



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

43rd PARLIAMENT, 2nd SESSION

---

# Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

EVIDENCE

NUMBER 017

**PUBLIC PART ONLY - PARTIE PUBLIQUE SEULEMENT**

Tuesday, April 27, 2021

---



Chair: Mr. Peter Fonseca





## Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

Tuesday, April 27, 2021

• (1835)

[English]

**The Chair (Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.)):** Welcome, colleagues, to meeting number 17 of the Subcommittee on International Human Rights. Today we meet to hear from our final witness for our study on the role of the Canadian ombudsperson for responsible enterprise.

To ensure an orderly meeting, I would encourage all participants to mute their microphones when they are not speaking and address all comments through the Chair. When you have 30 seconds left in your questioning time, I will signal you with this paper. Interpretation is available in French or English for those who need it, through the globe icon at the bottom of your screen. Please note that screen captures or photos are not permitted.

I would now like to welcome our witness for this evening, from Canada's national contact point, Chris Moran, director general of trade portfolio strategy and co-ordination, Department of Foreign Affairs and International Development.

Ms. Moran, I now invite you to make your opening statement. You have up to five minutes.

**Ms. Chris Moran (Director General, Trade Portfolio Strategy and Coordination, Department of Foreign Affairs, Trade and Development):** Good evening, Mr. Chair, vice-chairs and members of the committee. Thank you for this opportunity to assist the committee in its work.

Before I continue, I would like to acknowledge with humility that I am participating in this meeting from Ottawa, which is situated on the traditional and unceded territory of the Algonquin Anishinabe people. I acknowledge the history of Canada's settlers and recognize the continued impact of colonization on all indigenous communities.

I am here today in my capacity as the chair of Canada's national contact point for responsible business conduct, which is one of Canada's two dispute-resolution mechanisms for issues relating to Canadian companies' actions abroad. The NCP is one of many instruments that reinforce Canadian policy in this area and I take this role very seriously.

The national contact point, or the NCP, is a federal interdepartmental committee mandated to promote the uptake of the OECD guidelines for multinational enterprises, or the MNE guidelines, as we call them. The MNE guidelines were originally drafted in 1976, but they took on a greater prominence in late 1999 in the face of heightened sensitivity to globalization and the important role that

companies play. The MNE guidelines are the only multilateral code of responsible business conduct that governments have committed to promote. They are periodically updated to ensure that they are fit for purpose. For example, the OECD has developed additional guidance documents for high-risk sectors and has most recently published guidance on due diligence to assist companies and NCPs.

In 2000, all OECD members, including Canada, committed to establishing NCP offices to further the effectiveness of the guidelines. Canada's NCP, therefore, is one of a global network of 50 national contact point offices. The NCP network meets regularly to share best practices, to collaborate on cases and to develop forward-looking policies. NCPs provide a place where everyone from individuals to communities to companies to civil society can bring their concerns. Each NCP provides voluntary, non-judicial mediation and conflict resolution to address issues that arise between these groups. Co-operation amongst network members ensures that there is consistency across all NCPs in how cases are treated.

You'll recall that I said a moment ago that Canada's NCP is an interdepartmental committee. It was established through an order in council in the year 2000. It comprises officials from eight departments, which are Innovation, Science and Economic Development; Natural Resources Canada; Finance; Environment and Climate Change; Crown-Indigenous Relations; Employment and Social Development Canada; Public Services and Procurement Canada; and, of course, Global Affairs.

This makeup ensures that our NCP has the relevant expertise to review complaints under any of the chapters of the MNE guidelines, which address a range of issues, such as transparency, human rights, labour and industrial relations, environment and due diligence. The MNE guidelines are sector agnostic. As such, the actions of any Canadian company in any sector can be considered, provided the company meets the definition of "multinational", which, in its simplest terms, means that a company operates in two or more countries.

As I mentioned, like all other NCPs, Canada's NCP is a voluntary, non-judicial grievance mechanism, but we do stand apart. That's because, unlike the other NCPs, Canada's NCP has an important tool to strengthen our effectiveness. It is the ability and the willingness to withdraw government trade advocacy support and to recommend that EDC deny future financial support if the NCP does not find that a company has acted in good faith. We call this "the trade measure". In fact, the international NGO consortium OECD Watch has recognized this important consequence as a best practice that other NCPs should emulate.

Since 2000, Canada's NCP has reviewed 20 complaints, seven of which were received in the last three years. The majority of these cases—85% of them—were in the extractive sector and two-thirds were filed by NGOs. We are currently reviewing four cases, of which only one is related to extractives. Canada has also supported other NCPs in 10 cases involving Canadian companies.

Positive outcomes of NCP cases can include trust building between the communities, workers and companies, remediation, longer-term policy changes within companies and transformative learning opportunities for the parties.

The NCP has a dual nature in that it works to promote the adoption of the guidelines by companies and to raise awareness with a focus on prevention and pro-action to ward off potential problems before they do occur. It also aims to find solutions when problems occur. As a non-judicial body, the NCP does not render rulings on guilt or determine damages. The NCP provides an avenue to arrive at mutually agreeable solutions. However, the NCP does make recommendations, including with respect to the use of the trade measure.

Before I close, I want to reiterate that the NCP is committed to responsible business conduct by Canadian companies and is working alongside the CORE to implement her important mandate.

Thank you very much.

**The Chair:** Thank you, Ms. Moran. That was right on time.

We will now proceed to questions from the members, beginning on the Liberal side with the Honourable John McKay for seven minutes.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Thank you, Chair. I apologize for my challenges in getting onto the site here, but it is what it is.

To the witness: Did you say that you've had 27 cases since 2000?

**Ms. Chris Moran:** We have had 20 cases.

**Hon. John McKay:** You've had 20 cases since the year 2000.

**Ms. Chris Moran:** Yes. We are currently—

**Hon. John McKay:** That's one case per year.

**Ms. Chris Moran:** Yes. It averages out to one case per year.

**Hon. John McKay:** That's not overly burdensome, is it?

I find that surprising since it seems to me that there are a lot more complaints than one case per year.

You said there are representatives of various departments: Natural Resources, Finance, Foreign Affairs, and so on.

What is the representation of the complainants themselves, the people who have grievances with mining companies that do bad things?

• (1840)

**Ms. Chris Moran:** For the most part, two-thirds of the complaints have been brought forward by NGOs. There are instances where they have been brought forward by an individual, or in some cases, they could be brought forward by a company. However, the majority of our cases have been brought forward by NGOs.

**Hon. John McKay:** You have the majority of the cases, one case a year, really, brought forward by an NGO.

Actually, it's not even one case a year, but somewhere in the order of once every one and a third years, or one and a half years, an NGO brings forward a case, yet it doesn't take a genius to work up that there are a lot more complaints about Canadian mining companies in particular than one and a half cases per year.

Why would it be that the NGO community is either quite reluctant or doesn't wish to use the national contact point on a more frequent basis than once every one and a half years?

**Ms. Chris Moran:** Mr. Chair, what I can say is that this is a voluntary mechanism and we stand ready to receive cases. There is a dual nature to the NCP, which is both promotional, promoting the uptake of the guidelines, as well as promoting the use of the NCP mechanism, and at the same time, providing the good offices and the dispute resolution.

With respect to the question as to why, I cannot answer that, given the fact it's a voluntary process. We stand ready to serve any complainant who comes to us.

**Hon. John McKay:** We have a voluntary process where you promote the use of the NCP mechanism and it only gets used once a year, or even less than once a year, by the NGO community. Do I have that right? Am I missing something here?

**Ms. Chris Moran:** You have that correct. It is a voluntary mechanism. We do not have the ability to initiate cases.

**Hon. John McKay:** We've been going through these hearings and we've heard a lot of complaints about the extractive sector particularly, but also more broadly than that, and over the last while it has been felt necessary that we set up the CORE. If you're only doing one case a year and there are a lot of people who seem to think the CORE is a necessary organization, what are you going to be doing that the CORE can't already do?

**Ms. Chris Moran:** There are differences between the two offices. The CORE is the latest commitment to ensuring human rights are respected abroad. The CORE's mandate is really focused on key sectors, and it's focused on human rights abuses, as I believe you will have seen in the mandate.

**Hon. John McKay:** Your organization is not focused on human rights, is it?

**Ms. Chris Moran:** The national contact point is aimed at promoting the MNE guidelines under the OECD, which covers a range of issues. That could include industrial and employee relations, transparency issues, due diligence and environment. It has a broad range of issues related to responsible business conduct.

**Hon. John McKay:** But you would have to agree that the large volume of complaints is human rights complaints and environmental complaints, and really, you seem to be focused on things people are not complaining about, with the greatest respect. Is that correct?

**Ms. Chris Moran:** As I noted, Mr. Chair, the NCP has a dual mandate to promote at once the guidelines and to provide the good offices. As a voluntary mechanism, we receive the cases that we receive.

• (1845)

**Hon. John McKay:** Have you ever made a recommendation on any of the cases since 2000? In the last 27 cases you've done since 2000, have you ever recommended that either financial support or consular support be withdrawn from any company?

**Ms. Chris Moran:** Yes, Mr. Chair, we have. The NCP, in 2014, recommended that the trade measure be adopted against a company called China Gold.

**Hon. John McKay:** China Gold is one case in 20 years. Is that fair? I'm just asking.

**Ms. Chris Moran:** It is fair, but it's also important to recognize for context that the use of the trade measure is intended to incentivize good behaviour, and we use it sometimes during the course of a request for a review. In conversation we are very clear with companies that this is a consequence should they not engage in good faith.

**The Chair:** Thank you.

We'll be moving now to the Conservatives for seven minutes.

Mr. Reid, you have the floor.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** Thank you, Mr. Chair.

To our witness, I hereby pledge to be less hostile than Mr. McKay, which is, I suppose, damning myself with faint praise.

I want to ask a couple of things.

Mr. McKay's questions imply that the problem is that your organization is just ineffectual and leaves the impression that it could not be more effectual, which is, I think, a more appropriate way to handle this question.

You aren't able to initiate your own investigations; you have to wait for complaints to be made. It sounds to me—but you can correct me if I'm wrong—that investigations can only be undertaken against companies that have undertaken to comply with your guidelines. Is it correct that that's the starting point? Is it only companies that have already gone in and made the commitment that they'll comply with your guidelines that can be investigated?

**Ms. Chris Moran:** That's not entirely correct, Mr. Chair. The Government of Canada expects that all Canadian companies operat-

ing abroad will abide by the guidelines, so there is promotion to ensure that they are aware of those. That's the starting point.

**Mr. Scott Reid:** Sure, but I think I'm still right. I may have phrased it inexpertly, but am I right that any company that undertakes the assistance of EDC, effectively in so doing, has undertaken, as a kind of part the terms of service, to abide by these guidelines?

**Ms. Chris Moran:** Export Development Canada is an arm's-length body and has its own ESG and RBC framework fully consistent with the guidelines. I cannot speak to whether or not they are specifically requiring that. What I can say is that the Government of Canada, through the trade commissioner service and Global Affairs Canada, impresses upon Canadian companies the importance of abiding by all laws locally as well as the MNE guidelines.

**Mr. Scott Reid:** Our hearings are with regard to the ombudsperson, as you know. The ombudsperson's ambit, province or area of jurisdiction includes extractive industries and the textile industry, and it excludes some others. The obvious thing I note about these is that the textile industry is all about importing something into Canada that has its origins abroad. Extractive industries are a bit different. Their goal is to use Canadian companies to engage actively in the process of extraction.

Given those two kinds of categories—and I think you can see the clear distinction—where do you find that the issues are tending to arise in the industry sectors you're dealing with? That's relevant because one of the claims that's being made is that the ombudsperson's area of jurisdiction ought to be expanded. The question I have is: Where would one look? Where are the problems, based on your own experience?

**Ms. Chris Moran:** As I noted, the majority of our cases, both those dealt with by the Canadian NCP as well as those that we have assisted with, are in the extractive sector.

**Mr. Scott Reid:** Okay.

I want to pursue this a bit further. Does it strike you that this is in part because of the fact that the extractive sector is so important and such a large proportion of Canadian investment abroad, or is it disproportionate even when that is taken into account?

• (1850)

**Ms. Chris Moran:** I'm sorry. Mr. Chair, could I ask that the question be repeated? I'm not sure....

**Mr. Scott Reid:** Yes. I'm sorry. I think the problem was my way of putting it, so let me put it this way.

A very substantial proportion of Canadian investment abroad is in resource extraction. You'd expect, all other things being equal, an equally large proportion of cases to be from that sector. I'm asking whether it's more or less what you'd expect, or whether there are additional problems that indicate that the sector itself is the one that is considered by the NGOs who make these filings to be more problematic than are other industries.

**Ms. Chris Moran:** As I noted, the majority of our reviews have focused on the extractive sector. That has to do with a number of factors. Extractives are by nature adjacent to communities. There's more opportunity for interaction and for conflict. There are a number of factors at play.

**Mr. Scott Reid:** Indigenous land rights issues strike me as being something that would be in play with that sector more frequently than with any other, except maybe forestry.

**Ms. Chris Moran:** Perhaps. That would be my guess as well.

**Mr. Scott Reid:** You indicated that 20 cases have been undertaken.

I assume you receive complaints, look at them and in some cases say, "This simply can't be pursued," or "This doesn't have merit," or "The nature of the evidence provided is inadequate," or something like that.

Twenty being the number of cases you've looked into, how many would you say have actually come in over that 20-year period? What proportion do you perceive...? I'll leave it to you to figure out the right way of giving an answer back to me.

**Ms. Chris Moran:** Thank you so much.

In fact, in order to ensure that there is transparency, that NCPs are operating transparently, it is not possible to receive a request for review and not treat it. A report is always issued, so that 20 does represent the range of them.

As I noted, we have four ongoing right now.

**Mr. Scott Reid:** Okay, so it's four. That suggests, then, that unless they've all bunched up and been given to you in the last year, that it's not one a year, that there have been periods of relative quiet. It sounds either as though it's getting busier now or that these investigations may take several years to complete, or some combination of the two.

**Ms. Chris Moran:** We do aim to abide by service standards, but some of the cases do take longer than others do to resolve.

**The Chair:** Thank you, MP Reid.

Now we're going to be moving to the Bloc and Monsieur Alexis Brunelle-Duceppe for seven minutes.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ):** Thank you, Mr. Chair.

Thank you very much for being with us this evening, Ms. Moran.

It's important to us because this is the last meeting and, frankly, this study is very important. By the way, it was my study, just for the record.

We appreciate your presence here tonight, because I think the NCP, or national contact point, seems to be unfamiliar. This will give us an opportunity to clarify what has been said.

First, I'd like to echo my colleague Mr. McKay of the Liberal Party. Do you think the NCP is outdated, since the creation of the ombudsman position?

[*English*]

**Ms. Chris Moran:** Thank you. [*Technical difficulty—Editor*]

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Mr. Chair, I imagine you're going to give me back that good time that was lost, right?

[*English*]

**Ms. Chris Moran:** I beg your pardon.

The appointment, the establishment of the CORE, is an important step forward with respect to Canada's commitment to human rights by Canadian companies operating abroad. There are important distinctions between the CORE's office and the NCP. As I noted, the ability to initiate cases is one very important distinction.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Okay, but you told us earlier that the problem was that the complaints were voluntary. So if someone wants to file a complaint, the necessary process requires that they put themselves at risk to go to the NCP authority, since it's voluntary. It's the same problem with the ombudsman, in our view, and from what we've heard since the study began.

So do you think that investigative powers could enhance the work of the NCP and the ombudsman?

• (1855)

[*English*]

**Ms. Chris Moran:** Mr. Chair, I would refer to Minister Ng's comments at the committee on March 23, when the minister did indicate that she believes the Canadian ombudsperson does have the tools and instruments she needs to be an effective mechanism.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Everyone we talked to, including human rights advocates, didn't really agree with Minister Ng. I imagine that will be part of the recommendations of our study.

You told us about responsible practices and mentioned that it was important to you. I believe you very sincerely in that regard.

Are mining companies really competing with each other as to who will have the most responsible practices?

Since you're promoting it, I guess you're in a position to tell us.

[English]

**Ms. Chris Moran:** What I would say first of all is that Canadian companies are recognized the world over for the fact that they are law-abiding and for the many steps they have taken towards voluntary processes.

I believe you have heard from the Mining Association regarding sustainable mining, but there are other examples. I would note that the Chemistry Industry Association of Canada developed “Responsible Care”, which has been adopted by, I believe, upwards of 70 countries.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Do you have any concrete examples of how mining companies compete with each other? Since you promote responsible practices, I imagine you have concrete examples.

[English]

**Ms. Chris Moran:** We have a dual role in the NCP, so at once we are looking to promote the uptake of the guidelines and are working very closely with Canadian companies. As the NCP, I would not hesitate to reach out to a company to initiate a conversation about the guidelines, even if the case were not referred to me formally by an NGO. We're monitoring the situation.

We're also working with Canadian embassies overseas.

The NCP is part of a broader policy framework. We have initiatives related to natural resource governance on the foreign policy and development assistance side, and the NCP is one of those many policy instruments.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Have you heard of Frontera mining?

[English]

**Ms. Chris Moran:** I have.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** What do you think of it?

[English]

**Ms. Chris Moran:** I do not know much about Frontera. I do know that—

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Ms. Moran, you just told me you had heard of them. So you know something about it, right? Given the position you hold, I imagine you're an expert on the subject.

I hope the government pays for experts who know what's happening on the ground overseas in their area of expertise.

This is your area of expertise, and you've heard of Frontera. What do you think about it?

[English]

**Ms. Chris Moran:** What I can say is that I have followed the committee's discussion very closely and am asking questions about Frontera right now.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** So you didn't ask any questions until you saw the committee's study, and you didn't know about Frontera until the committee did this study. Is that correct?

[English]

**Ms. Chris Moran:** Before last week, I was not aware of the specific issues being raised.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** You know that Frontera is a huge problem right now. You're telling us that you learned about it last week as part of the study. Logically, what we're understanding and what you're admitting before this committee is that the National Contact Point, or NCP, and the ombudsman don't have enough authority to act in cases like Frontera.

Is that what you're telling us?

[English]

**Ms. Chris Moran:** Mr. Chair, the NCP is a voluntary mechanism with a dual role to both promote the uptake of the guidelines and to receive cases and provide a voluntary remedy.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Ms. Moran, there's nothing personal here. We're trying to help the NCP and the ombudsman to be able to act, precisely, in cases like Frontera, which is an appalling problem right now. It's a Canadian mining company, and we're actually trying to give you more power. I think you deserve to have more power to be able to act.

It's really nothing personal, Ms. Moran. I'm just trying to understand. You found out last week that there was a problem with Frontera, when you're an agency that should have power and that should have been able to act long before that.

Thank you very much, Mr. Chair.

• (1900)

[English]

**The Chair:** *Merci*, Monsieur Brunelle-Duceppe.

We'll now move to the NDP. We will hear from Ms. McPherson for seven minutes.

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

I want to thank Ms. Moran for joining us today. I very much agree with my colleague from the Bloc who was expressing what I was thinking. We are really trying to find a way to make sure that Canadian companies are being held to account and that the good Canadian companies, particularly good extractive companies, are not punished by the bad behaviour of other companies. Really, this our us trying to get to a place where we can report to the government on what we'd like to see. It's not meant to be an attack on anyone; it's certainly not meant to be an attack on any government, even.

We have seen that the NCP was put in place before the Liberals became the government. In fact, it was in place under the last administration. I think it's important that we recognize that since the year 2000, a number of different administrations have been in government in this country.

However, I do have concerns very similar to those of my colleague, Mr. McKay, about the fact that there are 20 cases that have been brought forward. You have been in the position for 21 years—or the NCP has been acting for 21 years—and there are 20 cases, four of which are outstanding. Further to that, I guess I would ask how many times remedy has been offered through the NCP. How many times has remedy been provided?

**Ms. Chris Moran:** It's important to recognize that the definition of “remedy” can vary depending on the complaint. The idea of the NCP is to bring about longer-term policy changes, to find mutually agreeable solutions and to ensure that the parties are collaborating.

**Ms. Heather McPherson:** Has any remedy been given, regardless of the definition of remedy that you're using?

**Ms. Chris Moran:** Well, we have resolved cases to mutual satisfaction. I would note that when we have a recommendation, the NCP follows up. In most cases, it's the company, but we look at policy changes and ensure that those recommendations have been heeded.

**Ms. Heather McPherson:** I just want to be clear. When you say “mutual satisfaction”, is that mutual satisfaction with the company and the NCP, the company and the impacted community and the company and the CSO or NGO?

**Ms. Chris Moran:** It's between the parties. It's between the company, which we call the “notifier”, and the complainant.

**Ms. Heather McPherson:** Okay. I asked because I have a 2015 OECD Watch study that says there have only been three cases worldwide since 2000 that have resulted in what they describe as “remedy”, and none of those cases have been in Canada. That's not your understanding of where the NCP has landed, is that correct?

**Ms. Chris Moran:** I am aware of those cases, and what I would note is that OECD Watch is looking for a certain type of damage. However, we have resolved cases that have been brought to us.

**Ms. Heather McPherson:** Okay, they are looking for a certain type of damage. I don't really know what that means, but I'm going to carry on, if I could.

I think one of the other lines of questions that would be important to follow is about how you actually coordinate with the CORE. What does that look like, the NCP and the CORE? How does that happen?

**Ms. Chris Moran:** The CORE has just established her office, as you know. We have been working closely with the CORE to establish procedures that would allow both the NCP and the CORE to share information, and where necessary, to refer cases from one entity to the other. The procedures of both are established and we're looking for complementarity between them.

**Ms. Heather McPherson:** Over 20 years, you've had 20 cases that you've expanded. The CORE, of course, has not had any to date. You will work closely together on coordinating how you deal with the cases that come forward, is that correct?

**Ms. Chris Moran:** Yes, we are working actively on that.

**Ms. Heather McPherson:** Do you feel that could pose some risk to the independence of the CORE ombudsperson? Might it, in fact, either deprive her of the independence she should have or give the appearance of a lack of independence?

• (1905)

**Ms. Chris Moran:** The CORE has been established to advise the minister directly, which is different from the NCP, yet we have been asked complement each other, that is, to work with complementarity. We would like to be able to refer cases to the CORE when they fall within her mandate, and I believe that the CORE may receive cases that would fall outside her mandate but could be referred to the NCP. We're working on how we can ensure that those procedures are complementary and that they do not create additional burdens for complainants.

**Ms. Heather McPherson:** Thank you, Ms. Moran.

There are so many questions I'd like to ask you, and so much information I'd like to get.

One of the things we heard last week that I found most disturbing was from the impacted communities. We heard that they were not going to come forward to the CORE because they felt that the lack of power to compel testimony, the lack of power to compel witnesses, meant that it would actually be worse for them. We've heard from other impacted communities that coming to the NCP has left them in a worse state because they've used their relatively limited resources to do that. They've endangered themselves for very little result.

What would you say to those impacted communities that are watching a Canadian company come in and ruin their climate, ruin their environment, break their laws, destroy human rights, and yet they don't feel it is worth their while to come to either the NCP or to the CORE ombudsperson.

**Ms. Chris Moran:** What I would say is that I would encourage those NGOs to consider the NCP. I know that—

**Ms. Heather McPherson:** Not the NGOs. I meant the impacted communities, the actual people impacted. Sorry.

**Ms. Chris Moran:** In the impacted communities represented usually by groups, I would ask them to consider working with the NCP to resolve those issues.

**Ms. Heather McPherson:** Can you tell me if you have had any interactions with impacted communities, with people who have been directly impacted by Canadian extractive industries?

**Ms. Chris Moran:** Yes, I have.

**Ms. Heather McPherson:** Thank you.

Mr. Chair.

**The Chair:** Do you cede your time?

**Ms. Heather McPherson:** Do I still have time?

**The Chair:** You have 20 seconds, so we're moving to the second round right now.

To Ms. Moran and to members, we'll move to the second round, and just looking at the time, it will be three minutes per questioner.

We will begin with the Liberals and MP Sidhu for three minutes.

**Mr. Maninder Sidhu (Brampton East, Lib.):** Thank you, Mr. Chair.

Welcome, Ms. Moran. It's nice to see you here.

Ms. Moran, beyond the role of CORE, what other responsible business practice measures does Canada have?

**Ms. Chris Moran:** The CORE is the latest in our commitment to responsible business conduct. The NCP, as I noted, is another non-judicial conflict resolution mechanism, but again, we are part of a broader framework, so there are many policies and in fact there are some legal instruments as well that exist.

I believe you are aware of the Corruption of Foreign Public Officials Act, as well as the change to the customs tariff. There are many other policies as well that underscore and really reinforce that expectation on Canadian companies.

**Mr. Maninder Sidhu:** Thank you for that, Ms. Moran

How do you work with Canadian businesses to promote and/or ensure good practices with the business community?

**Ms. Chris Moran:** The NCP is housed at Global Affairs Canada, and as you know, Global Affairs Canada operates embassies abroad. So we are working with our colleagues on the development side, the foreign policy side, as well as trade promotion, to leverage all of the knowledge there. We are working with Canadian diplomats prior to their posting abroad to emphasize to them the importance of these issues to Canada, and also to make them aware of the expectation, the mechanisms and the various tools at their disposal.

**Mr. Maninder Sidhu:** Thank you for that.

How does the NCP case review process work? I know you touched on that in your opening remarks, but I'm hoping you can provide some further insights into the NCP case review process.

**Ms. Chris Moran:** The NCP is a voluntary process. We abide by OECD procedures. As we committed to do, we have signed on to operate an NCP that aligns to the procedures established. When we receive a complaint—it's called a "request for review"—we work with the complainant to ensure that the information is complete and that we understand the situation. We then reach out to the company, indicate that we've received this and ask them to respond.

Following an assessment to consider the facts in the case, we examine whether or not we believe that the guidelines would be furthered by offering conflict resolution. It is an iterative process and we aim to ensure that we are receiving information from both sides.

• (1910)

**Mr. Maninder Sidhu:** Thank you for that.

Mr. Chair, how many seconds do I have left? Twenty seconds?

**The Chair:** Twenty seconds. That's right.

**Mr. Maninder Sidhu:** Okay. I'll just take this opportunity to thank Ms. Moran for her time today. It's great to see everyone this evening.

**The Chair:** Thank you, MP Sidhu.

Now we're moving to the Conservatives and MP Gray for three minutes.

**Mrs. Tracy Gray (Kelowna—Lake Country, CPC):** Thank you, Mr. Chair.

Thank you for being here, Ms. Moran, and thank you for the work you do.

Thank you for the information that you gave, going into more detail about your roles and authorities. It does sound like there's a lot of crossover with CORE, although there are some differences.

Has the government given you the opportunity to expand your mandate?

**Ms. Chris Moran:** Our mandate is quite vast. The MNE guidelines that are published by the OECD cover a very broad range of topics. I listed some in my remarks, but there are others.

I would note that the guidelines are sector agnostic. They're not specific to any one sector. The CORE, on the other hand, is really focused on human rights abuses in a few sectors where we see greater risk.

We are working alongside the CORE to implement her important mandate, and we will continue to do so.

**Mrs. Tracy Gray:** At a previous meeting of this subcommittee, the Chamber of Commerce testified about the extraterritorial issues and the difficulty in compelling testimony from subcontractors abroad. In some jurisdictions it would be a difficult proposition.

Will the CORE be able to compel these subcontractors, or is it still the case that these might fall through the cracks?

**Ms. Chris Moran:** The CORE is a voluntary mechanism. She will be working with Canadian companies. There is an expectation and a commitment from Canadian companies that they will work with her in good faith.

**Mrs. Tracy Gray:** I think you touched base on this a little bit in your opening statement. Compared to other countries, where does Canada stand when it comes to corporate social responsibility? Does Canada generally have stronger measures or requirements on human rights compared to our peers?

**Ms. Chris Moran:** Generally speaking, Canadian companies are recognized the world over, and Canada is seen as being a good player. We are recognized at the OECD for the strength of our framework.

We do not solely have a promotion role related to the MNE guidelines. There are a number of other policy instruments and coherence measures we have undertaken that really speak to and underscore that commitment.

**Mrs. Tracy Gray:** While the CORE's goal is to look at human rights abuses after they happen, what can be done to prevent them before they happen?

I guess it goes back as well to my earlier question of looking at these subcontractors. It did sound like you were alluding to the fact that they would fall through the cracks. Can you maybe go into that in a little bit more detail with respect to being proactive?

**The Chair:** In about 10 seconds, please....

**Ms. Chris Moran:** What I would say is that the OECD recognizes that any company, not just a Canadian company, has leverage in a supply chain. Due diligence efforts should extend to suppliers and subsuppliers.

I hope that answers your question.

**The Chair:** Thank you.

Ms. Gray, thanks for joining our committee today as a sub.

Now we're moving to Monsieur Alexis Brunelle-Duceppe again, for three minutes.

[*Translation*]

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

Ms. Moran, am I wrong in saying that the NCP can only offer mediation and that, if the company doesn't want to participate, the NCP can't do anything else?

[*English*]

**Ms. Chris Moran:** The Canadian government does have an expectation that Canadian companies will engage in good faith with the NCP. Where a company is not engaging in good faith, we can recommend the use of the trade measures. We can recommend the withdrawal of enhanced trade advocacy support, or we can recommend the....

Sorry.

• (1915)

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** I understand that it isn't easy to work from the interpretation. I'm used to it, because I'm the only francophone on the committee.

Do you decide whether the company is acting in good or bad faith?

[*English*]

**Ms. Chris Moran:** I'm sorry, I'm not sure what you're referring to.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** You talk about the possibility of the company acting in bad faith. Are you the one who judges whether the company is acting in bad faith or not?

[*English*]

**Ms. Chris Moran:** The NCP would make that determination. I have used this myself. I have had conversations with general counsel and presidents of companies when I do not consider that the companies are engaging in good faith. I would say it is a very powerful discussion.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Imagine that last week, we were told that a Canadian company refused to recognize a duly constituted union under Mexican regulations and even ignored the Mexican president who asked it to respect the law. Could the NCP mediate such a situation? If the mining company decides not to co-operate, what would happen? The company is asked to respect Mexican law. Therefore, they could appear to be acting in good faith.

Mr. Chair, I have a point of order. Three minutes isn't long. The interpretation has been causing long silences from the beginning, and it's not Ms. Moran's fault.

So I hope you'll stop the clock. There are 20-second lags each time, so I don't really have three minutes. I hope we're aware of that.

[*English*]

**The Chair:** [*Technical difficulty—Editor*] Mr. Brunelle-Duceppe.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Mr. Chair, you just told me that I have 30 seconds left, but I think I have more like a minute left.

Ms. Moran, the floor is yours. I hope you remember my last question.

[*English*]

**Ms. Chris Moran:** Mr. Chair, if that issue were to be brought to the NCP, we would examine the facts. We would make an offer of mediating for good offices. We'd have to take into account all the factors, including the fact that there is an NCP in Mexico as well, so we would be looking to collaborate with our peers.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** If I understand correctly—

[*English*]

**The Chair:** Thank you, Mr. Brunelle-Duceppe.

We went 30 seconds over what we provided—

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** No, that's not true.

[*English*]

**The Chair:** We are now moving to Ms. McPherson from the NDP.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** A point of order, Mr. Chair.

I'm going to calculate the length of my last intervention, and then I'll let you know. That's what I'll do. Thank you.

[*English*]

**The Chair:** I did provide 30 seconds more time. Mr. Brunelle-Duceppe, I do have a timer on it.

We will now move to the NDP and Ms. McPherson.

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

Thank you, Ms. Moran, for being here.

I'm really struggling to understand how the NCP is different from the CORE. We have an NCP that can review, mediate and advise companies. How is this different from the CORE?

**Ms. Chris Moran:** Thank you, Mr. Chair.

I would note that there are a couple key differences. First of all, the CORE is established to be somewhat distinct from the department. That responds to a key concern—

**Ms. Heather McPherson:** You've already said that you interact quite closely, so—

**Ms. Chris Moran:** We are working to collaborate. The CORE has been established with her own budget to provide advice to the minister directly. She is not reliant on departmental resources.

**Ms. Heather McPherson:** She has an increased budget, from what we heard last week.

I want to be clear. I know I have very little time, so I know I seem rude.

We have an NCP that has been in place for 21 years with less than one case per year. We have a CORE ombudsperson in the role for three years, with no investigations. We have indigenous and impacted communities that will not come forward to Canadian ombudspeople, whether it's the NCP or the CORE. We have two organization that do essentially the same work; neither has the ability to compel witnesses or testimony.

In what way would Canadians feel confident that their name, their reputation, is not being tarnished around the world when we

have very little remedy available, as you are providing very little for organizations or individuals impacted by Canadian mining?

We heard last week from Canadian mining associations that scrutiny was the biggest impediment to their success. It seems very much like the government listened to the mining companies and made sure there was very little scrutiny.

How do I go to impacted communities and tell them differently?

• (1920)

**Ms. Chris Moran:** It's important to recognize that the CORE and the NCP are both part of a larger framework, that there are efforts across foreign policy, development assistance, human rights promotion, etc., and that this is just one of the mechanisms—the CORE is the latest—in the government's commitment to human rights abroad.

**Ms. Heather McPherson:** You'll forgive me if I say that it seems we had one tool that was very ineffectual, now we have two tools and both appear to be ineffectual. Saying that there are more tools that are equally ineffectual does not seem like a particularly strong response to people who are losing their drinking water, to communities that are sick, to people whose human rights are being violated, people who are being murdered.

The Canadian companies that are acting in good faith, good Canadian companies, will suffer. Our reputation as Canadians working around the world will suffer.

I don't understand.

**The Chair:** Thank you.

That is our time. I do want to thank our Ms. Moran, our witness today, for answering so many questions so succinctly. Thank you for your time. We appreciate it.

Members, we are going now to suspend before coming back in camera in about five minutes.

Thank you.

[*Proceedings continue in camera*]





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

---

### SPEAKER'S PERMISSION

---

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

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

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

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

---

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

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

---

### PERMISSION DU PRÉSIDENT

---

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

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

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

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

---

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