



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-4288

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 3/2017 from Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice, dated 25 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 RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND
CONSEQUENCES AND THE WORKING GROUP ON THE ISSUE OF
DISCRIMINATION AGAINST WOMEN IN LAW AND IN PRACTICE**

22 December 2017

I. INTRODUCTION

1. On 25 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 violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice.
2. The joint communication brings to Canada's attention information that was obtained by the Special Procedures concerning alleged sexual violence and excessive use of force against 119 women by security and police guarding the Porgera Joint Venture (PJV) of Canadian gold mine company Barrick Gold, and alleged failure to provide an effective remedy for the victims.
3. In relation to these allegations, the letter draws to Canada's attention international norms and standards, including the Guiding Principles on Business and Human Rights (A/HRC/17/31) and the Convention on the Elimination of All Forms of Discrimination against Women.
4. The letter requests Canada's observations, within 60 days (with a subsequent 30-day extension), on the following three matters:
 - (i) *Additional information or observations in relation to the allegations and concerns contained in the letter from the Special Procedures;*
 - (ii) *Information on the measures taken by Canada to ensure that Barrick Gold implements its responsibilities under the 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 Canada to address allegations in this case within the framework of Canada's Enhanced Corporate Social Responsibility Policy and the Policy on Gender Equality.*
5. The Canadian Government condemns in the strongest terms all forms of violence against women wherever it occurs.
6. The Canadian Government takes allegations of human rights abuses involving Canadian companies very seriously. The Government of Canada's responses to the requests for information contained in the joint communication is provided below.

II. CANADA'S RESPONSES

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

A) Additional information or observations in relation to the allegations and concerns contained in the letter from the Special Procedures

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.
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 Papua New Guinea. Apart from a narrow set of circumstances, Canada does not apply its laws extraterritorially.

B) Information on the measures taken by Canada to ensure that Canadian companies (including Barrick Gold) implement their responsibilities, including the UN Guiding Principles on Business and Human Rights, in their overseas operations

10. 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 Organisation for Economic Co-operation and Development (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.
11. 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 (EDC), Canada's export credit agency.¹
12. Canada undertakes a variety of other measures to support corporate social responsibility of Canadian companies operating abroad. For example, the Canadian government and Canadian companies have developed tools to facilitate engagement between companies and Indigenous communities, including the Exploration and Mining Guide for Aboriginal Communities, which has been adapted to a variety of country contexts, as well as a tool for companies on community and stakeholder engagement. Canada has been active in the development of practical guidance for the extractive sector on stakeholder engagement, in co-operation with the OECD. Canada promotes corporate social responsibility at the

¹ See EDC's Statement for Human Rights for more detail: <https://www.edc.ca/EN/About-Us/Corporate-Social-Responsibility/Documents/human-rights-statement.pdf>.

bilateral level by the inclusion of voluntary provisions for corporate social responsibility in Canada's recent foreign investment promotion and protection agreements, and free trade agreements.

13. Barrick Gold endorses a number of corporate social responsibility guidelines and standards, including the UN Guiding Principles on Business and Human Rights. It is also a member of the Voluntary Principles on Security and Human Rights Initiative (VPI), which Canada chaired from April 2016 to March 2017. Currently a member of the VPI Steering Committee, Barrick Gold has engaged with different partners in the development of tools related to the Voluntary Principles, such as an implementation audit guidance document for companies and a Children Rights and Security Checklist developed with the help of the Government of Canada and UNICEF Canada, and launched in 2017. The company also publishes annual reports of its Voluntary Principles implementation efforts.
14. Canada is supportive of the work of the International Council on Mining and Metals (ICMM), of which Barrick Gold is a member. As such, the company subscribes to the ICMM's Sustainable Development Principles, including commitments to respect human rights and culture, customs, and values in dealing with employees and others affected by the company's activities.

C) Information on the measures taken by Canada to address allegations in this case within the framework of Canada's Enhanced Corporate Social Responsibility Policy and policy on gender equality

15. Canada is committed to gender equality, the empowerment of women and girls and the advancement of their human rights.
16. Canada invites claims with respect to the conduct of Canadian companies abroad to be presented through the Corporate Social Responsibility Counsellor for the Extractive Sector or the Canadian National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, as appropriate.
17. The NCP is an interdepartmental committee chaired by Global Affairs Canada. The role of the NCP is to promote awareness of the OECD Guidelines for Multinational Enterprises and to ensure their effective implementation.
18. A case involving Barrick Gold's activities at the Porgera mine was brought to Canada's NCP by Mining Watch Canada, the Porgera Special Mine Lease Landowners Association and the Akali Tange Association (the notifiers) during 2011-13. The issues raised were related to human rights, environment and disclosure of information. The face-to-face mediation between the company and the notifiers offered by the NCP was effective in initiating trust-building and parties agreed to several actions that addressed some of the issues raised. Reports on completed requests for review by the Canadian NCP are available on its website: www.ncp-pcn.gc.ca.

19. This instance was brought to Canada's NCP before the establishment of the Olgeta Meri Framework and is not directly linked or tied to addressing the allegations contained in the joint communication from the Special Procedures.
20. Regarding the specific allegations contained in the joint communication from the Special Procedures, no request for review has been received to date by either of Canada's two dispute resolution mechanisms.

III. CONCLUSION

21. 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.
22. Canada will continue to engage in efforts to address the root causes of violence against women and girls, and to advance gender equality and the empowerment of women and girls to achieve the goals set out by Agenda 2030.

Ottawa
22 December 2017