



Feb. 13, 2023

Members of the House of Commons Standing Committee on International Trade  
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House of Commons  
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**Re: Mining Association of Canada input to the Committee's study on Canadian mining companies operating abroad and environment and human rights issues**

Dear Committee members,

We regret that scheduling prevented us from joining you to discuss issues relating to your study of Canadian mining companies abroad, human rights and the environment. However, we hope the information in this submission can be accepted and is helpful in your consideration of these issues and in making any recommendations to Parliament. We would be pleased to accept an opportunity to meet with you at a future date.

**Critical Minerals and ESG/Human Rights**

A discussion of Canadian mining and ESG/human rights today should be viewed within the context of the global competition for critical minerals. Canada and its allies are working together to reduce their current exposure to Chinese dominance in the supply of many critical minerals, including rare earths, that are essential to our national economies. Canada is a member of a Minerals Security Partnership (MSP), which includes the United States, Australia, Finland, France, Germany, Japan, Italy, the Republic of Korea, Norway, Sweden, the United Kingdom and the European Union. A key priority of the MSP is a shared commitment to ESG and human rights, which allies are seeking to advance as a competitive advantage in mineral-rich regions of the world, including in Africa and Asia, where there is fierce competition with Chinese state-owned enterprises and Russian interests who show scant support for responsible business practices or human rights. Attached to this brief is a recent in-depth article that appeared in the New York Times on Russia's effective control of the mining sector of the Central African Republic and the harsh geopolitical realities playing out in this country (<https://www.nytimes.com/2022/12/24/world/africa/central-african-republic-russia-wagner.html?searchResultPosition=1>).

While Canadian exploration and mining companies operating in Asia, Africa and Latin America have had unfortunate incidents and faced allegations of environmental harm or conflict, there is no question that they operate to significantly higher standards than competitors from China, Russia and others. Examples of conflicts involving Canadian companies have been largely

anecdotal, with more prominent examples from several years ago. In contrast, one of the few comprehensive, science-based academic studies of Canadian company performance in Latin America revealed that Canadian companies had fewer conflicts than their international competitors (<https://www.sciencedirect.com/science/article/abs/pii/S0305750X15002429>).

It is essential that Canadian companies continue to be held accountable for any wrongdoing as the public and the government rightly expect Canadian companies operating abroad to adhere to best practices and respect human rights. It is also important to appreciate that Canadian companies already tend to outperform their peers whose own governments turn a blind eye to ESG and human rights issues (or, in the case of Chinese state-owned enterprises, are directly responsible for them).

### **The Role Canadian Mining Plays in Advancing ESG and Human Rights Performance Abroad**

The Mining Association of Canada (MAC), with its members' support, is arguably the most active mining industry association advancing responsible business practices and human rights in the world. Whereas most mining associations naturally focus upon their domestic sector, MAC is unique with respect to its international peers in terms of its active engagement in international human rights and ESG issues, principally through its *Towards Sustainable Mining* (TSM) initiative, but also through contributions to many multi-lateral initiatives and institutions including the Intergovernmental Forum, the OECD and others. Further, as John McKay pointed out in the second meeting on this study, MAC has been publicly supportive of adopting modern slavery legislation in Canada, a commitment we have already incorporated into TSM. We were also a driving force behind the *Extractive Sector Transparency Measures Act*, Global Affairs Canada's Responsible Business Conduct Strategy, including supporting consequences for companies that choose not to participate in good faith; and we are supportive of the Canadian Ombudsperson for Responsible Enterprise (CORE).

For 20 years, MAC members have been measuring and reporting their ESG performance at the facility level, with independent verification and multi-stakeholder and rights holder oversight through TSM. TSM is a multi-faceted program comprised of sustainability indicators developed in Canada and launched in 2004 and is now being shared by MAC freely around the world with the aim of contributing to improving mining's ESG performance globally. TSM also serves as a catalyst for multi-stakeholder dialogue at the national level through its requirement for each implementing national association to establish its own multi-stakeholder group called a Community of Interest Panel which plays a key role in the standard's evolution and implementation. TSM is globally recognized as an effective tool for driving responsible behaviour and improving the adoption of best practices at a time, it should be noted, when customer and investor demands for responsible sourcing and operations have never been greater.

Just last October, TSM was adopted by the National Mining Association of Guatemala, becoming the 11<sup>th</sup> national association to adopt it, in addition to Canada, Australia, Argentina, Botswana, Brazil, Finland, the Philippines, Spain, Norway and Colombia. MAC is in active discussions regarding TSM adoption with other associations in Panama, Mexico, Zambia, Sweden and South Africa. Now in place on six continents, TSM is being implemented by over 200 mining companies globally, making it the largest responsible mining standard in the world.

Clearly this is a testament to how Canada is raising the bar internationally. It should be noted that Canada's Trade Commissioner Service and Natural Resources Canada, including their Ministers, have been supportive of these efforts, particularly but not exclusively in countries where Canada's mining sector has a presence, for which we are most appreciative.

This leadership from MAC is happening despite the fact that Canada is no longer the world's leading mining country. Today, according to Mining.com's top 50 ranking, Canada no longer has any companies in the top 10, and only two with international assets in the top 20, Barrick and Agnico Eagle. Nutrien also ranks amongst the top 20 but only has assets within Canada. The total market value of all eight Canadian producers on the top 50 list combined (\$161 billion) is only slightly larger than the value of the top company, BHP (\$155 billion). Clearly, Canadian mining is batting above its weight in helping to drive the performance of the global mining industry.

### **The Role of the Canadian Government in Holding Canadian Companies Accountable for their ESG and Human Rights Performance Abroad**

Canada has one of the strongest and most comprehensive approaches to ensuring its companies operate responsibly outside of its borders of any country in the world. Legislative requirements such as the *Corruption of Foreign Public Officials Act*, the *Extractive Sector Transparency Measures Act* and the soon to be passed S-211 bill on modern slavery place clear legislative requirements on Canadian businesses operating abroad. Beyond these mandatory legislative requirements, Global Affairs Canada's Responsible Business Conduct (RBC) Strategy articulates clear expectations for Canadian companies to follow when operating abroad and in order to receive the valuable support of Canada's Trade Commissioner Service, companies must sign an integrity declaration stating that they abide by the expectations set out for Canadian companies.

Canada has also gone beyond its requirements of OECD membership by establishing not just an OECD National Contact Point but also adding the Canadian Ombudsperson for Responsible Enterprise (CORE) as a complementary mechanism for communities to bring forward complaints when they have concerns about the conduct of Canadian companies. Canada is also the only country in the world that imposes consequences on its companies operating abroad if they do not participate in these dispute resolution mechanisms in good faith when complaints are brought forward. These consequences consist of the potential loss of enhanced diplomatic and trade commissioner support as well as the potential loss of Export Development Canada financing.

### **Canadian Ombudsperson for Responsible Enterprise (CORE)**

The CORE has been studied extensively by House and Senate committees in every Parliament in recent memory. In all recent interventions related to the CORE and Canadian mining abroad, we continue to encourage the government to give the CORE time to demonstrate whether its current mandate is effective. Today, the CORE is fully functioning, receiving and processing complaints with 12 publicly reported to date: 10 related to the textile sector and two related to the mining sector. It should be noted that when the International Finance Corporation (IFC)

Office of the Compliance Advisor/Ombudsman was established, it took three years before that mechanism received a cumulative total of 12 complaints<sup>1</sup>. We have yet to see any evidence or analysis (such as a comparison with a similar office like the IFC CAO) to support claims that the CORE office has been slow to ramp up operations (including during a global pandemic).

We appreciate your engagement on these issues and remain available to address any issues or questions you may have related to Canadian mining abroad.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Pierre Gratton", is written over a light grey rectangular background.

Pierre Gratton  
President and CEO  
Mining Association of Canada

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<sup>1</sup> [https://www.cao-ombudsman.org/sites/default/files/2021-12/CAO\\_10Year\\_AR\\_web.pdf](https://www.cao-ombudsman.org/sites/default/files/2021-12/CAO_10Year_AR_web.pdf)