

Office of the Extractive Sector
Corporate Social Responsibility (CSR) Counsellor
2011 Annual Report to Parliament
October 2010 – October 2011

***Accessible, Effective, Independent,
Predictable, Responsive, Transparent***

The Office of the Extractive Sector Corporate Social Responsibility Counsellor
Government of Canada
http://www.international.gc.ca/csr_counsellor-conseiller_rse

Views expressed herein are those of the Office of the Extractive Sector CSR Counsellor

Errors and omissions remain the responsibility of the Office

November 2011

This report is available in French and English.

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Executive summary

This report summarizes the second year of the existence of the Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor.

The Government of Canada's CSR Strategy for the International Extractive Sector seeks to improve the competitive advantage of Canadian companies by enhancing their ability to manage social and environmental risks. The CSR Strategy is based on four integrated and complementary elements:

- Support for host-country capacity-building initiatives related to resource governance;
- Promotion of widely recognized international Corporate Social Responsibility performance guidelines;
- Support for the development of a Corporate Social Responsibility Centre for Excellence to develop and disseminate high-quality Corporate Social Responsibility tools and training to stakeholders; and
- Creation of an Extractive Sector Corporate Social Responsibility Counsellor to assist in the effective and impartial resolution of issues pertaining to the activities of Canadian companies abroad.

The performance guidelines endorsed under the Government of Canada's CSR Strategy are:

1. The International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability for extractive projects with potential adverse social or environmental impacts
2. The Voluntary Principles on Security and Human Rights for projects involving private or public security forces
3. The Global Reporting Initiative for CSR reporting by the extractive sector to enhance transparency and encourage market-based rewards for good CSR performance
4. The OECD Guidelines for Multinational Enterprises

The Office of the Extractive Sector CSR Counsellor is part of the broader CSR Strategy. Our role is to actively promote responsible practices for Canadian companies abroad and to resolve, through constructive dialogue, disputes connected with the endorsed performance guidelines.

This past year, the Office focused on four key areas of work:

1. Launching the Review Process and beginning work on requests for review
2. Engaging with stakeholders and enhancing accessibility of the Office
3. Building the expertise and credibility of the Office
4. Implementing the advisory mandate

Fast facts: Highlights of this year

This year, the Office:

- ❖ Launched its Review Process, with a mandate to resolve disputes between Canadian mining, oil, and gas companies and project-affected individuals, groups and communities overseas, through constructive dialogue. The review mechanism is the first of its kind in the world – a dedicated office, sponsored in a home country, exclusively for extractive industries.
- ❖ Built relationships with key constituencies, and raised awareness of the Office by, for example:
 - convening roundtables with civil society and/or Canadian business in Peru, Burkina Faso, Senegal, Mexico, Montreal, Vancouver, Toronto, Ottawa and Washington DC
 - working with a multistakeholder discussion group to help us draft the Review Process Participant Guide
 - speaking at major association conferences including the CIVICUS World Assembly, Mineral Exploration RoundUp, Prospectors and Developers Association of Canada, and RSE Sénégal
 - speaking with industry publications and host country media outlets
- ❖ Maintained constant contact and communication with stakeholders by, for example:
 - responding to over 200 non-media requests for information and meetings
 - building a listserv of over 1,000 subscribers now regularly receiving updates from the Office
 - presentations at over 40 outreach events
- ❖ Produced 10 publications about the Review Process, to support our commitments to accessibility and transparency
- ❖ Established a multistakeholder Advisory Panel of experts
- ❖ Established an informal “learning partnership” with the Institute for the Study of Corporate Social Responsibility at Ryerson University, a partnership which hosted 4 public events this past year



West Africa Outreach 2011

The Office's key guiding principles

The Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor is a new entity.

The Office's key guiding principles are a critical 'signaling' to interested stakeholders on the approach the Office takes to its work. Interested stakeholders include, but are not limited to, project-affected communities, Canadian mining, oil and gas companies, consultants and service providers, civil society organizations, the academic community, host country governments and Canadian government departments and missions abroad.

Developed in consultation with stakeholders, the Office's key guiding principles are: accessible, effective, independent, predictable, responsive, transparent.

Accessible: Minimize barriers to entry to the process, and engage in pro-active outreach; keep "users" squarely in mind in our activities

Effective: Foster the conditions for solutions and build trust between stakeholders, and create lasting, fair outcomes

Independent: Adopt a balanced approach, being open to different perspectives on the problem without taking sides or pushing particular agendas

Predictable: Ensure that processes have clear timelines and defined milestones, while recognizing that flexibility is also critical

Responsive: Respond to stakeholders who have an interest in these issues, and to changing needs, circumstances and evolving external environment

Transparent: Recognize a distinction between transparency of process and outcomes, which is to be encouraged and is deemed critical for the Office, and transparency of information, some of which may well need to be kept confidential in order to have the work proceed

Introduction

In accordance with the Office's mandate, the Office of the Extractive Sector CSR Counsellor produces a report to the Parliament of Canada each year.

This report summarizes the second year of the existence of the Office, from October 2010 to October 2011.¹ This report provides some background on the Government of Canada's CSR Strategy and the Office, the establishment of the review mechanism, the global context for Canadian industry and the activities of the Office during this past year.

About the Office of the Extractive Sector CSR Counsellor

The Government of Canada encourages and expects all Canadian companies working around the world to respect all applicable laws and international standards, to operate transparently and in consultation with host governments and local communities, and to conduct their activities in a socially and environmentally responsible manner.

The Government of Canada's CSR Strategy for the International Extractive Sector seeks to improve the competitive advantage of Canadian companies by enhancing their ability to manage social and environmental risks. Host countries overseas pursuing resource sector investment are increasingly privileging investors and operators who are well equipped to manage and mitigate technical, environmental and social risks and who can leverage investment for economic development and poverty reduction.

Working with the Government of Canada's endorsed CSR standards helps Canadian companies to meet and exceed their obligations with respect to corporate social responsibility. Companies can use these standards to assess social and environmental risk and formulate action plans, based on their particular circumstances and operating environments.

The Office of the Extractive Sector CSR Counsellor is part of the broader CSR Strategy. Our role is to actively promote responsible practices for Canadian companies abroad and to resolve, through constructive dialogue, disputes connected with the endorsed performance guidelines.

¹ The Counsellor's first Annual Report to Parliament (October 2009-October 2010) is available on our website.

About the Office

The Office of the Extractive Sector CSR Counsellor is one of the four pillars of the Government of Canada's CSR Strategy for the International Extractive Sector. In accordance with our mandate, we have two key objectives. The first objective is to resolve disputes between project-affected communities and Canadian mining, oil and gas companies operating overseas through the use of constructive dialogue. Disputes must relate to the endorsed voluntary standards. The second objective is to advise stakeholders on the implementation of endorsed performance standards.

The Office is a new undertaking. The Office was opened in March 2010; the dispute resolution process launched in October 2010. Located in Toronto, Canada, the Office has a staff of three: the CSR Counsellor, Senior Advisor, Administrative Assistant.

Over time, the Office aims to:

1. Contribute to Canada's leadership position on CSR and the extractive industries
2. Support efforts by Canadian industry to improve CSR performance and practice and reputation
3. Provide effective and constructive access to remedy for project-affected people and communities outside of Canada

Background

The Government of Canada's CSR Strategy for the International Extractive Sector was announced in March 2009² and this Office was created as a result of that Strategy. The CSR Strategy seeks to improve the competitive advantage and reputation of Canada's international extractive sector companies by enhancing their ability to manage social and environmental risks.

The CSR Strategy is based on four integrated and complementary elements:

- Support for host-country capacity-building initiatives related to resource governance;
- Promotion of widely recognized international Corporate Social Responsibility performance guidelines;
- Support for the development of a Corporate Social Responsibility Centre for Excellence to develop and disseminate high-quality Corporate Social Responsibility tools and training to stakeholders; and
- Creation of an Extractive Sector Corporate Social Responsibility Counsellor to assist in the effective and impartial resolution of issues pertaining to the activities of Canadian companies abroad.

The Guidelines endorsed under the Government of Canada's CSR Strategy are:

1. The International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability for extractive projects with potential adverse social or environmental impacts

² "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector," posted at www.csr.gc.ca.

2. The Voluntary Principles on Security and Human Rights for projects involving private or public security forces
3. The Global Reporting Initiative for CSR reporting by the extractive sector to enhance transparency and encourage market-based rewards for good CSR performance
4. The OECD Guidelines for Multinational Enterprises

The role of the CSR Counsellor

The Counsellor is appointed as a Special Advisor to the Minister for International Trade, for a term of three years. The position of the Counsellor is equivalent to that of Assistant Deputy Minister. The Office has benefited from significant support and expertise provided by the Department of Foreign Affairs and International Trade (DFAIT), and the two other federal entities charged with implementing the CSR Strategy – Natural Resources Canada and the Canadian International Development Agency (CIDA). While the Office greatly benefits from this support, the Office's operations lie outside of the department's bureaucracy.

Marketa Evans was appointed as the first CSR Counsellor in October 2009. Her biography is available as an Appendix to this report.

The Counsellor may make recommendations to parties and provide advice; however, the Office does not have any policy-making role or authority.

The CSR Counsellor is a Governor-in-Council appointee. Governor-in-Council appointees are required to perform their duties in the public interest. Their personal and professional conduct must be beyond reproach. Consequently, the government has established clear conflict of interest and post-employment rules for public office holders, in the Conflict of Interest Act, which explain the steps to be taken to avoid real or apparent conflicts between their private interests and public responsibilities.

The Conflict of Interest and Ethics Commissioner is responsible for ensuring compliance with this Act. Appointees discuss their circumstances in confidence with officials in the Office of the Conflict of Interest and Ethics Commissioner.

Governor-in-Council appointees are also subject to the Ethical Guidelines for Public Office Holders and the Guidelines for the Political Activities of Public Office Holders.

The CSR Counsellor is a Designated Public Office Holder (DPOH). Such public office holders have certain responsibilities under the Lobbying Act. Upon assuming a Governor-in-Council position, the appointee must ensure that all obligations under the Lobbying Act and its regulations are met. The Commissioner of Lobbying is responsible for ensuring compliance with this Act. Appointees may discuss their circumstances in confidence with officials in the Office of the Commissioner of Lobbying.

Two-part Mandate

The mandate of the Extractive Sector CSR Counsellor is to promote responsible practices for Canadian companies abroad and to resolve disputes connected with the endorsed performance standards of the CSR Strategy. We resolve disputes through constructive dialogue.

In implementing its mandate the Office strives to be balanced and fair, pragmatic, flexible and solutions-oriented.

Understanding the review mandate

The first part of the mandate is the review mandate. According to the Order-in-Council (OIC) establishing the mandate, the Counsellor shall “review the corporate social responsibility practices of Canadian extractive sector companies operating outside Canada.” The OIC further specifies: “In undertaking reviews, the Counsellor will aim to foster constructive collaboration and dialogue between stakeholders.”

Many mechanisms now exist for review, recourse, problem-solving and remedy, some global, some regional, some industry specific.³ These include the 43 OECD National Contact Points, the Compliance Advisor/Ombudsman of the World Bank, the Oxfam Mining Ombudsman, the Inspection Panel of the World Bank, the Special Project Facilitator of the Asian Development Bank, the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank. They also include many private organizations such as the Consensus Building Institute, RESOLVE, Mediators without Borders, and host country processes such as the human rights ombudsman (“Defensoría del Pueblo”) in Peru and Colombia. All of these processes require the consent of parties to participate. In building the Review Process, the Office did a careful analysis of where it might best provide value in this constellation of processes. The Office drew important lessons and best practices from this global work and experience.⁴ In our benchmarking exercise, we discovered that such processes typically have one or more of the following four roles:

- ❖ Raise awareness of performance standards and operational best practice
- ❖ Drive systemic performance improvement and prevention through proactive outreach, communications, reports, advisory services
- ❖ Resolve issues through informal mediation, consultation, recommendations for action, agreements
- ❖ Monitor and report on progress and implementation of action plans

Even within this constellation of processes, the Office is unique. Canada is the first country to establish a dedicated office to constructively resolve disputes through dialogue, one that:

- ✓ Provides a public, no-cost service, sponsored by a home country government
- ✓ Allows project-affected people to resolve disputes connected with host country projects
- ✓ Is designed exclusively for mining, oil, and gas projects
- ✓ Rests on a suite of global voluntary standards – disputes may be brought in connection with the IFC Performance Standards, the Voluntary Principles on

³ A collection of these mechanisms is found on BASESwiki, hosted at www.baseswiki.org.

⁴ See the Office’s publication, “Building a review process for the Canadian international extractive sector: A backgrounder,” June 2010, on the Office’s website.

Security and Human Rights, the Global Reporting Initiative, and the OECD Guidelines for Multinational Enterprises

- ✓ Applies to all international operations of all Canadian companies regardless of how they are financed or held, so long as they are incorporated or headquartered in Canada

After our extensive consultations on draft rules with interested stakeholders, the Minister for International Trade approved our final rules of procedure and the Review Process was launched on 20 October 2010.

Construction of the review mechanism

Early work by the Counsellor revealed that stakeholders wanted a strong voice in operationalizing the review mandate. They saw the review mandate as providing opportunities, but also potential risks. We recognized that the way we put together the rules of procedure would make a critical difference in the eventual ability to deliver a trusted, credible mechanism. A balanced approach was key, as all potential users would need to be comfortable entering into the process. To be used and useful, our process must meet the needs of potential participants and be seen as “fair.”

In creating the process, stakeholders were proactively solicited to provide input. More than 300 individuals and organizations participated in our formal public consultations, about 40% from overseas, including dozens of civil society groups we met with in Mali, Senegal and Mexico.



Roundtable dialogue, Senegal, 2010

What the Review Process does

The objective of the Office’s Review Process is to resolve disputes connected with the voluntary standards that underpin the mandate. Not all disputes between Canadian companies and project-affected people relate to the performance guidelines. There are many ways to resolve disputes. The Office resolves disputes by fostering constructive dialogue between Canadian extractive sector companies and project affected people. Not all disputes lend themselves to resolution by dialogue.

The Office does not:

- ✓ Deal with disputes connected with host country laws or regulations
- ✓ Deal with criminal activity
- ✓ Decide which party's version of the facts is correct
- ✓ Find fault
- ✓ Provide vindication
- ✓ Do audits or investigations or probes
- ✓ Tell parties **what** to do

The Office does:

- ✓ Raise awareness of the voluntary standards as tools and benchmarks
- ✓ Deal with disputes connected with the voluntary standards of the CSR Strategy
- ✓ Work fairly and equally with parties to understand the issues from a wide variety of perspectives
- ✓ Assess whether dialogue will help parties resolve the dispute
- ✓ Help parties build trust with each other, and with the Office
- ✓ Help parties share information with each other
- ✓ Work with parties to build the framework for a constructive and mutually beneficial dialogue
- ✓ Recommend to parties **how** to proceed
- ✓ Help parties determine how they can resolve the dispute themselves

The Office's Review Process does not solve the problem for the parties; it assists parties in finding ways to resolve the problem themselves.

In fulfilling the review portion of the mandate, the Office is an impartial advisor and facilitator, an honest broker that brings parties together to help address problems and disputes. The Office helps parties create the conditions for a safe space for constructive dialogue and problem solving, building the trust and relationships that are necessary to create mutually beneficial solutions. The Review Process does not generate a statement about whose version of the facts is correct.

In moving forward with a review the Office initially determines whether it meets the mandate of the Counsellor. Even when this intake screening is complete, the Office continuously assesses whether the issues raised relate to the voluntary standards of the mandate, and whether constructive dialogue is likely to resolve the dispute.

What's the value of a dialogue mechanism?

The dispute resolution process we constructed responds to cross-sector interest in creating safe space for problem-solving dialogue in what is often contentious terrain. Many of the difficulties encountered are not now, and may never be, matters of legal statute; accordingly, safe spaces for dialogue and problem-solving will continue to play an

important role in resolving conflicts. We have validated with potential intended participants that there is demand for such a vehicle, in part because in many countries multistakeholder problem-solving forums are rare.

Mediated dialogue can enhance corporate risk assessment and mitigation by raising new issues, flagging expectations or responsibilities that go beyond legal compliance, and structuring practical solutions that minimize the potential for on-going conflict. This process provides one practical, low-barrier-to-entry avenue for resolving issues and complaints related to Canadian mining, oil and gas companies in their operations outside Canada. Because the mechanism only addresses disputes related to the voluntary guidelines of the CSR Strategy, it works on issues that may be problematic without necessarily being violations of any law – issues of community development, participation, consultation, empowerment, and so on. Evidence suggests that such issues continue to be problematic. Dialogue mechanisms have demonstrated significant impact in improving situations on the ground.⁵

Not all disputes relate to the voluntary guidelines. Criminal activities, such as the corruption of foreign public officials, are dealt with more appropriately by law enforcement and hard law instruments, and are therefore beyond the purview of this Office. Similarly, we cannot accept requests related to host country legislation or regulations. The Review Process applies only to the voluntary endorsed corporate social responsibility standards which underpin the Counsellor’s mandate.

How we work and what we expect

The Counsellor’s job is to get the parties in the request to the table. We spend equal time with both parties in order to assess whether and how best to move to constructive dialogue. Parties are asked to share non-confidential information with the Office, and potentially with each other. However, the Office does not use this information to draw conclusions about the facts of the case – it uses the information to see if the situation may lend itself to resolution via constructive dialogue.

The Office does not do probes or audits or investigations. The Counsellor is not a judge or an arbiter – we do not determine who is right and who is wrong. Issues are often extremely complex, and subject to varying perspectives. Working with the Counsellor allows parties to clarify issues and interests, and invent practical options. The role of the Counsellor is to listen to all perspectives, but not take sides. Our key question is: can this dispute be resolved through constructive dialogue? If so, what framework will be needed for the parties to move forward? The process provides one positive option for parties who are interested in working together to resolve issues.

The Office is funded by Canadian taxpayers and the Counsellor is accountable to the Minister of International Trade, Government of Canada. There is no charge to use the Office; however, the Office expects participants to act in good faith. Taking guidance from the OECD procedures guide for National Contact Points, good faith behaviour means “responding in a timely fashion, maintaining confidentiality when appropriate, refraining

⁵ For example, see the video about the Tintaya Dialogue Table (www.baseswiki.org), or refer to the World Bank Compliance Advisor/Ombudsman case involving Nicaragua Sugar Estates Limited (www.cao-ombudsman.org).

from misrepresenting the process and from threatening or taking reprisals against parties involved...and genuinely engaging in the procedures with a view to finding a solution to the issues raised.” The Counsellor expects parties to make reasonable efforts to come to the table. The Office makes every reasonable effort to remove barriers to constructive dialogue.

Any party bringing a request before the Office has two important responsibilities, which are clearly communicated to them: first, they are expected to have made some effort to resolve the issue before bringing a request to the Office; second, they must indicate their willingness to enter into and maintain a constructive dialogue with the responding party.

These reasonable responsibilities have been established to increase the chances that requesters would be acting in good faith, and thereby enhance the chances of a dialogue process being established.

How it works – the mechanics

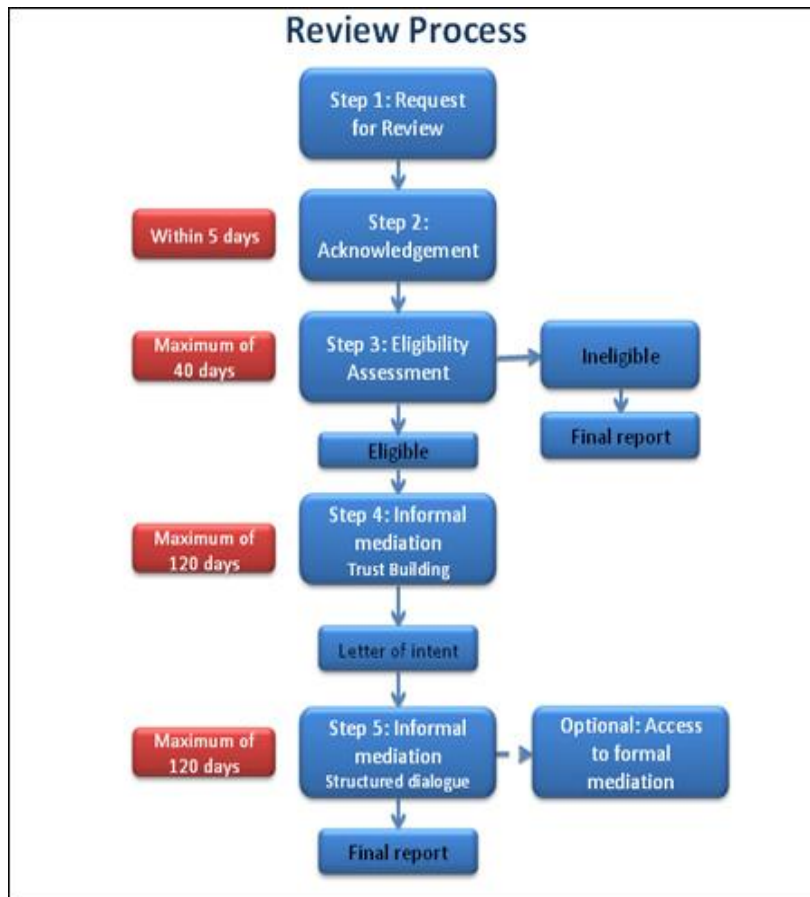
Requests for review may be brought to the Office by individuals, groups or communities who wish to raise issues regarding the overseas activities of Canadian mining, oil, and gas companies. The issues must relate to the endorsed performance guidelines in the Government of Canada's CSR strategy – the OECD Guidelines, the IFC Performance Standards, the Voluntary Principles on Security and Human Rights, and the Global Reporting Initiative.⁶ Canadian mining, oil, and gas companies who believe they are the subject of unfounded allegations concerning their overseas corporate activities may also bring requests for review to the Office.⁷

The Office has prepared supporting documents for potential participants in the Review Process. All are available in both English and French, and many are available in Spanish. They include:

- Review Process “In Brief”
- Information brochure on the Review Process
- Review Process Participant Guide
- Cover form
- Guidance Note #1: Transparency and Confidentiality: A Guidance Note for Participants to the Review Process of the Office of the Extractive Sector Corporate Social Responsibility Counsellor
- Guidance Note #2: A Guidance Note for Canadian companies on the Review Process of the Office of the Extractive Sector CSR Counsellor

⁶ Disputes related exclusively to the OECD Guidelines for Multinational Enterprises continue to be directed to Canada’s National Contact Point.

⁷ See “Guidance Note #2: A Guidance Note for Canadian companies on the Review Process of the Office of the Extractive Sector CSR Counsellor” on the Office’s website.



The following are the steps in the Review Process:

Step 1: A Request for Review is submitted to the Office

When the Office receives a submission, we determine whether it is a complete request. We verify the following information:

- (1) Completed cover form
- (2) The name, organization and contact information of the requester (the request cannot be anonymous, although the Office will keep the requester's identity confidential on request)
- (3) The name and contact information of any individual or organization providing aid or assistance and proof of authorization for any aid or assistance being provided
- (4) The name of the responding party
- (5) The request was not previously submitted to the Office – if previously submitted, new information must be available
- (6) The request does not pertain solely to the OECD Guidelines

The Office requires that requesters provide only publicly available information in their submission materials.

If the submission received by the Office is incomplete, we respond to the requester in writing indicating what information is required to complete the submission, or how the requester should proceed. Incomplete requests are not logged in the Office's online Registry of Requests for Review. If the request relates only to the OECD Guidelines, the Office advises how the requester might raise a specific instance with Canada's National Contact Point.

Upon receiving a complete request for review, the Office calls the responding party within 24 hours of receipt.

Step 2: The Office sends an acknowledgement to the person(s) making the Request

Within five (5) days of receiving a complete request for review, the Office will respond to the requester in writing to acknowledge receipt. Once this has been done, the Office forwards the requester's submission to the responding party. The original request is never posted on the Office's website. The Office updates the online Registry of Requests with the following information:

- Date received
- Name of requester
- Name of responding party
- Status

Step 3: The Office conducts intake screening

Intake screening determines eligibility of the request for the mandate of the Office; it does not endorse or validate any of the matters raised in the request. Not every request will be eligible for the mandate of the Office. During the intake screening the Office applies the criteria set forth in the mandate.⁸ These criteria are exactly reflected in the Cover Form checklist requesters must complete. This allows requesters to quickly assess how likely their request is to pass the intake screening process.

The intake screening is completed within 40 business days. During this time, parties are asked not to submit any additional materials to the Office. All parties are notified in writing whether the request has met the intake screening criteria. Where it has not, written reasons are provided. The results of the intake screening are posted in the online Registry under "status."

Step 4: The CSR Counsellor works with the parties in building trust

The trust-building phase provides participants with an opportunity to provide context to the issues raised in the request for review and to voice any concerns they may have. The Counsellor works with the participants to overcome any barriers to constructive dialogue. During this phase, the Office conducts extensive desk research, information-gathering, discussions with the parties, discussions with other relevant parties and experts. Typically,

⁸ The OIC provides that the Counsellor is to consider the following criteria: the amount of time that has elapsed since the alleged activity occurred; the amount of time that has elapsed since the requester became aware of the issue; the nature and seriousness of the issue; whether the request was made in good faith; the extent to which other redress mechanisms have been exhausted; and whether the issue is substantiated.

parties will share non-confidential information during this stage, with each other and with the Office.

Before advancing to the next stage, structured dialogue, the parties are required, in accordance with the Office's mandate, to provide "express written consent" to participate in dialogue. This takes the form of a letter of intent, with terms of reference for the structured dialogue.

In accordance with the Office's rules of procedure, the trust-building stage can carry on for a maximum of 120 business days. On or before the end of this time window, a number of options are available:

- the trust-building phase is extended by mutual consent
- one or more parties withdraw
- the process is terminated by the Counsellor if no progress is being made
- the request moves to the structured dialogue phase

Step 5: Structured dialogue

As noted above, parties are required to provide express written consent to move to the structured dialogue phase. The Counsellor works with the parties in reaching agreement on terms of reference for their engagement, and fosters constructive collaboration and dialogue aimed at positive outcomes.

Structured dialogue can carry on for a maximum of 120 business days. On or before the end of this time window, a number of options are available:

- an agreement is reached
- the structured dialogue phase is extended by mutual consent
- one or more parties withdraw
- the process is terminated by the Counsellor if no progress is being made
- the request moves into formal mediation

In some situations, the parties may find it useful to seek formal mediation processes outside the auspices of the Office. The Office does not engage in formal mediation but provides parties with information about the merits of this approach.

The CSR Counsellor prepares reports about requests for review, including final reports at the end of the process. These reports include a summary of the request for review, activities undertaken by the Counsellor and the participants to resolve the dispute, and the commitments made by the participants during the Review Process.

Advisory mandate

The second part of the Counsellor's mandate is "to advise stakeholders on the implementation of the performance standards."⁹ The Guidelines endorsed under the Government of Canada's CSR strategy: International Finance Corporation (IFC) Performance Standards on Social and Environmental Sustainability; the Voluntary Principles on Security and Human Rights; the Global Reporting Initiative; the OECD Guidelines for Multinational Enterprises.

⁹ Refer to section 4(b) of the OIC.

A significant challenge remains in the implementation and interpretation of such standards at the site level, and in driving not just “best practice” but also “consistent practice.”

The Office can help prevent conflict by promoting the endorsed performance standards and good practice for implementation. In its early days, the Office does not plan to create any “new” knowledge – it will simply point people in the direction of existing knowledge. Later, we will consider dissemination of learnings from a general body of requests for review.

One advantage of such an approach is that it maximizes the positive impact of the Office, getting beyond resolution of a “one company, one issue” case, to more systematic guidance on prevention of disputes, and proactive performance improvement for the entire industry. It allows global best practice and lessons learned to be more readily accessible in Canada.

Based on feedback from a variety of stakeholders and from our Advisory Panel, the Office will define “stakeholders” broadly for the purposes of the advisory mandate. So, our efforts will be directed at many interested parties and will be exclusively in the public domain. Project-specific advice will be avoided. The Office was encouraged to remain neutral, and not to become perceived as a “service provider” to companies. The advisory mandate will be tightly focused on the endorsed performance guidelines that underpin the mandate of the Office, and on issues very closely related to the review mandate, such as conflict prevention and grievance mechanisms.

The advisory mandate is therefore framed as public counsel to all stakeholders on good practices for the endorsed performance standards. It supports and capitalizes upon the Office’s position as a balanced, informed interlocutor. The Office’s key guiding principles apply to the advisory mandate as well.

Social license to operate and the role of voluntary CSR standards

Governments around the world are seeking foreign investment into their resource sectors as a way to increase economic growth and national income, create jobs, raise revenue, and reduce poverty.

Legal and regulatory frameworks provide the minimum benchmark that companies need to meet. And the Government of Canada expects Canadian companies to meet local laws even where those laws are not universally enforced. However, for companies in the mining, oil, and gas sectors, access to land and the need to maintain a pipeline of projects point to the increasing importance of social risk management. Obtaining and maintaining a social license to operate is distinct from a legal license to operate. Different activities and skillsets are required.

A 2009 report prepared for Natural Resources Canada noted: “The Government of Canada...believes that the development of mineral resources can improve Canadians’ quality of life, if this development is undertaken in an environmentally, economically and socially responsible manner.” One of the industry’s critical success factors, as noted in the report, is to secure “a social license to operate at both the local and overall societal level.” According to this report, a “social license to operate” refers to the “ongoing approval, or at

least acceptance, of a given activity (mining, in this instance) by stakeholders, whether at the local or societal level. (Thus, a social license is distinct from a license granted by governmental authority.)” The report noted that the “overall image and reputation of the mining industry is one factor that may significantly affect its ability to gain a social license to operate.”¹⁰

A recent speech by the President and CEO of Total E&P Canada echoes this view: “What we must understand is that a Social License to Operate doesn’t limit itself in a piece of paper, a regulatory approval we would get forever; our Social License to Operate goes beyond that, and is a practice to apply and develop on a continuous basis. It is the development of our environmental, social and economic performance to achieve sustainable development – which is the goal we are all after. As a practitioner, I believe that one needs to have commitment, invest in hard work, engage in the dialogues, and to look for efficient solutions. And if it does not work the first time, you need to try again. This is a dynamic that will result from daily practice with the overarching goal to improve ourselves – both for our own success and that of others. We must consider a Social License to Operate as the umbrella under which we address the environmental, social and economic elements of our business for our stakeholders and for ourselves. The key to obtaining this license is to jointly manage these three elements in a complementary fashion: with in depth understanding of the real issues, discussing them with our stakeholders, with openness and commitment.”¹¹

Social norms and expectations are constantly in flux – and typically move much faster than any legal or regulatory framework. Therefore, there may be potentially significant gaps between what the law allows and what society expects. That gap is both the risk and the opportunity. Left inadequately understood or managed, social risk poses risk to shareholder value.¹² Proactive management however, can drive competitive advantage.

Working with the endorsed standards helps Canadian companies meet and exceed their obligations with respect to corporate social responsibility. Companies can use these standards to assess social and environmental risk and formulate action plans, based on their particular circumstances and operating environments.

Global Reporting Initiative (GRI) – a multistakeholder not-for-profit organization using a network based approach

Founded in the late 1990s, the Global Reporting Initiative (GRI) is a network-based not-for-profit organization that has developed the world’s most widely used sustainability reporting framework. The GRI’s vision is that disclosure on economic, environmental, and social performance becomes as commonplace as financial reporting.

¹⁰ “Granting a Social Licence to Operate: Public Opinion and Mining in Remote/Rural Communities,” Final report for Natural Resources Canada prepared by Environics Research Group, June 2009 (<http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/minerals-metals/files/pdf/mms-smm/poli-poli/col-col/2009/final-social-license-environics-eng.pdf>).

¹¹ The speech of Jean-Michel Gires, President and CEO of Total E&P Canada can be found online at http://www.total-ep-canada.com/publications/speeches_presentations/speech_2011-World-Heavy-Oil-Congress.asp.

¹² “Winning the Social License to Operate: Resource Extraction with Free, Prior, and Informed Community Consent,” The Ethical Funds Company, February 2008 (<http://www.neinvestments.com/neifiles/PDFs/5.4%20Research/FPIC.pdf>).

By providing concrete guidance on principles and indicators, the GRI's Sustainability Reporting Framework creates a tool for public reporting of sustainability performance. The Framework is applicable to organizations of any size and type, (corporate, public, NGOs, etc.), anywhere in the world. The original GRI reporting framework was developed and then significantly revamped through an open, inclusive, and consensus-seeking process with global participants from business, civil society, labour, and professional institutions to ensure a high degree of technical quality, credibility, and relevance.

What's new?

The third iteration of the framework, G3, was released in 2006, and a new review is currently underway. G4 Reporting Guidelines are expected to be ready by the end of 2012.

IFC Performance Standards – created by the private sector lending arm of the World Bank

The International Finance Corporation (IFC) is the private sector lending arm of the World Bank. The IFC developed standards in 2006 to better manage social and environmental risks in its lending portfolio.¹³ In the interim, the IFC Standards have become a global benchmark.

The IFC Performance Standards on Social and Environmental Sustainability define a borrower's roles and responsibilities for managing projects and the requirements for receiving and retaining IFC support. The IFC applies the Policy and Performance Standards to minimize project impacts on the environment, on affected communities and to put into practice its commitment to social and environmental sustainability.

What's new?

In August 2011, the IFC completed an extensive process of review leading to the adoption of a new series of Environmental and Social Standards. The review was conducted to incorporate lessons learned over the last five years as well as to address emerging issues. The revised standards (effective 1 January 2012) incorporate changes related to climate change, impacts on indigenous peoples, business and human rights, and supply chains. The Standards require client companies to have in place effective management systems to handle social and environmental risks as an integral part of their basic operations. A summary of the changes is found at [http://www.ifc.org/ifcext/policyreview.nsf/AttachmentsByTitle/Board-Paper-IFC-AnnexA_August1-2011/\\$FILE/Board-Paper-IFC-AnnexA_August1-2011.pdf](http://www.ifc.org/ifcext/policyreview.nsf/AttachmentsByTitle/Board-Paper-IFC-AnnexA_August1-2011/$FILE/Board-Paper-IFC-AnnexA_August1-2011.pdf).

The Voluntary Principles on Security and Human Rights – a multistakeholder organization, established by the UK and US Governments

Relationships with both public and private security forces around extractive sector projects can be controversial and problematic. In December 2000, the UK and US governments announced the creation of the Voluntary Principles on Security and Human Rights (VPs),

¹³ The Equator Principles, which apply to most commercial project lending, were based closely on the IFC Performance Standards.

designed specifically as guidance for the extractive industries on maintaining the safety and security of operations while ensuring respect for human rights. The process of constructing the Principles was multistakeholder, incorporating input from the extractive industry as well as human rights organizations, as the guidelines aimed to be consistent with international standards on human rights.

Given the increasing global focus on business and human rights, the guidance provided by the Voluntary Principles is likely to become even more relevant. That guidance includes risk assessments, proactive human rights screenings of and trainings for public and private security forces, and developing systems for reporting and investigating allegations of human rights abuses.

What's new?

Canada joined the Voluntary Principles as an Engaged Government in March 2009 and became a full Participating Government in March 2010. Canada is the current Chair of the VPs Steering Committee. Three Canadian organizations have recently been admitted as members: Barrick Gold Corporation, Inmet Mining Corporation and Partnership Africa Canada, Canada's first civil society participant. International NGO membership includes Amnesty International, Search for Common Ground, International Alert, Oxfam and Human Rights Watch. New members are admitted by consensus agreement of the other participants.

The dynamic global context for Canadian companies

Canadian mining, oil, and gas companies compete in a dynamic global context. With increasing Canadian corporate investment overseas, this global context deeply affects operations.

The extractive sector is now the second-largest component of Canadian direct investment abroad. According to data collected by Natural Resources Canada, based on public records, cumulative assets held by Canadian mining companies abroad totaled some \$118 billion in 2010, up from \$109 billion in 2009 and \$30 billion in 2002.

Canadian companies dominate the junior sector in mining; however the majority of companies in the junior sector do not operate mines. The forty largest mining companies globally are geographically diverse.¹⁴ Nine of these 40 largest companies are Canadian. The largest oil and gas companies remain mostly state-owned enterprises.

To better manage risk and improve CSR performance, a proliferation of frameworks, global standards, codes of conduct, reporting initiatives, and other undertakings have been promulgated in the past decade. In particular, 2010 has been widely recognized as a game-changing year on the complex issues of business and human rights. Aside from the IFC Standards review mentioned above, two other significant global developments are worth mentioning, both applicable to all industry sectors.

¹⁴ "Mine – Back to the boom," PriceWaterhouseCoopers, 2010 (www.pwc.com/mining).

United Nations Secretary-General's Special Representative on Business and Human Rights

In June 2011, the United Nations Human Rights Council endorsed the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework." This endorsement by the Human Rights Council was the culmination of the six year mandate of the UN Secretary-General's Special Representative on Business and Human Rights, Harvard Professor John Ruggie.¹⁵

The "Protect, Respect, and Remedy Framework" clarified three key points:

1. it is the **duty** of states to protect citizens against human rights abuses;
2. it is the **responsibility** of business to respect human rights; and
3. there is need for enhanced access to remedy, both judicial and non-judicial

The Framework and its subsequent Guiding Principles have been widely endorsed. According to the Framework, the corporate responsibility to respect human rights "requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts."

The Guiding Principles for the Framework speak to the need for greater due diligence on the part of companies – all sizes, all ownership structures and all industries – to "know and show" they respect human rights. In practice, that means a formal corporate policy commitment on human rights, greater due diligence on human rights impacts, and development of processes that provide greater access to remedy.

The Framework and Guiding Principles will likely have significant implications for Canadian extractive sector companies operating overseas.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines, last updated in 2000, began a process of review and renewal in 2009, which was completed with the formal adoption of revised Guidelines in May 2011. The revisions were the product of extensive consultations across sectors, and recognize the notable developments in the past decade, including the significant growth of OECD multinational investment in developing countries. Major revisions to the Guidelines include a new chapter on human rights, clearer rules for handling of specific instances, and expanded provisions on a number of other key issues.

For the extractive industries more particularly, the global context continues to change. In this past year alone, global initiatives include The United Nations Commission on Sustainable Development, the World Economic Forum's Responsible Mineral Development Initiative, the International Bar Association's Model Mineral Development Agreement, the Resource Charter at Oxford University, and continuous work by the two global industry

¹⁵ Refer to www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples.

associations, IPIECA (the global oil and gas industry association for environmental and social issues) and the International Council on Mining and Metals.

The Office's year in review

This past year, the Office focused on four key areas of work:

1. Launching the Review Process and beginning work on requests for review
2. Engaging with stakeholders and enhancing accessibility of the Office
3. Building the expertise and credibility of the Office
4. Implementing the advisory mandate

Launching the Review Process and beginning work on requests

The establishment of the Office's review mechanism in October 2010 was the culmination of a year of pro-active outreach, benchmarking and consultation. All stakeholder groups had a variety of opportunities to contribute to and shape the final rules of procedure and decision tree, as well as influence our general approach and guiding principles. In the course of our formal public consultations, which ran from June-August 2010, we heard from a diverse and balanced group of over 300 individuals and organizations in Canada and abroad and we incorporated what we heard into our review mechanism. Of particular note was the input we received from potential participants overseas, including over three dozen civil society organizations.

After the launch of the process, Canada's two major mining industry associations issued news releases in support. The Prospectors and Developers Association of Canada noted that "Canada's exploration and mining companies welcome" the formal launch of the process, as a "fair, credible and useful review mechanism." The Mining Association of Canada also "welcomed" the launch of the process and looked forward to continued collaboration with the Office, as the industry recognizes "the need for continuous improvement" in CSR.¹⁶

Typically, mechanisms such as ours wait 6-12 months or more for their first case; the Office received its first request for review only five months after the launch of the process. At time of publication, the Office had received two requests for review. Our benchmarking exercise revealed that, in the normal course, mechanisms as diverse as the Oxfam Mining Ombudsman, the OECD National Contact Points or the Special Project Facilitator, receive about one or two requests per year, although there tends to be significant fluctuation in the numbers year over year. In a 10 year retrospective publication, OECDWatch noted a total of 213 NCP cases over 10 years, spread among the over 40 NCPs globally. Nearly half of all NCP cases to date relate to mining, oil and gas projects.¹⁷

¹⁶ News release, "Canada's Exploration and Mining Companies Welcome Canada's Independent CSR Counsellor," Prospectors and Developers Association of Canada, October 20, 2010; news release, "Mining Association of Canada Welcomes the Launch of the CSR Counsellor Review Mechanism," Mining Association of Canada, October 20, 2010.

¹⁷ "Ten Years On – Assessing the contribution of the OECD Guidelines for Multinational Enterprises to responsible business conduct," OECDWatch, June 2010, available at www.oecdwatch.org/publications-en/Publication_3550.

*The Office of the Extractive Sector CSR Counsellor Registry of requests for review
(as at October 31, 2011)*

File #: 2011-01-MEX

Date Received: April 7, 2011

Requester: Excellon Workers, National Mining Union, Proyecto de Derechos Económicos,
Sociales y Culturales A.C.

Responding Party: Excellon Resources Inc.

Status: Closed



Meeting requesters July 2011



Reports (available on our website):

Field Report #1 June 2011

Field Report #2 July 2011

Closing Report October 2011

File #: 2011-02-MAU

Date Received: August 14, 2011

Requester: Maître Ahmed Mohamed Lemine and others

Responding Party: First Quantum Minerals Ltd.

Status: Informal mediation

In entering into the informal mediation, parties have equal time with the Office, and can expect many phone calls, exchanges of information and possibly meetings with the Office. The Office makes significant efforts to ensure parties understand the process and what the potential outcomes might be. We work to surface issues, share information, understand perspectives. We work to ensure that the disputes in question are related to the voluntary standards that underpin the mandate of the Counsellor and are amenable to resolution through constructive dialogue. The Office continuously works to ensure the process of constructive dialogue will take place in a framework that is perceived as fair to all parties.

Engaging with stakeholders and enhancing accessibility

Constant communication with stakeholders is vital to the Office's success. Transparency and visibility builds trust and credibility.

To that end, our objective is continuous dialogue with stakeholders, emphasizing mutual exchange of information. In addition to extensive formal outreach undertaken this past year – over 40 events – we have an open door policy and meet with many individuals in person. Our efforts have not gone unnoticed: the Office responded to over 200 requests for information and meetings over the past twelve months.

There is strong global interest in the Office. Our work has been featured in industry publications, host country media, academic research and global dialogue platforms.

Some examples of our pro-active engagement with stakeholders:

At the time of the launch of our Review Process, the Office wrote to the President and CEO of the Canadian Council for International Cooperation, the Executive Director of the Canadian Environmental Network, the President of the Canadian Association of Petroleum Producers, the President and CEO of the Canadian Council of Chief Executives, the President and CEO of the Canadian Chamber of Commerce, the President and CEO of the Mining Association of Canada, the Executive Director of the Prospectors and Developers Association of Canada, and the Coordinator of the Canadian Network on Corporate Accountability, asking all to disseminate information about the process to their members and inviting their participation in further discussions of interest to their members

The Office worked with students at the University of Toronto, Faculty of Law, on a research project about the Review Process

The Office attended major association conferences including the CIVICUS World Assembly, Prospectors and Developers Association of Canada, Mineral Exploration RoundUp, and RSE Sénégal

The Office participated in an outreach to overseas embassies in Ottawa

The Office held roundtables and meetings with Canadian industry in Toronto, Vancouver, Peru, Mexico, Burkina Faso, Senegal

The Office convened roundtables of civil society groups in Peru, Senegal, Burkina Faso, Mexico, Montreal, Toronto, Ottawa and Washington DC

The Office engaged continuously with Government of Canada officials both in Canada and overseas

The Office responded to many inquiries from other governments interested in learning about this Office and possibly replicating the model

Accessibility

Accessibility has at least two components: awareness raising and reducing barriers to entry.

People cannot access a process they are not aware of. The Office has a responsibility to raise awareness of its existence to those who are most likely participants. Our outreach targets our primary potential users (overseas project-affected communities and Canadian companies), largely through the use of platforms and networks – websites, host-country media, NGO networks, missions, business associations, etc.

A sample of our activities in the past year:

- Selected public outreach events:

October 21, 2011 Public outreach, Vancouver

October 20, 2011	Mexico, Canada and the Mineral Sector: Responsibility and Sustainability Challenges and Opportunities, Vancouver
September 2011	CIVICUS World Assembly, Montreal
June 15, 2011	Workshop on Access to Remedy with the Business & Human Rights Roundtable, The Fund for Peace, Washington DC
May 2011	Roundtable with Mexican universities, Mexico
May 12, 2011	Transparency International Canada Day of Dialogue, Toronto
May 10, 2011	Lowy Institute for International Policy, Australia (by videoconference)
April 15, 2011	Ryerson Learning Partnership Event: Building a best practice grievance mechanism at the company level
April 2011	Canadian Chamber of Commerce in Mexico
March 2011	West Africa Outreach, including: "La 3ème édition du Forum de Dakar sur la RSE", Senegal; workshop on the Office of the Extractive Sector CSR Counsellor, Senegal; workshop on the Office of the Extractive Sector CSR Counsellor, Burkina Faso
March 15, 2011	Africa Rising: Entrepreneurship and Innovation Frontiers Conference, Toronto
March 7, 2011	PDAC Convention, Toronto
February 24, 2011	A panel discussion on Corporate Social Responsibility – presented by CIM (The Canadian Institute of Mining, Metallurgy and Petroleum) Toronto Branch & CIM Management and Economics Society, Toronto
February 14, 2011	Public outreach, Ottawa
February 2011	Peru Outreach, including: Peru CSR Forum; roundtable with NGOs; roundtable with Canadian extractive companies; site visit Yanacocha; meetings with Peruvian officials



Speaking at the Peru CSR Forum, Lima, 2011



- January 31, 2011 Dialogue roundtable with industry, Toronto
- January 26, 2011 Mineral Exploration Roundup Conference, Vancouver
- January 25, 2011 Public outreach, Vancouver
- January 14, 2011 Engineers Without Borders Canada, National Conference, Toronto
- December 1, 2010 Public outreach, Toronto
- November 5, 2010 Schulich School of Business, York University, RISE 2010 Conference
- October 27, 2010 Risk Mitigation and CSR Workshop, Toronto
- October 26, 2010 Peruvian-Canadian Chamber of Commerce, Toronto
- October 2010 Ryerson Learning Partnership Event: CSR and the Law: Learning from the Experience of Canadian Mining Companies in Latin America

October 2010

Ryerson Learning Partnership Launch Event: Blood on the Stone

- We have a responsibility to ensure potential users and participants have as much information as possible about the Office and the Review Process. We know that other mechanisms receive a high proportion of ineligible requests (on the order of 30-50% of all requests) and that bringing a request is resource-intensive. We want to ensure potential participants understand this process well enough to make an informed decision about its potential value.

- To support our principles of effectiveness, transparency and accessibility, the Office has published the following documents this year:
 1. Rules of procedure for the Review Process, October 2010
 2. Information brochure on the Review Process, November 2010
 3. Review Process Participant Guide, April 2011
 4. Guidance Note #1: Transparency and Confidentiality, May 2011
 5. Guidance Note #2: A Guidance Note for Canadian companies on the Review Process, June 2011
 6. Review Process “In Brief”
 7. Six month update from the Office as at May 2011
 8. Mexico field visit report #1 2011-01-MEX, June 2011
 9. Mexico field visit report #2 2011-01-MEX, July 2011
 10. Closing report 2011-01-MEX, October 2011

- Building relationships with key constituencies: The Office has made connections with hundreds of individuals, many of who have joined our listserv, visited our website, and met with us in person. We communicate regularly through email updates. Our listserv has grown considerably during the past year, and we have seen solid increase in website traffic.

Building the expertise and credibility of the Office

The Office must be seen as an impartial source of expertise, must be capable and qualified to do the work effectively, and must have as much first-hand knowledge as possible.

The Office’s staff has expertise and training in the ‘mutual gains’ approach to negotiation which emphasizes interest based dialogue and the generation of creative options to create value for all parties building such processes. We added to our expertise this past year through formal training programs, attending learning events, and visits to non-Canadian owned properties.



Yanacocha mine, Peru 2011

Actively engaging in peer learning with a number of recourse mechanisms, most significantly the international accountability mechanisms (IAMS) of the international

financial institutions and Canada's National Contact Point, builds the Office's expertise on dispute resolution. For instance, the Office attended the 8th Annual Meeting of IAMs.

Implementing the advisory mandate

The OIC establishing the mandate of the Counsellor states that: "The mandate of the Counsellor shall be...(b) to advise stakeholders on the implementation of the performance guidelines [as endorsed under the CSR Strategy]."

The Office can play a role in preventing disputes by raising awareness of Canada's endorsed performance standards and good practices for implementation.

The first two years of our existence privileged the construction and launch of the review mandate. But this year we also began initial activities under the advisory mandate.

Informing our approach to the advisory mandate

Since the launch of the review mechanism in October 2010, the Office has participated in over 40 outreach events, both in Canada and overseas. We began working on requests for review. We continued to benchmark and deepen our relationships with peer processes. These activities, as well as the formal public consultations conducted in 2010 on the review mandate, and recent conversations with the Office's Advisory Panel and the other pillars of the CSR Strategy, especially the CSR Centre for Excellence, have informed the implementation of the advisory mandate.

In reflecting on the advisory mandate, some of the Office's comparative advantages were identified:

1. The Office's full time work is on CSR and the extractive sectors;
2. The Office has strong convening capacity;
3. The Office pro-actively solicits diverse viewpoints;
4. The Office is aware of many different initiatives and activities;
5. The Office has direct contact, through the Review Process, with "real world" situations and challenges; and
6. The Office has a public platform and visibility.

In implementing its advisory mandate, the Office seeks specific areas where its expertise might be particularly useful, bearing in mind that its overall objective is to foster positive change on the ground. The Office will be selective in its advisory mandate activities, recognizing the critical roles of many other parties in driving improved CSR performance. It seeks to understand what others are doing and where the Office might contribute substantive additional value. Our work must support the efforts of the other pillars, especially the CSR Centre for Excellence, whose mandate is to develop and disseminate high-quality Corporate Social Responsibility tools and training to stakeholders.

Some examples of our “advisory mandate” activities this past year:

a. Creation of the multistakeholder advisory panel for the Office

The first meeting of our multistakeholder Advisory Panel took place on January 7, 2010. A report of the meeting is available on our website. The Panel’s terms of reference stipulate that the Panel’s purpose is to provide strategic and advisory input, to ensure the Office remains responsive to users and to changing external realities. The Panel consists of a small number of globally recognized experts, who act in their personal capacity to assist the Office. Panel members are not remunerated. Biographies of Panel members are found on our website, as is the terms of reference document.

b. Creation of an informal “learning partnership” with Toronto’s Ryerson University as a neutral platform for informed public discussion on issues related to the CSR Strategy

A key learning from our public consultations process was the continuing shortage of neutral convening spaces for the variety of stakeholders interested in the issues of CSR and the extractive industries. Although tremendous improvement has taken place over the past several years, there is still room to advance the cross-sector dialogue.

In October 2010, the Office and the Institute for the Study of Corporate Social Responsibility, Ryerson University launched an informal “learning partnership.” This partnership creates a neutral learning and networking platform on issues of CSR and the extractive sector, with a particular focus on the endorsed performance standards. All events are free and open to the public.

To date, we have held four open public workshops under the auspices of the partnership:

- “Building a best practice grievance mechanism at the company level”



Paul Warner, Ryerson University

- “An Introduction to the Review Process of the Office of the Extractive CSR Counsellor”
- “CSR and the Law: Learning from the Experience of Canadian Mining Companies in Latin America”
- “Blood on the Stone”

Further events are planned for this year.

c. Publication of the Counsellor’s first Annual Report to Parliament in early 2011

Appendix A

Biography of the Extractive Sector CSR Counsellor



Marketa D. Evans is the Government of Canada's Extractive Sector Corporate Social Responsibility Counsellor. The role of the Counsellor is to communicate the Government of Canada's expectations regarding corporate conduct, assist companies and stakeholders in the resolution of disputes related to the corporate conduct of Canadian extractive companies (mining, oil and gas) abroad, and assist with the implementation of CSR performance standards.

Dr. Evans spent ten years in senior management positions in the Canadian banking sector, and was Executive Director of the Munk Centre for International Studies, University of Toronto. Her research and teaching focused on the role of non-state actors in international development and on global corporate citizenship. She helped establish The Devonshire Initiative, a forum for partnership and dialogue between non-governmental organizations (NGOs) and the mining sector. Most recently, she was Director, Strategic Partnerships, at Plan International Canada, one of the world's leading development NGOs. She has been a member of external advisory panels for Natural Resources Canada, the World Economic Forum, Transparency International Canada and several mining companies.

Dr. Evans is a frequent public commentator on corporate social responsibility, cross sector partnership and the role of the private sector in international development. She holds a PhD in political science from the University of Toronto. She has completed Harvard University's Program on Negotiation, and the Basics of Geology, Mining and Metallurgy course at Queen's University. In her spare time, she is a Girl Guide leader and hockey mom.

Appendix B

The Office's new publications, October 2010-October 2011

1. Rules of procedure for the Review Process, October 2010
2. Information brochure on the Review Process, November 2010
3. Review Process Participant Guide, April 2011
4. Guidance Note #1: Transparency and Confidentiality, May 2011
5. Guidance Note #2: A Guidance Note for Canadian companies on the Review Process, June 2011
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Appendix C

Key milestones in the evolution of the Office

October 2009-October 2011

October 19, 2009	Counsellor's appointment takes effect
October 2009	Cross-sector outreach and engagement begins
January-March 2010	Initial benchmarking exercise conducted
February-April 2010	Construction of framework for review mechanism consultations
March 8, 2010	Opening of the Office, Toronto
March-July 2010	Office staffed with senior advisor and administrative assistant
April 2010	Office's website launched
May 2010	Draft rules of procedure for the review mechanism posted online
June 2010	Backgrounder on building a review mechanism for the Canadian international extractive sector posted online
June-August 2010	Formal public consultations on the review mechanism take place
September 2010	Consultations summary report posted online
September 20, 2010	Rules of procedure approved by the Minister for International Trade
October 20, 2010	Launch of the Review Process after 30 day implementation period
January 2011	First meeting of the Advisory Panel
March 2011	Tabling of the Extractive Sector CSR Counsellor's first Annual Report to Parliament
April 2011	Beginning of work on first request for review
May 2011	Review Process Participant Guide posted on the Office's website
August 2011	Second request for review received by the Office
October 2011	First request for review file closed

Appendix D

At a glance: Understanding the Office and Canada’s National Contact Point

Issue	Office of the Extractive Sector CSR Counsellor	Canadian National Contact Point
Standards underpinning the mandate	<ul style="list-style-type: none"> • IFC Performance Standards • Voluntary Principles on Security and Human Rights • Global Reporting Initiative • OECD Guidelines for Multinational Enterprises 	<ul style="list-style-type: none"> • OECD Guidelines for Multinational Enterprises
Industries included	<ul style="list-style-type: none"> • Mining, oil and gas 	<ul style="list-style-type: none"> • All industries
Type of companies impacted	<ul style="list-style-type: none"> • Any mining, oil or gas company that has been incorporated in Canada or has its head office in Canada, in its overseas operations only 	<ul style="list-style-type: none"> • Non-Canadian multinational enterprises in their Canadian operations* • Canadian multinational enterprises in their overseas operations (in countries where a domestic National Contact Point is not available)
Who can bring a request?	<ul style="list-style-type: none"> • Directly-affected individuals, groups or communities • A Canadian mining, oil or gas company which believes it is the subject of unfounded allegations (in relation to the performance guidelines) 	<ul style="list-style-type: none"> • Any person or organization
Structure	<ul style="list-style-type: none"> • Office headed by a Governor-in-Council appointee, the Extractive Sector CSR Counsellor 	<ul style="list-style-type: none"> • Interdepartmental committee composed of eight Government of Canada departments, chaired by the Department of Foreign Affairs and International Trade

*The commentary on the procedural guidance for the OECD Guidelines notes: “Generally, issues will be dealt with by the NCP of the country in which the issues have arisen. Among adhering countries, such issues will first be discussed on the national level and, where appropriate, pursued at the bilateral level.”