

Check against delivery



**Statement by Mr. Surya Deva**

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and other business enterprises**

**At**

**The Standing Senate Committee on Human Rights of the Senate of Canada concerning  
Bill S-211, An Act to enact the Fighting Against Forced Labour and Child Labour in  
Supply Chains Act and to amend the Customs Tariff**

**28 March 2022 (via Zoom)**

Madam Chair

Thank you very much for inviting me to share views of the UN Working Group on Business and Human Rights (Working Group) about the proposed law to fight against forced labour and child labour in supply chains.

The Working Group has a mandate given by the Human Rights Council to promote the dissemination and implementation of the UN Guiding Principles on Business and Human Rights (UN Guiding Principles). We work with States, businesses, civil society organisations and other stakeholders to discharge this mandate. If requested, we can “provide advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights”.

The Commentary to Guiding Principle 3 provides that States “should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights.” Mandatory human rights due diligence laws are widely seen an integral part of this smart mix.

In the last few years, five European states (namely, France, the Netherlands, Switzerland, Germany and Norway) have enacted some kind of a mandatory human rights due diligence law.<sup>1</sup> Mandatory human rights diligence is also part of the proposed business and human rights treaty being negotiated in the Human Rights Council.<sup>2</sup> More recently, the European Commission has released a draft Directive on Corporate Sustainability Due Diligence,<sup>3</sup> which recommends European Union member states to ensure that companies above a certain size conduct human rights and environmental due diligence.

It is also worth recalling that in the 2018 report on the country visit to Canada, the Working Group had “encouraged the federal Government to explore ways and means to incentivize

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<sup>1</sup> See <https://www.business-humanrights.org/en/latest-news/national-regional-movements-for-mandatory-human-rights-environmental-due-diligence-in-europe/>

<sup>2</sup> See <https://www.ohchr.org/sites/default/files/LBI3rdDRAFT.pdf>

<sup>3</sup> See [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1145](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145)

human rights due diligence by companies, including through regulations on mandatory due diligence and disclosure.”<sup>4</sup>

Madam Chair

We should therefore see the Canadian Bill in this wider context of evolving regulatory landscape at the national, regional and international levels. I would like to make the four specific points.

First, similar to what the Working Group has stressed regarding the European Commission’s Directive,<sup>5</sup> the Canadian Bill should be in line with the UN Guiding Principles. From this perspective, the narrow scope of the Bill is problematic as it does not all cover all internationally recognised human rights. Nor does it apply to all business enterprises.

Second, it seems that the Bill merely imposes an annual “reporting obligation” on selected business enterprises. This is very different from the expectation under Pillar II of the UN Guiding Principles to conduct regular human rights due diligence.

Third, it is critical that mandatory human rights due diligence laws provide for an effective remedy to those affected by corporate human rights abuses. The proposed Bill falls short on this count too, as the proposed liability is limited to breaching the reporting obligation, or making a false or misleading statement.

Fourth, despite the ILO estimates that more than 70% of the victims of modern slavery are women and girls, the Bill does not integrate a gender perceptive. Nor does it consider other vulnerability considerations having a bearing on child labour or forced labour.

In short, the Canadian government should enact a comprehensive human rights due diligence law covering human rights, labour rights, environmental rights and climate change. Such a law should also strengthen access to effective remedy.

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<sup>4</sup> Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its mission to Canada, A/HRC/38/48/Add.1 (23 April 2018), para 26.

<sup>5</sup> See <https://www.ohchr.org/sites/default/files/2022-03/20220302-WG-remarks.pdf>

I look forward to our dialogue today. Thank you for your attention.