



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

Standing Committee on International Trade

EVIDENCE

NUMBER 049

PUBLIC PART ONLY - PARTIE PUBLIQUE SEULEMENT

Monday, February 13, 2023

Chair: The Honourable Judy A. Sgro



Standing Committee on International Trade

Monday, February 13, 2023

• (1105)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I call the meeting to order.

This is meeting 49 of the Standing Committee on International Trade.

Welcome, everybody. I give a special welcome to our substitutes, whom we have on all sides this morning.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Therefore, members are attending in person in the room and remotely by using the Zoom application.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. When speaking, please speak slowly and clearly. For those participating by video conference, click on the microphone icon to activate your microphone, and please mute it when you are not speaking.

With regard to interpretation, those on Zoom have the choice at the bottom of their screens of floor, English or French. Those in the room can use the earpiece and select the desired channel.

I remind you that all comments should be addressed through the chair. Members in the room, if you wish to speak, please raise your hand. Members on Zoom, please use the “raise hand” function. The clerk and I will manage the speaking order as best we can, and we appreciate your patience and understanding in this regard.

Please also note that during the meeting, it is not permitted to take pictures in the room or screenshots on Zoom.

In accordance with our committee's routine motion concerning technical tests for witnesses, I inform the committee that all witnesses have completed the required tests. Should any technical challenges arise, please advise me, and we will suspend the meeting in order to ensure that everyone has an opportunity to participate.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Wednesday, February 2, 2022, the committee is resuming its study of environmental and human rights considerations regarding Canadian mining firms abroad.

We have with us today two panels. On the first panel, by video conference from Export Development Canada, we have Rachel

Guthrie, vice-president of ESG strategy, outreach and reporting, and Sophie Roy, vice-president of the ESG customer success group. Also by video conference, from the Office of the Canadian Ombudsperson for Responsible Enterprise, we have Sheri Meyerhoffer, ombudsperson.

Welcome to you all.

We will start with opening remarks and then proceed with a round of questions from the members.

Ms. Guthrie, I invite you to make an opening statement of up to five minutes.

Ms. Rachel Guthrie (Vice-President, ESG Strategy, Outreach and Reporting, Export Development Canada): Thank you.

Good morning, Chair, honourable members, ladies and gentlemen.

It is a great pleasure to be with you today. We are happy to contribute to the committee's study of environmental and human rights considerations regarding Canadian mining firms abroad.

For the last several years, Export Development Canada has been guided by an agenda that puts the pursuit of sustainable, responsible, progressive and inclusive trade at the centre of its business operations. This agenda is built on the foundation of policies that deliver clarity and accountability in three key areas: number one, environmental sustainability; number two, business ethics and transparency; and number three, the protection of human rights wherever EDC's customers do business.

For those who are less familiar with EDC, let me take a moment to provide a quick primer.

EDC is a Crown corporation dedicated to helping Canadian companies succeed on the world stage. As international risk experts, we serve companies of all sizes and in all sectors of the economy. We provide a wide variety of financial and advisory solutions to help them grow their business with confidence.

As the committee may be aware, EDC operates on commercial terms. Throughout our history, we've been consistently profitable. Since our founding in 1944, EDC's business has also tended to reflect the size and nature of the Canadian economy. As natural resources drove Canada's economy, they also made up a large proportion of our lending and insurance portfolios. Today, as the economy grows and diversifies, so does EDC, such that our current portfolio and activities reflect sectors as wide-ranging as the economy itself.

EDC continues to play a role in supporting Canada's natural resources, including the mining sector, which is both dynamic and complex. Over the course of Canada's history, the sector has played a key role in this country's economic growth as a producer of much-needed raw materials in demand around the world. That legacy continues today, especially as critical minerals grow ever more important to the goal of a low-carbon economy.

In short, conducting business in a responsible manner is integral to EDC and is something that we take very seriously. Every transaction EDC approves has undergone a rigorous due diligence process reflective of industry's best practices and adheres to our international commitments. If we identify specific issues during this process, we will take steps to understand the issue and take appropriate action.

EDC has a well-established environmental and social risk management framework. It guides all of our business and is aligned to various international agreements and standards, including the OECD Common Approaches, the UN Guiding Principles on Business and Human Rights, and the Equator Principles. Our policies are publicly available on our website, as is our due diligence framework. They are regularly reviewed through a robust stakeholder engagement process.

Finally, I would like to highlight the important role EDC plays as a financial institution and how we look for opportunities—

The Chair: Just hold on one second, Ms. Guthrie.

Go ahead, Mr. Brunelle-Duceppe.

[Translation]

Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ): Madam Chair, unfortunately, there is a problem with the interpretation. It's very difficult for the interpreters to do the job they are being paid to do because the witness's audio is very poor right now.

• (1110)

[English]

The Chair: Just hold on for a minute. We'll suspend for a second until we can see what the difficulty is.

[Translation]

Mr. Alexis Brunelle-Duceppe: Were the sound checks done in advance?

[English]

The Chair: They were done beforehand.

[Translation]

Mr. Alexis Brunelle-Duceppe: Okay, I just wanted to be sure.

[English]

The Chair: I have to suspend for a minute until we make sure that everything is functioning properly. It was tested prior to starting the meeting.

• (1110)

(Pause)

• (1110)

The Chair: We'll resume the meeting.

The issue is with Ms. Guthrie. Your presentation is fading in and out. The translators have your written script and they feel they can follow that. There may be a problem after that when we get into the questions and answers. I understand you have a colleague who may have a better connection.

If you want to complete your opening remarks, during the questions we'll have to take it as we go in order to ensure that all of the members can hear you clearly.

Ms. Rachel Guthrie: Thank you, Madam Chair. I will resume.

Finally, I'd like to highlight the important role that EDC plays as a financial institution and how we look for opportunities to use our leverage and promote sustainable and responsible business practices.

From our perspective, an important element of our role is to identify risk, work with the company to identify ways to mitigate that risk, and then actively monitor progress. We believe that this is how we can have the biggest impact and drive the most change. To ensure that we are driving the right kind of change, we are continuously learning and continuously evolving our approach. Our priority is to ensure that we have the right processes in place to identify risks and make good decisions.

Thank you for your invitation to appear today.

• (1115)

The Chair: Thank you very much.

Now we move on to Ms. Meyerhoffer, please, for five minutes.

Ms. Sheri Meyerhoffer (Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise): Thank you, Madam Chair and honourable members of this committee, for your invitation to appear today. I look forward to your questions.

To begin, I would like to acknowledge that I am joining you today on the traditional unceded territory of the Algonquin Anishinabe people. Respect for indigenous rights is closely linked to the work of my office and to your study of environmental and human rights considerations, given that Canadian mining operations overseas frequently take place in remote areas, often on or alongside indigenous land. My team and I recognize and honour the enduring relationship between the Algonquin peoples and indigenous peoples around the world and their traditional territories.

Before providing my remarks, I would like to say a few words about my mandate. I am the Canadian Ombudsperson for Responsible Enterprise, or the CORE, as my office is referred to. I have a mandate to promote respect for human rights and responsible business conduct by Canadian garment, mining, and oil and gas companies operating abroad. My office also provides a complaint mechanism for individuals and communities who believe their human rights are negatively impacted by Canadian garment, mining, or oil and gas operations outside of Canada.

Canada is a leader on the world stage, including among G7 and OECD partners. Canada is also a leader when it comes to mining, with a significant global mining footprint. This means that Canadian mining companies have the potential to impact human rights and environment around the world.

My first remark is that Canada's responsible business conduct abroad strategy is clear: Our government expects Canadian mining companies to respect Canadian standards for human rights and environmental protection regardless of where they are doing business. Responsible business conduct, or RBC, includes respect for human rights and the environment.

Canadian mining companies also have a duty to respect the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. These two documents provide internationally recognized and respected guidance for human rights and environmental protection. This includes human rights and environmental due diligence, or HREDD.

My second remark is to reiterate the CORE's support for mandatory human rights and environmental due diligence legislation in Canada. We believe that mandatory due diligence legislation that applies to all sectors and that covers all human rights will advance corporate respect for human rights and help prevent human rights and environmental abuses from taking place.

This legislation will require companies to identify and address human rights and environmental risks and to put in place prevention and remediation measures to reduce the potential for harm to workers, communities and the environment. It will also reduce company costs, both financial and reputational. It will enhance Canada's leadership in protecting human rights and the environment wherever Canadian companies do business.

My third and final remark is that Canada has the capacity to strengthen effective redress for human rights and environmental harms arising from the operations of Canadian mining companies outside of Canada. This can be done by providing the CORE with the power to compel documents and witnesses.

I referred earlier to the United Nations Guiding Principles on Business and Human Rights. Those principles recognize the duty of states, including Canada, to ensure effective access to remedy for impacted individuals and communities.

The CORE currently has the power to conduct investigations, engage in mediation and, when appropriate, make remedial recommendations to Canadian companies and others. We also have a duty to report publicly and to follow up on our recommendations. These powers can have a positive impact. However, the CORE does not currently have the power to order Canadian companies to produce documents or witnesses. With these additional powers the CORE would have a greater positive impact.

Specifically, a CORE with powers to compel documents and witnesses would, first, provide access to effective remedies for impacted individuals and communities who do not have access to relevant information and who may face retaliation for exercising their rights. Second, it would incentivize Canadian companies to voluntarily participate in the CORE's complaint process, including by using consensual dispute resolution such as early resolution and mediation. Lastly, it would demonstrate that Canada is meeting its obligation to ensure that access to remedy is part of corporate accountability for human rights and the environment.

● (1120)

Thank you very much.

The Chair: Thank you very much.

We'll begin with questions. Mr. Seeback, you have six minutes, please.

Mr. Kyle Seeback (Dufferin—Caledon, CPC): Thank you very much, Madam Chair.

My first question is to EDC.

With regard to the mandate of EDC, the 2014 strategy mentioned that Canada's trade commissioner service can provide Canadian mining firms with contacts and advice related to identifying, managing and mitigating environmental and social risks, such as the risk of human rights abuses associated with their mining activities abroad. According to the strategy, the Government of Canada will not support Canadian mining firms that do not comply with corporate social responsibility guidelines and best practices.

What we heard at committee earlier is that companies that are not in compliance are still able to access trade commissioners. Do you have any evidence about that? Do you have a way to enforce this? Have you ever been notified that this has taken place? If you were notified, what steps did you take to remedy that situation?

Ms. Rachel Guthrie: As we have stated, conducting business in a responsible manner is core to how EDC conducts itself and is something that we take very seriously. We understand that we can't avoid all transactions in which environmental and social human rights risks and impacts may exist, regardless of how robust our environmental and social due diligence practices are.

Our approach allows us to use leverage and remedy. I'm actually going to pass it to my colleague, Sophie Roy, to answer your question regarding the trade commissioners.

Ms. Sophie Roy (Vice-President, ESG Customer Success Group, Export Development Canada): Good morning, and thank you for your question.

We're not in a position to attest today if the trade commissioners office actually follows process or provides support to companies with regard to the application of its own policies. Whenever we intervene and provide support to companies, we conduct our own due diligence to ensure that the companies are meeting our own standards to gain our support.

Mr. Kyle Seeback: Are you saying you don't have any information about access to trade commissioners by companies that may not be compliant?

Ms. Sophie Roy: I'm sorry, but I'm getting an echo.

Can you please repeat the question?

Mr. Kyle Seeback: Do you have any information about trade commissioners assisting companies that are not following the towards sustainable mining program, for example, or have been found to be in violation of some of these principles? Are they still able to access trade commissioners? Are you aware of that, and do you do anything to try to prevent that?

Ms. Sophie Roy: No, so we are not responsible for a trade commissioners office's support for Canadian companies. We are not aware of its due diligence process or when it does not provide support.

Mr. Kyle Seeback: Within your own governance structure, do you have a system in place that would look into things like that? You say you have some due diligence. What is that due diligence? What scrutiny are you applying to the assistance you're giving to Canadian companies and Canadian mining companies abroad in particular?

• (1125)

Ms. Sophie Roy: We have a robust due diligence framework for both environmental impacts and human rights impacts at EDC. Every transaction we support needs to go through this process. We take a risk-based approach and we prioritize transactions that have the potential of having severe human rights risks or impacts for further due diligence. We do the same for environmental issues.

EDC assesses the capacity of our customers to manage human rights risks and impacts. We use our leverage, whenever we can, to influence the actions of our customers to prevent and mitigate their human rights impacts on the ground. When higher residual risks are identified in a transaction, we will track and monitor the human rights performance of our customers.

EDC also plays a role in enabling remediation based on its connection to the harm. We do this for transactions in the mining sector, just like in every other sector that we support at EDC.

Mr. Kyle Seeback: Do you have a document that outlines that particular process you described in sort of very little detail? If you do, can you provide that guidance document to the committee so we can use that as part of our report?

Ms. Sophie Roy: Yes, absolutely. We'll be happy to provide that to you. All of our due diligence processes are accessible on our website as well, but we'll be happy to circle back with the committee.

Mr. Kyle Seeback: Thank you.

To CORE, we had some concerns raised by a witness who referenced two companies under investigation by your office, but this study is about mining firms abroad. By a little bit of further research, we learned that they have may have been involved in the garment industry. I don't know if you followed what happened at committee. Are there any investigations about mining companies right now with CORE, or is it just with respect to garment companies, likely in the Xinjiang region?

Ms. Sheri Meyerhoffer: We currently have 15 complaints with the CORE. There are 13 in the Xinjiang region, and two of those are mining companies. One of the mining companies is actively involved, and we're at the initial assessment stage of our process. One of the others has not responded to the complaint.

With regard to the one that's engaged, we are in the process of determining how we could work with them and the complainant to resolve the issues that are set out in the complaint, and we will decide at the end of the initial assessment whether we will be doing a mediation review for early resolution, and we'll be reporting on that.

With respect to the company that has not responded, we will be reporting at the end of our initial assessment the fact that they have not responded.

Mr. Kyle Seeback: Just to be clear, did you say 13 of the 15 complaints are in the garment industry?

Ms. Sheri Meyerhoffer: That's right.

Mr. Kyle Seeback: Thank you.

The Chair: Mr. McKay, you have six minutes, please.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair. I'll direct most of my questions to the CORE representative, Ms. Meyerhoffer.

It's good to see you again.

As you know, Bill S-211 is on the docket for March 6 for report stage and third reading. It's gone through the Senate, and it had a unanimous vote in the House. Then it went through the foreign affairs committee, and now it's back on the floor of the House. The witness who will follow you will say that it would be better if parliamentarians voted against this bill as it is counterproductive to the, quote, "momentum" around due diligence.

As my first question, given the resolution of your organization that Bill S-211 should pass as quickly as possible, what would you say to anyone, let alone the witness who will follow you, that Bill S-211 should not see the light of day?

Ms. Sheri Meyerhoffer: I want to start by stating that strong supply chain legislation is critical for preventing and addressing human rights abuses in global supply chains and ensuring that Canada remains competitive. I believe—my office believes—that Bill S-211 is a first step forward in strengthening respect for human rights by Canadian companies operating abroad. We support any efforts to strengthen supply chain transparency.

As you know, we believe that Bill S-211 can be strengthened. We submitted a brief to the Standing Senate Committee on Human Rights during its deliberations, and we suggested four ways to strengthen it. Those were to add fighting labour trafficking, to add the ability to make regulations identifying thresholds, to make reporting requirements more detailed and to strengthen oversight, including through independent audits and annual reports.

You can find our brief on Bill S-211 on our website, but to summarize, we support the legislation. We believe that it can be strengthened. We said in our brief that strengthening can happen through regulation. No law is perfect.

I think I'll stop there.

• (1130)

Hon. John McKay: You didn't have to stop there, but you can.

The argument on the other side is that they prefer due diligence legislation. There are only two countries that have due diligence legislation, Germany and France. The French are still fiddling around with their due diligence legislation. In fact, there's a report that says that the law is still very poorly applied. Some of the companies they'd hoped to get involved haven't even bothered filing a vigilance plan.

In the event that Bill S-211 does apply, what regulations do you think the government could attach to the bill that would move us a little bit further along towards what everyone would agree is an aspiration?

Ms. Sheri Meyerhoffer: Thanks for that question.

I just want to say that in the CORE's mind, in my mind, it's not an either-or of transparency legislation or human rights and environmental due diligence. They both serve a purpose, so I think they both have merit.

With respect to regulations, what we can look at is that the different sectors need to be treated differently, with maybe different thresholds within those sectors. Some sectors have more complex and longer supply chains. There are different situations for each sector that need to be, and we think can be, and should be, addressed through legislation.

Hon. John McKay: Okay. Basically, we're talking about what's reality and on the table and passable in this Parliament versus aspirational at this point.

I want to move from that point to your current mandate as it's set out. There are those who argue, me among them, that you should have the authority to compel documents and compel persons to give testimony before you. Has the lack of that authority hampered your ability to conduct your office?

Ms. Sheri Meyerhoffer: I'll go back to what I said when I responded about the complaints.

We now have some complaints that have come into the CORE. We are dealing with them. Some companies have refused to participate in our process. Having the power to compel witnesses and documents would provide my office with the powers needed to require company participation and avoid the need for human rights allegations to go to courts, a process that is less accessible and is expensive.

I think we have some indication now that not all companies are going to engage. The only way we could move forward and do a true, thorough job would be to have those powers. With others, I'll reiterate that our hope is that in most cases, and we're experiencing that now, we are able to work in a co-operative and productive manner with companies to address the issue, but that's not every situation, and we already have evidence of that.

Hon. John McKay: Thank you.

The Chair: Thank you very much.

We have Mr. Brunelle-Duceppe for six minutes, please.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you, Madam Chair.

My question is first for the representatives from EDC.

Do you count on the Office of the Canadian Ombudsperson for Responsible Enterprise to help you know if your organization is funding mining companies that have violated human rights?

• (1135)

[*English*]

Ms. Rachel Guthrie: Thank you very much for the questions.

I can't get into hypotheticals, but we do take responsible business and human rights very seriously here at EDC. If CORE were to have concerns about a company, we would definitely want to hear about them. Our due diligence process doesn't end at signing. We would want to learn more about the situation.

[Translation]

Mr. Alexis Brunelle-Duceppe: Thank you very much.

I'll now turn to the representative from the Office of the CORE.

How long has the office existed?

[English]

Ms. Sheri Meyerhoffer: Thank you for the question.

I opened the office door on May 1, 2019. We are just closing in to the end of the fourth year.

[Translation]

Mr. Alexis Brunelle-Duceppe: In four years, how many Canadian mining companies have been convicted of human rights violations as a result of your work?

[English]

Ms. Sheri Meyerhoffer: As stated previously, out of 15 admissible complaints that we have right now, two of them are with respect to mining companies.

[Translation]

Mr. Alexis Brunelle-Duceppe: It is my understanding that no Canadian mining companies have been convicted as a result of your work.

[English]

Ms. Sheri Meyerhoffer: No, not to date.

[Translation]

Mr. Alexis Brunelle-Duceppe: Take the hypothetical case of a Canadian mining company that flies the Canadian flag. Let's say it does business in the far reaches of Colombia and commits human rights violations against an indigenous population in that country.

What are the chances, in your opinion, that the victims of those violations would even know that your office exists?

[English]

Ms. Sheri Meyerhoffer: Thank you for raising that question. Why do we not have more complaints on mining companies coming to the CORE, given that we know it has a large footprint?

We've heard from other people who have testified that there are a lot of situations out there that acquire attention and redress. I don't know all of the answers, but as we all know, there are a number of situations that are going directly to the court. That's one reason.

We also heard testimony that because we lack the powers to compel, civil society organizations are not recommending to those they work with to bring their situation to the CORE for dispute resolution.

Third, as you've mentioned, I think it's a lack of awareness that we exist. That is something that the CORE is working very dili-

gently on, because that indeed is one reason that we may not have seen them.

Thank you for that raising that point.

[Translation]

Mr. Alexis Brunelle-Duceppe: What I understand is that, to file a complaint, the person has to go to your website.

In the hypothetical situation I just cited, the indigenous residents in the far reaches of Colombia whose rights are violated should go to your website if they want to file a complaint.

What you're telling me is that it's almost impossible that that would happen.

Regardless, they are not even directed to your website. I gather, then, that the website and the financial resources the Government of Canada has put towards it are wasted.

[English]

Ms. Sheri Meyerhoffer: I'd just say that we are taking steps to be more accessible and to have a longer reach. We are engaging with a consulting company to help us identify the networks and the different civil society organizations that exist in the various countries to help us to access down to the local level—

[Translation]

Mr. Alexis Brunelle-Duceppe: I'm sorry to interrupt you. I don't want to seem rude, but I don't really have much time.

I think the response already has some of my colleagues laughing.

I'll again speak to the EDC representatives.

You heard the representative from the Office of the CORE tell us outright that it is impossible for that organization to ensure that victims of human rights violations file complaints with their own organization.

Can your organization therefore know whether or not you are funding mining companies currently flying the Canadian flag and violating human rights?

How is that possible when even the ombudsperson, who is responsible for those investigations, is unable to produce any reports on those Canadian mining companies?

I look forward to your response.

[English]

Ms. Rachel Guthrie: Thank you for raising this concern. It's an important question and one that we take very seriously.

EDC is international risk experts. We have our due diligence processes. My colleague, Sophie, has a team of 70 people whose role is to assess risk. When we are concerned about a situation, we will actually put boots on the ground to have a look and to verify the circumstances.

• (1140)

[*Translation*]

Mr. Alexis Brunelle-Duceppe: I see that it's a very serious process. Thank you.

[*English*]

The Chair: Mr. Cannings, you have six minutes, please.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Thank you.

I'd like to thank the witnesses here today.

I'm going to start with Ms. Meyerhoffer. I'm going to follow up on the line of questioning of Monsieur Brunelle-Duceppe.

Just to get it clear, you've only heard two complaints about mining companies in four years.

Ms. Sheri Meyerhoffer: Just to be clear, while I opened up the doors to the CORE in 2019, we were a brand new organization. We had to build out our procedures and get our technology going so that we could put up our complaints portal. That happened in March of 2021, so it's been open for two years for complaints.

There have been two admissible complaints received from mining companies.

Mr. Richard Cannings: Did you say those complaints were from China?

Ms. Sheri Meyerhoffer: That's correct.

Mr. Richard Cannings: You've heard no complaints from Central America, South America or Africa.

Ms. Sheri Meyerhoffer: We are aware of issues that are going on and we're monitoring them. We hear about issues, but we have not received complaints to act on.

Mr. Richard Cannings: That is my concern here. When do you decide to act? Do you wait for local indigenous groups to complain, or do you take proactive steps?

One example is Barrick Gold, which has the Veladero mine in Argentina. It's coincidentally owned jointly by Shandong Gold of China. They've had three or more major spills of cyanide, mercury and arsenic into the local rivers. Local people have been complaining. The UN special rapporteur on human rights and the environment, David Boyd, who's from the University of British Columbia, put out a letter on this.

I wonder, does that get you...? What do you do when you hear about that, and why haven't you heard about it? Shouldn't you be reaching out to these people and saying you'd like to hear the details on this? It seems remarkable that the United Nations has taken the time to put out a report, yet you have not done anything on this, apparently.

Ms. Sheri Meyerhoffer: We have talked to a number of companies at various times about the situations they're dealing with. We've provided advice. We monitor all the issues. We are just as concerned as anybody else out there in regard to what's going on. Some of these matters, as you know, have gone to the courts. They've chosen to go there. Others might be going to the NCP—the national contact point for complaints—or other places.

However, we're closely monitoring them. We are involved with the Mining Association of Canada and PDAC, talking about areas of study where we could provide some value in working with companies to help them do a better job and be more responsible.

The only things we have are two complaints. Right now, we're prioritizing our complaints, and there are two for mining companies. We can also do an ombud-initiated review, which we might do in the future. We can also do a study. We have been in discussion with industry associations on that for a while now.

Mr. Richard Cannings: You said some are going to the courts, and that going to the courts is more difficult and expensive. That's why we created this office, I think, in the first place.

When I talk to parliamentarians from Chile or Colombia, the first thing they bring up is Canadian mining companies and what's going on in their countries. I'm wondering what went wrong with this process and how we can fix it.

Ms. Sheri Meyerhoffer: Don't forget you heard testimony that with respect to mining situations, Canadian civil society organizations are not encouraging the impacted individuals and communities they come into contact with to bring their complaints to CORE. That's also one possible situation.

• (1145)

Mr. Richard Cannings: Why would they not suggest that? Why would they say to avoid CORE?

Ms. Sheri Meyerhoffer: According to their testimony, they said we need the power to compel documents. Without that, they're afraid of the potential for retaliation against impacted parties.

Mr. Richard Cannings: Without the ability to compel testimony and documents, your powers are so limited that people aren't even approaching you.

Ms. Sheri Meyerhoffer: There are concerns in certain situations. There aren't in all situations. As I said, we have a number of tools that are quite powerful. However, in certain situations, such as when they're worried about impacted individuals and communities, these civil society organizations are not encouraging them to come here. We can be effective, but not in some of these situations, in their opinion.

I think, as I said before in my opening remarks and in response to Mr. McKay, that we could be more impactful if we had those powers.

The Chair: I'm sorry. Your time is up, Mr. Cannings.

Mr. Richard Cannings: Thank you.

The Chair: Mr. Baldinelli, you have five minutes.

Mr. Tony Baldinelli (Niagara Falls, CPC): Thank you, Madam Chair.

Thank you to the witnesses for being with us this morning.

I'm going to begin with Ms. Meyerhoffer from CORE.

You identified that in January 2018, the federal government announced the creation of a Canadian Ombudsperson for Responsible Enterprise, and there was also the creation of the advisory board on responsible business conduct. You indicated that the office has essentially been up and going since 2021. You set up your office in 2019.

My question to you is this: Was CORE established on a template of what other countries are doing? What are CORE's role, mandate and powers, compared to those of other countries? For example, what does China do? What does the United States do? What do some of our largest trading partners do in this regard?

Ms. Sheri Meyerhoffer: Thank very much for the question.

CORE is the first ombuds office of its kind in the world, so there is no model for us to look to, although there are various ombuds offices that hold governments accountable. There are administrative ombuds and various industry ombuds. There are different models that we could and have drawn from.

We have also drawn from the International Finance Corporation's Office of the Compliance Advisor Ombudsman. That is probably one of the closest ones, but it's still not exactly the same.

We have drawn from these various sources. Our process was to talk to civil society organizations, industry associations and companies, and government to figure out how best to set ourselves up, given that we're new, that we're an innovation. Canada can be really proud that we're leading in this area.

Mr. Tony Baldinelli: Thank you.

In essence, you could say that we're world leaders in the whole notion of the creation of ethical business conduct abroad in Canadian mining operations, in what we expect and in how we expect our businesses to operate.

Ms. Sheri Meyerhoffer: I think with respect to setting up this office, we're definitely leading. I think we have supply chain transparency legislation that's moving forward. We're on a par with that. We're starting to talk about human rights and environmental due diligence legislation in a private member's bill, so this discussion is there. Yes, we're definitely in the pack.

Mr. Tony Baldinelli: Now I'll go on to Ms. Guthrie with EDC.

You mentioned the role as a financial institution. As part of that, part of your office's role is to identify risk and ways to mitigate that risk and to review what is going on with the companies that you're supporting.

For example, do you work with CORE at all in terms of what they do? Ms. Meyerhoffer indicated in her second point that CORE supports "mandatory due diligence" legislation and identifying and putting in place remediation, so do some of the actions of CORE actually work together with EDC? You talk about ways to mitigate when you're working with some of the companies that you're supporting. Are you reviewing that? Are you pulling any funds? Have you had concerns with Canadian mining companies abroad such that you're saying you're going to end Canadian support?

Ms. Rachel Guthrie: Thank you for the question.

I actually have been with EDC for 18 months and I came from the financial sector. I will say that upon arriving here, I have been very impressed with the level of due diligence. I do believe that EDC's practices are far beyond those of many financial institutions. With regard to an understanding of human rights, on the executive level at the board, they understand leverage and remedy, and we've made many training activities happen across the organization.

In response to your question about our relationship with CORE, EDC would stand on our own due diligence practices, but we have met with CORE on a regular basis, helping them understand how we approach business transactions. There have been occasions when we would turn down a transaction. These numbers are actually reported in our integrated annual report, which is in the public domain.

● (1150)

Mr. Tony Baldinelli: Thank you for that. Could you table that with the committee? I'd like to see those numbers, for example.

Don't you think we as a government and a country would benefit from greater coordination on that whole issue? We've talked about three separate government agencies that are looking at due diligence. Specifically, there are your operations and your agencies, and CORE is also doing that, and then it was told to one of my colleagues earlier that the trade commissioner office is doing their own due diligence as well. Could it not be a benefit that there would be closer coordination of these government departments?

Ms. Rachel Guthrie: As a question, with all due respect, EDC is a Crown corporation, and these are policy questions. I'd definitely refer you to Global Affairs Canada on the trade commissioner service.

Mr. Tony Baldinelli: Thank you.

The Chair: We will move on to Madam Dhillon.

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Thank you, Madam Chair.

Thank you to our witnesses for being here this morning.

I will start with Ms. Guthrie.

How does the EDC ensure that its support of Canadian mining companies abroad aligns with sustainable development principles and protects the environment and local communities abroad at the same time?

Thank you.

Ms. Rachel Guthrie: That's an excellent question. Thank you so much.

As it pertains to our due diligence practices, I will pass to my colleague Sophie to respond.

Ms. Sophie Roy: Maybe I can provide a little more information on how we actually conduct our due diligence on these transactions.

As I said at the beginning, for the mining sector or for any other sector that we deal with at EDC, we look at the risk indicators and we prioritize the transactions that are of higher risk. We look at the country of operations, the industry and the track record of counterparties. Very importantly, we also look at the presence of vulnerable people who could be impacted on the ground. We're talking about indigenous people, women, children and other minority groups.

We also look at the customer's ability to avoid, prevent and mitigate the risks through their risk management systems. We assess the customer's stakeholder engagement and the grievance mechanisms that they have in place as well. Once we identify that there are still gaps in the way they are actually managing their risk according to international best standards, we will seek agreement on actions that need to be undertaken and then include some of these agreements into some of our own documentation. We then ensure that mechanisms are in place to be able to address or remedy that when those situations occur.

What's important for us to understand here is that the due diligence process that we put in place at EDC starts at the beginning of a relationship or at the start of a transaction, but it doesn't end at the signing; it's something that we actually continue during the relationship that we have with our customers, and when events or impacts occur, we go back and do some of the work and engage again with our customers abroad. We look at how they're addressing and remediating some of these impacts. That's how we actually conduct it and make sure that we are meeting the goals and international standards that we've adhered to.

Ms. Anju Dhillon: Thank you for your answer.

I'd like to follow up with a question regarding part of your testimony and your answer to my previous question.

If a company doesn't comply, what happens?

Ms. Sophie Roy: There would be different ways for us to be made aware of such a situation. We could learn about it through the notification of our own customer, EDC's annual review of certain products, adverse media coverage that we track on a nightly basis, or credible third party criticism that we will take very seriously, obviously.

When that happens, we connect again with our customers to gain a better understanding of the impact on the ground, what has actually happened, and what actions they are taking to address the situation.

We also sometimes have engaged directly with local communities that have been impacted to gain a better understanding of what the situation is like and ensure that the proper steps are being taken to address it. When that is not feasible, unfortunately, there are situations in which EDC will decide to exit a relationship or withdraw our support.

• (1155)

Ms. Anju Dhillon: Thank you, Ms. Roy.

I'd like to ask you about the process of applying for support through EDC. Are companies required to undertake any sort of environmental analysis?

Ms. Sophie Roy: As I said, we use a risk-based approach at EDC to review all the transactions that come in. When we identify particular risk indicators, such as when there are indications because of a country or because of a sector that there might be more severe impacts in the environment or to the human rights of the people on the ground, then we will undertake due diligence with the customers. We will then connect with them and have conversations or send them a list of questions that they need to answer. This is part of the process that is required for them to actually access support from EDC.

The Chair: Thank you very much.

We'll move along to Mr. Brunelle-Duceppe for two and a half minutes, please.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you very much, Madam Chair.

Ms. Meyerhoffer, you stated earlier that you were proud that the Office of the CORE is a world leader.

At the same time, you told me that you did not have enough power, that you had no results and that you had no access.

What exactly are you proud of?

[*English*]

Ms. Sheri Meyerhoffer: I think we are having some impact. I have 15 complaints at the moment with the CORE. The majority of those companies have engaged, and we are discussing issues. Hopefully, we'll be moving to a resolution and remediation. So far, the powers that I have are having a positive impact in a number of situations, although they're not having a positive impact in all situations.

The point is that it's not that we're not having any success but that we could have more success if we had the ability to compel documents.

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Thank you.

I'd like to remind you that the committee is studying Canadian mining companies. I think you have two complaints from Canadian mining companies, not 15, but that's not serious. I just wanted to note it.

I have one final question for EDC.

You said that you took the situation seriously and that you acted accordingly. The Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development conducted essentially the same study in the spring of 2021.

If there was a serious effort on your part, I imagine that corrective action was taken following the committee's report.

What corrective action was taken by your organization following the subcommittee's study of Canadian mining companies, in which you took part?

[English]

Ms. Rachel Guthrie: Thank you. I'm very happy to address that question.

We know that the intersection of human rights and international business is an area of tremendous complexity and a lot of public—

[Translation]

Mr. Alexis Brunelle-Duceppe: Excuse me, Madam Chair.

It seems to be fixed now, but there was no interpretation.

Can I repeat the question and have the witness start over, please?

[English]

The Chair: We can't start—

[Translation]

Mr. Alexis Brunelle-Duceppe: There was a problem with interpretation.

I can't help it.

[English]

The Chair: We'll start with the answer, yes, but not with the question.

Could we have the answer, Ms. Guthrie?

Ms. Rachel Guthrie: The intersection of human rights and business is an area of tremendous challenge. Where we have fallen short, we believe in accepting responsibility and finding ways to do better.

We issued our board-approved human rights policy in 2019. Since then, we have introduced the principles of leverage and remedy. We have trained our workforce and our board on these principles. EDC has an ESG advisory council, a member of which is part of the working group on the UN's guiding principles on business and human rights.

• (1200)

The Chair: Members of the committee, we have to switch over to the next panel.

I want to thank our witnesses today for their very valuable information.

I will suspend for a moment while we switch panels.

• (1200)

(Pause)

• (1203)

The Chair: I call the meeting back to order.

With us today on the second panel, from the Canadian Network on Corporate Accountability, we have Emily Dwyer, policy director.

Ms. Dwyer, welcome to our committee. I invite you to make an opening statement of up to five minutes, followed by a round of questions from the members.

The floor is yours.

Ms. Emily Dwyer (Policy Director, Canadian Network on Corporate Accountability): Good afternoon, Chair and distinguished members of the committee. Thank you very much for the invitation to be here, and for your interest in studying this vital issue.

[Translation]

We are thankful that Parliament takes this issue seriously and we urge it to quickly address the many reports of human rights violations linked to mining activities abroad.

[English]

My name is Emily Dwyer. I'm the policy director at the Canadian Network on Corporate Accountability, CNCA.

Founded in 2005, the CNCA unites 40 member organizations and unions from diverse sectors. They collectively represent the voices of millions of Canadians. Our members are located across the country and have long-standing relationships with workers, women and indigenous peoples in every corner of the world.

I work from the unceded and traditional territories of the Algonquin Anishinabe peoples.

What I can tell you in no uncertain terms is that the mining sector is linked to serious risks of human rights abuse and environmental harm. To illustrate, John Ruggie, author of the UN's "Guiding Principles on Business and Human Rights", reported to the UN Human Rights Council that "The extractive sector is unique because no other has so enormous and intrusive a social and environmental footprint."

In addition, for the past seven years, the Business and Human Rights Resource Centre has reported on attacks on human rights defenders and it has consistently documented that mining is the most dangerous sector for people who work to protect human rights.

These facts are particularly relevant given Canada's outsized share of the global mining sector. According to Natural Resources Canada, around half of the world's mining companies are headquartered in Canada, and Canadian-based companies are present in 97 foreign countries. As a result, we have a particular responsibility to act.

To be clear, I am not here to argue that all mining is bad. I am also not here to argue that all mining is good. What I am here to demonstrate is that Canada's approach to Canadian mining abroad is flawed. It is an approach that is based on voluntary oversight. What mining companies do is almost entirely based on their own goodwill, benevolence and their bottom line, without real rules requiring companies to respect human rights and no real consequences if companies are involved in harm-causing behaviour.

Canada's approach therefore allows companies to get away with serious human rights abuses, and it ignores the very real impacts on a large number of people around the world. The kinds of abuses we're talking about are serious. They include threats, killings, bodily harm, gang rape, unsafe and exploitative working conditions, forced labour, failure to respect the rights of indigenous peoples and women, and serious environmental damage.

For years, our network, along with hundreds of thousands of Canadians, organizations from diverse sectors, impacted people from around the world and multiple UN bodies, has called on Canada to implement effective mechanisms to prevent and remedy Canadian corporate human rights abuses abroad, particularly in the mining sector. Other advanced economies are increasingly recognizing that meaningful measures to address corporate malfeasance are essential to long-term prosperity and sustainability. There is growing momentum towards mandatory human rights and environmental due diligence laws that require companies to respect human rights and the environment. Canada should join this race to the top.

Our network is urging the Minister of Labour to move swiftly to deliver on his mandate letter commitment to "introduce legislation to eradicate forced labour from Canadian supply chains" and ensure that companies don't contribute to human rights abuses abroad.

To be effective, Canada needs a law that goes beyond a basic reporting requirement and includes these three key elements: The law should require companies to prevent harm rather than focusing on reporting; it should help impacted people to access remedy; and it should apply to all human rights.

Unfortunately, modern slavery reporting Bill S-211, which will soon come before Parliament, will not help to address corporate abuse nor help Canada catch up with legal trends in other advanced economies.

As a final comment, we note the absence of directly impacted people on the witness list for this study. We would encourage this committee to expand the number of hearings so that MPs could hear directly from impacted communities and workers. We would be happy to facilitate that.

Thank you for your time. I look forward to responding to your questions.

• (1205)

The Chair: Thank you very much, Ms. Dwyer.

We will go on to Mr. Carrie for six minutes, please.

Mr. Colin Carrie (Oshawa, CPC): Thank you very much, Madam Chair.

I want to thank the witness for her testimony.

This has been a very insightful study, and I'm looking forward to seeing the report.

One thing you mentioned in your testimony was that Canada's approach is flawed. We've had other witnesses in front of us basically admitting that it's flawed and it's not perfect, but when we compare our approach relative to other countries around the world, we see there are still ways in which Canada is leading.

In order to educate committee members here, I am wondering which countries around the world do it better than Canada. Are there any other countries that have an organization like CORE—that mechanism? Could you enlighten us as to what other countries are doing for best practices?

Ms. Emily Dwyer: Sure.

We have testified to this aspect and submitted this to the Government of Canada and to the CORE's office itself. Without the power to compel documents and testimony, the CORE is not very different from the offices that already existed in Canada.

A national contact point is a requirement in all OECD countries and we've had one in Canada since 2002. It has the ability to receive complaints, offer mediation and report publicly. What would have distinguished the CORE and made it the first of its kind in the world are those robust investigatory powers that exist in other ombudspersons' offices in Canada.

What we're seeing around the world in terms of best practice is momentum towards mandatory human rights and environmental due diligence legislation. There are the French and the German laws. There are also laws that are expected to cover the entire European Union before the end of this year. There have been several other national proposals around the world.

This is what the United Nations is calling on Canada to do and what the UN guiding principles really are expecting of the Canadian government. It is to put in place mechanisms to ensure that companies are required to respect human rights and to ensure that people can access remedy.

I think the notion that Canada is somehow a leader when it comes to business and human rights is not something that could be substantiated by the facts.

Surya Deva, former chair of the UN working group on business and human rights, testified before the Senate when it was studying Bill S-211. He was quite clear that if Canada wants to be a leader in business and human rights, it should empower the CORE with the powers to independently investigate and it should pass comprehensive human rights and environmental due diligence legislation.

Mr. Deva also testified in that committee that he was very surprised that Canada would be trying to replicate models in the U.K. that were established to be failures, that have not changed corporate practice and that are not catching up to global practice, which is towards human rights and environmental due diligence legislation.

• (1210)

Mr. Colin Carrie: Thank you for that.

My question was, though, who specifically is doing it better right now? You mentioned the idea of what the United Nations and other organizations would like.

When you're dealing with mining, my understanding is you're either going to have a Canadian company develop these resources in these countries or you're going to have the U.K., the U.S. or China, for example. If you compare Canada's record with Chinese companies, for example, you see that the reality is that they're operating around the world.

Could you point us to countries that are doing things better than Canada right now, or are we just getting there now, as a world?

Ms. Emily Dwyer: I will point out that I do have a bit of a hearing issue. I'm having a lot of trouble actually hearing you. The mikes don't provide very much echo, so if you are able to, could you speak a bit louder in your next question so that I could make sure I hear you properly? If I'm not answering your question correctly, let me know.

Are you asking whether mining companies in other countries do better than Canada or...?

Mr. Colin Carrie: When countries—the big ones like the U.K., the U.S.A. or China—go out in the world and mine in different countries, they have domestic laws that govern their companies...or do they in any way whatsoever? Could you point to a specific country that does do it better than Canada?

You mentioned the United Nations. There are all kinds of things that we and other countries should be doing. Are there countries out there right now that are actually doing things that you would say—

Ms. Emily Dwyer: Do you mean in terms of regulating companies? Yes. There are several examples across Europe.

Mr. Colin Carrie: You mentioned France and Germany for a few things.

Ms. Emily Dwyer: There are France and Germany.

The Netherlands has an advanced proposal. It has a child labour due diligence law on the books and it's planning to expand that to other sectors.

Across the European Union there are regulations. The United States has a ban on the import of goods from the Xinjiang region. It has a ban on the import of goods made with forced labour that is actually enforced.

There are quite a few examples of other jurisdictions that are quite seriously working to ensure that corporations are respecting human rights and to ensure that it is substantiated in the legislation in their jurisdictions.

Mr. Colin Carrie: Do you have ideas for companies?

Very briefly, one of our witnesses said that sometimes you have local governments that are corrupt and that you have to deal within that situation. Sometimes, for security reasons, they may not be able to guarantee the security of their workers and things like that.

How does a company going into a foreign country whose rules and regulations are very different from Canada's consolidate how

they do things with best practices if the local governance isn't supportive of those things?

• (1215)

The Chair: Ms. Dwyer, I'm sorry. You're going to have to try to answer that question while you're responding to one of the other members, possibly.

Go ahead, Mr. Sheehan, please, for six minutes.

Mr. Terry Sheehan (Sault Ste. Marie, Lib.): Thank you very much to our presenter for your passion and commitment to these very important subjects.

Previously we were talking a lot about what's happening internationally.

Can you discuss the role of Canadian laws and policies in promoting corporate accountability for human rights? Can you delve into that for us?

Ms. Emily Dwyer: Do you mean existing Canadian laws and policies on human rights?

Mr. Terry Sheehan: Yes.

Ms. Emily Dwyer: Canada has a responsible business conduct strategy that was developed and first came out as a CSR strategy in 2009. It was updated in 2014 and again in 2022.

It primarily is an approach based on advising companies on how to manage risks involving voluntary guidelines and the possibility of offering mediation. That kind of sums up the approach in the responsible business conduct strategy. There's more there, but the essence of it is around providing guidance and advice to companies and having non-judicial mechanisms that can potentially offer mediation to people who are harmed.

What's notably absent is any binding legislation that articulates that companies have a responsibility to respect human rights and the environment and that they need to take any steps to prevent human rights and environmental violations from occurring in Canadian supply chains or help people who are harmed to access remedy.

Mr. Terry Sheehan: Continuing down this path, can you speak to the CNCA's approach to engaging with corporations and encouraging them to respect human rights?

Ms. Emily Dwyer: Our network is a network of 40 organizations and unions from across the country. We work together to advance respect for human rights by corporations. We do that through education, engagement with decision-makers and developing detailed law and policy reform proposals.

Our network has engaged with companies and industry associations in the past. We don't do that as a centre point of our work as a network, although some of our members do. That's partly due to a lack of resources and partly to the fact that those efforts did not lead to an impact in terms of getting information from the Mining Association of Canada and the Prospectors and Developers Association of Canada on what kind of mechanism outside of industry control they would support. We couldn't get information or support about that.

Our focus is really on engaging with people who are impacted, studying best practices around the world and helping to ensure that the Canadian response lives up to Canada's international human rights obligations.

Mr. Terry Sheehan: What would be your future plans and goals for promoting accountability with Canadian mining companies that operate abroad? What would your focus be on that?

Obviously, we've heard your testimony. Part of it is encouraging. Due diligence legislation is in the Minister of Labour's mandate letter. It's also in three other mandate letters, as you well know. We are certainly taking a look at how to further strengthen legislation as well.

If you want to talk about your group's plans for the future, that would be helpful for us.

• (1220)

Ms. Emily Dwyer: Our focus right now is advancing mandatory human rights and environmental due diligence legislation in Canada. As you rightly pointed out, several ministers have been mandated to advance legislation to eradicate forced labour and to make sure that Canadian companies are not involved in supporting or contributing to other human rights abuses when operating abroad. That is certainly our main focus, and we do think that it's an opportunity for Canada.

It's different from when we were advocating the creation of an ombudsperson. We were advocating something that would be the first of its kind in the world. MHREDD legislation is something that is emerging. There is growing momentum around the world, and there's a real opportunity for Canada to catch up. There is also opportunity for Canada to lead there. There are examples of really strong laws, and there is also space for Canada to show leadership if it wants to go further than the EU examples out there.

In addition to due diligence legislation, we continue to advocate that the CORE ombudsperson's office should have the powers that were originally promised and that the office needs, and that the Government of Canada recognizes are needed for the office to be effective. That's what the Government of Canada's expert report uncovered.

In addition to that, we think Canada's responsible business conduct strategy approach should be shifted.

The Chair: Thank you very much, Ms. Dwyer.

We go now to Mr. Duceppe.

Go ahead for six minutes, please.

[Translation]

Mr. Alexis Brunelle-Duceppe: Thank you, Madam Chair.

Ms. Dwyer, thank you for being here. Welcome to the committee.

Is there a strong likelihood that, through EDC, Canadian taxpayer money funded Canadian mining companies that committed human rights violations abroad?

Ms. Emily Dwyer: I can give you the example of our member Above Ground. There is an entire website, Out from the Shadows, that details EDC's practices and the need for tighter regulations.

In particular, that organization has a document that sets out eight cases in which EDC funding was granted to mining companies accused of human rights violations. That includes SNC-Lavalin, Teck Resources, Kinross Gold, Bombardier and the Gupta family.

I could forward the document to you.

Mr. Alexis Brunelle-Duceppe: That would be good.

Earlier, the representative from the Office of the Canadian Ombudsperson for Responsible Enterprise, or CORE, Ms. Meyerhoffer, told us that she was proud that the CORE was a world leader in defending human rights. However, the office has only dealt with two complaints about Canadian mining companies since its creation. There are no results, and victims have difficulty accessing the CORE.

How can we say that we're proud of the CORE right now?

Ms. Emily Dwyer: I'm pleased to see Ms. Meyerhoffer finally acknowledge that her office doesn't have the tools needed to conduct real investigations.

However, our network found that several years ago. We dealt with the organizations that used to exist in Canada, particularly the Office of the Extractive Sector Corporate Social Responsibility Counsellor, which was the national contact. We knew that, without those powers, the Office of the CORE could not be effective. That's what the studies by the Canadian government showed, and that's why the United Nations recommended that the Canadian government give the office binding powers of investigation.

It's important for Ms. Meyerhoffer to now demand those powers. Victims should not wait another four or five years for the government to act.

• (1225)

Mr. Alexis Brunelle-Duceppe: Logically, if the Office of the CORE is given more powers, it would become more accessible. Local organizations abroad would refer people to the office, knowing that it could use its binding powers on Canadian mining companies.

Ms. Emily Dwyer: Yes. Our network has never recommended that anyone not file a complaint. That said, once we've explained what can be achieved through the office, no partner wants to file a complaint against the mining companies.

Mr. Alexis Brunelle-Duceppe: Since its creation, what purpose has the office served, not to mention all the money invested in it? It should serve the purpose for which it was created, should it not? The question must be asked.

Ms. Emily Dwyer: That's an excellent question.

In our opinion, an effective office should have a budget to conduct investigations. The very purpose of the Office of the Canadian Ombudsperson for Responsible Enterprise is to ensure that people are not left on their own by mining companies. However, the office has not fulfilled that function to date.

Mr. Alexis Brunelle-Duceppe: It can be said that, for four years, public funds have been outright wasted, without any results. Ultimately, the hardest part is seeing that the victims of human rights violations have no recourse through the office because it has no power, and that all the Canadian mining companies or those that fly a Canadian flag always get away with it. Perfect, I won't expand on that.

The government said that it has enhanced Canada's Corporate Social Responsibility Strategy, created under the Stephen Harper government. Do you share that opinion?

[English]

Ms. Emily Dwyer: In 2014, the CSR strategy was updated to include the withdrawal of trade commissioner supports if companies were implicated in abuses. That is the improvement that we saw in the strategy back in 2014. We still do not feel that it is effective.

As I said earlier, the reliance on voluntary proposals and voluntary mechanisms and the exclusive reliance on mediation means that it's not a strategy that has lived up to its potential. We really should be focused on mechanisms that can actually hold companies to account. We need legislation now.

The Chair: Thank you very much.

Next we have Mr. Cannings for six minutes, please.

Mr. Richard Cannings: Thank you, and thank you, Ms. Dwyer, for being before us here.

In a previous panel, Mr. McKay talked about his bill, Bill S-211, and mentioned that you might have a few things to say about it. I'm going to give you more opportunity to do that.

In discussions about this bill, it seems that NDP efforts to add due diligence parts to the bill would make it something that would really achieve something. Mr. McKay seems to think that would make it too difficult to pass. In other words, the Liberals and Conservatives wouldn't support it.

Could you maybe make that pitch again? Is this something that is happening elsewhere in the world? Are we falling behind? We could be leading on this. It can happen. It really has to happen if this bill is to have the powers that we need to make sure we put an end to slave labour.

Ms. Emily Dwyer: One of the things I would point to, with all due respect to MP McKay, is the description of Bill S-211. The effect of it that you gave last week, in my view, misrepresents what the impact of the bill would be. The statement that company directors would be required to examine their supply chains and satisfy themselves that there was no forced labour in their supply chains is not borne out by a reading of the legislation.

Bill S-211 would require companies to report each year on any steps they've taken, if they've taken any steps, to identify, mitigate

and address forced labour and child labour in their supply chains, but it does not require companies to actually take any steps.

This is a very significant part of the rub for civil society and for impacted people around the world. Having a law that only requires you to report but doesn't require you to stop using child or forced labour and doesn't require you to take any steps to identify the use of child or forced labour and doesn't require you to—

● (1230)

The Chair: Ms. Dwyer, please direct your comments to the chair.

Ms. Emily Dwyer: My apologies, Chair.

What we have seen from other jurisdictions.... For example, I could bring out some quotes from a five-year study of the U.K.'s modern slavery reporting registry. That approach revealed no significant improvements in companies' policies or practices and failed to be an effective driver of corporate action to end forced labour.

In reality, I agree with what was stated earlier, which is that it's not a question of transparency versus due diligence legislation. Both can exist. We believe that Bill S-211 will likely be passed into law. However, I think it is important for members of Parliament to understand clearly what that law would and would not do and to understand that it is absolutely not a replacement for the need for Canada to take meaningful action.

What it would do would be to catch up to a 2015 law in the United Kingdom, where the evidence showed that it did not impact corporate behaviour. Why would Canada replicate that kind of approach when there are other models that are more comprehensive, that fall in line with what the UN guiding principles are asking for and that fall in line with what impacted people around the world are asking for?

When CNCA published its model legislation, 150 organizations and unions representing directly impacted people from 32 countries endorsed our model. I have never heard of any impacted person asking for a law to report only.

Mr. Richard Cannings: Thank you very much.

Switching gears to the responsible business conduct strategy, could you comment further on how effective that is? Have we made it better over the years? It's in its third iteration.

Ms. Emily Dwyer: As I was saying earlier on the responsible business conduct strategy, one of the pieces brought up previously was around integrity declarations or digital attestations, and that was touted as kind of the hallmark of this responsible business conduct strategy. It's essentially a check box that asks companies to say that they recognize the UN guiding principles on business and human rights and agree to operate effectively.

What's still missing so wantingly from Canada's approach is something that responds to the demands of impacted people.

The Chair: Thank you very much.

We'll move on to Mr. Martel for five minutes, please.

[*Translation*]

Mr. Richard Martel (Chicoutimi—Le Fjord, CPC): Thank you, Madam Chair.

Ms. Dwyer, last week, we heard from an expert witness who worked for mining companies for over 47 years, in 35 different countries. I would also like to point out that he was independent and in no way benefited from protecting Canada.

He told us that, at the beginning of his career, Canada was a leader in environmental laws. What's your opinion on that?

• (1235)

Ms. Emily Dwyer: Statistics do not show that Canadian mining companies are better than others around the world.

I can give some statistics. For instance, a study conducted in Latin America by the Justice and Corporate Accountability Project shows that 28 Canadian mining companies were linked to 44 deaths and over 400 injuries between 2000 and 2015.

In addition, studies by the Business & Human Rights Resource Centre also revealed that attacks against defenders of human rights and the environment are certainly more dangerous in the mining sector. Those studies were conducted in the past seven years.

In my opinion, the statistics answer that question. However, the issue is not whether Canadian mining companies are better or worse than others. Indeed, there are examples of abuse in all sectors. Unfortunately, we do not have the means to address the issue.

Mr. Richard Martel: Ms. Dwyer, excuse me, but I have another question for you.

That independent expert nonetheless had experience on the ground. If I understand correctly, you're saying that Canada is almost at the bottom of the list. China and the United States have laws, like Canada, concerning human rights and environmental rights.

Does that mean that China and the United States are better than Canada in this respect?

[*English*]

Ms. Emily Dwyer: I have not done that comparison, and if that's what it sounded like, no, I was not saying that Canada and the United States have better laws on this plane. I was saying that I don't think there is statistical evidence that Canadian companies are definitive leaders. What is the case is that there are a lot of other

countries that are showing leadership in terms of holding companies accountable.

[*Translation*]

Mr. Richard Martel: Ms. Dwyer, there are laws in Canada for Canadian mining companies. However, it's much harder to enforce them outside the country, since every country has its own regulations and laws.

If Canadian mining companies want to apply certain things outside the country, the countries in question may not agree, even if it could be dangerous for Canadian mining companies to adopt their standards.

What do you think?

[*English*]

Ms. Emily Dwyer: There are some really clear examples of this. I'd say first that the United Nations is clear that companies are required to respect human rights around the world and that Canada has international human rights obligations to make sure that third party actors, including companies, respect human rights.

At the same time, Canada is entirely in a position to be able to regulate. One example I would give is the case of Nevsun Resources, which is operating in Eritrea. Sometimes there are difficult decisions that need to be made. This is a case that went to the Supreme Court of Canada. The Canadian mining company was obliged, in order to operate in Eritrea, to use slave labour, conscripted labour. If they had done any due diligence, they would have known that.

In some circumstances, companies will need to decide that if you cannot operate in a way that respects basic human rights, maybe you can't operate there, but there are many circumstances in which companies do have a really strong amount of power and leverage to be able to ensure rights are respected, and the notion that it is simply problems with other countries doesn't bear fruit. I would point to another court case—

The Chair: Thank you very much, Ms. Dwyer. I'm sorry. We're tight for time.

We'll go to Madam Lapointe for five minutes. She will be the last questioner, as we have to do some committee business at 12:45.

Madam Lapointe, you have the floor for five minutes, please.

• (1240)

Ms. Viviane Lapointe (Sudbury, Lib.): Thank you, Madam Chair.

I'm from Sudbury, which is a major mining hub of Canada, and I will tell you that in Sudbury we saw first-hand what an increase in corporate social responsibility can do when we underwent the now globally recognized greening of Sudbury.

I'm not a member of this committee, but I want to acknowledge the work of this committee and the work being undertaken with this study. I believe firmly that it is timely as well as necessary.

We have seen increasingly that the world is acknowledging that there is no energy transition without critical minerals. They are the building blocks for the green and the digital economies. Without critical minerals, there are no batteries, there are no electric cars, there are no wind turbines and there are no solar panels. Canada is a global leader on the mining front, so we do have a very important role to play here.

As I come from a mining town, some may assume that I and Ms. Dwyer have opposing views, but I would tell you that isn't the case at all. I listened very attentively to your opening statement, Ms. Dwyer, as well as a lot of the responses you gave. You talked about how Canada's role in the mining sector means that Canada has a particular responsibility to act, and I agree. I think we need to ask ourselves how we can assist Canadian mining firms to identify and mitigate those environmental and human rights abuses that are associated with their mining activities abroad.

Here is my first question for you. You expressed concerns about getting co-operation from the mining sector in Canada. In your opinion, what can the government do to help build that bridge between industry and organizations like the Canadian Network on Corporate Accountability?

Ms. Emily Dwyer: I think I'd like to give a bit of an example.

One is that we look at the situation of the rules for driving, for example. Most drivers are going to respect a stop sign or a stoplight because it's the right thing and they don't want to hurt people around them, but some will need the laws of the road in order to make that happen. We recognize that we can't leave everything to simply doing the right thing because we're asking for the right thing to be done.

I think the same thing applies when it comes to the mining sector abroad. Even if you believe that the vast majority of companies respect human rights, there will always be a need to hold accountable those who are not going to do so of their own volition.

I think, again, the question is not necessarily around how to bring companies and impacted people together. The question that really should be on this committee's mind is how to ensure that Canada is upholding its international human rights obligations to make sure that companies respect human rights and the environment, that the impacted people can access remedy, and that impacted people's rights are respected.

Thank you very much.

Ms. Viviane Lapointe: Thank you.

Can you tell us what the key areas of focus are for the Canadian Network on Corporate Accountability, and why these are important for promoting accountability?

Ms. Emily Dwyer: Our network focuses on the rights of impacted people around the world and on ensuring that companies are required to respect those rights.

Part of the reason this is important is that the international system right now allows companies to operate with virtual impunity. We see people around the world being harmed on a regular basis. This has been going on for a really long time. It's borne out in our membership. Several of our members don't necessarily work on corporate accountability or business and human rights, and they found that when they were trying to work on international development projects, on women's rights' issues, on environmental protection, the lack of corporate accountability was getting in the way of those other goals.

Ms. Viviane Lapointe: Can you describe—

• (1245)

The Chair: Be very brief, Madam Lapointe.

Ms. Viviane Lapointe: —some of the key initiatives and campaigns that you've undertaken to advance that corporate accountability in Canada?

Ms. Emily Dwyer: Yes.

The network has been around since 2005. We were involved in the national round tables. We worked closely for quite a long time to advance Bill C-300, for the creation of the ombudsperson's office, and for human rights and environmental due diligence legislation.

We also work to bring the voices of impacted people to parliamentarians, because we think that being faced with the stories and accounts of directly impacted people will help to drive the necessary change.

Thank you very much for your time.

The Chair: Thank you very much, Ms. Dwyer, for that valuable information.

I will suspend while we go—

Hon. John McKay: I have a point of order, Madam Chair.

As you can see, Madam Dwyer and I have a complicated relationship, shall we say. She was a good supporter on Bill C-300. She hasn't seen the light with respect to Bill S-211. I just want, for the edification of the committee, to have the leave of the committee to table Bill S-211, and members can read for themselves whether clause 11 should be interpreted the way I expressed it or the way Ms. Dwyer expressed it.

If I have unanimous consent, I'd be happy to table this.

The Chair: I believe you have unanimous consent. I don't see anybody saying anything different, so thank you very much, Mr. McKay.

I will suspend for a few minutes while we go in camera, please.

[Proceedings continue in camera]

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :
<https://www.noscommunes.ca>