

Canadian Network on Corporate Accountability

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Americas Policy Group

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United Church of Canada

Government's new toothless Review Mechanism underlines why responsible mining Bill C-300 is necessary

Ottawa, October 26, 2010 – One day before the third and final vote in the House of Commons on Bill C-300, the government has launched its Review Process, a dispute resolution mechanism whereby the Extractive Sector Corporate Social Responsibility Counsellor proposes to mediate between aggrieved communities and Canadian mining, oil, and gas companies.

Significant deficiencies render this mechanism inadequate to resolve serious community grievances: the dispute mechanism is voluntary in nature, lacks a transparent fact-finding function and will lead to neither recommendations to government nor to sanctions. Consequently, Bill C-300 remains an important piece of legislation.

The CNCA believes that a voluntary dispute resolution mechanism, such as that proposed by the government, may be useful in some less serious cases, but is inadequate to effectively address most complaints received regarding Canadian extractive companies' alleged misbehaviour. Among the most common complaints received by our network are allegations of serious environmental pollution, collaboration with paramilitary networks and deliberate attempts to corrupt government and the judiciary of the host country where the Canadian company establishes its operations. Companies are unlikely to voluntarily participate in a process to examine such serious charges, limiting application of the Review mechanism to less serious cases.

The CSR Counsellor mechanism lacks an investigative function to clarify disputed facts. It's unclear how the Counsellor will resolve disputes without determining whether allegations are well founded.

Moreover, the Counsellor will not apply sanctions to discourage corporate wrongdoing. The CNCA takes note of recent comments by John Ruggie, the United Nations Secretary-General's Special Representative on Business and Human Rights, on non-judicial grievance mechanisms. Ruggie commented that the withdrawal of public advantages to companies responsible for the most egregious violations must remain an option for states, as "by implicitly rewarding companies that do the wrong thing, it disadvantages those that play by the rules."

The Canadian Network on Corporate Accountability (CNCA) was created in 2005, after the Standing Committee on Foreign Affairs and International Trade recommended that Canadian mining, oil, and gas companies be made accountable to Ottawa for their overseas operations. Since then, the CNCA has called for the Government of Canada to move beyond corporate social responsibility measures that are strictly voluntary. The CNCA has also urged the government to require that Canadian companies operating internationally meet defined corporate social responsibility, human rights and environmental standards as a precondition for both financial and political assistance.

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The 2006 National Roundtables on Corporate Social Responsibility in the Extractive Industries, a landmark process in which the mining industry and civil society organizations participated, addressed these issues and came to unprecedented consensus conclusions and recommendations. This process and its outcome were heralded by John Ruggie as a "model of deliberative democracy." It was also applauded by Prime Minister Stephen Harper.

The Roundtables Advisory Group Report called for the establishment of an independent ombudsperson mandated to investigate allegations of a company's failure to respect human rights and other CSR standards. In serious cases, the ombudsperson could recommend the withholding of financial or diplomatic support by the Government of Canada.

Instead of an ombudsperson, the government appointed a CSR Counsellor for the extractive sector, whose mandate falls far short of the role of the ombudsperson office envisioned by the Advisory Group.

The CNCA believes that this new Review Mechanism will be unable to resolve the majority of complaints that concern the violation of human rights and environmental degradation that arise from the operations of Canadian extractive companies overseas. Bill C-300 comes much closer to implementing the consensus recommendations of the 2006 National Roundtables on Corporate Social Responsibility than anything that the government has yet put forward. The CNCA therefore urges Members of Parliament of all parties to not mistake this Review Mechanism and the government's CSR Framework as a substitute for Bill C-300. MPs should vote for Bill C-300 as a contribution to promoting responsible practices by Canadian companies in their overseas extractive operations.

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