

Competitive Realities

Getting into countries is an extremely competitive business for companies in the extractive industries. Some companies won't go into risky areas because of the risk to their reputations, but others will. The Government should ensure that firms taking human rights commitments seriously are not at a disadvantage.

Call for Coherence

A great deal of discussion concerned the fundamental incoherence of Government policy. Numerous examples were cited:

- the distance between words and action in the recent Talisman case;
- the fact that the Canadian Government portrays itself as a facilitator of NGO-business dialogue but argued *against* incorporating stakeholder consultation criteria in the OECD Voluntary Code of Conduct for Multinational Enterprises;
- the disconnect between Minister Axworthy's invocations of 'responsible trade' and the priority placed on business promotion activities at the embassy level;
- the fact that the Government calls on corporations to act ethically overseas yet neither government procurement nor taxpayer-financed benefits to corporations are made conditional on the effective implementation of codes of international conduct;
- that Canada claims a leadership role in promoting human rights yet it is behind both the U.S. and the U.K. in providing a legal and policy environment in which global corporate citizenship can be promoted effectively (particular concern was expressed over restrictions on shareholder resolutions in the revised *Canadian Business Corporations Act* currently before Senate).

Policy Requirements – Flexibility, Clarity, Enforceability

Special emphasis was placed on the uncertainty produced by current Canadian policy, which sends mixed signals to Canadian firms, to our international partners, and to human-rights violating regimes. Corporations cannot respond to purely subjective expectations. The desired set of rules should be simple, predictable, and provide for judgements that are as objective as possible. The Government also needs to be able to respond in a flexible way to particular cases. The need for a progressive 'ladder' of clear responses was discussed. Participants felt strongly that flexibility and clarity were not mutually exclusive as long as the relevant thresholds were clearly defined. For companies that are already committed to managing their operations ethically, improved country briefings are essential (currently the Canadian Government relies too much on information derived from host government sources). Furthermore, companies that do well in terms of corporate social responsibility should be publicly praised by senior Government figures (too much attention is paid to the negative end of the spectrum and not enough to the power of reputation as a motivator). There was broad consensus amongst both business and NGO representatives that taxpayers' money should not go to firms that violate international standards. Enforcement actions, whether through a modified *Special Economic Measures Act* or through some other legislation, should be reserved for behavior that is truly 'beyond the pale'. However, it was argued that credible incentives are needed in order to make voluntary approaches to compliance more effective. There was significant NGO-business consensus on this point.