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Chair

Mr. Kevin Sorenson

Standing Committee on Foreign Affairs and International Development

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● (0900)

[*English*]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good morning, colleagues. This is the 34th meeting of the Standing Committee on Foreign Affairs and International Development, on Thursday, October 22.

Today we're going to return to our committee study of Bill C-300, An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries. As our witness in the first segment today, we will have, from the Halifax Initiative Coalition, Karen Keenan, the program officer.

Welcome to our committee.

We have to pretty well stop for committee business at 10:30. That was the idea. We have two different witnesses. In the second hour, CIDA will be here. We may go until 9:30 or 9:45 and just see how much time we have.

Welcome, Ms. Keenan. We look forward to your comments. Then we'll have our questions for you.

Ms. Karyn Keenan (Program Officer, Halifax Initiative Coalition): Thank you.

The Halifax Initiative is a coalition of human rights, environmental, faith-based, developmental, and labour organizations. Our objective is to transform the public international financial institutions to achieve poverty eradication, environmental sustainability, and the full realization of universal human rights.

My work focuses on the operations of public institutions that provide support to the private sector—in particular, the International Finance Corporation of the World Bank group and Export Development Canada. The latter, a crown corporation, is Canada's export credit agency and will be the focus of my comments this morning.

The extractive sector is the greatest recipient of support from Export Development Canada, and the crown corporation has plans to expand its assistance to extractive companies. Export Development Canada does not have a good record in this area. The agency has provided support to a number of mining projects that have generated serious environmental and social impacts for which affected individuals and communities have been unable to access compensation and other remedies.

Perhaps the most infamous case concerns the massive tailings dam failure that occurred at the Omai gold mine in Guyana in 1995. Three years following the disaster, a lawsuit was initiated in Canada by indigenous people affected by the spill. The Canadian court refused to hear the complaint, arguing that Guyana was the appropriate forum for the action. A subsequent case brought in Guyana was also dismissed, leaving the victims without recourse. Several other EDC-supported projects merit attention, including the Bulyanhulu gold mine in Tanzania. Local residents allege that over 50 artisanal miners were killed by Tanzanian troops in order to clear the mining concession to make way for commercial operations.

Indigenous people affected by the PT Inco nickel mine and smelter in Indonesia complain that they have lost prime agricultural land, that the local environment has been contaminated, and that they suffer threats and intimidation by the police.

In 1998 a large cyanide spill took place at the EDC-supported Kumtor mine in Kyrgyzstan. EDC also funded the Marcopper mine on Marinduque Island in the Philippines, where environmental contamination destroyed the source livelihood for local fishing villages. I understand this committee heard testimony earlier this week about that case.

More recently, the EDC-supported Veladero mine in Argentina was the subject of complaint before that country's national ombudsman. The office of the national ombudsman, which is independent of government, is mandated to protect legally sanctioned rights and freedoms, including human rights. Local actors who lodged the complaint regarding Barrick's mine were concerned about its impacts on the San Guillermo UNESCO biosphere reserve. The ombudsman accepted the complaint and in 2008 reported that the mine concession violates several national laws. He called for an immediate halt to mining activity in the reserve.

This year, an Argentinian environmental organization filed a complaint regarding the mine with the Supreme Court. The complainants, who expressed concern that mining operations are causing irreversible damage to local glaciers, asked the court to issue an order for an audit that would assess whether the company is in compliance with national laws.

Intense debate continues among Argentinian parliamentarians concerning the future of that country's glaciers. Last year, President Fernández de Kirchner vetoed legislation designed to protect glacial deposits. The law, which prohibits mining, oil, and gas operations in or around glaciers, received the unanimous approval of Congress.

EDC continues to provide support for Canadian extractive companies that invest in countries with weak regulatory frameworks, inadequate institutional capacity, and poor law enforcement. The crown corporation is currently considering support for a major mining project in the Democratic Republic of Congo, a country plagued by negligible governance capacity, widespread human rights abuse, and brutal conflicts associated with mined materials.

Moreover, EDC recently opened a new office in Lima, Peru, from which it plans to expand support for Canadian extractive companies operating in that country. According to the Peruvian national ombudsman, extractive investments constitute the most important source of social conflict in that country. Community members who resist the entry of foreign extractive companies on their lands are intimidated, beaten, and in some cases killed.

● (0905)

Earlier this year, indigenous people in Peru mounted a major protest regarding the adoption of new legislative provisions that further facilitate extractive operations in their territories. On June 5, the national police attacked the protestors, triggering a violent confrontation that ended with the deaths of over 30 people. The prime minister was forced to resign over the government's handling of the incident, and Congress repealed a number of the contested decrees.

To avoid complicity in the environmental and human rights abuses that are common in these contexts, Export Development Canada must apply robust and transparent environmental, social, and human rights standards to its clients. Currently EDC relies on the International Finance Corporation's performance standards and the Equator Principles. The latter instrument, which was developed by private banks, is largely based on the performance standards. The performance standards are widely recognized as the de facto standards set for multinational companies that invest in developing and emerging markets. However, they suffer from several important debilities. They are weak on human rights. With the exception of labour rights, the performance standards neither reflect nor reference international human rights norms.

The multi-stakeholder advisory group to the national round tables on corporate social responsibility and the extractive industry in developing countries, of which I was a member, recognized this important shortcoming. The advisory group used the performance standards as the basis of the Canadian CSR standards that were proposed for adoption by the Canadian government, but supplemented those standards with international human rights norms.

The second problem with the performance standards and the Equator Principles is that they are discretionary. Export Development Canada is under no obligation to apply them, to enforce them, or to sanction clients who fail to comply. EDC adopted the performance standards through an OECD recommendation that explicitly permits signatories to derogate, at their discretion, from the standards set. Compliance with the Equator Principles is also optional. Under the Equator Principles, companies are required to comply with the performance standards to the satisfaction of the implementing financial institution. Moreover, non-compliance is permitted as long as any derivation from the standards is justified.

No guidance is provided regarding the acceptable threshold for satisfactory levels of compliance or justified derivations from the standards. Bill C-300 remedies these shortcomings. It ensures that EDC's existing standards are consistently applied and supplements them with international human rights norms, to which Canada is a signatory.

This will strengthen EDC's due diligence, steering it away from projects that carry a high risk of generating negative human rights impacts. It will provide EDC clients with valuable guidance regarding their expected standard of operation. Finally, it will ensure that Canada is in compliance with its international human rights obligations in the provision of export credit.

As an agency of the Canadian government, Export Development Canada is bound by Canada's international human rights commitments. Currently there is no mechanism to ensure that its operations are consistent with those commitments. Bill C-300 will also bring EDC in line with recommendations on export credit agencies made by the UN Secretary General's special representative for business and human rights, John Ruggie.

In a report to the Human Rights Council, Mr. Ruggie argues that export credit agencies should require that their clients perform adequate due diligence regarding their potential human rights impacts. According to the special representative, such due diligence will allow these agencies to identify investments that require greater oversight and those where the risk is too great for state involvement.

Following the release of the special representative's report, EDC published a five-paragraph statement on human rights. EDC describes the statement as an articulation of principles. The statement does not provide for the level of due diligence that Mr. Ruggie advocates. It is silent on the issue of whether and how EDC assesses the potential for adverse human rights outcomes from client operations, on what it expects of clients in the area of human rights, and on how it ensures that clients meet those expectations over the life of a project.

● (0910)

I'd now like to speak for a moment about the investigation of complaints concerning EDC client operations. EDC is one of few export credit agencies that has a complaints mechanism. However, the office of the compliance officer has processed just two complaints since it was created in 2001.

Affected communities and some civil society organizations have chosen not to use this mechanism because it lacks independence, transparency, and power. The office is maintained and staffed by EDC. Compliance audits, when undertaken, are internal. Scant information is provided to complainants to explain the officer's findings. Moreover, the crown corporation is under no obligation to adopt any recommendations the officer may make at the conclusion of an audit.

The complaint mechanism established under Bill C-300 remedies these problems. The mechanism is independent of EDC and involves public reporting. Moreover, findings of non-compliance bring consequences. While the complaint mechanism will not provide individuals and communities who are affected by EDC-supported extractive projects with access to legal remedies, which is an issue that deserves the attention of this legislature, it will afford them the opportunity to have their case investigated and may result in a shift in corporate behaviour.

Moreover, the complaints mechanism under Bill C-300 is consistent with the recommendation of the advisory group to the round table process regarding the appointment of an ombudsman. As with Bill C-300, this office was to receive and investigate complaints regarding the overseas operations of Canadian extractive companies.

To conclude, Bill C-300 addresses shortcomings in EDC's due diligence policies and practices and weaknesses in its complaints mechanism. Moreover, the legislation is consistent with consensus recommendations regarding these issues made by the advisory group to the round table process.

The reforms contained in Bill C-300 will help to ensure that EDC no longer funds extractive projects that result in serious environmental and social harm.

Thank you.

● (0915)

The Chair: Thank you, Ms. Keenan.

We will go into the first round of questioning. I am going to be fairly strict on the time today. We do want to leave about half an hour for committee business.

We have one guest in the second hour, so maybe we'll have one round of seven minutes each and then proceed to our next round.

Is that fair?

Mr. Patry, please.

Mr. Bernard Patry (Pierrefonds—Dollard, Lib.): *Merci beaucoup*.

Thank you, Ms. Keenan.

Ms. Keenan, according to clause 5 of the bill, standards are supposed to be included in the government's guidelines "that articulate corporate accountability standards for mining, oil or gas activities".

What types of standards should be included, according to you, and how will these differ from existing international standards such as the OECD guidelines for multinational enterprises or the United Nations Global Compact?

Ms. Karyn Keenan: I'm sorry, but you're referring to paragraph 5 (2)(d), is that right?

Mr. Bernard Patry: Yes.

Ms. Karyn Keenan: That's "any other standard consistent with international human rights". Well, the standard articulated in paragraphs 5(2)(a) to (c) is quite comprehensive. If the IFC's performance standards and accompanying guidance notes, the voluntary principles, and provisions that include the full complement of our international human rights obligations are included, that would be extremely comprehensive.

Paragraph 5(2)(d) could include other international treaties to which we're a signatory. Perhaps it could include environmental treaties, because paragraph 5(2)(c) specifically speaks to human rights. I'm thinking of things like the treaties around biodiversity and those concerning climate change and so on that wouldn't necessarily be considered in paragraph 5(2)(c), but that have a bearing on these projects.

Some provisions in those treaties might be covered off in the performance standards, but likely some wouldn't, so that could include environmental treaties. Apart from that, I think the standard that's articulated is quite comprehensive.

The Chair: Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): The environment in which Bill C-300 was put forward was, if you will, a bit of a vacuum. The vacuum was that there was no response to the round tables, the bill came on, and then the government responded with the CSR counsellor. The CSR counsellor has a mandate, many things of which are quite good and are helpful in this area.

So what we're essentially left with is the last two yards out of the hundred yards. I'd be interested in your comments on how you see Bill C-300 interacting with the CSR counsellor.

Ms. Karyn Keenan: I think that's a fair characterization. I think the government response includes some elements of the advisory group report that are central, that are key to reforming policy in this area, but it's an incomplete response. And in particular, in the context of my presentation, it's incomplete regarding the provision of services to extractive companies.

The Canadian government provides a range of services to companies, and currently there are no mechanisms in place to ensure the provision of those services is done in a way that's consistent with our international obligations, particularly regarding human rights. That in itself is a breach of international law. Canada has an obligation to protect human rights, and part of that obligation, as explained to us by the UN treaty bodies, is to pass legislation that protects citizens from the operations of third parties, including companies.

This bill provides those extra two yards, particularly in this area around the provision of government services, and ensures there is a legislated basis to review potential government clients and those operations are consistent with our international obligations.

Hon. John McKay: The most significant deficiency in the government's response is the inability of the counsellor to independently commence an investigation, or even complete an investigation once commenced, because it's dependent on the consent of the corporation involved. It's a rather glaring omission, yet Bill C-300 would fill that gap.

What is your view on a counsellor who effectively has no ability to investigate?

● (0920)

Ms. Karyn Keenan: I don't think it's a worthwhile endeavour.

I'm in contact almost on a daily basis with communities impacted by Canadian extractive operations. They're my partners and my colleagues. There was a lot of anticipation, a lot of excitement, around what the government's response would be to the round table process. A number of those colleagues were expert witnesses who participated in the round table process, and there is great disappointment with the response in that sense.

Communities and civil society organizations in the south have rightly asked me and other Canadian colleagues what the point is of bringing a complaint. Why would they bother going to the trouble of marshalling scarce resources, their time, to document concerns and then present them to this counsellor when they know there is no obligation on the company to participate?

I agree with you that there is great disappointment worldwide that this is an optional mechanism for companies, and for that reason the bill is extremely important.

Hon. John McKay: Apparently last Tuesday this committee received some rather devastating testimony about a particular Canadian company. So if you run that CSR counsellor alone over that particular fact situation, would you anticipate that any kind of investigation would actually be done into that situation?

Ms. Karyn Keenan: If I were counsel for Barrick, I would advise against participating. I don't know what your advice would be.

Hon. John McKay: It does seem a little obvious.

The final question has to do with those companies that are concerned about the unfairness of the procedure and that they somehow or other will be exposed to guidelines they don't understand or procedures where they don't know what the evidence might be, pro and con, or the standards of evidence, etc. What would your response to those companies be?

Ms. Karyn Keenan: The statute includes provisions for an inclusive participatory process for arriving at those guidelines and those procedures, as does any statute of this type, so I don't share that concern.

In addition, it's important to remember that a lot of work has gone into this area. This issue is receiving attention around the world. International multilateral forums, national governments, civil society organizations, and corporations and their associations have spent a lot of time looking at these issues and have developed guidelines, principles, and standard sets. The treaty bodies are an important source of reference for us to help us develop those guidelines. So there are a lot of resources and experts whom we can rely on. And through a participatory process I'm sure we're capable of coming to both procedures and guidelines that will be clear and understandable and fair.

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

We'll move now to the Bloc. Madame Deschamps.

[*Translation*]

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Good morning, Ms. Keenan, welcome to our committee this morning.

Your testimony concerned me when you said that Export Development Canada opened a complaints office in 2001 and received only two complaints.

Did the office follow up those complaints? What was the nature of the complaints? Did they come from organizations seeking to report an irregularity? Why do people now find that this complaints office is irrelevant, that it is not transparent enough, and that they are not well represented in that office? Are they afraid to use the office? The message seems to be that the complaints office is a bit of a sham.

[*English*]

Ms. Karyn Keenan: One of the complaints that I referred to was lodged by my organization. It was before I started working for the Halifax Initiative, but I'm aware of the case. It concerned a nuclear energy facility, and it was concerned with the review of that project. So it was Export Development Canada's due diligence when it reviewed the project and was making a decision about whether to support it or not.

The reason my organization was discouraged then from launching other complaints, or advising our colleagues who are impacted by EDC projects to launch further complaints, was because of the problems that I enumerated in my comments. That is, it's a very closed, internal process. In fact, I don't believe my colleagues were entirely clear on what the process was. At the end of the process, when we received a response, which was that the corporation was in compliance with its internal policies, that was the only answer we received. We did not receive information that explained how the officer had come to that determination, how they had made that determination, what the investigation consisted of, and so on.

It's very closed, it's difficult to access information, and, as I said earlier, even in the case of an audit that finds there's non-compliance, there's no obligation on the part of EDC to then take that up and make changes. Again, effective community civil society organizations have scant resources, human and otherwise, to take the time and energy to make a complaint before this kind of body, and knowing the chances of there being some impact at the end of the day, on balance it's not a worthwhile endeavour.

That's why we're excited about the mechanism under Bill C-300, because it's more transparent, because it's independent, because the process will be known and understood, the results will be released publicly, and there will be some consequence if there is a finding of non-compliance.

● (0925)

[*Translation*]

Ms. Johanne Deschamps: In response to the report that came out of the consultations and round tables, the Minister has decided to appoint an advisor, create a corporate social responsibility advisor's office.

In your opinion, is that enough? Will that person have a bigger mandate than the mandate of the complaints office the people at EDC have created? Could this person have more powers?

[*English*]

Ms. Karyn Keenan: They will, only insofar as they won't be limited to EDC. They will have the power to review any extractive case, not just those cases that receive the support of EDC. But as we discussed, they're hamstrung. Unless corporations grant their explicit consent to participate, no investigation will take place. I think it's important to go back to the advisory group report and remember that it was a consensus report. The presidents and CEOs of the two major mining associations in this country endorsed the idea of an ombudsman who would have the power to compel corporations to participate in investigations. If the heads of industry associations were willing to implement that kind of mechanism, it's a shame that the government has not. Again, I think this bill addresses that shortcoming by creating a complaints mechanism before which companies will be forced to come forward.

The Chair: You have another two minutes, Madame Lalonde.

[*Translation*]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Thank you.

Madam, is it possible that the fact that this Act applies only to companies that receive support from the Government of Canada — that is the purpose of the Act — will bring about changes in the attitude of companies toward requests for financial assistance from EDC so that they are not subject in fact to the provisions of the Act? Have you seen any signs that it might actually have that effect?

● (0930)

[*English*]

Ms. Karyn Keenan: That's a good question. I think in this economic context, companies may be inclined to continue soliciting that kind of support, because it's difficult to get credit from other places. I think also, if companies are as good as their word, this shouldn't pose a problem.

Many of the companies that are currently clients to EDC purport to comply with the performance standards and the Equator Principles. They purport to be corporate leaders in this area, so if the obligation to comply with those standards is suddenly legally mandated, as opposed to something that is in the voluntary realm, this shouldn't pose a problem to them.

For both those reasons, I don't think it should have an impact on the number of clients.

The Chair: Thank you.

We'll move to the government side. Mr. Abbott.

Hon. Jim Abbott (Kootenay—Columbia, CPC): Thank you, Ms. Keenan, for your very well-researched presentation today. I'll be asking questions that will exhibit that I don't agree with many of the things you've said. Notwithstanding that, I really respect the fact that you have researched this bill and that you express yourself very forcefully as well, albeit not with my particular perspective.

It strikes me that you have blown off the idea of the counsellor under the CSR. The fact that it is a public process, the fact that whoever may have been brought to the attention of the counsellor, hence in the public—don't you think that if those companies were not compliant, it would create public pressure that NGOs and other organizations like yours could use to your own purpose?

I simply find the fact that you have blown that position away as not being that relevant to be very interesting, and I wanted to challenge you on that.

Ms. Karyn Keenan: There are a number of opportunities and fora for bringing forward information about what Canadian extractive companies are doing, and Canadian and other civil society organizations make use of those fora. Some of them are international, some of them are national, and so on, and we're doing that.

Again, we have to remember who these people are and what's happening. Often their physical safety is jeopardized. They're often indigenous people, they come from rural areas, they're economically and politically marginalized. To marshal the time, the resources, and the energy to submit another complaint, and possibly to travel to Canada to give testimony and so on before a forum where they have no expectation or hope that anything will change, is nonsensical. It makes far more sense for them to continue to use other fora, as flawed as they may be, but that has brought us to the point where we are right now. The fact that we're in the Parliament of Canada discussing this issue means that those fora have had some influence and some success, and, to me, that makes far more sense.

We've had bad experiences with the National Contact Point here in Canada, which is another complaints mechanism that was set up by the government. People, including my organization, filed complaints, marshalled resources, gathered testimonies and affidavits, and it has been entirely unhelpful. People are not persuaded that this would be any different, and they don't want to spend valuable resources testing it out.

Hon. Jim Abbott: The devil is in the details in all these kinds of acts. The example I used in testimony two days ago is that we have two different flu vaccines because we have two different viruses. In other words, you have to be specific with a remedy. In this particular case, if we can pull that analogy over to Bill C-300, the devil is in the details. It might be that we need to be going after flu, whereas in fact we need to be going after H1N1 flu. This bill is not going to touch the H1N1 potential pandemic, if you understand my analogy.

I'm looking under the powers and functions of the ministers. I'll quickly read the clause I'm thinking of:

> In carrying out their responsibilities and powers under this Act, the Ministers shall receive complaints regarding Canadian companies engaged in mining, oil or gas activities from any Canadian citizen or permanent resident or any resident or citizen of a developing country in which such activities have occurred or are occurring.

Do you not see that this is a big enough hole to probably slide the *Queen Elizabeth 2* through? I mean, why couldn't there be people among the six billion inhabitants of the earth who would bring vexatious actions against Canadian companies? This is a gigantic hole. Or do you disagree with me?

● (0935)

Ms. Karyn Keenan: I'm just looking for the provision.

If we go down about ten lines to subsection 4(3), your concern is explicitly addressed. The statute explicitly deals with the problem of frivolous and vexatious claims.

Hon. Jim Abbott: It does, but that is part of a process. That clause, I submit to you, opens up the opportunity. They can be frivolous and vexatious, but it doesn't make any difference. After they've been on the front page of the *Globe and Mail* for one edition, you don't take that edition back and say, “Sorry, take it out of the bottom of your birdcage”.

Ms. Karyn Keenan: It is true that there may be individuals who take advantage of this initially and lodge frivolous and vexatious claims, but those frivolous and vexatious claims will be exposed for what they are. I think when groups see that this mechanism doesn't work, because their claims are refuted, and that companies, no doubt, will do their own work taking those results and disseminating them and broadcasting them, they will see that it's an ineffective strategy. I have every confidence in the ability of companies to also broadcast findings of frivolous and vexatious claims to their advantage.

I can conceive that some individuals might initially take advantage of that. But I don't think the mechanism will work for long, because I think the ministers will use their judgment to weed out those claims and they won't get anywhere.

Hon. Jim Abbott: Within the clause that I read to you, “activities have occurred or are occurring”, companies could be reviewed for anything dating back to 1867. That, again, is a gigantic hole big enough for another ocean liner.

Ms. Karyn Keenan: As I described in my comments, there are a number of incidents that have occurred around the world, which were on an egregious scale in terms of the impact on affected communities, that remain unresolved for which people have been unable to seek redress. People have lost their source of livelihood, they've lost their land, they've become ill, and they have had no opportunity to seek redress. I would argue that should some of those older cases come forward, that would be just and fair.

Hon. Jim Abbott: If a company should acquire another company, it would have to do due diligence before acquiring that company. Because there might be some kind of track record going back 20, 30, 40, or 50 years, when practices that we now find abhorrent and unacceptable in 2009.... If we go back 50 years, with the best science and the best understanding of what was happening with regard to exploration 50 years ago, those practices are completely unacceptable at this point. Again, we've opened up yet another gigantic hole to drive some kind of challenge through for any kind of mining activity that has any kind of history other than what the standards are in 2009.

Ms. Karyn Keenan: I think I was unclear. An investigation regarding a case that has been operating for some time and around which there are problems would concern that case. If that mine is still operating, but it's now operating to a standard that complies with standards included in the statute, then that company would qualify for further government support.

The statute applies to current operations. If there were a mine, let's say Omai, where there were problems in the past but it's still operated by a Canadian company and there are no problems there now—the company now operates in a way that's consistent with these standards—then that company, obviously, would be eligible for further government support.

This act doesn't address legal remedies. It doesn't provide legal remedies to people who have been wronged in the past. But if there are still problems with a mine where there have been problems before, and an investigation happens, then that company could become ineligible for further support.

But no, it doesn't do anything to companies that have committed wrongs for which people have been unable to access remedies. It doesn't provide a legal remedy.

The Chair: Thank you very much.

We'll move to Mr. Dewar, please.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair, and thank you to our guest for appearing.

Following up on Mr. Abbott's comments, you might be able to enlighten us a bit on something. Some people are going to court to seek remedy. Is that something you're aware of? How would you see this bill dealing with those situations?

In other words, we see in other jurisdictions that there are grievances being brought to court because there is no other recourse. Do you have any point of view on that?

● (0940)

Ms. Karyn Keenan: There are a number of Canadian cases being brought before the judiciary in foreign jurisdictions, including some cases that were funded by EDC. You heard about one of them earlier this week. It was formally a Placer Dome mine, now a Barrick mine, in the Philippines, where a lawsuit is pending in the United States because there are no opportunities to bring lawsuits of that type in Canada.

Unfortunately, this bill doesn't address that problem. I may not have been clear in my response to the previous question, but this bill does not provide the legal basis for bringing claims in this country. In my comments I mentioned that was something this legislature might want to think about, because I think it's very important. Those actions demonstrate that we have a policy and legal vacuum in this country around the activities of our corporations overseas that we need to address.

I think this bill is one important step in the right direction in addressing that vacuum. While it doesn't provide a basis for lawsuits for those who have been harmed, it does ensure that the government's house is in order. It ensures that the public services provided to our companies happen in a way that is consistent with our values and our international human rights obligations. That seems to be a priority, to me.

Mr. Paul Dewar: I concur.

As Mr. Abbott is fond of analogies, I'll give one as an example. Big tobacco is being sued right now. There is litigation on the question that they knew there were problems. They were aware of them. There was evidence provided that the way they were conducting their business was affecting the health of people.

This is something the government should be embracing to protect Canadians. It's about public dollars being involved with private enterprise abroad. We don't want to find out ten years, five years, or two years from now that the Canadian public was exposed because we didn't do what we should have done. I think it's important that this is laid out. To say that we can't do more is not the case. And as you've laid out, the tools we have right now are not sufficient. I think you were quite comprehensive in your comments.

My final question is around an issue that some have concerns about on establishing guidelines that are fair, transparent, and workable in the bill. To underline, this is something that will be open to discussion and consultation. I'd like to hear whether you think it's fair to have the ability to discuss with all players how those guidelines should work in the bill and that there is an importance in having that consultation under subclause 5(2).

To those who would say this is a done deal once the bill is passed, I would point out that the bill actually says to discuss those guidelines and to consult. Do you think that's a fair thing, or should we just say it's done, the bill is written, and we should just go ahead?

Ms. Karyn Keenan: I think it's actually subclause 5(3) that talks about the consultation. Subclause 5(2) is where the standards are discussed; then subclause 5(3) speaks to the consultation.

It's quite explicit, as you mentioned. It enumerates the different actors and sectors that should be consulted, including government departments and agencies, and no doubt those who are affected by this legislation: representatives from industry and non-governmental organizations. It's quite broad, because it also includes the clause "and other interested persons in or outside Canada".

As I mentioned earlier, there are a number of actors both within Canada and outside that have given a lot of time and attention to this issue. One that comes to mind is the Danish government. It has done a lot of work developing human rights guidelines for corporations that help to operationalize international human rights norms. It also has a highly developed instrument it applies to that end, which might be of interest to the Government of Canada when it's developing these guidelines.

I think it's quite explicit and comprehensive. I think because it's part of the statute it guarantees this process will take place and that it will be open, transparent, and, as you said, quite fair.

● (0945)

The Chair: You have a couple of minutes left.

Mr. Paul Dewar: No, I'm good.

The Chair: Then let me ask a question.

My question, which arises from all of this, and especially maybe out of our meeting on Tuesday, is about the political risk. I know you aren't here in any capacity as an elected official, but it seems when I read through this—"the Ministers shall receive complaints regarding Canadian companies"—that politically, corporate social responsibility is one of those banner principles that everybody expects.

In some respects, when you ask the average Canadian, the fear is that we can never do enough to guarantee corporate social responsibility. When a complaint is lodged with a minister, whether it's in this government or any other that may come along, the minister has a huge responsibility to show that he has done his due diligence in the matter.

On Tuesday, we heard that questions were asked of police forces in other countries, and they said there was nothing substantiating the charge that was put forward on certain committees. You have a politician, a minister, who recognizes sovereignty of other countries; he questions the government, the police force, and all those involved in that country, and the report comes back that there is nothing to substantiate this. But we still have an individual or an NGO who comes with this complaint, and it's in the media and the news. The minister is always going to be pushed that extra degree.

How big do we have to make a department to do this investigation? How much risk do you feel that this minister would have to undertake to prove that he's taken his share of the responsibility in following up these complaints? To dismiss a charge as being frivolous can have huge political consequences.

Ms. Karyn Keenan: Before I answer the question about how much a minister has to do to comply with his or her duty, I want to respond to something else you mentioned, which is about the sovereignty of other countries. You didn't explicitly say this, but I think the implication is that there may be difficulties in carrying out these investigations because we would be doing them in other countries.

I think this committee received a legal brief from Professor Richard Janda from McGill University that spoke to that issue and reminded us that the Government of Canada undertakes similar investigations on a range of issues and on a range of contexts that are mandated under other statues. Just to dispel any misconception that may exist that we don't do this or can't do it, it is certainly within our possibilities.

Moving to the other issue, which is how much you have to do to comply with your duty, I think the key here is making sure that this work is transparent and that the results of any investigation, including an explicit description of what steps were undertaken, is disseminated publicly—which is, of course, mandated by the statute.

No one expects a minister to continue with a complaint ad infinitum if it is clear that there's no evidence coming forward to persuade him or her that a complaint is valid. There's a degree of reasonableness with which this statute will have to be interpreted. But I think we have the capacity to sort out what that is. In the case where a complaint cannot be substantiated, that will be the finding.

And it will disseminated. I have every confidence in the ability of Canadian extractive companies to make sure those results are disseminated, not only to their shareholders but to the Canadian public at large, so that they can clear their names.

So I'm not concerned about those issues.

The Chair: If there is an NGO or if there are individuals who came forward with a number of frivolous complaints over a number of years, should there be any sanctions against them?

Ms. Karyn Keenan: I think what would happen is that had the minister received seven or eight or nine frivolous or vexatious complaints from an NGO or another actor, the minister would clearly have some increased level of scepticism about that individual or group and perhaps could be more expeditious in investigating the nature of the claim. Perhaps under the statutorily mandated review process, such a provision would have to be included if the experience of the minister was that this was in fact happening.

But again, returning to my earlier response, I don't think this will happen. It takes a lot of work and resources to put together a claim of this kind, and if they were constantly being turned down because on their face they were frivolous and vexatious, I don't think this would be a very effective strategy for a group to employ, and I can't imagine that they would insist.

● (0950)

The Chair: All kinds of things are possible, I guess, with a bill like this.

We'll just leave it at that.

Thank you very much for coming.

Ms. Karyn Keenan: Thank you.

The Chair: I agree with Mr. Abbott, and I think with all of us; thank you for bringing your well-researched testimony on this bill. We appreciate your being here.

We're going to suspend for a few moments to allow CIDA to take the chair.

● (Pause)

●

The Chair: In the second portion of our meeting today we're going to continue with the study of Bill C-300.

We have before us, from the Canadian International Development Agency, Mr. Christopher MacLennan, director general of the thematic and sectoral policy directorate; Bill Singleton, senior economic policy advisor to the strategic policy and performance branch; and Hélène Giroux, director general for South America and Americas geographic programs branch. We welcome you.

I understand you have an opening statement. We will look forward to that, and then we'll move into the first round of questioning.

Mr. MacLennan.

Mr. Christopher MacLennan (Director General, Thematic and Sectoral Policy Directorate, Canadian International Development Agency): Thank you very much, Mr. Chairman.

I am pleased to have the opportunity to describe to the standing committee CIDA's role in the Government of Canada's CSR strategy, to provide some background information on the importance of the extractive sector to developing countries, and to give you an idea of the type of programming that CIDA has been doing and is planning to do.

As you've mentioned, my name is Chris MacLennan; I'm director general of thematic and sectoral policy. With me is Madame Hélène Giroux, who is the director general for South America; and Bill Singleton, who is CIDA's internal focal point on CSR. As members of the committee may recall, the government's CSR strategy required CIDA to create an internal focal point on extractive sector development issues, and Bill is currently serving in that capacity on an interim basis.

Before describing CIDA's role in the government's CSR strategy, I wish to draw the attention of the committee to one item in Bill C-300. In the interpretation section of the bill, subclause 2(1), there is reference to “the list of countries and territories eligible for Canadian development assistance established by the Minister of International Cooperation.” Such a list no longer exists. CIDA publishes in its annual report to Parliament the list of countries in which CIDA has actually made disbursements, but this is not the same as a list of countries that are actually eligible for development assistance.

That said, of course, the government, in February 2009, announced that as part of its aid effectiveness agenda, CIDA would concentrate 80% of its bilateral programming spending in 20 countries of focus. That is also not a list of eligible countries but simply where CIDA will be concentrating its efforts under the aid effectiveness agenda.

With this exception, Bill C-300 makes no direct reference to CIDA or its activities. However, because Bill C-300 is addressing issues in the same area as the government's CSR strategy for the Canadian international extractive sector, I would like to describe to the committee what CIDA is doing in relation to the extractive sector in developing countries.

As members of the committee will recall, the government's CSR strategy has four elements. One of these is entitled “Host Country Capacity-Building”, and it is this part of the strategy with which CIDA is directly concerned.

A large number of studies have been carried out about why mineral and hydrocarbon resources are all too often more of a problem than an opportunity for many developing countries. This is in contrast to the economic history of countries such as Canada, the United States, and Australia, which have been able to make productive use of natural resources as a source of economic growth, employment, and export earnings.

The common conclusion at which the various studies have arrived is that the most important single factor is the transparency and effectiveness of host countries' resource governance and management regimes. This includes the establishment of stable legal and fiscal regulatory frameworks to ensure sustainable resource management and development, and regulatory institutions and agencies responsible for regulating and overseeing sector activities.

In the absence of strong institutions, natural resources such as minerals, oil, and gas can become what, of course, is known in development as the “resource curse”. The curse can lead to a number of problems, including corruption, conflict, social unrest, and negative economic and environmental impacts. The revenues from the resources are volatile, which makes it difficult for governments to manage their spending. Finally, in some countries, revenues from minerals, oil, and gas have been used as a means of financing conflict, as many of you are aware.

The nature of the choices that developing countries must make are well known to Canadians: whether to extract the resources at all; how quickly to extract; whether to use national companies or rely on the international private sector; how to design the laws, regulations, and contracts that can produce the greatest benefits to the country and its citizens; and how to avoid or mitigate the environmental or social costs of extraction. Developing countries must also decide on policies and mechanisms for dialogue and stakeholder participation in extractive sector development. Each choice will have far-reaching consequences that can shape a country's development path.

CIDA's recent programming in individual countries in the extractive sector has been primarily in the Americas. In line with the principles of aid effectiveness, the orientation of this programming has been to support countries that have themselves set extractive sector resource management as a priority for their development planning.

In Peru, for example, CIDA has worked extensively with the national and regional governments and affected communities to develop and promote regulatory requirements for social and environmental management in the extractive sector. CIDA's support has included the provision of tools and expertise in the mining and hydrocarbon sectors and support for social, environmental, and multi-stakeholder dialogue, community participation, and conflict resolution.

● (0955)

CIDA has assisted Bolivia in establishing a tax collection unit. As a result, from 2004 to 2008, Bolivia realized a fourfold increase in revenue, amounting to well over $2 billion annually. Most of this money has been reinvested in public services and social supports.

In addition, CIDA is developing an Andean regional initiative, which will strengthen regional and local governments as well as community capacity to plan, develop, and implement sustainable development projects. The initiative will increase the well-being of the communities and enhance their capacity for engagement with extractive-sector firms.

At the multilateral level, CIDA is working on the extractive industries transparency initiative, or the EITI, in partnership with the Department of Foreign Affairs and International Trade and with Natural Resources Canada. The objective of the initiative is to introduce greater transparency into financial flows precipitated by natural resources in developing countries, with the objective of reducing corruption. CIDA has provided some of the funding for Canada's participation in the EITI multi-donor trust fund managed by the World Bank.

In addition, as laid out in the government's CSR strategy, CIDA is in the process of identifying an individual who will work with the World Bank on implementation of EITI in a number of countries in Africa.

For the future, CIDA's assistance to developing countries in their natural resource management will be carried out under the thematic priority of sustainable economic growth, which is one of the priorities set for the Government of Canada's international assistance envelope.

I've already described how natural resources can be a source of economic growth. Good resource management, especially in relation to environmental and social impacts, can help make growth sustainable.

We have made contact with our counterpart development agencies in other countries, such as Norway and the United Kingdom, to identify ways in which we might collaborate more effectively. In July, CIDA hosted round tables on CSR with the private sector and with civil society, and we are continuing that dialogue. We are working closely with DFAIT and NRCan on implementation of the other three elements in the government's CSR strategy.

I hope this brief description of CIDA's approach to the extractive sector in developing countries will assist the committee in its consideration of Bill C-300. Hélène, Bill, and I are open to questions you might have about CIDA's experience and how our work is contributing to the achievement of the government's objectives.

Thank you.

● (1000)

The Chair: Thank you, Mr. MacLennan.

Mr. Rae.

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

I understand the work you're doing. I've seen evidence of it in my other, previous life, and even currently, with respect to the Andean countries. Would you agree that there's nothing incompatible between Bill C-300 and the ongoing work that you're doing? Bill C-300 doesn't take away from that work. In fact, it builds on it. The infrastructure that you're creating, as well as the knowledge about how the mining industry is working in Latin America and Africa, would be entirely relevant to a minister who receives a complaint and exercises his discretion under Bill C-300. Wouldn't you agree?

Mr. Christopher MacLennan: The bill does not actually touch upon the work of CIDA in developing countries. So from that perspective, the operation of the bill, to my understanding, would not have an effect on what CIDA is doing in-country.

Hon. Bob Rae: No, but let's look at the proverbial whole of government, if I can just try to break down the silos. A minister who's getting a complaint is going to want to draw information from the whole of the Canadian government on the activity in question. You have information from Peru, Colombia, or wherever, that names a company and describes what they're doing. My sense is that the Canadian embassies in these countries are very knowledgeable about what these companies are engaging in, and their local representatives are in touch with the embassy all the time. So how would Bill C-300 be incompatible with the work that you're doing?

I have no objection to the work you're doing. I think it's important. But I don't quite understand how Bill C-300 would be seen as incompatible with it. I think Mr. McKay put it well this morning when he said that you have to look at Bill C-300 as being simply the last two steps of the round table that the government decided not to implement. We could probably solve most of our problems if we gave the counsellor a couple of powers she doesn't now have. I think this would resolve any conflict, perceived or real, between what Mr. McKay is proposing and what the government has already outlined.

Mr. Christopher MacLennan: As I stated, and as you actually noted in your testimony, Bill C-300 doesn't directly bear upon the activities of the Canadian International Development Agency in terms of what we're actually doing in-country. So in terms of how well the bill will function, it actually affects the Department of Foreign Affairs and International Trade more, and as a result, I would think that question is probably more appropriately posed to the Department of Foreign Affairs.

So it won't affect CIDA's role under the CSR strategy.

Hon. Bob Rae: But what CIDA does is part of the broader political direction of the government with respect to development in Latin America. It's part of our foreign policy. It's not a separate entity unto itself. CIDA is part of the overall Canadian enterprise that we're looking at.

I'm just saying that if Bill C-300 says the minister gets a complaint and then considers the activities, surely the evidence.... What CIDA is doing and the evidence of what CIDA has with respect to a particular company would be entirely relevant to the Minister of Foreign Affairs. I would argue that it would be ludicrous to suggest that CIDA isn't going to be part of this puzzle. Of course it's going to be part of the puzzle. The counsellor who has been appointed for CSR is going to want to talk to you guys about what you're doing and what you're finding on the ground. Madame Giroux will have her staff in Latin America and they'll be reporting to her, as well as to the ambassador who is on site. Isn't that the case?

● (1005)

Mr. Christopher MacLennan: To return to your point, actually, and as I mentioned in my point, I agree with you that the contents of this bill will not affect CIDA's activities on the ground—

Hon. Bob Rae: Negatively?

Mr. Christopher MacLennan: Personally I don't have a firm opinion. We haven't formed a firm opinion on the bill itself because it actually is under the purview of other departments. In terms of its bearing upon CIDA, our activities would continue in these countries in the way they previously have.

Hon. Bob Rae: Perhaps Madame Giroux, I could try with you.

[*Translation*]

There are representatives from CIDA on site. They are currently discussing the situation in Colombia, Peru, etc. You must get reports on the current activities of Canadian companies.

Ms. Hélène Giroux (Director General, South America, Americas, Geographic Programs Branch, Canadian International Development Agency): We get indirect reports through the governments of the host countries with which we work.

Hon. Bob Rae: I find it impossible to believe that you don't hear about the activities of Canadian companies in Colombia or Peru. The local newspapers talk about the activities of Canadian companies. It exists; you get reports.

Ms. Hélène Giroux: From our embassies, yes.

Hon. Bob Rae: From your embassies and the people who work for CIDA and the embassy, correct?

Ms. Hélène Giroux: As a rule, yes. Normally it's through our political sector, as part of a government-wide approach, as you said. We get reports from our embassies on these matters.

Hon. Bob Rae: What happens when you get complaints from people in the field?

You have a social responsibility program, and an advisor was recently appointed. What do you do with the information you receive?

Ms. Hélène Giroux: Your question concerns the corporate component. I hope my answer will be satisfactory, and I will be asking my colleague to help me.

From the standpoint of the Americas Section, the Andean initiative or the Andes Region initiative to promote effective corporate social responsibility is in the planning stage and is not yet up and running. We are working directly with the host governments, and if they have complaints, they bring them directly to our embassy.

However, it is not part of CIDA's mandate to handle complaints from host governments regarding Canadian companies in the field that may not be meeting national or international requirements.

[*English*]

The Chair: Your time is pretty well up on that round.

Hon. Bob Rae: Yes, I feel that way too.

Voices: Oh, oh!

The Chair: Madame Lalonde.

[*Translation*]

Ms. Francine Lalonde: Could you please say that again? It's not CIDA's mandate...

Ms. Hélène Giroux: CIDA's mandate is to reduce poverty in order to promote sustainable development. Through our feld projects — in Bolivia and Peru, it's mostly in the mining and oil and gas sectors —, we work directly with the governments of the host governments, for example with the ministry of energy and mines in Peru and Bolivia, to increase the ability of those governments to ensure that companies from Canada and elsewhere that are working in their country act take responsibility.

We strengthen their ability to put in place, for example, transparent legislative and regulatory frameworks in order to establish mechanisms for dialogue between governments, companies and communites and to create tax systems that make it possible to collect revenue from those companies for social programs. That is our mandate.

● (1010)

Ms. Francine Lalonde: So you help the countries rather than ensure that the companies themselves act as good citizens. Is that right?

Ms. Hélène Giroux: That's right. In the...

Ms. Francine Lalonde: A few years back, I followed the misfortunes of Talisman, a company you probably remember. The issue was debated in the House of Commons many times. It was probably connected in some way with the department of Minister Axworthy.

In one of the paragraphs on the second page, Mr. MacLennan, you talk about the absence of solid institutions, and one of the last sentences in that paragraph reads, " Finally, in some countries revenues from minerais, oil, and gas have been used as a means of financing conflict." That is exactly what Sudan was doing at the time using oil revenue. It rekindled the war in the south, which was coming to an end because there were not enough soldiers.

In cases like that, there is nothing CIDA can do. Even if you approach the government and tell it that taking revenue from oil that is extracted by a Canadian company makes no sense, it may not listen to anything you have to say. There is nothing you can do to the company and you leave it.

Mr. Christopher MacLennan: You're right in what you say. CIDA's role is not to handle complaints against Canadian companies. That is clear.

Ms. Francine Lalonde: To your knowledge...

Mr. Christopher MacLennan: However, CIDA's role is really to work within the framework of development plans in developing countries. Right now we are in Sudan. We are working with the country to determine exactly where CIDA can help. We are not active in the natural resources management sector in every country. Often we are involved in education and food security. It may be health and education. Our programs mesh with the country's development plan. We're not necessarily active everywhere.

Ms. Francine Lalonde: In essence, you would be in a very good position to see the positive effects of this Act if it were to be enforced.

The answer is yes.

[*English*]

The Chair: Madame Deschamps.

[*Translation*]

Ms. Johanne Deschamps: I'd like to ask two quick questions, one of them purely out of curiosity. Did you take part in the comprehensive round table consultation?

Mr. Christopher MacLennan: Yes.

Ms. Johanne Deschamps: Did you have any active participants?

Mr. Christopher MacLennan: Yes, they were primarily involved in the report.

Ms. Johanne Deschamps: You were involved in the report that came out of that process. You're telling me that in addition, you organized round tables last July.

Mr. Christopher MacLennan: Yes.

● (1015)

Ms. Johanne Deschamps: In that case, too, it was about corporate social responsibility. The participants were probably the same, that is, members of civil society, the private sector and industry. What was the goal? Did a report come out of those consultations? Did anything come out of it that we can consult?

Mr. Christopher MacLennan: Those consultations were requested by the Minister of International Cooperation.

Ms. Johanne Deschamps: What was the objective?

Mr. Christopher MacLennan: It was to engage in dialogue with companies and non-governmental organizations, respectively, and see how CIDA could implement its part of the Corporate Social Responsibility Strategy. In my testimony, I explained how CIDA could help developing countries create agencies, institutions, regulations and so on in order to better manage their natural resources. It was a question of getting the viewpoint of Canadian companies that operate in those countries and of non-governmental organizations that are actively involved in this area.

Ms. Johanne Deschamps: Does CIDA provide funds to mining companies through programs?

Mr. Christopher MacLennan: No, not to my knowledge.

Ms. Hélène Giroux: Our role is to help developing countries, that is, national, local or regional governments, communities, civil society and so on in a context of decentralization. That is what's happening in Latin America and elsewhere. We are working with them and helping make sure that they are able to hold accountable companies from all over the world that are working in their country. It's being done within the framework of the sovereignty of their own country, their own regulations. Our goal is to work with the host country and the full cast of players.

[*English*]

The Chair: *Merci beaucoup*. We're out of time.

We'll go to Mr. Abbott and Ms. Brown.

Hon. Jim Abbott: Thank you.

I want to make sure I leave proper time for Ms. Brown.

Mr. MacLennan, I didn't quite catch the wording that Madame Lalonde gave you in that question. Did I hear you say that as director general of CIDA you agree that Bill C-300 would be a good bill?

Mr. Christopher MacLennan: No, I did not say that. I said very clearly that the bill does not have a direct bearing on the activities of CIDA. My understanding is that the bill does not apply in any way to the activities that CIDA is currently undertaking within the CSR strategy.

Hon. Jim Abbott: I'm very glad I gave you that opportunity.

The one thing I must say is that as parliamentary secretary to the minister, I am a little surprised at one of the paragraphs in your presentation where it says:

> In the absence of strong institutions, natural resources such as minerals, oil and gas can become a "curse". The "curse" can lead to a number of problems including....

And you went through the problems.

I wonder if upon reflection you might want to reconsider the word "curse". Don't you think it's somewhat inflammatory that you are taking that position? I would have expected that from an NGO that has been on the scene and has witnessed certain things. That testimony has come to this committee. But in this instance, I'm frankly shocked that you would use the word "curse" for that. It may be in the common lexicon, but upon reflection I wonder if you, as director general, would like to reconsider its use.

Mr. Christopher MacLennan: The use of the word "curse" is actually in quotation marks. It's meant to refer to a specific debate within the development community as to the potential problems with resource extraction. My colleague Bill Singleton can speak more appropriately to the exact source and components of that debate.

Mr. Bill Singleton (Senior Economic Policy Advisor, Strategic Policy and Performance Branch, Canadian International Development Agency): Thank you, Chris.

As Mr. MacLennan has said, it is in quotation marks. It is a term that is used very widely, and yes, it has implications. But standing back from that for a moment, what it is intended to capture is the experience that has occurred far too often in developing countries, namely, that there have been major problems, including at the very macro level. An element of the curse, which is often the first that is talked about, is called "Dutch disease", and that refers to the experience of the Netherlands. They discovered gas offshore. In economic terms it caused their exchange rate to rise and it caused enormous damage to their manufacturing and agricultural sectors—this was before the euro—because they could no longer export profitably.

So this is one of the elements that surrounds developing countries. There is also the fact that international prices move wildly for the products, and consequently their revenues are all over the place. It's very hard to manage that because you can't predict either...booms are wonderful, but you then have the bust to come after that.

A number of other factors combine to make up what has become known as the curse. There has also been some, you will be pleased to hear, I guess, and we will take this point into account...some have said we should talk more about the impact. There's negative impact and there's positive impact. Certainly "curse" is a term used not just by NGOs but as a shorthand expression for all the problems that can arise, but that can also be dealt with as well.

● (1020)

Hon. Jim Abbott: We could carry on with this debate, but I want to make sure Ms. Brown gets a chance.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, Mr. Chair, and thank you for being here today. I am going to carry on with that same thought in just a slightly different way.

First of all, I want to say thank you for being here, because I think all Canadians are pleased to hear what our CIDA development money is doing. This is an opportunity for them to get a little bit of insight, I think all the more when we can see that money being compounded by working with industries within countries and seeing it being put to good use.

In your intervention you noted the importance of the extractive sector to developing countries. Farther down you said that one of your responsibilities is host country capacity-building. You went on to say most of these moneys are invested in public services and social support. Our last intervenor talked about consequences, mostly in the negative form.

Mr. Singleton, I'd like to pick up where we just finished and talk about the consequences of our extractive industries in these countries from a positive perspective. We've heard about the imposition of vexatious claims against some of these companies. What would happen to these countries in which we are working if these companies had a vexatious accusation and made the decision that they were not going to pursue extractions in a country?

Mr. Bill Singleton: There are two parts to the question.

I'll describe the positive impact of Canadian companies operating in developing countries, and then, in a sense, if they were to pull out, it's the converse of that.

First of all, there is the investment. Foreign direct investment is going in to do the exploration and the development of the mines. We'll talk about mines, but oil and gas also come into this. We'll use mines as an example. There's the initial investment. That gives rise to long-term employment for individuals in the community and their families. What is being discussed frequently in the CSR discussions generally, in the positive sense, is that firms also provide health and education and other social services to the communities. In Canada those are the responsibilities of governments. In developing countries, the general practice is that the firm will provide that for the community, particularly in a rural area. The governments don't generally have the capacity. So there is that element to it.

There's also technology transfer. Canadian firms bring in state-of-the-art technology for the mining industry and people get trained. There's also the revenue side. Royalties and taxes are paid. They differ from country to country, but certainly some of the research I've been doing shows just how significant revenue from the sector is to countries. Take the example of Peru. Close to 50% of the revenue at the national government level comes from the extractive sector, from taxes, royalties, and other things such as that.

I won't speculate as to what would happen if the firms were to pull out because my guess is that, first of all, they have a large stake in that, 35 to 50 years for a mine sometimes, and that would be a major decision, but the benefits they have brought would go with them in some respects, yes.

● (1025)

The Chair: Thanks very much, Mr. Singleton.

We'll move to Mr. Dewar, please.

Mr. Paul Dewar: Thank you, Chair.

Thank you to our guests.

One of the mandates of CIDA is to look at aid effectiveness and poverty reduction. I note that in your comments you mentioned that right now CIDA is "in the process of identifying an individual who will work with the World Bank on implementation of EITI in a number of countries in Africa".

Can you just let us know where that's at? You're looking at identifying someone. Do you have a deadline for when you want to have that person identified? Can you tell us what you hope they will be doing?

Mr. Bill Singleton: Our target is to have it in early 2010. The approach we're taking is to work with the World Bank at this stage to identify where we can best contribute, which program we can best contribute to. CIDA will be providing the funds for this, but it will be tasked to the bank. The employee would be an employee of the bank. Those are the details of it. What we'd be seeking to achieve through this is to work with local governments in whatever region the person may end up working in.

We would work with local governments. On the implementation of the EITI, the transparency initiative, a number of countries have applied to be part of the EITI. They have to go through a significant process of validation to be certified, so to speak. This includes, in all cases, work with communities, because the whole purpose of the EITI is to increase the transparency and to enable the communities to ask the right questions of their governments.

So what we envisage happening is some combination of an individual who is comfortable and effective working in a developing country, including at the local level, and with a reasonable knowledge—or perhaps they can acquire that—of the sector itself, because the challenges that are found in the extractive sector will be different from what a person would be dealing with in the education sector, let's say.

Mr. Paul Dewar: One of the reasons I asked about this is that I had the opportunity last spring to go to the DRC with the World Bank to look at projects they have funded. I spoke to our embassy people. I did talk to the ambassador about concerns that she had heard on the ground around the performance of companies in general and Canadian companies in particular. Then I talked to the Congolese. I talked to their ministers and to people in the communities and looked at the big projects and the smaller ones.

What was clear was that they obviously want to see more effective aid and poverty reduction, which is complementary to CIDA's goals, but they also said very clearly that the critical piece is really that those developed countries that can actually have oversight into their corporate activities need to do more. That was not just the ambassador having an opinion, because she was passing on what she was hearing, and I talked to other ambassadors as well.

When I see us engaging on something that I think everyone would laud, that is, to increase transparency and to look at the financial benefits that accrue from any development, but particularly from extractives because they're so profound in places like the Congo and Latin America, this bill actually would complement that. I can say that and I know you're in a position where you're not really able to give an opinion, but I note that what you're laying out here in terms of the direction that CIDA's taking—and I don't think anyone would have an argument with it—is to have more effective investment and aid at the same time.

So I would say to my colleagues across the way that I don't see a problem in terms of the mandate of CIDA and this bill. In fact, I would argue that it's parallel and complements it, certainly in terms of what I've seen and heard on the ground.

When we hear from CIDA that there is a focus on reducing poverty, can you really say that you can reduce poverty without looking at direct investment from the private sector? Isn't it part of the puzzle?

Mr. Christopher MacLennan: That's absolutely right. As you're probably aware, the Minister of International Cooperation announced in May five thematic priorities for the international assistance envelope, three of which are specifically dedicated to international development assistance under CIDA.

One of those is sustainable economic growth, and that's absolutely within the context of the absolute and critical element of attracting investment into developing countries to produce the economic growth, an inclusive, sustainable type of growth that can then drive poverty reduction. Without economic growth, it is very difficult to have any real lasting impact on reducing poverty in developing countries.

● (1030)

Mr. Paul Dewar: So if we're going to have sustainable economic growth that's going to reduce poverty, I think it would be incumbent on Canadian corporations to obviously follow that path. Right now we have capacity building, training people on the ground, at least from CIDA's point of view, but you're not able to—and it's not in your mandate—directly mandate companies as to how they should behave. Is that correct?

Mr. Christopher MacLennan: That's correct.

Mr. Paul Dewar: I don't want to put words into your mouth, but it couldn't hurt you to have someone helping out with that.

Mr. Christopher MacLennan: Our mandate is to help the developing countries themselves deal with these types of problems. Our mandate, and this goes both ways.... Creating sound institutions, agencies, competencies in developing countries not only creates the type of enabling environment that will better attract investments. Extractor firms don't want to go into places where they just have no idea.... Let's face it; they're in there for the long haul. To go into really risky environments in which they have no guarantee of how regulations are going to be applied and there is corruption within local or national governments just takes a risky business and makes it that much more risky.

Our goal within CIDA is to help countries actually create those types of frames that will create the enabling environment that will not only attract investment and then get at poverty reduction in the end—that's our goal—but also better enable them to deal with problems, whether they be Canadian, Dutch, Norwegian, or Russian firms. The truth is that I don't think developing countries care much what the nationality is of the company. They actually want to have the tools in their hands to deal with these problems.

Mr. Paul Dewar: I would argue, I guess to finish off, Chair, that if CIDA's mandate is to do that—to help capacity on the ground to ensure that they're able to have them do the best they can do and we can lend that—then I think it's incumbent upon Canada to ensure that our companies abroad are doing the same. I think it would be enormously hypocritical if we had CIDA doing that abroad—good work and working through the World Bank and other institutions—and then we sat back and said, "Meh, you know what? We'll be voluntary, and we'll just leave it to companies to behave as they will, and we'll hope that they have aspirational goals."

I will just finish by saying that I see the mandate and the direction of CIDA and where it's going with CSR and this bill as actually complementary, and it's something I would see as aligned. But I can say that; you don't have to, but thank you.

The Chair: Thank you, Mr. Dewar, for concluding with your opinion on this bill.

And thank you to CIDA for coming and giving your perspective of corporate social responsibility, where CIDA is at, and some on the bill as well.

We are going to suspend for a few moments. We're going to move to committee business. I'm going to ask the committee.... There are a couple of items that we need to discuss: certainly the motions we're going to look at, which I would imagine we would want to be public on, and some of the committee business deals with a subject that perhaps we may go in camera on, just prior to the motion. Then we'll come back to public.

What I'm saying here, folks, is that we're going to suspend. We're going to move in camera on the first portion of the committee business. We would ask you to avail yourselves of the opportunity to leave, if you aren't with a member of Parliament. Then we'll come back to public and we'll deal with the motion.

[*Proceedings continue in camera*]

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