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UNITED NATIONS  
HUMAN RIGHTS  
OFFICE OF THE HIGH COMMISSIONER

TÉLÉCOPIE • FACSIMILE TRANSMISSION

DATE: 19 April 2021

A/TO: His Excellency  
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to the United Nations Office and other international organizations in Geneva

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REF: AL DNK 2/2021

PAGES: 16 (Y COMPRIS CETTE PAGE/INCLUDING THIS PAGE)

OBJET/SUBJECT: **JOINT COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a joint communication sent by 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.

I would be grateful if this letter could be transmitted at your earliest convenience to His Excellency Mr. Jeppe Kofod, Minister for Foreign Affairs.

**Mandates of 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**

REFERENCE:  
AL DNK 2/2021

19 April 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes ; Working Group on the issue of human rights and transnational corporations and other business enterprises; and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 45/17, 44/15 and 42/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **potential human rights violations and environmentally damaging consequences of the uranium mining project known as Kuannersuit or Kvanefjeld in Southern Greenland. The planned open pit mining site is exploited by the company Greenland Minerals A/S, headquartered in Narsaq, Greenland (subsidiary of Greenland Minerals Ltd., domiciled in Australia) and is located on a mountain ridge in close vicinity of Inuit farming, hunting and fishing communities, including the town of Narsaq. Concerns have been raised over the lack of access to adequate information, failure to consult and seek the free, prior and informed consent of the local indigenous community, insufficient documentation and recognition of environmental risks of toxic and radioactive pollution and wastes and damage to the nearby UNESCO heritage listed site, Kujaata.**

According to the information received:

Narsaq is a town in the Kujalleq municipality in southern Greenland, inhabited by approximately 1300 mostly Inuit indigenous people. The mining company Greenland Minerals Ltd. has a licence to conduct a feasibility study for a mine of uranium, thorium, zinc and rare earth elements in Kuannersuit, an area 8 km

His Excellency  
Mr. Jeppe Kofod  
Minister for Foreign Affairs

away from the town of Narsaq.<sup>1</sup> The open-pit mine would entail mechanical drilling and blasting as well as chemical processing. Radioactive tailings would be deposited in the Taseq Lake, located 5 kilometres from Narsaq.

The mining project would require extensive supporting infrastructure including the construction of a shipping port 1 kilometre from the town of Narsaq, a dedicated 10 kilometres road for transportation of radioactive minerals, a power station, a chlor-alkali plant as well as a sulphuric acid plant where large amounts of caustic soda, hydrochloric acid and concentrated sulphuric acid would be used.<sup>2</sup> The mining project would furthermore entail dust and gaseous emissions, significant noise levels and artificial light emissions, in addition to increasing Greenland's CO2 emissions by 45%.

The construction and operation of the mine would result in the disturbance and potential contamination of habitat for terrestrial, freshwater and marine fauna and flora. The project could also endanger several plants and animals which are listed as Vulnerable or Near Threatened in the International Union of Conservation of Nature's Red List.

In 2013 the Parliament of Greenland, Inatsisartut lifted a ban on uranium mining by a slim majority of votes (16 vs 15 votes), with the understanding that there would be a nation-wide or at least a regional referendum on uranium mining in Southern Greenland. Neither of such referendums have to date taken place.

Recent developments, such as the initiation of the public consultation process on the Environmental Impact Assessment (EIA) and the Social Impact Assessment (SIA) by the Government of Greenland appear to indicate that the intention of the Government of Greenland is to move forward with the implementation of this project.

Greenland Minerals Ltd. is reportedly only one permit away from starting its activities. The plans to pursue the Kuannersuit mining project have resulted in a situation of significant concern and uncertainty among the Inuit indigenous community of Narsaq regarding the future and the ways in which their lives will be impacted.

### *Local context*

Southern Greenland is considered the 'bread basket of Greenland. Sheep, cattle and reindeer farming, hunting on land and water and fishing are livelihood activities that constitute an important source of income and subsistence to many households in the area. If the project is pursued, no-hunting and no-fishing zones would be implemented around the project and

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<sup>1</sup> Greenland Minerals Ltd. is an Australian registered mining company, and its subsidiary, Greenland Minerals A/S, is headquartered in Narsaq. In 2016, the Chinese company Shanghe Resource Holding Co. became the largest single shareholder of Greenland Minerals Ltd after having acquired 12.5% of the shares.<sup>1</sup> In 2019, Greenland Minerals Ltd. announced that Shenghe Resources Holding Co. had formed a joint venture company with subsidiaries of China National Nuclear Corporation, to create China Nuclear Hua Sheng Mining Ltd (Hua Sheng), in which Shenghe would hold a 45% interest

<sup>2</sup> [https://naalakkersuisut.gl/en/Hearings/Hearing-Archive/2020/1812\\_kuannersuit](https://naalakkersuisut.gl/en/Hearings/Hearing-Archive/2020/1812_kuannersuit)

the port area. Tourism activities such as kayaking would be impacted. Reportedly, the threat of uranium mining has already stalled commercial ventures in the fields of agriculture, tourism and fishing in the area.

A number of Inuit archaeological sites are located in the vicinity of the uranium mining project. In 2017, five areas representing sub-Arctic farming landscapes in Greenland, collectively referred to as Kujaata, were admitted to the UNESCO World Heritage List. The closest of these is 18 kilometers from the project site.

*Concerns related to the Environmental Impact Assessment and project impacts*

The applicable legislation in Greenland, the Mineral Resources Act of 2009, requires that companies submit an EIA about envisaged mining operations detailing what impacts the mine could be expected to cause during its construction and operation, as well as problems that could be anticipated after operations cease. The Greenlandic Environmental Agency for Mineral Resource Activities (EAMRA) and its scientific advisors then review the EIA and provide feedback. Once the EIA is revised and resubmitted by the company, the EIA is then published by the Mineral Resources Authority for public consultations to initiate.

Greenland Minerals Ltd. lodged an EIA in 2015. In 2017 the EAMRA of Greenland evaluated the draft EIA and decided in April 2017 to request the company to provide supplementary data. In August 2018, the company provided an updated EIA and in March 2019 after having evaluated it, the EAMRA again decided that supplementary information was needed. Furthermore, EAMRA has raised concerns that it was ‘a highly complex project involving substantial environmental risks’ and that ‘the project is of a unique character as the applicants intend to extract radioactive materials, uranium and thorium, and this will make it necessary to consider the long-term disposal of radioactive tailings’.<sup>3</sup>

Greenland Minerals Ltd. has accused EAMRA of making exaggerated and redundant requests, questioned the scientific professionalism of EAMRA’s consultants and claimed that the project is “a simple mineral concentration process”. The Government of Greenland in response has expressed concerns that Greenland Minerals Ltd. has ‘failed to comply in good faith with the requests and instructions of EAMRA’ and that the company has ‘frequently contacted high-ranking civil servants and ministers who have no competence within the EIA review process and that these contacts sought to undermine the authority of EAMRA. The Government allegedly found such behaviour to be unacceptable and requested the company to abstain from this practice.’<sup>4</sup>

In December 2020, the Government of Greenland, *Naalakkersuisut*, published the company’s revised EIA and SIA and opened the public consultations process.

In February 2021 the Government of Greenland initiated public information activities with the aim to inform the local indigenous community about the

<sup>3</sup> [https://noah.dk/sites/default/files/inline-files/Decision\\_GML\\_complaint\\_2019-09-06.pdf](https://noah.dk/sites/default/files/inline-files/Decision_GML_complaint_2019-09-06.pdf)

<sup>4</sup> Ibid.

health and environmental risks associated with the mining project. The population was allegedly reassured during these meetings that the mining project was essentially without risks. The information shared with the United Nations independent experts, however, indicates that the concerns of the local indigenous community members were not sufficiently addressed in these meetings.

In February 2021 Greenland's government decided to extend the deadline for the public to submit comments until 1 June 2021.

Inuit community members have repeatedly raised concerns that approval of the uranium mining project could take place against their free, prior and informed consent. The local Inuit community has mobilised against the project through the organisation Urani Naamik/No to Uranium Society. They claim the information provided in the project's EIA is inadequate and unreliable, the timeframe for public consultations has been too short, public meetings have been negatively impacted by restrictions related to the COVID-19 pandemic and that international experts cannot travel to Greenland to attend the consultations due to the travel ban.

On 10 February 2021, 141 environmental organisations from around the world signed a petition calling for a moratorium on large-scale mining and for reinstating the uranium zero tolerance policy. The petition called on the Greenlandic government to implement environmental standards equal to the standards of the European Union, to adopt the Aarhus Convention and sign the Paris Agreement. Concerns were raised that uranium mining would contaminate the vulnerable Arctic environment, destroy biodiversity and precious habitats and contribute significantly to global warming, thereby going against the aims of the Paris Agreement.

In March 2021 a national survey based on a sample of 706 individuals, representative of Greenland's population in terms of sex, geography and education, indicated that 63 % of the respondents were against the Kuannersuit uranium mine project.

The EIA, lodged by the company, observes that impacts to marine habitat and fauna would not occur at a population level, disturbance impact of terrestrial mammals and birds is assessed as low, and the significance of lost terrestrial habitat due to the project is assessed to be very low. Even in a catastrophic failure scenario, the EIA excludes population level effects.

The EIA notes that an oil spill in fresh water could potentially affect the spawning and migration of char fish in the Narsaq River, but that the likelihood of a major spill occurring on land or into fresh water sources is not high. The EIA further notes that the project does not anticipate economic displacement of fishermen, either commercial or subsistence.

The EIA recognises that the consequences of a large oil spill caused by a shipping accident could be very high. However, it adds that, while hydrocarbon spills in Arctic ecosystems can have large impacts which are long lasting when compared with temperate ecosystems, 'if appropriate mitigation strategies are implemented the overall risk of large-scale ecological impacts is

low’

Concerns from various sources have been raised that the EIA is not reliable and that the company downplays the variety of risks associated with the project. The EIA foresees a 37 years’ operating phase in an area of 80 square kilometres with a mining rate of 3 million tons per annum. Furthermore, an additional 9 years would be required for construction and decommissioning, bringing the total period of works to a duration of 46 years.

The radioactive dust produced by uranium mining could be harmful to residents of Narsaq and the agricultural, hunting and fishing activity in Southern Greenland. Warm foehn winds (dry, warm, down-slope wind that occurs in the lee of a mountain range) would increase the risk of radioactive contamination due to snow melts and dust. The Kuannersuit mine could also contaminate and damage the lands used by the local Inuit community, for example sheep farms.

A point of concern is the management of toxic mining waste including radioactive rubble, which could leak. According to the EIA, after project closure, associated wastes would be chemically stable and non-polluting or contaminating and that any deposits remaining on the surface or in lakes would not release substances at a concentration that would significantly harm the environment. Yet concerns, including by geologists, have been raised over the lack of documentation in the EIA of the risks posed by thorium in the Narsaq drinking water and marine environment and over the absence of long-term monitoring measures of radioactive thorium waste in Taseq Lake.<sup>5</sup> Thorium, which is a more potent radioactive element than uranium could remain on the site after closure of the mine and could potentially pollute local drinking water and jeopardise future agriculture and fishing in the region.

The Danish Centre for Environment and Energy (DCE) and the Greenland Institute of Natural Resources (GINR) are the independent scientific advisors of the Greenlandic Environmental Agency for Mineral Resource Activities. DCE/GINR have raised several concerns over potential significant environmental uncertainty that should be addressed to meet the requirements of the approval process, notably because parts of the EIA report’s conclusions are based on either theoretical assumptions, desktop studies and/or modelling studies.<sup>6</sup>

The DCE/GINR assessment notes that improved empirical knowledge is needed for several issues carrying significant uncertainty in relation to environmental impacts, including studies regarding the hydrogeology of Taseq Lake, geotechnical studies of the open pit mine and the waste rock dump. The assessment also recommends studies focusing the water treatment techniques can be practically implemented. Also, it recommends that a legal condition is

<sup>5</sup> <https://ing.dk/artikel/debat-thoriumforurening-overset-problem-kvanefjeld-244522>;

<https://sermitsiaq.ag/chefredaktoeren-anbefalergeologer-efterlyser-loesning-opbevaring-thorium>

<sup>6</sup> [https://naalakkersuisut.gl/~media/Nanoq/Files/Hearings/2020/1812\\_kuannersuit/Answers/Uafhaengig/010221\\_DCE%20og%20GN%20-%20Overordnede%20kommentarer%20til%20Kvanefjeld%20REE%20projekt%20DK.pdf](https://naalakkersuisut.gl/~media/Nanoq/Files/Hearings/2020/1812_kuannersuit/Answers/Uafhaengig/010221_DCE%20og%20GN%20-%20Overordnede%20kommentarer%20til%20Kvanefjeld%20REE%20projekt%20DK.pdf);

<https://naalakkersuisut.gl/~media/Nanoq/Files/Attached%20Files/Raastof/2021/Kuannersuaq/5%20-%20DK%20Vigtige%20milj%C3%B8emner%20ved%20projektet%20-%20Pr%C3%A6sentation%20af%20Christian%20J%20J%C3%B8rgensen%20DCE.pdf>

included to implement technically proven mitigation strategies and treatment techniques in case the observed discharges, emissions and environmental impacts are worse than the expected impacts presented in the EIA report. Furthermore, the DCE/GINR assessment recommends extended environmental monitoring prior to any approval, including of uranium, thorium, radium, lead and polonium in the drinking water, of the water quality in the marine environment near the fjord outlet, and also of environmental impacts on local flora and animal species as well as grazing sheep.

Regarding Inuit archaeological site Kujaata on the UNESCO World Heritage List, the EIA claims that the project would have no impact on any protected areas. IUCN has however raised concerns over the potential threat from the potential mineral extraction and that the area is already clearly vulnerable to climate change. Information received also raises concerns that the mining project could result in Kujaata being placed on UNESCO's World Heritage in danger list and eventually losing its designation.

The SIA states that land acquisition and compensation will be undertaken in a manner consistent with leading international practice. It recognises the risk that fewer tourists will visit seeking pristine nature and local hiking opportunities. It furthermore notes that only a proportion of the jobs to be generated would be expected to be filled by Greenlandic labour due to the requirements for a skilled workforce.

In addition, if the project is implemented, Narsaq's population could more than double due to the influx of predominantly male labourers who will not share local language and culture. Their integration into the small local community could be an additional challenge for the residents. Concerns have been raised by the local indigenous community over the risks that such a massive gender imbalance may result in sexual exploitation and abuse of women.

*The Special Rapporteur on Toxics and Human Rights 2017 official country visit to Denmark and Greenland*

Back in 2017, in the context of his official country visit to Denmark and Greenland, the Special Rapporteur on Toxics and Human Rights already raised alarm about this particular project, the implementation of which was uncertain at the time. In his End of Mission statement of 13 October 2017 he mentioned the following: "Over recent years, Greenland has acquired increased autonomy in the management of its territory and public affairs. The sound management of hazardous substances and wastes is an important topic in Greenland's public debate given the special concerns that exist regarding military activity in the island and the prospects for increased presence of extractive industries. (...) Greenland places important hopes on the prospects of mining activity to develop its national economy beyond sectors such as fishery and tourism. Often, communities are divided between the expectation of greater economic opportunities and the serious risks posed by the wastes from mines."<sup>7</sup>

In his official report summarizing the country visit, the Special Rapporteur stated that: "Special concerns exist, for example, regarding a mine for rare

<sup>7</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22231&LangID=E>

earth elements, zinc and uranium in Kvanefjeld, near Narsaq. Worldwide experience has illustrated that such mining projects are associated with a wide range of potential adverse human health and societal risks. In addition to posing risks to workers, the Kvanefjeld mine could potentially contaminate and otherwise disturb areas used by the local indigenous community, for example sheep farms. Depending on the dimensions of the projects considered, an influx of migrant or temporary workers may be required. Special measures must be taken to ensure oversight of working conditions and to promote their integration into local communities. The authorities' ability to ensure the future close monitoring of waste and tailings dumps might be another source of concern, considering, in particular, the accumulated challenges associated with managing waste on the island.”<sup>8</sup>

Without prejudging the accuracy of these allegations, we express our most serious concern regarding the human rights and environmental impacts of uranium mining activities in Greenland. The mining project would aggravate climate change due to its considerable greenhouse gas emissions. It would furthermore endanger biodiversity through short and long-term impacts on the natural marine and terrestrial habitat of vulnerable animal species and flora.

We reiterate the concerns expressed by the Special Rapporteur on Toxics and Human Rights following his country visit in 2017 regarding the environmental and social impact of mining activities and potential human rights abuses of the local community related to the right to a safe and healthy environment. This type of mining projects is associated with a wide range of potential adverse human health and societal risks and could potentially contaminate areas used by the local Inuit community, for traditional activities of farming, hunting and fishing. Special concerns exist regarding the potential high levels of contamination by a wide range of substances in the traditional food sources of communities in Greenland. We also reiterate the concerns about the Greenlandic authorities' ability to ensure adequate monitoring of waste and tailings dumps resulting from the mining activity considering, in particular, the accumulated challenges associated with managing waste, including radioactive waste, in Greenland.

We also wish to underline that the local indigenous Inuit community has the right to free, prior and informed and consent, or refusal of consent, regarding the mining activities in its lands. They have the right to determine their development in accordance with their own needs and interests. They have the right to the protection of the environment in their traditional lands, territories and resources, including the right to not suffer from the dumping of hazardous or radioactive wastes.

They have the right to receive the information in the EIA report presented to them in their own language and in a culturally appropriate manner, as well as the right to have all of their questions regarding the future project answered. They equally have the right to be informed on what kind of impacts the mining of radioactive elements would produce on their health, their livelihoods, and the entire Greenlandic coastal area.

Since the proposed mining project would affect Greenland as a whole, we wish to underscore the importance of public participation across all of Greenland. We note the decision of the Government to extend the public consultations period, but we

<sup>8</sup> <https://undocs.org/A/HRC/39/48/Add.2>, para 70



also urge authorities to consider the constraints imposed by COVID-19 for a wide-range public participation.

We also reiterate the recommendation addressed to Greenlandic authorities, by the Special Rapporteur on Toxics and Human Rights in his official country visit report to Denmark and Greenland, to extend the application of the Aarhus Convention to Greenland. Taking such a step would enhance the commitment to realizing the rights to information, meaningful participation and access to justice where there is a risk of exposure to hazardous substances and wastes.

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 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.
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.
4. 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.
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.
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.
7. Please answer whether nationwide consultations in Greenland are also expected.

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.
9. Please provide updated information on the Government of Greenland's position regarding the Paris Agreement and the Aarhus Convention.
10. Please indicate what independent monitoring and complaints mechanisms are envisaged in the context of the proposed project.
11. 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.

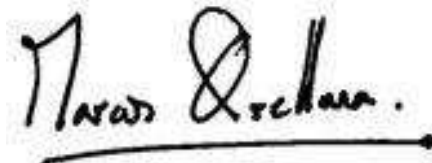
This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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 your Excellency's Government's to clarify the issue/s in question.

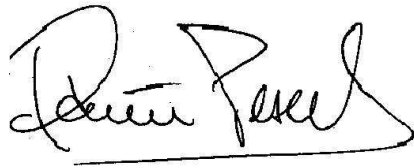
Please be informed that a letter on this subject matter has been sent to the Government of Australia as well as to Greenland Minerals Ltd.

Please accept, Excellency, the assurances of our highest consideration.

A handwritten signature in black ink that reads "Marcos A. Orellana". The signature is written in a cursive style and is underlined with a horizontal line.

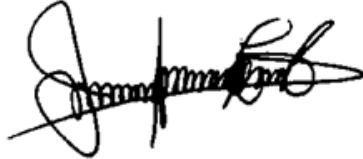
Marcos A. Orellana

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes



Dante Pesce

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



José Francisco Cali Tzay

Special Rapporteur on the rights of indigenous peoples

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to particularly bring your Excellency's attention to the human rights obligations under international human rights instruments binding on Denmark and Greenland.

International treaties ratified by Denmark apply to Greenland and the Faroe Islands, unless territorial declarations have been made in this regard.<sup>9</sup> Most human rights treaties to which Denmark is party also apply in Greenland, and the Government of Greenland submits reports to international human rights mechanisms.

We wish to draw the attention of your Excellency's Government to obligations under international human rights instruments, to which Denmark is party, recalling Article 3 of the Universal Declaration of Human Rights (UDHR) and article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which Denmark ratified on 6 January 1972, which guarantee the right of every individual to life, liberty and security.

As highlighted by the Human Rights Committee in General Comment no. 36, duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including degradation of the environment (para 26). Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors (para 62).

We would also like to draw your attention to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by Denmark on 6 January 1972. The article enshrines the right to the highest attainable standard of physical and mental health, which is also guaranteed as a part of the UDHR, Article 25 read in terms of the individual's potential, the social and environmental conditions affecting the health of the individual, and in terms of health care services. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information". Accordingly, States have a duty to adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data.

The Committee on Economic, Social and Cultural Rights also affirms that "vital medicinal plants, animals and minerals necessary to the full enjoyment: of health of indigenous peoples should also be protected"; and that "development related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition

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<sup>9</sup> Common core document forming part of the reports of States parties to human rights treaty bodies, HRI/CORE/DNK/2018, para. 122

and breaking their symbiotic relationship with their lands, has a deleterious effect on their health." (para 27). The CESCR has stated that "corporate activities can adversely affect the enjoyment of Covenant rights", including through harmful impacts on the right to health, standard of living, the natural environment, and reiterated the "obligation of States Parties to ensure that all economic, social and cultural rights laid down in the Covenant are fully respected and rights holders adequately protected in the context of corporate activities" (E/C.12/2011/1, para. 1).

Furthermore, article 24 of the Convention on the Rights of the Child recognizes the right of the child to the enjoyment of the highest attainable standard of physical and mental health, and the concomitant duty of the State to provide adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

In 1999, Denmark became a party to ILO Indigenous and Tribal Peoples Convention No. 169 without any territorial restriction regarding Greenland. The ILO Convention No. 169 thus applies to Greenland and affirms the rights of indigenous peoples 'to decide their own priorities for the process of development' and to 'participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly' (art.7(1)). Article 14 (1) mandates recognition of indigenous peoples 'rights of ownership and possession' over the lands they 'traditionally occupy.' This includes 'lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities.'

Article 6 of the ILO Convention No. 169 establishes that Governments shall: 'consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them'; and that 'the consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures'.

Furthermore, the ILO Convention No. 169 stipulates that Governments shall ensure that studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact that planned development activities may have on these peoples. The results of these studies shall be considered as fundamental criteria for the implementation of the above-mentioned activities (art. 7).

Article 15 of the ILO Convention No. 169 sets out that 'the rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.' Furthermore 'in cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or

permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.’

We specifically wish to highlight the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which sets out international human rights standards relating to indigenous peoples’ rights. Article 26 of UNDRIP asserts the right of indigenous peoples to ‘the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired’. Article 32 affirms that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that ‘States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources’. UNDRIP furthermore underlines that States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

With regard to the environment, article 29(1) of the UN Declaration on the Rights of Indigenous Peoples clearly states that 'indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources'. Furthermore, as detailed in the Framework Principles on Human Rights and the Environment (A/HRC/37/59), annex), which outline human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, States must ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (Framework Principle 1). In addition, States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (Principle 2). States should also ensure effective enforcement of their environmental standards against public and private actors (Principle 12), and should take additional measures to protect the rights of those most vulnerable to or at particular risk of environmental harm, taking into account their needs, risks and capacities (Principle 14).

While Denmark is a party to the Aarhus Convention since 2000, it has submitted a territorial exemption for Greenland. The Greenlandic Government has to date not informed Denmark that the Aarhus Convention would be applicable in Greenland.

We would like to recall the duty of all States to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the UN General Assembly (A/74/480). This obligation derives implicitly, but clearly, from any number of rights and duties enshrined within the global human rights framework, under which States are obligated to respect and fulfil recognized human rights, and to protect those rights, including from the implications of exposure to toxics. Those rights include the human rights to life, health, safe food and water, adequate housing, and safe and healthy working conditions. The duty to prevent exposure is further reinforced by the national and regional recognition of the right to a safe, clean, healthy and sustainable environment,

including clean air. The existence of the State's duty to prevent exposure is reinforced by the right to full respect for the bodily integrity of the person, which helps to provide context to the extent to which every person should have the right to control what happens to their body (see A/HRC/39/48). Read together, international human rights clearly establish a duty of the part of your Excellency's Government to prevent exposure to hazardous substances and wastes.

Finally, 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) following years of consultations involving Governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of:

- a. "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached."

The obligation to protect, respect, and fulfill human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, General Comment no. 31 para. 8). In accordance with these legal obligations, Guiding Principle 1 reiterates that the State has a duty "to protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises." Moreover, Guiding Principle 3 reiterates that States must take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." In addition, this requires, *inter alia*, that a State should "provide effective guidance to business enterprises on how to respect human rights throughout their operations". Lastly, in accordance with the right recognized in treaty and customary international law (see for example ICCPR article 2 (3)), the Guiding Principles reiterate that States must ensure that victims have access to effective remedies, also in instances where adverse human rights impacts linked to business activities occur.

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Under Pillar II of the UN Guiding Principles, business enterprises, in turn, are expected to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their impacts on human rights. Where a business enterprise causes or may cause an adverse human rights impact, it should take the

necessary steps to cease or prevent the impact. Similarly, where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (commentary to Guiding Principle 19). Moreover, where business enterprises “identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes” (Guiding Principle 22).