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Chair: The Honourable Judy A. Sgro



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• (1105)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I call the meeting to order.

This is meeting 47 of the Standing Committee on International Trade.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022, and therefore members are attending in person in the room and remotely by using the Zoom application.

I need to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. When speaking, please speak slowly and clearly. For those participating by video conference, click on the microphone icon to activate your mike and please mute yourself when you are not speaking.

With regard to interpretation, those on Zoom have the choice at the bottom of the screen of either floor, English or French. Those in the room can use the earpiece and select the desired channel.

This is a reminder that all comments should be addressed through the chair. For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as best we can. We appreciate your patience and understanding.

Please also note that during the meeting you are not permitted to take pictures in the room or take screen shots on Zoom.

In accordance with the committee's routine motion concerning technical tests for witnesses, I am informing the committee that all witnesses have completed the required tests.

Should any technical challenges arise, please let me know, and we will then suspend to ensure that everybody has full translation.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Wednesday, February 20, 2022, the committee is beginning a study of environmental and human rights considerations regarding Canadian mining firms abroad.

I welcome all of our witnesses and colleagues who are here today.

With MiningWatch Canada by video conference, we have Catherine Coumans, research coordinator. From Oxfam Canada, we

have Ian Thomson, manager of policy. From Prospectors and Developers Association of Canada by video conference, we have Lisa McDonald, executive director, and Jeff Killeen, director of policy and programs.

I'm told that the witnesses from the Prospectors and Developers Association are with us for just an hour, so we will try to ensure that committee members get their questions asked before they have to depart.

We welcome you all. We'll start with opening remarks.

Dr. Coumans, I invite you to make an opening statement of up to five minutes, please.

Ms. Catherine Coumans (Research Coordinator , Mining-Watch Canada): Thank you.

Since 1999, MiningWatch Canada has been working with mining-affected communities and indigenous peoples struggling to protect their human rights and their environment from egregious impacts and abuses by Canadian mining companies operating in Africa, Latin America and the Asia-Pacific region.

For over 20 years, we have been dealing with the brutal realities of violent evictions of indigenous peoples from their homes by mine personnel, shootings of local men and boys, and brutal rapes of women and girls by mine security, as well as the use of forced labour in places such as Papua New Guinea, Tanzania, Guatemala and Eritrea.

We work with communities facing health crises and the loss of food security because of rivers and groundwater contaminated by mine waste, as well as the pollution of soil and air from mineral processing at mine sites. We grieve with communities over the loss of indigenous sacred sites and over the loss of life due to catastrophic tailings dam failures in places such as the Dominican Republic, Brazil, Argentina and the Philippines.

These environmental and human rights abuses have not diminished in the 23 years that I have been working at MiningWatch Canada. Year after year, the mining industry is expanding its global footprint—often in countries with weak governance—in search of new lucrative ore bodies, expanding into ever more remote and often indigenous territories and into critical ecosystems such as the Amazon, the paramos and glaciers. Year after year, we are confronted with new communities desperately seeking protection from the harm they've endured because of the operations of a Canadian exploration company or junior or senior mining company in places such as Kyrgyzstan, Chile, Ecuador, Colombia, Mexico and small islands in Indonesia and the Pacific.

The common denominator that ties together these human rights and environmental abuses by Canadian mining companies operating overseas is a lack of accountability. We are not talking about a few bad apples here; we're talking about a systemic reality in which Canadian mining companies, large and small, are operating with effective impunity—impunity that enables and drives further abuses.

Since 1997, nine cases have been filed in Canadian courts against Cambior, Copper Mesa, Anvil, Hudbay, Tahoe and Nevsun for allegations arising from their overseas operations. These cases concern assaults, shootings, gang rapes of local indigenous peoples by mine security, the use of slave labour and the contamination of a river by mine waste.

These are just the tip of the iceberg of egregious harm inflicted, as it remains extremely difficult to overcome formidable legal hurdles such as *forum non conveniens* and the corporate veil to bring cases in Canada. The most recent case filed in Canada was just in November 2022, and is it against Barrick Gold, a member of the Mining Association of Canada. This is the third case filed against Barrick and its subsidiaries since 2015 on behalf of victims of violence by mine security and police guarding Barrick's North Mara gold mine in Tanzania. We're talking about the rape, killing and maiming of local Kuria people by mine security. These have been repeatedly reported since at least 2009.

Additionally, villagers are currently being forcibly evicted to make way for mine expansion. Under armed police guard, distraught parents and children look on in horror as their homes are bulldozed while their clothes are still drying on the line. There is no resettlement plan for these already vulnerable indigenous people, who now face homelessness and food insecurity.

Since 2007, five U.N. treaty bodies have focused specifically on harm caused by Canadian mining companies operating overseas and have reminded Canada of its duty to protect human rights at home and abroad. In 2016, the international Committee on Economic, Social and Cultural Rights asked Canada to “develop a legal framework that affords legal remedies to people who have been victims of activities of such corporations operating abroad.” Canada must finally take comprehensive and effective action.

• (1110)

We know what must be done: Canada must implement mandatory human rights and environmental due diligence legislation, as detailed in private member's Bill C-262, tabled in March 2022. Canada must give the Canadian ombudsperson for responsible enterprise investigatory powers to compel witness testimony and docu-

ments, as committed to by the government in 2018 and as proposed by a majority of members of the foreign affairs committee in their report of June 2021.

Thank you.

The Chair: Thank you very much.

We'll go on to Mr. Thomson, please, for up to five minutes.

Mr. Ian Thomson (Manager of Policy, Oxfam Canada): Thank you, Madam Chair, and thank you, all members of the committee, for inviting Oxfam here today.

My name is Ian Thomson. I am the manager of policy at Oxfam Canada.

Oxfam Canada and Oxfam-Québec are part of a global confederation that is active in 87 countries around the world and is working to fight poverty and inequality. We put gender justice and women's rights at the heart of everything we do.

Together with civil society partners and people's movements around the world, Oxfam is working for greater accountability in the mining, oil and gas sectors because we've seen first-hand how these industries can exacerbate inequality if left unregulated.

Oxfam has documented an entrenched gender bias in the mining, oil and gas industries whereby women, girls and gender-diverse people are less likely to derive benefits such as well-paid jobs, contracting opportunities and compensation for land use. They are also at greater risk of being harmed by gender-based violence, housing shortages and other things that particularly affect women living in poverty.

It's not only Oxfam that is observing this troubling pattern. Last year the Responsible Mining Foundation published a report that revealed that the mining industry had made little to no progress on gender equality. It reviewed the practices of dozens of major mining companies against 16 different metrics and assessed over 250 mine sites around the world. Sadly, no Canadian mining company made it into the list of the top 10 of those taking action on gender equality.

Canadian parliamentarians have spent the past two decades holding periodic studies on the harmful impacts of Canadian mining firms operating abroad, yet Parliament has failed to enact any meaningful legislation to address the problem.

Since the time that Mr. Jean Chrétien was prime minister, human rights defenders from the Philippines, Congo, Guatemala, Mexico and countless other countries have met with parliamentarians to tell them first-hand about the human rights violations associated with Canadian corporate activity abroad, be it targeted killings, forced displacements, gang rape, forced labour or other egregious violations of human dignity. However, the federal government, regardless of the party in power, has shown a complete lack of political will to set clear, enforceable norms for the industry when operating abroad.

What's going to be different this time? How will the members of this committee distinguish this study from others that came before it?

We believe there is a new urgency to take action here in Canada to address these governance gaps. If we're not doing business to the highest ethical standards, we will alienate our trading partners and fail to gain the support of local communities to host the mines of tomorrow.

Our Deputy Prime Minister has spoken about deepening trading relationships with Canada's friends, but we won't strengthen our friendships if our companies operate abroad with little regard for human rights and the environment. On the contrary, it's bad business and bad diplomacy to rely solely on voluntary measures when it comes to responsible business conduct.

Oxfam would like to present three policy recommendations that we believe this committee should endorse to increase accountability and responsible conduct in the mining sector.

The first recommendation is to adopt new legislation in Canada that would mandate Canadian companies to conduct comprehensive due diligence around human rights and the environment in their operations and their global supply chains. Oxfam recently submitted a brief to the foreign affairs and international development committee outlining our priorities for such legislation.

In short, Canada should ensure that its legislation covers all human rights and all sectors of our economy, and provides redress for people who believe their rights have been violated by Canadian companies.

Fortunately, the Prime Minister has already asked Labour Minister O'Regan to table such legislation in the current session of Parliament. To date, the minister has not outlined how he will be advancing this part of his mandate, and would likely welcome advice from this committee.

Oxfam's second recommendation is to strengthen the office of the Canadian ombudsperson on responsible enterprise, which was announced by this government five years ago but has yet to fully investigate any Canadian mining companies.

Why is that? People who believe they've been harmed by Canadian mining companies are not bringing complaints to the CORE because the government has given the office a very weak mandate and hindered it from conducting thorough and independent investigations. A strengthened ombudsperson could go a long way toward improving respect for human rights in the mining sector.

• (1115)

Our third recommendation is for Canada to adopt an explicit feminist foreign policy without delay. A feminist foreign policy would help to ensure that the international trade dimensions of our foreign policy live up to Canada's feminist aspirations. Trade agreements would then introduce binding clauses on realizing gender equality and human rights, not just voluntary clauses on corporate social responsibility. We believe that by taking such actions, Canada will raise the bar on its mining industry and ensure that people who are most at risk from mining operations will no longer be harmed and will benefit from resource development.

Thank you for the opportunity to speak with you today. I look forward to answering any questions you may have.

The Chair: Thank you, Mr. Thomson.

We now have Ms. McDonald for up to five minutes, please.

Ms. Lisa McDonald (Executive Director, Prospectors and Developers Association of Canada): Thank you, Madam Chair.

Good afternoon, Chair and committee members. Thank you for inviting PDAC to appear today on behalf of Canada's mineral exploration industry.

I first want to acknowledge that I come to you from Toronto, on the traditional lands of the Huron, the Chippewa, the Haudenosaunee, Wendat and Oneida peoples, the Anishnabeg, the Mississaugas of the Credit and all of the indigenous nations who have lived on these lands over the centuries.

The Prospectors and Developers Association of Canada, PDAC, is the leading voice of the mineral exploration and development industry, with over 6,000 members in Canada and around the world, including nearly 1,000 corporate members. Notably, Canada's mineral industry consists of more than 1,100 public companies representing one-third of all listings on Canadian exchanges.

We understand that the Canadian mineral industry is a key component of our economy and that the demand for critical minerals will increase substantially as jurisdictions around the globe attempt to lower carbon emissions and expand renewable energy sources. There is simply no energy transition without minerals, and PDAC focuses our work on supporting a competitive, responsible and sustainable mineral industry that can help drive this change.

With these hallmarks in mind, the objectives and strategic goals of our association align with the recently released Canada's critical minerals strategy. We recognize how establishing new critical mineral supply chains will be a catalyst for economic growth and will create well-paying employment opportunities across our country and in many regions around the world. We also understand that mineral explorers and developers working at home and abroad must continue to evolve best practices to attract the people, access the land and generate the capital needed for Canada's critical minerals strategy and a sustainable future to become reality.

From governments, there must be clearly defined development pathways for viable critical mineral deposits in Canada in order to meet our emission, conservation and biodiversity-related objectives.

From industry, we must continue to ingrain environmental, social and governance standards into the mineral exploration and development process that place human rights as a central pillar. Such actions can lay groundwork for collaborating with other nations and allow Canadian companies to export responsible mineral exploration and development activities around the world.

Part of our work at PDAC is to develop tools that support industry. The year 2023 marks the twentieth anniversary of what we originally named "e3", which is now e3 Plus, a framework for responsible exploration. This guidance suite provides mineral exploration companies with the tools needed to improve their social, environmental and health and safety performances. This framework includes specific content on human rights and environmental stewardship and outlines how to conduct risk assessments to identify potential direct and indirect impacts on human rights in advance of exploration. Our e3Plus also outlines how companies should review and update risk assessments regularly as they move through different stages of the exploration process.

PDAC has actively engaged and supported the Canadian ombudsperson for responsible enterprise, CORE, in developing their mandate. We also remain committed to working with Global Affairs Canada, NRCan, the CORE, the trade commissioner service and others to ensure that Canada's mining and exploration sector can continue to be a global leader in sustainable and responsible practices.

We are widely recognized for the PDAC annual convention that brings mineral explorers, developers and miners from more than 100 countries together in one place to connect. Convention programming provides a venue to share perspectives, offer professional education and create a collaborative environment to share best practices.

Our suite of programs for 2023 includes "Changing global rules? The impact of EU's raw materials strategy", which will see European representatives discuss the impact of governmental strategies on Canadian mineral exploration companies operating in and outside the EU. We are also offering "Navigating complex waters: Tools for security, conflict, and human rights", which is a session tailored specifically towards providing guidance to mineral exploration and mining companies on respecting human rights in operational security.

We have sent invitations to all Canadian parliamentarians to attend PDAC 2023. We certainly encourage members of this committee to attend our convention and in particular to take part in our dedicated sustainability program. This program will host the sessions I just mentioned, plus other topics ranging from ESG disclosure, co-operative agreement development and creating harassment-free work environments that are safe for all.

● (1120)

We will be sure to send this invitation directly to the committee's clerk to ensure that it is at your disposal.

Our association does not ignore the fact that the mineral exploration and mining industry has made missteps in the past. However, in the vast majority of cases, Canadian companies operate to the highest standards, both within and outside of Canada. PDAC and our e3 Plus framework, along with other cohort associations like the Mining Association of Canada—which was not able to be here with us today—and its Towards Sustainable Mining initiative are built expressly to help accelerate the adoption of best practices in regions that may have less regulatory oversight and to export Canadian values abroad.

Thank you for your time. I and my colleague, Jeff Killeen, will welcome any questions.

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

We'll go on to our members.

Mr. Baldinelli, you have six minutes, please.

Mr. Tony Baldinelli (Niagara Falls, CPC): Thank you, Madam Chair. Thank you to the witnesses for being with us today.

I'm going to begin with a little preamble.

In January of 2018, the federal government announced the creation of the office of the Canadian ombudsperson for responsible enterprise, also known as CORE, and the creation of a multi-stakeholder advisory board called the advisory body on responsible business conduct to advise the government on matters of responsible business conduct abroad.

Through the briefing materials that we received from our analysts—and they were excellent, so thank you—I understand that two of the three witnesses present today had a role on this advisory board. The Prospectors and Developers Association of Canada was named as a member in the government background document from 2018. MiningWatch Canada was referenced in a news release published on Amnesty International Canada's website on July 11, 2019.

With just a simple yes or no, can both organizations please confirm that they were members of this advisory board between the dates of January 17, 2018, and July 19, 2019?

Ms. Lisa McDonald: Yes, I can confirm that on behalf of PDAC.

Ms. Catherine Coumans: MiningWatch Canada was a member of the MSAB in a back-up position.

Mr. Tony Baldinelli: Thank you.

The Amnesty news release identified MiningWatch Canada as one of 14 civil society and labour unions to unanimously resign from this advisory board on July 11, 2019. According to the release, the reason for this mass resignation was the erosion of trust and confidence in the Liberal government's commitment to international corporate accountability.

It goes on to say that “the CORE remains without meaningful power to serve impacted communities and workers. Civil society believes the government will not provide the promised investigatory powers before the upcoming federal elections.”

I'm going to begin with Ms. Coumans.

What frustrations did MiningWatch Canada and other civil society and labour groups have towards the Liberal government and its position at this time?

• (1125)

Ms. Catherine Coumans: Thank you for that question.

Yes, that's going back a ways. I think it's a very important question, because in 2018, the Government of Canada made a commitment, in the creation of the Canadian ombudsperson for responsible enterprise, that this officer would have the investigatory powers to compel documents and witnesses, yet a year later, when Sheri Meyerhoffer was installed as the first ombudsperson, she was not given those powers.

It was on the Government of Canada's website that she would have these powers. She in fact took the position assuming that she would have those powers. She was not given those powers. This is critically important.

There was an erosion of the commitment that had been made compared to what actually ended up happening when she was installed because there was a huge lobbying effort against those powers. This was right in the public realm. The Mining Association of Canada made public statements in the media saying that they opposed the ombudsperson having those powers.

The reason it's so critically important for her to have those powers is that without them, you have a he-said, she-said situation. The community says that their animals are dying when they drink from this river, that they can't bathe in the river, that they get sores. The company says that they've done testing and it's fine, but they don't have to provide those documents.

There's no—

Mr. Tony Baldinelli: Thank you for your comments.

I'm going to follow up with another question for you, just to build on that.

Would you say MiningWatch Canada felt deceived by the government in terms of the establishment of this advisory body?

Would it be fair to say that this body was set up more for political reasons, at a time coming into a federal election, rather than to implement needed change?

Ms. Catherine Coumans: I don't know if it was put in for political reasons, but what I do know is that when we participated in that body, it became very clear very quickly that the issues that really needed to be dealt with—the fact that the CORE needed to have the powers that she needed, the fact that we needed to start talking about legislation, mandatory human rights and environmental due diligence—were not going to be addressed in that committee.

There were lots of problems with the way it was set up, with the types of issues that were being proposed, and it was held in check very strictly by the secretariat. We had very little input on what was actually going to be discussed. When it became very clear that the ombudsperson was not going to be granted the powers that she needed to be effective, there was a resignation of all the civil society and union members.

Mr. Tony Baldinelli: Following up on that, in the Amnesty International news release from July 11, 2019, Emily Dwyer, from the Canadian Network on Corporate Accountability, was quoted as saying, “Without independence and investigatory powers, the CORE amounts to nothing more than a broken promise.”

Do you agree it was a broken promise by this Liberal government?

Ms. Catherine Coumans: It was definitely a broken promise. It was more than a promise; it was a commitment. This was actually publicly stated by the Government of Canada. At that time the minister was François-Philippe Champagne, and the commitment was made very publicly.

In fact, when the commitment was broken, there was a further process. There was actually someone hired to look at the judicial aspects of providing the CORE with those powers. There was a report that came out of that, and that report was withheld. That report was leaked during hearings in 2021. In that report, it was clear that those powers could be granted and that the CORE would be more effective with those powers. This was in a foreign affairs committee hearing in 2021.

The Chair: Thank you very much.

We move on to Mr. Arya, please, for six minutes.

Mr. Chandra Arya (Nepean, Lib.): Thank you, Madam Chair.

My question will be for Ms. Lisa McDonald of the Prospectors and Developers Association.

First of all, I would like to place on record my appreciation for the contributions of the mining sector to our country's prosperity and the standard of living that we currently enjoy. Some of us with comfortable paycheques who live in urban centres in our comfortable homes don't really appreciate the hard work done by the men and women working in the mining sector in a tough physical environment.

The mining companies and the several generations of Canadians who have worked for those companies have contributed greatly to our current status in the world. According to the numbers I have, in 2020, I think the mining sector contributed about \$107 billion to GDP and had about \$103 billion in export.

I also understand the high amount of capital that is risked in prospecting and in developing a mine and the long-term nature of developing a single mine, especially when almost 730 of Canada's 1,350 mining companies have operations abroad. I know how tough it is to enter into these markets in Asia, Africa and South America and to operate there, so I would like to place on record the contributions of the mining sector to Canada's prosperity today.

As we did in the past, we are once again banking on the mining sector going forward too. The single biggest technology change that is available to us to fight climate change is the energy transition in adopting battery-operated electric vehicles and also in adopting a battery for energy storage, making our solar and wind energy projects much more viable. Again we call upon the mining sector to contribute in developing critical minerals in Canada. We have announced our critical mineral strategy, which I think was in part developed in consultation with the mining sector in Canada.

On that, we can have discussions with Ms. McDonald later on, offline, because this study is on the operations abroad, with 730 Canadian companies operating in many different countries, especially in South America and Africa.

My question to Ms. McDonald is this: What kinds of competition are you finding these days in developing mines abroad?

Having been born in a developing country, I really appreciate that mining projects bring much more economic development to the local community than any other aid given to these poor countries. With the changing global scenario, what are the challenges you are finding, and what kind of competition are you finding, for Canadian companies setting up mining projects in Africa, South America and other countries?

• (1130)

Ms. Lisa McDonald: Thank you.

Certainly Canadian mining companies are operating in extremely complex environments around the world.

I'll pass it over to Jeff Killeen, my colleague, to elaborate.

Mr. Jeff Killeen (Director, Policy and Programs, Prospectors and Developers Association of Canada): Thank you, Lisa.

Thinking of our membership base, the exploration and development companies that operate in and outside of Canada, that is a critical part of the supply chain, and it is arguably one of the more capital-risky and labour-intensive parts of the business. A Canadian exploration company that moves outside of Canada is obviously, in most cases that we represent, a smaller business. It would be considered a small or medium-sized enterprise at best, and it often has a relatively small management group.

Having the skills to be able to operate on the ground from a technical perspective is often where these companies come from. Learning the capacity to operate outside of Canada in foreign juris-

dictions with different regulatory processes is not a small challenge in and of itself, and it is obviously something that we as an association try to help our members do with some of the pieces that Ms. McDonald has mentioned already. Certainly it is a challenging environment for a small company with a small contingency to look at a foreign country and a foreign regulatory process and be able to manage through that. Then you add on the fact that—

Mr. Chandra Arya: I'm sorry; I have one more question for Ms. McDonald—two things, actually. One is the availability of capital for Canadian small and medium-sized mining companies going abroad.

Second, in any given sector, given the large number of companies operating, there will be some black sheep companies that don't adhere to the code of conduct to which your association subscribes. What do you do in those cases?

• (1135)

Mr. Jeff Killeen: On your first question with respect to access to capital, it is obviously something that is required for these businesses to move forward, because most exploration companies are non-revenue-generating, so without new investment coming into the company, there is really no feasibility to move forward.

We saw this market turn south or downturn with respect to the overall broader markets in 2022, and the amount of capital raised by the sector generally was down, I think, over 25% or 30% year over year. The overall access to capital for exploration is starting to squeeze.

Arguably as well, when you think of projects outside of gold and copper, some of the more traditional commodities, and look into rare earths or some of the critical minerals, the lead time for exploration, the amount of time for development and for that return of potential revenues to the market is even more protracted. It is even more challenging if a smaller company is looking for investment and is looking for lithium or rare earths, because that overall production scheme is more complex and the time is more expansive.

The Chair: Thank you very much.

We go to Mr. Savard-Tremblay for six minutes.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ): Thank you, Madam Chair.

Thank you to all the witnesses for being here and hello to my colleagues.

We have the pleasure of discussing this matter, although I'm not sure "pleasure" is the right word.

I have had the opportunity to visit mining regions in Chile and Colombia. That is why I insisted that the committee conduct this study. I have heard stories of local populations being driven out, water and air being poisoned, and persons allegedly being assassinated by the private security services of these mining companies. These projects are often accepted by local populations in exchange for promises of jobs. They are often empty promises, however, because the mining companies also bring in their own staff.

My question is for Ms. Coumans, from MiningWatch Canada. Please be concise because I have a number of questions for you.

First of all, is it true that in many cases these mining companies are Canadian on paper only? In fact, the legal and tax environment in Canada, as well as the speculative benefits of the Toronto Stock Exchange, make Canada a real flag of convenience for mining companies the world over who register here to obtain certain benefits.

[English]

Ms. Catherine Coumans: Let me just answer two things.

First of all, in my presentation I gave an awful lot of a variety of both environmental and human rights issues and I named many countries. All of those have actual cases behind them, and we will be providing a brief with far more information.

Yes, there is a really big problem, and, yes, there is also this very interesting phenomenon of a lot of companies having headquarter in Canada but not having much more here than an office mailbox.

In fact, I'm in Vancouver right now on exactly such a case. I'm here for a conference on the oceans, and Canada is now moving into deep seabed mining. There's a Canadian company called The Metals Company that is pushing deep seabed mining to go ahead. If you go to their headquarters, basically all you find there is a mailbox. There is no person there. We were there the day before yesterday.

It is definitely an issue that companies headquarter in Canada for tax reasons. It's sometimes called snow washing. There are other reasons as well. There is expertise that exists in Canada, but they have very little actual presence here.

[Translation]

Mr. Simon-Pierre Savard-Tremblay: So this issue certainly needs to be addressed then.

You talked a bit about the ombudsman, but I will ask you nonetheless if you think the ombudsman has sufficient powers.

Please answer yes or no.

[English]

Ms. Catherine Coumans: No. We do not believe she does, because she still does not have the powers, five years after her office was created, to compel witnesses and compel documents. That was something that the Government of Canada recognized as critically important, and it committed that she would have those powers when the office was first announced.

[Translation]

Mr. Simon-Pierre Savard-Tremblay: In 2009, the Bloc Québécois, which is my party, introduced a bill to create a commission of inquiry that would have been independent from political power. It would have had the necessary resources to conduct its own investigations and to appeal directly to Global Affairs Canada if the department had offered support to those mining companies in order to encourage or force the department to withdraw that support.

That brings me to my next question. Have you heard of Canadian embassies providing diplomatic support to mining operations in foreign countries?

[English]

Ms. Catherine Coumans: Diplomatic support to Canadian mining companies operating overseas through the trade commissioner service is ongoing in all cases that we're aware of. There's a really big problem of accountability there as well.

There is something called an integrity assessment or agreement that mining companies are supposed to sign if they want to have trade commissioner support, but when we come across really egregious cases of human rights abuses or environmental abuses by a Canadian mining company and we know that there's been trade commissioner support, sometimes through access to information or very overtly through the media, and we ask whether this company has signed such an integrity agreement, that's confidential information. There's no way for us to hold either the company or even the government to account for how it is supporting this company, often quite overtly, and yet this company's being accused of very egregious harms.

So yes, Canadian companies get a lot of political support. It's not just financial support that they get; it's also political support. This is also an issue of Canadian government accountability.

● (1140)

The Chair: Mr. Killeen, you have your hand raised. This is Monsieur Savard-Tremblay's time. Do you want Mr. Killeen to answer your question?

[Translation]

Mr. Simon-Pierre Savard-Tremblay: I would like to ask another question first. If I have time left, I will go back to Mr. Killeen.

Ms. Coumans, have you also heard of projects financially supported by Export Development Canada which have involved the violation of human rights, environmental rights or social rights?

[English]

Ms. Catherine Coumans: I'm not sure on the exploration side. It's certainly on the exploitation side, yes, on the major projects that our mining companies are operating overseas.

[Translation]

Mr. Simon-Pierre Savard-Tremblay: Let me just say that I was not referring to the export sector, but rather to Export and Development Canada, the Crown corporation.

[English]

Ms. Catherine Coumans: Yes. As I said, I'm not aware of exploration companies that are supported by Export Development Canada, but I am aware that we have run into companies that have been supported by EDC that are actually mining and exploiting mines.

The Chair: Thank you very much.

We'll go to Mr. Cannings for six minutes, please.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Thank you.

Thank you to the witnesses for being here.

I'd like to thank my colleague Monsieur Savard-Tremblay for bringing forward this motion. I've encountered this issue numerous times in my time here in Ottawa.

I was at the ParLAmericas meeting on the side of the Summit of the Americas meeting last spring in Los Angeles, where I talked to a number of Latin American parliamentarians. A woman representing Chile was there. All she wanted to talk about was Canada's terrible reputation in Chile with regard to mining. There were similar comments from the representative from Guatemala. I've met with indigenous groups here in Ottawa from Colombia who, again, had serious problems with the conduct of Canadian mining companies in Colombia.

With that background, I'd first like to ask Mr. Thomson a question.

He mentioned three recommendations. One of them was to have new legislation to focus on companies that are not acting well now. The second one was to strengthen the ombudsman's role. Those are two things that the NDP put forward in private members' bills, Peter Julian on the first and Heather McPherson on the second.

Are you familiar with those legislative efforts by the NDP? How well do they match up with your recommendations?

Mr. Ian Thomson: Oxfam Canada is aware of both of those private members' bills and fully supports them. We would like to see those changes brought about.

Mr. Richard Cannings: Can you expand on both of those? You mentioned due diligence regarding human rights and providing redress. Would you like to expand on that first one, and what you would like to see?

• (1145)

Mr. Ian Thomson: Certainly. Mr. Julian's bill really brings about the comprehensive due diligence framework that we believe Canada needs so that all of our companies are aware of their human rights responsibilities and make sure that they respect human rights in all of their operations and throughout their global supply chains.

At the moment, there is no enforceable standard. Some companies do it, but many companies do not, so that puts a lot of Canadian

an investment at risk. It also puts a lot of people in harm's way, depending on where a Canadian company might be operating. A consistent framework that covers all human rights and expects all companies to exercise their due diligence is an emerging global standard that we feel Canada must also adopt.

We see that the European Union is developing a due diligence framework, and we think that is going to be the trend. We really have to get ahead of this, and our businesses really need to do this due diligence to ensure that they're operating responsibly.

On the ombudsperson, we met with the ombudsperson on the first day she was appointed. Oxfam brought some partners from Mexico and Guatemala who had been harmed by Canadian mining companies to meet with Ms. Meyerhoffer on the very first day to say that these problems are serious and that this office is needed but that we are not confident that your mandate is sufficient to give us redress in the cases we're facing. We have been telling the government and the CORE since day one that we need stronger powers in order for that office to be effective, and we would welcome the passage of Heather McPherson's private member's bill to strengthen that office.

Mr. Richard Cannings: Thank you.

I'd like to turn to Ms. Coumans again to comment on both those actions, if she would like to expand on those two recommendations.

Ms. Catherine Coumans: I think it's really important to know that the Canadian Network on Corporate Accountability, which has over 40 member organizations across Canada, created draft legislation, and that draft legislation was for mandatory human rights and environmental due diligence. It was adopted into the bill that Peter Julian tabled in March of last year, BillC-262.

Heather McPherson's bill was on the CORE, and that was BillC-263.

Just to briefly talk a little bit more about the mandatory environmental and human rights due diligence, what this bill would require is that companies headquartered in Canada would report regularly, probably yearly, on risk that they have established throughout their entire supply chain. They have to look to see if there are human beings at risk or environments at risk through their operations and the operations of their subsidiaries and contractors. They then have to report on the risks that they've identified.

Beyond that, they would now also have to address that risk. They would have to actively make sure that if people are being abused through slave labour and all of the things that I talked about, such as forced evictions, killings by security guards, rapes and all of the things that are going on at various mining companies, they have to be addressed—not just reported on, but addressed.

Finally, the last really important point is that if those issues are not addressed, people can bring a court case to Canada. There will be a cause of action created through this legislation that allows people to bring a case against the parent company in Canada. They wouldn't have to worry about *forum non conveniens* or about the corporate veil. That's really important.

The Chair: Thank you, Ms. Coumans.

We'll move on to Mr. Carrie for five minutes.

Mr. Colin Carrie (Oshawa, CPC): Thank you, Madam Chair.

Thank you to all the witnesses for being here today.

I want to start with Ms. McDonald.

You mentioned in your opening that you're a supporter of rare earth mining. We just did a study that involved the Inflation Reduction Act, and the United States and Canada are moving forward with mandates. In terms of the amount of money the Americans are putting into it, there's a credit of \$3,750 U.S. for a vehicle containing an electric battery having specific percentages. What's happening is that those percentages are increasing. It's 40% by 2023, 50% by 2024, 60% by 2025, 70% by 2026 and 80% by 2027 and thereafter. It is significant.

These are already called rare earth minerals. I was just wondering if we can meet these governments' mandated targets for these batteries. What's your opinion on that?

• (1150)

Ms. Lisa McDonald: Certainly, as you say, we see that there is ever-increasing demand for these kinds of minerals with that switch to the lower-carbon energy sources.

Jeff, can you elaborate a bit more on the complexity of critical mineral exploration development?

Mr. Jeff Killeen: Yes, certainly.

Before I start, I want to offer this to some of the comments we have heard about operating abroad. There's an inference that there are rampant human rights abuses or other types of actions. We would argue that this is just not the case.

There are certainly incidents that happen and there are assets and places in the world where we have seen it. As Lisa mentioned in her opening remarks, that's not something that we ignore as an association, but by and large, Canadian companies operating abroad do bring best practices to their operations.

We are seeing our colleagues at MAC bringing out the TSM protocol, the "towards sustainable mining" protocol. Now nine different nations have signed on to that, which requires reporting on things like human rights. It requires assessments and it is done through third party verification. We are seeing that grow within the Canadian marketplace more and more.

With regard to rare earths specifically, rare earths actually aren't that rare in terms of where they can be found. My background is in geology. The concentration of rare earths in a deposit to a point where it is an economic deposit is where the challenge mostly lies.

With respect to the timeline of what our demands look like in this day and age and what our capabilities are to service those demands in terms of Canadian production, it doesn't look like we would have the capacity to feed into the marketplace the amount of lithium, rare earths or graphites that are being projected forward. That's why the critical minerals strategy here at home—that's an evergreen document—is so important, and why the intergovernmental coordination of our efforts to protect 30% of Canada's lands and oceans and reach net zero by 2050 should be a step coordinated with our critical mineral strategy in understanding where we can take our exploration activities and where we can develop new assets. It's going to be inherently important.

I would argue we're behind the curve already. We need to do more to get in front of that curve, but it is only going to happen with coordination between the government and the people within Canada.

Mr. Colin Carrie: This is an opinion question. Can we meet those deadlines for those mandates?

Mr. Jeff Killeen: We always like to ground our thoughts in evidence, I would suggest, Mr. MP. When we think of the imperative here in Canada, just based on our current population base... Clean Energy Canada, another group here in Ontario, did a study last year. It suggested that somewhere around 113 dams the size of the Site C dam in B.C. would be required for Canada to reach net zero.

When we think of 2050 on the calendar, that means we would have to build a dam about every three months here in Canada. That already suggests that we're not doing those types of electrical transition infrastructure developments, that we're already behind the curve and that it will be a challenge for us to meet 2050 goals, based on what we have here in Canada from an infrastructure base and from a mineral base.

Mr. Colin Carrie: Thank you very much.

I have less than a minute left, but when we are looking at rare minerals, I know one of the countries that we compete against internationally is China. When the opportunity is there to extract these important minerals, if the Canadians don't do it, maybe the Chinese are going to do it. Could you compare the environmental and accountability measures that the Canadian companies have against some of our competitors, such as China?

If we need these minerals, do you think Canada is better placed to extract them in a very environmentally sound manner, versus some of these other countries?

The Chair: Somehow give a brief answer, sir.

Mr. Jeff Killeen: From a broad-stroke basis, Mr. Carrie, yes. Canadian companies operate in a much more transparent and above board perspective relative to a Chinese company or a state-owned enterprise from China.

The Chair: Thank you very much.

Mr. Virani, you have five minutes, please.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thanks.

I want to thank all the witnesses.

I'll direct some of my questions to you, Ms. Coumans and Mr. Thomson, but with a bit of a preamble.

Obviously you've heard different types of questions from some of the members here. One thing that's critically clear—pardon the pun—is that the race for critical minerals is on. Mining is not going away any time soon. In fact, it's probably going to intensify around the planet, particularly on the continent of Africa. There our biggest competitor is China, as I think we all know. What we're trying to do is ensure that the mining that exists right now continues to be done to a better standard. I think you will probably find unanimity here. Things can be done better. I say that as a parliamentarian and a former human rights lawyer and parliamentary secretary to Minister Ng.

I'll say to MiningWatch and Oxfam that I think you're seeking further powers, roles and responsibilities, and that's completely fair. I think—and it should be clear to Canadians and parliamentarians—that what we've done so far, and what we're doing, are also fair. The “towards sustainable mining” initiative is a good one. We led on that, and nine countries are participating now. I think the fact that we created a CORE.... I appreciate that you have concerns about CORE's powers, but the fact that we have a CORE—we're the only nation on earth that does—is important. They've already started receiving cases—13 so far—and launched a garment study, which they're hoping to publish soon. These are important steps.

I think it's also important to talk about gender inclusivity and acknowledgment that on trade, Mr. Thomson, we are the government responsible for having a gender chapter included in the renegotiation of CUSMA. We are working to take steps, but I candidly take, in open and good faith, your criticism that more needs to be done and that you want it done more quickly.

Apropos of that, I'm wondering about something in particular that I personally worked on: the relaunch of the RBC, the “responsible business conduct abroad” strategy. This is a question for both Ms. Coumans and Mr. Thomson. We tried to give that some incentives. One of the incentives I'm talking about is, “You will be deprived of trade commissioner services unless you agree to abide by this new strategy.” We're trying to give it a “quid pro quo”, so to speak.

Ms. Coumans, I'm quite concerned by the fact that you said you're not able to access which companies operating abroad have signed on to previous integrity declarations. Can you give us your opinion about this quid pro quo that we included in the new RBC strategy? Second, are you able to access, right now, whether company A operating abroad has signed on to such an undertaking pursuant to the new RBC code of conduct?

It's over to you, Ms. Coumans.

• (1155)

Ms. Catherine Coumans: There are a number of things.

To answer your immediate question, no, we still cannot access that information. In fact, I've just recently been in touch—we are constantly in touch—with embassies. When we find human rights or environmental abuses, we very often alert embassies. We never get a call back saying, “Actually, we're very concerned about this. Come and talk to us.” We have to push to get a meeting at all.

Right now I'm dealing with Baru Gold in Indonesia. It's on a very small island. I wanted to know whether Baru Gold signed an integrity agreement with the embassy in Jakarta in Indonesia and was told that this information was confidential.

That answers your question.

I'll briefly correct something. We've all been talking about the upcoming mining boom in relation to energy transition minerals and metals. I think now is exactly the time—before this boom happens, or as it's starting to happen—to strengthen the instruments we have: the non-judicial instrument—the CORE—and the judicial instrument we need.

I want to make it really clear that the “towards sustainable mining” protocol and e3 Plus are voluntary mechanisms. I've now heard it misstated again, before a committee, that nine countries have adopted this legislation. That is incorrect; countries or nations do not adopt this legislation. It is not mandatory. Mining associations and chambers of commerce are adopting these standards. The chambers of commerce and—

Mr. Arif Virani: Thanks, Ms. Coumans. I want to give Mr. Thomson a chance to jump in.

Can you comment on the due diligence standard? There are lots of things floating out there. Bill S-211, John McKay's bill, is coming out of committee. There's the potential Peter Julian bill. There's also the mandate given to Minister O'Regan.

Among those three, do you have a preferred vehicle for getting a due diligence standard legislated, Mr. Thomson?

Mr. Ian Thomson: I think that will be the key: moving beyond the strategies Global Affairs Canada has had for a number of years and actually bringing about legislation. Whether it comes through a private member's bill or a government bill, it's important to cover all human rights in all sectors of the economy and to build in that redress for people whose human rights have been harmed.

If I had my way, I would prefer a government bill. I think the government has made a commitment to bring in a bill to protect people's human rights when Canadian companies operate abroad. I would like to see them follow through on that.

I'm pleased that Mr. Julian took the initiative to table legislation that could be a model picked up and implemented by the government. I think his bill has everything we need to bring about a comprehensive due diligence framework.

Mr. Arif Virani: Thank you to both of you for your very important testimony.

The Chair: Thanks very much.

Monsieur Savard-Tremblay, you have two and a half minutes.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: My question is for Ms. Coumans, once again.

In a report published in 2022, the Justice and Corporate Accountability Project stated that serious acts of violence had been committed by a Canadian mining company in Guatemala. It involved environmental contamination and harm to human health.

According to the report on the activities conducted by certain Canadian officials in 2010 and 2011 to defend the mining company's interests, the officials undermined the efforts of Mayan indigenous communities to access the Inter-American Human Rights System and to defend their rights before it.

To your knowledge, is that the only documented case in which Canadian officials are reported to have sought to prevent victims of abuses from being heard?

• (1200)

[*English*]

Ms. Catherine Coumans: That case has been extremely well documented. It's an incredibly important case. That's the case against Goldcorp, in which Goldcorp was asked by the Inter-American Commission on Human Rights to cease operations because of the concerns the commission had for the human rights abuses of the Mayan people at the Goldcorp mine, the Marlin mine.

The Government of Guatemala was asked to issue what they call "precautionary measures" that will stop the operation of the mine. Immediately on the weekend, the embassy in Guatemala got in touch with Ottawa, and actions were undertaken—this came out through access to information documents—to protect the interests of Goldcorp. Those were extensive. They've now been detailed in that report.

We know that this happens all the time. We bring complaints and concerns into the public realm. As soon as an issue is elevated to the fact that it's in the media in Canada, we see embassies go into action. We see ambassadors go out and cut ribbons. We see even op-eds being written by ambassadors, saying that this is a great company and that it has full support from Canada. We see embassies jump into action when Canadian companies are threatened through reputational risk because of their human rights and environmental impacts.

We see this all the time. It hasn't been documented as well as that report, but it will be.

The Chair: Thank you very much.

Go ahead, Mr. Cannings, please.

Mr. Richard Cannings: Thank you. I would like to continue on with Ms. Coumans.

We've heard lines of questioning from both the Conservatives and the Liberals here that have emphasized the need for mining. I'm

very much behind the need for mining for various reasons and not just for the things we have to do to fight climate change. I was the natural resources critic for six years for the NDP, so I know PDAC well and I know MAC well.

The context of these questions seems to be that we can't do mining and at the same time protect human rights and the environment. That's what we're talking about here. We're talking about measures that would help us make sure that we protect human rights and the environment while Canadian companies are mining abroad.

I'm wondering if I could get a fairly quick answer from you: Can we do this? Can we still do the mining we need, to get the materials we need, and protect human rights and the environment?

Ms. Catherine Coumans: Just briefly, there's a major argument right now that in order to have the energy transition that we need, we have to do more mining. We would really oppose that idea. There will have to be some new mining, but there needs to be far, far more recycling and technology developed, for batteries especially, that doesn't rely very heavily on metals.

That is happening. The battery industry is moving in that direction. They are no longer wanting to use cobalt and many of the other metals that we're still pushing companies to go and mine. That's number one.

Number two, the only way that mining can be done better.... I'm speaking from 23 years' experience. Watching TSM and watching [*Technical difficulty—Editor*] e3 Plus, I can see that these voluntary measures from the Government of Canada and voluntary measures from the industry associations don't work. We really need measures that have more teeth. We really need mandatory environmental and human rights due diligence legislation. This is where things are moving in Europe. France has already passed such legislation. The European Union is considering it right now.

Canada really needs to get serious. We can't take small baby steps anymore. Bill S-211 doesn't go nearly far enough. It doesn't consider all human rights and it doesn't actually ask companies to stop using slave labour.

The Chair: Thank you very much.

We go now to Mr. Martel, please. You have five minutes.

[*Translation*]

Mr. Richard Martel (Chicoutimi—Le Fjord, CPC): Thank you.

Thank you to the witnesses.

My question is for Ms. McDonald, and perhaps also for Ms. Coumans.

In Canada, we have the means to ensure that our laws are upheld. I would like to know what could be done to more effectively ensure that our laws are upheld outside the country as well.

I will ask Ms. McDonald to begin.

● (1205)

[English]

The Chair: Ms. McDonald may have left.

Mr. Martel, just hold on. I want to make sure you have your time. I don't think Ms. McDonald...

They told us they had just over an hour. I think that hour is up and that they've left. I'm assuming Ms. McDonald is no longer with us, or her colleague. Neither one of them is with us.

Mr. Martel, we're going to start over again with your questioning. We'll start your five minutes over and you can direct your questions.... Dr. Coumans and Mr. Thomson are the ones who are here, from Oxfam and from MiningWatch Canada.

[Translation]

Mr. Richard Martel: Ms. Coumans, I would like to know how you define a Canadian mining company.

[English]

Ms. Catherine Coumans: There are various definitions, but the most basic one is a company that is headquartered in Canada.

[Translation]

Mr. Richard Martel: In Canada, we have the means to ensure that our laws are upheld. I know you have talked about this a lot, but I would like to know how things differ in other countries. It is different here, of course, with the resources we have, but what could we improve in other countries so that our laws are upheld?

[English]

Ms. Catherine Coumans: That's a really important question. It goes to the core of what we're talking about today.

Right now, Canada cannot enforce the laws and rules that we have for mining in Canada. We can't extend those laws and rules to mining overseas. What we can do is require any Canadian company that's headquartered in Canada to do what we call environmental and human rights due diligence. This means that the company would now be required by law to review all the operations of all of its subsidiaries and contractors to see if these operations were possibly harming human rights or the environment. Then the company would have to report on the risk assessment that they've done.

It goes beyond that. This is like the reporting requirement in Bill S-211 right now on slave labour and child labour. On mandatory human rights and environmental due diligence, once they've reported on it, they'd also have to show what they've done to mitigate or to stop the harm that they're doing. If they're using slave labour—because we have two Canadian companies right now in the Uighur territory in China that are very likely using slave labour—they have to not just report that they are or possibly are, but they have to stop.

Then there's the final piece, which is that if people are harmed by a Canadian company, they can bring a case to Canadian court.

We believe this suite of sanctions, issues and encouragements—because this is really to prevent harm—will actually really force the Canadian industry to change the way it operates. They actually have consequences, unlike the “towards sustainable mining” protocol or e3 Plus. These voluntary measures have no consequences. There have to be consequences for companies to take it seriously.

[Translation]

Mr. Richard Martel: We talked about the ombudsman. I would like to know if you are aware of a case in which the ombudsman helped changed certain practices in mining companies in other countries.

[English]

Ms. Catherine Coumans: Up until now, no. She's been operating for five years. She has not completed any cases yet. We know that there are at least two cases in front of her. These are cases of two Canadian mining companies that are operating in China in the Uighur territory. The concern is that they are possibly—maybe likely—using slave labour in their operations. We will see how she does on that case, but so far, in five years, she has not completed any cases on any mining operations overseas.

● (1210)

[Translation]

Mr. Richard Martel: I have a minute left.

I would like to know why you think mining companies choose to operate in other countries and not in Canada when we often have the same resources here.

[English]

Ms. Catherine Coumans: That's a very good question.

Canada is very rich in minerals, and we do have many of the resources here. I don't know. I wish you could have asked that question of our exploration PDAC friends, but they've left.

I don't know why they go abroad, but what companies will tell you is that they go where the resources are. They're always looking for lucrative ore bodies and they will go anywhere. They will go onto tiny islands in the Pacific. They'll go into [Technical difficulty—Editor] so I don't think they want to be restricted to any one country.

The Chair: Thank you very much.

We'll move to Mr. Miao for five minutes, please.

Mr. Wilson Miao (Richmond Centre, Lib.): Thank you, Madam Chair.

Thank you to all the witnesses for joining us today on this important issue.

I'd first like to address my question to Mr. Thomson.

How does Oxfam Canada work with Canadian mining companies and other stakeholders to promote best practices and regulations to protect the environment and human rights in the context of mining?

Mr. Ian Thomson: That's a very good question.

As I mentioned in my presentation, Oxfam is a global network of people working to end inequality and poverty. We engage with Canadian companies in numerous countries and with Canadian embassies in numerous countries to see how Canadian mining can become a force for good instead of a force that harms people and further impoverishes communities.

We believe that the solutions have to originate here in Canada and that a human rights due diligence framework will set the bar for how our companies operate in many jurisdictions around the world. It will also send a signal to the Canadian embassies that were referred to earlier that there are minimum standards that are required of Canadian companies and that we need to make that enforceable. That's been the big gap to date.

We also have partners in other countries that have come to testify at committee to say that they won't bring a complaint to the CORE ombudsperson office until it gets stronger powers. I think they recognize the importance of an accountability mechanism in Canada. They want to use an accountability mechanism in Canada, but we have not provided one yet.

Mr. Wilson Miao: What are the chances of driving a mining company to relocate their headquarters outside of Canada rather than continuing their Canadian identity in running their businesses?

Mr. Ian Thomson: I think we've heard a lot today about competitiveness. I think we're beyond the point where Canada and Canadian companies will be competing on their technical expertise. I think technical expertise exists in many countries around the world.

What is going to distinguish us when a government in another nation is trying to decide who will help them in developing their mineral resources? I think it's having a robust framework that says we are a country that has human rights standards and environmental standards and that they apply to our companies when they operate abroad. If Canada is in competition with others in order to build the mines of tomorrow, this has to be part of our competitive advantage.

What's missing right now is that we don't have that comprehensive framework in Canada that would allow us to go around the world and say that our companies will operate responsibly. That could become our calling card if we were to introduce a comprehensive framework that applies to every Canadian company.

With voluntary systems, as Ms. Coumans correctly pointed out, companies can pick and choose whether they pick up the e3 Plus system of the PDAC or not. Some may and some may not. We don't know how many are implementing that system. It's not clear to me, because it's completely voluntary.

What we need to do is raise the bar for all companies, and I think that can become our calling card internationally and make host communities have more confidence with the companies they're relating with. Today, when you meet people from a host community, they speak to people from other communities who've hosted a Canadian mine, and there are horror stories they hear. They hear about all of these atrocities and these abuses. Why would a community invite us in to develop their mineral resources with this sort of track record?

• (1215)

Mr. Wilson Miao: Thank you for sharing that.

How do you plan to achieve the long-term goals of Oxfam Canada that you mentioned?

Mr. Ian Thomson: We believe that having a people-centred approach to development is key. Local people have to have the information about the projects that are being proposed in their area. They also need to be able to exercise the right to decide whether and how projects are developed. This community consent is critical for us as Oxfam. It is something we're promoting with governments around the world. It's also an important part of reviewing and assessing projects that come forward.

We're also working with the Government of Canada and governments in other countries on improving impact assessment processes. We do believe a strong impact assessment process will lead to a better project in the end.

The Chair: Thank you very much, Mr. Thomson.

We now go to Mr. Baldinelli for five minutes, please.

Mr. Tony Baldinelli: Thank you, Madam Chair.

I'll just follow up. My colleagues and I have been talking.

Ms. Coumans, you raised the example of the two cases in China that are now being looked at by CORE.

For my understanding, in your estimation, would that be a company that has headquartered itself in Canada for the tax benefits and the nameplate, but is primarily a Chinese company operating in China?

Ms. Catherine Coumans: Actually, no. One of these companies also has or had an operation in Canada and also one in the U.S., if I'm not mistaken. This company is also operating in other jurisdictions.

Mr. Tony Baldinelli: Do you know when reports are going to be developed and submitted for those cases?

Ms. Catherine Coumans: The process of the CORE, while she's investigating cases, is rather oblique, so I don't really know where this is going or how that's going to be investigated, but it is now her obligation, as I think she has taken these cases. She's going to have to investigate, somehow, whether or not these two Canadian mining companies operating in the Uighur district in China are actually using slave labour. I'm not quite sure how she's going to do that.

Mr. Tony Baldinelli: Just to follow up, Mr. Thomson and Ms. Coumans, last April the government launched a new responsible business conduct strategy, actually making a difference this time. Are you concerned that this is again just another Liberal promise?

The government's April 2022 announcement reads, "The new Responsible Business Conduct Strategy was completed following extensive public consultations". I want to hear from your both. Were you consulted as part of that?

Mr. Ian Thomson: Yes, we participated in a public consultation. We urged the government to take a legislative route and not to continue on with their renewal of this strategy that has been the focus for so many years.

Mr. Tony Baldinelli: Great. Thank you.

Ms. Coumans, can you respond as well?

Ms. Catherine Coumans: It's the same, actually. We were also consulted and we also strongly urged them to set out some standards and ask companies to voluntarily comply with those standards.

Mr. Tony Baldinelli: I have just one last question for both witnesses.

Nearly four years later, the advisory body to CORE has not met, I believe, since November of last year. Are any actions taking place at all with that advisory council, to your knowledge?

• (1220)

Ms. Catherine Coumans: I'm not aware it even met in November of last year. I don't know that it met at all after civil society and the unions left.

I know they were trying to reconstitute it. I'm not sure if that actually happened and I have no idea what it's doing, if anything.

Mr. Tony Baldinelli: Okay. Thank you.

Madam Chair, those are my questions.

The Chair: We now go to Mr. Sheehan for five minutes, please.

Mr. Terry Sheehan (Sault Ste. Marie, Lib.): Thank you very much to the presenters, as well as to Mr. Savard-Tremblay for bringing forward this study on how Canadian mining companies are operating abroad, dealing with human rights, the environment, and a whole bunch of matters. Thank you very much.

I'll direct my question to MiningWatch, and maybe Mr. Thomson could update us.

We've talked about a number of countries where these atrocities are happening. As a government, we're undertaking to help eradicate them through legislation we're currently working on. It's in the mandate letter for cabinet ministers, including Seamus O'Re-

gan. That work is under way, and those consultations are happening. This information will help to inform them further.

One of the things I started to think about today is, where are we at? Do you have information relating to Canadian mining companies in relation to Russia and the Russian sanctions? There were a number of Canadian mining companies operating in Russia, sometimes through a joint venture and sometimes by themselves. Do you have any information or updates about the sanctions? Some Canadian companies, such as Kinross, were also operating there, I believe.

Perhaps I'll start with Ian in the room and then go online to MiningWatch for a perspective of where we are at. How are the sanctions working against this illegal, horrendous war that is killing people and resulting in rapes and a whole bunch of horrible things? Let's speak to that issue.

I'll start with Mr. Thomson.

Mr. Ian Thomson: I regret that as Oxfam, we don't have much involvement with mining activities in Russia or in tracking the activities of Canadian companies operating mines in Russia. I can't really comment or answer your question.

Mr. Terry Sheehan: That's fair enough. I just wanted to see if I could get an update.

MiningWatch, do you have any information on Canadian mining companies in Russia?

Ms. Catherine Coumans: We were following Kinross. As you mentioned, Kinross actually left Russia. It took a while, but it did leave. That was the main company we were following.

We're also concerned about where the products of mines that are owned by oligarchs end up. There is a private company called Deep Sea Mining Finance that is owned by a Russian oligarch. It wants to mine in the deep-sea waters off the coast of Papua New Guinea and process those metals in China. Those metals would then be sold on the open market. Whether Canadian companies are involved in buying those metals from a mine owned by an oligarch is where it gets more complicated.

I'd like to see what Canada can do to track those metals and make sure we don't buy metals, or trade in metals, that have been mined by Russian companies overseas.

Mr. Terry Sheehan: Thank you for that, and thank you for your work.

To MiningWatch, you mentioned a number of countries and places that you're concerned with. How do you measure any potential changes that happen in those countries? What are your metrics? Help me understand how we can do a better job in those sorts of analyses. What kind of work, if you want to delve into it, would you do to move the yardstick forward in those countries? Can you also give us some examples?

Ms. Catherine Coumans: I named an awful lot of issues and I named a lot of countries. All of those issues that I named and all of those countries that I named are cases that we work on, and have worked on, in MiningWatch for over 23 years. I will be detailing some of those in a brief that we will provide to this committee.

It's really difficult to say anything more about metrics, other than to say that year over year, we're finding the number of cases that are coming before us is relentless. These are new cases. These are cases of people being harmed this year or last year.

We had hoped in the more than 20 years that we've now been operating that we would see an improvement. This is almost a failing on our part. We feel sometimes that we haven't been able, through our work with communities and through our efforts to publicize these concerns, to raise them with the Canadian government and bring people to Canada to speak to parliamentarians and speak to civil servants. We had hoped that there would be more improvement, and there hasn't been. The problem is as big as it's ever been, and now with the coming mining boom, we're dreading how this is going to increase the workload even more. The workload is not the problem. The problem is the actual harm being done to people.

I want to emphasize that this is not just a few bad apples and it's not just the small companies that don't have any resources to pay to do things the right way. One of the companies we work on is Barrick Gold, which was sued in November last year in Canadian court. What was it for? It was for people who have been shot and killed by mine security and by police guarding Barrick's mine in Tanzania.

This is almost the biggest gold mining company in the world. I think it's now the second-biggest gold mining company in the world. It has plenty of resources to do things right. This is the third time that Barrick has been sued over these same issues at the same mine.

There was a court case filed in 2013 that was settled in 2015. There was another court case filed in 2020, which is ongoing in the U.K., and now there's been another case filed in Canada over the same issues of human rights abuses and excess use of force by mine security and police guarding the mine on behalf of Barrick.

So—

● (1225)

The Chair: Thank you very much, Dr. Coumans. I'm sorry. The time is up.

We'll move on to Mr. Savard-Tremblay for two and a half minutes, please.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Ms. Coumans, as they say, things come in threes.

My last question is for you.

If you will, let us talk about the dispute resolution mechanisms between an investor and a country. We know that those mechanisms have been incorporated into a number of free trade agreements, enabling foreign multinational companies to take legal action against countries in relation to democratically adopted measures that could affect the profits of certain companies.

In 2021, this committee conducted a study, which I led, pertaining to the consequences of this. The Bloc Québécois and the NDP did not have the same positions on this matter as the Liberals and Conservatives.

According to an article published in 2019 by the Canadian Centre for Policy Alternatives, this is now the primary avenue of recourse for mining companies. Dispute resolution mechanisms are being used more and more frequently to resolve issues between investors and countries. Forty-three Canadian companies have apparently filed complaints under this mechanism, taking legal action against governments outside North America. In 70% of those cases, the investors are in the mining and energy sectors, and 86% of the countries involved are developing countries.

And yet Canada continues to sign free-trade agreements that include those mechanisms, with the exception of the Canada-United States-Mexico agreement.

What do you think of that? Is it advisable to continue doing so?

[*English*]

Ms. Catherine Coumans: I'm afraid I'm not entirely clear on what the mechanisms are that you're talking about. Are you talking about the ISDS cases?

● (1230)

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Yes, precisely.

[*English*]

Ms. Catherine Coumans: Okay. Great.

This aspect is really important, because we heard earlier that Canadian mining companies could possibly have a competitive disadvantage if they were held to a higher standard by Canada. Mr. Thomson very clearly said, in fact, that they would have a better chance of accessing ore bodies if they were held to a higher standard in Canada.

What we're starting to see is that countries are trying to get rid of Canadian mining companies because of the harm that they've caused. In Papua New Guinea, for example, there's a Canadian mine there called the Porgera mine. It's another Barrick gold mine. Barrick operated there for over 20 years. When the lease came up for renewal, the Papua New Guinean government said no. There have been so many human rights abuses and there's been so much environmental damage. The waste from that mine goes directly into a river system. There's no impoundment; there's no containment at all. There also have been egregious human rights abuses at that mine, so the Papua New Guinean government said, no, it was not going to renew the lease.

You would think that a sovereign government would have the right to decide not to renew a lease when the lease has come up and has been finalized. Barrick fought this first in the courts in Papua New Guinea and then filed an ISDS case with the World Bank. Thereby, it forced the hand of a very poor government. When the Papua New Guinean government finally said, "Okay, fine; we'll renew your lease", it actually said that it didn't have the resources to fight this legal battle. This is very problematic.

The Chair: Thank you very much, Dr. Coumans.

Mr. Cannings, you have two and a half minutes, please.

Mr. Richard Cannings: I'd like to follow up on that with Ms. Coumans.

In my years of being here sitting on the natural resources committee, we did a study on the involvement of indigenous communities in natural resource extraction here in Canada. We repeatedly heard from mining companies, who brought up, I think with some pride—in fact, a lot of pride in many cases—the advances they'd made in Canada regarding impact benefit agreements with communities, making sure the communities were involved from the start, making sure that those indigenous communities benefited from the activities on their territories. However, we have this disconnect with how these same companies seem to be operating abroad, or at least we have a disconnect with their concern about having this same amount of oversight on their activities abroad.

Ms. Coumans, can you can talk about this? Where does that concern come from? You would think that these companies would want to carry that pride to all their activities.

Ms. Catherine Coumans: Yes, certainly, that's what we would hope and that's what we would wish for.

I've heard mining companies respond to this kind of question by saying, "Well, we just follow the laws of the country where we operate, and if we don't have to do these things, then we don't have to do them. We just follow the laws." In fact, that is all that Canada has required of our mining companies. All that Canada does require is that our mining companies follow the laws of the country where they're operating, not live up to a higher standard.

The only way to address this problem from Canada is to implement something like mandatory human rights and environmental due diligence, because that's something we have control over. We can't, obviously—and we wouldn't want to—control the laws of other countries.

Many of these are developing countries. Many of these are very poor countries. We're talking about places like Papua New Guinea, where our Canadian mining companies are operating. We can't tell the Papua New Guineans what standards they should put on our companies, and often our companies get around those standards anyway, for various reasons. What we can do, however, is require—mandate through legislation—that our companies do environmental and human rights due diligence, that they assess the risk that their operations and the operations of their subsidiaries are putting to people and the environment, and that they then report on that risk and tell us what they've done to stop that harm from being done. If that doesn't work, then people can sue in Canada.

Quite frankly, when lawsuits are filed, it does sharpen the attention of the lawyers in the corporations and the managers of the corporations, because now they're actually being sued, and this could have real consequences.

That is something that Canada can do and that we should do.

Mr. Richard Cannings: Thank you.

The Chair: Thank you very much.

I don't know if the official opposition has any questions.

Do you have a question? We have time to do another round of questions.

Mr. Virani, go ahead.

Mr. Arif Virani: I have two questions for Mr. Thomson and Ms. Coumans.

Thank you very much for your detailed work and your commitment to this issue. I'll ask them both at the same time.

Ms. Coumans, you've outlined a lot of the litigation that's already taken place. You have my legal brain thinking.

You also outlined that under a more rigorous due diligence standard, you would want an entrenched cause of action. If litigation has already been commenced many times, including against specific companies on repeated bases, are there already enough established causes of action, or is this forum non conveniens argument the one you're seeking to supersede with legislation?

That's the first question.

The second question is literally on a brainstorming lens.

Let's take Mr. Canning's point at face value, and I do, about indigenous communities. We've passed legislation that relates to UNDRIP in this country. UNDRIP is obviously a UN protocol that relates to indigenous people around the planet. The UNDRIP legislation that we passed calls for annual reporting. Could one interpretation of the annual reporting requirement be to compel reporting about what's happening with indigenous communities abroad that are being affected by Canadian companies?

I'm not sure if this has been thought about, or whether that even fits squarely with the legislation. I just put that out there for your thoughts.

That's for either Mr. Thomson or Ms. Coumans.

• (1235)

Ms. Catherine Coumans: I'll start with the court cases question.

What I really wanted to emphasize by mentioning these court cases is how few cases have been brought, given that those cases that have been brought are the tip of the iceberg of the actual harm.

Since 1997, we've only had eight court cases brought. Two of those were dismissed on the forum non conveniens issue. Three are ongoing at the moment. Two were settled out of court. The Nevsun case on slave labour in Eritrea was settled out of court. The Tahoe case was also settled out of court. Now the Barrick case has just been filed.

We definitely have seen the issue of forum non conveniens being the reason two cases were dismissed. They were dismissed to Guyana, where the case never went ahead, and to the Congo, where the case also never went ahead. These were both quite serious cases. They weren't heard on the merits of the case in Canada because they were just dismissed on forum non conveniens. This is a serious hurdle.

Mr. Arif Virani: Is there any comment from either of you on the UNDRIP point about the protection of indigenous folks abroad?

I appreciate it's not just indigenous communities in various parts of the world, but sometimes it is. Does that have any connection here, do you think?

Mr. Ian Thomson: I'll go first, and then Ms. Coumans.

I would say that the UN human rights bodies have repeatedly taken Canada to task over the impact of Canadian mining compa-

nies on indigenous peoples in other countries. If Canada were to report on that under the new legislation, I don't know if that would be anything new. I think what we're hoping for is that some of the recommendations that have come from those UN human rights bodies to actually take action and bring in stronger human rights frameworks in Canada to regulate that activity would be more significant than reporting under the new act.

To get back to the point around the foreign investment protection agreements that Canada is signing with other countries, these agreements often preclude governments from introducing more robust environmental or human rights standards and lock in legislation at the time of the agreement or when a mining contract is awarded. They really prevent governments, as Ms. Coumans alluded to, in Papua New Guinea and other countries from actually raising their own standards. This is highly problematic. I think Canada reviewing its foreign investment protection agreement template that we use again and again to entrench and strengthen corporate rights would be a significant step forward.

The Chair: Did you want to make a comment, quickly?

Ms. Catherine Coumans: I'll just add one thing to what was just said.

In this mandatory human rights and environmental due diligence that we've been talking about, one of the requirements would be that companies would report on how they are treating indigenous peoples in their global operations. UNDRIP would come in. It would be one of the things that they would have to report in their global operations.

The Chair: Thank you very much.

Thank you to our witnesses. I think we've completed the questions.

We have to go in camera for a discussion about possible upcoming travel.

Again, thank you to our witnesses. Mr. Thomson and Dr. Coumans, thank you very much.

I will suspend while we go in camera.

[*Proceedings continue in camera*]

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