Mandates of the Special Rapporteur on the right to food; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of Indigenous Peoples; the Working Group on the rights of peasants and other people working in rural areas and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: AL CHN 14/2024
(Please use this reference in your reply)

9 October 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to food; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of Indigenous Peoples; Working Group on the rights of peasants and other people working in rural areas and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 49/13, 53/3, 55/2, 52/9, 52/10, 52/4, 51/16, 54/9 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **violations of the rights of Indigenous Peoples and farming communities by palm oil companies resulting in land grabbing and/or restricted or denied access to their cultivated lands, lands for cultivation and ancestral Indigenous lands. The company Astra Agro Lestari and its subsidiaries allegedly operate without necessary permits on Indigenous ancestral lands and farmer communities' land, without the free prior and informed consent of Indigenous Peoples and without meaningfully consulting with farmer communities. Astra Agro Lestari is owned by Astra International, which in turn is owned by the international group Jardine Matheson Holdings Ltd, domiciled in Hong Kong, China. Indigenous and community leaders as well as environmental human rights defenders face intimidation and criminalisation for advocating for their land rights**.

According to the information received:

The palm oil boom has resulted in one of the swiftest agro-environmental transformations in modern history, particularly in Indonesia as one of the world's largest palm oil producers. The rapid expansion of palm oil plantations has exacerbated conflicts between palm oil companies, Indigenous Peoples and rural communities across Indonesia. In 2021 a study was launched by the Koninklijk Instituut voor Taal-Land- en Volkenkunde / Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV), Universitas Andalas and Wageningen University on palm oil expansion and conflict in Indonesia, it concluded that there is a lack of independent, trusted and neutral

arbiters of palm oil conflicts. The findings showed that the regular occurrence of conflict during the expansion of palm oil plantations in Indonesia can be attributed to three main factors: land attribution, benefit sharing and overall level of implementation of relevant laws.

The National Land Agency (BPN) has estimated that there are currently around 4,000 conflicts across Indonesia in which communities are protesting palm oil companies through a variety of activities such as demonstrations, advocacy and litigation, among others. The limited formal recognition of Indigenous Peoples and farmers' community land rights allows state officials to grant concessions to companies, which include already owned land, leading to conflicts. The absence of recognized land ownership complicates conflict resolution, as local proofs, like tax receipts, are dismissed in court. The legal uncertainty over land ownership hampers the right of land tenure of Indigenous Peoples and rural communities and favours palm oil companies.

Another crucial factor driving conflicts in the palm oil industry is the distribution of profits after the establishment of palm oil plantations. Since the 1970s, the Government of Indonesia mandated palm oil companies to participate in joint-venture schemes to compensate rural Indonesians for land loss. These schemes, known as Nucleus-Estate Smallholder (NES or *plasma*), initially offered generous returns, with villagers receiving ownership or profits in proportion to the provided land, sometimes up to 50 percent. However, recent *plasma* schemes, aligned with national and local regulations, allocate only 20 percent of the land to villagers.

On 28 February 2007, the Minister of Agriculture approved regulation No. 26/Permentan/OT.140/2/2007 (regulation 26/2007) on the Licensing Guidance for Plantation Business. Through regulation 26/2007, it was established that Plantation Partnership shall be mutually beneficial, respecting and strengthening inter-dependent relations between plantation companies and planters, employees and communities around the plantation and to guarantee the sustainability of the plantation business. To that purpose, article 11 of regulation 26/2007 establishes that plantation companies having a Plantation Business License (IUP) or Plantation Business License for Cultivation (IUP-B) shall build plantations for surrounding communities as wide as 20 percent of the total size of plantation managed by the companies. Building of plantations for the communities can be realized through, among others, credit, grant or production sharing scheme.

In 2013, the Government of Indonesia adopted regulation of the Minister of Agriculture No. 98/Permentan/OT. 140/9/2013 (regulation 98/2013) on Plantation Business Licensing Guidelines, which amended regulation 26/2007. According to article 15 of regulation 98/2013, a plantation company is obliged to facilitate the construction of a community plantation around the land for which the company has a license (IUP or IUP-B) if it controls an area of over 250 hectares. Different from before, the land for the community plantation is taken from outside the land under concession to the plantation company.

These community plantations are known as *plasma* plantations. They are built by the company for the community around the concession with the aim that the community gets direct benefits from the company's operations in their

living space, including through training, supplies of seedlings and fertilizer, guaranteed buyers for their oil palm fruit, and eventual title to the land. Many companies build *plasma* plantation by buying community land or collaborating with the community, traditional institutions, or village government as the party providing the land. The company then builds a *plasma* plantation, and the community will be in debt to the company to pay for the costs incurred by the company to build the plantation. These costs include those of land clearing, planting, and maintenance, but also those of construction and maintenance of operational roads. Often, the money used by the company to build *plasma* plantation comes from bank loans, placing the land certificates as guarantee. The conspicuous costs of the *plasma* plantations entangle the community in large amounts of debt for a long time. Furthermore, due to the lack of transparency, often community members do not clearly know the extent of their debt, triggering tension and disputes among villagers.

Regulations governing "right to cultivate" permit (HGU) and Plantation Business Permit, among other, are aimed at protecting the interests of the communities, however, inconsistent permit issuance processes, corruption, lack of transparency and weak law enforcement have left rural communities in a situation of uncertainty in regard to their rights, and vulnerable to palm oil businesses actions for their own benefit. HGU data, including land use data, concession maps, cultivation permits remain publicly unavailable despite a 2017 Supreme Court ruling that mandates disclosure of HGU data.

The expansion of oil palm plantations has led to deep changes in the affected areas. The loss of forests as a local source of food, the pollution of the rivers as source of drinking water and water for irrigation of agricultural land, and their impact on fishes, have made affected communities increasingly dependent on markets for food, as they are no longer able to farm, or to access safe water for their daily needs. Land confiscation has forced affected community members to accept low-paid jobs as daily workers for companies, in the land that they used to own and farm.

Response of Communities to Conflict with Palm Oil Companies

Affected Indigenous Peoples and other communities express their grievances peacefully, primarily through demonstrations and hearings with local authorities.

Demonstrations and interactions with government authorities often involve local and national civil society institutions. Civil society organizations (CSOs) play a crucial role in facilitating the interactions of rural communities with authorities, particularly when formal complaint systems are quite extensive and require elaborated communication and documentation. While community protests remain generally peaceful, some confrontative strategies are used, like land occupations and blockades, leading to the temporary disruption of plantation operations. Most instances of violence occurred during demonstrations have resulted from acts by local police, mobile police brigade (Brimob), the military, or private security forces hired by palm oil companies. Peaceful protests in front of government offices are more common than confrontative actions within plantations due to the risk of violence, intimidation and harassment faced by individuals and communities defending

their rights.

Indigenous Peoples and community members protesting palm oil companies face significant risks. Incidents of violence extend beyond protests, with intimidation by police and security personnel occurring in villages. These instances of violence are often followed by a lack of proper investigation and disciplinary action against responsible state functionaries and/or members of private security forces. Often protests are followed by arrests and imprisonment of community leaders. It appears that such arrests are sometimes based on fabricated or trumped-up charges.

The violence, intimidation, criminalisation of demonstrators and the overall impunity have generated an atmosphere of fear and violence, which deters communities from continuing to actively defend their land and rights. The criminalisation of community members diverts community efforts to free those criminalised rather than requesting accountability from corporations.

Conflict Resolution Mechanisms

Conflicting parties resort to three main mechanisms to address their grievances: court adjudication, informal mediation facilitated by local authorities, and the complaint system established by the Roundtable on Sustainable Palm Oil (RSPO). Villagers make relatively little use of Indonesia's legal system due to the difficulty of proving land ownership certificates, the high economic costs of litigation and the perceived corruptibility of the courts. The RSPO was set up to provide an alternative dispute resolution mechanism, member companies need to abide by RSPO's principles to obtain and maintain a sustainability certification. Yet this mechanism is hardly used, possibly due to the lack of knowledge about the mechanism and to the complexity of filing a complaint. Successful conflict resolution has been relatively rare in the few cases brought to the RSPO.

Given the distrust and inaccessibility of the more formal resolution mechanisms, communities often rely on alternative dispute resolution such as mediation and facilitation provided by local authorities, with the support of CSOs. However, these processes are generally lengthy due to the complexity of verifying land ownership and the reluctance of companies to engage in government-led processes. There have been reports of companies stalling or obstructing mediation processes by refusing to attend meetings, provide requested documents, or implement the agreement reached.

PT Astra Agro Lestari Tbk (AAL)

AAL is Indonesia's second-largest palm oil company in terms of crude palm oil production, having 41 subsidiaries operating in eight provinces of Indonesia and controlling 287,604 hectares of oil palm plantations in the country. AAL is owned by PT Astra International Tbk, which in turn is owned by the international group Jardine Matheson Holdings Ltd, domiciled in Hong Kong. In 1991, AAL began operating in Sulawesi Island, in the centre of Indonesia, as one of the first industrial plantation companies in Indonesia. AAL's largest area of concessions is in the forest estate in Central Sulawesi with nearly 86,000 hectares, the exact area is unclear due to a lack of publicly

accessible data on land concessions.

In Sulawesi, there are eight AAL subsidiaries, among them PT Agro Nusa Abadi (PT ANA), PT Lestari Tana Teladan (PT LTT), and PT Mamuang, operate without the obligatory cultivation permit (HGU) in Sulawesi. It is reported that AAL never sought or received the free, prior, and informed consent of Indigenous Peoples and did not consult in good faith with other impacted communities to operate on their lands.

AAL actions have caused land conflicts, massive scale draining of peatlands with the implied destruction of the ecosystems and increase of fire hotspots in the plantation areas. AAL has planted oil palm plants on an estimated 32,400 ha of peatland. When peatlands are drained, the stored carbon reacts with oxygen in the air to release carbon dioxide into the atmosphere. AAL's drainage of peatlands alone is estimated to cause an annual greenhouse gas emission of 2.0 million tonnes of CO2, equivalent to the annual carbon emissions of 830,000 cars[1]. AAL has no policy regarding the protection of peatlands, despite the fact its major customers and many of its competitors, have adopted policies to not destroy peatlands.

There have been allegations of intimidation and harassment against community members, Indigenous Peoples and environmental human rights defenders, including women human rights defenders. On 4 December 2023, AAL staff visited two women human rights defenders, who advocate for their and their communities land rights, pushing them to sign a letter stating that there was no land conflict. The women perceived this action as an act of intimidation. The case of alleged intimidation was referred to Indonesia's National Commission on Human Rights (Komnas HAM).

From 22 April to 3 May 2024, Ms. Nengah and Mr. Ketut, from Rio Mukti village in Sulawesi, went to London, United Kingdom to meet with companies' representatives and advocate for their communities. They demanded AAL and Jardine Matheson to return their lands, provide compensation for the loss of their livelihoods, restore the damage caused to the environment, and stop the criminalisation of community leaders and environmental human rights defenders. While Ms. Nengah and Mr. Ketut were in London, company representatives from PT Mamuang visited their family members in Sulawesi, inquiring on Ms. Nengah and Mr. Ketut whereabouts. Ms. Nengah has since reported that her house was being monitored by unknown people.

Civil society organisations have documented the numerous adverse impacts and human rights abuses stemming from the activities of three AAL subsidiaries in Sulawesi. Despite their efforts and attempts of legal recourse, Indigenous Peoples, other affected communities and environmental human rights defenders face intimidation and criminalisation for defending their rights to access their territories and protect their livelihoods, while continuing to suffer from AAL's actions without receiving adequate compensation or redress.

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[1] https://dv719tqmsuwvb.cloudfront.net/documents/Publikasjoner/Andre-rapporter/Astra-Agro-Lestari-report-ENG-Final.pdf

PT Agro Nusa Abadi (PT ANA)

At the end of 2006, PT ANA started its activities in Central Sulawesi after obtaining a location permit concerning 19,675 hectares and allowing for the clearing of the area for oil palm plantation, including for nursery land (where palm oil seeds are grown by the company before they can be planted), basecamps, road infrastructure, and planting area. The land covered by the permit is located in East Petasia District, affecting seven villages: Tompira, Bunta, Bungintimbe, Peboa, Toara, Trans Bunta and Molino. PT ANA began the land clearing from Bunta, Tompira, Bungintimbe, Molino and Toara villages. Affected people residing in those villages were not consulted nor informed about the purpose of the actions of PT ANA, they were not offered compensation from the land taken from them. This led to legal confusion and ongoing disagreements between the affected villages and the company.

PT ANA reportedly has been operating since 2007 without a right to cultivate permit (HGU) and a Plantation Business Permit, which are legal requirements for operating in Indonesia's forest estate. Also of concern is the expansion and overlapping of AAL concessions on land allotted for Government sponsored transmigration programme consisting of relocation of tens of millions of people from densely populated areas of Indonesia to less populous outer islands of the country, mainly Sumatra, Kalimantan, Sulawesi, and more recently Papua. The transmigration land in question was designated in 2015. Per law, no transfer of ownership of the land can occur for 15 years, after that time, a transfer of ownership can only take place with the consent of the affected persons and communities. PT ANA reportedly did not respect the rights of the transmigrant and settler communities and forcibly took between 5,000 to 7,000 hectares of land, without adequate consultation and compensation, despite community ownership claims.

PT ANA has reportedly not identified and mitigated the impact of its operations on the local environment. The affected communities report that embankments build by PT ANA have caused high water levels in community plantations, preventing farmers from harvesting their crops, agrochemical contamination has ruined seaweed crops, and mill waste has contaminated community ponds. This has had negative effects on farming and crop yields in the area and has contributed to heightening the food insecurity of the affected communities.

On 26 April 2018, Bunta, Bungintimbe, Tompira, and Towara villagers held a demonstration, with the participation of around 400 palm oil farmers, calling on the Regent of North Morowali and the North Morowali Regional Legislative Council to immediately end the land grabbing and to return the land unlawfully taken by PT ANA.

In May 2021, the protests ended when two brothers, Gusman and Sudirman (Sudi), community members from North Morowali, were detained on accusations of stealing palm fruit from the company on the contested land. Gusman was detained from 29 August 2021 to 25 January 2022, at the North Morowali police station. Sudi was placed under house arrest from 27 October 2021 to 25 January 2022. The brothers denied the allegations and stated that they only harvested palm fruit from their own land, which had been in their

family for generations.

On 15 June 2022, their case was heard in the Poso District Court, where they were found guilty of stealing palm fruit from PT ANA and sentenced to 2 years and 6 months in prison. On appeal, their sentence was reduced to 2 years. The brothers filed a cassation, which was rejected by the Supreme Court in January 2023. On 3 March 2023, the brothers were arrested to serve their sentence on the accusation of stealing palm fruit. On 30 March 2024 they were released.

PT Mamuang

Since 1991, PT Mamuang has occupied 255 hectares in a protected forest zone, clearing and planting it with oil palms. According to publicly accessible information, PT Mamuang lacks location, environmental, and timber utilization permits and the occupied land overlaps with that covered by a concession of the neighbouring PT LTT. PT Mamuang has been involved in protracted land conflicts and related criminalisation of farmers. They have planted within 50 meters of the riverbank of Lariang, in violation of Government regulation No. 38/2011 concerning rivers, which stipulates that land within 50 meters of the riverbank cannot be used for planting, mining or construction.

From 1991 to 1997, national armed military officers guarded the operations of PT Mamuang. During this period, the Indigenous Kaili Tado People and other affected communities, including Suku Toraja tribe transmigration communities, faced the adverse impacts from the company's activities.

The Kabuyu region was historically inhabited by the Indigenous Kaili Tado People. The Indigenous Kaili Tado People, who administered the land left to them by their ancestors and produced various crops like rice, corn, cocoa, and coconuts, had their productive land taken away. Indigenous crops, such as cocoa and coconut trees, were cut down without consent, and the military forced the Indigenous Kaili Tado People to vacate the farming land and their ancestral villages. Only narrow strips of land on the banks of the Pasangkayu River were left to the Kaili Tado People. Therefore, many Kaili Tado People left Kabuyu, as they were continuously squeezed in smaller areas. Some of the Kaili Tado that remained, integrated with the transmigration community of farmers called Suku Toraja. From 1995 to 2004, they planted crops in areas where they held formal land tenure documents.

The plantation operations of PT Mamuang have significantly affected the Indigenous Kaili Tado People and other communities. Indigenous Peoples and other affected communities have struggled to defend their lands. In 2003, more than one hundred households in Kabuyu protested to reclaim land outside the company's concession affirming their right to cultivate their land, grabbed by PT Mamuang. In 2005, PT Mamuang began uprooting crops and destroying tools of the Suku Toraja farmers. Any resistance from Indigenous Peoples members and other community members was met with repression, including in the form of violence and criminalisation. Most victims do not report the criminalisation to authorities because, in their experience, companies have higher chances of favourable outcomes in the Indonesian legal system, and

complaints might turn against them. In 2006, the Kabuyu People protested again, requesting the company to return their land. In response, PT Mamuang dispatched police officers and employed vigilante patrol groups, called *preman*, to intimidate the demonstrators.

Since 2005, Hemsi, a man from the Suku Toraja farmers' community, started receiving threats and being criminalised – including multiple arrests – for defending his land and the land rights of his community from land-grabbing by PT Mamuang. On 14 December 2018, Hemsi was again arrested by the North Mamuju police based on a report by PT Mamuang, accusing him of stealing palm fruits from the company. On 25 March 2019, the Pasangkayu District Court sentenced Hemsi to five months in prison. Hemsi's appeals to the Makassar High Court and Supreme Court in Jakarta were rejected. In October 2019, Hemsi travelled to the Netherlands and accompanied by civil society to meet with financiers of PT Mamuang. While Hemsi was abroad, police visited his family in Indonesia, which was perceived as an act of intimidation. In June 2020, the National Land Agency recognised that 20 of the 50 hectares of land grabbed by PT Mamuang, belonged to Hemsi and provided him with a formal land certificate. PT Mamuang returned those 20 hectares of land to Hemsi, while recognition of ownership of the remaining 30 hectares is pending.

In 2017, four farmers from Polanto Jaya village were arrested for harvesting palm oil fruit bunches from their own lands, for which they held legal Land Registration Certificates (SKPT) and Freehold Certificates (SHM). PT Mamuang failed to provide documentation to the Pasangkayu District Court of its legal rights to the land, but the court still sentenced the four Polanto Jaya residents to prison, with sentences ranging from four to seven months.

In January 2022, the Government of Indonesia issued Minister of Environment and Forestry decree No. SK.01/MENLHK/SETJEN/KUM.1/1/2022 regarding Revocation of Forest Concession Licenses. PT Mamuang's concession was not included in the list of companies whose forest permits were revoked. In protest, the Indigenous Kaili Tado People occupied an area planted by PT Mamuang, the area is part of their ancestral land and lays outside the concession area given to PT Mamuang.

On 24 February 2022, a 30-year-old man, led a demonstration of 50 members of the Kabuyu Community Alliance. They marched five kilometres, during which they encountered a company truck and spontaneously stopped it as a form of protest, then continued to the PT Mamuang office. On 25 February 2022, PT Mamuang reported the protesters to the Pasangkayu Police, who charged them with "threats" under article 335(1) of the Criminal Code, concerning "[s]erious maltreatment committed with premeditation […]". On 27 February 2022, PT Mamuang, together with the Pasangkayu police, isolated the Kabuyu Village by cutting off several access roads and intimidated the Indigenous Kaili Tado by mobilizing several *preman*.

On 1 March 2022, five farmers from the Indigenous Kaili Tado People, in Kabuyu Sub-village in Mertasari Village, that participated in the 24 February demonstration received a second summons (the farmers say they have not received the first summons) from the police, they declined to attend believing that the company had no grounds for the accusation and was criminalising

them for taking part in the demonstration against the company's land-grabbing. On 9 March 2022, the farmers were stopped by the police on their way to get legal assistance and were taken to the Pasangkayu Police station for investigation. Three of them were accused of threatening the truck driver.

PT Lestari Tana Teladan (PT LTT)

Since 2004, PT LTT has illegitimately claimed 1,505 hectares of community-titled land in Towiora and Tinauka villages under its certificate to cultivate (HGU), and it is suspected of taking over transmigration land. The company has never secured location, environmental, or timber utilization permits. Additionally, PT LTT operates on 321 hectares outside its permitted concession area to cultivate and has not fulfilled its legal obligation, stemming from Government regulation (PP) No. 18 of 2021 concerning Management Rights, Land Rights, Flat Units and regulation 98 of 2013, to allocate 20 percent of its plantation to community-managed areas.

In 2004, PT LTT was assisted by Brimob officers in taking over community land through use of violence, including indiscriminate shooting. During the land grabbing three residents of Panca Mukti Village were arrested. Residents of Towiora and Tinauka villages are required to pay environmental taxes on the land controlled by PT LTT. Community landowners report receiving partial or no compensation for over 180 plots of land grabbed.

In 2019, communities reported yearly flooding of settlements due to planting on the banks of the Lariang River, affecting 40 households. Members of Towiora village stated that they no longer have access to clean water because of improper disposal of palm oil waste. In November 2020, water from community wells was tested by Environmental Service laboratory (test No. FPP/7.8.2), confirming the pollution of the water with nitrite, coliform and faecal coliform amongst others exceeding the national quality standard threshold.

AAL response to allegations and investigations

In March 2022, Friends of the Earth-US and WALHI, non-governmental environmental organisations part of the Friends of the Earth international network, published a report on alleged land grab in Central and West Sulawesi, Indonesia by AAL and its subsidiaries, PT ANA, PT LTT and PT Mamuang, and the environmental, social and human rights impacts of their activities on the affected communities and Indigenous Peoples.

In August 2022, PT Eco Nusantara Lestari, an organisation offering environmental consultation to businesses, published the findings of their investigation on the allegations raised by Friends of the Earth-US and WALHI.[2] The investigation was conducted between 25 May and 12 June 2022, in Jakarta, Bogor and Central Sulawesi, through the collection of documents from and interviews with community representatives, local NGOs, AAL, and Government entities. In its findings, EcoNusantara confirmed many of the allegations raised by the NGOs against the three subsidiaries.

[2] https://foe.org/wp-content/uploads/2022/11/ENS-Verification-Report.pdf

- Regarding PT ANA, the findings confirmed the land conflict between four villages (Bungintimbe, Bunta, Tompira and Molino) and the company, and the lack of clarity about the exact contested area. AAL clarified in writing that there has been no compensation for community lands that have legitimate ownership certificates, but that the entire area – amounting to 2.167 hectares – is jointly conducted through *plasma* plantation agreements. AAL also confirmed that PT ANA does not have a HGU permit.

- Regarding PT LTT, the investigation confirmed the land conflict over 100 hectares of land between the company and Tawiora village. Eco Nusantara found that Tawiora village, has administrative control over the land, and is squeezed between the Lariang river and the concession area, with its elementary school and 80 homes of villagers being locate in the concession area. It was found that 147.5 meters of riparian areas along the Lariang river were eroded between 2013 and 2022, due to oil palm planting along the riparian area. PT LTT has never formed a *plasma* plantation partnership with farmers and thus farmers have not been able to compete with the companies' prices of fresh fruit bunches, leading to significant economic losses for the farmers.

- Regarding PT Mamuang, the land conflict of 45.13 hectares between the company and a farmers group led by Hemsi was confirmed, together with repeated criminalisation of farmers from the company on charges of fruit theft and vandalism, leading to farmers being imprisoned for 3 to 5 months.

In March 2023, AAL hired Eco Nusantara to investigate allegations of environmental and human rights violations by its subsidiaries. Despite assurances that the Terms of Reference (TOR) would include civil society input, in March 2023, AAL announced a finalized TOR for the investigation without consulting and obtaining the free, prior and informed consent of Indigenous Peoples and consulting in good faith with other impacted communities or civil society on what should be included in the TOR of the investigation. The TOR allegedly ignored pre-existing Indigenous Peoples and farmers' communities land rights, putting on them the burden of proof, rather than on AAL. The suggestion that communities must prove their land rights using positive law, ignores critical context regarding customary land rights in Indonesia. The TOR also included a pre-emptive suggestion of delivering redress through a partnership model between Indigenous Peoples, farmers' communities and AAL, despite Indigenous Peoples and farmers' communities never having requested such an outcome.

In June 2023, WALHI and Friends of the Earth US published an analysis of the TOR, proposing that investigation should focus on AAL's land acquisition processes, acquisition of permits, and business operations.

From March to September 2023, Eco Nusantara's investigation proceeded based on the initial TOR without implementing any of the recommendations provided. In November 2023, AAL and Eco Nusantara published the

verification report,[3] which falls short of examining critical allegations, such as permit acquisition irregularities by AAL subsidiaries, environmental degradation to rivers and waterways, cases of criminalisation and whether AAL and its subsidiaries ever attempted to seek the free, prior and informed consent of impacted Indigenous Peoples and to consult with other affected communities. The recommendations provided in the report allegedly seek to maintain the status quo and fail to hold AAL and its subsidiaries accountable.

In February 2024, AAL reappointed Eco Nusantara to assist in developing an action plan to put into effect the recommendations of the November 2023 report. On 21 July 2024, AAL launched the three-year action plan.[4] The action plan however does not reflect the demands for remedy and redress put forward by communities and Indigenous Peoples affected by AAL and its subsidiaries. It also does not mention land restitution to repair land grabs, and, while mentioning free prior and informed consent in its introduction, it fails to plan for any action to finally seek the free, prior and informed consent of Indigenous Peoples and consult in good faith with other affected communities, in agreement with international human rights standards.

On 2 September 2024, AAL published its first progress report on the implementation of the action plan, as of August 2024, stating that in its subsidiaries, three activities are continuous: community engagement and needs based assessment based on free, prior and informed consent, livelihoods support and existing corporate social responsibility programs based on AAL's prior commitment to local community development.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern about the allegations of land grabbing of Indigenous Peoples' ancestral lands and farmers' lands, ecosystem degradation and destruction, considering that these lands, healthy environment, water and ecosystems are essential for their livelihoods and well-being, in favour of palm oil companies and without the free, prior, and informed consent of Indigenous Peoples and good faith consultation of affected farmers communities. According to the allegations, the right to access information, vital for granting informed consent, would have been breached.

In addition, we are seriously concerned about the alleged intimidation and criminalisation – including arbitrary arrests and detentions – of environmental human rights defenders and Indigenous and community leaders. These practices are prone to have a grave chilling effect on their rights to freedom of expression and peaceful assembly. In this regard, we urge your Excellency's Government to promptly release those that remain detained if their detention is deemed arbitrary and to ensure a fair trial in line with international standards for any person that may face charges in connection to the allegations above.

While AAL affirms having a human rights strategy, implemented throughout all its subsidiaries and in line with the UN Guiding Principles on Business and Human Rights, concerns and allegations by affected communities, Indigenous Peoples, environmental human rights defenders and environmental CSOs keep being raised. AAL's action plan and first progress report reflect a development model that places

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[3] astra-agro.co.id/wp-content/uploads/2023/11/2023-10-30-ENS-Final-Report-AAL-Cases-in-C-Sulawesi-ENG.pdf

[4] https://www.astra-agro.co.id/wp-content/uploads/2024/06/aal-action-plan-as-follow-up-on-the-third-party-verification-report-2024-for-publication.pdf

the well–being of communities in the hands of AAL, a private company, rather than recognizing communities as rights-holders with agency over their livelihoods and preferred model of development as well as, in particular, the right of Indigenous Peoples to self-determination.

We are also deeply concerned about the allegations of restriction of access to cultivated land and to land for cultivation, the destruction of crops and farming tools as intimidation or reprisal actions for protesting palm oil companies' activities, and the pollution of water resources deriving from commercial oil palm plantations. If they were to be verified, they could amount to a violation of the rights to housing, land and property, adequate food, safe drinking water and the human right to a clean, healthy and sustainable environment of affected farmers communities and Indigenous Peoples.

We are worried that alleged weak law implementation, unfair and unclear *plasma* plantation agreements and lack of recognition of land ownership by Indigenous Peoples and farmers community, resulting in land conflicts and land grabbing could result in a reduced availability and of adequate food resources, possibly an increase in food insecurity. The situation can further exacerbate the vulnerability of lower-income households and the risk of to falling into poverty; and lead to internal displacements in the event of a hunger crisis. The full implementation of regulations governing palm oil companies' activities, the official recognition and titling of Indigenous Peoples' ancestral lands and territories, recognition of rural communities' ownership of their land, and clear and fair *plasma* plantation agreements between palm oil companies and Indigenous Peoples and other communities can be adequate means to resolve land conflicts.

We raise our concern on the apparent lack of security of tenure. All persons should be entitled to a certain degree of security of tenure, regardless of the type of tenure, to guarantee legal protection against forced eviction, harassment and other threats. We are furthermore concerned with the reported lack of consultation with and free, prior and informed consent of the affected Indigenous Peoples, as well as the reported lack of good faith consultation with other affected rural communities regarding the land grabbing, and the alleged absence of due consideration for losses related to land use. Moreover, affected communities should have the right to effective remedies, access to justice and legal aid.

We are, furthermore, concerned that the Indigenous Peoples whose ancestral lands have allegedly been grabbed by palm oil companies, may increasingly suffer from the loss of their land undermining their right to their own culture, whose exercise is linked to their ancestral land, as well as their right to participate in economic, political, social and cultural development, including self-determination over their natural wealth and resources. Moreover, it is of deep concern the impact that these situations would have on the right to a clean, healthy and sustainable environment of Indigenous Peoples.

It is with regret that we note that your Excellency's Government may be failing to protect against human rights abuses committed by third parties, including business enterprises. This duty to protect human rights requires taking appropriate steps in relation to business enterprises to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication, as set out by the United Nations Guiding Principles on Business and Human Rights.

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 indicate the steps that your Excellency's Government has taken or is considering taking, including policies, legislation, and regulations to uphold its obligation to protect against human rights abuses by companies domiciled in its territory and/or jurisdiction. This includes ensuring they conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations, and that human rights defenders can operate in a safe and enabling environment, free from restrictions and attacks, in accordance with the UN Guiding Principles on Business and Human Rights.

3. Please describe the guidance, if any, that your Excellency's Government has provided to Jardine Matheson, on how to respect human rights throughout its operations in line with the UN Guiding Principles, including by setting out the Government's expectations as to how human rights due diligence should be conducted, how to consult meaningfully potentially affected stakeholders, and how to remedy adverse human rights and environmental impacts. Please also indicate whether any guidance was provided with respect to the responsibility to obtain free, prior and informed consent of Indigenous Peoples prior to the approval of business activities affecting their land.

4. Please provide information regarding the efforts and measures by your Excellency's Government regarding the protection, conservation and restoration when needed, of peatlands and other wetlands and ecosystems that might have been deteriorated or destroyed due to the development of palm oil plantations by companies domiciled in your territory and/or jurisdiction.

5. Please provide information regarding the measures that your Excellency's Government is taking or considering, to ensure that those affected by the activities of Jardine Matheson have access to effective remedies, as per the UN Guiding Principles.

6. Kindly provide information on the steps your Excellency's Government has taken, or is planning to take, to ensure that the overseas activities of Chinese companies are not adversely affecting Indigenous Peoples' right to participate in economic, political, social and cultural development (including self-determination over their

natural wealth and resources) and their right to free, prior and informed consent in line with the United Nations Declaration of the Rights of Indigenous Peoples and the Declaration on the Right to Development.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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 ensure that business domiciled in your country act to halt the alleged violations, prevent their re-occurrence and, in the event that the investigations support or suggest the allegations to be correct, cooperate in ensuring the accountability of any persons responsible for the alleged violations.

Please be informed that a letter on this subject matter has been also sent to the Government of Indonesia, PT Astra Agro Lestari Tbk, PT Astra International Tbk and Jardine Matheson Holdings Ltd, and a copy for information has been sent to Jardine Cycle & Carriage and PT Eco Nusantara Tbk.

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

Michael Fakhri
Special Rapporteur on the right to food

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

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Geneviève Savigny
Chair-Rapporteur of the Working Group on the rights of peasants and other people working in rural areas

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer to article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone to a standard of living adequate for the health and well-being of themselves and of their family, including food, housing and necessary social services. We also wish to draw the attention of your Excellency's Government to its obligations under article 17 of the Universal Declaration of Human Rights (UDHR), which guarantees everyone the right to own property and the right not to be arbitrarily deprived of their property.

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified by China in 2001 – recognizes the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. article 11(2) provides "the fundamental right to freedom from hunger and malnutrition", which is of immediate application. Article 11(1) of the ICESCR further requires States to "take appropriate steps to ensure the realization of this right". The Committee on Economic Social and Cultural Rights (Committee) stressed in its general comment No. 12 that the core content of the right to adequate food refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems (para. 12). According to the Committee, the obligation to respect existing access to adequate food requires State parties to refrain from taking any pressures that result in preventing such access. The obligation to protect requires the State to take measures to ensure that enterprises or individuals do not deprive other individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including their access to land to ensure their food security (para. 15). The right to be free from hunger and malnutrition is not subjected to progressive realization as it must be fulfilled in a more urgent manner (para. 1).

As stated by the Committee in its general comment No. 12, States are required to respect existing access to adequate food and to take no action to prevent such access. The Committee also recalled that the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food may constitute a violation of this right. The formulation and implementation of national strategies, mandatory for the progressive realization of the right to food, require full compliance with the principles of transparency, accountability and participation of the people. Paragraph 54 of general comment No. 12 also emphasizes that "[t]he denial of access to food to particular individuals or groups" constitutes a violation of the right to food.

In its general comment No. 4, the Committee on Economic, Social and Cultural Rights clarified that the right to housing should be seen as the right to live in security, peace and dignity, including access to land as an entitlement. The general

comment indicates that the right to housing includes, among others, legal security of tenure guaranteeing legal protection against forced evictions, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection in genuine consultation with affected persons and groups. Additionally, in its general comment No. 7, the Committee clarified that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid.

The Guidelines on development-based evictions and displacement set out the international human rights standards that should be upheld in such contexts. Among other things, these Guidelines underscore that States must give priority to exploring strategies that minimize harm. Comprehensive impact assessments should be carried out prior to the initiation of any project that could result in development-based evictions and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. Furthermore, evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State must take all appropriate measures, to ensure that resettlement, including adequate alternative housing and access to productive land, is available.

Upon her visit to Indonesia, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, specifically recommended that "Land policy should protect the interests of low-income households, indigenous communities and communities occupying land based on customary (adat) law" (A/HRC/25/54/Add 1, para. 81). We also wish to draw attention to the report of the previous Special Rapporteur on the right to adequate housing (A/74/183) in which she stated that, for Indigenous Peoples, the concept of home is not just about a built structure where one lives, but is about one's place on the planet, defined through one's lands, resources, identity and culture, which in turn requires that the right to housing must be interpreted and applied in a manner that is responsive to Indigenous Peoples' experiences of housing and home.

We also wish to draw the attention of your Excellency's Government to CESCR's general comment No. 26 on land and economic, social and cultural rights, which emphasizes the essential role of land in the realization of a range of rights under ICESCR. In fact, the secure and equitable access to, use of and control over land for individuals and communities can be essential to eradicate hunger and poverty and to guarantee the right to an adequate standard of living, including the right to food and to adequate housing, as housing is often built on land used for the purpose of food production. Without such access, people could be subject to displacement and forced eviction, which could violate their right to adequate housing. Additionally, the Committee underlines that agrarian reform is an important measure to fulfil such rights, as more equitable distribution of land through agrarian reform can have a significant impact on poverty reduction and improve food security, since it makes food more available and affordable, providing a buffer against external shocks (para. 36). Such redistribution of land and agrarian reforms should focus particularly on the access to land of young people, women, communities facing racial and descent-based discrimination and others belonging to marginalized groups, and should respect

and protect the collective and customary tenure of land. Therefore, States parties shall put in place laws and policies that allow for the recognition of informal tenure through participatory, gender-sensitive processes, paying particular attention to tenant farmers, peasants and other small-scale food producers (para. 39).

We would also like to refer to general comment 24 on States' obligations under the Covenant on Economic, Social and Cultural Rights (E/C.12/GC/24) in the context of business activities. The Covenant establishes specific obligations of States parties at three levels — to respect, to protect and to fulfil. These obligations apply both with respect to situations on the State's national territory, and outside the national territory in situations over which States parties may exercise control. "The obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights without adequate justification, or when they pursue policies that negatively affect such rights. This may occur for instance when forced evictions are ordered in the context of investment projects. Indigenous Peoples' cultural values and rights associated with their ancestral lands are particularly at risk. States parties and businesses should respect the principle of free, prior and informed consent of Indigenous Peoples in relation to all matters that could affect their rights, including their lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired".

We recall the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of ICESCR. In its general comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

Furthermore, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that "the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living".

In this regard, we would like to refer to the Special Rapporteur on the human rights to water and sanitation report, A/HRC/54/32, in which he states that land grabbing, often involving water grabbing, entails misappropriations of resources from communities, and undermines freshwater quantity and quality, affecting the human right to water of the communities directly affected and downstream populations and recommended members states to avoid the overexploitation of aquifers, the overallocation of water rights and the hoarding of land and water, and avoid unfounded expectations of current or future water availability, guaranteeing the supply to populations and communities in situations of vulnerability and poverty, above any productive use, however profitable it may be. Furthermore, the Special Rapporteur on the human rights to water and sanitation in this report A/HRC/51/24 recommended member states recognise in national legislation the existence of

Indigenous Peoples within their borders and their collective rights to lands, territories and natural resources, including aquatic ecosystems, with legal communal ownership of the lands, resources and water rights in their territories.

We also wish to refer to Human Rights Council resolution 48/13 of 8 October 2021 and General Assembly resolution 76/300 of 29 July 2022, which recognize the right to a clean, healthy and sustainable environment as a human right.

We would also like to bring to the attention of your Excellency's Government the Framework Principles on Human Rights and the Environment as detailed in the 2018 report of the Special Rapporteur on human rights and the environment (A/HRC/37/59). The principles state that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (principle 1); States should ensure that they comply with their obligations to Indigenous Peoples and members of traditional communities, including by:

a) Recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used..

b) Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources.

c) Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources.

d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories or resources (principle 15).

We refer to the International Covenant on Civil and Political Rights (ICCPR), signed by China in 1998, in particular, its article 9 enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of their liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. article 9(4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. The right to security of a person refers to protection against physical or psychological injury, or physical and moral integrity, and obliges States parties to take appropriate measures to protect individuals from foreseeable threats to their life or physical integrity from any State or private actor. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. Furthermore, in its general comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the ICCPR is arbitrary, including freedom of opinion and expression (art. 19), freedom of peaceful assembly (art. 21), and freedom of association (art. 22). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right "to seek, receive and impart

information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline, protects the right to access information as one of its core elements and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse" (CCPR/C/GC/34, para. 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that "all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress" (para. 23).

Article 21 of the ICCPR guarantees the right to peaceful assembly. This article also states that "no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others". Moreover, Human Rights Council resolution 24/5 of 2013 which reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, as well as to ensure that any restrictions on these are in accordance with their obligations under international human rights law.

The Human Rights Committee has confirmed that article 21 "protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs" (CCPR/C/GC/37, para. 6). Restrictions on peaceful assemblies must not be used, explicitly or implicitly, to stifle expression of political opposition to a government, challenges to authority, including calls for democratic changes of government, the constitution or the political system, or the pursuit of self-determination. (CCPR/C/MDG/CO/4, para. 51). They should not be used to prohibit insults to the honour and reputation of officials or State organs" (CCPR/C/GC/37, para. 49).

We would also like to highlight the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Article 5(b) of this Declaration, establishes the right to form, join, or participate in non-governmental organizations, associations, or groups; article 6(a) and (c), which establishes the right to know, obtain, and possess information about human rights, and to study and discuss whether human rights are being observed, both in law and in practice; and article 12, which provides that the State must ensure the protection of everyone against any threat, reprisal, or pressure resulting from the exercise of the rights authorized by the Declaration, as well as the right to effective protection of the laws when reacting to or opposing, by peaceful means, activities that cause violations of human rights and fundamental freedoms.

In addition, we would like to refer to Human Rights Council resolution 22/6 which urges States to publicly recognize the important and legitimate role played by human rights defenders in the promotion of human rights, democracy and the rule of law, as well as resolution 13/13 of the same Council which urges States to take concrete steps to end threats, harassment, violence and attacks by States and non-State entities against those engaged in the promotion and protection of human rights and fundamental freedoms for all.

As the Human Rights Committee has underlined in its general comment 35, States parties should respond appropriately to patterns of violence against certain categories of victims, such as intimidation of human rights defenders (CCPR/C/GC/35 para. 9). Similarly, in its general comment 36 on the right to life set out in article 6 of the ICCPR, the Human Rights Committee notes that the duty to protect the right to life requires States Parties to adopt special measures of protection for persons in vulnerable situations whose lives are at particular risk due to pre-existing patterns of violence. This includes human rights defenders (CCPR/G/GC/36, paras. 23 and 53). In his report to the Human Rights Council, the Special Rapporteur on the rights to freedom of peaceful assembly and of association reaffirmed that given their interdependence and interrelatedness with other rights, freedom of peaceful assembly and of association constitute a valuable indicator of the extent to which States respect the enjoyment of many other human rights" (A/HRC/20/27 para. 12).

We would like to refer your Excellency’s Government to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which China voted in favour of at the General Assembly in 2007. The UNDRIP sets out international human rights standards relating to Indigenous Peoples' rights. 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". 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". Furthermore, article 28 of the UNDRIP states that Indigenous Peoples have the right to just, fair and equitable compensation for the lands, territories and resources which they have traditionally owned, occupied or used and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. UNDRIP additionally 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. Importantly, article 10 specifically prohibits forcible removal of Indigenous Peoples from their lands or territories without their free, prior and informed consent, and provides that relocation could take place only after agreement on just and fair compensation and, where possible, with the option of return.

We wish to refer to the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), adopted by the General Assembly in December 2018. Article 5 of UNDROP states that peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities, required to enjoy adequate living conditions. States are required to take measures to ensure that any exploitation affecting the natural resources that they traditionally hold or use is permitted based, among others, on: a) duly conducted social and environmental impact assessment; b) consultations in good faith; c) modalities for the fair and equitable sharing of the benefits of such exploitation, established on mutually agreed terms between those exploiting the natural resources and peasants and other people working in rural areas.

Article 15 of UNDROP states that peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures. States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in the UNDROP.

Article 17 of UNDROP affirms that peasants and other people living in rural areas have the right to land, individually and/or collectively, including the right to have access to, sustainably use and manage land and pastures, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures. States are obliged to take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law. States should recognize and protect the natural commons and their related systems of collective use and management. Where appropriate, States shall take appropriate measures to carry out agrarian reforms in order to facilitate the broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land, taking into account its social function. Furthermore, article 24 of UNDROP affirms that peasants and other people working in rural areas have the right to adequate housing. They have the right to sustain a secure home and community in which to live in peace and dignity, and the right to non-discrimination in this context. Peasants and other people working in rural areas have the right to be protected against forced eviction from their home, harassment and other threats.

We would like to furthermore draw your attention to the UN Guiding Principles on Business and Human Rights (A/HRC/17/31) which are the authoritative

global standard of conduct to prevent, mitigate and remedy adverse human rights impacts of business activities. They were unanimously endorsed by the Human Rights Council in June 2011. The guiding principles clarify that, in accordance with international human rights obligations, 'States must protect against human rights abuses committed within their territory and/or jurisdiction by third parties, including business enterprises' (guiding principle 1). This requires States to 'clearly state that all companies domiciled in their territory and/or jurisdiction are expected to respect human rights in all their activities' (guiding principle 2). In fulfilling their duty to protect, States should:

a) Enforce laws that have the purpose or effect of enforcing respect for human rights by companies, businesses and other business enterprises.

b) Ensure that other laws and regulations governing the creation and activities of companies, such as commercial law, do not restrict but rather promote respect for human rights by companies.

c) Effectively advise companies on how to respect human rights in their activities.

d) Encourage and if necessary, require companies to explain how they take into account the human rights impact of their activities (guiding principle 3).

The Guiding Principles have identified two main components of the corporate responsibility to respect human rights, which require that enterprises: (a) avoid causing or contributing to adverse human rights impacts through their own activities and address those impacts when they occur; and (b) seek to prevent or mitigate adverse human rights impacts directly related to their operations, products or services provided through their business relationships, even where they have not contributed to them (guiding principle 13). States should also take appropriate measures to ensure, through appropriate 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" (guiding principle 25). The Guiding Principles also emphasize that "States should ensure [...] that the legitimate and peaceful activities of human rights defenders are not hindered" (comment to guiding principle 26).

The Guiding Principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The commentary to principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.