



Government of Canada
Permanent Mission of Canada
to the United Nations and the
Conference on Disarmament

Gouvernement du Canada
Mission permanente du Canada
auprès des Nations Unies et de
la Conférence du désarmement

Note No.: GENEV-4287

Reference: Response to the Joint Communication from Special Procedures

The Permanent Mission of Canada to the Office of the United Nations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to submit its response to the joint Communication OL CAN 2/2017 from Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders, dated 19 September 2017

The Permanent Mission of Canada to the Office of the United Nations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 13 December 2017.



**RESPONSE OF THE GOVERNMENT OF CANADA
TO THE JOINT COMMUNICATION FROM SPECIAL PROCEDURES:**

**THE WORKING GROUP ON THE ISSUE OF HUMAN RIGHTS AND
TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES; THE
SPECIAL RAPPOREUR ON THE ISSUE OF HUMAN RIGHTS OBLIGATIONS
RELATING TO THE ENJOYMENT OF A SAFE, CLEAN, HEALTHY AND
SUSTAINABLE ENVIRONMENT; THE SPECIAL RAPPOREUR ON THE
PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION
AND EXPRESSION; AND THE SPECIAL RAPPOREUR ON THE SITUATION OF
HUMAN RIGHTS DEFENDERS**

18 December 2017

I. INTRODUCTION

1. On 19 September, 2017, Canada received a joint communication from the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders.
2. The joint communication brings to Canada's attention information that was obtained by the Special Procedures concerning alleged criminal charges, arbitrary detention and defamation campaigns against Ms. Jennifer Moore and Mr. John Dougherty following their awareness-raising activities about the human rights impact of the activities of the Canadian company Hudbay Minerals in Peru.
3. In relation to these allegations, the letter brings to Canada's attention articles 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights; articles 1 and 2 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;¹ Human Rights Council resolutions 12/16, 15/12 and 22/6; and the UN Guiding Principles on Business and Human Rights (A/HRC/17/31).
4. The letter requests Canada's observations, within 60 days (with a subsequent 30-day extension), on the following three matters:
 - (i) Any additional information and/or comment(s) on the allegations;
 - (ii) Information on the measures taken by the Government of Canada to ensure that Hudbay Minerals implements its responsibilities under international human rights laws, including the UN Guiding Principles on Business and Human Rights, in its overseas operations;
 - (iii) Information on the measures taken by the Government of Canada to address allegations in this case within the framework of Canada's Enhanced Corporate Social Responsibility Policy as well as Canada's Voices at Risk: Guidelines on Supporting Human Rights Defenders.
5. The Canadian Government takes allegations of human rights abuses involving Canadian companies, and requests for consular assistance from Canadian citizens, very seriously. The Government of Canada's responses to the requests for information contained in the joint communication are provided below.

¹ Adopted as an Annex to General Assembly resolution 53/144 (9 December 1998).

II. CANADA'S RESPONSES

6. In the joint communication, the Special Procedures request Canada's observations on the following three matters:

A) Information and/or comments on the allegations mentioned in the joint communication from Special Procedures

7. The joint communication sent by the Special Procedures conveys information concerning alleged criminal charges, arbitrary detention, and defamation campaigns against human rights defenders Ms. Jennifer Moore, a Canadian national, and Mr. John Dougherty, a US national, following their awareness-raising activities about the human rights impact of the activities of the Canadian company Hudbay Minerals in Peru.
8. The Government of Canada expects Canadian companies operating abroad to respect human rights and all applicable laws, and to meet or exceed widely-recognized international standards for responsible business conduct. These expectations are set out in Canada's Corporate Social Responsibility Strategy, and in international standards endorsed by Canada, including the UN Guiding Principles on Business and Human Rights, of which Hudbay Minerals is aware.
9. By and large, Canadian legislation does not apply to activities of Canadian corporations outside of Canada. The allegations contained in the joint communication occurred outside of Canada's territory, and within the territory and jurisdiction of Peru. Apart from a narrow set of circumstances, we do not apply our laws extraterritorially.
10. The Government of Canada is not aware of any evidence that Hudbay Minerals was involved in the actions of Peruvian authorities in detaining and questioning Ms. Moore. If any such evidence is available, we would be grateful if it could be shared with the Canadian Government.
11. Regarding Ms. Moore's communications with the Canadian embassy before her visit to Peru, during her time in Peru, and after she left Peru, we are not able to release any information about the consular services and advice that were provided due to Canadian privacy laws.

B) Information on measures taken by the Government of Canada to ensure that Hudbay Minerals implements its responsibilities under international human rights laws, including the UN Guiding Principles on Business and Human Rights, in its overseas operations

12. Canada's corporate social responsibility approach is focused on promoting internationally-recognised standards, developing networks and partnerships through Canada's trade offices abroad, bolstering the environment for Canadian investment by working with host countries to strengthen their capacity to effectively manage their natural resources, and facilitating dialogue through two dispute resolution mechanisms (the Corporate Social Responsibility Counsellor for the Extractive Sector and the Canadian National Contact Point for the OECD Guidelines for Multinational Enterprises). Canada invites claims with

respect to the conduct of Canadian companies abroad to be presented through either mechanism as appropriate.

13. Canada links the provision of trade advocacy and economic support in foreign markets to a company's constructive engagement with Canada's dispute resolution mechanisms when concerns about Canadian operations abroad are brought forward. This means that Canadian companies that choose not to engage meaningfully with either of Canada's dispute resolution mechanisms can face denial or withdrawal of Government of Canada trade advocacy and financial support in foreign markets. Their conduct will also be taken into account in the corporate social responsibility-related due diligence conducted by Export Development Canada (Canada's export credit agency).
14. In Lima, Canadian embassy staff meet regularly with Canadian companies operating in Peru to discuss operational matters, including the companies' Corporate Social Responsibility policies and approaches to ensuring respect for human rights. Furthermore, the Canadian embassy in Lima is a member of an informal working group on the Voluntary Principles on Security and Human Rights, which promotes dialogue between embassies, the private sector and NGOs that operate in Peru, as well as Peruvian government officials, on issues related to security and human rights. The group includes Hudbay Minerals, among other companies.
15. As part of regular outreach conducted by Canadian embassy staff with Hudbay Minerals, the company has confirmed their awareness of the corporate responsibilities set out under the UN Guiding Principles on Business and Human Rights.

C) Information on the measures taken by the Government of Canada to address allegations in this case within the framework of Canada's Enhanced Corporate Social Responsibility Policy, as well as Canada's Voices at Risk: Guidelines on Supporting Human Rights Defenders

16. Canada's corporate social responsibility approach is focused on promoting internationally-recognised standards, developing networks and partnerships through Canada's trade offices abroad, bolstering the environment for Canadian investment by working with host countries to strengthen their capacity to effectively manage their natural resources, and facilitating dialogue through two dispute resolution mechanisms: the Corporate Social Responsibility Counsellor for the Extractive Sector and the Canadian National Contact Point for the OECD Guidelines for Multinational Enterprises. To date, a request for review based on the allegations contained in the joint communication has not been received by either of these two dispute resolution mechanisms.
17. Canada recognizes the key role played by human rights defenders in protecting and promoting human rights and strengthening the rule of law. *Voices at Risk: Guidelines on Supporting Human Rights Defenders* seeks to strengthen Canada's efforts on the ground, by providing Canadian diplomats with practical guidance on how to help protect and empower human rights defenders.

18. As indicated in these Guidelines, Canadian support for human rights defenders takes many forms and responds to changing needs: advocating for open civic space and human rights; working in multilateral forums to strengthen international rules; leveraging partnerships with other countries, civil society and the private sector, including Canadian business interests abroad; funding civil society organizations and grant agencies; and giving public recognition to human rights defenders for their achievements.
19. The Embassy of Canada is actively engaged in public advocacy and programming to promote human rights and gender equality in Peru. The Embassy is in regular contact with human rights organizations in Peru, and is open to receiving any information from organizations or individuals regarding any aspect of the human rights situation in that country.

III. CONCLUSION

20. The Government of Canada will continue to expect Canadian companies operating abroad to respect human rights and all applicable laws, and to meet or exceed widely-recognized international standards for responsible business conduct. Canada's approach to promoting respect for human rights and for corporate social responsibility will continue to evolve as we refine our policies, programs and dispute resolution mechanisms to better respond to the multiple challenges that remain.

Ottawa
18 December 2017