

The Government of Canada appreciates the work of the UN Working Group on Business and Human Rights and the work on the thematic report focusing on Business and Human Rights: towards a decade of global implementation. Canada wishes to thank the working group for the opportunity to provide input, and welcomes constructive dialogue and engagement between the United Nations Special Procedures and States Parties on implementation of the UN Guiding Principles on Business and Human Rights.

The comments below are not exhaustive, but rather highlight existing practice, areas for potential further development and progress made. The implementation of Canada’s international human rights obligations is a shared responsibility between federal, provincial and territorial governments. This questionnaire however only contains responses by the federal government.

OHCHR Working Group on the issue of human rights and transnational corporations and other business enterprises – Questionnaire

Questions addressed specifically to States: Please provide information about the following aspects related to UNGPs implementation, including links to public documents wherever relevant.

UNGPs	Existing practice and challenges	Actionable goals and targets for the next decade
Commitment to implementing the UNGPs		
<p>State commitment to implement the UNGPs, e.g. National Action Plans, public statements, national baseline assessments.</p>	<p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>The Government of Canada is committed to promoting responsible business practices; and expects and encourages Canadian companies working internationally to respect human rights and all applicable laws, to meet or exceed international responsible business conduct guidelines and standards, to operate transparently and in consultation with host governments and local communities, and to conduct their activities in a socially and environmentally sustainable manner. This expectation applies to all Canadian companies, of any size, in all sectors. This commitment is embedded in Canada’s approach to Responsible Business Conduct Abroad: https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng</p>	
<p>State structures mandated to implement the UNGPs, e.g. government ministry tasked with implementation measures; allocation of internal resources.</p>	<p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>Within Global Affairs Canada, the Trade Commissioner Service promotes Canada’s commercial interests abroad and works with its network of domestic regional offices</p>	

	<p>and Missions around the world to promote Responsible Business Conduct abroad and to support the implementation of best practices including the UNGPs. Promoting and supporting Responsible Business Conduct abroad is integrated in Global Affairs Canada’s policies and practices. The Responsible Business Fund is a key element in Global Affairs Canada’s efforts to advance responsible business conduct abroad. It is designed to enable Missions and the Regional Business Network (RBN) in Canada to implement Responsible Business Conduct initiatives consistent with the Department’s mandate and has supported more than 400 Responsible Business Conduct initiatives across the globe since 2009.</p>	
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Regulatory and policy efforts	Existing practice and challenges	Actionable goals and targets for the next decade
<p>Legal and regulatory developments that enable or require business enterprises to respect human rights, e.g. mandatory human rights due diligence, duty of care, reform of securities law</p>	<p><u>Export Controls</u></p> <p>In September 2019, Canada made legislative amendments to the Export and Import Permits Act (EIPA), the law that forms the basis of Canada’s export control system. These amendments formally enshrined respect for international human rights law as a criterion used in assessing permit applications. The legislative amendments also enshrined a “substantial risk test” in the EIPA, whereby a permit application must be denied if there is a substantial risk, after any mitigation measures are applied, that the transfer of military goods or technology would lead to a serious violation of international human rights law.</p> <p><u>Forced Labour</u></p> <p>Since July 1, 2020, Canada prohibits the import of goods</p>	

	<p>produced in whole or in part by forced labour. This prohibition, which applies to all goods, irrespective of their country of origin, is an additional tool at Canada's disposal to combat forced labour globally, and fulfills a labour obligation taken in the context of the Canada-U.S.-Mexico Agreement.</p> <p><u>2020 Supreme Court case on Nevsun</u></p> <p>The 2020 decision of the Supreme Court of Canada's in <i>Nevsun Resources Ltd v Araya</i> held that corporations operating with forced labour practices abroad are not excluded from liability in Canada for their international human rights violations or breaches to universal norms of international law</p>	
<p>Legal or regulatory developments that enable or require reporting and transparency on how business enterprises address human rights risks (own activities and value chain)</p>	<p>There are no express federal statutory obligations in Canada requiring businesses to engage in corporate due diligence in respect of human rights matters.</p> <p><u>Extractive Sector Transparency Measures Act</u></p> <p>Under Extractive Sector Transparency Measures Act, all oil, gas and mining companies are required to report on an annual basis all payments made to governments in Canada and abroad, including Aboriginal governments, and state-owned entities where the payments are made in relation to the commercial development of oil, gas or minerals and the payment amount is C\$100,000 or more to a single payee.</p> <p><u>Bill S-216: An Act to enact the Modern Slavery Act and to amend the Customs Tariff is</u></p>	

	<p>currently at second reading in the <u>Senate</u>. If passed into law, the Bill will require certain entities to publicly report the measures they have taken to prevent and reduce the risk that child labour or forced labour was used at any step in the production of goods within Canada or elsewhere in the entities' supply chain for imported goods. The Bill will also restrict trade in imports of any goods manufactured or produced, in whole or in part, by child labour, adding to the prohibition on importing goods made with forced labour introduced earlier this year.</p>	
<p>Legal or regulatory developments that enable or require financial institutions, including institutional investors, to embed respect for human rights throughout their core business activities</p>	<p>In respect of requirements in the Financial Institution statutes, Bank Act, Trust and Loan Companies Act and Insurance Companies Act, there is no requirement. Canada does not have federal legislation that applies to capital market investors generally, however there may be requirements for certain types of institutions (e.g., export credit agencies).</p> <p>Canada's response does not cover provincial developments; however, the activities of non-bank financial institutions may be subject to provincial regulation, which differs in each province. There have been recent developments regarding ESG (environmental social governance) disclosure at the provincial level. Also, under the Canadian (provincial) securities laws, public companies must disclose all information, including information about environmental and social issues that are 'material' to an investor.</p>	

<p>Incentives for responsible business (e.g. sanctions for practice that breaches human rights standards; or, “carrots” or “sticks” by export credit or finance institutions to encourage responsible business)</p>	<p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>Canada’s current approach to Responsible Business Conduct is founded on voluntary mechanisms that reflect the objectives of the <i>UNGPs</i>, and, the <i>OECD Guidelines</i>; providing for accessible, low cost and constructive dispute resolution between Canadian companies and concerned parties. Canada’s dispute resolution mechanisms are Canada’s National Contact Point (NCP) for Responsible Business Conduct and the Canadian Ombudsperson for Responsible Enterprise (CORE). Although voluntary, Canada’s dispute resolution mechanisms are robust. Not collaborating in good faith could result in a recommendation to deny or withdraw Government of Canada trade advocacy support and future financial support from Export Development Canada (EDC).</p>	
<p>Guidance on human rights expectations for business enterprises, including financial institutions</p>	<p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>Canada expects and encourages Canadian companies working internationally to respect human rights. The Government provides Responsible Business Conduct related guidance to the Canadian business community, including through Canadian embassies and missions abroad. Canada’s network of diplomatic missions abroad actively promote responsible business practice and creates opportunities for relationship building through conferences, workshops and other activities involving companies, representatives of</p>	

	<p>host governments, civil society, and communities.</p> <p>In order to be eligible for Government of Canada trade advocacy support abroad for a business activity, a Canadian company must sign an Integrity Declaration that attests it has not been convicted or sanctioned for bribery or corruption, will not engage in such illegal activity and has discussed with a trade commissioner the issue of corruption in the market, the company's own compliance regime and the Corruption of Foreign Public Officials Act (CFPOA). It also states that the company is aware of the Government's expectations that it operate in a manner consistent with Responsible Business Conduct best practices.</p> <p><u>Export Controls</u></p> <p>Canadian exporters and brokers of strategic and military goods and technology have a responsibility to conduct due diligence verifications of actual and potential foreign customers and end-uses of such goods and technology. To assist them, Canada has published the Export and brokering controls handbook. The Handbook sets out the Government of Canada's expectations and provides examples of questions to address these risks, including those related to human rights.</p>	
<p>Integration of the UNGPs in other policy tools oriented to responsible business (e.g. do other policy instruments relating to responsible business or "CSR" refer to the UNGPs, or if not are there plans to strengthen alignment)</p>		

Human rights at the “state-business nexus” – leading by example	Existing practices and challenges	Actionable goals and targets for the next decade
<p>State efforts to protect human rights among business enterprises that are owned or controlled by the State, and when providing funding or other support to business. E.g., export credit agencies.</p>		
<p>State efforts to protect human rights when contracting with businesses to provide services, e.g., health care, social security, education.</p>		
<p>State efforts to protect human rights through public procurement</p>	<p><u>Human Trafficking/Forced Labour/Child Labour and Supply Chains</u></p> <p>Through the National Strategy to Combat Human Trafficking (2019 -2024), hereinafter referred to as the National Strategy, the Government of Canada committed to address the risk of human trafficking in procurement supply chains. Launched in September 2019, the National Strategy includes specific commitments to: update the Code of Conduct for procurement to outline expectations for suppliers on human rights and labour standards; and to conduct a risk assessment of human trafficking, forced labour and child labour in procurement supply chains.</p> <p>These efforts aimed at ensuring respect for human rights in public procurement are being led by Public Services and Procurement Canada (PSPC), the central purchasing entity for the federal Government.</p> <p>Currently, PSPC is updating its Code of Conduct for Procurement and is recruiting professional services to conduct a risk assessment in order to identify which goods purchased by PSPC are at greater risk of having been produced using</p>	<p><u>Human Trafficking/Forced Labour/Child Labour and Supply Chains</u></p> <p>The results of the risk assessment will allow Public Services and Procurement Canada (PSPC) to prioritize future efforts by sector (e.g., apparel, furniture) and identify options to best support suppliers of high-risk goods in addressing those risks. Informed by these initiatives, and as part of planned actions under the National Strategy, PSPC will also create information resources for suppliers to be aware of risks in their supply chains (2021-22); and create requirements for suppliers of high-risk goods to address risks in their supply chain (2022-23). These concrete initiatives will help ensure that the potential of forced labour in Government of Canada procurement supply chains is proactively mitigated.</p>

	<p>human trafficking, forced labour, and child labour.</p> <p>This work builds upon the existing Ethical Procurement of Apparel initiative, which requires suppliers to self-certify that they and their direct Canadian and foreign suppliers comply with a set of fundamental human and labour rights. Among these rights are freedom from child labour, forced labour, discrimination and abuse, as well as access to fair wages and safe working conditions. Since September 2018, all new apparel procurement contracts entered into with the Government of Canada include the ethical procurement certification.</p>	
State efforts to protect human rights through development finance		

Policy coherence at the national, regional, and international levels	Existing practice and challenges	Actionable goals and targets for next decade
<p>Horizontal and vertical policy coherence, e.g., coordination on business and human rights policies across government agencies and departments, at multiple levels of government (e.g. BHR and SDG NAPs cross-reference or are integrated, government training curriculum on BHR, NHRI recommendations to government)</p>	<p><u>Global supply chains</u></p> <p>An informal interdepartmental working group on global supply chains has been meeting since 2017 to share information and ensure domestic policy coherence and consistency in international communications and reporting. The group has been led by the Labour Program of Employment and Social Development Canada (ESDC), and includes the participation of officials from: Global Affairs Canada; Innovation, Science and Economic Development Canada; Justice Canada; Public Safety; Public Services and Procurement Canada; Natural Resources Canada; and the Canada Border Services Agency. Participants from the Privy Council Office have also joined recently.</p>	

	<p>The Labour Program, with the support of the interdepartmental working group on global supply chains, conducted public consultations with a range of stakeholders on possible measures to address labour exploitations in supply chains in Spring 2019. Various international models of supply chain legislation were discussed with stakeholders to consider lessons learned, best practices, and whether or not elements of these models could be appropriate for the Canadian context. Depending on the legislative model used, supply chain legislation could mandate businesses operating in a certain jurisdiction to identify, prevent, mitigate and account for human rights (including labour rights) violations in their operations and supply chain legislation.</p> <p><u>Labour Trafficking</u></p> <p>In 2020, a Labour Trafficking Working Group was created under the Public Safety Canada led Human Trafficking Taskforce. The Working Group includes representatives from Public Safety Canada, Public Services and Procurement Canada, Global Affairs Canada, the Canada Border Services Agency, the Royal Canadian Mounted Police, the Public Prosecution Service of Canada, Justice Canada, and Immigration, Refugees and Citizenship Canada. Its mandate is to discuss and shape the Government of Canada's response to human trafficking for forced labour, including by providing input and support on work led by members related to labour trafficking; and by monitoring and discussing relevant developments on labour trafficking and emerging trends.</p>	
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	<p>In September 2018, Canada jointly launched the “Principles to Combat Human Trafficking in Supply Chains” with its partners the United Kingdom, United States, Australia and New Zealand, as part of the Five Eye’s Network. These principles serve as a framework for governments to take action against human trafficking in domestic and international supply chains. Canada and the other four countries have a working group to discuss and oversee the implementation of the Principles.</p> <p><u>Responsible Business Conduct Communities of Practice</u></p> <p>Global Affairs Canada has established two Communities of Practice related to Responsible Business Conduct. An internal Global Affairs Canada Community of Practice brings together divisions from across the Department whose work intersects with Responsible Business Conduct. At the Federal level, Global Affairs Canada hosts regular inter-departmental meetings of the Community of Practice to ensure policy coherence across Government of Canada policies and practices related to Responsible Business Conduct.</p>	
<p>Business-related policy with other State and businesses (e.g. trade and investment agreements, investor-state contracts)</p>	<p><u>Trade and Investment agreements</u></p> <p>Promoting responsible and sustainable business practices is a pillar of Canada’s inclusive approach to trade. This includes advancing dedicated provisions that seek to respect Indigenous and human rights in its trade and investment agreements. These provisions are advanced throughout the whole agreement, including in the</p>	<p><u>Trade and Investment agreements</u></p> <p>Canada will continue to seek opportunities to integrate these important commitments related to human rights, responsible business practices, and other intersecting issues, with the goal of making these provisions and chapters standard in all of Canada’s trade and investment agreements.</p>

	<p>preamble, labour, investment, and trade and gender chapters. Since 2009, most of Canada's Free Trade Agreements (FTAs) preambles reaffirm the Parties' commitment to respect the values and principles of democracy, and to protect and promote the fundamental freedoms of human rights as identified in the Universal Declaration of Human Rights or similar international standards such as the UN Charter. More recently, Canada has sought references in the preamble of the importance of respecting Indigenous rights and to implement FTAs consistent with the United Nations Declaration on the Rights of Indigenous Peoples. In addition, Canada has also sought to mainstream human rights related provisions in FTAs with respect to gender equality and Indigenous peoples. This has included advancing dedicated chapters on Trade and Gender and Trade and Indigenous peoples. These chapters, among other things, reaffirm the Parties commitments to important international agreements on gender equality, women's and Indigenous rights, such as the Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Declaration on the Rights of Indigenous Peoples. To complement these dedicated chapters, Canada also seeks to mainstream gender responsive and inclusive trade provisions throughout its trade agreements to address barriers that women and Indigenous owned businesses face which limit or distort trade. As well, while a few of Canada's FTAs recognize the <i>OECD Guidelines for</i></p>	<p>To further advance Canada's approach to responsible business practices among its trading partners, Canada is exploring the possibility of developing and advancing a dedicated Responsible Business Conduct (RBC) Chapter in its model approach for future Free Trade Agreement negotiations. This chapter would seek to complement other chapter-specific RBC provisions in Canada's model trade agreement which appear in the anti corruption and transparency, CSR/RBC, Environment, Investment, and SME chapters.</p>
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	<i>Multinational Enterprises</i> as an internationally recognized standard to endorse, another key standard that is increasingly referenced in CSR provisions is the <i>United Nations Guiding Principles on Business and Human Rights (UNGPs)</i> .	
Across multi-lateral institutions (e.g. regional organizations, participation in other international processes on BHR, integration of BHR in multi-lateral finance and trade)		<p><u>Freedom Online Coalition</u></p> <p>Canada is a founding member of the Freedom Online Coalition (FOC), a partnership of 32 governments working to advance Internet Freedom. Coalition members work closely together to coordinate their diplomatic efforts and engage with civil society and the private sector to support Internet freedom – free expression, association, assembly, and privacy online – worldwide.</p> <p>Canada recently led the drafting of a <u>Joint Statement on Artificial Intelligence and Human Rights</u> (launched November 2020), which includes ten calls to action that FOC governments have committed themselves to, and encourage others to do the same. This Joint Statement was developed through a multi-stakeholder Taskforce on AI and Human Rights (T-FAIR) at the FOC, and through consultations with civil society.</p> <p>Canada will continue collaborating with FOC governments and members of T-FAIR in 2021 to put all ten calls to action into practice.</p>
Access to remedy	Existing practice and challenges	Actionable goals and targets for next decade
Effectiveness of judicial mechanisms to address business-related human rights abuse allegations	A key pillar of the UNGPs is access to remedy mechanisms, both judicial and non-judicial, which Canada takes very seriously. Canada has a strong domestic legal system, including legislation such as the Canadian	

	<p>Human Rights Act and the Canadian Charter of Rights and Freedoms, an independent judicial system, and strong national human rights institutions, such as the Canadian Human Rights Commission, all of which ensures access to an effective remedy if human rights abuses occur within our territory and subject to our jurisdiction. However, Canada does not agree that there is an obligation for a State to ensure access to a remedy for human rights abuses that occur outside of its territory. The extraterritorial application of domestic human rights law is highly problematic from a legal and practical perspective.</p>	
<p>Effectiveness of and access to non-judicial state-based processes, e.g.; OECD NCPs, NHRIs, multi-stakeholder grievance mechanisms, international grievance and regional mechanisms.</p>	<p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>Many of the Government's Responsible Business Conduct efforts are aimed at encouraging positive relations between companies and their stakeholders. When necessary, Canada has two dispute resolution mechanisms:</p> <p>Canada's National Contact Point (NCP) for Responsible Business Conduct. Any individual, organisation, or community (stakeholders) that believes an enterprise's actions or activities are not consistent with the Guidelines may lodge a formal request for review regarding a specific instance with the NCP of the relevant country.</p> <p>The Canadian Ombudsperson for Responsible Enterprise (CORE). With the specific focus on human rights, the appointment of the CORE provides a strengthened approach to address alleged human rights abuses arising from a Canadian company's operations abroad in the mining,</p>	

	<p>oil and gas, and garment sectors.</p> <p>Individuals or groups can contact either the CORE or the NCP, to file a complaint or to seek advice and guidance.</p>	
Multi-stakeholder platforms	Existing practice and challenges	Actionable goals and targets for next decade
Multi-stakeholder initiatives to support responsible business and accountability	<p><u>Financing for Development</u></p> <p>On May 28, Canada, Jamaica and the UN Secretary General, launched the initiative on <i>Financing for Development in the Era of COVID-19 and Beyond</i>, a pragmatic and solutions-oriented conversation on how to foster a large-scale, coordinated, and comprehensive multilateral response to the COVID-19 emergency, building on existing international commitments and engagements.</p> <p>Issues surrounding strengthening voluntary environmental, social and governance criteria, and ensuring that principles of inclusion, sustainability, gender equality and human rights are at the heart of financing and recovery efforts are featured in a number of policy options.</p> <p><u>Voluntary Principles on Security and Human Rights Initiative</u></p> <p>Canada is a member of the Steering Committee of the Voluntary Principles on Security and Human Rights Initiative, which guides companies on how to conduct their security operations while respecting human rights.</p> <p>Canada is a member of the working group promoting implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The guidance provides detailed</p>	<p><u>Financing for Development</u></p> <p>Canada will be working to advance select policy options developed through this initiative in the coming months and years.</p> <p>Canada and Jamaica will continue to co-lead this multilateral initiative, including any high-level follow-up meeting planned for 2021.</p>

	<p>recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices.</p> <p><u>Responsible Business Conduct of Canadian Companies Abroad</u></p> <p>Canada recognizes the importance of collaboration and partnerships in advancing Responsible Business Conduct. Policies and practices are in place to support and ensure that the activities undertaken by Canadian companies abroad can foster inclusive economic growth and the respect for human rights.</p> <p>The multi-stakeholder Advisory Body (MSAB) on Responsible Business Conduct was created in January 2018 to advise the Canadian government on the effective implementation and further development of its laws, policies and practices addressing business and human rights and Responsible Business Conduct for Canadian companies operating abroad in all sectors. Contributions of the MSAB and input received from all Canadians actively engaged on Responsible Business Conduct have been invaluable in the development of Canada’s policy.</p> <p>The MSAB is not currently active. Considerations with respect to the future direction of the MSAB are currently being considered in line with Canada’s Responsible Business Conduct Strategy renewal process.</p>	
Other relevant information	Existing practice and challenges	Actionable goals and targets for next decade
Please include information about other efforts and developments involving the State that you consider relevant		