

Proactive versus reactive

The importance of having a good CSR plan

■ Claudia Feldkamp and Kevin O'Callaghan

Political risk and exposure to government decision-making is nothing new for the extractive sector. Mining companies have long operated within highly regulated environments with significant oversight by governments both at home and abroad. However, both the nature and scope of this exposure to government decision-making has evolved significantly, in step with the mushrooming demands of corporate social responsibility (CSR). Natural resource companies, in particular, often face serious challenges from foreign governments (worst case scenario being illegal expropriation).

Indigenous peoples, non-governmental organizations (NGOs) and local communities now have access to a growing number of binding and non-binding tribunals for airing complaints. In this environment, now more than ever companies need to be proactive in the development of CSR policies and in crafting comprehensive and adaptive front-end strategies for managing these evolving CSR demands and accompanying ongoing political exposure.

The legal, social and political landscape has undergone the beginnings of a substantial shift toward companies being held responsible for the economic, social and environmental consequences of their business activities. Significant challenges for companies have accompanied this shift. CSR standards and accountability mechanisms are continually evolving. In Canada, the landscape was on the verge of changing last year with a private member's bill (Bill C-300) being introduced into a minority Parliament. There is often a gap between CSR ideals and practical guidance for companies on how to transform the statement of ideals into practice. Attempting to bridge this gap, John Ruggie, the UN Secretary General's special representative on human rights and transnational corporations and other business enterprises, has recently published "Guiding Principles for the Implementation of the UN 'Protect, Respect and Remedy' Framework."

The application of CSR standards is highly complex and accompanied by significant unpredictability on the ground. What is appropriate for a company operating in the Democratic Republic of Congo will be different from a company operating in Brazil or British Columbia. Additionally, the framework of a company's operations is never static. Political, communal and economic changes in the region and host country occur over the life of a mine. Companies operating in politically unstable regions, in particular, may need to respond to dramatic political changes and possibly threats to their operations. For example, if facing a possible expropriation, a company will need to decide whether it can safely protect its operations or must close a mine to protect its employees.

Have a CSR plan

CSR has been long championed by NGOs as a shield to protect civil society, but it can also be used as a sword to attack mining operations, particularly in developing countries. Despite corporate practices being constantly improved and refined, companies are increasingly exposed to these risks.

What can companies do? Most importantly, companies need to be proactive, not reactive, both in enhancing and refining their CSR policies and in minimizing risk on the front end (while preparing for worst case scenarios). Companies need to identify early on the key CSR imperatives, first by developing a thorough understanding of all existing and potential social license imperatives, and second, by forming a strategy for navigating the social licence and policy implications of development.

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Having identified the key CSR imperatives, companies need to know the “players” in and around the project location. In recognition of the tremendous influence of local communities, indigenous people and NGOs, companies must invest in the relationships needed with respected community leaders and maintain these relationships, which can have a real on-the-ground impact on the development of a project.

Companies also need to build strategic relationships within governments, from local to national, and within relevant international organizations. They must establish a global approach to government relations that reflects an understanding of all relevant governments, including the host and home countries, as well as other governments with interests in the host country and any relevant international institutions.

As with the development of relationships with community leaders, timing is critical: companies need to build their strategic relationships before problems arise. The first encounter with a key official should not be to discuss a CSR problem or other bad news. It should always be to showcase the positive good news impacts of development in an official's sphere of responsibility.

The reality, of course, is that a company can do everything right and still run into serious problems along the way. But, having a strong plan in place on the front end that contemplates what can go wrong and that sets out a plan for managing issues can go a long way towards helping companies successfully navigate and safeguard the route from concept to mine to market. **CIM**



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