



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
OTTAWA, CANADA
K1A 0A6

38th Parliament, 1st Session

The Standing Committee on Foreign Affairs and International Trade has the honour to present its

FOURTEENTH REPORT

In accordance with its mandate under Standing Order 108(1), your committee established a subcommittee and assigned it the responsibility to inquire into matters relating to the promotion of respect for international human rights and the achievement of sustainable human development goals.

The Subcommittee on Human Rights and International Development of the Standing Committee on Foreign Affairs and International Trade submitted its Third Report to the Committee

Your committee adopted the report, which reads as follows:

INTRODUCTION

Over the past several years, the Subcommittee on Human Rights and International Development has heard evidence related to the activities of Canadian mining and other resource companies in developing countries, including Colombia, Sudan and the Democratic Republic of the Congo. Most recently, it has held hearings on the activities of the Canadian mining company TVI Pacific Inc. in the Philippines, as well as on the broader issue of corporate social responsibility with respect to the activities of Canadian mining companies in developing countries.

These hearings have underlined the fact that mining activities in some developing countries have had adverse effects on local communities, especially where regulations governing the mining sector and its impact on the economic and social wellbeing of employees and local residents, as well as on the environment, are weak or non-existent, or where they are not enforced. To address problems related to corporate activities in developing countries, a number of organizations have developed and implemented voluntary norms for corporate social responsibility, including the United Nations Global Compact and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, both of which are supported by the Government of Canada.

In light of its most recent hearings, the Subcommittee on Human Rights and International Development agrees to report the following:

I. ENSURING SOCIALLY AND ENVIRONMENTALLY RESPONSIBLE CONDUCT BY CANADIAN COMPANIES

The Subcommittee:

- o Acknowledges that the Government of Canada has a stated commitment to corporate social responsibility standards and international human rights norms, as shown in its commitment to the OECD Guidelines for Multinational Enterprises and its efforts to promote the guidelines; and acknowledges its commitment to strengthen the capacity of the Canadian Trade Commissioner Service in the area of corporate social responsibility, and to build governance capacity in this area in developing countries;
- o Acknowledges that the government encourages and expects Canadian companies to observe the OECD Guidelines in their operations abroad;
- o Recognizes that some Canadian mining companies endorse internationally agreed-upon corporate social responsibility standards, but also that smaller companies in particular often lack the resources, knowledge or incentives to adequately address issues arising from the social, cultural, political, or environmental context in which they seek to operate in developing countries; and
- o Concerned that Canada does not yet have laws to ensure that the activities of Canadian mining companies in developing countries conform to human rights standards, including the rights of workers and of indigenous peoples.

The Subcommittee believes that more must be done to ensure that Canadian companies have the necessary knowledge, support and incentives to conduct their activities in a socially and environmentally responsible manner and in conformity with international human rights standards. In this context, particular attention should be paid to the rights of indigenous peoples as currently specified in the United Nations Draft Declaration on the Rights of Indigenous Peoples.

The Subcommittee therefore calls on the Government of Canada to:

- 1. Put in place a process involving relevant industry associations, non-governmental organizations and experts, which will lead to the strengthening of existing programs and policies in this area and, where necessary, to the establishment of new ones.**

In particular, the Subcommittee urges the government to:

- 2. Put in place stronger incentives to encourage Canadian mining companies to conduct their activities outside of Canada in a socially and environmentally responsible manner and in conformity with international human rights standards. Measures in this area must include making Canadian government support – such as export and project financing and services offered by Canadian missions abroad – conditional on companies meeting clearly defined corporate social responsibility and human rights standards, particularly through the mechanism of human rights impact assessments;**
- 3. Strengthen or develop new mechanisms for monitoring the activities of Canadian mining companies in developing countries and for dealing with complaints alleging socially and environmentally irresponsible conduct and human rights violations. Specifically, the government must clarify, formalize and strengthen the rules and the mandate of the Canadian National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, and increase the resources available to the NCP to enable it to respond to complaints**

promptly, to undertake proper investigations, and to recommend appropriate measures against companies found to be acting in violation of the OECD Guidelines. The government shall develop specific rules for companies operating in conflict zones;

4. Establish clear legal norms in Canada to ensure that Canadian companies and residents are held accountable when there is evidence of environmental and/or human rights violations associated with the activities of Canadian mining companies;

5. Increase and improve services offered to Canadian mining companies operating in developing countries to ensure they:

- a. are aware of their obligations under Canadian and international law and the law of the country where they operate, as well as international corporate social responsibility norms and human rights standards;
- b. are aware of the local political, social and cultural context in which they intend to operate; and
- c. have the capacity to conduct their activities in a socially and environmentally responsible manner, in particular by developing and promoting a specific toolkit to help Canadian companies evaluate the social, environmental and human rights impacts of their operations.

6. Make the building of governance capacity in the area of corporate social responsibility a priority in its efforts to promote good governance and private sector development in developing countries, as outlined in the April 2005 International Policy Statement;

7. Work with like-minded countries to strengthen the OECD Guidelines for Multinational Enterprises, first, by clearly defining the responsibilities of multinational enterprises with regard to human rights, second, by making compliance with international human rights standards obligatory, and third, by working towards establishing common rules of evidence;

8. Work with like-minded countries to integrate and mainstream international human rights standards in the work of international financial institutions (IFIs) such as the World Bank and the International Monetary Fund – as outlined, for example, in the final report of the Extractive Industries Review (December 2003) – to ensure that projects and investments funded by IFIs conform to international human rights standards.

II. THE ACTIVITIES OF THE CANADIAN MINING COMPANY TVI PACIFIC INC. IN THE PHILIPPINES

The Subcommittee has held hearings on the activities of the mining company TVI Pacific Inc. in the Philippines, specifically the company's Canatuan mining project in Mindanao. During the course of these hearings, the Subcommittee heard from several witnesses – including Canadian experts and NGO representatives, as well as two representatives of some members of the Subanon community in Mindanao – and also received written communications from community organizations and individuals, who raised serious concerns about:

- o the environmental, social and political impact of the project;

- o the impact of the project on indigenous rights and the human rights of the people living in the area;
- o TVI Pacific's use of military-trained-and-controlled forces, which has allegedly led to a militarization of the region and related human rights abuses; and
- o the support TVI has received from the Canadian government.

The Subcommittee also heard testimony challenging these views from representatives of TVI Pacific Inc. and representatives of the Siocon Subano Association, a representative body of some members of the indigenous Subanen people in the area, who argued that the benefits of TVI Pacific's activities at Canatuan have included:

- o the signing of a Memorandum of Agreement (MOA) with some members of the Canatuan Subanon community, under which TVI pays a royalty to the community, provides health care, education and training for sustainable agriculture and livestock rearing;
- o the clean-up of illegal mining waste and tailings;
- o the generation of full-time jobs; and
- o significant contributions to the national, regional and local tax base.

The Subcommittee is deeply concerned about the possible impact of the activities of TVI Pacific Inc., a Canadian mining company, on the indigenous rights and the human rights of people in the area, and recommends that the Government of Canada:

9. Conduct an investigation of any impact of TVI Pacific's Canatuan mining project in Mindanao on the indigenous rights and the human rights of people in the area and on the environment, and table a report on this investigation in Parliament within 90 days;

10. Ensure that it does not promote TVI Pacific Inc. pending the outcome of this investigation.

III. REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Standing Committee on Foreign Affairs and International Trade requests a comprehensive government response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 12, 17, 18, 19, 20 and 21 of the Subcommittee on Human Rights and International Development and no. 50 of the Standing Committee on Foreign Affairs and International Trade, which includes this report)) is tabled.

Respectfully submitted,

Bernard Patry, M.P.
Chair

Appendix A List of Witnesses

| <i>Organizations and Individuals</i> | <i>Date</i> | <i>Meeting</i> |
|---|-------------|----------------|
| Forcese, Craig Law Professor University of Ottawa | 23/03/2005 | 12 |
| Galos, Godofredo | 23/03/2005 | 12 |
| International Centre for Human Rights and Democratic Development Diana Bronson Coordinator Program on Globalisation and Human Rights | 23/03/2005 | 12 |
| Mato, Onsino | 23/03/2005 | 12 |
| Mining Watch Canada Catherine Coumans Research Coordinator and Asia Pacific Program | 23/03/2005 | 12 |
| Department of International Trade Christine Côté Acting Director Investment Trade Policy Division (EBI) | 11/05/2005 | 17 |
| Department of International Trade Vivien Escott Deputy Director Trade Southeast Asia Division | 11/05/2005 | 17 |
| Department of International Trade Vernon MacKay Senior Trade Policy Analyst Investment Trade Policy Division (EBI) | 11/05/2005 | 17 |
| Department of International Trade Carl Pilon Trade Commissioner | 11/05/2005 | 17 |
| Department of International Trade Ken Sunquist Assistant Deputy Minister International Business and Chief Trade Commissioner | 11/05/2005 | 17 |
| Department of Natural Resources Lise-Aurore Lapalme Senior Policy Advisor Economic, Financial and Social Analysis Branch | 11/05/2005 | 17 |

| <i>Organizations and Individuals</i> | <i>Date</i> | <i>Meeting</i> |
|---|-------------|----------------|
| Department of Natural Resources Michel Miron Senior Policy Advisor Industry Analysis and Business Development Branch | 11/05/2005 | 17 |
| Department of Natural Resources Gary Nash Assistant Deputy Minister Minerals and Metals Sector | 11/05/2005 | 17 |
| Department of Natural Resources Louis Perron Senior Policy Advisor Programs Branch | 11/05/2005 | 17 |
| Bernardo, Pablo | 18/05/2005 | 18 |
| Patoh, Benifacio | 18/05/2005 | 18 |
| TVI Pacific Inc Clifford James President and CEO | 18/05/2005 | 18 |
| Drohan, Madelaine | 01/06/2005 | 19 |
| Forcese, Craig Law Professor University of Ottawa | 01/06/2005 | 19 |
| Rights and Democracy Diana Bronson Coordinator Globalisation and Human Rights | 01/06/2005 | 19 |

APPENDIX B

List of Submissions

Meeting 12 – March 23, 2005

- Anoy, Jose "Boy"
- Corpuz, Victoria Tauli
- Coumans, Catherine
- Davi, Ofelia "Inday"
- Galos, Godofredo C.
- Manguiran, José
- Siocon Peace and Development Advocates Alliance League

Meeting 17 – May 11, 2005

- Foreign Affairs Canada - Canadian Trade Commissioner Service
- International Trade Canada – Trade Commissioner Service
- Organisation for Economic Co-operation and Development

Meeting 18 – May 18, 2005

- DIOPIM Committee on Mining Issues
- Kairos: Canadian Ecumenical Justice Initiatives
- Kingking Mines Inc.
- Mennonite Central Committee Canada
- National Commission on Indigenous Peoples
- National Council of Churches in the Philippines