

**Office of the Extractive Sector
Corporate Social Responsibility (CSR) Counsellor
Closing Report
Request for Review File Number 2011-02-MAU**

The Office of the Extractive Sector Corporate Social Responsibility Counsellor

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

Errors and omissions remain the responsibility of the Office

This report is available in English and French

February 2012



The Office’s Key Guiding Principles: Accessible, Effective, Independent, Transparent, Responsive, Predictable

The Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor is part of the Government of Canada’s CSR Strategy for the Canadian International Extractive Sector. The Counsellor reports to, and acts as a special advisor to, the Minister of International Trade. The Counsellor may make recommendations to parties and provide advice; however, the Office is nonpartisan and does not have any policy-making role. In executing its dispute resolution mandate, the Office acts as an impartial advisor and facilitator, an honest broker who brings parties together to fix problems before they become issues and resolve issues before they become intractable.

The first Extractive Sector CSR Counsellor, Marketa Evans, was appointed in October 2009. The Office was opened in Toronto in March 2010. To support the construction of this new Office, the Counsellor adopted a cross-sector, open and dialogue-based approach with the wide range of stakeholders interested in the issues of CSR and Canada’s mining, oil and gas industries.

The construction of the Office’s review mechanism, a dispute resolution process, was informed by a formal and proactive multi-perspective dialogue, during which over 300 individuals and organizations directly participated, both in Canada and overseas. The dispute resolution process was established in October 2010.

Supporting documents, including the rules of procedure, information brochure and Participant Guide, are available on the Office’s website at http://www.international.gc.ca/csr_counsellor-conseiller_rse.

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1. Executive summary

This report closes the Office of the Extractive Sector CSR Counsellor's request for review file #2011-02-MAU, related to First Quantum Minerals Ltd.'s Mauritania Copper Mines ("MCM") project in Mauritania. This closing report reflects a summary of the request for review, activities undertaken by the Counsellor and the participants, and information on the parties' way forward and commitments.

The Office is part of the Government of Canada's strategy on CSR for the Canadian international extractive sector. The role of the Office is to promote responsible practices for Canadian companies abroad and to resolve corporate/community disputes connected with the endorsed performance standards.

In this case, the request proceeded to Step 4 in the process, "informal mediation." Activities that take place under this stage include desk research, interviews, information-gathering, discussions with the parties, discussions with other relevant parties, information exchanges, etc. It took some time to clarify the request and to ensure that elements of the request met the mandate of the Office. Some of the issues raised in the original request could not be accommodated and extensive discussions were required in order to proceed.

In light of significant levels of exchange, dialogue and information sharing, at least in part what lay at the root of the request was incomplete information. The initial place to begin a resolution was through a closer-to-the-ground process.

During the informal mediation stage, it became clear that some of the information the requesters had was not complete. In subsequent information exchange, the Office was able to share some new information with the requesters that would both serve to address some of their existing concerns and provide a potential constructive and easy-to-access path forward for the requesters.

The Office of the CSR Counsellor is not a first resort mechanism. We encourage, as is best practice, the use of closer-to-the site grievance mechanisms in the first instance. In this case, an operational level mechanism does exist and we have encouraged the requesters to access that first.

Over the course of this request for review, the company has consistently demonstrated its good faith efforts to deal with the issues and to share information. Although outreach efforts have already been undertaken in a variety of forms and forums, the company will additionally consider hiring an independent local convener with knowledge of locally appropriate methodologies, to further raise awareness of the site level grievance process. This would be carried out with a view to ensuring that any difficult to reach groups are identified, prioritized and accommodated in outreach. The company has further committed to support the Canadian mining industry's collective re-evaluation of best practices for dispute resolution processes in light of the newly established UN Guiding Principles on Business and Human Rights.

The file is now closed.

2. Introduction

Summary: This is the closing report for the request for review involving First Quantum Minerals Ltd., file#2011-02-MAU, relating to the Mauritania Copper Mines (“MCM”) project in Mauritania. The purpose of this report is to meet our statutory reporting requirements and our commitment to our key guiding principles. This request for review file is now closed.

Reporting: In accordance with the Office’s rules of procedure as approved by the Minister of International Trade, Government of Canada, in September 2010, this closing report reflects 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.

The Counsellor is not a judge or an arbitrator and does not pronounce on the merits of substantive points of disagreement between the parties. The views expressed in this report on such substantive issues are those of the parties, and not those of the Counsellor. The Counsellor listens to all points of view but does not take sides. The Counsellor believes that when different perspectives are surfaced, areas of common ground and mutual interest are often found.

In accordance with the rules of procedure, parties are instructed not to share confidential information with the Office until the “express written consent” to proceed to structured dialogue is obtained.

Results: The objective of the Office is to bring parties together, share information and develop a framework that would result in a productive and constructive path forward. In communicating about our approach, we state clearly that we are not a “first resort” mechanism. In so doing, we aim to foster more systematic use of site level grievance mechanisms, in accordance with the newly endorsed UN Guiding Principles on Business and Human Rights.

In this case, the requesters had advised that:

- No site level grievance mechanism for communities existed and therefore they brought their concerns to this Office.
- The company was not interested or available for a discussion about issues of concern and therefore they brought their concerns to this Office.

Through the informal mediation process, this Office was able to provide new information to the requesters, including information about the existing site-level grievance mechanism. In accordance with the Office’s rules of procedure, the requesters have been invited to use that process first.

The company has also committed to additional activities to raise awareness of their site level mechanism.

Steps in the review process - file#2011-02-MAU

August 14, 2011	Step 1: A complete request for review was submitted to the Office.
August 14, 2011	Step 2: The Office acknowledged the request and forwarded a copy of the request to the company.
August 19, 2011	Step 3: The request passed the Office's intake screening and the parties were advised accordingly. This screening determined eligibility of the request for the mandate of the Office; it did not endorse or validate any of the matters raised in the request.
August–January 2012	Step 4: The CSR Counsellor worked with the parties in informal mediation/trust-building.
February 21, 2012	Request was closed.

The context

Mauritania has a population of about three million and is one of the world's least developed countries. The country's economy depends heavily on its agricultural, mining, and fishing sectors, which tend to fluctuate significantly in response to external shocks. The country is heavily dependent on foreign aid.

Canada is the largest foreign investor in the Mauritanian mining sector. Several Canadian mining companies are active in Mauritania. This includes First Quantum Minerals Ltd., which holds a 100% interest in the Guelb Moghrein copper-gold mine. First Quantum holds the mine through its subsidiary, Mauritania Copper Mines (MCM).

The Guelb Moghrein mine is located 250 kilometres northeast of Nouakchott, the nation's capital, near the town of Akjoujt, a town of approximately 11,000 people. Guelb Moghrein consists of an open pit mineable copper and gold deposit located 141 metres above sea level. The mine achieved commercial production in October 2006.

3. Background and review process in brief

The Government of Canada's CSR Strategy for the International Extractive Sector was announced in March 2009, and this Office was created as a result of that Strategy.¹ 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 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

¹ The strategy is entitled "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector", posted at www.csr.gc.ca.

consultation with host governments and local communities, and to conduct their activities in a socially and environmentally responsible manner.

In addition to the OECD Guidelines for Multinational Enterprises, which the Government of Canada has long endorsed and supported, the CSR Strategy notes that the Government of Canada will promote three widely-recognized international CSR performance standards with Canadian extractive companies operating abroad. These endorsed standards are the IFC Performance Standards, the Voluntary Principles on Security and Human Rights, and the Global Reporting Initiative.² Working with these standards helps Canadian companies to understand, meet and exceed their obligations with respect to corporate social responsibility. Companies can use these standards to assess their environmental and social risks and current performance, and to formulate action plans based on their particular circumstances and unique operating environments.

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

1. The International Finance Corporation Performance Standards on Social & 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 role 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.

The mandate of the Counsellor is linked solely to the voluntary standards of the CSR Strategy, not to host country laws, regulations or standards.

Supporting documents about the Office's review process of the Office, including the rules of procedure and participant guide, are available on the Office's website at

http://www.international.gc.ca/csr_counsellor-conseiller_rse.

4. About this request for review

The Office of the Extractive Sector CSR Counsellor received a complete request for review on August 14, 2011. The parties identified on the request for review are as follows: Maître Ahmed Mohamed Lemine and others, who identify themselves as directly-affected project stakeholders. This office can respond to requests where project affected communities are part of the request.

² The Office does not receive requests for review pertaining solely to the OECD Guidelines for Multinational Enterprises. The review mechanism for the OECD Guidelines remains with the Canadian National Contact Point. A protocol between Canada's NCP and the Office governs how the two work together; it is posted on our website.

The Office received documentation showing that representation by Maître Ahmed Mohamed Lemine was authorized by members of the project-affected community.

The responding party is Mauritanian Copper Mines (MCM), a subsidiary of First Quantum Minerals Ltd., relating to a project in Mauritania. First Quantum Minerals Ltd. is a corporation registered in British Columbia.

5. Developments with this request for review

After the completion of the intake screening to confirm eligibility of the request, the Office begins the process by holding one or more initial calls and/or meetings separately with the parties to explain the Office, the mechanism, what they can expect, and what is expected of them. Time is allocated equally between the parties in these initial stages. In this particular case, such meetings were held by telephone on several occasions with requesters, the responding party and their representatives. Such calls allow parties to ask questions, receive clarification and improve understanding of the Office's role and mandate. Calls are often followed up with email correspondence and further documentation from the Office to elaborate on the review process. Additional information is sometimes requested. The desired outcome is to ensure parties understand the Office's mandate and process and to begin establishing the conditions for a successful, constructive dialogue.

The Counsellor has a responsibility to ensure that all requests coming before the Office fall within the mandate of the Office. In this case, as it was originally presented, the request for review contained many issues, some of which were clearly outside of the mandate of the Counsellor, including issues related to host country laws. The Office of the CSR Counsellor does not deal with any issues related to host country laws or regulations. Its mandate is to deal with issues related to the endorsed performance standards only.

Some other issues in the originally submitted request were possibly outside of the mandate of the Office. It is important that all parties understand what the Office can, and cannot, deal with. In this case, the Office spent extensive time with the requesters to ensure good understanding of the process and mandate and what the possible range of outcomes might be.

After extensive consultations with the requesters, the Office clarified the core issues of the request, issues related to the voluntary standards that fall within the Counsellor's mandate. Clarification on the main issues was then documented in writing to both parties, to ensure both understood what types of issues could be looked at under the auspices of this Office. Some exclusions from the originally submitted request for review were agreed upon by the requesters as a result of this process.

The main issues of concern falling within the Counsellor's mandate were ultimately identified as follows:

1. Environmental issues, including:
 - a. Use of chemicals/hazardous materials
 - b. Emissions/pollution prevention and control
 - c. Groundwater contamination and conservation

2. Labour issues directly involving the company
3. Stakeholder engagement and consultation

All of the issues raised in the request are multifaceted and complex. Over the course of discussions with the parties it became clear that the parties were not all working with the same level and amount of information. The Office facilitated information exchange between the parties, in an effort to ensure all work with similar levels of information.

Some time into the process, the requesters raised a number of important concerns:

1. The requesters stated that they came to the Office because there was no existing company grievance mechanism at the project site.
2. The requesters stated that part of their concern stemmed from their belief that no independent or monitored environmental assessments or audits had been conducted on the project.
3. The requesters stated that they came to the Office because they believed that the company was not willing to sit down with communities for a discussion of issues.

Through the information sharing and clarification steps in the informal mediation exercise, the Office was able to collect and share information between the parties on these concerns. Over time, it became clear that in some measure at least, requesters' concerns were possibly related to low levels of information.

Throughout this process, the company repeatedly demonstrated its good faith and interest in working through the issues.

- Grievance mechanism: The company advised the Office that a grievance mechanism is available through the MCM liaison office in Akjoujt, which is 3.9km from the mine site. The company told the Office that this grievance mechanism is in line with International Finance Corporation best practice guidelines and has already been used to settle other complaints. The company noted that this grievance mechanism has been externally reviewed. The company told the Office that the project grievance mechanism is available to receive all complaints and concerns of the local population.
- Environment: The company pointed to two environmental and social impact assessments conducted to date, one by Scott Wilson in 2005 and another by BURGEAP in 2009. The company also advised that, in 2011, the Mauritanian Government commissioned BRGM to conduct an audit of MCM's environmental performance.
- The company reported that water testing is conducted on a regular basis, and results are sent in quarterly to the relevant government ministries. The Office was told that such testing has been going on for some years, and most recently in September 2011.
- Community relations: The company advised the Office that management and company representatives are ready and willing to sit and meet in discussion with communities, and that there are site level community relations representatives currently engaging with the community. They can be reached through the MCM liaison office based in Akjoujt.
- The company provided information about ongoing public consultations meetings. According to the company, the site is committed to further implementing a stakeholder engagement plan which includes newsletters and meetings and other outreach activities.

The Office provided this information to the requesters.

The Office's review process normally requires that site level mechanisms be used first. This approach reflects both our formal mandate and also what we were told during our public consultations and discussions on building the review process. The Office was repeatedly advised to support, and not to undermine, any nascent local mechanisms. Global research has also indicated that closer-to-the ground processes offer good opportunities to resolve issues.

The Office views operational mechanisms as a key preventative measure, in line with the UN Guiding Principles on Business and Human Rights. The existence of the Office's review process might be a useful component of a best practice operational mechanism for Canadian extractive companies and may encourage the development and improvement of site level processes.

The Office also recognizes that in some cases and under certain conditions, operational level grievance mechanisms may not be effective or appropriate. That will be determined on a case-by-case basis as part of the Office's process.

In this case, the Office has not been provided with any reason why, in the first instance, the use of the operational level grievance mechanism would not be a suitable course of action. We have advised the requesters to use that operational level grievance mechanism first to try to resolve their concerns.

Given the knowledge gaps, further dissemination about the operational level mechanism is also appropriate. As a result of our conversations, the company has committed to the following:

Although outreach has already been done, MCM has agreed to consider doing more. MCM will consider hiring an independent local convener to raise awareness of the site level grievance process in a locally appropriate manner (language, culture, etc.). This would be carried out with a view to ensuring that any difficult to reach groups are identified, prioritized and accommodated in outreach. The Office has specifically encouraged the requesters to be part of this process and to learn more about how the grievance mechanism might be able to resolve their concerns.

First Quantum has also let the Office know that it supports the Canadian mining industry's collective re-evaluation of best practices for dispute resolution processes in light of the newly endorsed UN Guiding Principles on Business and Human Rights.

The file is now closed.

CONTACT US

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