

Mandates of the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Ref.: AL SWE 2/2022
(Please use this reference in your reply)

3 February 2022

Excellency,

We have the honour to address you in our capacity as the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 42/20 and 46/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged violations of the rights of the Sámi and of threats to the World Heritage Site Laponia due to the proposed Gállok/Kallak mining project by the British company Beowulf Mining and their fully-owned Swedish subsidiary Jokkmokk Iron Mines AB. Concerns have been raised over the failure to consult and seek the free, prior and informed consent of the indigenous community, the impact on their traditional cultural practices and the lack of sufficient documentation and recognition of environmental risks and irreversible damage to the nearby heritage-listed site, Laponia.**

According to the information received:

The British company Beowulf Mining has, through their fully-owned Swedish subsidiary Jokkmokk Iron Mines AB, undertaken prospecting and in 2013 requested a mining exploitation concession in Kallak (Gállok in Sapmi). The area where Beowulf Mining/ Jokkmokk Iron Mines AB is proposing to mine is on the traditional territory of the indigenous Sámi people and would affect the traditional pasture route of herd reindeers.

The Gállok mineral deposit is located between Randijaur and Björkholmen in the Municipality of Jokkmokk, county of Norrbotten, to the south of the Laponia World Heritage site.

Jokkmokk Iron Mines AB has undertaken prospecting in the area since 2006 and carried out trial mining at Gállok in the summer of 2013. The company holds exploration permits granted by the Mining Inspectorate (Bergsstaten): Gállok No. 1 (id 2006:197) and Gállok No. 2 (id 2011:97).

The trials indicated favourable exploration results, i.e. that the Gállok site could produce iron ore concentrate and could potentially constitute the largest iron ore deposit in Sweden. In 2013, the company applied for an exploitation concession for the northern part of the deposit, Gállok North or Gállok No. 1. The

concession area applied for covers around 103 ha. When the associated installations are included, the area would cover around 1,360 ha.

The mine activity at Gálllok described in the application for an exploitation entails; open pit mining of ore, treatment of up to 10 Mtonnes of ore per year, disposal of up to 80 Mtonnes of residual material from the treatment process (tailings) mining, and disposal of up to 100 Mtonnes of waste rock; construction and operation of installations for water management, including clarification pond and ditches and construction of an industrial area with buildings, paved surfaces and roads for operations. There would be outward transport of up to 4.2 Mtonnes of product per year and transportation infrastructure, railways and roads, would need to be constructed.

Gálllok is situated 34km to the southwest of nearest boundary of the World Heritage property Laponia and 45km southeast of the nearest boundary. The Heritage listing is based on a combination of natural and cultural heritage. UNESCO stated in its 1996 designation of Laponia as a heritage site that: ‘Every summer, the Sámi lead their huge herds of reindeer towards the mountains through a natural landscape hitherto preserved these ancestral ways of life...making the property one of the last and among the largest and best preserved of those few that survive. The Laponian Area is an outstanding example of traditional land-use, a cultural landscape reflecting the ancestral way of life of the Sámi people based around the seasonal herding of reindeer.’¹

While the proposed mining area is outside the World Heritage property, the planned roads and railway for the transportation of ore from the mine would cross the southeast sector of the Laponia heritage property. Thus, the site identified for mining will allegedly cut off traditional migratory routes of Sámi people, block seasonal migration of reindeers from and towards the mountains and impact the surrounding environment.

The Laponian World Heritage site is managed by association Laponiatjuottjudus which was established in 2013 under a specific government regulation known as the Laponia Regulation. The management stakeholders are the nine Sámi villages in Laponia, two municipalities (Gällivare and Jokkmokk), Norrbotten County Administrative Board and the Swedish Environmental Protection Agency.

Nine of the 51 Sámi villages in Sweden have lands within the Laponia World Heritage property, namely the mountain Sámi villages Baste čearru, Unna tjerusj, Sirges, Jåhkågaska Tjiellde, Tuorpon and Luokta-Mávas, and the forest Sámi villages Udtja, Slakka and Gällivare. There are around 300 reindeer herders in these communities and a total of some 50,000 reindeer. The herders gather together and move their reindeer between different grazing grounds and

¹ <https://whc.unesco.org/en/list/774/>

most of these Sámi communities spend part of the year (summer) in the World Heritage property. The World Heritage property makes up only 11% of the area that the Sámi villages live in and depend on. Hence the reindeer husbandry undertaken in the property is dependent on widespread grazing (especially winter grazing) land outside the property.

The Sámi people practice the reindeer herding through the seasonal movement of the herds to the mountain grazing in summer. The life and livelihoods of the Sámi depends on the reindeer being able to move to pastures for winter food, lichen growing on the ground or in trees and by the same token on the protection of the environment. The availability and access to lichen has already been reduced by climate change impacts. The practice of reindeer herding is a fundamental condition for the survival of the Sámi culture.

In 2013, an Environmental Impact Assessment (EIA) was commissioned and presented by the mining company.

In 2016, a Technical Review by ICOMOS and IUCN advised the State Party to conduct a Heritage Impact Assessment (HIA) of the proposed project, and to submit the HIA and a revised EIA with a specific assessment of the potential impacts of mining on the Laponia site to the World Heritage Centre for review by the Advisory Bodies before any irreversible decisions was made.

Jokkmokk Iron Mines AB commissioned a further study titled ‘Gállok and the Laponian Area World Heritage Site In-Depth Impact Assessment’ (April 2017).² This report describes the scale of impacts and recognises that the land claimed by the mining operation is located in the Jåhkågasska Saameby grazing land, which means that the Sámi village's grazing land is reduced, especially winter grazing. Up to a maximum of around 1,500ha of the year-round lands of Jåhkågasska Tjiellde would be obstructed or impacted on during the time that the mine is active and would encroach on one of the sameby's migration routes. Locally, the impact on water sources would be relatively large. Furthermore, indirect impacts of mining activities and in the form of noise, vibration, light and dust would affect reindeer husbandry. In addition, the iron concentrate would require significant transport and put a strain on the public road and/or rail network. Road traffic and rail transport would cause disturbances and affect plants and animals. There would be a considerable increase in heavy transport as the number of truck transports out of the mining area could reach 150-180 per day, assuming 90 tonne vehicles were used. The area around the stretch of road in question constitutes reindeer husbandry areas for the Sámi villages Jåhkågasska tjielldes and Sirges but also to some extent Tuorpon sameby. Despite this, the report claims that under Swedish legislation, detailed discussion of possible transport routes and their impacts are not examined until the later application for permit process under the Environmental Code.

² https://beowulfmining.com/wp-content/uploads/2020/10/BEM-Yttrande-Bergstaten-2017-04-28_bilaga1.pdf

The ‘In-Depth Impact Assessment’ report commissioned by the company recognizes that the impact of the mine on reindeer husbandry is difficult to assess. Notwithstanding, the report asserts that there is no obligation to undertake consultations (samrådsskyldighet) until an environment permit is awarded. It refers to public meetings and contacts with ‘local actors’ and ‘representatives of reindeer husbandry’ but contains no acknowledgement of the rights of indigenous peoples.³

In November 2017, the Swedish National Heritage Board (Riksantikvarieämbetet) and the Swedish Environmental Protection Agency (Naturvårdsverket) expressed their joint assessment. Their Opinion stated: ‘the mine and its facilities take up relatively small areas of Jåhkågasska tjiellde’s reindeer grazing land. However, the mine is located in such a manner that in the east part of the Sámi village’s land, it will cut off the Sámi village’s northern migration routes...the project will mean that the Sámi village will miss out two important grazing areas and that an additional grazing area will be affected. Thus, migration from the area will be rendered more difficult and this is particularly problematic with respect to the spring migration to the fells in the World Heritage property...the autumn migration is also made more difficult since reindeer normally pass the area and stay there to graze and rest. The mine in itself constitutes an impediment to free wandering and therefore can have the consequence of reindeer being prevented from passing through the area.’

Furthermore, the Opinion of the Swedish National Heritage Board and the Swedish Environmental Protection Agency noted that the assessment of suitable land use, including the direct and indirect impact of transport of materials from the proposed mine, “must take place in the concession assessment in accordance with the Minerals Act. According to the Environmental Code this cannot be done later in the matter regarding assessment of the licence application”.

In November 2017, the Norrbotten County Administrative Board (Länsstyrelsen) issued their assessment of the Gállok mining proposal which took the view that an exploitation concession should not be granted. The assessment recognized that for the municipality of Jokkmokk, the establishment of a mine would have positive economic effects during the operational period. However, the assessment noted that a mine with a short lifespan and significant state investment expenses for the necessary infrastructure is not economically justifiable from a long-term sustainability perspective. It concluded that the mining activity would have irreversible effects on the natural environment and a lasting impact on land use. The assessment stated that reindeer herding should take precedence over mining operations, regardless of whether the mining operations directly or indirectly would affect the values of the Laponia World Heritage Site.

³ Op. cit. p. 9 and 22

The company Beowulf Mining has commissioned a range of promotional materials focused on financial gains of the mine. The potential economic impact of the project on Jokkmokk and Norrbotten County estimates the potential to create 250 direct jobs over a 14 years period of mine operation (eventually extended for up to 25 years) and claims to generate some SEK SEK 1 billion in additional tax revenues. In 2017, the company noted that SEK 72 Million have already been invested in the project. In 2021 the company re-tailored their presentation of the mining project, claiming that primary raw materials are needed to address the climate emergency and critical for the transition to a green economy and that the proximity to fossil-free steel manufacturing would provide renewable power to ensure the most sustainable mining operation.⁴

In June 2021, the UNESCO World Heritage Center submitted another joint Technical Review by ICOMOS and IUCN on the proposed mining project. ICOMOS' assessment of the scale and severity of heritage impact was that it would appear at a minimum be moderately adverse and hence the potential significance of effect or overall impact could be considered to be Large/very Large. In terms of natural values, IUCN recalled that no revised Environmental Impact Assessment (EIA) was been submitted as requested in 2016 and that the 2017 In-Depth Impact Assessment commissioned by the company not fully assess potential impacts such as potential direct, indirect and cumulative impacts from transportation, nor does it address potential impacts of water, energy and land use demands. Concerns were also raised over the lack of information about whether consultations had been held with relevant parties and affected communities, notably the Sámi.

The joint Technical Review by ICOMOS and IUCN in June 2021 concluded it necessary that the State Party seek a revised and extended In-Depth Impact Assessment in order to have a more secure basis for assessing impact, prior to taking any decision to approve mining exploitation. The Review also recalled that World Heritage Committee urges all States Parties to the *World Heritage Convention* and leading industry stakeholders to respect the International Council on Mining and Metals' (ICMM) "No-go" commitment by not permitting extractive activities within World Heritage properties and by making every effort to ensure that extractive companies located in their territory cause no damage to World Heritage properties, in line with Article 6 of the *World Heritage Convention*. The review requested the State Party to very carefully consider the potential large/very large scale of overall adverse impact on attributes that convey the Outstanding Universal Value (OUV) of the World Heritage property 'Laponian Area' and on its integrity and authenticity.

Sámi communities and organization have expressly opposed the project since it was initially announced over a decade ago as the mine would impose a direct impact on reindeer husbandry, but also non-reindeer herding Sámi since the loss

⁴ <https://beowulfmining.com/investors/reports-presentations/> ;
https://beowulfmining.com/wp-content/uploads/2018/07/Copenhagen_Economics_Presentation_SEP2017.pdf

of cultural practices would impede the transmission of indigenous knowledge and future generations from practicing traditions.

Environmental organisations have noted while the extraction of raw materials is required for climate change mitigation, the planned Gállok mine is not justified from this perspective. Iron is not one of the so-called critical metals and the need for yet another iron ore mine is therefore questionable, in particular a mine as inappropriately located as Gállok, which would risk irreversible damage to people and nature. A mine and associated infrastructure takes up very large areas of land, which in this area would be devastating for reindeer herding and other important natural and cultural values. Mining generates large quantities of waste containing heavy metals. The tailings ponds risk leaking water with toxic residues into the surrounding environment, which would disperse into rivers and lakes. In the case of the current plans, fish caught for domestic consumption in Lake Ráddnávrré/Randijaur and in downstream lakes and reservoirs may eventually become unfit for human consumption. The transport of ore from the mine will cause heavy shuttle traffic in the surrounding area. The mine and its facilities would also divide the Jåhkaska sameby area in two, cut off reindeer migration routes and destroy a lake and surrounding forests.

In December 2021 the new Minister of Trade and Industry stated that the Government and his Social Democratic party “likes mines and promises a soon-to-be announcement about the controversial Gállok deposit outside Jokkmokk”.⁵ Concerns have been raised over close financial ties between mining companies and senior politicians, notably that three former Ministers are currently on the executive board of major Swedish mining companies. Information also indicates that public officials have allegedly been pressured and harassed after being associated with administrative decisions critical of mining.

The Government has announced that a decision will be made in March 2022 on the matter of the Gállok mine and is reportedly weighing up which of the national interests - reindeer husbandry and environmental protection versus minerals and financial interests - should be given priority. The forthcoming decision has heightened concerns raised by the affected Sámi communities and environmental and human rights organisations more than ever.

Meanwhile, in a parallel process after years of debate and negotiations, on 27 January 2022, Sweden enact a national law on consultation in matters concerning the Sámi people. The Act requires the Government and State administrative authorities to consult representatives of the Sámi people before making decisions on matters that may be of particular importance to

the indigenous Sámi people. From 2024, the obligation will also apply to regions and municipalities.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned over the possible mine project at Gállok which threatens the rights of the Sámi indigenous people as well as the protection of environmental and cultural heritage rights.

We express our concern over the lack of good faith consultations and the failure to obtain the free, prior and informed consent of the Sámi, and over the significant and irreversible damage that the Gállok project poses to Sámi lands, resources, culture, and livelihoods and to the environmental impact it would have on the UNESCO World Heritage site of Laponia.

We regret that although that numerous authorities, expert bodies and concerned communities have raised serious objections, the Swedish Government is still considering the possibility of approving the exploitation license for the Gállok mine. We recall that while mining constitutes a financial interest, the Government has assumed international legal obligations on the rights of indigenous peoples and environmental protection. Indigenous peoples and their traditional knowledge are vital for sustainable environmental management of natural resources and biodiversity conservation, both of which are essential elements for combating climate change and fulfilling the Sustainable Development Goal (SDG) 13 on climate action as well as SDGs 14 and 15 on the conservation of biodiversity.

We note the recent adoption of a national law on consultation with the Sámi in matters that concern them as a positive step towards good-faith dialogue and improved understanding and protection of cultural heritage, traditional livelihoods and indigenous knowledge. An approval of the Gállok mining license despite the extensive criticism and concerns raised, by the Sámi as well as various State authorities and a broad range of stakeholders, would effectively jeopardise and undermine confidence in the ability to construct future good-faith relations with indigenous peoples at the national level.

We wish to recall the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by the General Assembly in 2007 with the support of Sweden. It sets out in Article 32 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’. Furthermore, UNDRIP affirms that indigenous peoples have the right to practise and revitalize their cultural traditions and customs and have the right to the protection of the environment in their traditional lands, territories and resources, including from the dumping of hazardous waste.

The International Covenant on Civil and Political Rights through Article 27 asserts the binding obligation on States Parties, including Sweden, not to deny ethnic, religious or linguistic minorities the right, in community with the other members of their group, to enjoy their own culture. The Human Rights Committee has set out that the exercise of the cultural rights protected under Article 27, culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples and may include traditional activities. The enjoyment of those rights may require positive legal measures. Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.⁶

As highlighted by the Human Rights Committee in General Comment no. 36, the duty to protect life under Article 6 of the International Covenant on Civil and Political Rights 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 and the deprivation of indigenous peoples' land, territories and resources. 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.⁷

The Committee on Economic, Social and Cultural Rights has observed that the States' responsibility under Article 15 of the International Covenant on Economic, Social and Cultural Rights includes the the obligation to respect and to protect freedoms, cultural heritage and diversity are interconnected. Indigenous peoples' cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and, ultimately, their cultural identity. This includes protection from illegal or unjust exploitation of their lands, territories and resources by State entities or private or transnational enterprises and corporations.⁸

Within international environmental law, the Convention on Biological Diversity commits all States parties to respect and maintain the knowledge, innovations and practices of indigenous and local communities which are relevant for conservation and sustainable use of biological diversity (Article 8 (j)).

Furthermore, the Human Rights Council recognised the right to a clean, healthy and sustainable environment with the adoption of Resolution 48/13 on 8 October 2021. Sweden is a State Party to the Aarhus Convention which provides for the right of everyone to receive environmental information that is held by public authorities and the right to participate in environmental decision-making. Arrangements are to be made by

⁶ Human Rights Committee, General Comment no. 23, CCPR/C/21/Rev.1/Add.5, paras. 3.2, 6.1, 7

⁷ Human Rights Committee, General Comment no. 36, CCPR/C/GC/36, paras. 26, 62

⁸ Committee on Economic, Social and Cultural Rights, General Comment no 21, E/C/GC/21, paras. 36, 50

public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it. The Convention asserts access to justice in environmental matters, specifically the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general.⁹

We furthermore wish to recall that the previous Special Rapporteur on the rights of indigenous peoples' following her official country visit to Sapmi in 2015, noted that she 'heard significant concerns about the balancing of interests that is called for in the Environmental Code. In practice, the weighing of interest is rarely done and when it does happen, relevant State bodies appear to routinely assess reindeer herding exclusively from an economic perspective and balance it against the State's interest in job creation and State revenue from mining activities. Sámi representatives shared their concerns about the sequencing of the process, as the weighing of interests takes place at a late stage of the permit process, when the relevant extractive companies' and local politicians' expectations about a new mine are already high. In the view of the Special Rapporteur a balancing of interests as foreseen by the Environmental Code, where traditional Sámi livelihoods are weighed against possible economic gain only, is not in line with the international human rights obligations and commitments that the State has assumed with respect to indigenous peoples'. The Special Rapporteur recommended that 'as a matter of priority, Sweden should revise its Minerals Act to ensure that it is in compliance with international human rights standards, including adequate consultations with affected indigenous communities and their free, prior and informed consent at all stages of the permit process, mitigation measures, compensation and fair and equitable benefit-sharing'.¹⁰

In November 2020, the Committee on the Elimination of Racial Discrimination (CERD) issued its Opinion in the analogous Rönnebäcken mining case, which concluded Sweden did not comply with its international obligations to protect the affected Sámi reindeer herding community against racial discrimination by adequately and effectively consulting them in the granting of the concessions. The Committee noted that the impossibility for obtaining an effective judicial review of a decision where the fundamental right of indigenous peoples to traditional territory is being questioned is precisely a consequence of treating indigenous communities as private land owners affected by mining operations, without due regard to the potential irreversibility of the consequences these operations have on indigenous communities. The State party did not demonstrate how in the case in question the process of granting of the mining concessions under the Minerals Act and the Environmental Code correctly took into account international standards and the rights of indigenous peoples. The Committee recommended the State party to amend its legislation, in order to reflect the status of

⁹ <https://unece.org/environment-policy/public-participation/aarhus-convention/content>

¹⁰ A/HRC/33/42/Add.3, paras. 45-46, 83; <https://undocs.org/A/HRC/33/42/Add.3>

the Sámi as indigenous people in national legislation regarding land and resources and to enshrine the international standard of free, prior and informed consent.¹¹

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 any comments that you may have on the above-mentioned allegations.
2. Please provide information on the Government stance on Gállok project, notably precise information on the status of the approval of the proposed project including any license litigation process.
3. Please provide information on any consultation processes that will be undertaken with the Sámi indigenous community prior to the approval of the construction of the Gállok project to ensure that the companies have engaged in good-faith, meaningful and inclusive consultations with the affected communities in order to obtain their free, prior and informed consent.
4. Please provide information on measures taken to address the concerns raised by the Special Rapporteur on the rights of indigenous peoples following the official country visit in 2015 to Sapmi, Sweden should revise the Minerals Act and Environmental Code to ensure compliance with international human rights standards, including adequate consultations with affected indigenous communities and their free, prior and informed consent at all stages of the permit process, mitigation measures, compensation and fair and equitable benefit-sharing.
5. Please provide information on the steps being carried out to comply with the recommendations mentioned in the joint Technical Review Report conducted by ICOMOS and IUCN to ensure that a revised and extended In- Depth Impact assessment in order to provide a more secure basis for assessing the impact of the proposed development at Gállok, as it poses a threat to Sámi people livelihoods and upon the World Heritage property of Laponia.
6. Please provide information on the steps being taken to ensure how the Sámi traditional practice of reindeer husbandry outside and within the

¹¹ CERD/C/102/D/54/2013

Laponia property will be protected and measures planned to protect and conserve the natural environment in this regard.

7. Please provide information on any steps that your Excellency's Government 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 United Nations Guiding Principles on Business and Human Rights.
8. Please provide information on any steps taken by the Government of Sweden to ensure that the Sámi 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.

Please be informed that a copy of this letter has been shared with the UNESCO World Heritage Centre.

We intend to 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 accept, Excellency, the assurances of our highest consideration.

José Francisco Cali Tzay
Special Rapporteur on the rights of indigenous peoples

David R. Boyd
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Annex

Reference to international human rights law

In relation to the above-mentioned facts and concerns, we would like to draw the attention of your Excellency's Government to its obligations under binding international human rights instruments. Sweden has ratified numerous international treaties relevant to the rights of indigenous peoples including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

We furthermore wish to refer to the Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with a favourable vote by your Excellency's Government. Article 26 asserts the right of indigenous peoples to 'the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired' and for legal recognition of those rights 'with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.' Article 11 of the Declaration protects indigenous cultural traditions, customs and practices including archaeological and historical sites, and artifacts and asks states to provide effective mechanisms for redress, in conjunction with indigenous peoples. Article 23 affirms the right of indigenous peoples 'to determine and develop priorities and strategies for exercising their right to development.'

Article 28(1) states that 'indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.' Article 28(2) furthers this by affirming that 'unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.'

Cultural rights, including the right of all to take part in cultural life without discrimination, the right to access and enjoy cultural heritage, and the right to engage in one's own cultural practices, are guaranteed by many provisions of international law. Key provisions include Article 27 of the Universal Declaration of Human Rights; Article 15 of the International Covenant on Economic, Social and Cultural Rights; and Article 27 of the International Covenant on Civil and Political Rights.

Specific standards apply to the cultural rights of indigenous peoples. For example, Article 31 of UNDRIP, states that "indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, [and] knowledge of the properties of fauna and flora." Article 25 of the Declaration also states that indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used

lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Importantly, Article 32 of UNDRIP asserts that ‘indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other 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’. Article 32 also affirms 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’.

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in 2011. The Guiding Principles are a global authoritative norm for all States and companies to prevent and address the negative consequences of business activities on human rights. Guiding Principle 1 reiterates the State duty to "protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises" and “to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." Guiding Principle 3 requires that States "provide effective guidance to business enterprises on how to respect human rights throughout their operations." Principle 25 provides that States “take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.”

Finally, the Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of resolution 48/13 on 8 October 2021. The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.” Principle 8 provides comprehensive guidance on the required elements of environmental and human rights impact assessments (including effective and equitable public participation as outlined in Principle 9). Principle 12, provides that States should ensure the effective enforcement of their environmental standards against public and private actors. As per principle 14, States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities. Finally, Framework Principle 15 describes in detail States’ specific obligations towards indigenous peoples, including recognising their rights to traditional lands, protecting their traditional practices, and obtaining their free, prior

and informed consent before approving any measures that may affect their lands, territories or resources.