



Canadian Office of Extractive Sector CSR Counsellor releases first report after company withdraws from voluntary process

Increasingly, transnational companies are being judged in the court of public opinion by how they manage stakeholders' disputes about company behavior overseas. The latest development – the release of the first report from Canada's "voluntary" process – underlines the old saw that you can't win if you don't play.

Last week, the Canadian Office of Extractive Sector Corporate Social Responsibility (CSR) Counsellor released its report on the Excellon Resources Inc. dispute in Mexico. Excellon, which now has to argue against the tide, replied by saying it is disappointed with the report¹ and claims the Office's process is flawed.

The Excellon case is the first taken on by the CSR Counsellor, which launched its "review process" in October 2010. The process is built on a model similar to the Organization of Economic Co-operation and Development (OECD) procedure for its Guidelines for Multinational Enterprises.

The key differences between the two processes are that the OECD considers activities for all industries and in all OECD countries, where Canada's only looks at Canadian extractive companies. More importantly, in Canada issues are examined through the lens of the International Finance Corporation's Performance Standards (IFC PS) on Social & Environmental Sustainability, the Voluntary Principles on Security and Human Rights, and the Global Reporting Initiative, while the OECD addresses only the OECD Guidelines for Multinational Enterprises. The Canadian government is the first national government to implement a review process of this type specifically for its extractive companies operating overseas.

The Canadian review process is supposed to foster voluntary dialogue and create constructive paths forward for the requestors – the name given to stakeholders that ask for a review – and the company. The requestors for the Excellon review were the National Mining Union of the Mexican Republic and a Mexican NGO, who said Excellon:

- allegedly called the state police to investigate theft of copper on the company's premises and the police physically assaulted several workers. The workers were not charged with theft. The company's action, the requestor said, violated the Voluntary Principles on Security and Human Rights; *and*
- allegedly violated "several principles" of the OECD Guidelines, including threatening workers attempting to organize collectively, as well as for providing inadequate occupational health and safety in their operations.

¹ <http://www.monkey-forest.net/news/articles46.php>



According to the Counsellor's report, Excellon withdrew from the voluntary dialogue stage before it started: "Excellon's decision to withdraw prior to dialogue represents a significant missed opportunity to build a deeper understanding of the issues and enhance reputation and risk management." In response, Excellon issued a statement that "it strongly believes that the Corporate Social Responsibility Request for Review Process initiated at its Platosa Mine Site in Durango State, Mexico, is flawed due to erroneous information and therefore cannot add any value to Excellon nor any other Canadian company which may be drawn into this process."²

That may well be the case, but in the current climate – and without having solid, demonstrated social performance to support why people should believe in the company – Excellon will have a hard time making its case. In fact, the current climate of *occupy everything* makes it likely that Canada's Counsellor was right last year when she said she wasn't convinced the Office needs powers to require companies to conform with Canada's standards. These kinds of complaints are markers for how companies manage social risk, an indicator funders and investors increasingly watch. At the time of writing, Excellon shares had fallen close to its one-year low of about \$.56 from a high of nearly \$1.40. And the trouble with having shrinking capital, of course, is that it's harder to create the kind of reactive communications campaign necessary to shift public opinion about behavior.

Lessons learned

Judging from the tone of Excellon's response and the CSR Counsellor's report, it is unlikely either will agree on a description of the situation at Platosa. And, at the moment, in the face of an official report from a Canadian government reviewer, it doesn't really matter. What could matter is if Excellon had its own local grievance mechanism, developed with community input, that was well advertised, culturally appropriate and sensitive to vulnerable populations and the affected community's educational levels and languages. Such processes are testable evidence of company behavior and document how and why disputes are not resolved before it's necessary to move onto the larger – and more expensive – pitch of public opinion.

² In its response, Excellon also said the CSR Counsellor is attempting to force the Company to enter a process of structured dialogue that would violate Mexican Labor Laws and breach its contract with existing union as the requester is allegedly not a Union that represents the workers at Platosa.