

**T R A N S L A T I O N**

I-53/20

Under-Secretariat of International Economic Relations

**RBC**

Responsible Business Conduct

National Contact Point to the OECD

**FINAL STATEMENT**

**Teck & Quebrada Blanca Trade Union**

Specific Instance

February 7<sup>th</sup>, 2020.

**Table of Contents**

1.	Introduction	2
2.	The Parties	2
2.1.	Details of the Requesting Party	2
2.2.	Details of the Company	2
3.	Summary of the Notification	3
4.	Summary of Teck's Reply	5
5.	Evaluation carried out by the National Contact Point for the Specific Instance	6
5.1.	Scope of the Evaluation	6
5.2.	Applicability of Guidelines	7
6.	Good Offices of the NCP	8
6.1	Remarks and Recommendations of the NCP	9
6.2	Follow Up	10
ANNEX I	Mediation Agreement	11
ANNEX II	Procedure before the NCP	15

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## **1. Introduction**

The National Contact Point for Chile (hereinafter, the NCP) before the Organization for Economic Cooperation and Development (hereinafter, the OECD), in connection with the OECD Guidelines for Multinational Enterprises (hereinafter, the Guidelines), based on the Division of Responsible Business Conduct of the Under-Secretariat of International Economic Relations, has issued the *Final Statement* contained herein.

The *Final Statement* describes the process and outcomes of the Specific Instance and the talks facilitated by the NCP after receiving the request for review. It is based on information received from the Parties and the results of the dialogue meetings.

It should be noted that the confidential information submitted to the NCP in the course of the procedure has not been used in the preparation of this statement.

The Final Statement marks the closing of the procedure followed before the NCP.

## **2. The Parties**

### **2.1. Details of the Requesting Party**

The Quebrada Blanca Trade Union (*Sindicato de Trabajadores Compañía Minera Quebrada Blanca*) was founded on August 9<sup>th</sup>, 1993. At the time of submitting the request for review, it had 150 associate members.

### **2.2. Details of the Company**

Teck (hereinafter, the Company) is the largest diversified resource company in Canada, focused on the production of coking coal, copper, zinc, energy, other metals, fertilizers and

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industrial products. It is one of the top 10 copper producers in America. In Chile, through *Teck Resources Chile Limitada*, it is involved in four copper operations and projects, namely: Carmen de Andacollo, Quebrada Blanca, NuevaUnion, and Quebrada Blanca Phase 2.

### **3. Summary of the Notification**

On November 29<sup>th</sup>, 2017, the Trade Union submitted a request for review before the Chilean NCP, which identifies alleged violations of the Guidelines by the Company, namely in chapters V. Employment and Labor Relations, and VI. Environment.

In accordance with information provided by the Requesting Party, the alleged violations mentioned in its presentation refer to actions and omissions committed by the Company during the process of preparation and development of the collective bargaining exercise for the 2017 period, and to other practices related to the ordinary relationship between workers and the Company.

In particular, the Requesting Party has reported alleged violations of the Guidelines in matters related to the areas of unionization and collective bargaining, equal opportunities and non-discrimination, transparency and timely delivery of relevant information for the collective bargaining process, health and safety processes in the workplace, and worker training.

Additionally, in the request for review, the Requesting Party has identified alleged breaches by the Company in the following areas covered by the Guidelines: implementation of measures for the proper management of waste which is harmful for the environment, thus violating environmental guidelines

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referring to the areas of preventive environmental management and environmental performance in the Company's activities; adequate delivery of information to citizens and workers about the potential impacts on the environment by the Company's activity, health and safety; implementation of communication and consultation processes with directly affected communities; prevention or mitigation measures, and prevention or mitigation of serious damage to the environment and health conditions arising from its activities.

**Recommendations mentioned in the request for review:**

- Charter V: Employment and Labor Relations:
  1. (b), (e); 2. (a), (b), (c); 3; 4. (a), (c); 5, 6, 7 and 8.
- Chapter VI: Environment
  1. (a), (b) and (c); 2. (a) and (b); 3; 4; 5; 6 (c) and (d); 8.

**Outcomes expected by the Requesting Party arising from the procedure carried out by the Chilean NCP:**

The Trade Union requests the good offices of the Chilean NCP to open a dialogue with the Company, at a corporate level, aimed to collectively evaluate possible improvements that may contribute to strengthening the relationship and communication channels between the Parties, leading to commitments or agreements.

In particular, the Requesting Party proposes to address issues related to preventive and response measures (such as the generation of opportunities for investigation when complaints are submitted) for the disputes that, according to the

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Requesting Party, still exist in areas such as safety and prevention of accidents in the workplace, delivery of relevant information in a timely manner, strengthening of communications between the Company and their workers, encouraging early and informed dialogue, especially in those matters decided by the Company involving changes or impacts relevant to the worker's conditions.

**Summary of Teck's Reply**

On April 27<sup>th</sup>, 2018, a reply about the Trade Union's submission is received from the Company.

The Company said there was no ongoing controversy. In particular, regarding the complaints raised about collective bargaining, they said that the collective bargaining process had concluded in accordance with current labor regulations, including all the relevant stages, which process finished with the signing of a new collective agreement with a two-year validity.

Faced with the Requesting Party's complaints about alleged discriminatory actions or omissions, work-related safety issues, and delivery of information and communications between the Parties, in general, the Company reported to have internal policies and procedures in place that meet the standards set by both the OECD Guidelines and Pillar 2 of the United Nations Guiding Principles on Business and Human Rights. In particular, the Company mentions their political commitment, reflected in their "Human Rights Policy"; Due Diligence processes, such as the study of "Economic and Social Impact of Minera Teck Quebrada Blanca in Chile and the Tarapacá Region", and remediation

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mechanisms.

Briefly, the Company concludes that this request for review lacks sufficient basis for its evaluation and submission before the Chilean NCP.

**5. Evaluation carried out by the National Contact Point for the Specific Instance**

**5.1 Scope of the Evaluation**

In his/her *draft statement*, the Chilean NCP concluded, based on the information provided, that there is a direct link between the Parties, considering that the Requesting Party is a trade union of the Company being requested in this procedure. He/she concluded that the Requesting Party has supplied sufficient information to justify their interest in this request for review. Additionally, he/she concluded that the requirements granting competence to the Chilean NCP are met, since the information refers to violations allegedly carried out within the national territory. Thus, based on the criteria established in the Guidelines, the NCP was of the opinion that this request for review meets the requirements for further consideration.

When offering their good offices, the NCP's objective is to: (a) help the Parties to fully understand the principles set forth in the Guidelines and the issues raised by the Requesting Party, i.e. the Trade Union, and (b) provide a neutral space where the Parties may seek to resolve the issues identified in the request for review submitted to the NCP, and, if possible, where appropriate, reach a mutual agreement allowing them to move forward.

In accordance with the above, the Chilean NCP offered the

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Parties his/her good offices with the purpose of achieving a mutually acceptable result within the framework of a better understanding of the principles set forth in the Guidelines. Both Parties accepted the NCP's offer. The Company included some additional considerations in their acceptance. The Chilean NCP took the necessary steps to ensure the development a careful process, considering the concerns raised by the Company.

The Chilean NCP shared the request for review with the Canadian NCP, keeping them informed of the evolution of the process, and shared the results prior to publication thereof.

## **5.2. Applicability of the Guidelines**

The Chilean NCP expects all multinational companies operating in Chile to adhere to the Guidelines. As stated in the Guidelines' Preface, they aim to ensure that the operations of enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises

From the background information gathered, the Chilean NCP concluded that the company in question, *Compañía TECK Quebrada Blanca SA*, which is part of *Teck Resources Chile Limitada*, has the form of organisation and carried out operations of a multinational nature, and their activities could be linked to the issue raised in the request for review regarding the Quebrada Blanca open pit mine, located in the Region of Tarapacá.

The request for review stated that the alleged breaches

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mentioned by the Requesting Party refer to the specific directives set forth in Chapters V. Employment and Labor Relations and VI. Environment, of the Guidelines. In particular, the issues in question are considered relevant under the above-mentioned chapters and should be submitted to a more detailed examination. However, this does not constitute a declaration about the Company's responsibility for non-compliance proposed by the Requesting Party.

The Chilean NCP considered that the expectations stated by the Requesting Party for her procedures allow to guide his/her exercise to areas of the Guidelines on which he/she will be able to ensure a positive contribution to an understanding between the Parties, in compliance with national regulations.

#### **6. Good Offices of the NCP**

The general objective of the talks process held was to improve the understanding of the context, the positions and interests of the respective Parties and to explore, develop and agree actions to help find a solution for the issues mentioned above.

In particular, the purpose was to contribute to the resolution of the issues raised by the Parties during the first mediation session, taking into account the declarations submitted by the Trade Union and the Company, described in the initial evaluations carried out by the NCP, i.e. issues related to the dialogue between the Trade Union and the Company.

The Parties state that the scope of the dialogue relates to the implementation of the OECD Guidelines for Multinational Enterprises and; therefore, they were not seeking to replace,

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challenge or alter the rules and matters governing collective bargaining, and which are an essential part of any process of collective bargaining regulated by legislation.

#### **6.1 Remarks and Recommendations of the NCP**

The Chilean NCP valued Teck's willingness to carry out a dialogue leading to reach an agreement based on the terms of reference agreed by both Parties. Also, the Chilean NCP valued the Trade Union's willingness to carry out a dialogue and seek an agreement.

The exchange of views during the talks, and the subsequent validation process of the agreements, showed the ability of both parties to see the situation from the perspective of the other party, which resulted in the Mediation Agreement. Said agreement, at the will of both Parties, is public and forms part of this *Final Statement* by way of an annex.

Taking all of the above into consideration, the Chilean NCP concludes this statement with the following recommendations:

##### **Recommendation by the Chilean NCP for both Parties**

We congratulate both Parties for the agreement reached and recommend that they ensure compliance with its provisions, reflected in the *Mediation Agreement* dated September 5<sup>th</sup>, 2019, through an effective and constructive dialogue, promoting consultations and cooperation.

##### **Recommendations by the Chilean NCP for the Company**

We congratulate the Company for keeping a Human Rights Policy, remediation mechanisms and actions that seek to implement Due Diligence. The NCP takes this opportunity to remind the Company of the importance of ensuring that all their

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employees are aware of these initiatives, as well as the importance of reinforcing the implementation of risk-based Due Diligence.

## **6.2. Follow Up**

The Parties agreed to request the NCP to follow up on the fulfillment of the commitments made, translated into the *Mediation Agreement* dated September 5<sup>th</sup>, 2019. For this, each Party will prepare a compliance report by August 2020 and March 2021, which will be addressed to the NCP. The NCP will send a communication to that effect one month in advance reminding each Party of their commitment to send the report. The NCP will review the reports and provide feedback to the Parties and possible recommendations for complying with the agreement, through a report that will be public in each opportunity.

These reporting instances will also be an opportunity for the NCP to follow up on his/her recommendations, set forth in section 6.1 of this Final Statement.

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The Guidelines state that confidentiality of the procedure will be kept throughout the process. The information provided and opinions expressed throughout the full process will be kept confidential, unless the party in question gives their consent for the disclosure of such information or opinions, or when the non-disclosure is contrary to the provisions set forth in the national legislation.

Pursuant to the principle of transparency governing the duties of the NCP, the Final Statements are published in the

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NCP's website, as well as reported and sent to the OECD Working Group on Responsible Business Conduct.

Before the *Final Statement* is issued, the Parties are given the opportunity to comment on the draft, bearing in mind that the wording of the statement falls always under the responsibility of the NCP, who will decide the final version of the document.

The Chilean NCP is grateful for the commitment of both Parties, as well as for the support received from the Canadian NPC in the carrying out of this specific task.

**Marcela Paiva Véliz**

Chilean National Contact Point to the OECD  
Division of Responsible Business Conduct - SUBREI

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**ANNEX I: Mediation Agreement**

**MEDIATION AGREEMENT**

**The Parties**

Name: SINDICATO DE TRABAJADORES COMPAÑÍA MINERA QUEBRADA BLANCA  
In the document also referred to as the Trade Union or a Party,  
and together, the Parties.

Name: TECK RESOURCES CHILE LTDA.

In the document also referred to as Teck, the Company or a  
Party, and together, the Parties.

**Mediator/Facilitator**

Name: Marcela Paiva Véliz

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In Santiago, Chile, on this 5<sup>th</sup> day of September 2019, after joint collaboration dialogue carried out before the Chilean National Contact Point, the following mediation agreement has been reached:

Recognizing,

The value of the National Contact Point (NCP) mechanism set forth in the OECD Guidelines;

We state that,

Teck respects and safeguards the freedom of all their workers, and constantly seeks to interact with them, and the trade union organizations that represent them, in a frank, direct, open, fair, and transparent fashion, and respecting their representatives, the applicable legislation and OECD's principles regarding labor relations;

The Trade Union respects and safeguards the rights of their members and is permanently seeking to contribute to their commitment to develop the Company and to interact with those who manage them in a frank, direct, open, fair, transparent fashion, and respecting their representatives, the applicable legislation and OECD's principles regarding labor relations.

Within this framework, we reaffirm our commitment to implement the following actions in order to strengthen the coexistence between Compañía Teck Quebrada Blanca (Teck Company responsible for the Quebrada Blanca operation), the *Sindicato de Trabajadores Compañía Minera Quebrada Blanca* and their associate members:

#### **COMMUNICATIONS**

1. Keep the practice of monthly meetings of the Trade Union

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with the Human Resources Senior Management and carry out a joint review of the way in which commitments and actions are established in these instances, the identification of responsible actors and deadlines and the mechanisms for monitoring and informing progress, compliance or eventual deviations from the agreements reached.

2. Keep the quarterly presentations submitted by the General Manager to the Assembly and the previous meetings with the union leaders, delivering the presentations to workers, creating an opportunity for consultation after the meetings through mailboxes or other information channels to be implemented, and responding to them in a timely manner.
3. Ensure knowledge by all workers of the complaint mechanisms on labor and sexual harassment and compliance - both regarding national regulations and internal codes-, including through training to union leaders and workers in general.

**TRANSITION TO QB2**

4. Teck is committed to ensuring that workers will know, with reasonable notice at each stage of project development, how the future operation and its facilities will be and their material conditions for future work.
5. Teck undertakes to communicate clearly, with reasonable early notice at each stage of project development, the deadlines, mechanisms and conditions of the transition process to the operation of QB2, mitigating as far as possible the possible adverse effects on workers, and

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creating the opportunities to respond to their doubts and concerns.

**TRANSPARENCY AND BALANCED RELATIONS WITH THE TRADE UNION**

6. Teck will inform the Company's existing procedures and the legal framework applicable to transfers of workers from one employer to another, clarifying in particular the way in which they have operated with respect to QB workers transferred to TRCL, and considering the particular nature of the change.
7. Teck and the Union recognize the right, authority and freedom of administration by the Company on matters related to the relationship with each one of their employees, which must take place within and according to the current legal framework, guaranteeing the right of workers to decide their forms of organization and representatives, and refraining from interfering in matters relative to trade union organizations.

**SAFETY AND ENVIRONMENT**

8. In order to evidence the commitment of the Company and its workers to safety, occupational health and environmental protection, the Company will communicate regularly with the workers and the Trade Union to inform the measures adopted regarding this matter.

**FOLLOW UP**

9. The Parties, by mutual agreement, request the NPC to monitor compliance with the commitments made. For that purpose, each Party will prepare a compliance report by August 2020 and March 2021 addressed to the NCP. The NCP

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will send a communication to that effect one month in advance in connection with the report to be delivered by each Party. The NCP will evaluate the reports and provide feedback to the Parties, including possible recommendations on compliance with the agreement, through a report on each occasion, which will be public.

10. The Parties reaffirm their commitment to keep an effective and constructive dialogue and undertake to collaboratively address issues of common interest.

This Mediation Agreement is signed in three copies. The Parties agree that this instrument will be public.

#### **ANNEX II: Procedure before the NCP**

##### **Procedure leading to the Draft Statement**

On December 11<sup>th</sup>, 2017, the NCP notifies the Trade Union of their request.

On December 13<sup>th</sup>, 2017, the NCP notifies the Company by registered letter.

On December 21<sup>st</sup>, 2017, the NCP communicates via email with its Canadian counterpart and sends them information to the Company's headquarters in Canada.

On January 4<sup>th</sup>, 2018, the NCP sends a letter to the National Institute of Human Rights (*Instituto Nacional de Derechos Humanos*, INDH) requesting an expert report on the human rights perspectives of the request for review. On January 10<sup>th</sup>, the INDH delivers the required report.

On February 14<sup>th</sup>, 2018, the Company replies to the communication delivered by the NCP, indicating that they refuse

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their offer of good offices.

On April 27<sup>th</sup>, 2018, after several meetings and communications between the Company, the Chilean NCP and the Canadian NCP, the Company replies to the complaint submitted by the Trade Union, where they express their position regarding each of the claims contained in the submission.

On April 30<sup>th</sup>, 2018, the Canadian NCP informs the Chilean NCP of the results of a meeting held with the Company's executives in that country on April 20<sup>th</sup>, 2018.

On August 9<sup>th</sup>, 2018, the Chilean NCP makes telephone contact with the Requesting Party in order to update the details of the process, informing that the draft initial statement is being prepared.

On September 25<sup>th</sup>, 2018, a document is delivered containing the first version of the draft statement, giving the Parties a term of 10 days for sending their comments. During such period, the Company contacts the Chilean NCP to arrange a meeting.

On November 20<sup>th</sup>, 2018, the Chilean NCP sends an email to the Company to resume the talks and arrange a meeting date. On November 23<sup>rd</sup>, 2018, the Company declares that they will request a meeting, by means of the lobby law, with the Director General of DIRECON, to express the Company's views and concerns about the case.

On December 5<sup>th</sup>, 2018, the Chilean NCP meets with the Canadian counterpart, an opportunity used to exchange information and evaluate the latest developments, on the margins of the meetings of the Working Group on Responsible Business Conduct of the OECD.

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On January 28<sup>th</sup>, 2019, the new Trade Union leaders, following communications between them and the NCP, inform to the NCP of their interest to continue the procedures with the main purpose of achieving a constructive dialogue with the Company.

On February 22<sup>nd</sup>, 2019, the Chilean NCP meets with the Company to address some Company's concerns regarding procedural issues, and the powers of the Chilean NCP. The Company agrees to send comments to the draft initial statement. The Chilean NCP commits to the preparation of a new draft initial statement, to be delivered during the month of March.

On March 18<sup>th</sup>, 2019, after several meetings and communications held between the NCP and the Company, the NCP receives a letter from the Company with its observations to the draft initial statement, via email and regular post. In this communication, the issues of concern that the Company has raised to the Chilean NCP throughout the process are summarized.

On April 3<sup>rd</sup>, 2019, the Chilean NCP sends a new draft initial statement to the Parties.

On April 4<sup>th</sup>, 2019, a new official is appointed as Chilean NCP.

On April 30<sup>th</sup>, 2019, the Company communicates by means of a letter and email their willingness to engage constructively in the good offices and makes some observations to be taken into account in the future process.

#### **Good Offices Procedure**

The Chilean NCP began the more detailed examination phase by meeting and communicating by telephone with the Parties separately.

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On May 22<sup>nd</sup>, 2019, a meeting was held with Trade Union representatives followed by several phone calls with the leaders' board.

On May 15<sup>th</sup> and June 27<sup>th</sup>, 2019, there were meetings with Company representatives.

After these meetings, the Chilean NCP proposed the terms of reference and a confidentiality agreement as the basis to start the talks facilitation/mediation process. Both documents were commented and agreed upon by the Parties prior to the mediation sessions.

On September 2<sup>nd</sup> and 3<sup>rd</sup>, 2019, three work sessions mediated by the NCP were held.

On September 5<sup>th</sup>, 2019, the final agreement was signed.

On September 12<sup>th</sup>, 2019, the final agreement was validated by both Parties with some mutually agreed changes.

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Translated by Pamela Gallardo V., Res. N° 1,703 dated 28 July 2014.

DONE IN SANTIAGO, CHILE, on this 11<sup>th</sup> day of March 2020.

ALEJANDRA VERGARA ZAPATA

TRANSLATOR

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Revised by the Chilean NCP, on the 12<sup>th</sup> day of March 2020.

In case of discrepancy, the Spanish version shall prevail.