge of the Tribunal of First Instance of Toliara.

- The 15 protesters from the Toliara I and Toliara II districts who were arrested and placed in custody during the course of April and May 2025 had been all released on the orders of the President of the Republic during his visit to the site in mid-May.
- On 17 May, the President of Madagascar decided to meet with the communities affected by the project in order to reassure them that the project complies with the international norms and standards, particularly with regard to environmental, health, social and cultural issues. He also met the zanadriake (fisher tribe) in the village of Mangily, as well as with other leaders of the local movement opposing the project. According to local sources, no commitments or decisions were made at the end of the meeting, with the President merely promising local communities that he would return shortly to discuss proposals with a view to resolving the situation.
- Between 10-13 July 2025, there have been some clashes between Base Toliara supporters and opponents within the locality of Tsiafanoke in the community of Tsianisiha. On 11 July, a group of opponents to the project blocked the national road 9 between such locality and the city of Toliara. In response to a demonstration held in Benetse, against the project 250 members of the gendarmerie entered the locality and occupied the school. Five people have been arrested, including one children of 15 years old. These people have been reportedly subjected of ill treatment and remain in detention.
- On 29 July in the locality of Benetsy, six project opponents along with two journalists were arrested by security forces while trying to negotiate with local authorities the safe return of several members of the Mazoto association – which opposes to the Base Toliara project – who were obliged to flee into the forest for fear of violences from administration – backed villagers’ groups set up to locally secure safe operations of the project. They were put into custody on the charge of disrupting public order within the locality of Ankilimalinike– a zone covered by the project – financing a recent demonstration staged by students at Maninday University (in the city of Toliara), as well as inducing employees of the National Water and Electricity Company (JIRAMA) to strike. Brought before the court on 30 July the two journalists were released whereas the six other individuals have been placed under judicial supervision pending a trial on 12 August, for disrupting public order.

Without intending to prejudge the veracity of the information received, we would like to express our deep concern about the actual and potential human rights impacts of the Toliara Project without any clear scheme on how those impacts would be prevented, mitigated and redressed and how benefits would be shared with the local population. The lack of meaningful consultation with the affected population from the company side and the authorities side has eroded trust and escalated tensions, including with the company, public authorities and among communities themselves.

Financial institutions have their own responsibilities under the UN Guiding Principles to respect human rights and conduct human rights due diligence. Financial businesses can be directly linked to adverse human rights impacts through its business relationships (such as through the provision of financing); they can also contribute to human rights harm through their own operations and actions. Further, the Office of the United Nations High Commissioner for Human Rights has issued statements indicating that if a bank identifies, or is made aware of, an ongoing human rights issue that is directly linked to its operations, products or services through a client relationship, yet over time fails to take reasonable steps to seek to prevent or mitigate the impact, it can be viewed as enabling the situation. The Organisation for Economic Co-operation and Development (OECD) Guidance on Due Diligence for Responsible Corporate Lending and Securities Underwriting further states that where a bank is directly linked to an adverse human rights impact through a client, it still has a responsibility to prevent or mitigate the impact, and that “[w]here the adverse impacts are directly linked to a bank’s lending or securities underwriting through a client, it should also use its leverage to seek to prevent and mitigate those impacts”. This approach has been applied by the OECD National Contact Points (NCP): for example, the Norwegian NCP concluded that “If [an investor], after investing, learns of a portfolio company’s human rights impacts, it still has a number of tools available, including shareholder proposals, engagement with management, and the threat of divestment”. Further, in the Society for Threatened Peoples Switzerland’s complaint to the Swiss NCP regarding UBS Group AG, the Swiss NCP recognized that a financial business, through investing in a business enterprise, was directly linked to potential adverse human rights impacts by its relationship with that business enterprise.

Further, a financial business can move from being directly linked to an adverse human rights impact to contributing to that impact if it does not take action to prevent or mitigate the business relationship to which it is directly linked, including by undertaking human rights due diligence. Therefore, the alleged involvement of financial institutions in the financing of the Base Toliara mine’s activities could be in violation of international human rights law and standards.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on how your company addresses human rights risks and impacts linked to actual and potential investment or lending activities in its policies, frameworks and strategies, taking into account the human rights impacts of climate change as well as of environmental harm caused by its activities, in line with the UN Guiding Principles on Business and Human Rights (UNGPs).

3. Please indicate specific remedial measures that your company has taken or is considering taking to prevent being associated with human rights law, international environmental law, international criminal law and international humanitarian law abuses.
4. Please provide detailed information with respect to measures taken by your company to respect human rights, including to conduct a human rights due diligence processes when investing in or lending to companies. Has your company taken any measures to ensure public access to information, and to undertake meaningful stakeholder engagement, including with human rights defenders and civil society, to know and address human rights related impacts linked to its investments?
5. Please describe the guidance, if any, that the Government of the United States has provided to your company, or to which your company has access, on how to respect human rights throughout your operations, in line with the UNGPs.

This communication and any response received from you will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with you to clarify the issue/s in question.

We inform you that a letter on this matter has also been sent to Madagascar, South Korea and United States, and to Energy Fuels and main investors Alps Advisors Inc. and Blackrock Inc.

Please accept, dear Mr. Jun-Yong Lee, the assurances of our highest consideration.

Pichamon Yeophantong
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

Elisa Morgera
Special Rapporteur on the promotion and protection of human rights in the context of
climate change

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

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Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Gina Romero
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Mary Lawlor
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Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound
management and disposal of hazardous substances and wastes

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society, human rights defenders and the business community. The guiding principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts.

These guiding principles are based on the recognition of: a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms. b) The role of business enterprises as specialized bodies or corporations performing specialized functions, which must comply with all applicable laws and respect human rights. c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to: a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur. b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts" (guiding principle 13).

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances: a) A political commitment to uphold their responsibility to respect human rights. b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact. c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15). According to guiding principles 16-21, human rights due diligence involves: a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or

contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships. b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact. c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working. d) Communicate how adverse effects are addressed and demonstrate to stakeholders – particularly those affected – that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22). Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).

We would also like to highlight the fundamental principles of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the United Nations Declaration on Human Rights Defenders. In particular, we wish to highlight Article 1, which affirms that every person has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms. We would also like to draw your company’s attention to the following articles of the Declaration:

- Article 5: For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right (a) to meet or peacefully assemble; and (b) to form, join, and participate in non-governmental organizations, associations, or groups.
- Article 6: Everyone has the right (b) to freely publish, impart, or disseminate to others views, information, and knowledge regarding all human rights; and (c) to draw public attention to those matters.
- Article 12: (1) Everyone has the right to participate in peaceful activities against violations of human rights and fundamental freedoms.

Finally, in her report entitled “A Human Rights Based Approach to the Energy Transition” (A/80/188) the Special Rapporteur on the promotion and protection of

human rights in the context of climate change recommended that “Companies involved in renewables development, transition minerals and related supply and value chains should have robust human rights due diligence process, with a view to:

- (a) Assessing land tenure, in addition to relying on formal or documented land rights, to identify all rights holders and baselines for environmental and human rights impact assessments, to estimate the direct and indirect area of influence of each project at the nexus;
- (b) Providing funding for independent legal and technical experts to support Indigenous Peoples, persons of African descent and peasants in environmental impact assessments, consultations and benefit-sharing negotiations;
- (c) Identifying benefit-sharing opportunities in the early stages of assessments and planning, with the meaningful participation of communities and according to community world views and history;
- (d) Designing systems and products to enable maximum resource and energy efficiency and circularity through repair and reuse, and ensuring extended producer responsibility;
- (e) Ensuring public access to information on contributions to circularity, on beneficial owners across the value chain, on the origin of minerals, and on contracts, licences, environmental and human rights impact studies, third-party audit findings and financial reports;
- (f) Implementing “local content” provisions through meaningful job creation and the integration of local experts in management positions, including technological co-development;
- (g) Supporting participatory long-term monitoring throughout the life cycle, including closure planning and environmental restoration;
- (h) Establishing effective and accessible operational-level grievance mechanisms for workers and communities, in local languages and with powers to provide remedies, such as compensation and rehabilitation;
- (i) Adopting enforceable zero-tolerance policies to prevent retaliation against environmental human rights defenders, including screening potential business partners for histories of retaliation”.

The full texts of the above human rights instruments and standards are available at www.ohchr.org or can be made available upon request.