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THE EXPOSURE OF CANADIAN INVESTMENT FUNDS TO HUMAN RIGHTS VIOLATIONS IN THE PEOPLE'S REPUBLIC OF CHINA

**Interim Report of the Special Committee on the
Canada–People's Republic of China Relationship**

Ken Hardie, Chair

**DECEMBER 2023
44th PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

To assist the reader:

A list of abbreviations used in this report is available on page ix

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**THE SPECIAL COMMITTEE
ON THE CANADA–PEOPLE’S REPUBLIC OF
CHINA RELATIONSHIP**

has the honour to present its

FIFTH REPORT

Pursuant to the Order of Reference of Monday, May 16, 2022, the committee has studied the Canada–People’s Republic of China Relations and has agreed to report the following:

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LIST OF ABBREVIATIONS

BCI	British Columbia Investment Management Corporation
CAPSA	Canadian Association of Pension Supervisory Authorities
CDPQ	Caisse de dépôt et placement du Québec
CPP	Canada Pension Plan
CPP Investments	Canada Pension Plan Investment Board
CPPIB Act	Canada Pension Plan Investment Board Act
CSA	Canadian Securities Administrators
ESG	Environmental, social and governance
MSCI	Morgan Stanley Capital International
OECD	Organisation for Economic Co-operation and Development
OSFI	Office of the Superintendent of Financial Institutions
PBSA	Pension Benefits Standards Act, 1985
PRC	People's Republic of China
PRI	Principles for Responsible Investment
PSP Investments	Public Service Pension Plan Investment Board
UN	United Nations

SUMMARY

In June 2021, the Non-Governmental Organization Hong Kong Watch began releasing reports claiming that Western governments, corporations, and institutional investors were escalating their investments in the People's Republic of China (PRC), despite the country's ongoing human rights abuses, particularly against Uyghurs and other Turkic Muslims in the Xinjiang Uyghur Autonomous Region (Xinjiang). The research specifically examined Canadian pension funds and found that some of Canada's major public pension funds, including the Canada Pension Plan Investment Board, the Caisse de dépôt et placement du Québec, and the British Columbia Investment Management Corporation, had investments in PRC-based companies implicated in human rights violations. These included Chinese technology firms that are blacklisted by the United States due to their connections to internment camps in Xinjiang, as well as other major tech companies like Alibaba and Tencent that are complicit in oppression within the PRC.

In considering the legislative and regulatory framework for Canadian public pension funds, the House of Commons Special Committee on the Canada–People's Republic of China Relationship (the Special Committee) noted that there are currently no measures which prevent those pension funds from investing in companies in the PRC responsible for, or complicit in, human rights violations. Broadly, the main objective for most public pension funds is to maximize returns, without undue risk, in order to provide for future retirement benefits for plan beneficiaries. Large institutional investors that manage public pension funds, like the Canada Pension Plan Investment Board and the Public Service Pension Plan Investment Board, operate independent from the government, and pursuant to their enabling legislation, set their own investment strategies, as well as investment, risk and sustainable investing policies. In doing so, those institutional investors pursue an asset diversification strategy with investments in both domestic and foreign markets, including in the PRC. Pursuant to their respective investment policies, they carry out due diligence prior to making investment decisions, which may include the consideration of environmental, social and governance factors (ESG), including human right matters. However, there is currently no requirement to do so.

The Special Committee heard that increasingly, institutional investors are considering ESG factors in their evaluation of investment risks and returns. However, the availability of reliable and standardized corporate information in countries like the PRC can invariably limit the effectiveness of due diligence work. Further, investments in passively managed index funds expose public pension funds to investments in companies in the PRC. Several expert witness, notably Hong Kong Watch, cited examples of passive

investments held by Canadian public pension funds in companies complicit in human right abuses.

In its study, the Special Committee heard several recommendations from witnesses on how to address these issues, ranging from very prescriptive measures, such as establishing a restricted entities list that public pension funds must adhere to when making investment decisions, to less prescriptive measures like enhanced ESG and due diligence requirements, and increased transparency and accountability in publishing all investment holdings.

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada study how it could compile and maintain an official list of companies deemed unsuitable for investment. 32

Recommendation 2

That the Government of Canada, in partnership with provinces, study the establishment of a list of companies in the People’s Republic of China that Canadian public pensions plans are prohibited from investing in due to risks to national security, corruption or gross human rights violations. 32

Recommendation 3

That the Government of Canada work with the United States and other allies to develop common approaches to human rights implications of public pension plan fund investments, including developing a list of banned investments because of suspected human rights abuses..... 32

Recommendation 4

That the Government of Canada, in accordance with its commitment in Budget 2023, by 2024, propose legislative changes and enhanced enforcement to eliminate forced labour from Canadian supply chains and to reinforce the prohibition on the import of goods produced by forced labour. 32

Recommendation 5

That the Government of Canada mandate through legislation that federally regulated public pension plans conduct and report enhanced due diligence for all investments in authoritarian states, enforce penalties for non-compliance, and consult with provinces on harmonizing that approach..... 36

Recommendation 6

That the Government of Canada request that pension plan regulators, including the Office of the Superintendent of Financial Institutions and provincial counterparts, consider creating a standardized transparency reporting regime for pension plans and institutional investors for active and passive investments. 37

Recommendation 7

That the Government of Canada request that pension plan regulators, including the Office of the Superintendent of Financial Institutions, establish a code of ethics to guide the investment practices of federal Crown corporations responsible for investing public pension funds, with due consideration of human rights matters, corruption and national security..... 38



THE EXPOSURE OF CANADIAN INVESTMENT FUNDS TO HUMAN RIGHTS VIOLATIONS IN THE PEOPLE'S REPUBLIC OF CHINA

INTRODUCTION

Many Canadians rely on public pension plans for income during retirement. Managed by some of Canada's leading institutional investors, these plans generally yield positive returns. However, gaining a comprehensive understanding of the underlying investments contributing to those returns can be challenging. Recent studies by academics and experts have uncovered concerning findings: several major public pension funds held investments in companies associated with human rights abuses in the People's Republic of China (PRC). This appears to conflict with both Canadian values and the Government of Canada's stance on human rights in the region.

As such, on 20 September 2022, the House of Commons Special Committee on the Canada–People's Republic of China Relationship (Special Committee) agreed to undertake a study on the exposure of Canadian investment funds to equities and bonds from the PRC linked to human rights violations.¹

The Special Committee heard from witnesses during five meetings held between 29 November 2022 and 19 June 2023.

The Special Committee studied the topic at a time when several countries were introducing legislation to combat forced labour and human rights abuses in supply chains. The various laws include import bans, supply chain transparency requirements for companies, and mandatory human rights due diligence for companies to prevent rights violations in their supply chains. Notably, in response to these same concerns, Canada passed its own supply chain transparency legislation, the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*.² Although witnesses before the Special Committee generally commended transparency and due diligence legislation, they noted that they do not directly apply to institutional investors. This gap in applicability underscores the relevance of the Special Committee's study of the topic.

1 House of Commons, Special Committee on the Canada–People's Republic of China Relationship (CACN), *Minutes of Proceedings*, 20 September 2022.

2 *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, S.C. 2023, c. 9.



This report begins with a discussion of human rights abuses in the PRC and corporations reported to be either directly involved in or complicit with such abuses, as well as issues of transparency related to investigating PRC-based companies. It then focuses on public pensions and responsible investment practices, examining the issue of public pensions investing in PRC companies and reviewing the legislative framework governing public pensions. Finally, the report proposes strategies for preventing public funds from supporting abusive PRC companies. The range of options considered includes banning investment in certain entities; imposing transparency requirements on fund managers; enhancing environmental, social and governance (ESG) disclosures; and increasing due diligence requirements, all with the aim of ensuring that public funds do not support PRC companies implicated in human rights abuses.

CHAPTER I: HUMAN RIGHTS ABUSES AND INVESTMENT RISKS IN THE PEOPLE'S REPUBLIC OF CHINA

Human Rights Abuses

On 22 February 2021, Canada's Parliament passed a motion recognizing that a genocide was being carried out by the PRC against Uyghurs and other Turkic Muslims in the Xinjiang Uyghur Autonomous Region (Xinjiang) of the PRC.³ One month later, Canada announced sanctions against four PRC officials and one entity under the *Special Economic Measures Act* in response to gross and systematic human rights violations in Xinjiang.⁴ By 21 March 2023, both Global Affairs Canada and the Canadian Trade Commissioner Service had issued an advisory, cautioning Canadian companies about the risks associated with collaborating with entities potentially connected to forced labour in Xinjiang.⁵

Several witnesses described the human rights situation in the region. Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise, informed the Special Committee of her office's recent assessment of the situation in Xinjiang. Unable to perform in-country investigations, she drew attention to reports published by the Office of the United Nations High Commissioner for Human Rights and Global Affairs Canada, which reveal ongoing human rights abuses against Uyghurs and other minorities in Xinjiang, including forced labour, repressive surveillance, mass arbitrary detention, sexual violence, torture and other ill treatment. According to

3 House of Commons, *Journals*, 22 February 2021.

4 Global Affairs Canada (GAC), *China sanctions*, Backgrounder, 22 March 2021.

5 GAC, *Global Affairs Canada advisory on doing business with Xinjiang-related entities*, 21 March 2023.

Sheri Meyerhoffer, “There is no question that China is a high-risk context for forced labour, particularly in the Xinjiang region.”⁶

Laura Murphy, professor of Human Rights and Contemporary Slavery, Sheffield Hallam University, also highlighted the PRC’s employment of forced labour in Xinjiang, as well as its practices of internment and surveillance targeting Uyghurs and other minorities. She described these “intersecting mechanisms of control” as coercive strategies ensuring Uyghurs and other minorities become a compliant workforce throughout Xinjiang and across the PRC. Professor Murphy’s research suggests numerous companies are complicit, contributing to the recruitment, migration, indoctrination, and confinement of Uyghurs both on and off their premises. She emphasized that companies form “an integral, active and, even, enthusiastic part of the ongoing genocide in the Uyghur region.”⁷

Sam Goodman, Director of Policy and Advocacy at Hong Kong Watch and co-founder and co-chair of New Diplomacy UK, informed the Special Committee about potential links between major Canadian pension funds and PRC companies associated with human rights violations in Xinjiang. Notably, he highlighted that the Canada Pension Plan Investment Board (CPP Investments) and some provincial pension funds invested in PRC technology firms, including Alibaba and Tencent, known for their controversial activities in the PRC.⁸ Although many of these funds have divested from direct investments in companies linked to Uyghur forced labour, they continue to invest passively in index-tracking funds like Morgan Stanley Capital International's (MSCI) China Index and Emerging Markets Index, which include companies implicated in Uyghur forced labour.⁹ Witnesses pointed out that MSCI China and MSCI Emerging Markets indexes include 12

6 CACN, [Evidence](#), 19 June 2023, 1950 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).

7 CACN, [Evidence](#), 29 November 2022, 1945 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

8 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual). See also Hong Kong Watch, [Passively Supporting Oppression](#), June 2022.

9 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual); CACN, [Evidence](#), 29 November 2022, 1945 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).



and 13 companies, respectively, that are linked to Uyghur forced labour, despite the fact that some of these companies are facing sanctions from the United States (U.S.).¹⁰

According to Mr. Goodman, as of 31 March 2022, CPP Investments had significant exposure to these indexes. He noted that the transparency of these funds is limited, making it difficult for the average Canadian to comprehend their pension fund's ties to the PRC.¹¹

Discussing these allegations, Mehmet Tohti, the Executive Director of the Uyghur Rights Advocacy Project, said

[t]here are enough reports that detail the complicity of Canadian federal pension funds as well as provincial pension funds in the [Uyghur] genocide. These pension funds have directly or indirectly invested in companies that are tied up with the [Uyghur] genocide, [Uyghur] forced labour, construction of repressive infrastructure such as concentration camps and prisons, surveillance technology that is part of an integrated joint operational platform that is used for immediate identification and the arrest of [Uyghurs] and others with ethno-religious profiles. Through investments in companies conducting surveillance of the [Uyghur] diaspora, we are complicit in the transnational repression of more than 2,000 [Uyghur] Canadians, our neighbours and friends.¹²

Transparency

While witnesses were clear about the importance of avoiding investments in companies tied to human rights abuses in the PRC, they also highlighted the challenges of conducting thorough due diligence to ascertain such involvement. Experts can extract relevant data from PRC-based firms over time, but those without similar resources or

10 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual); CACN, [Evidence](#), 29 November 2022, 1945 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual). Laura Murphy noted that China Railway Group Limited, present in several MSCI indexes, created the Tumxuk prison in Xinjiang, which functions as an internment camp detaining individuals for their religious beliefs without proper legal proceedings. ZTE, a partially state-owned telecom firm on the MSCI indexes, advertises its products for surveillance of political adversaries, activists, and journalists in China. Hoshine Silicon Industry Co., a privately owned but heavily state-subsidized company, has forcibly transferred numerous Uyghurs to desert-based factories and mines, separating them from families to transform them into obedient workers. See also Hong Kong Watch, [Passively Funding Crimes Against Humanity How Your Savings May Be Financing Internment Camps and Forced Labor in China](#), December 2022, p. 7.

11 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual).

12 CACN, [Evidence](#), 29 November 2022, 1950 (Mehmet Tohti, Executive Director, Uyghur Rights Advocacy Project).

knowledge face considerable challenges. Alex Payette, Chief Executive Officer (CEO), Cercius Group Ltd., cautioned that discerning the completeness and usefulness of the information in financial reports of PRC companies is not always straightforward. Drawing from his experience conducting due diligence for production lines, construction companies, and factories, he commented that the process of investigating companies in the PRC is very complicated.¹³ Mathieu Arès, professor, Université de Sherbrooke, echoed these sentiments, highlighting the challenges in accessing detailed factory practices data, especially regarding human rights and labour standards.¹⁴

As well, Ari Van Assche, Full Professor, HEC Montréal, cautioned about the limits of due diligence. He noted that its often not the companies that funds are investing in that use force labour “but rather their suppliers and subcontractors.”¹⁵ He stated that “[t]his is done by them clandestinely, of course.” Dr. Van Assche added, “To solve the problem, our [funds] need a better understanding of what’s going on. It’s not easy to do, however.”¹⁶

In contrast, Carl Breau, CEO, Saimen Inc., characterized the PRC’s commercial landscape as predominantly transparent. He underscored the accessibility of extensive company data ranging from legal records to credit ratings. According to Mr. Breau, the onus is on buyers and investors to dictate their desired transparency level and enforce traceability protocols. In his words, if investors are not satisfied with the level of transparency, there is no obligation to engage in transactions or investments in the PRC.¹⁷

Nevertheless, witnesses alluded to recent challenges in the form of access to information in the PRC and domestic regulatory changes. For example, Mr. Payette informed the Special Committee that recently, geoblocking—a technology restricting internet content access based on geographical location—had been applied to several corporate data compilers. Furthermore, he shared that his colleagues in Hong Kong had begun to experience difficulties in accessing reports from companies listed in the PRC.¹⁸

13 CACN, [Evidence](#), 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

14 CACN, [Evidence](#), 24 April 2023, 1910 (Mathieu Arès, Professor, Université de Sherbrooke, As an Individual).

15 CACN, [Evidence](#), 8 May 2023, 2045 (Ari Van Assche, Full Professor, HEC Montréal, As an Individual).

16 Ibid.

17 CACN, [Evidence](#), 6 December 2022, 1835 (Carl Breau, Chief Executive Officer, Saimen Inc., As an individual).

18 CACN, [Evidence](#), 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).



CHAPTER II: PUBLIC PENSIONS AND RESPONSIBLE INVESTMENT PRACTICES

In its study, the Special Committee was especially focused on the exposure of national, federal, and provincial public pension plans to investments in the PRC, particularly those with links to human rights violations in Xinjiang. This chapter discusses the governance of Canadian public pension plans, including the legislative framework and matters related to ESG and responsible investment practices, as well as some of the challenges with ensuring proper transparency and accountability of public pension investments.

The Special Committee met with several institutional investors responsible for public pension funds, including CPP Investments, the federal Public Service Pension Plan Investment Board (PSP Investments), and three provincial investment managers—the British Columbia Investment Management Corporation (BCI), the Caisse de dépôt et placement du Québec (CDPQ) and the Ontario Teachers’ Pension Plan Board (Ontario Teachers’). These institutional investors operate at arm’s length from the government or public sector plan sponsor.¹⁹

The Special Committee also met with officials from the Department of Finance to discuss the federal government’s role related to the legislative framework for national and federal public pension plans. Further, several expert witnesses shared their insights and perspectives on how Canadian institutional investors, especially those responsible for public pension funds, approach ESG matters and carry out their respective responsible investment practices in the context of investments in the PRC.

Governance

Legislative Framework and Regulatory Matters

Canadian pension plans are regulated under either federal or provincial jurisdiction. Public pension plans, like the Canada Pension Plan (CPP), and public sector pension plans, like the federal public service pension plan and provincial public service pension plans, are generally guided by their enabling legislation and related regulations, which are set either federally or provincially. Private pension plans are usually registered and subject to regulations in the province where the majority of members are employed. According to Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security

19 The plan sponsor is generally responsible for establishing and modifying the plan, developing policy in relation to the plan, and setting terms and conditions, for example related to eligibility, premiums, contributions, and benefits.

Division, Department of Finance, “Most workplace pension plans in Canada are provincially regulated, with approximately 7% of registered pensions in Canada being regulated at the federal level.”²⁰

The legal framework for federal pension plans relies on the concept of fiduciary duty to plan beneficiaries. Kathleen Wrye explained that federal pension legislation imposes a fiduciary duty on plan administrators, which requires them to act prudently and account for any factor that could materially affect the financial performance of the pension fund.²¹ She added that pension legislation does not set out requirements with regard to the investments of the fund, nor does it set rules with specific types of investments.²² Rather “it is the fiduciary duty framework that sets the rules.”²³

CPP Investments manages the investments of the CPP, Canada’s national public pension plan.²⁴ It operates pursuant to certain federal acts, regulations and policies, as well as internal corporate policies (e.g., policy on sustainable investing) which are approved by its independent Board of Directors. Its guiding legislation includes the *Canada Pension Plan*, the *Canada Pension Plan Investment Board Act* (CPPIB Act) and the *Canada Pension Plan Investment Board Regulations*. The CPPIB Act can only be changed by the federal government with two thirds of the participating provinces.²⁵

The federal government, through the Minister of Finance in consultation with participating provincial governments, is responsible for making recommendations to the Governor in Council on appointments to the Board of Directors of CPP Investments.²⁶ As well, “[t]he Minister of Finance, in consultation with the provinces, is responsible for proposing any changes to the CPPIB legislative framework to Parliament.”²⁷ Although the Department of Finance has no influence over the policies or practices of CPP Investments, it does

20 CACN, [Evidence](#), 19 June 2023, 1835 (Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security Division, Department of Finance).

21 Ibid.

22 Ibid., [1900](#).

23 Ibid., [1855](#).

24 The Canada Pension Plan (CPP) provides a stable source of retirement income to Canadians. Canadian workers and employers contribute jointly to the CPP. CCP contribution amounts not needed to pay benefits are invested, in order to provide for the long-term sustainability of the plan.

25 See: [Canada Pension Board Investment Act](#), section 53(2), and Canada Pension Plan Investment Board (CPP Investments), [Legal & Regulatory](#).

26 See: [Canada Pension Board Investment Act](#), section 10.

27 Department of Finance, [How Finance Works Binder](#), 2021.



monitor governance and risk management matters.²⁸ Despite operating at arms length from government, these investment managers are responsible for investing public monies. As such, Margaret McCuaig-Johnston, Senior Fellow with the Graduate School of Public and International Affairs and Institute of Science, Society and Policy at the University of Ottawa, suggested that the federal or provincial governments should establish a code of ethics for those public pension funds, in particular when the government identifies human rights concerns.²⁹

Pension plans linked to federally regulated areas of employment—including Crown corporations and private employers in telecommunications, banking and inter-provincial transportation—are regulated by the Office of the Superintendent of Financial Institutions (OSFI). The Minister of Finance is responsible for legislation related to those plans through the *Pension Benefits Standards Act, 1985* (PBSA). In a written brief submitted to the Special Committee, the Department of Finance noted that the PBSA

imposes a fiduciary duty on plan administrators with respect to plan beneficiaries in the administration of the plan and the investment of its assets. They are also required to administer the fund and invest the assets in a manner that a prudent person would.

As fiduciaries, plan administrators are required to take into account any factor that could materially affect the financial performance of the pension fund. This could include [ESG] considerations, such as human rights violations.

Plan administrators may determine it is consistent with their fiduciary duty to use ESG information, including ethical or impact investing considerations, as a deciding factor between otherwise equivalent investment options.³⁰

In 2022, the PBSA was amended “to permit regulations to be made respecting the investment of the assets of a pension fund, allowing regulations to be made to require disclosure of ESG considerations.”³¹ Pursuant to section 39(1)(n.11) of the PBSA, “[t]he Governor in Council may make regulations ... respecting the investment of the assets of a pension fund.” However, such regulations have not yet been established. According to the Department of Finance, “the government is working to improve the disclosure of

28 Ibid.

29 CACN, *Evidence*, 6 December 2022, 1850 (Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa, As an individual.

30 Department of Finance, *Finance Canada Response to Committee Undertaking*, Brief submitted to the Special Committee on Canada-China Relations, 30 June 2023, p. 2.

31 See: *An Act to implement certain provisions of the budget tabled in Parliament on 7 April 2022, and other measures*, which includes amendments to the *Pension Benefits Standards Act*.

ESG considerations by federally regulated pension plans.”³² As well, Kathleen Wrye noted that “there will be an opportunity for further consultation on these disclosure requirements through prepublication of regulations in the Canada Gazette.”³³

In terms of public sector plans, PSP Investments manages the investments of the federal public service pension plan, which is under the responsibility of the Treasury Board Secretariat. Its guiding legislation includes the *Public Sector Pension Investment Board Act* and the *Public Sector Pension Investment Board Regulations*.³⁴

In terms of other federal departments, David Hutchison, Director General, Trade Portfolio Strategy and Coordination, Global Affairs Canada, clarified that “Global Affairs Canada [does not] play a role in terms of pension funds.”³⁵ As well, he noted that Canada’s Trade Commissioner Service’s “engagement with Canadian investors abroad is limited and takes place on a responsive basis.”³⁶

As for provincial plans, the CDPQ manages the funds of 46 depositor groups, including the Quebec Pension Plan and various public and quasi-public sector employee pension plans and insurance plans. The CDPQ is governed by *An Act respecting the Caisse de dépôt et placement du Québec*, as well as various regulations, standards and internal policies.³⁷ As another example, BCI manages investments on behalf of public sector clients in British Columbia including 11 public sector pension plans and is accountable under the British Columbia *Public Sector Pension Plans Act*.

With respect to institutional investors, in Canada, the provinces and territories are responsible for securities regulations. Canadian securities laws may also broadly refer to the rules and regulations set by stock exchanges in Canada. As well, nationally, the Canadian Securities Administrators (CSA) works with the provincial and territorial securities regulators to develop a harmonized approach to securities regulations. For

32 Department of Finance, *Finance Canada Response to Committee Undertaking*, Brief submitted to the Special Committee on Canada-China Relations, 30 June 2023, p. 2.

33 CACN, *Evidence*, 19 June 2023, 1935 (Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security Division, Department of Finance).

34 The Public Sector Pension Investment Board’s (PSP Investments) authority to invest various pension funds derives from the *Canadian Forces Superannuation Act*, the *Public Service Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act*.

35 CACN, *Evidence*, 19 June 2023, 1850 (David Hutchison, Director General, Trade Portfolio Strategy and Coordination, Department of Foreign Affairs, Trade and Development).

36 *Ibid.*, 1840.

37 Caisse de dépôt et placement du Québec (CDPQ), *Laws, regulations and policies*.



example, in January 2022, the CSA published guidance for investment funds on their disclosure practices that relate to ESG considerations.³⁸

Moreover, the Canadian Association of Pension Supervisory Authorities (CAPSA) supports the coordination and harmonization of pension regulation across Canada with non-binding guidelines for provincial regulators.³⁹ For example, according to CAPSA Guideline No. 6, *Pension Plan Prudent Investment Practices Guideline*, “Due diligence includes carrying out an independent and thorough investigation to determine the advantages and disadvantages of a particular investment before making an investment decision. For active management, consideration should be given to what expertise is required and whether the decision makers possess the necessary expertise.”⁴⁰ Further, Kathleen Wrye noted that CAPSA “has been consulting on draft guidelines to support pension plan administrators in fulfilling their fiduciary duties and giving appropriate consideration to ESG factors.” In particular, the “draft guidelines note that pension administrators should consider whether any particular ESG factors are relevant to investment performance and take appropriate action based on that determination.”⁴¹ She noted that CAPSA suggests “that plan administrators may determine that it is consistent with their fiduciary duty to use ESG information, including ethical or impact investing considerations, as a deciding factor between otherwise equivalent investment options.”⁴²

As well, the Government of Canada has issued guidance, for example, in 2022 through the *Responsible Business Conduct Abroad: Canada’s Strategy for the Future*, which “provides a framework and tools to assist all Canadian companies integrate leading responsible business practices.”⁴³

Investment Objectives and Policies

Broadly, Canada’s largest institutional investors, responsible for managing public pension fund investments, are mandated to invest funds in a manner that maximizes returns while considering risks. As well, the enabling legislation for public pension plans

38 Ontario Securities Commission, [CSA Staff Notice 81-334—ESG-Related Investment Fund Disclosure](#), 19 January 2022.

39 Canadian Association of Pension Supervisory Authorities (CAPSA), [Who We Are](#).

40 CAPSA, [Pension Plan Prudent Investment Practices Guideline](#).

41 CACN, [Evidence](#), 19 June 2023, 1835 (Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security Division, Department of Finance).

42 Ibid.

43 Government of Canada, [Responsible Business Conduct Abroad: Canada’s Strategy for the Future](#), 2022.

generally set out the requirement for investment managers to establish investment policies as well as any investment restrictions. Canada's public pension plans are invested in a mix of assets, in both developed and emerging markets globally, such as listed equities and passive indices as well as private investments in the equity and debt of private companies and real assets like real estate and infrastructure.

Notably, pursuant to its enabling legislation, CPP Investments has a clear objective: to achieve a maximum rate of return for the CPP, without taking any excessive risk. The CPPIB Act "sets no investment directions related to economic development, social objectives or political directives."⁴⁴ According to Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments, "Canada stands out as one of the very few countries worldwide with a solvent national retirement fund."⁴⁵ Ranked top among its peers, Mr. Leduc noted that for CPP Investments, "Optimal diversification and a long-term focus on growth has achieved a level of financial performance few institutional investors worldwide have matched."⁴⁶

Likewise, Canada's federal public pension plans, like the public service pension plan, have demonstrated strong returns. PSP Investments' "statutory mandate is to manage the funds in the best interest of the contributors and beneficiaries and to maximize investment returns without undue risk of loss having regard to the funding, policies and requirements of the plans and their ability to meet their financial obligation."⁴⁷ Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments, attributed PSP Investments' positive returns to its "ability to invest globally via public and private markets" which allows it "to allocate funds to regions with the highest economic growth and to find the individual investment opportunities matching [its] long-term risk-return criteria."⁴⁸

The mandates to maximize the returns of public pension funds are not limited by any investment restrictions set by the plan sponsor (e.g., the federal government). As such, there is no legislative or regulatory provision that would prevent investments in the PRC, or in companies that are complicit or linked to human rights abuses in Xinjiang.

44 CPP Investments, *Annual Report 2023*, p. 11.

45 CACN, *Evidence*, 8 May 2023, 1835 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

46 Ibid.

47 CACN, *Evidence*, 8 May 2023, 1845 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

48 Ibid.



Several witnesses noted that while the government or public sector plan sponsor may communicate its risk tolerance, it is not involved in making individual investment decisions. Eduard van Gelderen told the Special Committee that, “[t]he government communicates its risk tolerance annually, and [PSP Investments’] task is to design and implement the most suitable investment strategy.”⁴⁹

According to Michel Leduc, in terms of the fund’s overall risk appetite, “the Chief Actuary of Canada did a very extensive, thorough review of the sustainability of the [CPP] ... [which] gives [CPP Investments] an opportunity to assess where the fund is going in terms of the projections over the 75 years and to test whether [its] continuing risk appetite continues to be prudent.”⁵⁰ Mr. Leduc commented that their mandate to consider risk, was “crafted with a lot of foresight.” The fund was established to “take risks, calculated risks, sophisticated levels of risk.”⁵¹

Diversification and Emerging Markets

Several institutional investors told the Special Committee that diversification was an important and critical aspect of their investment strategy.⁵² As part of their diversification strategy, many of Canada’s public pension funds are invested in emerging markets, including the PRC. Explaining the situation for CPP Investments, Michel Leduc said,

[d]iversification allows us to capture global growth and withstand periods of market uncertainty. It is a powerful way to enhance returns, but also to prevent concentration risk. When liabilities extend so far into the future, pension obligations beyond 75 years, growth and resilience from diversification are predicated on exposure to emerging markets. These markets are expected to account for more than half the world’s annual GDP within the next 10 years.⁵³

The Special Committee heard from witnesses that investing in emerging markets is important for the growth and resilience of public pension funds over the long-term. Michel Leduc noted that these investments often move “in ways uncorrelated to

49 Ibid.

50 CACN, [Evidence](#), 8 May 2023, 1905 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

51 Ibid., [1930](#).

52 CACN, [Evidence](#), 8 May 2023, 1905 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ); [Evidence](#), 8 May 2023, 1905 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments); and [Evidence](#), 8 May 2023, 2025 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan).

53 CACN, [Evidence](#), 8 May 2023, 1835 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

developed markets, thus adding a balance to [the] portfolio.”⁵⁴ According to him, because of their long-term investment horizon, it is important for the fund to invest in emerging markets, and with that comes a certain amount of expected risk.⁵⁵ He explained:

Our approach is to develop a portfolio that will help sustain the fund, knowing full well and taking into account factors that drive the sustainability and being very well aware of the increasing risks, geopolitical risks and other forms of risks, and taking into account the continuous process-driven, systematic-driven process for portfolio construction and not be driven by episodes.⁵⁶

Several witnesses mentioned the importance of the PRC to the global economy and commented on why Canadian public pension funds were invested in the PRC.⁵⁷ Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ, highlighted the fact that the PRC’s economy generated a quarter of global growth over the last 10 years.⁵⁸ He added that CDPQ’s decision to invest in the PRC provides “access to an economy and sectors that are growing rapidly.”⁵⁹ Similarly, Michel Leduc explained that as an emerging market, the PRC is complex, but one where CPP is invested for the long term.⁶⁰ Mr. Leduc noted that such investments give CPP Investments “access to one of the world’s largest and fastest-growing economies in sectors such as consumer discretionary, logistics and real estate.”⁶¹

Investment Practices

Responsible Investing

This section provides an overview of current guidance on ESG disclosures and responsible investment practices by some Canadian institutional investors, including national and provincial public sector pension plans. It outlines the role of Canada’s large

54 Ibid.

55 Ibid., [1905](#).

56 Ibid.

57 CACN, [Evidence](#), 8 May 2023, 1915 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments); [Evidence](#), 8 May 2023, 2025 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan); [Evidence](#), 8 May 2023, 2055 (Paula Glick, Co-Founder, Honeytree Investment Management Ltd., As an Individual).

58 CACN, [Evidence](#), 8 May 2023, 1840 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ).

59 Ibid., [1945](#).

60 CACN, [Evidence](#), 8 May 2023, 1935 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

61 Ibid.



institutional investors, how public pension plans approach their investments decisions and why they may favour active holdings and engagement, as opposed to divestment.

Institutional investors, like those in charge of investing public pension funds, influence financial markets and the behaviour of companies and are in a position to make positive impacts. According to Michel Leduc, “the world is in a much better place with investors like [CPP Investments] in it, investors who have the muscle to force change.” He characterized CPP Investments as “an active, productive and engaged investor.”⁶² According to him, having a long investment horizon allows CPP Investments to fully understand the nature of a business as an engine of value creation, and part of that is how businesses treat their employees and communities.⁶³

Responsible investing, or sustainable investing, involves the consideration of ESG factors when making investment decisions. In partnership with the United Nations (UN), the Principles for Responsible Investment (PRI) established six principles that were “developed by an international group of institutional investors reflecting the increasing relevance of [ESG] issues to investment practices.”⁶⁴ In considering ESG factors, matters linked to human rights violations and forced labour are considered under the “S,” or social factor. According to Eduard van Gelderen, as a signatory to the UN-supported PRI, PSP Investments has “built a strong sustainability foundation and a robust ESG policy framework.”⁶⁵

According to the PRI, to respect human rights in investment activities, institutional investors⁶⁶ have a three-part responsibility that involves “publishing a policy commitment, having due diligence processes, and enabling or providing access to remedy.”⁶⁷ Investors can look to global standards such as the [UN Guiding Principles on](#)

62 Ibid., [1955](#).

63 Ibid.

64 The [Principles for Responsible Investment](#) (PRI) is an investor initiative in partnership with the [United Nations Environment Programme Finance Initiative](#) and the [United Nations Global Compact](#). With over 5,000 signatories, the PRI “engages with global policymakers but is not associated with any government; it is supported by, but not part of, the United Nations.” It is funded via signatory membership fees and grants from governments, foundations and international organizations.

65 CACN, [Evidence](#), 8 May 2023, 1845 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

66 As summarized by the CFA Institute, [institutional investors](#) are “corporations, trusts and other legal entities that invest in financial markets on behalf of groups or individuals, including both current and future generations.” These include private and public sector pension plans, sovereign wealth funds, endowments, foundations, banks, and insurance companies.

67 PRI, [Why and how investors should act on human rights](#), October 2020. See also, PRI, [Investor human rights policy commitments: an overview](#), October 2022.

[Business and Human Rights](#) and the [Organisation for Economic Co-operation and Development \(OECD\) Guidelines for Multinational Enterprises](#) for guidance on respecting human rights through their broader value chains. The Government of Canada has endorsed⁶⁸ these non-binding human rights guidelines for businesses, which also include sector-specific guidance.⁶⁹ For example, the OECD paper, [Responsible Business Conduct for Institutional Investors: Key Considerations for Due Diligence under the OECD Guidelines for Multinational Enterprises](#), aims to help institutional investors implement due diligence recommendations in order to prevent or address adverse impacts related to human and labour rights, the environment, and corruption in their investment portfolios. Investors can also look to several human rights benchmarks in assessing the performance of current or potential investment companies when making investment decisions.⁷⁰

As part of their fiduciary responsibility to consider risk-adjusted returns, institutional investors analyze various ESG factors. In Canada, many institutional investors have a responsible investment policy that outlines their approach to ESG factors. Michel Leduc shared that CPP Investments is engaged with the federal government and other stakeholders through the Sustainable Finance Action Council. In particular, it is involved with work focused on ESG disclosure standards and developing common descriptions and classifications for those standards.⁷¹

Several large institutional investors told the Special Committee that they complete an ESG analysis prior to making investment decisions.⁷² For example, CDPQ noted that it follows a rigorous and structured approach to sustainable investing.⁷³ As part of its policy, they use several complimentary tools to focus on ESG criteria including a review of the ESG processes for its external managers.⁷⁴

68 Government of Canada, [Guidelines and standards for responsible business conduct](#).

69 Robert Mason, [Legislative Summary of Bill S-211: An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff](#), Publication no. 44-1-S211-E, Library of Parliament, 20 May 2022.

70 PRI, [Human rights benchmarks for investors: an overview](#), August 2022.

71 CACN, [Evidence](#), 8 May 2023, 1955 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

72 CACN, [Evidence](#), 8 May 2023, 2025 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan).

73 CACN, [Evidence](#), 8 May 2023, 1925 (Philippe Batani, Vice-President, Communications and Public Affairs, CDPQ).

74 CACN, [Evidence](#), 8 May 2023, 1840 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ).



Some witnesses discussed the link between ESG factors and investment returns. According to Mr. Delisle, CDPQ considers that “performance and ESG criteria go hand-in-hand.”⁷⁵ He noted that CDPQ’s sustainable investment policy is “based on the principle that companies which follow healthy environmental and social principles, and good governance practices, perform well for ... investors.”⁷⁶ He added, “Companies that follow best practices will likely perform better.”⁷⁷ According to Mr. Delisle, in all its investments, CDPQ considers financial, geopolitical and legal risks, as well as risks related to ESG criteria.⁷⁸

Michel Leduc noted, “Rules around climate change and human rights affect the value creation of the constituent parts—the businesses that are part of capital markets.”⁷⁹ According to Paula Glick, Co-Founder, Honeytree Investment Management Ltd., investors are interested in ESG and responsible growth for three overlapping reasons: to align their investments to their values, to make the world a better place, and to obtain better long-term financial performance.⁸⁰

According to CPP Investments, human rights are integrated as part of its corporate culture and built into the professionalism of being a global investor. Michel Leduc noted that human rights are increasingly an investment consideration, as this factors into the long-term value of a business.⁸¹ He remarked that with “the evolution of the investment landscape, the issues have become much more complicated in really truly understanding the broader environmental and social [factors] in governments.”⁸² He noted that as a data-driven and knowledge-based organization, CPP Investments considers both quantitative and qualitative information and looks for the best possible information.⁸³

75 Ibid., [1950](#).

76 Ibid.

77 Ibid.

78 Ibid., [1840](#).

79 CACN, [Evidence](#), 8 May 2023, 1955 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

80 CACN, [Evidence](#), 8 May 2023, 2010 (Paula Glick, Co-Founder, Honeytree Investment Management Ltd., As an Individual).

81 CACN, [Evidence](#), 8 May 2023, 1900 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

82 Ibid., [1925](#).

83 Ibid.

Some witnesses suggested that Canadian public pension plans should either limit or refrain from investing in the PRC. Sam Goodman contended that investing in the PRC is incompatible with ESG criteria, from Chinese state companies responsible for producing high levels of carbon emissions, to Chinese technology companies linked to forced labour and surveillance, and government crackdowns on the technology and education sectors.⁸⁴

Consideration of Risk

Several witnesses highlighted that investing in the PRC requires consideration of various risks, particularly those related to social issues and evolving geopolitical risks.⁸⁵ Mr. Leduc acknowledged that “any investment in China needs to be handled with care, sophistication and an acute understanding of the current political and geopolitical environment.”⁸⁶ He noted: “We think about investing in China and what decisions the government may make that could change the rules of the game in that country. Over the last seven years, what we’ve seen is an erosion of predictability in global trade rule.”⁸⁷ As well, he told the Special Committee that CPP Investments follows the area of national security closely, especially as it relates to policies in the U.S.⁸⁸ Similarly, Alex Payette cautioned that it can be hard to identify businesses with close ties to the PRC state or the People’s Liberation Army and noted that such businesses risk being subjected to technology capture by the military.⁸⁹ As an investor, Paula Glick shared her belief that “investing in dictatorships adds to risk.”⁹⁰

Kathleen Wrye stated, “that geopolitical risks are something that pension plan administrators should be taking into account when they are making their investment

84 CACN, *Evidence*, 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual).

85 CACN, *Evidence*, 8 May 2023, 1835 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

86 *Ibid.*

87 *Ibid.*, [1850](#).

88 *Ibid.*

89 CACN, *Evidence*, 24 April 2023, 1845 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

90 CACN, *Evidence*, 8 May 2023, 2100 (Paula Glick, Co-Founder, Honeytree Investment Management Ltd., As an individual).



decisions.”⁹¹ She outlined that the onus for evaluating these evolving risks falls on each plan administrator who is making these investment decisions.”⁹²

According to Mr. Delisle, while a single event would not necessarily change the CDPQ’s evaluation of risk, they do consider what is on the horizon with respect to changes in the risk and performance context (e.g., when the geopolitical or macroeconomic context changes).⁹³ Likewise, Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers’, noted that they “actively monitor and assess geopolitical developments as a core input into the investment process.”⁹⁴ He explained that as a result of “recent regulatory changes in China and the continued deterioration of U.S.-China and Canada-China relations, [Ontario Teachers’] reduced [its] investment activities in China and paused further private investments.”⁹⁵ The Special Committee heard that BCI has taken a similar approach.⁹⁶

Mehmet Tohti pointed out that when Russia invaded Ukraine, the sanctions system devalued many investments in Russia. He questioned what would happen to investments in the PRC if it were to invade Taiwan and stated, “There is great danger, and because of that geopolitical risk, the huge risk, our pension funds should take action and withdraw their investments from China.”⁹⁷

Due Diligence

Canada does not have legislation that mandates that investment firms conduct due diligence. However, investment firm witnesses highlighted the due diligence procedures they are conducting. For example, according to Mr. Leduc, CPP Investments’ approach to engaging and investing in China starts with extensive due diligence.⁹⁸ He noted, “The low-

91 CACN, [Evidence](#), 19 June 2023, 1900 (Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security Division, Department of Finance).

92 Ibid., [1925](#).

93 CACN, [Evidence](#), 8 May 2023, 1905 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ).

94 CACN, [Evidence](#), 8 May, 2023, 2025 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers’ Pension Plan).

95 Ibid.

96 CACN, [Evidence](#), 8 May 2023, 2105 (Daniel Garant, Executive Vice-President and Global Head, Public Markets, British Columbia Investment Management Corporation).

97 CACN, [Evidence](#), 29 November 2022, 2030 (Mehmet Tohti, Executive Director, Uyghur Rights Advocacy Project).

98 CACN, [Evidence](#), 8 May 2023, 1930 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

cost approach of passive investments doesn't allow [CPP Investments] to really understand those risks.”⁹⁹ As a result, he noted that for CPP Investments, being an active investor, conducting due diligence and understanding the sectors that the fund is comfortable with is an important aspect of the investment approach.¹⁰⁰ He noted, that in the context of the PRC, there are hundreds of companies in the Asian market, and their approach is to do a deep dive into those companies to understand the purpose of their business and what they are exposed to.¹⁰¹ Mr. van Gelderen agreed, noting that “a long-term investor should be an active manager and should spend the time and the effort to really understand the value chains and business models.”¹⁰²

Mr. Leduc noted that, as a prudent investor, CPP Investments seeks “to avoid investments in companies involved in wrongdoings, especially violations of human rights.”¹⁰³ To do so, CPP Investments considers human rights in its investment decision-making processes, considers political, legal and regulatory risks as part of its due diligence processes, and employs tools and systems to monitor and assess both passive and active holdings on issues such as human rights.¹⁰⁴ Mr. Leduc also noted that its approach to direct investments has improved and that he is confident in that process.¹⁰⁵ According to Mr. Leduc, CPP Investments has done “a very deep dive, combing through all of the exposures, trying to understand what their business is, trying to understand where they may be exposed through supply chains that would be unacceptable to us.”¹⁰⁶ He added, “we're confident in the number of holdings that we were careful not to invest in, but the capital markets are dynamic.” Given those changing circumstances, CPP Investments continues to be very focused on monitoring risks.¹⁰⁷

CDPQ considers sanctions, including the U.S. banned entities list and the U.S. *Uyghur Forced Labor Prevention Act* entity list, when choosing its investments, and uses those

99 Ibid., [1910](#).

100 Ibid.

101 Ibid., [1930](#).

102 CACN, [Evidence](#), 8 May 2023, 1915 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

103 CACN, [Evidence](#), 8 May 2023, 1835 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

104 Ibid.

105 Ibid., [1940](#).

106 Ibid.

107 Ibid.



variables as part of the systematic filters it applies to its portfolios.¹⁰⁸ Ari Van Assche, Full Professor, HEC Montréal, commented that “what the government is already doing, which is encouraging firms and investors to demonstrate a reasonable level of due diligence, is a good thing.”¹⁰⁹ As well, he suggested that it is important for Canada to work with other countries like the U.S. to create more transparency and enhanced access to information.¹¹⁰

Similarly, Mr. van Gelderen noted that almost all investments, especially in private markets, are reviewed by the risk and investment committee, “which means that once a proposal is on the table, the risk team will look at it and our legal team will look at it, our responsible investment team will look at it so we really dice and slice an investment proposal in many different ways, including geopolitical risk and national security risk.”¹¹¹ Likewise, Daniel Garant, Executive Vice-President and Global Head, Public Markets, British Columbia Investment Management Corporation, commented that as a part of its due diligence approach, BCI completes an ESG and risk review prior to making any investments.¹¹²

In evaluating investments, Mr. Leduc noted that CPP Investments is risk-focused and also considers a wide variety of reports to identify red flags, which might trigger a deep dive to consider how a company treats human right, for example.¹¹³ As another example, Mr. Leduc noted that there are certain types of investments, such as those related to mines and munitions, that are against the fund’s policy.¹¹⁴

Mr. Leduc commented that the access to information varies significantly, but that as an active investor looking at direct investments in private markets, CPP Investments can

108 CACN, [Evidence](#), 8 May 2023, 1900 (Philippe Batani, Vice-President, Communications and Public Affairs, CDPQ); CACN, [Evidence](#), 8 May 2023, 1915 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ).

109 CACN, [Evidence](#), 8 May 2023, 2050 (Ari Van Assche, Full Professor, HEC Montréal, As an Individual).

110 Ibid.

111 CACN, [Evidence](#), 8 May 2023, 1855 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

112 CACN, [Evidence](#), 8 May 2023, 2025 (Daniel Garant, Executive Vice-President and Global Head, Public Markets, British Columbia Investment Management Corporation).

113 CACN, [Evidence](#), 8 May 2023, 1935 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

114 Ibid., [1940](#).

access information that would not otherwise be publicly available which they use to calculate the risk-adjusted returns.¹¹⁵ He explained:

If we're buying a real asset [in China], such as a logistics centre by a port, our ability to enter the business and understand it through our partners, through our local experts, means a significant advantage for information efficiency. On the thousands of publicly traded potential holdings through the China-Asia market, there again we depend heavily on the local securities rules of the Chinese markets. The China Securities Regulatory Commission has quite significant and sophisticated rules around disclosure.¹¹⁶

Active Management of Assets

As a long-term investor, many large institutional investment managers like those investing the assets of public sector pension funds, stated that they pursue active engagement strategies to have the potential to influence companies on human rights matters. Mr. Leduc explained that CPP Investments “actively engage[s] with and influence[s] companies with human rights as a long-standing focus area. If that fails, [it] will exit or avoid making an investment in the first place.”¹¹⁷ As well, Mr. Leduc noted the importance of having offices in their key markets, to develop relationships with business partners that understand the local business culture and to build relationships with governments.¹¹⁸

Similarly, according to Mr. van Gelderen, PSP Investments is “focused on maximizing risk-adjusted sustainable value and keeping abreast of societal norms and values through active management.”¹¹⁹ Other investment managers told the Special Committee that they follow the same approach of promoting change through engagement.¹²⁰ Daniel Garant also told the Special Committee that BCI is “actively engaging with index providers to improve what they put in the index.”¹²¹

115 Ibid., [1950](#).

116 Ibid.

117 Ibid., [1835](#).

118 Ibid., [1925](#).

119 CACN, [Evidence](#), 8 May 2023, 1845 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

120 CACN, [Evidence](#), 8 May 2023, 2025 (Daniel Garant, Executive Vice-President and Global Head, Public Markets, British Columbia Investment Management Corporation).

121 Ibid., [2035](#).



Concerns and Challenges

During its study, the Special Committee met with several institutional investors to discuss their exposure to investments in the PRC, which ranged from about 2% to 10% of assets under management. These investments represent a small percentage of their full portfolios and do not necessarily include companies linked to human right violations. Nonetheless, there are currently no enforceable measures which prevent Canadian public pension plans from investing in companies committing or complicit in human rights violations. This fact was a concern shared by many expert witnesses. As well, there are no legislative or regulatory requirements to ensure the full transparency and accountability of all portfolio investments, nor the requirement to consider ESG factors like human rights matters when making investment decisions.

According to Mr. Leduc, 9.8% of CPP's investments are in the PRC.¹²² According to Mr. Delisle, the exposure of CDPQ's total portfolio to the PRC is 2% with about 60% in liquid markets and 40% in less liquid markets, mostly in real estate and with a focus on companies that serve the domestic market.¹²³ Mr. Delisle noted that many of CDPQ's investments in the PRC are in liquid markets, so that they can more easily change investments and sell investments when certain situations materialize.¹²⁴ Mr. van Gelderen said that PSP Investments' allocation in the PRC is 3%.¹²⁵ Mr. McLennan told the Special Committee that the Ontario Teachers' investments in the PRC is 2.3% of the fund.¹²⁶ Each of these institutional investors told the Special Committee that they adhere to their investment policies, which give consideration to risks and returns and which require proper due diligence. They also noted that their responsible investment policies consider ESG matters to the extent that they are financially material or significant and that they favour active engagement over divestment in order to affect positive change. In this way, they contended that they follow a prudent approach to their investments in the PRC. Even so, several challenges remain related to the availability and reliability of information to conduct meaningful due diligence, to the lack of standardized ESG reporting, and to the

122 CACN, [Evidence](#), 8 May 2023, 1855 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

123 CACN, [Evidence](#), 8 May 2023, 1840 (Vincent Delisle, Senior Vice-President and Head, Liquid Markets, CDPQ).

124 *Ibid.*, [1910](#).

125 CACN, [Evidence](#), 8 May 2023, 1845 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

126 CACN, [Evidence](#), 8 May 2023, 2025 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan).

absence of any legislative or regulatory requirement to consider ESG matters as part of investment decisions.

Some institutional investors told the Special Committee that their fund was exposed to companies on the U.S. banned entities list through index tracking and passive management. Mr. van Gelderen noted that the fund is exposed through its passive investments to the MSCI Asia index funds.¹²⁷ Meanwhile, Mr. Leduc told the Special Committee that CPP Investments did not have exposure to those companies through direct investments.¹²⁸

As well, the Special Committee heard that several public pension plan funds are invested in private investments and real assets, like real estate, which may be more difficult to divest, should circumstances change. In terms of CPP Investments' current holdings, Mr. Leduc noted that they are invested in Tencent, an investment the fund entered over a decade ago. Mr. Leduc noted that the company's operations have changed over time and that the fund is aware of issues associated with dual-use technologies, and as a result they are monitoring the investment closely.¹²⁹ As well, he noted that with respect to divestments, under their sustainable investment policy, the timeline for exiting a particular investment would depend on the asset; for example, a publicly traded security could be divested more quickly than a real asset like a toll road.¹³⁰

Several expert witnesses noted that another challenge is the lack of transparency and accountability in the disclosure of all investment holdings, in a timely manner. For the most part, the disclosure of investments held by pension plan funds is guided by their enabling legislation, regulations and applicable accounting standards. Mr. McLennan even noted that Ontario Teachers' approach is disclosure of investments beyond what is required by accounting standards and law.¹³¹ However, Sam Goodman, noted that most provincial and federal pension funds do not publish a regular and up-to-date list of their full holdings, with some listings out of date by a year.¹³² Likewise, Aileen Calverley, Co-

127 CACN, [Evidence](#), 8 May 2023, 1915 (Eduard van Gelderen, Senior Vice-President and Chief Investment Officer, PSP Investments).

128 CACN, [Evidence](#), 8 May 2023, 1915 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

129 *Ibid.*, [1940](#).

130 *Ibid.*

131 CACN, [Evidence](#), 8 May 2023, 2110 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan).

132 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual).



Founder and Trustee, Hong Kong Watch, noted that there is a “need to know more about the size of pension fund investments in [the PRC], how they are monitored and managed, and whether investment managers fully understand the risks they are taking.”¹³³

Following this study, it was reported that several Canadian pension funds were reducing their investment activity in the PRC. For instance, there have been reports that Ontario Teachers’ have closed their equity investment team in Hong Kong, that CDPQ has ceased private investments in the PRC, with plans to close its Shanghai office, and that CPP Investments have reduced investment professional staff in its Hong Kong office.¹³⁴ Although there are no official corporate news releases on the matter, some media reports attribute this move to increased risks and decreased returns on investments in this region.¹³⁵

CHAPTER III: PREVENTING PUBLIC INVESTMENT IN COMPANIES BASED IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN HUMAN RIGHTS ABUSES

Witnesses proposed various methods to prevent public funds from supporting companies in the PRC involved in human rights abuses. Laura Murphy emphasized that while there is a spectrum of approaches to address this issue, the use of such approaches should be layered because no tool alone can completely address the issue.¹³⁶ Prohibiting certain investments, mandatory enhanced due diligence and standardizing transparency requirements were among the approaches that witnesses spoke about, each with varying degrees of enforcement.

Prohibiting Certain Investments

Several witnesses advocated for implementing investment restrictions on certain sectors in the PRC, or on investments that are directly linked to national security concerns or

133 CACN, *Evidence*, 29 November 2022, 2045 (Aileen Calverley, Co-Founder and Trustee, Hong Kong Watch).

134 Julie Zhu and Kane Wu, “Canada’s largest pension fund trims staff as it puts China deals on hold, sources say,” *The Globe and Mail*, 1 September 2023.

135 Jack Mageau and Kevin Yin, “The real reason Canadian pension funds are pivoting away from China,” *The Globe and Mail*, 23 July 2023; and James Bradshaw, “Canada’s largest pension funds confront the dilemma of investing in China,” *The Globe and Mail*, 8 August 2023.

136 CACN, *Evidence*, 29 November 2022, 2000 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

human rights violations.¹³⁷ These witnesses recommended that Canada introduce a banned, or restricted, entities list for companies that are active or complicit in forced labour and human rights abuses, either directly or indirectly through their supply chains. Further, it was recommended that Canadian institutional investors, like the public sector pension funds, be prohibited from investing through both active and passive investment holdings in these banned entities. In particular, Margaret McCuaig-Johnston recommended that Canada “have an entities list, as the [United States] U.S. has, prohibiting Canadian investment in named Chinese genocide and forced labour companies.”¹³⁸

Recent U.S. legislation, including the *Uyghur Forced Labor Prevention Act*, which implemented blacklists for importing from certain PRC companies,¹³⁹ and executive orders, including Executive Orders 13959¹⁴⁰ and 14032¹⁴¹, ban investments in certain PRC technology and defence companies with links to the military.

At present, Canada’s legislation addresses imports without addressing investments, which are the focus of the Special Committee’s study. Sheri Meyerhoffer observed the effectiveness of the U.S. approach in addressing imports suspected of being exposed to forced labour, noting that U.S. authorities have effectively blocked significant amounts of such imports under the legislation.¹⁴² Sam Goodman argued that legislation that only addresses imports is a “clear inconsistency” in Canadian law.¹⁴³ While Canada, like the

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- 137 CACN, [Evidence](#), 24 April 2023, 1930 (Mathieu Arès, Full Professor, Université de Sherbrooke, As an individual); and CACN, [Evidence](#), 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).
- 138 CACN, [Evidence](#), 6 December 2022, 1850 (Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa, As an individual).
- 139 See United States Customs and Border Protection Agency, [Uyghur Forced Labor Prevention Act](#).
- 140 The White House, [Notice on the Continuation of the National Emergency with Respect to the Threat from Securities Investments that Finance Certain Companies of the People's Republic of China](#), Statement, 9 November 2021.
- 141 See The White House, [President Biden Signs Executive Order on Addressing United States Investments In Certain National Security Technologies And Products In Countries Of Concern](#), Statement, 9 August 2023.
- 142 CACN, [Evidence](#), 19 June 2023, 2000 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).
- 143 CACN, [Evidence](#), 29 November 2022, 2110 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual).



U.S., is bound to Article 23.6 under the *Canada-United States-Mexico Agreement*,¹⁴⁴ Sheri Meyerhoffer and Mehmet Tohti observed that the Canada Border Services Agency, which is responsible for administering this legislation, has not blocked any shipments of goods exposed to forced or compulsory labour from entering Canada.¹⁴⁵ Laura Murphy stressed that this lack of enforcement was a “real problem” that has resulted in Canada becoming a destination for goods made by forced labour in Xinjiang because the U.S. is rejecting those goods.¹⁴⁶

Concerning the import ban, Sheri Meyerhoffer noted,

one of the differences between how the U.S. enforces the law and how we enforce the law is that the U.S. does, in fact, provide specific guidance on the evidence required to rebut a presumption of whether or not the imported goods involve forced labour. That evidence can be given through human rights due diligence. If the company has conducted human rights due diligence, that can rebut the evidence, as can their supply chain mapping.¹⁴⁷

The current Canadian lack of enforcement action for goods produced by forced labour, suggests that it could be a challenge to effectively implement and enforce a restricted entities list for investments. However, Alex Payette remarked that the U.S. approach could be an inspiration for Canada, coming from Canada’s closest neighbour and direct trading partner. While it is restrictive, it is based on best practices.¹⁴⁸

Witnesses suggested that Canada could apply such a ban through framework legislation that would prohibit Canadian investments in companies that engage in forced labour,

144 On July 1, 2020, the Department of Finance amended the *Customs Tariff* as part of the legislation implementing the *Canada-United States-Mexico Agreement* in Canada to include a prohibition on importing goods produced by forced labour. The Canada Border Services Agency is responsible for enforcement of the *Customs Tariff*. See Government of Canada, [*Issue notes—Special Committee on Canada-China Relations: National Security Dimension of the Canada-China Relationship \(March 11, 2021\)*](#).

145 CACN, [*Evidence*](#), 29 November 2022, 1950 (Mehmet Tohti, Executive Director, Uyghur Rights Advocacy Project); and CACN, [*Evidence*](#), 19 June 2023, 2000 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).

146 CACN, [*Evidence*](#), 29 November 2022, 1955 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

147 CACN, [*Evidence*](#), 19 June 2023, 2000 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).

148 CACN, [*Evidence*](#), 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

surveillance and supporting the Uyghur genocide.¹⁴⁹ Sam Goodman highlighted that some investors believe that a blacklist could be helpful by being “a road map of the companies to avoid.”¹⁵⁰ He advocated for a sectoral approach to such a list. Likewise, Alex Payette recommended that companies linked to the People’s Liberation Army apparatus, as well as sectors known to engage in forced labour, be included on such a list.¹⁵¹ Both agreed that a ban on investments should include active and passive investments.¹⁵²

Broadly, in reviewing potential and current investments, active and passive investments are treated differently.¹⁵³ While the former requires the public pension fund's analysis from companies from the PRC case by case, the latter requires them to employ tools and systems to monitor and identify holdings regarding human rights risks and to take steps to prevent those.

Providing a different perspective, Michel Leduc from CPP Investments cautioned that banning certain investments, including passive investments, “could be a blunt instrument” that may have some unintended consequences that would restrict a fund’s ability to invest broadly.¹⁵⁴ Furthermore, Ari Van Assche drew attention to the difficulties in identifying all the possible cases in which investors or firms might be linked to forced labour because those actions occur in countries far from Canada. For example, he said that finding information about subcontractors and verifying the information provided by

149 CACN, [Evidence](#), 6 December 2022, 1850 (Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa, As an individual); CACN, [Evidence](#), 19 June 2023, 2000 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise); CACN, [Evidence](#), 24 April 2023, 1930 (Mathieu Arès, Full Professor, Université de Sherbrooke, As an individual); CACN, [Evidence](#), 29 November 2022, 2110 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual); CACN, [Evidence](#), 29 November 2022, 2050 (Aileen Calverley, Co-Founder and Trustee, Hong Kong Watch); and CACN, [Evidence](#), 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

150 CACN, [Evidence](#), 29 November 2022, 2105 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual).

151 CACN, [Evidence](#), 24 April 2023, 1930 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

152 CACN, [Evidence](#), 29 November 2022, 2110 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual); and CACN, [Evidence](#), 24 April 2023, 1940 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.).

153 Active investments are those that are selected by the investment manager, such as listed public equities or private investments in debentures or assets. Passive investments are index exchange traded funds (or ETFs) that track the performance of a group of companies.

154 CACN, [Evidence](#), 8 May 2023, 1920 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).



firms is “very complicated.”¹⁵⁵ He recommended that Canada work with countries like the U.S. to exchange information.¹⁵⁶

Recommendation 1

That the Government of Canada study how it could compile and maintain an official list of companies deemed unsuitable for investment.

Recommendation 2

That the Government of Canada, in partnership with provinces, study the establishment of a list of companies in the People’s Republic of China that Canadian public pensions plans are prohibited from investing in due to risks to national security, corruption or gross human rights violations.

Recommendation 3

That the Government of Canada work with the United States and other allies to develop common approaches to human rights implications of public pension plan fund investments, including developing a list of banned investments because of suspected human rights abuses.

Recommendation 4

That the Government of Canada, in accordance with its commitment in Budget 2023, by 2024, propose legislative changes and enhanced enforcement to eliminate forced labour from Canadian supply chains and to reinforce the prohibition on the import of goods produced by forced labour.

Mandatory Enhanced Due Diligence for Investments in the People’s Republic of China

Several witnesses discussed the importance of institutional investors conducting enhanced due diligence for investments in companies in the PRC. There are currently no legislative or regulatory requirements that guide the extent of due diligence to address investments in regions with higher risks of forced labour violations. Stéphanie Émond, the Vice-President and Chief Impact Officer, highlighted that the Development Finance

155 CACN, [Evidence](#), 8 May 2023, 2045 (Ari Van Assche, Full Professor, HEC Montréal, As an individual).

156 Ibid., [2050](#).

Institute Canada carries out enhanced due diligence and background checks prior to investing in a country where human rights or freedom of expression are under threat.¹⁵⁷

Witnesses also drew attention to legislation in other jurisdictions requiring businesses to meet due diligence, or duty of vigilance, requirements. The UN *Guiding Principles on Business and Human Rights* (UN Guiding Principles) explain that for a company to identify, prevent, mitigate and account for human rights abuses, their process of due diligence should assess the actual and potential human rights impacts, act upon the findings, record and communicate how the company is addressing the issue.¹⁵⁸ Sheri Meyerhoffer pointed out that legislation based on the UN Guiding Principles—applicable to companies and their supply chains—could assist investors in assessing and addressing human rights risks in their investment portfolios.¹⁵⁹

Several jurisdictions have passed legislation for companies to meet due diligence requirements. In 2017, France introduced a law that applies to companies in all sectors headquartered in France with more than 5,000 employees in France or more than 10,000 employees worldwide.¹⁶⁰ Germany, the Netherlands and Norway have implemented similar laws and in Mexico, similar legislation is pending.¹⁶¹

Sheri Meyerhoffer outlined that the Government of Canada expects, but does not mandate, both Canadian companies and investors to carry out enhanced due diligence in accordance with the UN Guiding Principles as well as the Government of Canada's 2022 *Responsible Business Conduct Abroad: Canada's Strategy for the Future*.¹⁶² This

157 CACN, *Evidence*, 19 June 2023, 2035 (Stéphanie Émond, Vice-President and Chief Impact Officer, Development Finance Institute Canada).

158 Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, 2011, p. 17. The Government of Canada defines due diligence as, "The process enterprises are expected to carry out to identify, prevent, mitigate and account for how they address the actual and potential adverse impacts of their operations, and those of their supply chain and business relationships. Effective due diligence should be supported by efforts to embed [responsible business conduct] into policies and management systems, and aim to enable enterprises to remediate adverse impacts that they contribute to or cause," see Government of Canada, *Responsible Business Conduct Abroad: Canada's Strategy for the Future*, 2022, p. 18.

159 CACN, *Evidence*, 19 June 2023, 1950 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).

160 République Française, *Journal officiel électronique authentifié n° 0074 du 28/03/2017*, Légifrance, 28 March 2017 [AVAILABLE IN FRENCH ONLY].

161 CACN, *Evidence*, 29 November 2022, 1940 (Geneviève Dufour, Professor of International Law, Université de Sherbrooke, As an individual).

162 CACN, *Evidence*, 19 June 2023, 1950 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).



strategy outlines that the Government of Canada will develop a responsible business conduct due diligence standard, which will complement existing reporting frameworks.¹⁶³ She stated, “If companies are unable to prevent or mitigate identified harms, then investors should take steps to end business relationships responsibly.”¹⁶⁴

However, as Geneviève Dufour, Professor of International Law, Université de Sherbrooke, shared with the Special Committee in November 2022,

[s]o far, Canada has not imposed any due diligence requirements on companies operating here. That means Canadian businesses are under no obligation to show that the products they import, which they sell or use as inputs, were made in compliance with human rights and environmental protection standards. Of course, some companies have established their own due diligence requirements, but on their terms. Many have not, and most importantly, there is no list or database that an investment or pension fund can check to know exactly how much a company truly meets human rights and environmental protection standards throughout its supply chain. As we all know, China is home to much of those supply chains.¹⁶⁵

Laura Murphy believed that Canada should enact mandatory human rights due diligence for all companies operating in Canada that would require a full investigation of supply chains, including for raw materials.¹⁶⁶ Geneviève Dufour drew attention to a November 2022 letter to the Prime Minister signed by her and more than 100 academics that stresses that the Government of Canada’s expectation that Canadian companies will respect human rights has not worked.¹⁶⁷ The letter calls for the government to enact legislation for mandatory human rights and environmental due diligence for Canadian corporations.¹⁶⁸

In agreeing with due diligence requirements, some witnesses also pointed out the difficulties in designing, implementing and enforcing such legislation. Sam Goodman made note of the issue that pension funds regularly outsource their fund management

163 Government of Canada, *Responsible Business Conduct Abroad: Canada’s Strategy for the Future*, 2022, p. 12.

164 CACN, *Evidence*, 19 June 2023, 1950 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise).

165 CACN, *Evidence*, 29 November 2022, 1940 (Geneviève Dufour, Professor of International Law, Université de Sherbrooke, As an individual).

166 CACN, *Evidence*, 29 November 2022, 2000 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

167 CACN, *Evidence*, 29 November 2022, 1940 (Geneviève Dufour, Professor of International Law, Université de Sherbrooke, As an individual).

168 Above Ground, *Letter from academics and legal professionals: Make human rights and environmental due diligence mandatory*, 21 November 2022.

to private equity firms, which, in effect outsources human rights due diligence procedures to third parties.¹⁶⁹ Laura Murphy specified that due diligence legislation should not only apply to large investment firms or companies, but also to small and medium sized ones.¹⁷⁰ Alex Payette and Laura Murphy advocated for sufficient penalties for people who invest directly or indirectly in funds linked to human rights abuses in the PRC.¹⁷¹ Providing a different point of view, Charles Burton, Senior Fellow, Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute, warned that even if extensive due diligence is done prior to making an investment, Canadian investments in PRC companies make Canada complicit in issues such as technology transfer, espionage, economic coercion, retaliation and other human rights risks that are linked to PRC companies.¹⁷²

Supply Chain Transparency

One aspect that presents a challenge when investors are carrying out due diligence is the supply chain transparency. Ari Van Assche stressed that academic research has indicated that it is difficult for well-intended companies to rule out labour violations throughout their global supply chains. He stated that it is easiest to detect and address labour violations from tier 1 suppliers, which are the direct suppliers of final products because firms establish contractual relationships with those suppliers. He pointed out that subcontractors are more difficult to monitor, and unfortunately, most human rights abuses occur in lower tier suppliers. As he put it,

what is known is that it requires lead firms to develop new capabilities that enable them to improve transparency, traceability, inclusiveness and, ultimately, control throughout global supply chains. This includes the development of supply chain mapping capabilities to improve their awareness of who is involved in their supply chains and where labour violations are most likely to sprout. It also includes the capability of supporting tier 1 suppliers to improve their monitoring of labour conditions among sub-suppliers and acting upon violations.¹⁷³

169 CACN, [Evidence](#), 29 November 2022, 2045 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual).

170 CACN, [Evidence](#), 29 November 2022, 2025 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

171 CACN, [Evidence](#), 24 April 2023, 1925 (Alex Payette, Chief Executive Officer, Cercius Group Ltd.); and CACN, [Evidence](#), 29 November 2022, 2000 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

172 CACN, [Evidence](#), 10 December 2022, 1845 (Charles Burton, Senior Fellow, Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute, As an individual).

173 CACN, [Evidence](#), 8 May 2023, 2015 (Ari Van Assche, Full Professor, HEC Montréal, As an individual).



Ari Van Assche expressed that while transparency could improve oversight of company activities, such legislation may have unintended consequences. For instance, he warned that companies might choose to exclude least developed countries from their supply chains to avoid the challenges of complying with transparency laws. He questioned if this would be a beneficial outcome, as it could hinder the integration of these countries into the global economy.¹⁷⁴

Paula Glick noted that for individual investors to make decisions about their investments, “transparency is key.”¹⁷⁵ Laura Murphy suggested that the disclosure of Canadian customs records could be a mechanism to increase transparency.¹⁷⁶

Recommendation 5

That the Government of Canada mandate through legislation that federally regulated public pension plans conduct and report enhanced due diligence for all investments in authoritarian states, enforce penalties for non-compliance, and consult with provinces on harmonizing that approach.

Transparency and Accountability in Public Pension Plan Investments

Several witnesses advocated for pension plans to be required to regularly publish all active and passive holdings.¹⁷⁷ Sam Goodman recommended that Canadian pension funds “regularly publish their full holdings publicly, the holdings of their private funds managers and their passive exposure to index funds.”¹⁷⁸ Concerning transparency,

174 Ibid., 2055.

175 CACN, *Evidence*, 8 May 2023, 2050 (Paula Glick, Co-Founder, Honeytree Investment Management Ltd., As an individual).

176 CACN, *Evidence*, 29 November 2022, 2020 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual).

177 CACN, *Evidence*, 29 November 2022, 2045 (Sam Goodman, Author, Director of Public Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy United Kingdom, As an individual); CACN, *Evidence*, 29 November 2022, 2000 (Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University, As an individual); CACN, *Evidence*, 29 November 2022, 1940 (Geneviève Dufour, Professor of International Law, Université de Sherbrooke, As an individual); CACN, *Evidence*, 19 June 2023, 2000 (Sheri Meyerhoffer, Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise); and CACN, *Evidence*, 24 April 2023, 1905 (Alex Payette, Chief Executive Officer, Cerciis Group Ltd.).

178 CACN, *Evidence*, 29 November 2022, 2045 (Sam Goodman, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK, As an individual).

Ontario Teachers' stated that it would abide by Canadian legislation related to reporting and would disclose its holdings based on that legislation.¹⁷⁹

Several witnesses suggested that the federal government introduce legislation to require federally regulated pension plans to publicly list all investment holdings, with a view to allowing public scrutiny of active and passive investments that could be linked to ESG matters, including companies directly or indirectly linked to human rights violations in China. In terms of transparency and oversight, Margaret McCuaig-Johnston noted that "pension and university funds in Canada must be transparent about their investments in China." She also recommended that "pension funds must be willing to engage in discussion with civil society about their investments."¹⁸⁰

In proposing an instrument to address the issue of Canadian pension funds investing in companies linked to human rights abuses in the PRC, Michel Leduc advocated for "strong, transparent disclosure by all companies in a standardized way."¹⁸¹

Talking about enhanced accountability, Margaret McCuaig-Johnston recommended that the federal government establish a code of ethics for Crown corporations investing public monies. She noted, "while private investors may pursue the highest return independent of ethics, for a Crown corporation investing public monies there is a higher bar, especially when the government identifies human rights as a principal concern."¹⁸²

Recommendation 6

That the Government of Canada request that pension plan regulators, including the Office of the Superintendent of Financial Institutions and provincial counterparts, consider creating a standardized transparency reporting regime for pension plans and institutional investors for active and passive investments.

179 CACN, *Evidence*, 8 May 2023, 2100 (Stephen McLennan, Executive Managing Director, Total Fund Management, Ontario Teachers' Pension Plan).

180 CACN, *Evidence*, 6 December 2022, 1850 (Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa, As an individual).

181 CACN, *Evidence*, 8 May 2023, 1935 (Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs, CPP Investments).

182 CACN, *Evidence*, 6 December 2022, 1850 (Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa, As an individual).



Recommendation 7

That the Government of Canada request that pension plan regulators, including the Office of the Superintendent of Financial Institutions, establish a code of ethics to guide the investment practices of federal Crown corporations responsible for investing public pension funds, with due consideration of human rights matters, corruption and national security.

CONCLUSION

The Special Committee believes that Canadian pension plans should not be investing in companies in the PRC that engage in human rights abuses. Research and reporting from non-governmental organizations, journalists and academics has revealed that some Canadian pension plans are investing in such companies through passive investments, running contrary to the values of Canadians. The Special Committee commends the work of these organizations and groups for shedding light on this issue and thanks them for their testimony.

For this study, the Special Committee heard testimony from representatives of provincially and federally regulated pension plans. Such plans operate at arm's length from the government and are not subject to legislation or regulations that prevent investing in companies that engage in human rights abuses. Since the conclusion of hearings for this study, the Special Committee has learned from media reports that certain Canadian pension funds are pausing new investments in the PRC.¹⁸³ However, based on the suggestions of witnesses over the course of this study, there are additional tools that the federal government should consider to ensure that Canadian public pension funds are not complicit in human rights abuses. This report serves as a culmination of the Special Committee's findings and puts forth our recommendations for addressing this critical issue.

183 Julie Zhu and Kane Wu, "[Canada's largest pension fund trims staff as it puts China deals on hold](#)," *Reuters*, 1 September 2023.

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
<p>As an individual</p> <p>Geneviève Dufour, Professor of International Law, Université de Sherbrooke</p> <p>Sam Goodman, Author, Director of Policy and Advocacy, Hong Kong Watch and Co-Founder and Co-Chair, New Diplomacy UK</p> <p>Laura Murphy, Professor, Human Rights and Contemporary Slavery, Sheffield Hallam University</p>	2022/11/29	9
<p>Hong Kong Watch</p> <p>Aileen Calverley, Co-Founder and Trustee</p>	2022/11/29	9
<p>Uyghur Rights Advocacy Project</p> <p>Kayum Masimov, Project Manager</p> <p>Mehmet Tohti, Executive Director</p>	2022/11/29	9
<p>As an individual</p> <p>Carl Breau, Chief Executive Officer, Saimen Inc.</p> <p>Charles Burton, Senior Fellow, Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute</p> <p>Margaret McCuaig-Johnston, Senior Fellow, Graduate School of Public and International Affairs and Institute of Science, Society and Policy, University of Ottawa</p>	2022/12/06	10
<p>As an individual</p> <p>Mathieu Arès, Full Professor, Université de Sherbrooke</p>	2023/04/24	18

Organizations and Individuals	Date	Meeting
Cercius Group Ltd. Alex Payette, Chief Executive Officer	2023/04/24	18
As an individual Paula Glick, Co-Founder, Honeytree Investment Management Ltd. Ari Van Assche, Full Professor, HEC Montréal	2023/05/08	20
British Columbia Investment Management Corporation Jennifer Coulson, Senior Managing Director and Global Head, Environmental Social and Governance Daniel Garant, Executive Vice-President and Global Head, Public Markets	2023/05/08	20
Caisse de dépôt et placement du Québec Philippe Batani, Vice-President, Communications and Public Affairs Vincent Delisle, Senior Vice-President and Head, Liquid Markets	2023/05/08	20
Canada Pension Plan Investment Board Michel Leduc, Senior Managing Director and Global Head, Public and Corporate Affairs	2023/05/08	20
Ontario Teachers' Pension Plan Stephen McLennan, Executive Managing Director, Total Fund Management	2023/05/08	20
Public Sector Pension Investment Board Eduard van Gelderen, Senior Vice-President and Chief Investment Officer	2023/05/08	20
Department of Finance Kathleen Wrye, Director, Pensions Policy, Financial Crimes and Security Division James Wu, Director General, Funds Management Division	2023/06/19	22

Organizations and Individuals	Date	Meeting
Department of Foreign Affairs, Trade and Development David Hutchison, Director General, Trade Portfolio Strategy and Coordination Jodi Robinson, Acting Director General, North East Asia	2023/06/19	22
Development Finance Institute Canada (DFIC) Inc. Stéphanie Émond, Vice-President and Chief Impact Officer Paulo Martelli, Vice-President and Chief Investment Officer	2023/06/19	22
Office of the Canadian Ombudsperson for Responsible Enterprise Sheri Meyerhoffer, Ombudsperson	2023/06/19	22

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 9, 10, 18, 20, 22, 25-27](#)) is tabled.

Respectfully submitted,

Ken Hardie
Chair

