

MOVING BEYOND VOLUNTARISM

BRIEFING NOTE

Civil Society Analysis of the Government Response to the Standing Committee on Foreign Affairs and International Trade report, on Mining and Corporate Social Responsibility

ISSUE

The government's response to a landmark report on mining and corporate social responsibility by the Standing Committee on Foreign Affairs and International Trade (SCFAIT) is weak and inadequate given the severity of the problem and the strength of the SCFAIT's recommendations.

BACKGROUND

Canada is a leader in the global mining industry, with the almost 60% of the world's exploration and mining companies listed in Canada. While many Canadian companies contribute positively to communities in which they work, some have been implicated in well-documented cases of human rights violations and environmental abuses ranging from the destruction of protected areas, to death threats and assassinations.

Currently, the Government of Canada relies on voluntary standards to encourage good behaviour by Canadian companies overseas, and lacks the legal and policy tools to enforce human rights and environmental standards. The SCFAIT report outlined a number of well-researched options to move the Government beyond its voluntary approach. In its response, the Government rejects these options, proposing instead a process for further discussion and tentative progress.

THE GOVERNMENT'S RESPONSE

1. Roundtables with stakeholders: While an important step, these multi-stakeholder dialogues will remain public relations exercises until the Government commits to change. For credible roundtables that will deliver effective solutions, the roundtables must start from a position that change is necessary and possible, and be targeted, participatory, transparent and accountable.

2. Norms for Corporate Social Responsibility (CSR): The government's suggestion that a lack of clarity on CSR prohibits progress on the file is evasive. In fact, the Committee's report refers to internationally recognized human rights and environmental standards as the appropriate norms. In order to ensure effective implementation of these standards, the Government should put in place an ombudsman with monitoring and investigative powers, and support work underway by a number of organizations to develop human rights impacts assessments of foreign investments.

3. Government support for overseas investments: In the realm of government support for overseas investments, the government commits to identifying, and possibly incorporating, human rights best practices into the policies and practices of Export Development Canada (EDC). This vague commitment for action on the part of the government is inadequate. Many Canadian companies benefit from the government's political assistance (e.g. through embassies and trade commissioners) and financial

support (e.g. through Export Development Canada's project support and political risk insurance), but the Government does not take effective action to ensure that publicly-supported companies comply with international human rights and environmental standards. The government should use new human rights assessment tools, noted above, and existing environmental assessment tools, to condition all public financial and political support, including but not limited to EDC, on human rights and environmental compliance. The Belgian parliament is currently considering legislation linking public support for Belgian companies operating abroad to a set of international standards.

4. Legal norms for corporate accountability: Missing entirely from the government's response is any commitment to establish clear legal norms in Canada to hold Canadian companies accountable for abuses overseas. Following examples in the U.S., with the Alien Tort Claims Act, the Government must address these barriers in Canadian law.

5. The case of TVI Pacific: The SCFAIT's report was based on a set of hearings on the activities of TVI Pacific Inc. in the Philippines. The government resists parliament's recommendation for an immediate investigation of TVI's activities, instead referring the case to the widely criticized OECD Guidelines. The Government should promptly carry out an investigation through consultation with a wide range of concerned and affected authorities, organizations and individuals.

6. OECD Guidelines on Multinational Enterprises: The government makes a number of vague statements about clarification of the mandate of the National Contact Point (NCP) for the OECD guidelines, and incorporation of human rights standards into the OECD guidelines, indicating a lack of commitment to address the shortcoming of the Guidelines. The government should give investigative powers to its NCP, as in Sweden, and take leadership in integrating human rights standards into the Guidelines.

7. UN Special Representative on Business and Human Rights, CSR tools and Corporate disclosure and transparency: The government commits to support the work of the UN Special Representative, and create CSR toolkits for Canadian companies and trade commissions – both welcome but insufficient steps. The government also makes a loose statement on corporate disclosure and transparency, but does not commit to any particular action. The United Kingdom and Norway have been actively promoting progress on this front, through the Extractive Industries Transparency Initiative.

RECOMMENDATION

The government should condition public support for companies on compliance with human rights and environmental standards, and develop legal mechanisms to hold companies to account for their actions overseas.

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