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Chair: Mr. Ali Ehsassi



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• (1535)

[English]

The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)): Welcome to meeting number 40 of the Standing Committee on Foreign Affairs and International Development.

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

I'd like to make a few introductory comments for the benefit of the witnesses and the members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike. Interpretation for those on Zoom is at the bottom of your screen, and you have a choice of floor, English or French. Those in the room can use the earpiece and select the desired channel. I will remind you that all comments should be addressed through the chair.

Pursuant to the order of reference of Wednesday, June 1, 2022, the committee resumes consideration of Bill S-211, an act to enact the fighting against forced labour and child labour in supply chains act and to amend the Customs Tariff.

It is now my pleasure to welcome the officials who will be supporting this clause-by-clause consideration of Bill S-211.

From the Canada Border Services Agency, we have Janine Harker, the director of commercial and trade policy.

From the Department of Employment and Social Development, we have Rakesh Patry, director general, international and intergovernmental labour affairs; and Bruce Kennedy, deputy director, forced labour division, international and intergovernmental labour affairs.

From the Department of Finance, we have Karen LaHay, senior adviser and economist, international trade policy division.

From the Department of Foreign Affairs, Trade and Development, we have David Hutchison, director general, trade portfolio strategy and coordination.

From the Department of Public Safety and Emergency Preparedness, we have Cinthya Rebaza, director, serious and organized crime policy, who's here with us by video conference.

From the Department of Public Works and Government Services, we have Ricardo Seoane, associate director, strategic policy sector,

procurement branch; Levent Ozmutlu, director general, strategic policy sector, procurement branch; and Laura Unitt, acting manager, strategic policy sector, procurement branch.

Thank you, all, for being here to assist the members.

I'd like to provide members of the committee with some instructions and a few comments on how the committee will proceed with the clause-by-clause consideration of Bill S-211.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause successively, and each clause is subject to debate and a vote.

If there are amendments to the clause in question, I will recognize the member proposing the amendment, who may explain it further. The amendment will then be open for debate. When no further members wish to intervene, the amendment will be voted on. Amendments will be considered in the order in which they appear in the bill or in the package each member received from the clerk. Members should note that amendments must be submitted in writing to the clerk of the committee.

I will go slowly to allow all members to follow the proceedings properly. Amendments have been given an alphanumeric number in the top right corner to indicate which party submitted them. There is no need for a seconder to move an amendment. Once an amendment is moved, you will need unanimous consent to withdraw it.

During debate on an amendment, members are permitted to move subamendments. These subamendments must be submitted in writing; they do not require the approval of the mover of the amendment. Only one subamendment may be considered at a time, and that subamendment cannot be amended. When a subamendment to an amendment is moved, it is voted on first. Then another subamendment may be moved, or the committee may consider the main amendment and vote on it.

Finally, once every clause has been voted on, the committee will vote on the title and the bill itself, and an order to reprint the bill may be required if amendments are adopted, so that the House has a proper copy for use at the report stage. The committee will have to order the chair to report the bill to the House. That report contains only the text of any adopted amendments, as well as an indication of any deleted clauses.

● (1540)

Pursuant to Standing Order 75(1), consideration of clause 1 and of the preamble is postponed.

(On clause 2)

The Chair: I understand we have an amendment by Ms. McPherson.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Thank you, Mr. Chair.

I want to thank all of the witnesses for being here today and looking at this very important legislation with us.

I also want to thank the senator and all those members of the House of Commons who have put this legislation together. It is fundamental that we have good due diligence legislation in this country. It is part of the minister's mandate letter, and it is vitally important that we get this right.

I have proposed a number of amendments that I will put forward. The first amendment is this:

That Bill S-211, in Clause 2, be amended

(a) by replacing lines 21 to 33 on page 2 with the following:

“er unincorporated organization that is listed on a stock exchange in Canada, has a place of business in Canada, does business in Canada or has assets in Canada, but does not include a non-profit organization or a labour union. (*entité*)”

(b) by adding after line 19 on page 3 the following:

“**supply chain**, in respect of an entity, includes any individual, entity or organization with which the entity has a relationship that is directly linked to its operations, products or services. (*chaîne d'approvisionnement*)”

Mr. Chair, the reason that this is important to me is that this amendment will replace the definition of an entity within the preamble of the bill. The original definition of entity included businesses that had at least \$20 million in assets, generated at least \$40 million in revenue and had at least 250 employees. This amendment makes this bill applicable to all for-profit companies in Canada. It also adds a definition of supply chain to the preamble. These changes, once combined with my other amendments, would have far more impact in making all companies do their due diligence with regard to supply chains.

The amendment builds on the testimony that we heard from the Canadian Network on Corporate Accountability last Wednesday. We heard from Emily Dwyer that the “obligation to respect human rights according to the UN guiding principles and the OECD guidelines that Canada has signed on to applies to companies of all sizes.”

What we have recommended is that the obligation be placed squarely on all companies. If there's going to be any exclusion for companies of smaller sizes, it should be done via regulation in low-risk sectors, for example.

This legislation should apply to all Canadian companies, Mr. Chair. That's clear from the testimony we heard. This amendment would make it so.

Thank you.

The Chair: Thank you, Ms. McPherson.

We now go to Mr. Genuis.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Mr. Chair, out of respect for the mover, I'll let him speak first, but if you could add me to the list again at the bottom, that would be great.

Thanks.

The Chair: Absolutely.

Thank you, Mr. Genuis.

Go ahead, Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Mr. Genuis.

Thank you, Mr. Chair.

I will oppose all the amendments, both on substantive and on procedural grounds. Let me start with substantive grounds as opposed to simply procedural grounds. In some respects, NDP-1 encapsulates why these amendments cannot be supported by this committee.

I want to acknowledge the presence of Senator Miville-Dechéne here. She and I talked about what the thresholds should be for companies to be captured by this legislation, because this legislation is quite onerous. It is a considerable burden on Canadian companies as it currently exists, let alone as Ms. McPherson wishes it to exist.

Think about that for a moment. That means that small companies up and down Bank Street, out in the suburbs of Scarborough or anywhere else, will be captured by this legislation and then, as you go through the amendments, the burdens of the legislation will start to get layered on those companies. After that, the proposal is to assign the enforcement mechanism onto the ombudsperson. I take note that this committee has not heard from the ombudsperson as to whether she would be capable of handling the burdens of this legislation, were it amended.

I point out to you, Mr. Chair, that my friend wishes to turn what is supply chain transparency legislation into due diligence legislation. There are two regimes that have due diligence legislation: France and Germany. The threshold for French companies is 5,000 employees domestically and 10,000 employees internationally. The threshold for Germany is 3,000 employees. My friend is proposing that there be no threshold, not even modest thresholds for transparency legislation.

Then, in addition, she eliminates from the burdens of the legislation non-profit organizations and labour unions. That's curious, since many labour unions are substantially bigger than a lot of for-profit companies, and it's not as if they don't use goods and services that may have supply chains that are infected by slavery.

I will continue to expand these thoughts over the course of the presentation of these amendments. I urge colleagues to look at this from the lens of the proprietor of a small business that does \$50,000 a year or maybe \$100,000 a year. You're capturing massive numbers of companies with this. No legislation in the world covers this number of companies, whether it's transparency or due diligence.

I just don't know how we could even consider supporting this, especially in light of the limited evidence that is before this committee. This committee has heard one day, two hours, of evidence from four or five witnesses total. That's it since May.

I do not support this amendment, and I urge colleagues not to support the amendment.

I have not even gotten into the procedural reasons why we won't support this amendment. If there's any one amendment, it will go back to the Senate and, if it goes back to the Senate, this legislation may be lost for the balance of this Parliament, because none of us will have any ability to influence the senators.

• (1545)

With that, I will end my remarks. They do apply to the other amendments proposed by my friend, who I hope will still be my friend at the end of this hearing.

I just urge colleagues to look at this from, I would say, the almost impossible burden that these amendments put upon all corporations—any entity, whether it's incorporated or not incorporated, that “has a place of business in Canada, does business in Canada or has assets in Canada”. Read it on its face—anything is captured. That would be a very difficult burden.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. McKay.

We now go to Mr. Genuis.

Mr. Garnett Genuis: Thank you, Mr. Chair.

My comments on this amendment will be largely synoptic of my view on this legislation in general, and of the approach that our side will be taking to amendments in general.

We think this is a very good bill. It's a critically important step towards combatting the scourge of forced and child labour around the world. We don't think this bill is perfect, or that this bill should be the final word in terms of what government needs to do when it comes to combatting these issues.

It is challenging to pass private members' business under the best of circumstances, and minority Parliaments are not the best of circumstances. I think it's important for us to recognize the opportunity that this bill presents, to move forward with that opportunity, but to also not let that dampen our enthusiasm for continuing to challenge the government to take various additional steps in other areas.

I do want to recognize Senator Dechêne's excellent work, and the work of Mr. McKay as well. We were in the process of considering various amendments. There are issues such as a targeted regional approach around certain hot spots where there are very high levels of forced and child labour. We would welcome additional legislative proposals along those lines.

The reality is that if this committee passes any amendment, then this bill will have to go and finish its journey in the House, and then go back through the Senate with a difficult-to-predict timeline and certainly with the risk, in a minority Parliament, of an election at any time.

I look at some of the proposals that have been brought forward and some of the amendments that we were considering in advance of this. We asked if any of these things was worth seeing the bill not pass at all. Does it make more sense to support this bill without amendment, to let it pass, and then to consider additional proposals that could be brought forward? Our conclusion is that it is better to not see amendments to this bill, to let this bill do its work as it is, and then to build on that work in the future.

Also, it is to learn from the experience of this bill being passed. It's been such a long time that people have been talking about this issue. We haven't seen the passage of legislation, so let's let this bill pass. Then it will allow us to get a sense of how the revised system is working and propose additional changes.

One thing I'll say about the process is that I would have liked for this committee to begin the process of studying this legislation much earlier, to hear from more witnesses. We might have been in a better position to consider amendments if, a few months ago, we had the benefit of more witness testimony. We could have considered those. We would have had a little bit more available runway left.

Generally, it is the practice of parliamentary committees to prioritize legislation once it is received, because legislation is where the committee exercises its hard power. Yet, with this bill, we're almost at the point of the full 60 sitting days having run out, between the time we received this from the House and its being automatically reported back.

I think the right thing to do now, under the circumstances that we are in, is to pass this bill without amendment. I do hope that in the future we take into consideration the value of prioritizing legislation, and that if we see further legislation at this committee, we'll move forward more quickly with the legislation that comes to us.

Nothing in this bill merits its being stopped. The bill needs to pass. Then we can continue the work after that to do more. On that basis, we'll be opposing this and other amendments and supporting this legislation, hoping that it passes into law as soon as possible.

• (1550)

The Chair: Thank you, Mr. Genuis.

We now go to Ms. McPherson.

Ms. Heather McPherson: Thank you, Mr. Chair.

I would like to thank my colleagues for their comments today.

I'd like to give a little bit of a rebuttal.

First of all, I would like to assure Mr. McKay that we will still be friends at the end of this meeting. I can guarantee that.

There is a problem here, though. We have obligations as legislators to pass the strongest legislation we possibly can and to fix legislation. To say we can't amend legislation because it will make it too tricky is abdicating our obligations as legislators.

The other thing I would put forward is that I completely agree with Mr. McKay that we should have taken more time and gotten more testimony on this. However, I did bring forward a motion to extend the study time for this particular bill by 30 days and the Conservatives and the Liberals voted against it.

• (1555)

Mr. Garnett Genuis: I have a point of order, Mr. Chair.

The Chair: Yes, Mr. Genuis.

Mr. Garnett Genuis: I just remind all members that publicly discussing any proceedings which may or may not have happened in camera is not acceptable. During in camera deliberation, members are, of course, welcome to move to go into public, but it is totally unacceptable for people to speak about things that happened in camera.

The Chair: Ms. McPherson.

Ms. Heather McPherson: I certainly can say that I brought forward a motion to extend it by 30 days and we are not now in a situation where that is happening.

One other thing I would also point out is that we did not actually talk about this.

Mr. Garnett Genuis: I have a point of order, Mr. Chair.

The Chair: Yes, Mr. Genuis.

Mr. Garnett Genuis: As I recall, the member gave a notice of motion at a public meeting with respect to an extension and that is the extent of what happened in public.

I don't have any problem telling the public that I, personally, am opposed to extending the time this bill is before committee and delaying it further, but it is not acceptable for a member to speak about in camera proceedings, period.

Ms. Heather McPherson: I can say that—

The Chair: To the extent that I understand it, the member has not done so. She was actually talking about the notice, which you concede was done in public.

Mr. Garnett Genuis: She started to talk about how people voted, Mr. Chair.

Ms. Heather McPherson: I would also like to bring up, Mr. Chair, the fact that we couldn't look at this legislation because our committee was completely filibustered in the spring. We were not able to do the job of this committee, so there is a reason for us to be going through this legislation. This is vitally important legislation.

That's the procedural side of it.

To respond to my friend, Mr. McKay, with regard to the content of this legislation, I don't understand how using slave or forced labour for corporation of any size is acceptable. I don't understand how we can look at companies, regardless of size, and say, "You know what? You're just small enough that it's okay for you to use forced labour."

There are all kinds of ways we can ensure through policy and regulation that small organizations and small companies that are not impacted by this legislation won't suffer for this. We can hold a light up to those companies that are working with people in Xinjiang and bringing in products that have been made by slave labour. As legislators, we have an obligation to do that.

Thank you, Mr. Chair.

The Chair: Thank you, Ms. McPherson.

We now go to Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron (Montarville, BQ): Thank you, Mr. Chair. I will be as brief as I can.

First of all, I find it out of order for us to be told by colleagues that we should not be moving amendments simply because we need to get this bill passed as quickly as possible. I don't believe arguing that any bill has been considered in the past and been heavily amended holds water—we've heard that before on this committee.

As a matter of fact, I heard Mr. Oliphant make exactly the same speech I made a few meetings ago about another private member's bill. We're now in another Parliament, and we have a duty as parliamentarians to consider the amendments that come before us. We have amendments before us from our colleague from the NDP, and I think we need to consider them and decide on each one on its own merits, not reject them as quickly as possible so we can get the bill through as soon as we can.

I applaud the fact that Ms. McPherson has taken the time to voice some of the concerns witnesses have brought to our attention with respect to this bill. I find it unfortunate that we seem to be divided today on a bill, or at least on an issue and the need to do something about it, when it is my understanding that we're all in complete agreement around this table.

So I will come back to the fact that our colleague from the NDP has taken care to listen and put into words the concerns that have been expressed to us. Of course, we can pretend that we've heard no criticism or dissenting views on this bill, but we all know that couldn't be further from the truth. In fact, that's why it appears that the minister intends to introduce legislation on this issue himself, in accordance with the mandate letters he's received.

That is to say, the bill we have before us appears to be inadequate for a number of reasons that Ms. McPherson outlined a few minutes ago. Although I have a number of reservations about the fact that this particular amendment seeks to considerably broaden the range of businesses that would be covered by this bill, I must say that the intention behind the amendment seems perfectly acceptable. That's why I'm announcing to my colleagues that I will be voting in favour of it.

Thank you.

• (1600)

[English]

The Chair: Thank you, Mr. Bergeron.

Mr. McKay, please go ahead.

Hon. John McKay: As hesitant as I am to intervene in the battle of Alberta, I want to say to Ms. McPherson that it's never okay to buy slave products, but that's not what we're talking about here. We're talking about disclosure, if these amendments were to pass, and the additional obligations that any business entity would have with respect to its supply chain.

With that, we can carry on, or we can call the question. I would urge you to call the question.

The Chair: Thank you, Mr. McKay.

Ms. Heather McPherson: I would like a recorded division.

The Chair: Shall NDP-1 carry?

(Amendment negatived: nays 9; yeas 2)

(Clause 2 agreed to)

The Chair: Thank you.

Shall clause 3 carry?

[Translation]

Mr. Stéphane Bergeron: Mr. Chair, I have a point of order.

[English]

The Chair: Go ahead, Mr. Bergeron.

[Translation]

Mr. Stéphane Bergeron: Am I to understand that clause 2 was carried on division?

[English]

The Chair: Yes, it was carried, Mr. Bergeron.

[Translation]

Mr. Stéphane Bergeron: I know it was carried, but I'd like to know if it was unanimous or on division.

[English]

The Chair: Do you want it to be on division?

[Translation]

Mr. Stéphane Bergeron: It was a question, not a statement, Mr. Chair.

• (1605)

[English]

The Chair: Yes, it was unanimous.

Is that okay, Mr. Bergeron? Can we go to clause 3?

Shall clause 3 carry?

(Clause 3 agreed to)

Ms. Heather McPherson: Mr. Chair, I would like to speak to these clauses.

The Chair: Go ahead, Ms. McPherson.

Ms. Heather McPherson: With regard to clause 2, before it carries on division, I think it's important that we outline what this clause is, and I can explain my rationale for bringing these clauses forward.

The Chair: We've already moved on, and clause 2 has carried.

Ms. Heather McPherson: I'll speak on number three, then.

The Chair: Sure, absolutely, go ahead.

Ms. Heather McPherson: This particular amendment that I've brought forward is that it be amended by replacing line 23 on page 6 with the following: "carry a risk of forced labour or child labour being used"—

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

There are no amendments with respect to clause 3.

Ms. Heather McPherson: I'm sorry, it's NDP-3.

Hon. John McKay: We're not there yet.

Ms. Heather McPherson: I'm getting confused. I'm sorry, guys.

The Chair: I understand that your next amendment relates to clause 11, Ms. McPherson.

Hon. John McKay: You could just ask for clauses 4 to 10, unless anybody wants to debate them.

The Chair: Would everyone agree that clauses 4 to 10 inclusive be carried?

(Clauses 4 to 10 inclusive agreed to)

The Chair: We have unanimous consent. Thank you.

We now go to clause 11.

(On clause 11)

The Chair: Ms. McPherson, you have the floor.

Ms. Heather McPherson: Thank you.

I think I'm going to get quite a lot of time to speak today. That's unfortunate, because I have a bit of a raspy voice.

For clause 11, the amendment that I'm bringing forward is that Bill S-211 in clause 11 be amended:

(a) by replacing line 21 on page 6 with the following:

"tion to forced labour and child labour, including its code of conduct, if any;"

(b) by replacing lines 24 and 25 on page 6 with the following:

“and the steps it has taken to assess and eliminate that risk;

(c.1) a summary of any reports it received in relation to the use of forced labour or child labour in respect of which there is credible or trustworthy evidence, as well as the steps taken by the entity to remediate each occurrence;”

(c) by adding after line 32 on page 6 the following:

“(e.1) any consultations with communities affected by forced labour or child labour;”

This amendment adds to the reporting requirement. It requires a reference to the code of conduct for each entity on the steps a company has taken to assess and eliminate, not just manage, the risk or use of forced or child labour, and a summary of reports of forced or child labour, including consultations with communities affected by child labour.

The language in this amendment was suggested by World Vision Canada, which, as you know, is a child-focused organization that worked on this bill over several years. Despite its support for the bill, World Vision still has ideas on how we can strengthen this important legislation, and they are reflected in this amendment.

Given that the bill does not meet the standards of due diligence that our witnesses called for, we should adopt this amendment.

Thank you, Mr. Chair.

The Chair: Thank you, Ms. McPherson.

Mr. McKay, go ahead.

Hon. John McKay: Thank you.

NDP-2 and NDP-3 should probably be read together because it is a layering on of the expectations that one would have on due diligence. It's an attempt to insert a due diligence regime into what is essentially a transparency bill. A transparency bill is a different beast altogether.

Ms. McPherson, to her credit, has outlined what the obligations of a due diligence bill would be. You would have to have a code of conduct. You would have to say what steps you've taken to assess and eliminate the risk. You'd have to consult “with communities affected by forced labour or child labour”. Then you just carry on with other consultations with third parties and with stakeholders on what you've done to prevent and mitigate the risk of forced labour and—now I'm on to NDP-3—“any other risks relating to human rights”.

You've added again. You've gone from the problems that you might find in your supply chain with respect to slave labour and you are now adding on a whole regime of human rights that you have identified. What those things might be is anybody's guess.

You have to put in mechanisms that you've “put in place for the efficient and expeditious handling of the information”. Then you have to summarize all of the complaints and grievances. You have to ensure that there's no reprisal taken against any employee, for instance, or a whistle-blower. Then at the end, you include the “outcomes of its due diligence processes, relevant key performance indicators”.

Even on the threshold that's established in this bill and that's just been passed by this committee, this is an enormous obligation of due diligence.

As I said in earlier remarks, the only two countries that have adopted this style of legislation have been Germany, with a threshold of 3,000 employees, and France, with a threshold of 5,000 employees domestically and 10,000 internationally.

In a perfect world, these are not unsupportable obligations, but we live in a reality where a company that has \$40 million in sales and \$20 million in assets can't possibly meet the obligations that Ms. McPherson and her colleagues are proposing.

I again urge defeat of NDP-2. I'm assuming—I'll defer to legislative counsel—that if NDP-2 is defeated, NDP-3 may be defeated.

I'll just end on the note of World Vision. Of course, World Vision has been at this for quite a number of years—more years than I've been at it; I've been at it for four years now. They support the legislation moving forward as is. They have come to the reality that this is a good piece of legislation that will move us forward in the space. It will start to address what is an odious scourge on our business climate here in Canada.

Thank you, Mr. Chair.

• (1610)

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

I would ask that we deal with these two clauses by the NDP distinctly. The reason is that NDP-2 appears to be within the scope of the proposed legislation, whereas NDP-3, on its face, appears to be beyond the scope.

If members could just treat them separately, I'd be grateful.

Yes, Ms. McPherson.

Ms. Heather McPherson: Thank you very much.

Again, I'm playing the role, I guess, of calling out some of the past actions on this committee. You know, we have heard from the Liberals that there will be due diligence legislation coming forward. It was certainly in the mandate letter for the minister. But we asked the minister to come to this committee and share with us that information, and the minister declined to join us.

We have no due diligence legislation being brought forward at this time. I certainly hope that's something we will see very soon, but I think at this point we have this piece of legislation, which is looking at making sure that forced labour and slave labour are not in supply chains of Canadian companies. That is not a high bar. We have all kinds of tools that we can use to ensure that companies that are not high-risk will not be impacted. We have all kinds of ways to ensure that we are not disproportionately hurting corporations that are not impacted.

I will say it again. Which one of us in this place could look in the face of a woman in Xinjiang and say, “Sorry, we’re taking your slave labour, but the company was too small for us to care about you”? That’s outrageous. That’s an outrageous way to look at due diligence legislation. That’s an outrageous way to look at any forced labour legislation.

We speak about the idea of human rights. Human rights don’t have a size. Human rights don’t have a threshold. Human rights are human rights. I’ve said it before and I’ll say it again. From my perspective, I think of the impacted communities. I think of how in Alberta, for example, we used to have coal mining companies that would slide under the threshold. They’d make sure that they were just under the threshold so that they didn’t trigger the federal oversight.

This is setting up legislation that will make sure that organizations and companies slide under that threshold so that they can continue to use forced labour and slave labour and child labour within their supply chains. It’s completely inappropriate.

• (1615)

The Chair: Yes, Mr. McKay.

Hon. John McKay: Again, I don’t want to belabour the point, but had I known that amendment NDP-3 was beyond the scope, I probably wouldn’t have incorporated it into my remarks. Had the two been within the scope, it certainly would have been a building of concerns.

I think what is really outrageous is that if this bill fails to pass, or it has amendments that send it back off to the other place, where other bad things start to happen, then that will be much more difficult for the person you are looking at in Xinjiang.

I just want to clarify the point that Ms. McPherson raised about the minister’s mandate letter. I read that mandate letter. It says nothing about due diligence. So I don’t think that is, with the greatest respect, a valid argument.

With that, I will leave my comments there and again urge colleagues to defeat amendment NDP-2.

The Chair: We now go to Mr. Epp.

Mr. Dave Epp (Chatham-Kent—Leamington, CPC): Thank you, Mr. Chair.

I’ve come to this process late. I’m just joining the committee. In a perfect world, I understand the concerns about not capturing everyone, but then I fail to understand why the unions would not be captured. That’s what I’m trying to understand. I think Mr. McKay alluded to this in his earlier comments.

If someone could catch me up fairly quickly on why the desire would be to have all small businesses captured but not unions, I would be enlightened.

The Chair: Should I go to Mr. Bergeron first for an answer to that?

Yes, Ms. McPherson.

Ms. Heather McPherson: You can go to Mr. Bergeron. His hand was up first. I’ll respond in case there are questions as well.

The Chair: Mr. Bergeron, the floor is yours.

[*Translation*]

Mr. Stéphane Bergeron: Mr. Chair, once again, I take issue with this argument that we should reject our colleagues proposed amendments simply on the grounds that we need to prevent this bill from being returned to the Senate. I find this argument completely inadmissible. I’d like us to be able to discuss our NDP colleague’s proposed amendments on their merits, not on the basis of tactical considerations that have no place in this discussion.

I reiterate that the amendment before us from our NDP colleague is worthwhile because it voices some of the concerns that have been outlined for us. We could choose to ignore the concerns we’ve heard. Again, I understand that the government is not ignoring them, since the minister is considering introducing his own bill, as he believes this one doesn’t go far enough. It’s all well and good to ignore what’s been laid out before us, but Ms. McPherson should be commended for taking the time to voice some of the concerns.

Once again, I will be voting in favour of this proposed amendment.

• (1620)

[*English*]

The Chair: Thank you, Mr. Bergeron.

We now go to Ms. McPherson.

Ms. Heather McPherson: Thank you, Chair.

There are a couple of things. First of all, with regard to the unions, we defeated NDP-1, so it’s not relevant any longer. That was taken out.

With regard to why it was there, it was based on some private member’s legislation that I had written previously on the CORE ombudsperson. It is an indication that for many of the unions, if not all of the unions in Canada, there is due diligence within their own frameworks. They already go much further than other organizations, and most of them—not all of them—are low-risk at this point.

The Chair: Thank you, Ms. McPherson.

Are there any other interventions on NDP-2?

(Amendment negated: nays 9; yeas 2)

The Chair: We now go to amendment NDP-3.

Go ahead, Ms. McPherson.

Ms. Heather McPherson: Thank you, Mr. Chair—

Ms. Rachel Bendayan (Outremont, Lib.): I have a point of order, Mr. Chair. You indicated that this was out of scope.

The Chair: I want to know if she agrees that it's beyond the scope.

Hon. John McKay: It doesn't matter whether she agrees or not. It's a decision of the legislative clerk.

The Chair: Ms. McPherson, do you care to move amendment NDP-3?

Ms. Heather McPherson: Yes, I care to move amendment NDP-3.

If you wouldn't mind, Mr. Chair, I would like you to explain to me why this is out of scope and explain why human rights would not be considered in forced labour and child labour legislation.

The Chair: Thank you.

I'd like to rule that Bill S-211 enacts the fighting against forced labour and child labour in supply chains act, which imposes on certain private sector entities an obligation to report on the measures they take to prevent and reduce the risk that forced labour or child labour is used by them or in their supply chains. Amendment NDP-3 seeks to require additional information to be included in the report, such as information on risks relating to human rights that the entity has identified and the steps it has taken to give priority to and address those risks, which is not envisioned in the bill as adopted by the House at second reading.

As *House of Commons Procedure and Practice*, third edition, states on page 770:

An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

Therefore, in my opinion, it is beyond the scope.

Ms. Heather McPherson: Mr. Chair, what we are talking about here is forced labour and child labour. Those are human rights. Those are fundamental human rights, in fact, so at that—

The Chair: As I've been advised and as you are fully aware, you're not to debate this. You can challenge it.

Ms. Heather McPherson: I am going to challenge it.

Thank you, Mr. Chair.

The Chair: Thank you. Absolutely.

Ms. Heather McPherson: I would like to challenge it, because I believe that this is, ultimately, a bill about human rights. It is our obligation as legislators to provide protection for people who are suffering under Canadian companies' actions, and we have that obligation to fix this legislation.

The Chair: We have that obligation, but we are also required to follow procedures, Ms. McPherson.

Ms. Heather McPherson: I would like a recorded vote, please.

The Chair: Absolutely.

Ms. Rachel Bendayan: Mr. Chair, I apologize. I'm wondering if it would be possible to hear from the analysts before we move to a vote on this.

Hon. John McKay: It's not a debatable motion.

The Clerk of the Committee (Ms. Ariane Gagné-Frégeau): The vote is on whether the decision shall be sustained.

(Ruling of the chair sustained: yeas 9; nays 2)

• (1625)

The Chair: Thank you very much.

Shall clause 11 carry?

[Translation]

Mr. Stéphane Bergeron: On division.

[English]

The Chair: It will be on division.

(Clause 11 agreed to on division)

(Clauses 12 and 13 agreed to)

(On clause 14)

The Chair: Ms. McPherson, I understand you have an amendment.

Ms. Heather McPherson: Thank you, Mr. Chair. Indeed, I do.

The amendment that we will be putting forward for clause 14 is this:

That Bill S-211, in Clause 14, be amended

(a) by replacing lines 9 and 10 on page 8 with the following:

“14(1) The Minister must designate the Ombudsperson and may designate any other person or class of person for the purposes of the administration and enforcement—”

(b) by adding after line 11 on page 8 the following:

“(2) In this Part, Ombudsperson means the Canadian Ombudsperson for Responsible Enterprise appointed under Order in Council P.C. 2019-1323 of September 6, 2019.”

Mr. Chair, you won't be surprised to hear me talking about using the ombudsperson in a more effective manner. I have been somebody who has spoken for a very long time about the failure of our ombudsperson to be able to do the job that we have tasked her to do.

We were promised an ombudsperson in 2018. When the ombudsperson was put in place, all abilities of the ombudsperson to hear testimony and to compel testimony and witnesses were stripped from that position. There's very little rationale for that.

I would say that this amendment makes the minister's designated person for the administration and enforcement of the bill the Canadian ombudsperson for responsible enterprise. This position already exists and it needs strengthening. This bill should fall under that purview.

Thank you, Mr. Chair.

The Chair: Thank you very much.

Go ahead Mr. McKay.

Hon. John McKay: There are days when I actually agree with Ms. McPherson, but today is not one of them.

I've already made the argument about sending this bill off to the other place, which Mr. Bergeron doesn't particularly appreciate. I am faintly surprised that Mr. Bergeron has now become a defender of the Senate.

It is a significant change in the way this bill is envisioned to have the ombudsperson, in effect, be the administrator of the bill. In spite of the fact that I'm a huge admirer and think she does a terrific job, we've actually heard no evidence that she would be able or willing to take on this process. It is a significant change in direction and, in other circumstances, might actually be a welcome change in direction. However, without some real, in-depth thought as to how to execute the administration of this bill should it pass, I would oppose NDP-4.

The Chair: Mr. Bergeron, do you have your hand up?

[*Translation*]

Mr. Stéphane Bergeron: Absolutely, Mr. Chair.

[*English*]

The Chair: Go ahead, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: First of all, since Mr. McKay seems unwilling to understand my point of view, I will explain it to him again.

I have not become a defender of the Senate, I am a staunch defender of the duties and powers of the House of Commons. However, I believe that the House of Commons isn't fulfilling its responsibilities and powers when it fails to do its job and properly consider proposed amendments that come before it, simply so that the bill can be sent to the Senate as quickly as possible. I respect this House of Commons, I respect its responsibilities and I respect its powers. That's why I believe it's our duty to consider these amendments, and to do so seriously, not give in to the temptation of wanting to proceed more quickly, simply to get the bill passed.

If the public hearing exercise that we went through was not just strictly cosmetic or theatrical, and we truly intended to take into account the views that were expressed to us, again, I feel we should commend Ms. McPherson for voicing some of the concerns shared with us at that time. Today, it's as if everyone wants to pretend that no one told us anything that would challenge this bill.

Don't get me wrong, Mr. Chair, I do feel that this bill has its merits. However, we've had people come before us and say that if this bill were to pass as is, based on past experience, it's very likely that we would not delve any deeper. However, we must delve deeper. Ms. McPherson is proposing that we delve deeper.

I believe we all recognize that the ombudsperson, whose position was created to address a number of issues—or at least exercise some control over the activities of mining companies abroad—is not fully playing their role. They should be given greater powers. Therefore, rather than referring to any other person—it could end up being no one—Ms. McPherson proposes to assign this responsibility specifically to the ombudsperson. That would make this strictly symbolic role begin to look like something real.

For this reason, once again, I plan to support Ms. McPherson's amendment.

• (1630)

[*English*]

The Chair: Thank you, Mr. Bergeron.

We now go to Ms. McPherson.

Ms. Heather McPherson: Thank you, Mr. Chair.

I agree very much with my colleague, Mr. Bergeron. It appears to me that some of the argument for why we are not looking at this bill clause by clause and putting forward amendments is because it is an inconvenience. I have to say, this is our job, to try to take legislation that comes to our committee and make it better. I would have very much appreciated the opportunity to hear from the CORE. But of course, the opportunity to extend the time that we looked at this bill was not something that came forward.

I would have very much appreciated looking at this bill in the spring, but the Conservatives filibustered our committee for hours and hours on end. With all due respect, we have to do clause-by-clause because it's literally the only part of our job that this committee has been able to complete.

With regard to the ombudsperson, I will very much disagree with Mr. McKay on the job that the ombudsperson is doing. At this point we have an ombudsperson who has been stripped of all her ability to do a good job. She has not been doing what needs to be done to protect impacted communities around the world. She has done very little to protect people in Indonesia, Peru, Guatemala, all around the world where Canadian mining companies are causing untold grief, untold suffering and environmental degradation. This government has not stood up and said, "You're not allowed to do that. You're not allowed to do that work flying our flag."

I would assume that the ombudsperson, who I would think really wants to do this work and has been hampered by the Liberal government, would be very keen to have another opportunity to do the work that she has been asked to do, by giving her more things that she actually can be working on.

Ultimately, what we need to do is fix the bill, make the bill so there are no loopholes for Canadian companies to get out of it. This is one of the ways we can do it. Instead of a symbolic gesture by the Liberal government, instead of all the right words and none of the action, this is the way we can take action.

• (1635)

The Chair: Thank you, Ms. McPherson.

Mr. Genuis.

Mr. Garnett Genuis: Chair, I would comment just very briefly on a very narrow point.

During the debate that we had in May and June, we repeatedly sought to adjourn that debate so we could proceed to other matters. Our efforts to adjourn that debate were not supported. We could have actually studied this in May and June as well. We would have been happy to do that, which is one reason why at the time we moved to adjourn the debate that we were having.

Given that my colleague referred to this matter twice, I thought it was important to correct the record.

Thank you.

The Chair: Thank you, Mr. Genuis.

Are there any further interventions?

Shall NDP-4 carry?

Ms. Heather McPherson: I would like a recorded vote on these amendments.

The Chair: Okay, we will have a recorded vote.

(Amendment negatived: nays 9; yeas 2)

(Clause 14 agreed to on division)

(Clauses 15 to 17 inclusive agreed to)

The Chair: We now go to clause 18.

Ms. McPherson, I understand you want to move an amendment.

Ms. Heather McPherson: Thank you, Mr. Chair.

While I would really like to read this amendment, as you can tell, my voice is not going to make it.

Mr. Garnett Genuis: I'm sorry, just a point of order. According to my sheet, the new proposed clause is 18.1, which is after clause 18, so we need to consider clause 18.

I'm sorry to interrupt.

The Chair: You are absolutely correct, Mr. Genuis.

Thank you.

Hon. John McKay: As well, as a point of order, after Ms. McPherson presents her amendment, I'd like to hear from the clerk, through you, of course, Mr. Chair, on whether this amendment can stand.

The Chair: Okay.

Let's step back. Shall clause 18 carry?

(Clause 18 agreed to)

The Chair: Insofar as new clause 18.1 is concerned, I'm not quite sure whether Ms. McPherson would like to move it, but it does appear that it is beyond the scope of this particular bill.

Ms. Heather McPherson: Mr. Chair, could you explain your rationale for that, please?

The Chair: Absolutely.

Bill S-211 enacts the fighting against forced labour and child labour in supply chains act, which imposes on certain private sector entities an obligation to report on the measures they take to prevent and reduce the risk that forced labour or child labour is used by them or in their supply chains. It allows the minister to order an entity to comply with its reporting obligations, based on information obtained through a search. Amendment NDP-5 seeks to add a mechanism for complaints and investigations regarding the use of forced labour or child labour in an entity's activities or supply chains, which is not envisioned in the bill as adopted by the House at second reading.

Once again, as *House of Commons Procedure and Practice*, third edition, states specifically on page 770, "An amendment to a bill that was referred to committee after second reading is out of order if it is beyond the scope and principle of the bill."

Therefore, in my opinion, it is beyond the scope.

• (1640)

Ms. Heather McPherson: Mr. Chair, may I comment on that?

The Chair: You can't debate it, but would you like to challenge it?

Ms. Heather McPherson: No, Mr. Chair. That's fine.

Thank you.

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

(Clauses 19 to 21 inclusive agreed to)

[*Translation*]

Mr. Stéphane Bergeron: I have a point of order, Mr. Chair.

[*English*]

The Chair: Yes, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Doesn't 18.1 have to be carried before we move on to clause 19?

[*English*]

The Chair: I'm advised here that it's not necessary, actually, because it's a new clause and it was defeated.

We now go to new clause 21.1.

Ms. McPherson, I understand that you'd like to move an amendment.

Ms. Heather McPherson: Yes. This one is very short, so I think I can get through it. As well, I strongly hope that some of my colleagues will be voting with me on this amendment.

This is an amendment that came by SHARE, the Shareholder Association for Research & Education. It would amend Bill S-211 by adding after line 34 on page 10 the following new clause:

21.1 If an offence under this Act is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

Bill S-211's current fines for non-compliance, of \$250,000, are not likely to be sufficient in ensuring compliance, particularly among large corporations. Therefore, this amendment ensures that fines will be made on a continuing basis, as is the case with the Extractive Sector Transparency Measures Act, a similar piece of reporting legislation.

Thank you.

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

Yes, Mr. McKay.

Hon. John McKay: As sympathetic as I might well be in ordinary circumstances to Ms. McPherson's amendment here—and disagreeing with my colleague from the Bloc, though understanding what he is saying—I would urge colleagues to defeat this amendment, because if this amendment goes forward, the bill goes back to the Senate.

I wish it were not true, but it's the simple truth. Any amendment will send the bill back to the Senate and put it at risk.

The Chair: Thank you, Mr. McKay.

Ms. McPherson, go ahead.

Ms. Heather McPherson: Once again, I just have to say that this is not a thing we should be taking so lightly. We should not be looking at the fact that we do our due diligence on legislation and thinking of it as an inconvenience.

If this is amended, it will go back to the Senate. My goodness, the Senate has already moved it to us. I'm sure they will look at this very common-sense amendment as being a very important way that we can strengthen this bill and they'll send it back to us.

The fact of the matter is that it minimizes our role as parliamentarians and as committee members when we look at legislation and rubber-stamp it because we're not interested in going through the trouble of fixing it, because we're worried that our legislative calendar won't allow for it. It undermines my role as a parliamentarian and it undermines the role of all of us as parliamentarians when we don't look at legislation seriously and think about the process by which it comes forward.

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

Not seeing any further interventions, shall NDP-6 carry?

(Amendment negated: nays 9; yeas 2)

(Clause 22 agreed to)

The Chair: We now go to clause 23. I have an inkling that Ms. McPherson has an amendment.

• (1645)

Ms. Heather McPherson: I do not, Mr. Chair, unfortunately, because NDP-1 was defeated.

(Clause 23 agreed to)

(Clauses 24 to 28 inclusive agreed to)

The Chair: Shall the preamble carry?

Some hon. members: Agreed.

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: Thank you very much.

I believe we are done with—

Ms. Heather McPherson: Don't we have to vote to send it back to the House? I would like to vote on that.

The Chair: My apologies.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Ms. Heather McPherson: I'd like a recorded vote on that.

(Bill S-211 agreed to: yeas 9, nays 2)

The Chair: Thank you for the clarification.

Now, shall the chair report the bill to the House?

Ms. Heather McPherson: I'd like a recorded vote, please.

(Reporting of bill to the House agreed to: yeas 10, nays 1)

The Chair: Thank you very much.

Now allow me to thank all of the officials for having made themselves available so they could assist us in scrutinizing this bill.

Mr. McKay?

Hon. John McKay: I don't want to interrupt your thanks, but after your thanks—which I would also endorse—I would like to say something, please.

The Chair: Sure.

Thank you very much for giving generously of your time. Our apologies that we did not lean in and ask for any clarification on any of the clauses, but you nonetheless were incredibly helpful in terms of showing up and making yourselves available so we had that certainty that we're going about this in the right fashion.

Mr. McKay, go ahead.

Hon. John McKay: Thank you, Mr. Chair.

I want to thank colleagues for their participation. Even when we disagree, I hope we are still civil with each other. I think we are still civil with each other.

I want to particularly commend Ms. McPherson for the ideas that she has put forward. In other circumstances, I certainly would be very supportive of many of those ideas, and I rather hope that we can see the government move forward with legislation such as has been described.

I hope, by this time, that colleagues, particularly those who voted against this bill, understand the rationale that I put forward.

I just want to end with a story I mentioned to my colleagues on the Liberal side earlier today. Those of you who know me know that I am a big fan of William Wilberforce. He is probably the greatest legislator in the British Westminster system ever, and he is the principal person responsible for the abolition of slavery in the British Empire. Slavery was the basis for the wealth of the British Empire for years, and he tried to get slavery abolished literally for over 20 years. He tried many times directly. The way in which that came about was that he got the slave trade abolished, therefore devaluing the entire wealth on which slavery was built, on which the British Empire was built. Because he succeeded in abolishing the slave trade, slavery itself was ultimately abolished in the British Empire.

In some respects—a very tiny little bit—this is what we're doing today. Today it's tactics to move towards the larger goal of expunging slavery from the supply chain of our nation. It is a scourge on our nation that we use the products of slaves. It is a scourge on each one of us that we use the products of slaves. I'm rather hoping, in the course of this Parliament, that this committee in particular, but also colleagues generally, will see to it that we move further forward so that our wealth is not based upon the work and product of slaves.

I realize, Mr. Chair, that I'm not overly prone to giving philosophical and political rationales for what we're doing here today, but sometimes we forget that sometimes you have to do indirectly what you can't get done directly. So, today, we did somewhat indirectly what we would ultimately get to directly.

Thank you for that moment.

• (1650)

The Chair: Thank you.

We can dismiss the officials. Thank you very much for your time.

We will suspend for a few minutes.

• (1655)

(Pause)

• (1705)

The Chair: We can resume.

Before I go to Ms. Bendayan, I was just wondering if we can adopt the detailed budget that was submitted by the subcommittee. It was distributed to all of us on Friday, November 25.

Is it the will of the committee to adopt that budget?

Some hon. members: Agreed.

The Chair: Thank you.

Now, we will go to Ms. Bendayan.

Ms. Rachel Bendayan: Thank you, Mr. Chair.

For some time now I have wanted to move that the committee proceed to consideration of the draft report on Ukraine. I think it is very important that we get it back to the House. Given the time...I do think it's important that we do this notwithstanding, but I understand also that we would have to move in camera. That takes several minutes and now we are at 5:08.

Mr. Chair, I wonder if you could advise us if it is possible to begin the study of that report today. That would certainly be my hope and our hope on this side.

The Chair: Is that the will of the committee?

Ms. Rachel Bendayan: How long does it take for us to go in camera?

The Chair: It takes five minutes.

Is everyone okay with that?

We will suspend for five minutes.

[Proceedings continue in camera]

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