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Chair: Mr. Ali Ehsassi





# Standing Committee on Foreign Affairs and International Development

Monday, September 26, 2022

• (1535)

[English]

**The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)):** Welcome to meeting number 27 of the Standing Committee on Foreign Affairs and International Development.

Today's meeting is being held in a hybrid format pursuant to the House order adopted on Thursday, June 23, and members will be present in person or on the Zoom app. The proceedings will be published on the House of Commons website. For your information, the camera will always show the person speaking rather than the entire committee.

As always, interpretation is available by clicking on the globe icon at the bottom of your screen. Moreover, when speaking, please speak slowly and clearly. When you're not speaking, your mike should be on mute.

I'd like to take this opportunity to remind all participants that screenshots or taking photos of your screen are not permitted.

Pursuant to the order of reference of Wednesday, June 1, the committee is commencing consideration of Bill S-211, an act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff.

Concerning the drafting of amendments, I'd like to remind members to contact Alexandra Schorah, the legislative counsel, as soon as possible should there be any amendments to the draft.

It is now my honour to welcome to sponsors of this bill.

The sponsors of this bill, as everyone is very well aware, are the Honourable John McKay, member of Parliament from Scarborough—Guildwood, and the Honourable Julie Miville-Dechéne.

Senator, welcome to our committee.

Now you each have five minutes. We will start with the Honourable Mr. McKay.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Thank you, Mr. Chair.

We'll try to be as even as possible between the upper house and the lower house for the splitting of time.

Colleagues, the senator and I are happy to be here in a position surrounded by members who have dedicated themselves to the advancement and protection of humanity. I have no doubt that this committee, on both the advice of the Senate and the unanimous

vote in the House, will see fit to move this bill forward to the Governor General.

It's a pleasure to appear here with my friend Senator Miville-Dechéne, my co-worker in shepherding this bill through the Senate over the past two years. During that time, we've had many consultations with stakeholders and have gotten the bill to this stage.

I also want to thank the committee for its work in producing a report entitled "A call to action: ending the use of all forms of child labour in supply chains". Having been here for quite a number of years, as have others, I note that it's gratifying for any one of us to see a committee report get dusted off, used and translated into legislation.

As well, I want to note that both the Liberal and the Conservative parties made platform commitments to move forward with supply chain legislation. Frankly, colleagues, we have some catching up to do over other countries that have moved ahead, and Senator Miville-Dechéne will speak to their experiences.

Trade agreements routinely include transparency provisions. The previous British High Commissioner and the current High Commissioner have both approached me about this bill and see it as a reciprocal obligation in the Canada-U.K. discussions on trade.

In other words, colleagues, there's a lot of momentum, and you, as a committee, are poised to be in the penultimate point of completion. I propose to go through the bill shortly, but let me give you the justification for a bill such as this.

The first is morality, and the second is economics.

Surely in the 21st century it should be clear that we cannot base our prosperity on forced labour and child labour. It was immoral in the 18th century, and it's immoral in the 21st century. Whether your values come from scripture or from human rights documents, the conclusion is the same: Forced labour is contrary to human dignity.

The second and less obvious reason is economics. When we buy a good produced by a slave, we are not buying a good produced by a worker. We are not only impoverishing others, we are impoverishing ourselves.

We are, in addition, putting ourselves in economic peril. Surely COVID has exposed our vulnerabilities to overly long supply chains that stretch into opaque jurisdictions.

Post COVID, nearshoring, reshoring and friendshoring have been a way to reduce our trade vulnerabilities, and this bill meets and speaks to that initiative.

Business schools have for years taught supply chain management as “just-in-time” or “just in case”. This bill proposes to modify supply chain management to become “just a minute”. Fundamentally, those who manage timelines and risks in supply chains will be first to ask, “Hold on for a second, wait a minute. Who made this?”

My friend Senator Miville-Dechêne and I have been on this journey for a number of years now, but we've also been accompanied by one of my daughters, Rachel, whose job for the last year and half has been to get her corporation ready for the implementation of this bill.

Rachel's obligations are not unique. I am quite sure that dozens of other companies are aware that this bill is close to receiving royal assent.

The company she works for has approximately 4,000 suppliers, which supply 80% of the corporation's goods. We've talked extensively about the challenges to a corporation, even when the corporation is seeking to comply and indeed is eager to comply.

Ironically, she has less concern with her American suppliers, primarily because of the Dodd-Frank legislation and robust American border initiatives. We have reciprocal obligations in CUSMA, in Canada-EU and will shortly have in Canada-U.K. All of our major trading partners have expectations that a bill like this will pass and pass quickly.

- (1540)

The proposal is simple. You cannot buy another human being. You should not buy the product of another human being in chains.

Society can only flourish in a state in which people can develop their talents and define themselves in freedom. This is the simple request of this bill, and it's what we ask of you.

It's time for me to stop and pass it over to my friend Senator Miville-Dechêne, who will outline the provisions of the bill, the improvements and the status of international legislation.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. McKay.

Senator, the floor is yours for five minutes.

[*Translation*]

**Hon. Julie Miville-Dechêne (Senaieur, Quebec (Inkerman), ISG):** Thank you, Mr. Chair, for inviting me to testify.

I am pleased, of course, to be able to share with the committee the results of two and a half years of work in the Senate on Bill S-211 and the lessons learned.

As my colleague John McKay told you, we've consulted many stakeholders, including in the business community, human rights organizations and key players abroad. As you know, a bill on this topic has been introduced three times, which has allowed us to improve this one significantly.

We'll begin with the most important thing: the Canadian government will also be subject to the reporting requirement. That encompasses departments and some one hundred federal institutions. The Canadian government must have best practices. We saw this last year, when the government signed a \$220-million contract with a Malaysian company suspected of using forced labour to manufacture medical gloves.

We also defined more clearly what constitutes child labour under the law. We did not want to target only the worst forms of child labour, but to bring the bill in line with the International Labour Organization's definition, which includes work that keeps children out of school.

Reports on forced labour will have to be approved by the company's board of directors, similar to financial reports. This change follows the contemporary trend of requiring the same level of rigour for corporate financial and non-financial disclosures. In addition, federally regulated companies will be required to report on their efforts to combat modern slavery in their annual reports. That's a first.

We have also strengthened and harmonized the elements of the reports, including requiring that due diligence processes and remediation plans be included.

As you know, Bill S-211 proposes a transparency approach, like the U.K. and Australian legislation, but has more teeth, because it imposes penalties of up to \$250,000 if reports contain false or misleading information.

During Senate consideration, some asked why we didn't go further to combat forced labour more aggressively. These stakeholders wanted legislation that required companies to conduct due diligence on their operations and held them accountable for any human rights violations in their supply chain. I, personally, have no objection in principle to this approach. Whether it is a transparency law or a due diligence law, the objectives are the same: to limit and, if possible, eradicate forced and child labour. The differences are more in the area of political pragmatism.

In two years, I did not feel that there was sufficient consensus in the Senate and among stakeholders to pass a much tougher law in Canada. I therefore favoured a staged approach—a legislative compromise that would finally allow us to move forward, given the inexcusable backlog that Canada has in the fight against modern slavery. Bill S-211 is an important first step, but no one believes that it alone will solve the problem of modern slavery, which is the product of a combination of causes, including poverty, inequality and insecurity.

It is true that countries such as France and Germany have chosen a more punitive model of law, which provides recourse against companies that have not done their due diligence. However, it should be noted that, in France, for example, only very large companies—those with over 5,000 employees—are targeted. Only 265 companies are affected. In comparison, Bill S-211 would affect approximately 3,000 large companies and part of the 20,000 medium-sized companies in the country.

In short, the choice is clear: we can be very severe and target only a very limited number of companies, or we can try to gradually change the mentalities of companies where the risks of forced labour in their supply chains are greater, that is, medium-sized companies.

As with any complex situation, it is an imperfect choice, but one that allows us to start somewhere and stop being silent accomplices to these iniquitous human rights violations. I am talking about children working in mines, fields and plantations instead of going to school; women and men enslaved to make our clothes, our machines and our cheap food.

Members of Parliament can make this bill even better. Considering the importance that Canada places on defending human rights in its speeches, it is time to act, so that our laws finally reflect our words.

• (1545)

Thank you.

[*English*]

**The Chair:** Thank you very much, Senator.

I will now open the floor to questions.

Mr. Genuis, you have six minutes.

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** Thank you, Chair.

To the witnesses, thank you for your testimony and for your work on this.

Our Conservative Party was proud to support this bill and also to work with you, Mr. McKay, to expedite it through the House at second reading. We look forward to the study on this, and further refinement, and seeing this important tool going forward.

I want to start by asking a question about specifically forced labour involving Uighurs. We have a presence on the Hill today from the National Council of Canadian Muslims and many people here to advocate specifically on the issue of forced labour in support of this bill but also other measures, such as Bill S-204.

I think the amendments in this bill are very important, but I believe what we also need is to have either a complete prohibition or at least a reverse onus targeting specific regions where we know there's a very high level of forced labour, which in the case of the Uighur region is specifically coordinated by the state. Do you think it would be in the scope of this bill to add an amendment that would involve the prohibition of any imports from specific designated regions?

**Hon. John McKay:** Let me take a stab at that, and then we'll tag-team on this.

Is it within the scope of the bill? I think it's a bit of a stretch. I'd like to think my way through that before I give a definitive answer as to whether it's within the scope of the bill. But I think it does speak to a larger issue, and that larger issue is that the American authorities are very aggressive in intercepting goods coming in from that particular region of the world. With similar legislation, we don't seem to be. I don't know whether we have a problem with legislation or whether we have a problem of enforcement.

• (1550)

**Mr. Garnett Genuis:** Or both.

**Hon. John McKay:** When the Americans are intercepting 1,400 containers and we have intercepted one, that's an issue.

[*Translation*]

**Hon. Julie Miville-Dechéne:** I'm not sure either whether that idea is included in the scope of the bill.

I'd remind you that we already have a law that prevents goods manufactured using forced labour from entering Canada, which clearly stems from the free trade agreement. As my colleague Mr. McKay noted, that law is not really enforced. Not only has only one ship been stopped, but it was released because it was decided that there were no grounds for prosecution.

Clearly, in the House, you're free to do what you want, but the goal of this bill is a legitimate one, namely to target Canadian companies so they do everything they can to eliminate forced labour from their supply chains.

As you know, forced labour exists not only in China for the Uighurs, but also in several parts of the world. What's happening in China is terrible, but it's not unique. I am thinking of forced labour, in particular.

[*English*]

**Mr. Garnett Genuis:** Thank you.

I agree, obviously, that forced labour is a problem in many parts of the world. I think we need multiple different tools. Personally, I think there are big problems with Canadian enforcement, but the U.S. also has a legislative tool—the Uyghur Forced Labour Prevention Act, which was passed with strong bipartisan support in the United States—that we don't have here.

In terms of the specific text of the bill, I've been hearing a lot of feedback and suggestions for amendments. I'll raise one area for amendment to seek your feedback on it. There seems to be some ambiguity for those who are reading the bill about what would qualify as an "entity", in particular whether the financial thresholds are for Canadian assets or assets held globally. Does a company qualify or not under this bill based on what their Canadian assets are or based on what their global assets are?

Then I have a related question. For entities that don't qualify above the threshold, one proposal I heard is that the government could publish a list of problematic source companies. That would allow small businesses that don't have the resources and aren't required to do the level of supply chain research that's envisioned in the bill to nonetheless do what they can by consulting that government public entities list.

That seems like a good idea to me. I wonder if you could comment on, (a), the threshold, and (b), a possible amendment that would require the government to publish a list of known problematic sourcing companies that would allow all businesses to avoid them.

**Hon. John McKay:** I'll respond on the first part of the question, and Julie can respond on the second.

I'm looking at the definition of "entity", which states that it is a "place of business in Canada, does business in Canada or has assets in Canada and that, based on its consolidated financial statements, meets at least two" out of the three criteria—\$20 million in assets, \$40 million in sales or 250 employees.

So if it's consolidated financial statements, I would interpret that to mean that a company that's doing less than \$40 million in Canada, has less than \$20 million in assets, or has fewer than 250 employees, but in its consolidated financial statements, as it presented them to Canada for the purposes of taxation or whatever, would be caught up in that definition.

[*Translation*]

**Hon. Julie Miville-Dechêne:** In terms of lists, it's a good idea for small businesses. That said, in all the discussions I've had with medium and large businesses, they asked that the government give them the tools they need to apply the provisions of Bill S-211. That was said very clearly in the Senate by the Canadian Chamber of Commerce.

In this respect, I must say that the United States is way ahead. They publish lists of places, businesses and products, such as tomatoes and cotton, that are likely to be linked to forced labour. They also update those lists. In fact, it's one thing to publish them, but they also need to be updated.

We should be doing the same. Should it be included in the law or in the regulations? One thing that's clear is that the government cannot ask businesses, some smaller than others, to do all that without some guidance.

• (1555)

[*English*]

**Mr. Garnett Genuis:** I would just note that if the U.S. has put forward a list, we could probably.... It makes it a lot easier for us to do our list based on that—

**The Chair:** Mr. Genuis, I'm afraid you're well over six minutes.

We will now go to Mr. Sarai.

**Mr. Randeep Sarai (Surrey Centre, Lib.):** Thank you, Chair.

I want to thank my colleague MP McKay and also Senator Miville-Dechêne for their long and relentless advocacy on this important work.

We heard Minister O'Regan say in the House before the summer recess that the government would support this bill and would work with all parliamentarians on any amendments that would strengthen it, as well as bring forward further legislation. That was good to hear.

Mr. McKay, forced labour is a complex issue that spans many jurisdictions, borders and supply chains. Could you maybe elaborate on this complexity and on the work you've both done on this issue?

**Hon. John McKay:** You're right to point out the complexity. Sometimes the length of the supply chain is quite extensive. It does go into, as I said earlier, opaque jurisdictions. So what will constitute that....

I suppose this is one of the reasons I want to stay with these larger companies, because the smaller companies I think will be really challenged to trace their stuff. On the other hand, the irony is that if the smaller company is selling a product to a larger company, the larger company, in trying to comply with this legislation, is going to ask the smaller company if they've done whatever—or however the regs work out. There would be the ironic effect that the small companies selling to larger companies will be dragged into the legislation.

That might militate against the complexity of the legislation, because the smaller companies may have much closer connections to the actual creation of the product. It also may help get you past some of the opaqueness of the jurisdictions that are inevitably sourced.

[*Translation*]

**Hon. Julie Miville-Dechêne:** I would add that, the farther a company is from the supply chain, the greater the risk of finding forced labour. Forced labour is often most common in relation to agriculture and raw materials, so it's even harder to find for companies that are far from that.

However, I believe that one thing must be kept in mind: this is a bill aiming for transparency, and we don't claim to think that it could instantly apply to all companies and resolve things in the first year. It's a bill that requires that companies begin a process. They have no obligation to show results now, but they have a duty of take action, meaning they must make efforts but, in particular, they must report on those efforts. In doing so, we take into consideration that it's often very hard to dig into those supply chains.

[*English*]

**Mr. Randeep Sarai:** Is there a will...or is there a passage in this that will help work with others, whether it be our free trade partners like the United States or the European Union, or CPTPP in South-east Asia and others, to help facilitate that? Obviously, a supplier or importer here in Canada might not be able to check along, but if there are rules and regulations in the region of where the source is coming from, they can rely on that, because they have better ways to assess those.

Is there any collaboration with our European friends or Americans or maybe others in Southeast Asia in order to implement it better?

• (1600)

**Hon. John McKay:** I would say that we—we being Canada—are the hole in the building blocks here. Certainly, Great Britain has had legislation like this for quite a number of years now. The Americans are quite aggressive. The Aussies have passed significant legislation that is helpful. They will be helping us as opposed to us helping them.

I think, though, over time, particularly if this passes and particularly if the enforcement issues at the borders start to ramp up, we will catch up. Right now, as the senator has rightly said, we're the laggards.

**Mr. Randeep Sarai:** What I'm trying to see is this. If a source company and their product is approved by Australia or the U.K., I'm wondering if that's something a Canadian importer would be able to rely on and say they've checked: This source is relied upon. The European Union has approved this source, the United States has or Australia has. We can then use that same verification in order to import it here.

Is that a possibility, that it could be in collaboration with those?

**Hon. John McKay:** It's more than a possibility that there will be a lot of interchange in terms of reliability. There are companies out there right now, apparently, who will give you a risk assessment, if you will, as to the risk of slavery in that particular supply chain. I think it's going to happen.

**The Chair:** Thank you.

We will now go to Mr. Bergeron.

[*Translation*]

**Mr. Stéphane Bergeron (Montarville, BQ):** Thank you, Mr. Chair.

I'd like to welcome my colleagues, Mr. McKay and Ms. Miville-Dechéne, and note their work. I think it was high time to legislate on this matter.

We were very pleased to see the measure put in place by the federal government to prohibit any goods manufactured using forced labour by the Uighurs, in the People's Republic of China, from entering Canada. The problem is that the ability to conduct checks is very limited in that measure. It must be hoped that, with Bill S-211 and, eventually, the other bill requested by the National Council of Canadian Muslims, controls can be tightened at the border to be able to truly conduct checks.

I have a brief question. What prevents companies from simply deciding to relocate their activities to avoid being subject to this legislation?

**Hon. Julie Miville-Dechéne:** Thank you for your question, Mr. Bergeron.

Nothing prevents companies from relocating, but, at this time, there's already a movement in many countries to adopt laws to prevent forced child labour in supply chains. Those companies obviously have no interest in moving to the United States, since similar laws in the U.S. are even stricter. I believe it's a global movement.

I'd like to add that it's also a matter of reputation, an aspect that we didn't raise in our opening remarks. A transparency bill is very dependent on companies not wanting to have meaningless reports that say nothing and therefore clearly show that they're making no efforts. There are now investors and consumers who look at those things. In surveys, most consumers say they don't want products manufactured by children.

Since there's already a series of reforms and societal movements at this time, I don't think this type of transparency bill would lead companies to relocate.

[*English*]

**Hon. John McKay:** To add a bit, Stéphane, I think Bill S-204 is the bill you're looking for, sponsored by Senator Leo Housakos. I think it was referenced by Mr. Genuis.

To circle back to your question, they want to move out of the country. What country are they going to move to? That's the obvious question. I imagine both Russia and China are open to it, but beyond that, it's a limited pool of countries.

• (1605)

[*Translation*]

**Mr. Stéphane Bergeron:** I see that you've done your homework and checked on laws in effect in other countries. In Germany, for example, checks are also required for measures or operations that could result in environmental degradation. Checks are also required in relation to inequality in employment based on ethnic origin, sex, disability, sexual orientation, age and other such grounds.

Was that something that you considered for this bill?

**Hon. Julie Miville-Dechêne:** First, I'd like to say that, in Germany, the due diligence law related to supply chains is very progressive. It initially applies to companies with over 3,000 employees. In the case of Bill S-211, we're targeting companies with at least 250 employees. Yes, then, comparisons can be made, but that applies to a very small group of companies.

Basically, your question is about whether we could have included all human rights in the bill instead of just issues related to forced labour and child labour. Without a doubt, but remember that it's a private member's bill, which, for a range of reasons, must be targeted, have a very specific purpose and not seek to be too broad. It's a matter of small but important steps. It was John McKay who introduced this bill for the first time in 2018, before I did. Unfortunately, you were unable to debate it. He determined that the bill had to be targeted so that it could be properly explained and understood by companies, and I fully agree with him in that respect.

**Mr. Stéphane Bergeron:** Does the member have anything to add?

[English]

**Hon. John McKay:** I would say that it's a series of trade-offs. If you want to load up on the whole panoply of human rights, you're going to have to load up the size of the companies, because the obligations that flow from that are quite substantial and are not within the purview of a lot of the other companies we have targeted.

We've lowered the threshold of the companies and made the net wider to catch the companies that are doing it. It enabled us to have—if you will—a first start on supply chain legislation. If, in fact, others wish to put other obligations on those companies, they can work their way through the parliamentary process at the same time, as we have.

[Translation]

**Mr. Stéphane Bergeron:** I fully understand and think your answers —

[English]

**The Chair:** Monsieur Bergeron, I'm afraid you're out of time.

[Translation]

**Mr. Stéphane Bergeron:** That's too bad. I'll come back to it.

[English]

**The Chair:** Thank you, Monsieur Bergeron.

We'll now go for the last six-minute spot with Ms. McPherson.

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

I would also like to thank Senator Miville-Dechêne and Mr. McKay for their work on this.

This is very important work. It's vital that we get this right. I have to say that I have some deep concerns about this legislation. Part of my concern stems from the fact that it makes it look like we are checking all the boxes, when this legislation is perhaps checking the first box.

I worry about the lack of next steps. We're being asked to accept that next steps will be coming.

I have to say that I've spent most of my career working on the CORE ombudsperson situation. We know what happens when we are given an initial step that is not sufficient and how it does not result in further steps. It results in an ombudsperson who can't do their job.

I have a few questions for you. First, while this bill creates a reporting requirement for some companies, it does not adequately address preventing and remedying harm. It doesn't require companies to change their behaviour and practice, other than producing a report. The only penalties in this bill are for companies that don't report or make misleading or false claims, but not for companies that are actually using forced labour.

Can you explain why that's the case?

• (1610)

[Translation]

**Hon. Julie Miville-Dechêne:** We won't magically eliminate all forced labour in our supply chain. The idea is to give companies a bit of time to truly understand what's happening in their supply chain and resolve it.

You say the bill has no real consequences. On the contrary, the fact that companies must report publicly on what they're doing and not doing becomes a tool for public review. This comes at a time when, as you know, society is a lot more demanding of companies. They're not just there to make profits; they must also have responsibilities.

You're right in saying that companies aren't being required to show results. They're nonetheless being asked to do an exercise. Since the reports will be public, they can be compared. That's what's done in England and Australia. Facing a penalty is something.

[English]

**Hon. John McKay:** Senator, I would add that, if this bill passes, there are seven obligations on a company that don't exist right now. They have to report on the structure and activities in their supply chain; they have to report on their policies and due diligence processes; they have to report on what risk there is of forced labour in their supply chain; they have to talk about measures taken to remediate.

**Ms. Heather McPherson:** John, I'm going to interrupt you; I'm going to run out of time. I'm sorry to be rude, but I do have more questions for you.

**Hon. John McKay:** I've never had that happen before.



**Ms. Heather McPherson:** I understand what you're saying, that we have to take this slowly for companies' sake, but you've also said that we are well behind what other countries are doing, so we're saying both that we need to go more slowly and also that we are well behind. That's really not the ticket to getting us to catch up.

The other thing I would also want to point out, too, is that, if we are looking at, as Mr. Bergeron has brought forward, where companies will go to hide if they don't want to act responsibly, is Canada not becoming one of those countries where they can go to hide if they don't want to act responsibly?

What have you heard from the government on possible amendments so far?

**Hon. John McKay:** We've had discussions, although I haven't seen anything on paper. I don't know; I can't give you a straight answer on that question.

**Ms. Heather McPherson:** You haven't heard whether or not they will be amending or any details on that.

**Hon. John McKay:** The minister has said directly to me—he said it on the public record as well—that they're very supportive of the bill and want to improve it. I don't know what improving means. I've asked for the amendments, but thus far they have not been forthcoming.

**Ms. Heather McPherson:** That, of course, is a bit of a problem for parliamentarians because, as you can imagine, those who are not part of your government are suspect of things like “It's coming”.

**Hon. John McKay:** That's shocking. I'm shocked.

**Ms. Heather McPherson:** I know. I imagine.

I've put forward a bill. It's C-263. It's on the CORE ombudsperson. There are some things that we put in that bill that would make that position more robust. Would you be open to some of the amendments of this bill coming from C-263? Have you read it? I guess that's the key question.

**Hon. John McKay:** I'm hard pressed to respond to that. You and I are fellow travellers on this particular issue of the ombudsperson.

I do take slight issue with the characterization of ineffective. I think she's doing a pretty fair job.

**Ms. Heather McPherson:** It's been very expensive with very few findings of fault.

**Hon. John McKay:** The other thing is that, if this bill does pass, I think we leap ahead of Australia. I think we'll leap ahead of U.K. I'm not sure that we'll ever leap ahead of the Americans. France and Germany live on different planets. They've decided to go big or go home, if you will, and go big or go home has meant that there's a lot of stuff going on that doesn't get home.

**Ms. Heather McPherson:** Wouldn't it be nice if Canada had that kind of ambition?

**Hon. John McKay:** Well, go big or go home has its limitations.

• (1615)

**The Chair:** Thank you very much, Ms. McPherson.

Now it appears that we will have only a second round. The second round will consist of five-minute slots. The first slot goes to Mr. Chong.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** Thank you, Mr. Chair.

I support the bill that you have introduced in the Senate and the House, but my comment today, and I'd like your comment on my comment, is that we can pass all the laws we want, and the government can publish all the regulations it wants, but if there's no enforcement of these laws and regulations, then they're nothing more than ink on paper.

As you know, Canada signed the Canada-U.S.-Mexico Agreement several years ago, and article 23.6 of that agreement requires Canada to ban imports produced with forced or slave labour. I want to quote what that agreement says:

Accordingly, each Party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.

Parliament subsequently adopted amendments to the Customs Tariff Act that changed that act to come into conformity with article 23.6 of CUSMA and subsequently the government published regulations to the customs tariffs and those came into effect in July 2020, more than two years ago.

As you know as well, Canada is obligated under the Genocide Convention to prevent genocide, and article I of the convention says:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Parliament early last year adopted a resolution recognizing that a genocide against the Uighur people is taking place, so despite the fact that over two years ago Parliament amended the Customs Tariff Act, which led to the promulgation of regulations to ban importation of forced and slave labour products, despite the fact that Parliament recognized a genocide was taking place against the Uighur people who were being forced to produce cotton and tomatoes, imports of those products continue to pour into Canada.

CBSA last year, as you know, blocked only one shipment, temporarily, out of the hundreds of millions, billions, of dollars of products that are pouring into this country, which I have no doubt are being produced using slave or forced labour.

In fact, south of the border, the Americans, as you pointed out in your testimony, have interdicted 1,400 container shipments of goods that were produced using forced or slave labour. The U.S. government doesn't believe that's good enough and is actually stepping up enforcement. They have plans to hire over 300 new positions at their border to continue to interdict even more products from coming into their country. They're implementing new computer systems, new training, and they're conducting outreach to importers to prevent this from happening.

I go to my original point. We can pass all the laws we want. The government can promulgate all the regulations they want, but they're just ink on paper unless there's enforcement.

If your bill passes the House of Commons and becomes law, what does this government need to do to ensure that this law and other laws and regulations that are currently on the books are actually enforced?

**Hon. John McKay:** I can't speak to the enforcement or lack of enforcement of current legislation, but you're not going to get any disagreement from me on what the facts appear to be. If this bill is passed, there's a year in which the various companies will have to fulfill the supply chain material requirement and file it with the government. We will start to develop a whole profile of companies that comply with legislation and those that either neglect or refuse to comply.

That would be round one, if you will. Who's going to step up to the plate and comply with this legislation, as it will be promulgated? That would be round one.

In round two, I would expect the government to be a bit more forceful and to use the authorities that are given to enter premises, examine documents, seize computers and issue warrants. That would be more robust enforcement, I would hope.

The third is the personal obligation of the CEOs that we put into the bill, and I don't think it's "not nothin'". A lot of these people are pretty successful. They don't want to see their names in the newspaper or online or wherever, having failed to comply with this kind of legislation. There will be considerable social pressure independent of the government's initiatives.

I would rather hope the government is quite aggressive. My friend Rob Oliphant, who knows everything, will, of course, make sure that's true.

• (1620)

**The Chair:** Thank you, Mr. McKay.

We now go to Mr. Zuberi. You have five minutes.

**Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.):** Thank you, Mr. Chair.

I'll be splitting my time with Elizabeth May from the Green Party.

Thanks for being here today and for bringing this forth. It's so important and so topical.

As we all know, there was advocacy today on the Hill. Many of us were contacted about this very issue, among other issues. However, under the rubric of the Uighur, which we have a high level of awareness of, thankfully.... We all unanimously said that genocide is occurring towards these people.

With respect to this piece of legislation that's coming forth, it's good that it is broad in scope and catches the entire world, the international community, because we know that forced labour doesn't only occur in one region or another.

With respect to reporting, can you speak about how we can trust the reporting mechanism and reporting that's being done? Is verifi-

cation built into this? Would you like to elaborate upon that some more?

**Hon. John McKay:** There's section 15, "Designated Person's Powers", which gives the entity—in this case, we are proposing the Minister of Public Safety—the ability to examine anything in the place of business, use any communication in the place, use any computer system in the place, prepare documents and have a warrant to enter dwelling-houses, etc. Those are fairly robust.

**Mr. Sameer Zuberi:** You said America is well ahead of the curve, and that's a model for us to strive toward. How can we get closer to that, in your opinion?

[*Translation*]

**Hon. Julie Miville-Dechéne:** What's interesting is that the United States has prohibited goods produced by forced labour since 1930, so they're way ahead of us. That said, they've only systematically applied that ban for a few years.

Of course, it's understandable that there's also the political aspect. The issue of the Uighurs is very important. As you said, the United States has a law against the forced labour of the Uighurs. That's one of the reasons why things are much stricter at the border.

There's experience, but also the burden of proof. In the United States, if there's suspicion about certain goods, the importer can be required to prove that they weren't produced by forced labour before their distribution is authorized. There are laws and thresholds that are very different from those in effect in Canada, where privacy laws make it impossible to even say what ship was inspected and who the importer was. The evidence threshold is much higher, and it's the government that must investigate.

• (1625)

**Mr. Sameer Zuberi:** Thank you.

[*English*]

I'll pass the time to Ms. May.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Thank you so much. I really apologize to Sameer. This is one of your key issues, but I'm grateful for the time.

I want to associate myself with the comments earlier made by Garnett Genuis and also by Michael Chong, and really hope that we can take part of Bill S-204 and get it moved in here so we deal geographically with East Turkestan and the Uighur issue. I also think we know that most of the chocolate our children eat in Canada comes from an industry that, by sector, involves child labour. We know that, by sector, a great deal of the seafood that enters this country comes from forced labour in the most brutal and inhumane conditions, where people are routinely murdered at sea. It's very hard to regulate.

I wonder if you'd be open to amendments that reversed the onus and said to entities that we want to know that they're buying products, they're engaging in chains of, for instance, cocoa production or seafood where they're only purchasing from certified, ethical and fair trade sources right through the supply chain.

**Hon. John McKay:** I would have to look at how a reverse onus works on the obligations as currently put in place. I'm not opposed to it.

I also bring to everyone's attention that this bill has already gone through the Senate. It's already gone through the House. We're here, one inch away from royal assent. In fact, a substantive amendment such as that would bounce it back to the Senate. Again, bear in mind I'm not opposed, but I just want to know how it would work. I wouldn't want to bounce it back to the Senate unless I had absolute assurance that we weren't just going to be bouncing this thing back and forth.

**Ms. Elizabeth May:** I guess the same answer would then apply to the specific regional questions. Would that also go back to the Senate?

**Hon. John McKay:** Again, it would be a substantive amendment. Again, you have to see something in front of you and where it would be in the bill.

**Ms. Elizabeth May:** Then I'm going to rapidly associate myself with Heather's comments: It's hard when you get a step in the right direction, but it's not enough.

**Hon. John McKay:** Yes.

**The Chair:** I'm sorry, Ms. May, you're way over time.

**Hon. John McKay:** Well, I'm surprised you're associating yourself with Garnett.

**Voices:** Oh, oh!

**The Chair:** Thank you, Ms. May.

We now go to Monsieur Bergeron again, for two and a half minutes.

[*Translation*]

**Mr. Stéphane Bergeron:** Mr. Chair, we're currently having a very interesting debate, and I think it's important to refocus a bit. Let's face it: the government didn't follow the lead of the other parties in the House of Commons on the issue of recognizing the genocide of the Uighurs because of political and trade reasons. Unfortunately, these considerations will always be present.

However, the issue of the genocide of Uighurs was well documented by the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. Despite that, the government continues to say only that something concerning is happening in the People's Republic of China.

Without the least study by the Subcommittee on International Human Rights or any committee, the House of Commons recognized the genocide of the Tamils with a simple motion, and cabinet members voted for that recognition. Were there fewer political, economic or trade considerations in that case? I leave it to you to judge, Mr. Chair.

What must be said at this stage is that it has to start somewhere. Better an imperfect and incomplete bill than no bill at all. I share Mr. McKay's concern: we can indeed try to achieve a perfect bill that will meet all expectations and address all concerns, and that will reflect all the details, but in doing so, the bill risks not being passed.

I therefore agree with what the sponsors of the bill told us about the need to take the first steps, which I hope will allow us to go further one day. It has to start somewhere, for sure. As a result, while there are people at the table, including the sponsors of the bill, who are prepared to consider amendments, let's ensure that those amendments don't put the bill's passage at risk.

How much time do I have left, Mr. Chair?

• (1630)

[*English*]

**The Chair:** You are out of time, Mr. Bergeron. You had two and a half minutes.

Thank you kindly.

[*Translation*]

**Mr. Stéphane Bergeron:** That's too bad. I felt it was important to refocus.

Thank you Mr. Chair.

[*English*]

**The Chair:** Thank you, Mr. Bergeron.

We now go back to Ms. McPherson for two and a half minutes.

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

Just to follow up on my colleague Mr. Bergeron's comments there, yes, of course it's important to take a first step. It's just that historically this government is not very good at taking a second step, so I for one don't have a ton of faith in that second step coming.

I do have a question for the senator, if I may.

Could you talk a bit about what you heard during the Senate committee hearings? What were the potential weaknesses that were identified there? Were there efforts made to fix the bill at the Senate level, at the other place, Senator?

[*Translation*]

**Hon. Julie Miville-Dechéne:** We've had a lot of support, but I must say that we saw how polarizing the debate has been. The chamber of commerce told us it agreed with the objectives of the bill, while asking that we amend about ten sections to make them less onerous.

For instance, the concept of control mechanisms was impossible. To change that, Senator Amina Gerba put forward an amendment that, in my opinion, was relatively important from a symbolic standpoint. Originally from Cameroon, Senator Gerba, herself, worked as a child in her home country. One of the elements that the bill says companies must address in their report is remediation. During the meeting, concerns were often raised that, if the legislative measure works well and companies lay off employees, most often children, what will happen to their families? Indeed, those children are often the only breadwinners in the family.

Adding the remediation element means that there will be consequences and that there must be an attempt to encourage companies to do something outside the business. That's something that's already being done. For instance, Lululemon, a company that's making a lot of effort, discusses remediation in its reports.

[English]

**Ms. Heather McPherson:** To be perfectly fair, though, how many aren't? I mean, that's the problem when we leave corporations the will to act appropriately. We can't always be certain that it's the case. Can I just ask—

**The Chair:** Ms. McPherson, I'm afraid we're out of time.

Mr. Aboultaif, you have three minutes remaining.

**Mr. Ziad Aboultaif (Edmonton Manning, CPC):** Thank you.

Thanks for putting forward this bill. I think it's a very important bill.

In 1999, there was an American CEO who refused to take her job to lead a factory in Asia because of just these conditions or just these same reasons that you're addressing here on child labour. I went through the bill, and there are two things I'd like to ask you.

The first thing is that I don't see any actual mechanism in the bill that would really meaningfully address this situation to prevent any of the child labour abuses from taking place where we buy our products, which is something that I believe can be done through a part of the ISO 9000 quality and safety features. There is something there just to make sure that every company complies with all the child labour conditions.

The second thing is the threshold. I would love for you to also explain to us why this threshold. It seems like it doesn't really cover a lot of ground, which really allows a lot of leaks into the system, into the supply chain, and therefore we will be basically doomed for the same thing that we're trying to fight.

[Translation]

**Hon. Julie Miville-Dechéne:** Thank you.

[English]

I will answer the second part of your question, the one on the threshold.

You are asking why we chose \$40 million?

**Mr. Ziad Aboultaif:** Yes.

**Hon. Julie Miville-Dechéne:** Well, it's not an easy choice.

You should know that in Britain, it's about \$64 million for the threshold, and in Australia, it's about \$100 million. Australia just goes for bigger enterprises. We go for the big and the middle-sized enterprises. This was the reasoning, because experts say that there's more forced labour in middle-sized enterprises. We didn't want to go higher in terms of threshold.

Why not go lower? Because if we catch too many small enterprises.... This writing of a report is not that easy. How do you want them to have enough expertise, time and money to do that? We tried to find a balance.

• (1635)

**Hon. John McKay:** We're casting it similar to an audit. The statements will have to be signed by the relevant corporate director, and they'll have to be signed off by the board. The statements are going to have to be substantive and verifiable, and give you the same category as a false statement under an audit.

**Mr. Ziad Aboultaif:** Back on the enforcement of this whole bill, I think the biggest issue is that you lay out so many conditions and a lot of good planning within the bill but—I think Mr. Chong said the same thing—where is the enforcement part of it and why not? Why is there no enforcement mechanism within the bill?

**Hon. John McKay:** There is an enforcement mechanism in the bill. You first of all have to file a report. If you don't file a report, in theory the Minister of Public Safety will come down on you with both boots. The powers of the Minister of Public Safety, which are set out in section 15, include the power to enter your home, examine your documents, examine your computer system, issue a warrant and ultimately a fine of \$250,000.

Others have said that \$250,000 is hardly anything at all, that it's a rounding error. We agree. For some companies like a Walmart that's a rounding error. But for some companies it's a serious amount of money, and the symbolism of it is pretty significant.

**The Chair:** Thank you, Mr. McKay.

The last question goes to Mr. Oliphant.

You have three minutes, please.

**Hon. Robert Oliphant (Don Valley West, Lib.):** Thank you, Mr. Chair. That was vintage McKay several times. And I'm just getting to know the senator. Maybe it is vintage *Madame la Sénatrice*.

**Hon. John McKay:** Are you saying I get better with age?

**Hon. Robert Oliphant:** You're getting better with age. You're learning.

I want to congratulate you on the bill, because you haven't let perfection get in the way of doing good. I think it is noted, for me at least as a member of this committee, that with every piece of legislation it's not perfect. And I think it needs to be part of a continuum of legislation.

I want to go back a little bit to the scope of the bill. I just want to echo the concern you had that certain amendments could be outside the scope and ruled outside the scope, sending the bill back. At second reading we got a certain understanding of the scope of the bill and it was approved. I'm not against moving into geographic things and I'm not against doing something else, but I am very much in favour of getting something done.

I just wanted to give you a chance if you wanted to say anything else about the kinds of amendments you could see as helpful that could strengthen... again, not letting perfection get in the way of doing something really important and really good.

**Hon. John McKay:** Thank you, Rob.

It's hard to react to, say, Mr. Chong's or Mr. Genuis' initiatives or even Ms. McPherson's initiative unless you see it on paper and see where it fits in the bill. Once you see that you can figure out whether it is or is not within the scope of the bill.

If it's within the scope of the bill is it worth the ping-pong match that it inevitably will be? If it's of significance it will inevitably go back to the Senate. I have nothing but faith in our Senate colleagues, but they have their own agendas and their own way of proceeding.

• (1640)

**Hon. Julie Miville-Dechéne:** And they're independent.

**Hon. John McKay:** And they're very independent, I've noticed—yes. Sometimes the government can't even get them to do what they want them to do. So these are real considerations.

The third thing I would say is that Bill S-204 will be coming before this committee at some point, I think, and the committee will be able to look at whether that is an appropriate bill to pass on, assuming Bill S-204 gets out of the Senate.

**Hon. Robert Oliphant:** One thing I would maybe push our government on a little bit is that hand-in-hand with this legislation would need to go money not only for enforcement but for public education. I think a big part of anything that involves changing consumer patterns requires some education, and I don't think we can put that all on the burden of just companies. I think that also the Canadian public would need to know that. So I would be finding a way for this committee perhaps to recommend something like that to the government.

**Hon. John McKay:** Yes, that's an interesting thought.

**Hon. Robert Oliphant:** Thank you.

**The Chair:** At this point, allow me to thank the senator and MP McKay for appearing before us. I'm sure we all very much benefited from your explanations, and we're very grateful that you chose to appear before us, especially since it was on such short notice.

We will suspend for a few minutes so that we can go in camera and turn our attention to committee business.

*[Proceedings continue in camera]*





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