

Permanent Mission of Canada  
to the United Nations  
and the World Trade Organization



Mission permanente du Canada  
auprès des Nations Unies  
et de l'Organisation mondiale du commerce

## GENEV-9442

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, and has the honor to refer to Joint Communication AL CAN 3/2024.

In this regard, the Permanent Mission of Canada has the honour to submit Canada's response.

The submission consists of one 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.



Geneva, 20 June 2024



## **Responses by the Government of Canada to the Joint Communication from Special Procedures AL CAN 3/2024 of 22 April 2024**

### **1. Additional information or comments on the allegations in this letter.**

The Government of Canada takes Special Procedure communications seriously and is deeply concerned with the allegations in the joint communication. Government of Canada officials, including Ministers as well as High Commissioners based abroad, meet regularly with the company in question, both in Canada and abroad. These meetings provide an opportunity to gain insight into the company's operations, to share concerns raised by different stakeholders and to convey information about the Government of Canada's expectations and guidance regarding responsible business conduct (RBC) as it relates to its mining operations in Tanzania and around the world. The security company SGA Security, said to be providing security services to Barrick Gold Corporation, is not a Canadian company/corporation.

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 RBC. This includes *the UN Guiding Principles on Business and Human Rights* and *the OECD Guidelines for Multinational Enterprises*.

### **2. Information on any bilateral agreements on the use of private military and security personnel between the Canadian government and other governments and/or legal entities and/or enterprises.**

Canada does not have bilateral agreements with other countries specifically on the use of military and security personnel.

The Government of Canada is a strong advocate for the *Voluntary Principles on Security and Human Rights*, and we encourage all Canadian natural resource companies with operations in high-risk areas to use the *Voluntary Principles* as a tool to help anticipate and mitigate risks associated with the deployment of public and private security. Barrick Gold has been a member of the *Voluntary Principles* initiative since 2010.

### **3. Information regarding companies that are domiciled in Canada and that provide private military and security services, including abroad, notably with regard to the nature of their activities, their owners, control, and personnel as well as their clients, and the modes of recruitments, contracting and they are compensated for their services.**

Please see response to question #4.

### **4. Information regarding the domestic legal framework and related regulation and oversight mechanisms applicable to private military services provided by**



**companies, particularly in relation to the use of force and the provision of private military services abroad.**

Although Canada does not have international human rights legal obligations outside its territory and jurisdiction, 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, to operate transparently and in consultation with host governments and local communities, and to work in a socially and environmentally responsible manner, in accordance with internationally recognized guidance. This Responsible Business Conduct (RBC) expectation also applies to Canadian companies sourcing their goods and services abroad.

Through Canada's Trade Commissioner Service and its 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 to Canadian companies active abroad. Global Affairs Canada provides RBC training to its Trade Commissioners on how to support Canadian companies to do business in a socially and environmentally responsible manner consistent with internationally recognized standards and practices.

There are, however, some exceptional instances where Canada legislates or regulates activities of Canadians abroad. For example:

- Canada has made it a criminal offense to offer a bribe to a foreign public official under the Corruption of Foreign Public Officials Act (CFPOA).
- Under the Extractive Sector Transparency Measures Act (ESTMA), Canada requires extractive companies listed in Canada to declare all taxes paid and where they are paid.
- In July 2020, amendments to the Customs Tariff, made it illegal to import products manufactured wholly, or in part, through forced labour.
- Under the Fighting Against Forced Labour and Child Labour in Supply Chains Act, in force as of January 2024, supply chain transparency requirements are imposed on certain entities and government institutions to report on the measures taken to prevent and reduce the risk that forced labour or child labour is used in their supply chains.

Canada has two voluntary non-judicial dispute resolution mechanisms.

Canada's National Contact Point for RBC (NCP) was established in 2000 as part of Canada's commitment to support the implementation of the OECD Guidelines for Multinational Enterprises. The NCP can help parties resolve disputes regarding implementation of the Guidelines, which cover a range of issues including human rights, the environment, and employment and industrial relations.

The Canadian Ombudsperson for Responsible Enterprise (CORE) was established in 2019 to strengthen Canada's longstanding and extensive engagement in RBC. The CORE demonstrates Canada's commitment 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.



Companies that do not participate in good faith with either dispute resolution mechanism may be the subject of a recommendation to deny official trade advocacy support and future Export Development Canada (EDC) financial support (EDC is Canada export credit agency). Canada's dispute resolution mechanisms do not preclude pursuing recourse in other fora such as courts in host countries or in Canada, as appropriate.

The Government of Canada is a strong advocate for the Voluntary Principles on Security and Human Rights. Please see response to question #2.

- 5. Information on the steps the Canadian government has taken, or is considering to take, to protect against human rights abuses by private military and security companies, by ensuring those companies domiciled in Canada's territory and/or jurisdiction conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations, as set forth by the UN Guiding Principles on Business and Human Rights; including investors based in Canada.**

Please see response to question #4.

- 6. Information on Canadian governments' guidance provided to private military and security companies on how to respect human rights throughout their operations (including abroad); including in relation to investors domiciled in Canada.**

Please see response to question #4.

- 7. Information on steps taken or considered by the Canadian government to ensure effective access to domestic judicial mechanisms for victims and survivors of alleged abuses, including gender-based violence and sexual abuse and exploitations of women and girls, by private military personnel, including for overseas victims and survivors of serious human abuses.**

Canada seeks to support developing countries in strengthening institutions, laws, and policies for the sustainable management of natural resources, to increase the participation of women and traditionally marginalized groups in decision-making and access to natural resources, to protect human rights defenders and to strengthen frameworks for RBC. Canada is a core funder of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), which supports its 80 member countries in leveraging mining for sustainable development to ensure negative impacts are limited and financial benefits are shared. Tanzania is a member of the IGF.

- 8. Information regarding efforts undertaken to ensure the prompt identification, referral for protections and full range of assistance and specialized support services to victims and survivors of sexual abuses and violence, namely women and children.**

Provision of such support services in Tanzania falls outside of Canada's jurisdiction.



- 9. Information on the steps taken or considered by the Canadian government to ensure that private military companies domiciled in Canada establish or participate in effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to; including the same in relation to investors domiciled in Canada.**

Please see response to question #4.

- 10. Information on the legal framework around the selection, vetting and training requirements in place for private military security companies' personnel and these are implements and monitored.**

Please see response to question #4.

- 11. Information on whether the alleged abuses by private military and security personnel have been or are the subject of an investigations and/or prosecution by the relevant authorities of the Canadian government and information on their outcomes; including potential sanctions and measures for any human rights abuses, if occurred.**

Barrick Gold is the Defendant in a civil lawsuit filed November 23, 2022, in Ontario. The suit alleges human rights abuses by Tanzanian police against Tanzanian plaintiffs near Barrick's North Mara mine. The Government of Canada is not involved.

Canada has two autonomous sanctions regimes under which measures can be imposed in response to human rights violations: the *Special Economic Measures Act* and the *Justice for Victims of Corrupt Foreign Officials Act*. Sanctions can be imposed on any individual or entity outside Canada who is not Canadian. Canada is judicious in its approach to imposing sanctions and has established a rigorous due diligence process to consider and evaluate possible cases of human rights violations, corruption or other circumstances that may warrant the use of sanctions. We also consider the broader political and international contexts when deciding whether sanctions or any other tools in Canada's foreign policy toolbox may be an appropriate response. Currently, Canada has not imposed sanctions on individuals or entities based in Tanzania.

- 12. Information on any action concerning the allegations in the letter undertaken by the Canadian Ombudsperson for Responsible Enterprise (CORE), including with regard to CORE's complaint procedure launched in March 2021; including details of the status of any investigation underway by CORE and other Governmental bodies to address the allegations in this letter.**

The CORE is a non-judicial remedy mechanism that reviews human rights abuses stemming from the operations of Canadian companies operating abroad in the garment, mining, and oil and gas sectors. The CORE is not able to comment on possible cases until an initial assessment is completed. These assessments are shared on the CORE's website, <https://core-ombuds.canada.ca/>.