

The majority of Canadian firms operating in risky states manage their commercial activities ethically. But there are some firms that operate in a manner wholly out of keeping with Canadian values. It is in the interests of Canadians, and those Canadian firms that *do* behave responsibly, that the Government has at its disposal legal means for sanctioning such firms.

Therefore, the Government of Canada should broaden the interpretation of the *Special Economic Measures Act*. In particular, the Minister for Foreign Affairs should draft amendments to the *Act* to clarify the circumstances in which Cabinet may impose measures unilaterally. In particular, the amended *Act* should confirm that Cabinet is able to act where there are grave breaches of human rights and human security in a country.¹³

Proposal #6: Human Rights-Related Securities Regulation

Many firms active in risky states are listed on Canadian stock exchanges. This suggests an alternative approach to influencing corporate behaviour. Noting that Canada is 'home' to a large proportion of the world's junior mining companies, a recent report on the role of the diamond-mining industry in the civil war in Sierra Leone makes the following recommendation:

All Canadian securities commissions should initiate discussion among their members about issues relating to corporate conduct in war zones, with special reference to direct or arm's length trade in weapons and materiel, involvement with individuals and companies recruited abroad to engage in hostilities in a third country, or the arrangement of mining concessions in return for protection of any sort. Guidelines dealing with such issues should be created or added to existing codes.¹⁴

Proposal # 7: Harmonize implementation of UN sanctions

Even where UN sanctions have been put in place, countries vary enormously in how they implement those sanctions. The United States, for instance, forbids firms to negotiate or sign agreements with sanctioned regimes. European countries, in contrast, tend to permit contracts to be negotiated and signed (though presumably do not permit the goods and services covered by those agreements to be transacted). Canada takes a middle position, permitting the negotiation of contracts with sanctioned regimes but not their finalization. This variation affords sanctioned regimes opportunities to exert 'reverse linkage' -- making commercial deals contingent on the foreign policy behaviour of home governments in an effort to create anti-sanctions lobbies in major Western states. A diplomatic initiative, perhaps within the OECD, to harmonize implementation of international sanctions

¹³ A legislative proposal – currently in draft form – has been compiled by Craig Forcese, Visiting Professor of Law at the University of Ottawa. Those interested in receiving a copy should contact him via email: cforcese@essential.org.

¹⁴ Smillie, Gberie, Hazleton, *The Heart of the Matter*, p. 71.