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Chair

Mr. Kevin Sorenson

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• (0905)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good morning, colleagues. This is meeting 44 of the Standing Committee on Foreign Affairs and International Development on Thursday, December 3, 2009.

Our orders of the day include a return to our committee's study of Bill C-300, an act respecting corporate accountability for the activities of mining, oil, or gas in developing countries. We have a number of people who are going to testify before us today. We have votes at 10:15, so we've asked the guests if they are willing to appear together and they have agreed.

Committee members, you should have a steering committee report in front of you. On Tuesday morning your steering committee met and a number of items were discussed. I'm going to give you one moment to take a look at that report, which we put before you for your consideration today.

On the first point of that report, you'll note that the steering committee recommends that the minister of CIDA appear before our committee on the supplementary estimates. She has been invited and is scheduled—

A voice: She's not available.

The Chair: So she cannot come.

Hon. Jim Abbott (Kootenay—Columbia, CPC): My understanding is that the president of CIDA will be available.

The Chair: All right. So we've asked for Tuesday next week on the supplementaries. Many times they just get reported back. We have one week to do it. It has to be on Tuesday, because they have to be reported after that.

Mr. Paul Dewar (Ottawa Centre, NDP): Mr. Chair....

The Chair: Go ahead.

Mr. Paul Dewar: I think it's one of the roles of this committee to ask that the minister come before the committee. When did we give notice on this to the minister? Did we not agree to invite the minister when we were planning—

The Chair: No. This is something that every time—

Mr. Paul Dewar: I'd like to get some clarification here. When we were doing our planning for this committee, had we not set aside a date to hear from the minister?

The Chair: No.

Mr. Paul Dewar: I thought we had.

The Chair: We did last Tuesday at steering committee.

Mr. Paul Dewar: Before that, when we were doing long-term planning, I thought we had—

The Chair: We invited Minister Kent on Honduras, but not on the supplementaries.

Mr. Paul Dewar: I guess I'd like to know what the formal response is from the minister as to why she can't attend on Tuesday. I thank Mr. Abbott for letting us know. But the normal state of affairs for a committee when you invite the minister is that unless there's something extremely important and she can't attend, it's worthwhile to hear directly from the minister. I'm hearing third-hand that she can't attend.

The Chair: Let me just interrupt for one second.

Normally the invitation doesn't go out until we have cleared the steering committee to make certain we want the minister to appear.

Mr. Paul Dewar: Understood.

The Chair: We took the initiative to invite her regardless. She is previously booked for Tuesday, so her schedule does not allow it. From what I've heard right now, the president of CIDA or whoever we want.... If we had another week the minister might have been able to appear.

Madame Lalonde.

[Translation]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Mr. Chair, when we discussed, at the steering committee, we wanted to invite the minister for an entire two-hour meeting and the Auditor General for another two-hour session. In the end, to accommodate everyone, we decided to invite them both the same day. If the minister is unable to appear, I propose that the Auditor General be invited for the full period.

[English]

The Chair: I think if you check, the way we left it at steering committee was that we would invite the Auditor General to appear in February. We talked about having her come in the second hour.

Isn't that right, Mr. Patry?

We eventually said let's just get the Auditor General. I think Mr. Wilfert was the one who suggested that there were no timelines on the AG, so let's get the—

[Translation]

Ms. Francine Lalonde: That's fine, but the minister would have to come back.

[English]

The Chair: Mr. Abbott, Mr. Patry, and Mr. Dewar.

Hon. Jim Abbott: Mr. Chair, I think your point is germane. This report has not been accepted. The minister has not been invited. So I am advising that upon probable acceptance of this report we will find that the minister's schedule does not permit. However, the president is available. She will come and testify with respect to CIDA and she is available for a second hour if the committee wants, to talk specifically to the AG report on CIDA.

So we're trying to be as....

The Chair: Accommodating.

Hon. Jim Abbott: To be very, very clear to the members of this committee, my minister and the ministry are trying to be as accommodating as we possibly can be.

The Chair: I think we understand that. It's the time, it's the week.

Mr. Patry and then Mr. Dewar.

Mr. Bernard Patry (Pierrefonds—Dollard, Lib.): My understanding about the minister.... I don't want to defend the minister; it's very rare that the opposition defends the minister, but I don't think it's because she cannot accept. I think it's because there is a technicality because the House is closing on Thursday or next Friday and there are a lot of times when you discuss the supplementaries when it needs to be done three days before that time when the House is closing. If the House is closing on Thursday, we don't have the three days, and because we're not sure about that, it's a technicality. I'm not that good on these technicalities, but I remember when I chaired a committee there was something like this. That's the reason why she cannot appear. It's not because she cannot come.

See, I try to help you once in while, you know?

• (0910)

The Chair: Before I go to Mr. Dewar I'm going to have our clerk just explain that very quickly. It deals with supply days, on the technicality of supply days.

The Clerk of the Committee (Mrs. Carmen DePape): If the next supply day—and I don't know when it is—is on Tuesday, like it was this week, then to have the minister on Tuesday would be too late to talk about the supplementary estimates because it has to be three days before the last supply day. So it gets technical.

The Chair: Okay. Mr. Dewar, very quickly, and we do have guests here, so we're going to try to be quick.

Mr. Paul Dewar: I'm going to be quick, but I have a point of order, actually, Mr. Chair, because what you're actually trying to do is move this report. That's actually not in order, because you're wanting to do committee business. Is that correct?

The Chair: No. I have been told that we can move to the steering committee report—

Mr. Paul Dewar: Okay. I have a point of order then, because the steering committee report is part of committee business, is it not?

The Clerk: Yes, usually. You can discuss it at any time.

Mr. Paul Dewar: Right, you can discuss it. But if you're asking us to vote on this steering committee report, which is what the chair is putting forward, that is committee business, is it not?

The Chair: Which is exactly what the steering committee knew we were going to be doing—

Mr. Paul Dewar: I know, and it was also referenced last time. I wasn't here, but I talked to my colleague. We actually have a motion in front of this committee during committee business that we can easily vote on and decide whether we want to pass it or not and get to this report.

Sorry, Chair, but in terms of how this committee works, if we're doing committee business.... We had a motion in front of us that we're waiting to vote on. The government was wanting to filibuster, with all due respect. And in terms of committee business, the first thing we should be dealing with is that motion and then we can get to this. If the government members want to continue to filibuster, that is up to them, but we would like to vote on that motion that's in front of us, then do the steering committee, and get to our guests.

The Chair: All right. We have a point of order.

I was told that we could move and pass the steering committee report before we heard from our witnesses at the steering committee. Was that not what we discussed at the steering committee?

Mr. Paul Dewar: Sorry, with due respect, Mr. Chair, I'd like to know if this is considered part of committee business or not, when you're moving the steering committee report. Yes or no? It's a very straightforward question.

The Chair: We spent time questioning whether or not we would have to move back to your motion in regard to it and we were told that we had the ability—

Mr. Paul Dewar: Who's "we were told"? Who told you?

The Chair: Everyone at that meeting. Your representative was there.

Mr. Paul Dewar: Yes, and you mentioned that I had my motion in front and I asked him after and he said that the motion was in front and we'd go back to committee business before we get to the steering committee report, that we'd have to deal with that motion.

I'm actually asking for a process question. I'm actually, I guess, looking to the clerk. Is it not the case that if we're doing committee business, we deal with what was in front of the committee at that time before we get to this? The motion was still alive on the floor, right? It was committee business. This is committee business.

The Clerk: Even if we did it under committee business, to me this is an item similar to adopting a budget to travel. It's a process kind of motion. It's an internal administrative document.

Mr. Paul Dewar: But it's committee business.

The Clerk: There is nothing in the procedure that says that we can't first do this under committee business, before we go to your motion. I don't have anything to base that on.

The Chair: It was a topic at the steering committee. I did not want to jump this in front of your motion. The question was clearly laid out: are we able to do this at the beginning of the meeting, listen to our guests, pass the steering committee report, move into committee business, and then go back to your motion? I was under the impression that we could. So on that basis, I proceeded.

Mr. Deepak Obhrai (Calgary East, CPC): The committee is the master of its own business. We can deal with this question, and we can move on to this thing right now.

Mr. Paul Dewar: Chair, I'm protesting that we're not able to get things done in a sequential manner. Normally, when you have committee business, it would mean that you were dealing with whatever the committee was dealing with before. Then, after that, you would get to the next thing. You're asking us to pass the steering committee report ahead of what we were doing before, and I find that unfortunate. I'll leave it at that.

The Chair: If that is the case, then I will not proceed with the steering committee report. All right? We'll not pass the steering committee report, and we'll move right on to our witnesses.

Madame Lalonde.

● (0915)

[Translation]

Ms. Francine Lalonde: If we look at committee business, my motion on Rights and Democracy funding was discussed and was not carried because my colleagues opposite spoke a long time. What happened at the other meeting enabled my colleague to table his motion. I point out that mine is still there, ahead of his.

[English]

The Chair: Just so we're all aware, we will—

[Translation]

Ms. Francine Lalonde: I would like us to listen to our witnesses.

[English]

The Chair: I want to make it clear: the supplementaries will be reported without a minister, because we will not be inviting the minister. We will retract that invitation to CIDA. We checked on the availability of the minister.

Thank you, guests, for attending. Sorry that you had to go through a bit of committee work.

Testifying before us today, from McGill University, we have Daviken Studnicki-Gizbert. I worked on that name before committee. Also, from the Corporate Knights Forum, we have Toby Heaps, the editor-in-chief; and from SNC-Lavalin Inc., Mr. Robert Blackburn, senior vice-president, and Jean-François Gascon, product sustainability and leader of SNC-Lavalin Environment.

Do you have a point of order?

Mr. Deepak Obhrai: Would you please explain to us at what time you're going to shut this thing down and go into committee business, in light of the fact that we have to go and vote?

The Chair: Let me be clear on why we're doing this. We knew that we had scheduled the first guests until about 9:45. We knew we had to pass this steering committee report. In view of the bells on the other end and the steering committee on the front end, the guests were spoken to—other than Mr. Heaps—and they said that they would all do this together. My intentions are to go until 10:30. I'll need unanimous consent when the bells start, but I have the understanding that they're 30-minute bells, not 15-minute bells. If that changes, then our timelines will change.

Mr. Studnicki-Gizbert, please begin.

Professor Daviken Studnicki-Gizbert (Associate Professor, Department of History, McGill University): Good morning. Thank you very much, Mr. Chair and the members of the committee. I appreciate the opportunity to share some of the research we've been doing at McGill with the committee this morning.

The statement I am going to present is based on the collective work of a research group that I coordinate at McGill. It's called MICLA. It examines the different projects across Latin America that are organized by Canadian mining companies. The testimony I'm giving is also based on my personal experience in the particular case of Cerro de San Pedro, which is a mining town on the outskirts of San Luis Potosi, in Mexico.

The issue of proof and documentation has come up a number of times in this committee, so I should say here that our research is based on a broad range of sources. These are documents released by the mining companies, technical reports from engineering firms, press files, legal documents, as well as reports filed by NGOs, international organizations, and national governments. These documents have been supplemented by field interviews with people living near a Canadian mining project, and interviews with community delegations that have come to Canada over the years, and with mining executives, NGOs, and scientists.

My comments today focus on Mexico. Mexico is the host of the largest number of Canadian mining projects in Latin America, and it's the country where the data is the most complete.

I'd like to focus on three points. The first is that Canadian mining in Mexico is a high-risk form of economic activity. The second is that while conflicts have arisen between Mexican communities and Canadian mining companies, these are surprisingly few. And third, the Canadian government, especially as represented by its consular staff, appears ill-equipped to address the growing public backlash against our companies in that country.

● (0920)

[Translation]

I believe it is important to get a better understanding of the context in which our companies currently operate. If you consolidate project data with data on the environments and communities around them, you quickly get a profile of a high-risk industry. It combines a form of operation that has a high impact on its surroundings with the presence from one end of Mexico to the other of a densely populated area characterized by multiple uses, complex land tenure and significant social strife.

Canadian mining companies first entered the Mexican mining sector in the 1990s. They brought with them billions of dollars in equity. Because our companies dominated the sector, they currently own approximately three-quarters of the projects. They have arguably been the main driving force for the recovery of the mining industry in Mexico. Investment aside, they cleared the way for significant modernization of mining techniques. The biggest change is probably “large tonnage, low grade” mines, which are usually open pit.

Most of the projects carried out by our companies are gold, silver and copper mines. The majority of those mines are open pit. I do not want to praise nor do I want to criticize this type of mining, but first off, it is new; second, it has significant long-term impact on the land and water around it; third, there are contamination risks; and fourth, it requires huge investments. We are talking an average of a hundred million dollars for every project. These rural communities, many of which are very poor, are literally awash with money.

[English]

There are currently 519 mining projects developed by companies registered in Canada. They hold large concessions of many hundreds to thousands of hectares each—the average is about 15,000 hectares—and when you put this together we get a significant portion of Mexico's national territory.

I put this out because I want to talk about the actual social geography in which these companies operate. It's a social geography that's very different from that of mining in Canada. Mining projects are situated in areas where the average population density is about 49 inhabitants per square kilometre. To give you a reference for that, it's about equivalent to the area around Chelsea, so fairly densely populated but quite rural. The people who live there are predominantly small-hold farmers, which means that they depend on land and water for their livelihoods. In areas like Guerrero, Oaxaca, and Chiapas, many of these farmers are indigenous, which means that they have special rights to consultation under ILO 169, to which Mexico is a signatory. But it also means that they have special liabilities, which means that those rights are often ignored. The majority of the projects that we've surveyed, close to three-quarters, overlap with what are known as *ejido* lands. This is a collective form of land tenure accorded to rural communities after the Mexican revolution, and the laws regulating *ejido* lands are very strict. They make ceding land, changing land use, or even renting land very difficult, and this can trigger conflicts within as well as between communities.

Finally, in a general way, the Mexican countryside is currently facing its most serious crisis in generations. The violence surrounding the drug trade is on the rise. There's been an upswing in guerrilla activity and in the militarization of the hinterland. The number of cases of alleged corruption at the local and state level is also growing. So this is the context: a large number of projects that will impact heavily on the resources needed by local communities, competing claims on land use that are legally complex but which must be resolved in the context of deepening violence and recourse to extra-legal means of “getting things done”. And this is what I mean by high-risk enterprise.

Public debates over mining have tended to turn around conflicts that emerge between mining companies and local communities. An important line of our research has therefore been to better understand the factors and dynamics that lead to these conflicts. Surprisingly, in recent years only 13 projects operated by 11 Canadian mining companies have been embroiled in open conflict. We need to compare this with the over 500 projects in development across Mexico. The Mexican pattern generally holds across Latin America as a whole. For some 1,300 Canadian mining projects ongoing across the region, we count around 50 with attendant conflicts.

● (0925)

[Translation]

These 13 cases in Mexico depict a range of trajectories. We have seen communities put up blockades to stop mining operations and force the company to negotiate. In some cases, negotiations was successful in resolving the dispute. In others, the company called in the police to take down the blockades and arrest the organizers, often with excessive violence.

The violence has sometimes taken the form of attacks. These attacks have been perpetrated by people linked to the company against people opposed to the mine. We are talking about assault and, in two cases, murder. The latest one just happened. Last Saturday, November 27, Mariano Abarca Roblero, a manager from the community of Chicomuselo in the state of Chiapas, was gunned down in front of his house by two assailants.

A few days before he died, he requested state protection because he had been publicly threatened. The threats were allegedly made by two representatives of Blackfire, a company registered here in Canada. Before he was murdered, Mr. Abarca organized several public consultations in communities near the Blackfire project. After the communities rejected the mine, Mr. Abarca coordinated a number of blockades. That was in June and July past. He died because he wanted to protect his community.

[English]

What is the significance of these findings? I find three.

First of all, while Canadian mining in Mexico is a high-risk enterprise, the numbers show that the Canadian companies are so far capable of managing this risk. I've personally met with people from Mexican communities who recognize the good faith in negotiations of Canadian mining managers and are happy to work with the company. In this respect, the government's existing CSR strategy can only help our companies improve their track record on community relations and environmental impacts. This is the kind of preventive work that absolutely needs to be done if companies and communities are to interact in a healthy and peaceful way.

I find that there's been a false dichotomy that's crept into the debates in this committee, one that pits Bill C-300 against the government's existing CSR strategy. We obviously need both of these things, and they need to work together.

Second, this committee has heard concerns that Bill C-300 would expose the Canadian mining industry as a whole to hounding by communities and their allies seeking redress, that the number of complaints would overwhelm DFAIT's capacity to address them in a satisfactory manner, that the CPPIB would not be able to maximize earnings for pensioners, that the TSX would lose a significant percentage of its equity, that the Canadian industry would lose its reputation and its competitive advantage.

Each of these arguments assumes that Bill C-300 will somehow open the floodgates of woe and complaint. With over 500 projects, Mexico represents a major chunk of the Canadian mining industry's overseas activities. Thirteen cases over the last five years is hardly a flood of problems. I think the industry and the TSX can breathe more easily.

More importantly, Mexicans are pragmatic. If they can find satisfaction through successful negotiations with a company or through appeal to the Mexican courts, they will do so and they have done so. So even though there were 13 cases, most of them are resolved locally, without appeal even to government authorities in Mexico.

Third, there are on occasion serious problems that arise from the activities of Canadian mining companies in Mexico. This needs to be made absolutely clear. We have to stop pretending that every single project and company is beyond reproach, that NGOs are making up vexatious and fraudulent claims in order to save their jobs.

Yes, the conflicts that arise are complex in their origins and in their unfolding. Yes, there are many sides to the story. But there are also certain incontestable and documented facts. People have been killed; people have been physically aggressed; people have suffered damage to their property, their lands, and their water without adequate compensation or redress. People have been dispossessed of their rights.

I would like to lay out in more detail one such case.

The Chair: You're at ten and a half minutes, so proceed very quickly, please.

Prof. Daviken Studnicki-Gizbert: This is the case of Cerro de San Pedro, in the state of San Luis Potosi. I'm going to summarize.

We have a case where we have a company that has been tried in Mexican courts, found to be operating illegally, and has been committing human rights abuses. These things go back to 1998. I think the point I want to bring with that case is that throughout, we have moments when the Canadian government has been continuing to support this company, either through consular support or through continued CPP investment, even when Mexican tribunals declared the company did not have a legal operating permit.

To conclude, there hasn't been a lot of response for Mexicans asking the Canadian government for redress in serious cases like the case of Cerro de San Pedro. People have come to the Canadian embassy on various occasions asking for the ambassador to provide a response. They've come to Ottawa to ask for redress. I'm not saying that the Canadian government has been unwilling or negligent in their response. It's simply that they're incapable of responding to what is a documented and very serious case in Mexico.

● (0930)

The Chair: Thank you very much, Mr. Gizbert.

We'll move to the next group. We have two more groups. We welcome Mr. Heaps here.

We'll go to Mr. Blackburn, and we look forward to your comments.

Mr. Robert Blackburn (Senior Vice-President, SNC-Lavalin International, SNC-Lavalin Inc.): Thank you, Chairman and standing committee members.

I'm Robert Blackburn, senior vice-president of SNC-Lavalin International, and I'm accompanied by my colleague, Jean-François Gascon, who is the leader of our project sustainability group and environment. We're going to jointly make a very brief presentation.

SNC-Lavalin is one of Canada's largest engineering construction groups. Our key sectors of activity are mines and metallurgy, chemicals and petroleum, power, and infrastructure construction, ownership, and management. In 2008 half of our revenues of \$7.1 billion were for work outside Canada, of which, interestingly, only 3% came from the United States, and 13% came from Africa, which has traditionally been our principal geographic market outside Canada. We're currently working on every continent, with approximately 10,000 projects under way in 100 countries. We have an employee workforce of about 22,000 around the world.

I want to make six main points, after which Jean-François will brief you on his experience and observations in dealing with project sustainability issues in Africa and elsewhere.

First, we're sympathetic to the objectives of Bill C-300. However, we have serious reservations about the need for and proposed approach of the bill. Contrary to what seems to be an underlying assumption of the bill, Canadian mining and oil and gas companies generally have a very positive record and reputation internationally. The uncertainties created by the proposed bill would place their activities in jeopardy, and they would be at a severe disadvantage with their competitors in global markets.

Next, Bill C-300 would affect SNC-Lavalin, because although we're not a mining or oil and gas company, we provide services to Canadian and foreign clients in these sectors in developing countries. In addition, we sometimes take small equity stakes in clients' projects, thus aligning our interests with theirs. Our investment in Ambatovy in Madagascar is an example where we're following industry-leading Canadian Mining Association voluntary guidelines—very strict guidelines.

In his testimony, Jim McArdle of EDC—Export Development Canada, that is—referred to 139,000 Canadian jobs sustained in 2008 alone by EDC export support and investments in the extractive industries. Several thousand of these are SNC-Lavalin employees in Canada and around the world.

Thirdly, it is important that the rules affecting Canadian companies be comparable with those observed by competitors based in other countries. Any project that benefits from export credit financing, as well as any project financed by most large banks following the Equator Principles, must meet stringent rules for environmental and social assessment of projects, as set out in the OECD recommendation on common approaches to the environment. They must also observe ongoing requirements during implementation and operations phases as set out by the same OECD and World Bank guidelines. Not only does the project proponent have to meet these criteria, but the financing agency requires that the proponent issue regular progress reports explaining how the commitments are being met. The EDC typically conducts audits for performance as well.

Finally, the EDC and World Bank regimes require the disclosure of a considerable amount of information in the form of environmental and social impact assessment reports, and often ongoing progress reports. The way in which a Canadian mining or oil and gas company develops and implements a project receiving such financial backing is thus very transparent. The same cannot be said for companies from countries that do not adhere to the OECD common approaches to environmental and social policies, and we can think of some, in Sudan and elsewhere.

My fourth point is that complaints and sanctions proposed in the bill would pose significant threats to companies' reputations, since with or without substance, each complaint calls for some level of ministerial investigation. There seem to be no sanctions against frivolous or vexatious complaints that could conceivably be launched not only by individuals but even by disgruntled competitors. Many of the complaints that you may have heard in this committee or elsewhere in print are not only inherently unprovable but cannot reasonably be defended against. The launching of a ministerial investigation would harm a reputation, whatever the outcome. Furthermore, it is not clear what resources and host government cooperation would be necessary for such investigations. These countries do have their own laws, as has just been stated, which are usually very effective.

• (0935)

In any case, the process would seem to be a duplication of the recently announced federal CSR strategy, with a CSR counsellor and the national contact point for the OECD and MNE guidelines.

My fifth point is a comment: that in the past twenty or so years, considerable progress has been made in Canada to bring industry and NGOs closer together and away from the adversarial zero-sum game of old. Examples include the National Round Table on the Environment and the Economy, an EDC consultative process regarding its environmental review directive.

Ultimately, Bill C-300 may well do little good for the environment and local communities where projects are implemented in the third world. It will certainly not boost Canada's competitiveness.

Finally, I think that the burdens and uncertainty of the bill's approach to standards and international enforcement would militate against Canada's hope of expanding into new and fast-growing markets around the world. Our bottom line was well stated by Jim McArdle of EDC, when he said:

If this bill becomes law, we believe that our opportunities to be on the field would be severely limited. Instead, we as Canadian companies and EDC would be on the sidelines hoping that the other companies who remain in the market do the right thing from a CSR perspective.

Thanks for your attention. I'll now ask Jean-François Gascon to share his experience with you.

Mr. Jean-François Gascon (Project Sustainability Leader, SNC-Lavalin Environment, SNC-Lavalin Inc.): Thank you very much, Robert.

[Translation]

Mr. Chair, I would like to know how much time I have for my presentation.

[English]

The Chair: You have roughly five minutes.

[Translation]

Mr. Jean-François Gascon: I am going to give my presentation in French. I will leave 15 seconds for those who need simultaneous translation.

My name is Jean-François Gascon. I work for SNC-Lavalin Environment as a Project Sustainability Leader. Through our division, SNC-Lavalin puts sustainable development programs in place during the implementation phases of projects, particularly in mining and other resource sectors.

As my colleague told you, the ultimate goal of Bill C-300 is very commendable. We share that objective, as do many of our clients and partners in Canada. However, I think that the means being used is probably the worst way of meeting that goal.

The biggest problem with the bill is that there is a sense that it is based on three premises which make me rather uncomfortable. The first is that Canadian companies are not good corporate citizens, particularly in developing countries. My experience in more than three dozen countries, especially developing countries—because I lived in developing countries for many years—tells me that the opposite is in fact true. Canadian companies, particularly in the resources sector, actually have a good reputation, especially in comparison to competitors from foreign countries. I am therefore bothered a bit when I see that that is a premise underlying the bill.

The second premise is that the current legal environment is unable to address the problems and meet the objective, which is to encourage companies to be better corporate citizens in developing countries. I do not think there is a need for a protracted debate on that point. The legal environment is more than sufficient today, whether it is banks or export credit agencies like EDC, which are subject to a set of rules, including the Canadian Environmental Assessment Act, which has to be applied to projects outside Canada, especially when there is Canadian funding. I think the current legal environment is more than capable of permitting Canadian companies to manage mining projects in developing countries quite effectively.

The third premise is the one I find the most upsetting, especially for those who have travelled in developing countries. The premise is that developing countries do not have sufficient legal capacity or are not mature enough to solve problems, in particular, problems related to human rights or failure to respect the environment. I think this premise is very harmful. A lobby group or an NGO can say things like that publicly, but when the idea forms the basis for legislation tabled by the Government of Canada, I, as a Canadian citizen, am deeply concerned.

Why is this bill aimed only at projects in developing countries? The answer to that question is obvious. People think developed countries are able to solve these problems and developing countries are not. This is a major issue. Developing countries do not want to be treated like children. I think that paternalism is probably the last approach we as Canadians want to use when it comes to addressing these very significant concerns.

I would like to end with a rather telling example that also indicates a change in the way Canadian companies approach foreign projects, particularly in developing countries. Companies talk a lot about community relations. They talk about the celebrated "social licence to operate", an approach that on the whole is rather passive. They try to solve problems as they arise. However, Canadian companies are increasingly proactive in their approach. For example, there is a very big mining project, one of the biggest in the world, in Madagascar, the Ambatovy project, in which SNC-Lavalin has invested as part of a consortium that includes a Japanese company, a Korean company and another Canadian company. For the implementation and construction phases of the project, three training centres were set up to train more than 6,000 local workers, which helped maximize local employment for the project. Today, the project employs 10,000 people, 85% of them local workers, which is almost unheard of in the mining industry.

• (0940)

A strategy has also been put in place to maximize local procurement, and to date, companies have bought more than \$750 million worth of goods and services produced locally or through a local intermediary. Some of the strategies that have been put in place are designed specifically to not only ensure that project implementation, but also to maximize the local benefits of that type of project. I believe this approach should be promoted ahead of the approach where minimum standards are set and companies that behave badly are punished. We welcomed the Canadian government's announcement of the creation of a corporate social responsibility counsellor position, and I think we have to move toward promoting best practices instead of punishing the worst offenders. Thank you.

[English]

The Chair: Thank you very much, Mr. Gascon.

Mr. Heaps, welcome here. You're part of this new way of doing committee this morning, putting everyone together. Welcome.

Mr. Toby A.A. Heaps (Editor-in-Chief, Corporate Knights Forum): Thank you, Mr. Chair.

Mr. Chair and members of the committee, it's truly an honour to be here today, at the heart of one of our country's most important deliberations. Before introducing myself, I'd like to make one point

crystal clear: the fact that you might be for Bill C-300 doesn't mean you're against Canadian mining and oil companies; in fact, I think it can mean quite the contrary.

I have a company called Corporate Knights. I'm the president and editor of Corporate Knights. It was co-founded in 2002, and we're founded on the premise that in today's global landscape, companies must be at the heart of our big solutions or there are no big solutions. We also believe there's a strong self-interest for companies to engage in commerce in a way that strengthens social and political stability, because no company can succeed in a society that fails.

In short, we are big supporters of Canadian companies, their leadership and innovation, and their potential to drive Canada's prosperity in ways that can make us all proud. Over the past eight years, we have tracked corporate Canada's performance on social and environmental matters through our annual surveys, such as the best 50 corporate citizens in Canada, the global 100 most sustainable corporations in the world, which is announced each year in Davos during the World Economic Forum, as well as investigative reports assessing Canadian companies' performance against the International code of ethics for Canadian business and other international responsible business standards. Our work has taken me to the bottom of giant open-pit mines in the Congo, to the vast plains of the Gobi Desert, right to the middle of oil pipelines in Ecuador.

Companies by and large respect and give credibility to our trademark, which is fairness. This credibility is something we've earned that provides us access to company executives and company sites. It's also why mining and oil and gas companies have purchased hundreds of thousands of dollars of products from our company.

I would like to use this opportunity to cover two main points. The first point I'd like to cover deals with some of the global currents that define the context of the marketplace in which our Canadian companies operate today. The second point I would like to make concerns the difference that Bill C-300 could make.

On the first point, today the size and power of companies paints a whole new swath of grey between states and enterprises: 29 of the world's 100 leading economic entities are companies, according to the UN Conference on Trade and Development.

The majority of the world's untapped resources lie in unstable states. The quest for resources is increasingly becoming a foreign pursuit for Canadian companies and companies everywhere. As Canada's resource levels recede, our firms have a choice: go where the resources are or go out of business. According to the United States Energy Information Administration's *International Energy Outlook*, roughly 80% of the world's oil supply will come from non-OECD countries by the year 2025. Many of those countries rest in weak governance zones.

Today, as we're all familiarly aware at this committee, 75% of the world's exploration and mining companies are headquartered right here in Canada. We also have a revolution in information and communications technology, which has put companies under the microscope—or YouTube, as the case may be—and what happens on the other side of the world in a remote jungle in the morning can be beamed onto your computer screen or TV that afternoon.

The fifth thing that defines the global context in which we operate is that the corporate accountability mandate has achieved an increasing traction. Over the past decade there has been a raft of international corporate performance standards and guidances, ranging from the IFC performance standards to the voluntary principles on security and human rights, to the calls for corporate accountability laws by Supreme Court Justice Ian Binnie, to the meticulous work by John Ruggie, special representative of the Secretary General on human rights and transnational corporations.

If you look at these things, you see a consistent pattern of an increasing articulation of what is expected from companies these days, and nowhere is this truer than in Canada. Bill C-300 lands smack dab in the middle of all this.

These are the four differences I think Bill C-300 can make, and these differences are all positive differences for companies, in my view. First, I think it could help clear the air for our most honourable companies. The fusion of NGOs and the ICT revolution produces many allegations. A credible mechanism that would make informed decisions would help to stop false accusations in their tracks, helping to protect the reputations of Canadian companies.

• (0945)

Second, right now it is assumed that if you buy a junior mining company or oil company, you're buying the assets as well as the liabilities, meaning the social and environmental liabilities. These liabilities have a big price tag. The presence of a credible accountability mechanism and administering body would offer tremendous incentive for Canadian junior companies to more closely adhere to international human rights and environmental standards, which would mean less value being destroyed and less time lost. It is a win-win for the juniors, who could sell their assets for higher prices, and for the majors, who would not have to deal with the headaches often embedded in their acquisitions of junior properties.

Third, this bill could offer a maple leaf quality assurance premium to investors. Let me explain. After the recent financial meltdown in which up to \$50 trillion of wealth vaporized, investors have become increasingly risk averse. The downside of this risk aversion is that there's less capital flowing to emerging markets, as presently most investors just paint all companies with the exact same risk discount based on sovereign risk no matter what their practices are, but the major liability issues at most sites are related to the way the company operates, not the context in which it operates. This is something that checked out in my experiences and those of other experts I've talked to, who examined hundreds of sites around the world.

The current investment practice, aside from unfairly tarring leading responsible companies that happen to be operating in a difficult environment, leads to suboptimal risk-adjusted rates of return for investors. With a credible accountability standard for companies listed on the TSX, investors could be willing to pay more

than, say, for a comparable company listed in the London exchange, because they would have more confidence that they were not buying a poisoned bag of goods.

Fourth, I think this bill could offer a maple leaf quality assurance premium to host countries and their stakeholders. We are the world's miners. Mining is not about technological advantage. Any company can do it. In the scramble for resources, what distinguishes a Canadian company from a Chinese company is that a Canadian company has a competitive advantage when it comes to safety, social issues, respect for human rights, community engagement, contribution to local employment, and environmental protections.

Bill C-300 is not perfect, nor is it enough, but by making a move to a credible accountability mechanism, it sends a strong signal that Canadian companies will be on the winning side of the seismic shifts shaping our global economy.

Thank you.

• (0950)

The Chair: Thank you very much, Mr. Heaps, and thank you to all the presenters this morning.

We're going to move into the first round of questioning and we'll go to Mr. Rae.

Hon. Bob Rae (Toronto Centre, Lib.): Thank you.

Mr. Blackburn, you mentioned in passing the counsellor program set up by the federal government. Do you accept that process?

Mr. Robert Blackburn: It's a very new process, but it's one that looks as though it emerged from consultations between NGOs and mining companies. We weren't involved, so we weren't involved in creating the process, but it looks like a helpful process, yes.

Hon. Bob Rae: The premise of that process is that there's a problem, wouldn't you agree?

Mr. Robert Blackburn: There have been questions raised, certainly, and I think that was the government's and this consultation's view of a good way to deal with them, yes.

Hon. Bob Rae: I'm sure you understand that the timing of the legislation is that the legislation was proposed by Mr. McKay before the government told us what their position was on corporate social responsibility. We had a debate in this committee, a discussion in this committee, a report from this committee, and then we had a long period of delay. Then Mr. McKay brought forward his measure and then the government brought forward the counsellor process.

Many of the things that you've described as part of the problem that would be associated with Bill C-300 also apply to the counsellor process. Anybody can complain, anybody can go to the Internet, to the world, to wherever they want to go and say this activity has gone on, it's terrible, it's awful. The company's reputation is affected by that decision of whatever group to come forward.

The counsellor receives the complaint, and the counsellor then asks the company, do you want us to proceed? The company might object. They might say they don't like this, they object to it, so they'll put out a big press release.

The point is that part of what I find in your presentation and also *dans la présentation de Monsieur Gascon* is we have created a process in Canada now and many other countries are doing the same thing. The reason we've created a process is because there's a perception of a problem.

Mr. Robert Blackburn: What Mr. Heaps has just said is certainly true. These days media is such that any allegation immediately blows up and travels the Internet. I guess the difference I see is that the counsellor process is a little different from a legally framed process that demands a ministerial investigation and then includes a suite of sanctions and legal appeals, rather than a common-sense ability to look into the facts and deal with whatever the allegations are in a practical way.

Presumably if an allegation were raised that the counsellor thought was valid, in making whatever investigations he makes, that would assist in the host country, or whatever. Sometimes there are other international judicial forums where these things can be dealt with.

• (0955)

Hon. Bob Rae: Do you think it's unreasonable...? You mentioned the EDC, and Mr. McArdle was here. The EDC has developed a policy, along with the World Bank and everybody else, on environmental guidelines. The International Finance Corporation has done the same thing. Those environmental guidelines are well established, and if you don't meet those guidelines you don't get the financing.

Why would EDC not take into account a report from the counsellor that said that from all the evidence she has seen, this company would appear to have been party to serious breaches of human rights obligations under well-established international standards, and therefore they're not in a position to finance their operation?

I hear the statements that are being made, but it seems to me that the statements about the consequences go way beyond the actual effect of what is being suggested.

Mr. Robert Blackburn: You're suggesting that if there were a past record of abuse EDC wouldn't deal with them. I suspect that's probably true.

Hon. Bob Rae: Right.

Mr. Robert Blackburn: I guess the scenario one can see might involve a company with a perfectly good reputation, like most Canadian companies—I don't think there's any argument about that. A project begins somewhere in the world—say, Madagascar—and it's proceeding and an allegation is raised. The consequence of that

allegation down the road, if it were proven, would mean the withdrawal of EDC support, according to this bill.

In the meantime, for an indeterminate length of time.... The Canadian government would presumably then have to go to the government of a given country and say there's a Canadian company and it's alleged that they may have broken some Canadian law—help us investigate that company. The investigation might take place. The minister might decide that the allegation was baseless, but the result would have to be gazetted. Then it would be subject to a legal appeal.

The process would lead to uncertainty about what was going to happen. Why would I want to invest in a project where the financing might fall through partway through, on the basis of an allegation from a competitor that would have liked to have had that contract in the first place?

Hon. Bob Rae: Just to be clear, the financing wouldn't fall through because of an allegation, any more than the financing would fall through because of an allegation before the counsellor. The counsellor, under the current rules....

Let's be adults here. The Senate is going to have a Conservative majority in six weeks to two months. Whether this bill will go through or not, we don't know. But a lot of the complaints I hear from the corporate sector about Bill C-300 would be equally directed to what is happening with the counsellor.

I don't hear the corporate sector saying that the counsellor's processes are unacceptable. It's unimaginable to me that EDC would not take into account a conclusion of the counsellor on the conduct of a company. In that sense, the game is up. This question of corporate social responsibility has been resolved. It's clearly in place. Companies that act—

Mr. Robert Blackburn: Then what's the point of Bill C-300 if it's already done?

The Chair: Thank you very much.

Madame Deschamps.

[Translation]

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Mr. Chair, we are going to share the allotted time because we do not have a lot of time.

My comments are directed at Professor Daviken Studnicki-Gizbert. In your presentation, you said that your research shows that there is conflict in Mexico between communities and mining companies.

Are you able to say whether any complaints have been filed with Canadian consular representatives in Mexico? How were those complaints handled? What tools are available to Canadian representatives in Mexico? How does a complaint proceed? Are most complaints trivial? If not, I assume that complaints made by people knocking on the doors of Canadian representatives have some merit. How are these complaints received? What is the outcome? The offenders are told what to do, but is there also support for the individual or NGO making the complaint?

•(1000)

Prof. Daviken Studnicki-Gizbert: You have several questions. The answer to the first question is that to our knowledge, there is only one case of a community or members of a community filing a complaint with the Canadian government. That case is Cerro de San Pedro. I tried to broach the subject in my presentation, but I ran out of time. The community members went to the Canadian Embassy with letters. They contacted the ambassador. This happened three times: in 2007, 2008 and 2009.

In my opinion, the ambassador's silence gave them their answer. There was no investigation or even any follow-up. The community then came to Canada. The people felt it was important to speak to Canadian officials about one of these companies. In their mind, there is a very close link between the companies and the government. This happens all over Mexico and Latin America. Canada's reputation and the reputation of Canadian companies slip a little bit when these complaints are not resolved.

So these people came to Canada. Some MPs offered moral support and made some gestures of support, but in terms of real gestures, there was no mechanism for taking action. In my opinion, the bill that has been tabled here was not made to regulate the industry or interaction between the industry and communities, whether or not those communities suffer harm. It is there simply to regulate the government's response to the question whether the government will continue to invest in companies that can be clearly shown to have been involved in human rights abuses, violation of other rights or inequality. The bill exists solely to assure Canadians that their pension fund managers and the government will not support some companies in some cases. We are talking a minority of cases here. There are 13 cases, one of which has been referred to the Government of Canada.

The Chair: Ms. Lalonde.

Ms. Francine Lalonde: Good morning, Professor Daviken. You produced a profile which you described as fairly broad. You worked with university students and had access to vast sources of information. You were surprised to find that there are only 13 cases that have become crises. You therefore saw situations that could have generated other crises.

Prof. Daviken Studnicki-Gizbert: I do not want to get into all the details of my research, because we could go on forever. Apart from a few regions of Mexico, all of the mining projects are established in areas with a high population density where the people need water and land to survive, which is why I was surprised. An open pit mine is a big deal. It's surprising: we wonder what is going on, we are not exactly sure why there are not more cases.

There is one theory: companies are doing their duty and making sure there is no damage, no threats to communities, and that community relations are good in connection with all of the things that are expressed in the framework of what is called the CSA. That is one theory.

There is another theory: most of the projects we are currently monitoring are not beyond the exploration stage. We are talking 519 projects of all stripes, prospecting and so on. The ones that are operating are a minority. All of the conflicts arise once the mine starts operating. The communities realize what is happening and then

there is a response. How does the response come about? That is Ms. Deschamps's question.

Sometimes there are negotiations. I, myself, saw one very interesting case in Mexico. The company manager went to Mexico to negotiate, and the problem was resolved on the spot.

•(1005)

Ms. Francine Lalonde: Mr. Blackburn and Mr. Gascon, you are speaking on behalf of SNC-Lavalin, which is a huge company. You already have rules. You say that companies are able to regulate their methods themselves, based on their experience. I believe you. Mr. Heaps talked about small companies that move into areas where they can take advantage of the people.

Why do you not think that legislation, which would not only set standards but also make it possible to point fingers, would not help? I personally think that entrepreneurs are extremely clever and will take advantage of certain situations. Some of them have values, others not so much. So, we can act on the way they act.

Mr. Jean-François Gascon: You raise a good point: you say that companies are able to self-regulate, etc. That is not exactly what we said. We actually said that there are already substantial national and international rules that have to be met. Companies are not necessarily going to be content meeting minimum legislative requirements. Many of them are going to go a lot farther than that.

When we talk about mining operations, we often talk about operations over a period of 10, 20 or 30 years. For that reason, it is important for operators, investors, to develop a good relationship from the outset.

Generally, SNC-Lavalin gets involved in projects at the very beginning when they are at the construction stage, which is a high-risk stage. Generally, there are about five times more workers on site than in the operating phase. This provides an excellent opportunity to develop a model that can then be used by the client.

Ms. Francine Lalonde: I hate to interrupt you, but do you not think that that may not happen?

[English]

The Chair: Madame Lalonde, thank you. We're going to cut it off. We're at almost nine minutes.

We'll go to a split between Mr. Goldring and Ms. Brown.

Mr. Peter Goldring (Edmonton East, CPC): Thank you, Mr. Chairman.

Mr. Blackburn, all companies want to do better and the intent of this bill, although well-meaning, is problematic. The Canadian mining business has an excellent reputation, nationally and internationally. This has been confirmed by some of the witnesses.

There was a comment that sounded outrageous—namely, that there might be up to a billion complaints that have to be responded to. The language of this bill is instructive: the minister “shall receive complaints” from “any Canadian citizen or permanent resident or any resident or citizen of a developing country”. This implies investigating as well, not merely receiving the information.

Around here, we all know that from time to time we get thousands of pieces of information, inquiries, complaints, and instructions. So it is conceivable that there would be a billion responses to be made. This affects not only DFAIT and EDC, but also your own firms. If there are mass mailings, computer-generated mailings or whatever, they have to be deciphered to see what information there is behind them.

So it's not just the legal system of EDC and DFAIT that would be expanded. This would also affect your own firm. You mentioned that you have 10,000 projects internationally—\$7 billion in Canadian business. It was mentioned earlier that the TSX will breathe easier because of Bill C-300. I'd like to know your response. Would you concur that the TSX would breathe easier? What happens to these large numbers of Canadian businesses? Will there be a departure from Canada? The alternative is to insulate yourself from this type of legislation, and the best way to do that is to relocate.

• (1010)

Mr. Robert Blackburn: Who can speculate about how many complaints there'll be? Our concern is that this is an additional layer on top of what Mr. Rae has said is a system that is already in place. There are international bodies as well.

Mr. Peter Goldring: But this instructs to respond.

Mr. Robert Blackburn: Yes, that's right. That's the difference in this case. It's a burdensome and unnecessary legal and sanctions process that is being put in place. If you are a company that's going to develop a project in a difficult part of the world, you minimize your risk. This raises the level of uncertainty, so you go elsewhere. You base yourself elsewhere to develop that project.

I can't imagine that it would be a great boon to the TSX. But I don't know how many complaints and investigations would be launched. What would the effect be on Canadian mining companies, or oil and gas companies? Who can predict? I would disagree strongly that it would have a positive effect. But as to how negative would it be, who can tell?

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, Mr. Goldring, Mr. Chair.

Were any of you consulted on the creation of this bill?

Mr. Robert Blackburn: No, and my understanding is that despite the long industry and NGO consultation that led to the CSR counsellor policy of the government, there was no consultation in advance of this bill. Occasionally we see a complaint on the Internet that we've never heard of, let alone responded to. It has never been brought to our attention.

Ms. Lois Brown: That has been our experience in these investigations. We're still waiting for someone to come forward who says that he has been consulted on the creation of this legislation.

Mr. Blackburn, you told us that you have 10,000 projects and 22,000 employees, internationally. You're not a mining company—you provide services to mining companies. You also said that you are often prepared to take an equity stake in a project being initiated by one of the extractive industries. What criteria do you use to assess whether you're going to make the investment? Would you still invest if there were a complaint under this legislation?

Mr. Robert Blackburn: When we invest, as I tried to say, it's usually a fairly small investment. The Madagascar case, Ambatovy, is a good case of mine. We're a five-percent investor there, and it's a good project for us, a very rich deposit in a country that's welcomed that investment, and it aligns our interests with the interests of Sherritt, which is our Canadian client, and the other Japanese and Korean partners in the investment.

If it were a problematic case, if there were allegations of some kind of abuse, of course we wouldn't invest. We wouldn't be involved.

Ms. Lois Brown: You say you've got a five-percent investment in Madagascar. Can you talk about the benefits that are happening in Madagascar as far as employment? How many people do you have employed on that project?

What is it doing to the standard of living of your employees?

• (1015)

Mr. Jean-François Gascon: At the beginning, following a request from the Government of Madagascar, there was a very strong request to create a maximum of jobs, providing, as much as possible, knowledge transfer and capacity-building at the same time. As SNC-Lavalin, as a service provider but also taking a small equity participation in the project, we designed a program 15 years ago for other projects being developed in southern Africa. The program was called LRDI. That stands for local resource development initiative.

The program had three pillars. The first pillar was a labour training program to raise the employability of the local population, which trained 6,100 local employees and contributed significantly to the percentage of local workers on the overall manpower of the project. I indicated to you that at the peak of construction, there were 10,000 workers on the project at the same time. Eighty-five percent of them were locals, a number we've never reached before.

The second pillar of the program was a local procurement and SME development program, where we designed the project to maximize packages to be tendered locally. We trained local companies on how to submit winning proposals and whenever possible we also provided capacity-building, mentorship, management and technical training programs, and thousands of hours of support to the local companies that had contracts with us, because we saw it was important for a 27-year-long project to build around the project with the local economy and build the local suppliers.

The third pillar was a very important program working with development organizations in the region, especially in agriculture, because farmers would want to sell their products to the project. We needed to prepare meals for thousands of workers every day so this program was intended to maximize the benefit, and it is today one of SNC-Lavalin's best practices.

The Chair: Thank you, Mr. Gascon.

Mr. Obhrai, on a point of order.

Mr. Deepak Obhrai: Thank you.

I understand the NDP requires the questioning, but they've just put a concurrence motion in the House that requires us to be in our seats by 10:30 without the bells, so I would say if you want to go to committee business, we do that right now.

Mr. Bernard Patry: I'll double-check with ours. We've got to double-check because we know you: you tend to want to cancel everything now.

The Chair: I take that as a point. I haven't received such.... There may be something on my BlackBerry, but my view is that we have committee until there are bells, so I'm governed by that. There may be things that change.

Mr. Dewar, please.

Mr. Paul Dewar: It wasn't a point of order, Chair.

The Chair: Yes, it was. He called on a point of order, just on procedure.

An hon. member: There are no bells. There's no point of order.

An hon. member: On this side, we need to be in the House by 10:30.

The Chair: I'll leave that up to you.

Mr. Dewar.

Mr. Paul Dewar: I'm not hearing any bells.

The Chair: I'm not either.

Mr. Paul Dewar: You guys might, but I'm in reality land.

Mr. Heaps, you were very clear in your support of the idea of Bill C-300. You said you wished some other facets could be put in place. I guess what you were getting at, and I've read your magazine, is you want to brand Canada in terms of its companies, as a sensible way for other countries to do business, to have Canadian companies come to their country.

What are some of the other things you think we should be doing on top of Bill C-300? I guess what I'm looking for is this dichotomy that was mentioned, a false one, between those who are in support of the idea of Bill C-300 and seemingly being against mining. I'd certainly take issue with that.

If all of us are trying to do the same thing, how can we take Bill C-300 and use it to improve our reputation overseas to ensure that our brand, as a country, is solid, is welcomed, and is advanced and promoted?

Mr. Toby A.A. Heaps: Thank you, Mr. Dewar.

First of all, I've heard a couple of things here this morning that were almost laughable. One was the prospect that we could have billions of complaints. If you look at the IFC CAO, it has been in existence for nearly a decade and it's had a total of 110 complaints, which is about 10 per year.

• (1020)

Mr. Paul Dewar: Could you explain what those acronyms are, please?

Mr. Toby A.A. Heaps: Sure. It stands for the International Finance Corporation Compliance Auditor/Ombudsman.

Of those 110 complaints, 80 have been perfunctorily dismissed. If you go to their homepage, it's right there: "How to file a complaint". Anybody can complain. Anybody in the whole entire world can complain. You or I can complain right now, and there have been 110 in 10 years. It does have some weight when they come down with it. Its teeth are not quite as sharp as those of Bill C-300, but it has weight. So it's not credible at all that we're going to have billions of allegations.

Further, perhaps our colleague from SNC-Lavalin did not mean what he said, because if I heard correctly, he said that if there were allegations of wrongdoing in a project they were involved in, they would divest. I don't think that's true, because of those 110 allegations that were levelled with the International Finance Corporation CAO, I'm almost certain that SNC would have been involved in some way with a couple of those projects. I don't think allegations are enough to make companies run away, because if anyone can make an allegation and you're willing to run away from a billion-dollar investment, that just doesn't pass the smell test.

In terms of the other remarks, I think it's natural for companies to sometimes say that the sky is falling. When we had labour, safety, and environmental regulations, those claims were all made, and they all proved to be blatantly false. In the end, companies were a lot more profitable because of them. I don't think this sort of notion of Chicken Little crying the sky is falling holds a lot of water. I don't understand when people ask why they need this if their companies are leaders in the world. Why do we have labour laws and environmental laws and other standards that are backed up by legal remedies in our country? You need an accountability mechanism. Why do we have referees at the hockey game? We need somebody who can put people in the penalty box when it's needed and help to hold order.

I hope the committee doesn't take these statements that are being made too seriously. In terms of your question of how we can brand Canada as a leader, how do we differentiate ourselves as Canadians when we're operating a mining company abroad? We do have a good reputation, but it's running on fumes to some extent. I remember being in Colombia, talking to the U.S. ambassador. She told me that there was a Canadian company operating in the heartland of FARC, that a U.S. company could never operate there, and that doing so was a privilege our country's companies enjoyed. If we want to continue to enjoy that privilege, we can't just rest on our laurels. We have to have something that gives real quality assurance, and this bill would offer a good starting point of a semblance of quality assurance.

If I'm in Africa, living in a community in the Congo and something is going wrong—and maybe nothing's going wrong—at least I know that if something is going wrong, there is real due process through which someone will listen to my complaint and hear it out if it is valid. That says a lot to countries, and that sort of thing would differentiate us so people could say when you deal with Canadians—

Mr. Paul Dewar: Mr. Blackburn raised a point. I want to be fair and give him an opportunity to clarify.

Mr. Robert Blackburn: Thank you. I was going to ask to clarify.

I disagree with my colleague. I don't laugh at him. I certainly didn't talk about divestment. I talked about not becoming involved in a project in the first place that was subject to controversy and investigation. That's all.

Mr. Paul Dewar: Maybe I'll just segue into this. I wanted to ask you something.

With all due respect, the issue of consultation is a bit of a red herring, and we've heard it many times here. It's not that you shouldn't be consulted. It's that there was a process before this bill was contemplated. In fact, Mr. McKay brought forward his bill when we were waiting for Godot. Godot still hasn't come, in our opinion.

We need to have an understanding of the process, because it was a process, as Mr. Rae mentioned, of this committee. It goes back to a former member of Parliament from the riding I represent, starting with Mr. Broadbent, to bring together what were seen as disparate groups. I think most of us lauded the fact that we were bringing together those who were involved in industry with those in civil society. A lot of people were welcoming that, and that was a consultation, wouldn't you agree?

Mr. Robert Blackburn: Certainly it was a consultation, and I think it was a good one. It was marked by cooperation between business and NGOs. On this bill, I don't think there's been that level of cooperation. It seems to me that for one reason or another, there's a kind of polarization that's gone on between the NGO community, if you want, and the business community, which is—and Corporate Knights may be an exception to this—pretty strongly opposed.

I didn't raise the issue of consultation. I was simply responding to a question.

• (1025)

Mr. Paul Dewar: I know that. I'm just trying to clarify it for the record.

For the record, you did not raise that.

Mr. Robert Blackburn: No, I didn't.

Mr. Paul Dewar: I'm trying to find the bridge here. I think we have one, and at the best moments in the debate in this committee we actually got to the point where people saw that bridge to cross to bring people together.

Mr. McKay's bill does not have the ombudsman in it. My private member's bill does, but I would have had to drop it, likely, if I had my number called and if the bill were brought forward, because it requires a royal recommendation.

Mr. McKay would like to have the ombudsman. You understand the limitations of legislation here. When we heard from people from industry, they said they liked the idea of an ombudsman who is a third party, who is not prejudiced, who would receive the information and then be able to go forward. That was something in the recommendations from the round table.

In light of that, if we saw that Bill C-300 had that structure with the ombudsman, do you think that would be something you could support? I know I'm asking you to put a little extra into your analysis here, but it's something that was out there before, in terms of the

round table. Could you accept that process of an ombudsman, a third party being able to oversee this process?

Mr. Robert Blackburn: To the extent that it exists in the existing government policy, yes, but not in the framework of this bill with its legal framework and—

Mr. Paul Dewar: No, what I'm saying is, instead of the minister, an ombudsman.

Mr. Robert Blackburn: Yes, an ombudsman having a practical process that didn't involve a sequence of legal appeals and sanctions but as a common-sense approach. Sure.

The Chair: Thank you. We're at eight and a half minutes here.

I will return to Mr. Goldring, and then we'll come back on a second round. The bells are not ringing, so we've all been fortunate this morning. We'll get a few extra questions out of you.

Mr. Goldring.

Mr. Peter Goldring: Thank you, Mr. Chairman.

Mr. Blackburn, I suppose it's not what's not in this bill that is the concern; it's what's in this bill and the fact that it's instructing the ministers to investigate all issues.

The suggestion in the bill is very clear that the companies subscribe and adhere to human rights provisions that are international. It also has other standards, which would imply other laws. There might be indigenous understandings. It might be sharia law in other parts of the world and how that applies to not only your own mining business but maybe the communities. I understand some mines have their own mining towns, so it brings you into the social requirements of conforming to all forms of international law, all forms of understanding, even in those communities, too. We all know that Canada itself does not subscribe to many of those, so you're really asking the corporations to adhere to laws that Canada doesn't even subscribe to.

Then we have the situation of the minister trying to receive these complaints, investigating these complaints, and maybe taking legal steps to deal with the complaints. What do they do? Do they bring it to a court of Canada, do they bring it to the court of Mexico, or do they bring it to some other international body and court?

In other words, those are the complexities and the uncertainties that are in this bill, which are instructive, and you can't really get around that. So I'm saying again that it's not what's not in this bill that's of concern, it's what's in this bill. We're hearing it over and over again, whether it's from EDC, DFAIT, or business after business after business.

You have a very substantial amount of business worldwide yourself, some \$7 billion from your firm alone. You can extrapolate that across the other companies, I don't know how many there are, maybe hundreds of businesses.

My understanding, after meeting with the Mexican ambassador yesterday, is that in Mexico alone the largest level of Canadian investment in that country is in the mining sector.

The Canadian mining sector really is leading the world in showing this. There are many other industries in Canada that can take a lot of lessons from the mining industry, because many are not nearly as well organized worldwide. So hats off to the Canadian mining industry for showing to the world that Canada can be a leader, but we're risking this entire worldwide number-one business that Canada has internationally.

I go back to the Toronto Stock Exchange once again and the strong concern here that it's going to have a diametrical and very negative impact. Coming from a business background myself, I know full well that if I had a choice of which way to go, I have read and written thousands of specifications on construction projects, and when it says "You shall do", you pay attention. There are many projects I would not bid on because they were too restrictive. So you find another way to do it.

Can you expand a little bit more on that, on the potential risk to the largest component of Canadian international business that we have?

• (1030)

Mr. Robert Blackburn: Following from what you said, the difference between an ombudsman that does a common sense, if you want.... It's not based on a Canadian law, but on a Canadian policy to look at Canadian values and international obligations. The difference between that and trying to enforce a Canadian law extraterritorially on a Canadian business operating in a foreign jurisdiction, where it has its own laws and customs and traditions, as you want, and its own systems—as we've heard that Mexico has, and Peru, which is another country where many investors in the mining sector there are Canadians—yes, it raises uncertainty. Uncertainty is the most discouraging factor for business investment, and this is adding the—

Mr. Peter Goldring: You can't simply repair this bill with an ombudsman. There are too many other restrictive covenants in it.

The Chair: Thank you, Mr. Blackburn.

Mr. Rae.

Hon. Bob Rae: I don't want to get into an argument, but what is extraterritorial when you look at what the actual bill says? The bill says the minister will develop guidelines. We all agree that there will have to be a process that respects natural justice inside the Department of Foreign Affairs and International Trade. That's absolutely a given. That's our legal obligation as a country to do that.

The guidelines are discussed with the industry and negotiated with the industry—and with everybody else—over a period of a year. As a result, eventually, if this bill were ever to become law, the process would then be that there would be a complaint, the minister finds it's frivolous, it doesn't happen, or the minister says it's actually something serious and we're going to look at it.

The consequence of all of that is essentially two things: one, if there's a finding of a breach of a guideline that's irreparable, the EDC has to take that into account in its decisions. Second, the Canada Pension Plan—again, Mr. McKay's open secret is going to be

producing some amendments next week—has to take that into account, as well.

How is that extraterritorial? It's simply saying your conduct as a corporation is something that we, as a government, will take into account. It's actually no different from what EDC does now with respect to environmental law. We already accept the fact that environmental standards will be built into the corporate social responsibility conduct. The only additional thing is the question about human rights because of the implications it has for our corporate reputation, and frankly, for our country's reputation.

I've done it for your company as a premier. I've proudly represented SNC-Lavalin in countries around the world—in Malaysia, in China, everywhere—with great pride because your company has a sterling reputation. Companies are asking premiers and politicians and prime ministers to do this all the time, which we should do. It's our obligation to do it. The essence of this, and what's happening with corporate social responsibility, is we're saying we have to look at the whole picture of what the corporation's conduct is before you can draw on the resources of the Government of Canada. To me, this is hardly revolutionary behaviour.

The Chair: A very interesting talk.

• (1035)

Hon. Bob Rae: Thank you.

The Chair: I actually was enjoying it.

Hon. Bob Rae: Were you listening?

Mr. Robert Blackburn: And we're very grateful for your support.

The Chair: I had the pleasure of being with Lavalin, as well, in Libya with former Prime Minister Martin. So I appreciate exactly what you're saying. However, these bells have called us to the House right away.

When the bells start, we have an option.

Mr. Bernard Patry: No, we have 28 minutes left.

The Chair: Okay, so it's the 30-minute bells.

We need unanimous consent in order to continue. Do we have it?

An hon. member: No, sir.

The Chair: No?

All right, I want to thank the witnesses for attending here today. And this has been a little different kind of day. Please do not assume that this is the way this committee is conducted all the time.

Mr. Heaps, just to conclude, thank you for coming, and sorry you weren't part of it initially when we started. I think your grandfather—your great-grandfather—would be very proud to see you here today. I think he was politically motivated, from what I understand.

All of you, thanks for your attendance.

We're adjourned.

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