



Response to the Joint Communication from special procedures, ref. AL DNK 2/2021

The Government of Greenland appreciates the opportunity to respond to the concerns expressed in the Joint Communication, including correcting any misunderstandings or misconceptions presented.

From the on-set the Government of Greenland wishes to underline that the Government of Greenland has assumed legislative and administrative competence for the mineral resource area, which is regulated in the Greenland Mineral Resources Act which entered into force on 1 January 2010.

The Government of Greenland has repeatedly described, including through the national reports of the Kingdom of Denmark to relevant human rights treaty bodies, the competences and powers of the Government of Greenland pursuant to the Act on Self-government in Greenland. We kindly refer to the notification on the Act on Greenland Self-Government submitted on 7 October 2009 by the Kingdom of Denmark to the Secretary-General of the United Nations and distributed to the General Assembly as document A/64/676. For a general description of the Greenland Self-Government arrangement, reference is also made to the report from Denmark and Greenland to the Permanent Forum on Indigenous Issues at its eighth session (E/C.19/2009/4/Add.4). The Government of Greenland (Naalakkersuisut) is elected by the Parliament of Greenland (Inatsisartut). Inatsisartut is elected by the people of Greenland, the vast majority of which are Inuit.

On 23 April 2021, a new government was sworn in by Inatsisartut, the Greenland Parliament. **The new government has resolved to ban any exploitation of radioactive elements in Greenland, including for the Kuannersuit project.** The Government intends to introduce a bill to that effect during the coming autumn session of the Inatsisartut, which will eventually affect the Kuannersuit project. However, the Kuannersuit project will be handled still according to the process stipulated by the Mineral Resources Act as well as the license terms issued to Greenland Minerals A/S which is the company holding the license for exploration of the Kuannersuit mineral deposit. It is therefore not correct as stated in the Joint Communication that the commencement of the activities of the project is “only one permit away”.

Responses and comments to the questions 1-11 in the joint communication:

Comments to question no. 1

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

It should be noted that the Greenland Minerals A/S is a company domiciled in Greenland with a registered office. The company therefore meets the requirement of the Greenland Mineral Resources Act that mining permits (exploitation licence) can only be granted to a company that has its registered office in Greenland.

Moreover, the Government of Greenland (**hereafter “the Government”**) would like to inform that prior to any mining permit being issued, a mandatory Impact Benefit Agreement must be signed between the mining company, the Government and the relevant municipality in which the mining operation will take place. The municipality, which represents the local communities, is therefore closely involved in ensuring that any mining project benefits the local communities.

In the Joint Communication, the Kuannersuit project is labelled as a “uranium mining project”. This is a misleading label as the predominant content (>90%) of the mineral elements of commercial value is associated with the rare earth minerals with uranium as a minor byproduct.

Allegations are also made that the environmental standards of Greenland are inferior to European standards. The Environmental Impact Assessment (EIA) guidelines are clearly stipulated in the Mineral Resources Act of Greenland. The Act requires all activities and projects to conform with the best international practices under similar conditions. The legal Act requires the use of Best Available Techniques (BAT), Best Environmental Practice (BEP) and Best Practicable control Technology (BPT). In this regard, the EIA guidelines specifically refer to the European Union (EU) range of reference works (BREF). Furthermore, the EIA guidelines states that all infrastructure, machinery, and activities must comply with EU standards, and that all relevant international rules, guidelines and Conventions, shall be met.

The Greenlandic legal framework has been fully observed and followed in the EIA process of the Kuannersuit project. This includes the requirements for scientifically reviewed and documented conclusions and claims of the EIA. The approximately 5000 pages of project specific background material of the Kuannersuit project, supplied by the applicant company¹, are fully available to the public. Furthermore, the EIA guidelines require transparency and openness in the entire EIA process as regards the potential need for further studies and scientifically supported or validated conclusions. The background material of the EIA for the Kuannersuit projects has been scrupulously reviewed by the Environmental Agency for Mineral Activities (EAMRA)² and independent scientific advisors. For some topics, this has yielded additional requirements from EAMRA, that the applicant company (Greenland Minerals A/S) perform further studies, and further detailed documentation for the proposed mitigation measures. For some minor aspects, the assessment will be provided during the later approval stages. The explanation being that the documentation not currently available for these aspects, is not expected to result in changes to the predicted environmental impacts of the project. Therefore, the EIA

¹ <https://ggg.app.box.com/s/gd6asiwu181v9lned9pmqi4wk8bc8hkr>

² EAMRA is an agency of the Government of Greenland

conclusions are still assessed to be sufficient, adequate, accurate and compliant with the aims and requirements of the EIA guidelines of Greenland.

The Joint Communication also expresses concern that the Greenlandic public has not been sufficiently informed, or that it lacks trust in the Government's communication about the project. In this regard, the Government wishes to inform of its policy and activities pertaining to dissemination and sharing of information with the public. Such activities include:

- Joint fact-finding mission to Australia and Canada in 2010 and 2014
- Publication of reports and material on radioactive materials including a comprehensive report on best practices for the handling of radioactive materials³
- A series of Q&A articles published in Greenlandic newspapers in 2016
- Information meetings open to the public featuring the participation of relevant independent experts and advisers held locally in South Greenland in 2014, 2015, 2016, and 2017
- Dialogue meetings with civil society including representatives of NGOs held in 2017
- Public pre-consultation meetings held in South Greenland in 2014. The comments received from the pre-consultations meetings led to a revised "White Paper" for the EIA and resulted in a requirement for further studies to be included in the EIA.
- Public consultation meetings held in February 2021 (see further details under the response to questions no. 4 and no. 11)
- Several requests for access to information have been met in accordance with the Greenland Public Access Act⁴ (Access to Information Act).

The EIA report for the Kuannersuit project is intended to create a meaningful and comprehensible basis for understanding the technical background information provided. Furthermore, the EIA guidelines require the inclusion of a non-technical summary of the EIA report.

It should be underlined that the EIA and the non-technical summary are prepared in Greenlandic ("Kalaallisut" – the Greenland Inuit language) as well as in Danish and English, and thereby ensuring that the Greenlandic people receive information in their own language.

The EIA process also has the objective of providing a tool by which the Greenlandic public can express their concerns, ask questions, or pose statements about the proposed project. The EIA consultation process allows the Greenlandic public and decision makers to assess impacts and risks regarding i.e. disturbance and potential contamination of habitats.

³ <https://dce2.au.dk/pub/SR200.pdf>

⁴ https://govmin.gl/wp-content/uploads/2019/11/Unofficial_consolidation_of_the_Public_Access_Act.pdf

Regarding statements of the Joint Communication that the proposed project aggravates climate change due to its considerable greenhouse gas emissions it should be noted that the foreseen 45% increase of greenhouse gas emission associated with the Kuannersuit project must be viewed in relation to the current emissions of Greenland, a country of approximately 56.000 inhabitants with very little industry. The EIA does not conclude on risks of further aggravation of climate change. It should also be mentioned that the Government requires applicants for mining projects to minimize climate impacts following the ALARP principle.

Regarding allegations of the Joint Communication of damage to UNESCO heritage sites, the Government would like to state that it fully respects the UNESCO World Heritage sites in Greenland. The EIA of the Kuannersuit project includes an evaluation of this specific issue and predicts no disturbance or environmental impact related to the UNESCO heritage sites. The five components of World Heritage area KUJATAA in South Greenland are surrounded by large buffer zones. Within these buffer zones no mineral resources activities are allowed. These buffer zones that are significantly larger than the actual UNESCO World Heritage area were established by the Government to ensure the protection of the entire World Heritage Area.

Comments to question no. 2

Please provide information on the ways in which the Government of Greenland has addressed environmental concerns, related to pollution and contamination resulting from the mine as well as the long-term risks after its closure, raised by scientists, outside the explanations put forward in the EIA.

As described in the above, the Mineral Resources Act sets the framework in which mineral resource activities are approved prior to implementation. This includes among other things, an environmental impact assessment (EIA) process, which shall form part of the basis on which the Greenlandic public and decision makers can form an opinion about the proposed project, prior to any approval being issued.

In terms of how environmental topics are addressed, it is thus important to understand the environmental impact assessment process, which in a simplified form can be divided into these steps:

1. The applicant company prepares a scoping report in which the project is defined in broad terms. This includes identification of expected environmental effects of the project, and a description on how these topics will be addressed in the continued EIA process.

2. The scoping report undergoes public pre-consultation. During this consultation the public, including directly affected local communities are invited to comment on the topics the Company has put forward and point out additional topics they find relevant to incorporate in the Terms of Reference for the EIA. A White Book is prepared that addresses all questions raised during the hearing process, verbal as well as written. The White Book contains comments from the company and the authorities on every topic put forward in the process and

describes the implications for further work on the EIA. The Terms of Reference of the EIA are revised, accordingly.

3. The applicant company performs environmental studies in accordance with the revised Terms of Reference to ensure necessary data for the EIA.

4. The company prepares the EIA-report. All the material, including supporting documents, is reviewed by the Environmental Agency for Mineral Resource Activities (EAMRA) and independent scientific advisors. Central to the review, is to ensure that the presented material is compliant with EIA Guidelines⁵, which contain a comprehensive range of aims and requirements. Typically, the review process results in further studies, and EIA revisions on the part of the applicant company.

5. The EIA undergoes public consultation. A second White Book addresses all questions raised during the EIA hearing process, verbal as well as written.

6. The EIA is revised in accordance with the recommendations in the second White Book-Paper. The revised EIA is submitted to the Government for possible approval. An approved EIA is one of several pre-requisites for the granting of an exploitation licence.

EAMRA oversees the entire EIA process.

The EIA for the Kuannersuit project provided by the Company has been found compliant with the EIA Guidelines.

The hearing process is currently open to all who wish to contribute with comments or input to the EIA. The hearing includes both a possibility to submit written comments (handwritten comments are also eligible) and public consultations meetings with participation from government representatives, the company and independent advisors.

The Mineral Resources Act's article 95 provides funding for civil society organizations and individuals enabling financial support for hiring independent scientists of their own choice and thereby ensure independent scientific advice. It should also be mentioned that the Non-technical resumé, the full EIA and its appendices shall be provided in three languages: (Greenlandic/Kalaallisut, Danish and English).

Comments to question no. 3

Please indicate how local indigenous knowledge was included in the EIA report, as per the Guidelines for preparing an Environmental Impact Assessment report for mineral exploitation in Greenland.

⁵https://naalakkersuisut.gl/~media/Nanoq/Files/Hearings/2015/Nye%20retningslinjer%20for%20udar-bejdelse%20af%20VVM%20for%20mineprojekter%20i%20Groenland/Documents/EIA%20Guidelines_UK_.pdf

The Guidelines for preparing an EIA underline the obligation to seek information from local users (such as hunters, fishermen and sheep farmers) of the affected land and environment and include this in the EIA.

In addition to the public pre-consultation process, part of the EIA requirement is a **Local Use Study**. This has been carried out based on interviews with 189 respondents from the affected area. The respondents were segmented by gender, age and occupation. Furthermore, local businesses and institutions such as sheep farmers, tourist operators, the local care home for the elderly, and school employees were interviewed. Additional consultations were carried out with fishermen and hunters particularly selected due to their experience and extraordinary skills. Furthermore, the applicant company has an office in the town of Narsaq where local employees have been engaged since 2010 in carrying out local environmental monitoring for various EIA background reports.

Comments to questions no. 4 and no. 11

Please provide information on any steps that the Government of Greenland has taken, or is considering to take, including policies, legislation and regulations to protect against human rights abuses by business enterprises within its territory and/or jurisdiction, and to ensure that 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 operation, as set forth by the UN Guiding Principles on Business and Human rights.

Please provide information on any steps taken by the Government of Greenland to ensure that the affected Inuit community have access to effective, adequate and timely remedies for business related human rights abuses.

Many of the “[UN Guiding Principles on Business and Human Rights](#)” already form part of the Greenlandic regulation of company activities, including in the mineral resources area.

The legal regime of the mineral resources area is created with the intent to ensure appropriate regulation for the safeguarding of the environment and the socio-economic aspects of mineral resources activities, including priority for local employment and local businesses, public participation, consultation procedures, transparency and fundamental rights.

Grievance mechanisms and tools

The Mineral Resource Act emphasizes that activities performed under the act shall be performed appropriately and in accordance with, renowned good international practice.

Various grievance mechanisms have also been set up as part of the regulation in Greenland. The Parliamentary Ombudsman is the generic complaints option in relation to decisions, conduct and practices of the public authorities.

As previously mentioned, the requirement of an Impact Benefit Agreement (IBA) has been incorporated in the Mineral Resource Act. An IBA is a tool, inter alia, for the national (Greenlandic) and municipal authorities to agree on the appropriate terms in relation to the companies' activities and the use of labour, etc. in order to ensure benefits for the local community. Any irregularities in the conduct of the project companies can be addressed in the IBA by incorporating grievance mechanism provisions.

Conventions, agreements and instructions

Greenland has acceded to a number of international conventions and agreements, which regulate company-related activity in various ways, for instance in relation to the mineral resources area. Greenland adheres to the instructions and international standards applicable to company-related areas and continuously adapts its legislation accordingly. Below is the list of important and relevant conventions, declarations, agreements and guidelines of the ILO, the OECD and the IAEA which Greenland follows.

ILO

Greenland has over the years, ratified 18 ILO conventions, which applies for Greenland today. In 2021 Greenland will have ratified all eight of the fundamental ILO conventions.

Greenland has ratified the following 18 conventions:

- C005 - Minimum Age (Industry) Convention, 1919 (No. 5)
- C006 - Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
- C007 - Minimum Age (Sea) Convention, 1920 (No. 7)
- C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)
- C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)
- C016 - Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- C019 - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- C029 - Forced Labour Convention, 1930 (No. 29)
- C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- C100 - Equal Remuneration Convention, 1951 (No. 100)
- C105 - Abolition of Forced Labour Convention, 1957 (No. 105)
- C106 - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
- C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- C122 - Employment Policy Convention, 1964 (No. 122)
- C126 - Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)
- C138 - Minimum Age Convention, 1973 (No. 138)
- C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)

The Government of Greenland reports continuously to the ILO on its obligations and implementation of these conventions.

Working environment legislation is, however, under the competence of the Danish Ministry of Employment.

OECD- Organisation for Economic Cooperation and Development

The Greenland [Large Scale Act](#), which applies in case of large scale mineral resources and energy projects, is premised in the OECD's recommendations contained in the "[Declaration and Decisions on International Investment and Multinational Enterprises](#)". Accordingly, the project company has the obligation to ensure and demand that the company and its sub-contractors and business partners, service providers and suppliers, observe and implement the OECD recommendations.

One such of these recommendations is:

"Respect the internationally recognised human rights of those affected by their activities".

In 1961, the Kingdom of Denmark ratified the Convention on the Organisation for Economic Co-operation and Development and thereby became a member of the OECD. Denmark has not in connection with the ratification or subsequently made any territorial reservations with regards to Greenland and the membership thus also applies to Greenland. In 1976, all the OECD's member states, including the Kingdom of Denmark, joined the OECD's Declaration and Decisions on International Investment and Multinational Enterprises.

The declaration covers, among other things, The Guidelines for Multinational Enterprises. These contain recommendations for responsible business conduct. The guidelines were last updated in May 2011 and contain recommendations for multinational enterprises within the areas of company policies, disclosure of information, human rights, industrial matters and labour rights/ issues, environment, corruption, competition, finance, taxation, consumers as well as science and technology.

Thus, Greenland has already implemented these guidelines regarding company conduct.

IAEA – International Atomic Energy Agency

As a preparatory measure for the regulation of deposits pertaining to radioactive elements, Greenland has established a safety control mechanism, which also complies with the "best practice" published by IAEA. These are the IAEA Safety Fundamentals, the IAEA Safety Requirements and the IAEA Safety Guides, among others. Greenland has a long-standing and continuous cooperation with the IAEA for ensuring the best international practice within this area.

Furthermore, an [agreement](#) between Greenland and Denmark has been established concerning co-operation on foreign, defence and security policy matters in relation to the exploitation and export of uranium.

Thus, Greenland already follows international practice and has formalised an agreement which regulates the safety precautions for the benefit to the people of Greenland.

Comments to question no. 5

Please provide information on steps taken by the Government of Greenland to ensure that the company has engaged in good-faith, meaningful and inclusive consultations with the affected communities in order to obtain their free, prior and informed consent.

Ensuring engagement of the public in mining projects is a key priority for the Government. The Mineral Resources Act determines that a draft Environmental Impact Assessment and a draft Social Impact Assessment for any mining project in Greenland must undergo a public consultation process of at least 8 weeks. The public consultation for the Kuannersuit project started on 18 December 2020. Please see the information of the public consultation here:

https://naalakkersuisut.gl/en/Hearings/Hearing-Archive/2020/1812_kuannersuit

The Government decided to extend the public consultation till 1 June 2021. According to the Mineral Resources Act, public meetings must be held in all settlements (including the very small and remote hamlets) and towns that are considered to be affected by the proposed mining project. On 5-9 February 2021, Greenland Minerals A/S and officials of the Government participated in public meetings held in Narsarsuaq, Narsaq and Qaqortoq. Public meetings were planned in Qassiarsuk and Igaliku, but these were cancelled due to a storm. Ministers of the Government did not participate in these meetings due to a perceived security threat. Because of the cancellations, the Government has extended the public consultation until 13 September 2021 and Ministers will participate in public meetings in Igaliku, Nanortalik, Narsaq, Narsarsuaq, Qaqortoq and Qassiarsuk at the end of August and beginning of September. Thus, the public consultation phase of the Kuannersuit project has been prolonged with more than nine months. During the consultation phase, all interested parties within Greenland and across the world can access the EIA and Social Impact Assessment (SIA) reports as well as all their associated background reports through the website of the Government of Greenland. Like the EIA report, the SIA is available in three languages: Greenlandic/Kalaallisut, Danish and English. All interested parties can provide comments or questions through e-mail or postal mail in any of these three languages.

Comments to Question no. 6

Please provide information as to whether the Government of Greenland envisages meeting with the local population of Narsaq specifically to discuss the impacts of the project and answer all related questions.

The Government follows the process for public consultations as outlined in the Mineral Resources Act. Please see the responses to question no. 3, 4 and 11.

Comments to Question no. 7

Please answer whether nationwide consultations in Greenland are also expected.

Please see the responses to question no. 3, 4 and 11

Comments to question no. 8

Please advise how the Government intends to follow up in relation to the recommendations of the independent assessment of the Danish Centre for Environment and Energy and the Greenland Institute of Natural Resources.

The independent scientific advice from the Danish Centre for Environment and Energy (DCE) and the Greenland Institute for Natural Resources (GINR), and its role in the decisions of the authorities, is confirmed in The Mineral Resources Act. Upon finalization of the consultation process, all comments and recommendations will be channelled into the decision process, by which the Government will decide whether to approve the EIA, grant the exploitation license, and on what terms such approvals are given.

Comments to Question no. 9

Please provide updated information on the Government of Greenland's position regarding the Paris Agreement and the Aarhus Convention.

The Government is currently considering joining the Paris Agreement, but is currently not able to provide a clear statement. A statement will be communicated through appropriate channels later in 2021.

While Greenland is not presently a party to the Aarhus Convention, the rights and principles reflected in the Convention have already been incorporated into Greenlandic environmental law to a significant degree. This includes access to environmental information held by public authorities; public participation in environmental decision-making; and access to justice, i.e. the right to appeal environmental decisions including, but not limited to, cases where it is alleged that access to environmental information or public participation in decision-making has been curtailed.

It should also be noted that Greenland has previously carried out an in-depth analysis of the legislative and administrative consequences of a full implementation of the Aarhus Convention. Based on this analysis, it was concluded that that Greenland is already in compliance with the substantive provisions of the Convention. However, the analysis further concluded that a full and formal implementation of the Aarhus Convention would result in a significant and undue administrative burden for the relatively small Greenlandic administration.

With that being said, following the recent election in Greenland, the newly formed Government may decide to reconsider whether the territorial reservation for Greenland should be lifted.

Comments to Question no. 10

Please indicate what independent monitoring and complaints mechanisms are envisaged in the context of the proposed project.

Any mining project in Greenland must adhere to the strict requirements of the Mineral Resources Act, which are based upon compliance with best international standards. As part of the terms for each mining permit, the authorities conduct monitoring and inspections of all projects. Citizens and other members of the public can always contact the authorities, which are obligated to follow up and investigate any information provided regarding misconduct or neglect. Thus, inspectors from the authorities have the authority to stop any mining activity at any time in case of misconduct or neglect. Ultimately, if any term, condition or regulation is not adhered to, the Government has the authority to revoke in full a mining permit.