

March 13, 2024

The Honourable Domenic LeBlanc
Minister of Public Safety and Intergovernmental Affairs
80 Wellington Street
Ottawa, Ontario, K1A 0A3

The Honourable Seamus O'Regan
Minister of Labour
229 Wellington Street
Ottawa, Ontario, K1A 0A6

Re: Implementation of the *Supply Chains Act* and Development of Mandatory Human Rights Due Diligence Legislation

Dear Ministers LeBlanc and O'Regan,

As representatives of various Canadian businesses that share the federal government's commitment to eradicating human rights abuses and labour exploitation from global supply chains, we are concerned that our industries are being asked to comply with important new legislation – the *Supply Chains Act (Bill S-211)* – in the absence of clear requirements or sufficient time. To ensure successful adoption by companies, supply chain due diligence legislation should be informed by authentic stakeholder engagement. We are writing to request a meeting with you to discuss potential solutions and how we can define a collaborative path forward on these important issues.

Our industries have zero tolerance for forced labour or child labour. Collectively, we believe that solutions to these complex global issues cannot be achieved in isolation – they demand a partnership, between governments, industry, and non government organizations (NGOs) working in a collaborative and coordinated manner, both in Canada and globally.

Bill S-211 Implementation

In the immediate term, our concerns relate to challenges with the implementation of the *Bill S-211*. The Canadian businesses represented by our respective organizations support the intent of the *Bill S-211* and want to be able to comply with the law. However, the Guidance that was released in late 2023 has left companies with many outstanding questions.

According to KPMG's November Private Enterprise Business Survey, nearly 60% of Canadian small and medium-sized businesses are concerned about meeting the Act's May 31, 2024 reporting timeline, and nearly 40% still do not have a good understanding of how the law's requirements relate to their business.

Companies have had little time to assess the requirements, develop reports, and engage with their governing bodies to fulfill approval requirements. Our specific concerns with the guidance are outlined at a high-level as an appendix to this letter.

Bill S-211 was intended to encourage transparency and drive improvements in corporate policies. In our view, obligated entities should be provided with a real opportunity to meet this worthwhile intent.

Mandatory Human Rights Due Diligence Legislation

Looking ahead as the federal government plans to introduce further legislative and policy initiatives in this area, including mandatory Human Rights Due Diligence (HRDD) legislation, the federal government should engage those industries who will be required to comply as we have

much expertise and experience to contribute. This will be complex legislation with significant impacts on Canadian businesses and potential for unintended consequences – including for those the policy is intended to protect. Otherwise, we risk putting a difficult administrative burden on Canadian businesses and only set them up to fail.

A policy developed without practical expertise will not deliver on the federal government's intended objectives. The challenges arising from the development and implementation of HRDD laws in Europe further demonstrate the need for consultation and careful consideration. Furthermore, as the federal government considers implementing similar legislation in quick succession, the plan should promote coordination, limit duplication, and enable industry to adapt and to learn from best practices in other jurisdictions.

Thank you for your consideration of our concerns, and request to meet. We look forward to discussing a path forward to discuss these important issues at your earliest convenience.

Sincerely,

Canadian Chamber of Commerce
Canadian Manufacturers & Exporters
Canadian Fuel Association
Canadian Produce Marketing Association
Retail Council of Canada
Canadian Vehicle Manufacturers Association
Canadian Federation of Independent Grocers
Chemistry Industry Association of Canada
Mining Association of Canada
Canadian Venture Marketing Association
Canadian Apparel Federation
Canadian Painting and Coatings Association
Canadian Consumer Specialty Products Association
Food, Health, and Consumer Products of Canada
Canadian Transportation and Equipment Association
Canadian Printing Industries Association
Canadian Home Builders Association
Electro Federation Canada
FETCO
Canadian Fluid Power Association
Tea and Herbal Association of Canada
Canadian Textile Industry Association

APPENDIX: Bill S-211 Implementation Concerns

With an imminent reporting deadline, we have significant concerns with the guidance and questionnaire that have recently been published by Public Safety Canada regarding *Bill S-211*. At a high level, these concerns include:

- **Lack of clarity in the guidance:** The Guidance and questionnaire released in December 2023 lacks clarity. Both documents have generated many unanswered questions among obligated entities on matters as fundamental as identifying which entities are obligated to prepare reports and the scope of supply chains captured. For example, the lack of clarity with respect to terms such as “control” makes it difficult to assess the applicability of the Act. The Guidance should be clarified to resolve these concerns before entities are required to draft reports.
- **Challenges with the Reporting Process:** The requirement in the Guidance to prepare both a questionnaire and a written report has served to increase confusion and compliance challenges. Requiring obligated entities to do both is unnecessarily duplicative and inconsistent with the international precedents upon which this law is closely based. Furthermore, the quantitative approach used by the questionnaire, which presupposes a limited range of potential responses does not reflect the complexity of the issues covered in the obligated reports or of those entities that will be filing them. As a result, these components have generated significant compliance questions.
- **Timelines:** Given the substantial requirements of the legislation, that formal Guidance was only issued in late December 2023, and several outstanding technical questions remain, entities do not have sufficient time to prepare compliant and meaningful reports by May 31, 2024. Time is needed for entities to understand how the new obligations apply to their business and undertake the necessary work to complete reports (including actions such as information gathering, verification, legal reviews, and translation). Following report preparation, time is needed for consideration and approval by governing bodies. Given that this is new legislation with significant potential repercussions for non-compliance, it is reasonable to expect that the preparation and approval of first reports will require more time and resources.

Throughout the development of the implementation plan for this new law, there has been very limited consultation. For example, Public Safety Canada undertook no formal consultations with stakeholders on the development of the Guidance and did not consult on the contents of the Guidance or questionnaire with those who would be required to complete it. Communications to stakeholders about these new requirements have been fractured and inconsistent, including with respect to when and how the new law would be implemented. Given the breadth of this important new legislation, which will have implications for businesses from nearly all sectors of the Canadian economy, a robust consultative process on its implementation was warranted. Such a consultative process would have provided stakeholders the opportunity to share their expertise and to ensure that the requirements are clear and reasonable before entities were required to comply.

While we understand that the federal government is actively developing new HRDD legislation that will build on the existing law, this proposed HRDD legislation cannot be solely relied upon to resolve these challenges. Obligated entities will still need to comply with the existing requirements in the intervening years.