



## Briefing Note: November 2009

### **Bill C-300: *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries.***

#### **We urge MPs to vote against Bill C-300**

#### **Background**

Bill C-300 - *an Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*, is now at the Committee stage having passed second reading. We remain committed to working with the Government and other interested parties to implement the Government's response to the National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries Advisory Group (herein referred to as the Advisory Group) process and report. The strategy addressed many of the recommendations in the Advisory Group Report, such as enhancing support for capacity building in developing countries, endorsing voluntary international CSR standards and creating a CSR Centre of Excellence. We support the Government of Canada strategy because it is directionally correct, and an important first step towards meeting the Roundtables objectives.

#### **Why we do not support Bill C-300:**

Bill C-300 is not in keeping with the spirit and intent of the Advisory Group recommendations:

- Instead of a collaborative, policy-based approach, Bill C-300 is based on creating a legislative and punitive approach to corporate accountability that ignores the need for an enabling environment to improve performance.
- Instead of helping companies to operate in compliance with CSR guidelines, under Bill C-300 Ministers must investigate complaints and then issue either a "compliant" or "non-compliant" ruling within eight months.
  - EDC funding for projects and Canada Pension Plan investments in companies found "non-compliant" will be withdrawn immediately.
  - Companies will not be given the opportunity to correct their non-compliance.
  - Companies may face reputational risk, with no distinction between arguably "trivial" or "serious" findings of non-compliance.
- Instead of working with host-countries to improve their governance capacity, Bill C-300 will base CSR compliance legislation on a set of international CSR standards which are still in the process of being defined and agreed upon by the international community. Regardless of their own laws, host countries will have to accommodate Canada's largely-unwritten CSR laws before projects that rely on Canadian support can proceed.

Bill C-300 will harm the Canadian extractive sector:

- Bill C-300 creates tremendous uncertainty for Canadian companies. It legally requires Canadian companies to follow international CSR standards. However, no internationally recognized CSR standards that cover the breadth of environment issues, social issues and human rights issues identified by C-300 currently exist. The bill seeks to enforce non-compliance of specific standards that are not yet defined.

- In 2008, EDC facilitated \$27.4 billion of exports and investments in the extractive sector. EDC's support in the sector helped generate \$21.4 billion in Canadian GDP and sustain 139,000 Canadian jobs in communities across the country. If C-300 became law, EDC would be compelled to turn down all new requests to provide financing and insurance in the extractive sector.
  - The commercial reality is that co-lenders and borrowers would not be willing to risk the unilateral withdrawal of support by EDC. As a result, EDC would not be able to be involved in these transactions.
- This bill would not position Canada as a leader in corporate social responsibility; in fact it would do the opposite. It would restrict access to credit for Canadian companies, effectively forcing them out of the market. Under Bill C-300, the void left by Canadian companies is more likely to be filled by other international players with little regard for CSR.

### **Our position:**

We are committed to:

- Working with the Government and other interested parties “in good faith” to implement the government’s response.
- Supporting the spirit and intent of the CSR Roundtables process and report.
- Working to improve capacity building and governance in support of the Government of Canada’s objectives.
  - If foreign governments possessed the capacity to enforce environmental legislation, had the capacity to collect, redistribute and spend tax revenues to strengthen institutional and human capital, had the legal capacity to protect their citizens, and lived up to their international human rights obligations through domestic legislation, we would have no need for the Advisory Group Report recommendations.
- Respecting the sovereign right of governments as best placed to make the difficult choices in responding to their societal needs while managing the development of their resources.
- Supporting the federal government commitment to EITI, the Voluntary Principles on Human Rights and Security, and a commitment to multilateral and bilateral processes to improve governance and capacity in developing countries.

We remain committed to:

- Strengthening our own commitment to CSR through the Mining Association of Canada’s Towards Sustainable Mining (TSM) Initiative and the Prospectors and Developers of Canada’s e3 Plus program.
  - TSM focuses on improving the mining industry’s sustainable development performance. Member companies follow guiding principles and report on indicators that measure their performance for specific mining activities such as tailings management, energy use and greenhouse gas emissions management, external outreach and crisis management. We are adding commitments on biodiversity, Aboriginal relations and health and safety.
  - *e3 Plus: A framework for responsible exploration* is a comprehensive program to help exploration companies continuously improve their social, environmental, and health and safety performance and integrate these three aspects into their exploration programs wherever they are located.