



GENEV- 8652

The Permanent Mission of Canada to the United Nations and the World Trade Organization at Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honour to transmit the attached response of the Government of Canada to OHCHR joint communication AL CAN 4/2022 (Argentina Gold) dated September 16th, 2022.

The response consists of one Word document.

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



Response by the Government of Canada to the Joint Communication from Special Procedures Reference AL CAN 4/2022

1. Please provide any additional information and/or comment(s) you may have on the above mentioned allegations.

The Government of Canada takes Special Procedure communications very seriously and expresses its serious concern regarding the allegations in the joint communication.

The Government of Canada expects all Canadian companies active abroad to abide by all relevant laws, to respect human rights, to operate transparently, and in consultation with host governments and local communities, and to work in a socially and environmentally responsible manner that is consistent with internationally respected guidelines on responsible business conduct (RBC). This includes the *UN Guiding Principles on Business and Human Rights* and the *OECD Guidelines for Multinational Enterprises*.

2. Please provide information on measures that your Excellency's Government has taken or plans to take to assist and cooperate with the Government of Argentina to identify and respond to human rights and environmental impacts caused by the above-mentioned spills.

From November 29 – December 7, 2016 Canada's then-Extractive Sector Corporate Social Responsibility (CSR) Counsellor visited Argentina. During the visit, the CSR Counsellor met with local community members, academics, activist groups and civil society organizations to discuss corporate social responsibility of Canadian companies abroad. He also met with corporate representatives of the mining sector and Argentine authorities at the national, provincial, and municipal levels. The visit provided an opportunity to hear the concerns, issues and questions of relevant stakeholders. This visit also helped to inform the Government of Canada about the situation of natural resource production in Argentina.

The Government of Canada advises Canadian extractive companies operating in Argentina to continue to pursue partnerships with relevant government offices, academic institutions and NGOs in order to utilize existing local knowledge. Partnerships can be sought in order to improve communications, pursue effective and long-lasting CSR projects, develop local economies through training and purchase locally sourced goods and services.

A key aspect of Global Affairs Canada's international assistance as it relates to natural resource governance is building the capacity of governments to respect and promote the rights of women, Indigenous Peoples and marginalized groups. Global Affairs Canada financially supports and engages with multilateral organizations and initiatives such as the Intergovernmental Forum on Mining Metals and Minerals and Sustainable Development (IGF) of which Argentina is a member. The IGFs [Mining Policy Framework](#) is the basis upon which IGF engages with member countries. The Framework provides mining policy best practice guidelines that increase the capacity of governments to, for example, respect and protect human rights and Indigenous Peoples' rights.

Canada is a supporting member of the Extractive Industry Transparency Initiative (EITI), for which Argentina is an implementing country. EITI promotes international transparency

standards in the oil, gas and mining sectors in an effort to deter corruption, and improve the governance of natural resources. Mining, oil and gas operations have substantial environmental impacts, which are often a focal point of public debate. As such, EITI seeks to foster the inclusion of Indigenous Peoples' organizations in national multi-stakeholder groups, composed of government, companies and civil society, which support the implementation of the EITI Standard in implementing countries. Further, the EITI Standard requires implementing countries to disclose material environmental payments to governments and encourages the disclosure of information related to environmental impact and monitoring.

Canada is also a member and current Chair of the [Voluntary Principles on Security and Human Rights \(VPs\)](#) Initiative, of which Argentina is also a member. This multi-stakeholder framework provides guidance to companies, governments and civil society organizations to anticipate and mitigate human rights risks related to the deployment of public and private security forces around industrial natural resource sites.

3. Please specify the measures taken by your Excellency's Government to assist and cooperate with the Government of Argentina to ensure the public's right to receive timely and accessible information on the health and environmental effects of the spills.

Canada strongly supports a transparent business environment, based on respect for human rights, the environment and responsible governance. Canada supports resource-rich countries like Argentina in acquiring knowledge and strengthening institutions, laws and policies to manage natural resources in a sustainable, inclusive and responsible way. Canada participates alongside Argentina in multilateral initiatives to support strong natural resource governance as noted in Question #2, including the Extractive Industries Transparency Initiative (EITI). This year Argentina achieved a moderate overall score in implementing the 2019 EITI Standard. Further, expanding the scope of EITI reporting to provincially regulated operations would strengthen Argentina's reporting and implementation of the EITI Standard.

4. Please provide information on concrete progress in requiring or encouraging companies domiciled in your territory and/or jurisdiction to implement human rights due diligence process.

Canada's expectations related to RBC are reinforced in the [Responsible Business Conduct Abroad: Canada's Strategy for the Future](#), Canada's Responsible Business Conduct Strategy, launched in April, 2022. The Strategy applies to all Canadian companies active abroad, regardless of size, sector or scope.

Moreover, through the Trade Commissioner's network of more than 1,000 Trade Commissioners at offices in Canada and at diplomatic and consular missions around the world, Canada actively promotes RBC best practices and provides advice on RBC and due diligence to Canadian companies active abroad.

Trade Commissioners work with Canadian businesses to help them grow by connecting them with international opportunities, funding and support programs. Global Affairs Canada provides RBC training to its Trade Commissioners covering how to support Canadian companies in their efforts to do business in a socially and environmentally responsible manner, consistent with internationally recognized standards and practices. Canada's Trade Commissioner Service requires Canadian companies to sign an Integrity Declaration when seeking certain types of

services abroad, such as trade advocacy. Companies that sign the Integrity Declaration attest that they understand the Government of Canada's RBC expectations, have not been charged, convicted or sanctioned for bribery or corruption, and will not engage in such illegal activities. In August 2022 over 1,600 Integrity Declarations were in force.

Additionally, the Embassy of Canada to Argentina regularly organizes presentations featuring Canadian and local speakers to promote RBC best practices (including topics such as human rights, gender equality and stakeholder engagement among others). Some example of the sessions organized by the Embassy of Canada to Argentina since 2016 are as follows:

- "Igualdad de Género – Creando Oportunidades" (June 6th 2016): Panel discussion on public-private policies with gender perspective. In partnership with the Argentine-Canadian Chamber of Commerce, Women who Rock and Goldcorp.
- "Revelando el potencial de los ODS" (June 22nd 2017): Breakfast presentation on the contribution of the private sector to the SDGs in Argentina. In partnership with the Argentine-Canadian Chamber of Commerce.
- "Empresa y Derechos Humanos | Retos y Oportunidades para la Gestión Estratégica de la Sustentabilidad" (July 25th 2018): Presentation by the local chapter of the World Business Council for Sustainable Development on how to implement human rights due diligence. In partnership with the Argentine-Canadian Chamber of Commerce.
- "Litio y Comunidades. Cuestiones legales claves y buenas prácticas en el Proceso de Consulta" (March 26th 2019): Presentation on the regulatory framework and best practices related to prior consultation in lithium projects in Argentina. In partnership with the Argentine-Canadian Chamber of Commerce.
- "Argentina en Iniciativas Voluntarias Internacionales" (July 17th 2019): Update on Argentina's participation in three international voluntary initiatives (OECD Guidelines for Multinational Enterprises, Voluntary Principles on Security and Human Rights, and EITI).
- "Informe de Monitoreo Ambiental Participativo en Contextos Mineros (October 25th 2019): Presentation of the UNDP Report on Participatory Environmental Monitoring Committees in Mining to share leading practices to implement participatory monitoring and approaches to overcome challenges.
- "Desafíos de la implementación de los Principios voluntarios sobre seguridad y derechos humanos" (September 21st 2021): Peer session on the Voluntary Principles on Security and Human Rights organized together with the Argentine-Canadian Chamber of Commerce and CEADS (the Argentine Chapter of the Business Council on Sustainable Development).
- "Modelos innovadores de Desarrollo en el territorio" (April 20th 2022): Presentation featuring an Argentine NGO and a local Company founded by Indigenous Peoples in Argentina.

Most recently, Canada has been working with the Argentine-Canadian Chamber of Commerce to address topics of interest for Canadian clients, as well as those related to international standards on RBC. Topics have included the OECD Guidelines for Multinational Companies and the Voluntary Principles on Security and Human Rights; current developments in Argentina regarding regulation; and good practices and lessons learned from the field. These events contribute to position Canada as a source of best practice and expertise, and raise the profile of the work on Responsible Business Conduct by the Embassy of Canada. In addition, the Embassy of Canada works closely with the Argentine Chamber of Mines (CAEM) to support the implementation of the *Towards Sustainable Mining (TSM)* program in Argentina.

5. Please provide information on the measures that your Excellency's Government plans to take to prevent the recurrence of an ecological disaster at the hands of a company domiciled in its territory.

The Government of Canada expects all Canadian companies operating in Canada and abroad – regardless of sector – to respect human rights, all applicable laws, and international standards. Canadian companies are also expected to operate transparently, in consultation with host governments and local communities, in a socially and environmentally responsible manner, and in accordance with internationally recognized guidelines. Canada has a balanced approach to RBC, which includes prevention, legislation in select areas, and access to non-judicial dispute resolution.

The Embassy of Canada to Argentina has actively been working to foster exchanges between National Resources Canada and the Argentine Secretariat of Mining within the framework of the Memorandum of Understanding on collaboration for sustainable mineral resources development signed between the two countries in 2018. In 2021, two webinars on Canada's regulatory framework for mining were organized to share information with Argentine mining government officials. In addition, since 2019, and upon request from the Ministry of Environment, the Embassy of Canada has facilitated a series of exchanges on impact assessments between the Ministry of Environment and Canadian stakeholders. This collaboration included the visit of two experts from Canada in March 2020 to provide capacity-building training on environmental impact assessment.

Finally, in December 2022, Canada released its [Critical Mineral Strategy](#), which included sections on the promotion of climate action and environmental protection and reconciliation with Indigenous peoples. Canada is committed to collaboration on impact assessments, informed participation and decision-making, and high environmental standards for critical mineral projects.

In this strategy, the Government of Canada underscores efforts to advance critical mineral development based on respect for Indigenous and treaty rights, as well as meaningful engagement, partnership, and collaboration with First Nations, Inuit, and Métis peoples and governments. The development of critical mineral value chains presents a significant opportunity to grow the Indigenous economy through jobs, businesses, services, and ownership opportunities.

6. Please provide information on the measure that your Excellency's Government is taking or considering taking to ensure that persons affected by activities occurring outside your territory by business enterprises domiciled in your jurisdiction have access to remedy in your country, through State judicial or extra-judicial mechanisms.

From an international law perspective, Canada's international human rights obligations apply to its territory, where it has jurisdiction. In conformity with the principle of sovereignty of States, a State may not exercise jurisdiction over the territory of another State without the latter's consent.

Canada expects all Canadian companies to respect international human rights standards, international standards related to responsible business conduct, and the applicable law in the jurisdictions where they are operating.

Canada has two non-judicial dispute resolution mechanisms.

As an adherent to the *OECD Guidelines for Multinational Enterprises*, Canada maintains a National Contact Point (NCP) to help facilitate the resolution of complaints against multinational enterprises operating in or from Canada. The NCP is mandated to review complaints about observance of the *OECD Guidelines*, which cover a wider range of areas, including human rights and the environment. Upon reviewing a complaint, the NCP may offer to facilitate dialogue or mediation aimed at helping the parties achieve a mutually agreeable resolution to the issues raised.

[The Canadian Ombudsperson for Responsible Enterprise \(CORE\)](#) was established in 2018 to strengthen Canada's longstanding and extensive engagement in RBC. The CORE demonstrates Canada's commitments to human rights and inclusive trade. The CORE complements the NCP and focuses on allegations of human rights abuse in the mining, oil and gas and garment sectors that occurred since 2019 or are ongoing. The CORE can receive complaints and initiate reviews on its own initiative.

Non-judicial dispute resolution mechanisms are generally considered to be more accessible, faster, and more cost-effective than a judicial approach. Bringing a complaint to the CORE or NCP does not preclude a party from pursuing a complaint in other fora, such as the courts.

7. Please provide information regarding the measures that your Excellency's Government has taken to response to the recommendation provided in the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its visit to Canada in 2017 (A/HRC.38/48/Add. 1), in particular with regard to developing a gender-sensitive national action plan to implement all three pillars of the Guiding Principles (para 79 [®]) an to engage in a multi-stakeholder process to contribute to the development of such national action plan, by facilitating the full participation of all stakeholders, including indigenuous peoples and women (para 85 (c)).

Canada has long been a proponent of the *United Nations Guiding Principles on Business and Human Rights* and actively promotes their implementation by Canadian companies. This expectation is underscored in Canada's 2022 RBC strategy. Owing to the federal, provincial, and territorial separation of powers in Canada, and a range of RBC-related measures already in place, Canada is not pursuing a National Action Plan at this time.

Nevertheless, the Embassy of Canada to Argentina continues its efforts to foster dialogue among stakeholders, including NGOs and civil society organizations. The promotion of the Extractive Industries Transparency Initiative in Argentina has included the support of the civil society organizations that are part of the multi-stakeholder group focused on this topic. The Embassy also continues to leverage funds from the *Canada Fund for Local Initiatives*, the *Post Initiative Fund*, and the *Mission Cultural Fund* to increase democratic participation by supporting governmental and civil society initiatives seeking to fight corruption, and to advance sustainable economic growth for women and girls.