The Mining Association of Canada | L'association minière du Canada

Mining Association of Canada proposed amendments to:
Bill S-211 *The Fighting Against Forced Labour and Child Labour in Supply Chains Act*

The Mining Association of Canada (MAC) appreciated the opportunity to appear before the Standing Senate Committee on Human Rights on February 7th to discuss Bill S-211, the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*.

MAC supports the Bill's intent, and efforts to eradicate child and forced labour from global supply chains.

Canada's global leadership in sustainable mining

Canadian mining has a significant international presence, and Canada's role as a global leader in sustainable mining and responsible business practices continues to grow. This includes in the area of child and forced labour.

Central to this work is our MAC's Towards Sustainable Mining, or "TSM", a globally recognized standard for driving responsible behaviour in our industry. Other mining associations in other countries have taken note of Canada's leadership, and our standard is now being implemented by ten associations, in ten countries, on six continents.

Five years ago, we saw an opportunity to contribute to global efforts to prevent modern slavery, by adding standards to TSM aimed at prohibiting and preventing child and forced labour. This contribution is made more meaningful due to how TSM is spreading globally.

To strengthen Bill S-211 by adding clarity and to ensure more effective and efficient compliance by entities, we suggest the following amendments.

MAC suggested amendment #1: Enhance reporting flexibility and effectiveness through a proven approach already in use under the Extractive Sector Transparency Measures Act (ESTMA)

We encourage the committee to add to Bill S-211, language found in subsection 10 (1) of ESTMA that lays out the process and criteria by which the Minister (in the case of ESTMA, the Minister of Natural Resources) can determine the reporting requirements of another jurisdiction to be an acceptable substitute for those of the ESTMA. This substitution (or equivalency) provision has contributed to the Act's effectiveness in meeting objectives, including related to corporate transparency.

Suggested S-211 amendment wording from Sec. 10 (1) of The Extractive Sector Transparency Measures Act (ESTMA):

Substitution

- ***10 (1)*** *If, in the Minister's opinion, and taking into account any additional conditions that he or she may impose, the payment reporting requirements of another jurisdiction achieve the purposes of the reporting requirements under this Act, the Minister may determine that the requirements of the other jurisdiction are an acceptable substitute for those set out in section 9. The determination is to be in writing and made available to the public in the manner that the Minister considers appropriate.*

We encourage you to consider an amendment to S-211 that would add this flexible yet effective and proven approach to annual reporting that improves compliance by reducing unnecessary burden. It works.

MAC suggested amendment #2: Reporting deadline

Bill S-211 establishes a reporting deadline of May 31st for the filing of reports regardless of a company's fiscal year end. Senator Miville-Dechene's previous version of the Bill, S-216, required reporting no later than 180 days after the end of the financial year. This change was made to S-211 to simplify the process of producing the Minister's annual report to Parliament. However, the objective of determining reporting requirements should be to facilitate high quality reporting on an equal playing field for all entities, not the ease with which the Minister or "regulator" will be able to compile an annual report to Parliament.

By anchoring reporting to a fixed calendar date, Bill S-211 creates a new disparity among entities who report on different schedules, for example entities using a Dec 31st fiscal year end vs. March 31st will have three additional months to prepare and report.

MAC suggests Bill S-211 be amended to allow entities to report as outlined in Bill S-216 (180 days after the end of an entities fiscal year):

From Bill S-216:

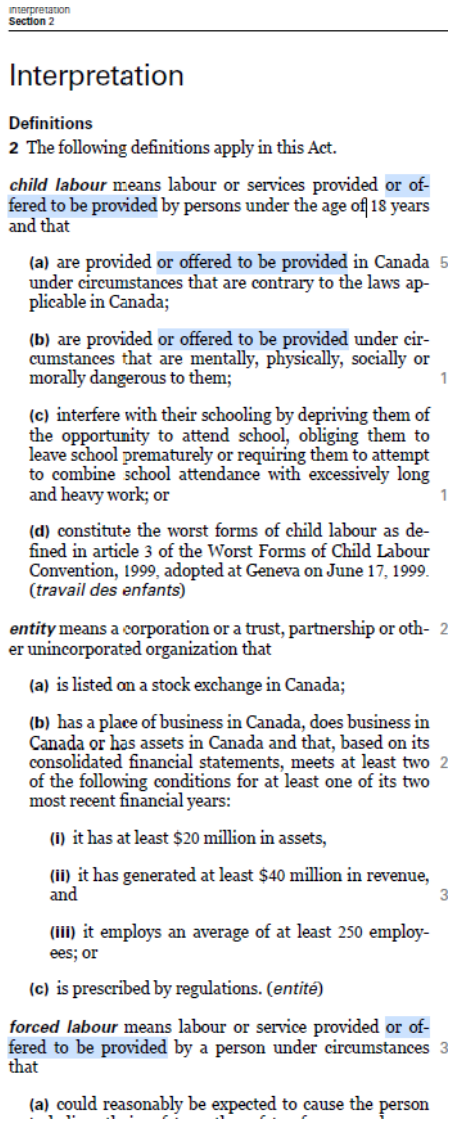
7 (1) *Every entity must, no later than 180 days after the end of each financial year, provide the Minister with a report that sets out the steps the entity has taken during that year to prevent and reduce the risk that forced labour or child labour is used at any step of the production of goods in Canada or elsewhere by the entity or of goods imported into Canada by the entity.*

MAC suggested amendment #3: removal of "or offered to be provided" from the definitions of child labour and forced labour in Section 2/Definitions

During our appearance before the committee, we outlined for Senators some confusion around what is intended to be captured by the "or offered to be provided", in the definitions of child labour and force labour in Section 2/Definitions, namely, are companies now obligated to monitor what suppliers are offering in terms of services (as opposed to those services for which they have contracts/have agreed to retain)?

We noted that Senator Miville-Dechene agreed with the need for clarity on this point during the February 7th meeting.

As such, we suggest an amendment to S-211 to remove “or offered to be provided” from the definitions of child labour and forced labour:



interpretation
Section 2

Interpretation

Definitions

2 The following definitions apply in this Act.

child labour means labour or services provided or offered to be provided by persons under the age of 18 years and that

(a) are provided or offered to be provided in Canada under circumstances that are contrary to the laws applicable in Canada;

(b) are provided or offered to be provided under circumstances that are mentally, physically, socially or morally dangerous to them;

(c) interfere with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work; or

(d) constitute the worst forms of child labour as defined in article 3 of the Worst Forms of Child Labour Convention, 1999, adopted at Geneva on June 17, 1999. (*travail des enfants*)

entity means a corporation or a trust, partnership or other unincorporated organization that

(a) is listed on a stock exchange in Canada;

(b) has 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 of the following conditions for at least one of its two most recent financial years:

(i) it has at least $20 million in assets,

(ii) it has generated at least $40 million in revenue, and

(iii) it employs an average of at least 250 employees; or

(c) is prescribed by regulations. (*entité*)

forced labour means labour or service provided or offered to be provided by a person under circumstances that

(a) could reasonably be expected to cause the person

MAC appreciates to the opportunity to contribute to the development of legislative measures to support the eradication of child and forced labour and is available to discuss these proposed amendments at your convenience.