Graduate School of Development Studies

Canadian-Colombian Interaction towards Building CSR Institutional Capacity

How to Reach a Bottom-Line for Ethical Corporate Performance in the Global Mining Industry?

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In memory of my father who taught me curiosity for learning and to whom I owe my education.

To all my very special friends at ISS.

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List of Acronyms

ANDI	National Business Association of Colombia
CPP	Canadian Pension Plan
CSR	Corporate Social Responsibility
DANE	National Statistics Department
EITI	Extractive Industries Transparency Initiative
EP	Equators Principles
GRI	Global Reporting Initiative
ISO	International Organization for Standardization
ISR	International Social Responsibility Committee
MAC	Mining Association of Canada
OECD	Organization for Economic Cooperation and Development Guidelines
PND	National Development Plan
TSM	Towards Sustainable Mining Initiative

Abstract

This research paper seeks to contribute to the debate on whether a bottom-line to CSR exists in the global mining industry. The research approach focuses on the institutional differences and constraints to meet CSR international guidelines in both developed and developing countries. In doing so, the work of key actors within both the Colombian and Canadian regimes was researched and compared to draw attention to possible spill-over effects through different forms of interaction among the two regimes. The different interaction channels involving Canadian mining companies operating in Colombia, civil society's activism at each end, trade agreements and regimes' commitment to CSR guidelines at the national and international levels.

Relevance to Development Studies

This research raises questions over the potential role of Corporate Social Responsibility in the mining sector for countries such as Colombia, which have adopted similar extraction–led pathways within their national policy. Therefore, this paper shall shed light to countries' institutional capacity in setting "bottom lines" on CSR standards in developed and developing countries.

This paper will seek to identify incentive structures for Canadian mining companies in Colombia to go beyond merely compensating for their adverse social, environmental and economic effect, but instead, partaking social responsibility in strengthening national sustainable development road maps for extractive sectors, and with it, enhancing national economic developmental potential.

Keywords

[Corporate Social Responsibility, Sustainable Development, Mining Industry]

Chapter 1
Background of CSR and Complexity

The term Corporate Social Responsibility (CSR) has become a buzzword in all business environments all over the world, especially in those industries in which big multinational companies play a very important role. The understanding of this term is a social construct which generally refers to corporate community engagement, health, labour safety and environmental protection. However, there has been no consensus on the definition of Corporate Social Responsibility on the academic literature. This is the main reason why different approaches to CSR exist and they vary enormously among different countries and industries. Given that CSR is a social construct and lacks a proper standardized meaning, it has suffered a transformation and evolution of the term subject to dominant philanthropic trends or mainstream corporate models. Early models which exemplified how the structure of responsibilities is understood within a corporation, and still used today rely on the traditional 'Pyramid of CSR' which sets 'economic responsibilities' at the bottom as the most fundamental tier and moving upward fulfilling; 'legal responsibilities' then its 'Ethical Responsibilities' and lastly behaving as a good corporate citizen and response to its 'Philanthropic Responsibilities' (Carroll 1991:42).

> "*The term [social responsibility] is a brilliant one; it means something, but not always the same thing, to everybody. To some it conveys the idea of legal responsibility or liability; to others, it means socially responsible behavior in an ethical sense; to still others, the meaning transmitted is that of "responsible for," in a causal mode; many simply equate it with a charitable contribution; some take it to mean socially conscious; many of those who embrace it most fervently see it as a mere synonym for "legitimacy," in the context of "belonging" or being proper or valid; a few see it as a sort of fiduciary duty imposing higher standards of behavior on businessmen than on citizens at large"(Votaw in Carroll 1999 : 280).*

Nevertheless, in recent years firms have significantly increased the amount of resources and attention to activities under CSR. This is due to greater demands of multiple stakeholders; civil society, governments and industry itself coping with international market standard. CSR has experienced a huge transformation beginning with its most philanthropic basis to now integrate in business models. These types of models today much more linked with aspects of 'sustainability' with great focus on environmental and societal. "The principle of sustainability appeals to enlightened self-interest, often invoking the so-called triple bottom line of economic, social, and environmental performance. In other words, companies should operate in ways that secure long-term economic performance by avoiding short term behaviour that is socially detrimental or environmentally wasteful" (Porter 2006:5).

1.1 Evolution of Definition and Concept

In Archie B. Carroll, 2000 definitional review he captures the changes in meaning throughout history and identifies major contributors whom have played significant roles in shaping the concept of CSR. Taking a historical approach, starting from 1950's academic literature onwards, the author does a compilation of articles into topic clusters which are analysed by decades. Given these different time frames, the author sheds light to some general characteristics of each decade. For instance, between 50's and 60's was the beginning of what he called the "modern era" of the term. This association he attributes in large to important contributors such as Howard Bowen, whom he recognizes as father of Corporate Social Responsibility for having gained such reputation with his book Social Responsibilities of the Businessman in 1953. Later in 1960's as result from the expanding literature that took place in the earlier decade, he claims that the definition for CSR became more specific and other terms like Corporate Social Responsiveness and Corporate Social Performance (CSP) and CSR began to be used interchangeably. Following the same trends found in literature, this research paper will use these terms in the same manner.

Moreover, during the 70's further proliferation of the definition of CSR took place, and it happened along with its various interpretations. Certainly the earlier decades (50's to 70's) of the "modern era" contained most philanthropic aspects perceived as corporate socially responsible behavior. In essence, the concept was very much linked to the idea of CSR as a charitable action. This view was in line with Milton's Friedman very influential opinion about CSR and firm's financial performance, to what he stated that the social responsibility of business was to create profits. Hence, assuming CSR had a negative impact on financial performance or acted against profit-maximization theory. Then, it was rational for companies to keep CSR requirements to the minimum. Arguments that supported the negative relationship between CSR and financial performance involved extra costs a company incurred if decided to engage in such "charitable" business strategies. According to Forest Stavins, firms participating in costly CSR will have to in many cases increase prices, decrease wages, accept lower profits or pay lower dividends (Stavins 2010: 14). Then, the 80's was when all the methods of measurement, indexes and standards began to be more visible and debated upon. Discussions around CSR became less about what CSR meant or entailed but more about how to measure it or report properly. Thus, to the date an ideal empirical measure of a comprehensive conceptual construct of CSP does not exist. "Carroll (2000) argues that unless a better empirical measure of the comprehensive construct of CSP can be developed, empirical research probably should not be done and, if done, it should not be labelled as CSP"(Simpson 2002:101).

Nevertheless regardless important efforts to build measuring methods and standards, these have failed to address the complexity of the concept. In fact, the tendency to standardize all the forms to capture credible commitment to CSR has resulted in all kinds of reporting methods that have become in many cases misleading from "real" or "meaningful" CSR practice. Hence, generalizing its main focus and driving business attention to the portion that concerns merely the techniques for reporting and less focus on the importance to its potential developmental impacts.

> *Griffin (2000) and Rowley and Berman (2000) suggest that a universal measure may not be desirable. Griffin (2000) argues that a comprehensive measure of CSP means "that time, culture, industry, and contextual variables do not make a difference." Griffin (2000) goes on to say that a universal measure of CSP "potentially oversimplifies a complex construct". Griffin (2000) and Rowley and Berman (2000) appear to be saying that investigation of CSP in an operational setting has value."(Simpson 2002:101).*

As a result of the lack of standard use of the term CSR, hence, it is common to see companies call their CSR whatever companies "consider" it means or focus its CSR strategy towards that which addresses the company's own needs and pleases the local demand for it. This explains why it is common nowadays to find a tendency of CSR in mining sector to give greater importance to environmental protection since it is the most visible for which a mining company to seem to fulfil social expectations.

Form the 90's onwards the business model took over most of was left of the philanthropic view on CSR to integrate it to an apparent business profitable strategy. This means that the concept itself began to become institutionalized and incorporated in business management. Hence, it started to become more popular among academics to find positive correlations of CSR and financial performance.

> *"At a minimum, corporations are expected to contribute in sufficient measure to the wellbeing of the host community/nation in order to gain a social "license to operate." But the concept, scope, and practice of CSR is undergoing a rapid evolution. Corporations are increasingly expected to expand their engagement with communities and nations, as well as their environmental stewardship, beyond firm-centered risk management, and top management is increasingly concerned and directly involved in CSR. Resource extractive firms are now also being expected to help transform the finite physical capital they extract from the earth into renewable human capital through engagement in development and capability-building activities" (Segabien et al 2008:113)*

Academic literature concerning this relationship, however not conclusive, does shows some evolution over time, which moved away predominantly from Trade- Off literature to a more recent literature which moves away from thinking about CSR as a cost or a constraint, for a possibly serving as competitive advantage. Examples include Vance (1975) or Aupperle et al (1985), they predicted declining stock prices for corporations with "strong social credentials" and considered socially responsible activities of ripping capital from firms. Nevertheless, the recent literature notably moving away from zero- sum to 'win- win' game where doing "good" while doing "well" is an option. It enhances the positive relationship of socially responsible firms and higher profits. It is important however to note that most of this literature makes a distinction between short -term vs. long -term effects on profits. In essence, making reference for the most part to higher profits in the long term while possible profit sacrificing in the short term. For that reason, it is a common debate questioning companies "capacity" to allow short-term profit loses while expecting gains in the future. This means that only those companies already experiencing a high performance will be able to also acquire high levels of social performance. Hence, suggesting that those which are already "doing well" will be able to do "good", and then the problem of causality is inevitably raised.

Although there seems to be no consensus on the literature about CSR and whether it leads or not to superior firm performance, there seems to be an agreement on the fact that Corporate Social Responsibility has become a major objective for stakeholders.

1.2 Research Question

Is there a bottom line for ethical corporate performance in the global mining industry?

- How do different Country regimes interact in reaching that bottom – line? If any.
- How does institutional capacity enables or hinder positive spillover effects of better practices from the Canadian Regime to the Colombian Regime?

Research Paper Outline

This paper will be divided into 6 Chapters. The first one being the actual chapter, meant to introduce the reader to the main research question and also bring about the complexity behind the concept of Corporate Social Responsibility (CSR). Chapter 2 describes international efforts to measure and monitor common standards while also set up an economic analysis behind companies' decisions and manager's role to seek successful financial performance however, subject to CSR guidelines. Then, in Chapter 3 you will find highlights of companies' disclosure for a selected group of Canadian mining companies established in Colombia from which comparisons were made in terms of their CSR commitment levels. Chapter 4 will describe the Canadian regime and through the analysis of its institutional actors draw attention to elements which apparently are the basis for better CSR practices to take place in mining industry in Canada at home. Moreover, there will be a section within this chapter comprising the differences of Canadian mining companies CSR practices abroad and whether there is a different "bottom-line" which applies domestically than that abroad. Chapter 5 will similarly try to shed light to those institutions playing an important role in driving CSR demand for the mining industry in Colombia and the possible constraints for developing better practices. Lastly, Chapter 6 will comprise final remarks and conclusions.

1.3 Methodology

This research paper was based on the analysis of secondary data collection methods. Particular institutions which included different sectors such as government, civil society, associations and organization in both Canadian and Colombian contexts were identified .This allowed for the analysis of the work of institutions comprising the different sectors above mentioned which included; regulatory environment, the work of national mining associations and other national interest groups, civil society activism as well as international recognized actors with great influence in national sustainable development policies in both countries.

An important portion of data collection relied on that found in financial reports for a chosen number of companies operating in Colombia as well as the review of other stand- alone documents available to the public. Namely, methods of content analysis where taken into consideration. Additionally, the selected companies where also contacted for any further complementary material regarding their CSR policies. Nevertheless, there was low interest in providing extra material, to which companies simply stated that all that was available had been posted on their websites. In fear of the presumed bias under companies' documents and reports, special attention was given to press releases and organizations dedicated to CSR disclosure through which mayor bad CSR practices were reported.

Chapter 2
Theoretical Framework

2.1 How to Standardize CSR measures?

Table1 Shows the major initiatives used to build a framework of CSR analysis.

Table 1
International Guidelines

Industry Initiatives	Government Initiative	Multi-parties Initiatives	Other
The United Nations Global Compact	**OECD** -*Guidelines for Multinational Enterprises*	**EITI** -*The Extractive Industries Transparency Initiative*	**GRI**- *Global Reporting Initiative*
ICMM- *International Council on mining and metals*	*European Multi-Stakeholder Forum on CSR*	*Voluntary Principles on Security and Human Rights.*	*Responsible Mineral Development Initiative*

Source: Own Elaboration

Several rating agencies and multi-parties initiatives, such as those in the previous table, have developed indexes and methods producing standards and guidelines to measure CSR of companies in order to rate them accordingly. Moreover, well-known international standards such those outlined and published by the International Organization for Standardization (ISO) or Social Accountability International (SAI) were taken into account. Additionally, examples of worldwide recognized indexes including; the Jantzi Social Index (partnered with Dow Jones Sustainability Indexes), Global ESG Leaders Indices, and the Responsible Competiveness Index[1] were also taken into consideration. The research methods and analysis was heavily influenced by these different guidelines which was particularly useful in Chapter 3 in order to understand companies' commitment to CSR.

[1] More information about these indexes can be explored in the following sites:

Jantzi Social Index, Global ESG: *http://www.sustainalytics.com/indexes*

Responsible Competitive Index: *http://www.accountability.org/research/responsible-competitiveness/index.html*

2.2 The United Nations Global Compact and CSR

Probably the most influential set of principles on CSR recognized worldwide refers to the *UN Global compact* which comprises elements of the global debate to guide the private sector towards acting in more developmental manner. The *Global Compact* initiative compiles the following list of 10 principles meant to guide companies to engage in more responsible practices. These principles resulted from a consensus from The Universal Declaration of Human Rights, The International Labour Organization's Declaration on Fundamental Principles and Rights at Work, The Rio Declaration on Environment and Development as well as The United Nations Convention Against Corruption. These principles cover areas of human rights, labour, the environment and anti-corruption which are in line with UN Millennium Development Goals (MDG's).

Table 2
UN Global Compact Principles

Area	Principles
Human Rights	**Principle 1:** Businesses should support and respect the protection of internationally proclaimed human rights.
	Principle 2: Making sure that they are not complicit in human rights abuses.
Labour	**Principle 3:** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.
	Principle 4: The elimination of all forms of forced and compulsory labour.
	Principle 5: The effective abolition of child labour.
	Principle 6: The elimination of discrimination in respect of employment and occupation.
Environment	**Principle 7:** Businesses should support a precautionary approach to environmental challenges.
	Principle 8: Undertake initiatives to promote greater environmental responsibility.
	Principle 9: Encourage the development and diffusion of environmentally friendly technologies.
Anti-Corruption	**Principle 10:** Businesses should work against corruption in all its forms, including extortion and bribery.

Source: *www.unglobalcompact.org*

Other initiatives and guidelines as mentioned earlier use similar methods to outline CSR working frameworks towards sustainable developmental goals. In general, these initiatives include in such guidelines a list of **principles** comparable to those in the table presented above. These are followed by **reporting** strategies that represent methods that make public the performance of companies according to their own indicators. Lastly, they usually make reference to some strategy of assurance, that is, by establishing **auditing and monitoring** procedures and schemes. Other important guidelines, although taken into consideration will not be summarized. The table made with the *UN Global Compact* list of principles is taken as a reference to show an example of the principles used by those other similar guidelines revealed on **table 1**.

2.3 Problems with Variability among Guidelines and Rating Agencies Indexes and Reporting

It is important to take note of the great variability among these measurement methods and guidelines. This issue has been raised among several academics whom commonly call attention to be one of the main problems with these attempt to credibly "measure" CSR performance, or what is more challenging, to make these standards and ratings comparable to one another. There have been great efforts to even "rank" rating agencies or building categories for "best indexes" depending on the criteria used by each of them. Most criticism to these rating methods derive not from the principles outlined by the initiatives themselves, but form the rigorous details embedded in the process of CSR data reporting, and even more regarding rating agencies strategy of assurance. Especially for those that do not provide "external" methods of auditing and monitoring, thus, questioning the reliability of the rating results.

> *"The criteria used in the rankings vary widely. The Dow Jones Sustainability Index, for example, includes aspects of economic performance in its evaluation. It weights customer service almost 50% more heavily than corporate citizenship. The equally prominent FTSE4Good Index, by contrast, contains no measures of economic performance or customer service at all. Even when criteria happen to be the same, they are invariably weighted differently in the final scoring. Beyond the choice of criteria and their weightings lies the even more perplexing question of how to judge whether the criteria have been met. Most media, nonprofits, and investment advisory organizations have too few resources to audit a universe of complicated global corporate activities. As a result, they tend to use measures for which data are readily and inexpensively available, even though they may not be good proxies for the social or environmental effects they are intended to reflect. The Dow Jones Sustainability Index, for example, uses the size of a company's board as a measure of community involvement, even though size and involvement may be entirely unrelated.1Finally, even if the measures chosen accurately reflect social impact, the data are frequently unreliable. Most ratings rely on surveys whose response rates are statistically insignificant, as well as on self-reported company data that have not been verified externally. Companies with the most to hide are the least likely to respond. The result is a jumble of largely meaningless rankings, allowing almost any company to boast that it meets some measure of social responsibility – and most do". (Porter 2006:4)*

This fundamental lack of consistency on what concerns CSR understanding by definition, and the different methods to capture relevant information about companies, hinder the capacity to credibly rely even on those companies which seemed "fully" engaged with their CSR and whom follow all the "proper" guidelines and principles. Therefore, those already showing high commitments to CSR could also have been careful to "ensure" the "right" guidelines or indexes to follow. That is to say that it is likely to consider that companies have plenty information about these rating agencies and thus, make sure to choose or comply with those set of standards or indexes which are more convenient to them. The need for consistent reporting standards led to the creation of the *Global Reporting Initiative (GRI) Sustainability Framework* which is widely recognized as de facto "reliable" international reporting standard. However, these principle apply to those companies which show some, if any interest in CSR, because many simply do not show interest to comply even to "unreliable" or lax regulatory standards in the first place. Furthermore, this lack of commitment to any international guidelines and principles on CSR is much more evident in developing countries where these standards are only nowadays becoming more popular. Therefore, these companies in developing countries are faced with having to comply with international standards for which capacity building and institutions becomes imperative. The debate over high CSR standards not well implemented in developing countries places responsibility on host countries for permitting low standards for mining and pointed at lack of local government's institutions and law flexibility which foster this type of behaviour from foreign companies.

> *"The difficulties in measuring CSR, as frequently reported in the international literature, are yet more severe in markets in which the question is still incipient, as it is the case in emerging markets. Brazilian firms are not compelled to disclose information about their social action. So, firms that decide to do it will act freely with no standard format or data disclosed. Voluntarily some firms have started doing it. Nevertheless, such absence of uniformity on format and specific data to be disclosed adds difficulty to research. To have this study feasible we needed to collect data from two different sources. The Brazilian Institute of Social and Economic Analysis (IBase) has, among a group of social purposes, encouraging firms to undertake social action. In this context they have proposed a model for Corporate Social Responsibility disclosure and also served voluntarily as a data repository of firm social information for the firms interested. As previously mentioned, the adoption of IBase model, as well as the sending and storage of firm information at IBase, was voluntary"(Crisóstomo 2011: 299).*

2.4 The Economic Analysis of CSR

The Possibilities for Financial Performance to reflect their CSR Policy

There exist various channels discussed in the literature through which Corporate Social Responsibility may have an impact on profits or affect financial performance of a firm. Interestingly, the way in which CSR can affect profits has been associated with varying issues ranging from "good branding" of consumer products, for example "green labeling" serving as positive advertisement affecting consumer demand, to price fluctuations reflecting stock market confidence due to reputation of such company affecting returns of the same.

Advocates of the apparent competitive advantages for those companies which engage in serious investment in corporate social responsibility argue that these practices have become a more common business strategy nowadays. Hence, some state that this new business models and trends will encourage investment, create healthier and better markets, affect consumer demand through higher standards of production quality, and in some cases even enhance human resources if, for example, local pool of workers is positively affected and producing greater human capital. Furthermore, there are those which justify greater CSR investment by acknowledging the potential consequences for careless firms not properly addressing social concerns affecting their long- term competitiveness and in the future representing a risk of harming profits. Lack of social responsibility in today's business environment could restrict capital flows to companies due to things such as; government regulation and failure to meet civil society's demands. The forms of restrictions to discipline companies that do not take CSR seriously into their business design could risk meeting the necessary requirement to get "the license to operate". In addition, most importantly for business financing, it could hinder crucial capital flows into the company from funding that is targeted at "healthier investments" and which depend on consumers and society. Hence, giving government and civil society leverage to demand greater companies' disclosure and liability.

Some of the major channels or aspects taken into account in this research paper which literature considers influencing managers and decision makers in the business world have shaped new trends for CSR investment and associated with; the need for product branding, companies reputation and stock market returns, regulatory frameworks and licenses to operate, new market creation and incentives for innovation as well as firm's operational efficiency.

Product Branding

Companies can make use of CSR pursuing product **branding** strategy to influence consumer demand. Social or environmental branding could be used as CSR business strategy that helps differentiate companies from one another. However, an interesting feature of seeking product branding through CSR engagement is that it assumes the " consumer" is well informed about the presumed social or environmental activities which helps them make that distinction among products, hence, prefer one brand over the other. Thus, this differentiation acts very much like advertisement mechanism through which companies can find opportunities to create positive corporate image or gain brand reputation. However, all industries, depending on the products or service they provide, have a different interest in using CSR in that manner. That is to say that not all firms benefit from seeking product branding in the same way, which means, unless a firm knows it make a difference in consumers demand to use CSR like a "branding strategy" then there will be no major incentive to pursue this initiative. Clearly, social or environmental branding cannot be introduced directly towards consumers in the mining industry; therefore, it faces distinct variables which might not even affect consumer demand at all. Even its apparent focus on "environmental conservation" as a branding strategy for several mining companies face certain limitations to do so compared to more typical branding tools while these might work better for other types of industries.

> "*Within an industry, a given social issue may cut differently for different companies, owing to differences in competitive positioning. In the auto industry, for example, Volvo has chosen to make safety a central element of its competitive positioning, while Toyota has built a competitive advantage from the environmental benefits of its hybrid technology. For an individual company, some issues will prove to be important for many of its business units and locations, offering opportunities for strategic corporate wide CSR initiatives.* (Porter and Kramer 2006:7)

The characteristics of the Mining Industry make it impossible in this case for "green labeling" to be advertised and placed in the hands of consumers. Other industries evidently benefit to a greater extent from this type of branding schemes. For instance, in the case of the Grains Industry, this form of advertisement can easily become a competitive advantage, for example among cereal brands, which offer a "choice" to consumers to act responsible with respect to "environment conservation". The type of product in this case evidently serves to reach consumers directly influencing their decision to buy a certain type of cereal, perhaps by merely placing a picture in the box of the "project" supported by the particular brand advocating "environmental conservation", accompanied with a short captivating description which gives the consumer sufficient information that makes him "feel good" about the decision they make by choosing one brand over another. Basically literality placing responsibility " in the hands of consumers" and making the individual responsible of making a choice with a " social responsible" content(sometimes for a few more dollars) and excludes companies themselves to take responsibility on "their own hands" and make these " socially responsible" actions out of their own budget.

Reputation

The mining industry has a different way in which companies can cope with the need for "branding", in the sense of setting themselves apart from other strong competitors. Although some organizations pushing towards more sustainable forms of gold mining, for instance in Colombia, the *OroVerde*[2] initiative, calls directly to consumers to buy "green gold" through *OroVerde* not only because it supports cleaner forms of extraction through traditional low scale techniques, but also because it ensures to send revenues to working families in need from the Pacific Region of Colombia. However, because the mining industry structure involves for the most part big multinationals whom are able to operate at lower costs, then, charitable or non-profit types of organizations as well as small scale firms adopting alternative forms of production, are limited from being able to influence consumers through this type of advertisement compared to other industries such as textile or food. These for a change, have the possibility of being able to make use of "green labeling" relatively in the same way among competitors regardless their size.

Nevertheless, the mining industry faces stronger demands that also require distinguishing themselves among companies, but these are more related to their focus on building a good **"reputation**", because in this manner, multinationals have been found to be greatly stigmatized and thus, strive for a good corporate image. However, when companies are focusing on building reputation and good image, like in the case of the mining industry, this means dealing with other ways in which financial performance of a company is compromised. Reputation relates more closely with how a company's image may affect its **stock market returns**, as well as how it reduces the potential risk of **hindering desired funding,** which is expected to finance company's operations, but always at risk if "bad reputation" gets in the way.

For this reason, in the case of mining companies, CSR might have a bigger influence on shareholders expectations and this means the company's reputation today plays a bigger role. Therefore, its impact regarding reputation would be more evidently reflected on price fluctuations on the stock market. As a consequence, potential investors in such industry are now much more inclined to pay greater attention to these aspects in order to secure promising investments, while in the past; company's profit prospects seemed to be at the heart of investors and shareholders decisions. Some examples of early empirical investigations by Vance (1975), Belkaoui (1976), and Alexander Bucholz (1978) tested the relationship between stock market returns and a dimension of corporate social performance (Simpson 2002: 98).

License-to-operate

Another important aspect of company's view on CSR engagement deals with the risk of not meeting the requirements for getting **"the license-to-operate"** which is also very much related to the heavy regulation this sector is exposed to at all times. Governments have different ways in which they

[2] Organization ***OroVerde*** supports projects of artisanal mining . It is recognized and approved by the Fair Trade Label Organization (FLO) and **Fairmined** Gold. More information at : http://www.greengold-oroverde.org/loved_gold/

introduce incentives for companies to engage in higher or lower commitment levels of CSR. Indeed, through law, companies must comply with the minimum requirements in order to operate; otherwise, companies could face high taxes or more strict regulatory measures. The License-to-operate approach is definitely in line with reducing business risks of affecting future profitability and business permanence. "Previous research has stressed firm risk as a motivation for a proactive stance on corporate social responsibility (Davis, 1973; Dyllick, 1999; Reinhardt, 2000; Yaziji, 2004)" (Hockerts 2008:12).

In the same way, these incentives and disincentives which are exposed under this approach allows all actors (stakeholders in private sector, civil society, government and other) to seek to coordinate some of their decisions in the interest of all. "This approach [the license-to-operate approach] also fosters constructive dialogue with regulators, the local citizenry, and activists – one reason, perhaps , that it is especially prevalent among companies that depend on government consent such as those in mining and other highly regulated and extractive industries." (Porter and Kramer 2006:4) However, we might consider that this approach assumes the government playing a definite role in guiding the mining sector towards an "optimal" CSR requirement level previously arranged within conditions for FDI to which companies are expected to agree with in advanced. In essence, this perspective places host governments fully responsible of carrying out to what extent the private sector engages with society's needs. For this reason, one must take into account that Colombia's competitive position with respect to Latin America will determine foreign investment flow into the country for the development of the mining sector, which itself boosts the competitive engines for resource-abundant countries to strive for FDI . The National Development Plan[3] of Colombia aims at attracting more FDI into the country, and the way it copes with keeping costs low and concurrently provide incentives for companies to find it attractive to invest in the country, will determine most of its success in this regard.

This is one of the main weaknesses about the license-to-operate approach, which paradoxically is an opportunity for host governments to invite foreign investors to set high standards of CSR however within a competitive context which threatens to detract investment capital in case of setting standards which represent higher costs for incoming firms. Suddenly, under this scenario, the risk of losing business opportunities concerns host governments whom face a dilemma of setting appropriate standards that do not discourage FDI while also provoke some incentives for companies to commit to CSR by exploring other cost compensation mechanisms for companies. The result then is; CSR as a voluntary basis, along with vague definitions of what it entails, lack of proper guidance provided to incoming companies whom are allowed to adopt

[3] All information about Colombia's Development Plan was found at the National Plan Department (DNP) at : http://www.dnp.gov.co/Pol%C3%ADticasdeEstado/Visi%C3%B3nColombia2019.aspx

whichever means of CSR that serves the interest of the company if any, and ultimately subject to lax regulatory framework.

Creating new markets and triggers of innovation

The arguments for this section developed from previous ones and deal with the core contradictory elements of CSR vs. higher costs. In principle, the following make reference to the possibilities around a more realistic "win-win" game which enhances the "business case for CSR" to a point where it is practically assumed that; ignoring the benefits of a more strategic view on CSR does not make sense for firms anymore because it compromises the company's future business development and profitability. It moves away from CSR perceived as external strategy for a company, based on earlier arguments dealing more closely with concerns for reputation, or license-to-operate. It portrays CSR strategy as one which is embedded at the core of company's business plans or even CSR becoming a more intrinsic feature of "modern" corporate culture. Literature related to the potential benefits for companies beyond moral, regulatory, or image concerns, to looking at it as business instruments which **foster innovation**. Like some may support, for instance, in the case of successful innovative products that were born out of the implementation of CSR (Asongu 2007: 2).

Evidently, this business argument has become more attractive and in international business literature. "Today, more than ever before, the air we breathe and the water we drink are not strictly environmental issues. They're business issues. That's because today, more than any time in our history, business and the environment are inextricably linked. And successful companies know it (Manning 2004: 9).

"Are these businesses being philanthropic? Yes and no. They're doing the right thing, to be sure. But they're also doing the smart thing. With more local and investment communities looking beyond earnings to company's "triple" bottom line, being socially and environmentally conscious is a key to success, even survival, in today's competitive business climate." (ibid)

The **creation of new market features** is what this view on CSR aims at which also takes into account satisfying consumer demand for this "new" type of consumers. As we had mentioned earlier with "green labeling" pointing at satisfying the demands of potential growing market of Eco-consumers. Likewise, new markets for other types of "socially responsible-consumers" represent an opportunity for companies to stimulate a new demand and offer products and services that satisfy such market.

> *"This notion that firms can actively transform market structures to make them more conducive to ecological innovation is also proposed by Dyllick (1999). Schaltegger and Wagner (2008) even propose that the ambition to transform an industry is a defining element of sustainable entrepreneurship, implying that sustainable entrepreneurial firms do not only see sustainability as central to core business activities, but at the same time aim for mass-market transformation beyond the eco-niche (Villiger et al.,2000). On the social side of sustainability entrepreneurship the term "corporate social innovation" was first introduced by Rosabeth Moss Kanter (1999: 125) who argues that firms should use social issues*

as a learning laboratory for identifying unmet needs and for developing solutions that create new markets." (Hockerts 2010: 485)

Increased Operational Efficiency

Likewise, arguments for how CSR leads to company's increased operational efficiency, also justify its inclusion in the literature. There are great advocates of CSR contributing to eco-efficiency and of CSR also resulting in higher employee productivity. This view probably is the one that romanticizes the most a positive relation of CSR and Profitability. Advocates of these arguments could rely on examples such as those about cleaner technologies which reach the most efficient form of operation, actually reduce cost and in addition, do so in a sustainable manner. Similarly, when proponents of this view refer to employee productivity being positively correlated with CSR, they tend to justify this in a very unique optimistic manner. "Several scholars suggest that adopting corporate social responsibility policies may lead to improvements in the firm's image. Because the firm's social performance record can proxy for labour conditions, socially responsible companies gain a competitive advantage by improving their ability to attract high-quality employees." (Guenster et al 2011: 686)

Nevertheless, the labour market in the mining sector in developing countries is characterized by unskilled workers which have little leverage regarding their own labour conditions. In countries where unemployment rate is still around 11-12% and significant percentage of informal labour is involved in this sector, there is little hope of workers giving much priority to the level of CSR a company implements to guide their work motives. The main problem with this "very optimistic views", if they were to be labelled in this way, is that they produces "catchy" ideas that politicians and business people feel eager to use, but have no connection to reality. However, as much as it would be a mistake to ignore market failures of this type and not asses them critically, there must also be room for some "catchy" ideas that might generate actual changes. For instance the UNEP initiative towards "Greening the Economy" might be criticized for not being very successful to formulate convincing solution regarding environmental concerns; however, along with all of what some may think of "false promises" it does continues to push forward the idea that companies of the future will have to internalize costs that have formerly been borne by society, and that simple argument is at the heart of any grater idea. Likewise, maybe mining companies are far from achieving those "sustainable" practices that some seem to claim and report, but the fact that they allocate resources toward achieving this goal might tell us something about the chances of achieving it at some point.

2.5 Role of managers in decision making regarding CSR and profitability trade-off

Managers and CEO's must make decisions which serve the best interest of the company and its shareholders and typically these are in line with those choices which maximize profits. The reason why most recent literature about CSR and firm's performance includes managerial decision making is because managers of companies deal with shareholder vs. stakeholder dilemmas. Furthermore, they take into consideration their own personal interests in any managerial decision while also considering what is "best" for the company itself. "CSR can also serve as a proxy for management skills. Bowman and Haire (1975) suggest that corporate social and environmental performance reflects management quality. A structural and dedicated CSR policy might inherently require commitment to CSR among and between all levels of the firm as well as a forward-thinking, long-term-oriented management." (Guenster et al.2011: 686)

Nevertheless, in many cases these decisions are influenced by time period variables which mark a clear distinction regarding the motives behind them, for instance, among short-term vs. long term decision making processes contained in companies view on CSR. Certainly, this entire complex context does not always come together to generate outcomes in the best interest of society. "Strategy is always about making choices, and success in corporate social responsibility is no different. It is about choosing which social issues to focus on. The short-term performance pressures companies face rule out indiscriminate investments in social value creation. They suggest, instead, that creating shared value should be viewed like research and development, as a long-term investment in a company's future competitiveness." (Porter 2006:12)

Managers struggle to satisfy stakeholder's demands in this regard which tends to resume in merely short- term responses. This attitude towards CSR resource allocation or commitment to it makes a significant difference compared to the long-term impacts of CSR possibly acting positively towards developmental objectives.

> *"A firm that views CSR as a way to placate pressure groups often finds that its approach devolves into a series of short-term defensive reactions – a never-ending public relations palliative with minimal value to society and no strategic benefit for the business."Finally, the reputation argument seeks that strategic benefit but rarely finds it. Concerns about reputation, like license to operate, focus on satisfying external audiences. In consumer oriented companies, it often leads to high profile cause-related marketing campaigns. In stigmatized industries, such as chemicals and energy, a company may instead pursue social responsibility initiatives as a form of insurance, in the hope that its reputation for social consciousness will temper public criticism in the event of a crisis. This rationale once again risks confusing public relations with social and business results."* (Porter and Kramer 2006:4)

2.6 The empirical Challenges of Understanding CSR

Literature Review

Numerous studies have contributed to this debate which progressively moved away from the very influential traditionalist paradigm lead by Milton Friedman's 1970's view on the relationship of Corporate Social Responsibility (CSR) and Corporate Financial Performance, to more recent literature which recognizes CSR as a more important aspect considered in business decisions nowadays. In essence, this trend raised questions about the previously accepted "trade-off" relation of CSR and financial performance. Such view was in line with the believe that a firm which held high CSR standards would incur in unnecessary costs that would harm their financial performance in the long run, to what Milton himself opposed by arguing that the sole social responsibility of business was to maximize profits[4] (M. Friedman 1970).

Ever since, there has been great interest of academics in exploring this relationship which has resulted on vast number of studies, with varying methodologies and data collection, some of which have compiled earlier studies in order to find consensus among the different theories. Regardless of the great amount of existing research, to the date, there has been no agreement among the empirical literature about the relationship between CSR and financial performance. Some researchers have found a negative correlation; others have found no correlation or neutral, while others have found positive significant indicators of CSR investment and firm's profit maximization. At the same time, there is now significant number of studies which shed light to the possible reasons that appear to be increasingly driving companies to allocate more resources to what concerns CSR. However, this phenomenon raises questions about whether companies are actually incurring in greater costs as well as question to what extent the validity of the "trade- off" relation among the variables holds in today's competitive business environment which seems to be exerting greater pressure for company's disclosure and social responsibility. Hence, the question is still out there about new managerial tendencies on CSR resource allocation, since these may or may not be consistent with profit – maximization theory.

Most literature reviews regarding CSR and profitability make use of the compiled amount of previous publication, for instance, in Griffin and Mahon (1997) and its extended model revision by Ramon et al (1999), both of which represent the lack of consensus in this topic area. On the one hand, in Griffin and Mahon (1997), out of 51 papers on this topic, 33 were found to report a positive relationship, nine reported no relationship and 20 reported a negative relationship. On the other hand, Roman et al. (1999) revising Griffin and Mahon (1997) , categorized 33 studies as demonstrating a positive relationship between CSR and corporate performance, 14 that failed to find any

[4] Published in: The New York Times Magazine, September 13, 1970. Copyright @ 1970 by The New York Times Company.

relationship and only five found to have a negative relationship (Bird et al 2012 : 156).

According to Simpson 2002, Roman et al. (1999) concluded that the predominance of the evidence indicated a positive relationship between Corporate Social Performance- Financial Performance links in Griffin and Mahon (1997) was merely because it included many flawed investigations which found a negative relation. Some of these which compared the reaction of the stock market to potential illegal activities or product problems, while other investigations where considered inconclusive since they found both a positive and negative link in the same study. However, the largest number of investigations found a positive Corporate Social Performance-Financial Performance link.

Among various studies which found significant positive relationship between Corporate Social Performance and Financial Performance was Preston and O'Bannon (1997) and Stanwick and Stanwick (1998). Both used regression analysis of multiple cross-sections for different year periods (1982-1992) and (1987-1992) respectively. These studies used the Fortune Survey of Corporate Reputation as the measure of Corporate Social Performance. Preston and O'Bannon (1997) compared Corporate Social Performance and Financial Performance for 67 large U.S. corporations over the eleven-year period and used return on assets, return on equity, and return on investment to represent Financial Performance. However, Stanwick and Stanwick (1998) conducted a regression analysis of multiple cross-sections for the 6 year period with approximately 115 firms in each cross-section. The return on sales, size, and environmental performance variable based on the EPA Toxic Release Inventory Report were used as independent variables.

Furthermore, other studies found no Corporate Social Performance-Financial Performance link and were critical of earlier studies for miss-specification of the regression models. As an example, McWilliams and Siegel (2000) argued that by including research and development variable in the model results in the Corporate Social Responsibility variable to be insignificant. The regression model used in McWilliams and Siegel (2000) measured CSP by considering the Domini 400 Social Index (DSI 400) and used a dummy variable to determine whether the chosen firms (524 U.S Corporations) where included or not in the index as a measure of CSP. The chosen period was restricted to 1991-1996 average of annual values data. CSP, industry and expenditures for research and development where regressed with respect to financial performance. The model allowed to test the impact of the inclusion of research and development variable which caused CSP variable to be insignificant.

> *"More recent US studies are still getting mixed results, with Rogers et al. (2008) finding a positive relationship only for firms that also devote significant resources to research and development (R&D) and other intangible assets, whereas Becchitti and Ciriretti (2006) find a negative relationship after controlling for industry effects. In studies using other than US data, no relationship was found between CSR and corporate performance for Australian firms (Brine et al., 2009) and Brazilian firms (Fiori et al., 2007), while a negative relationship was found for*

the UK (Brammer et al., 2006) and Brazilian companies (Crisostomo et al., 2010). On balance, the majority of studies find a positive relationship, suggesting that markets embrace companies that devote resources to CSR activities but to date there is no empirical closure on this matter. The diversity of findings that continue to this day reflect the following: (i) the lack of a strong conceptual foundation; (ii) the lack of appropriate measures of the extent of a company's CSR activities; (iii) the lack of a sufficient sample size; and (iv) the lack of methodological rigour (Bird et al., 2007). We have access to an extensive and international database on the CSR activities of companies prepared on a consistent basis, which provides us with the opportunity to provide useful insights into how the market appreciates CSR activities in various countries/regions"(Bird et al 2012:157).

This research paper does not intend to test the validity of the relation of the variables being discussed, based on previous models possible flaws or misspecifications. However, it does intend to shed light on the possible contradictions on the earlier literature and contribute to the existing evidence through a comprehensive analysis and understanding of a less explored area with very specific characteristics such as the mining sector. Most previous research focuses on this relationship through the analysis of CSR and financial performance which has been vastly explored in companies of advanced countries. These have experienced a longer tradition for CSR, thus, this research paper will contribute to the existing literature in the sense that it addresses CSR and profits/financial performance links analysis through the "business lenses" of mining companies in the developing world which clearly face a different competitive environment, while at the same time, focusing particularly on a single industry with very specific characteristics such as the mining industry.

According to (Simpson and Kohers 2002), there is several advantages to the use of a single industry is that it emphasizes internal validity rather than external validity of multiple industry analysis. In this case, mining industry in Colombia it could count with the advantage of focusing in a single industry that specific serves to include unique characteristics of the industry, for instance, if the purpose was to conduct an econometric specification of Financial Performance function, this could be really helpful. Hence, the unique complexity and characteristics of the mining industry can be specified.

2.7 CSR relevance to the mining Industry

Of all different types of industries which are concerned about their CSR, the mining industry has had increasingly high interest in engaging with it in a much more "visible manner". The extraction of minerals has gained such a bad reputation mostly from its widely known negative environmental and social impacts. Although, public concerns have grown in both advanced and developing nations, the supporting arguments behind bad practices vary according to the region. In general, the vast evidence and claims of low CSR standards of the mining industry for advanced nations refer to environmental concerns. It is very common to find separate reports concerning companies' disclosure of their practices concerning environmental issues. Hence, probably in response towards where most regulation also applies in advanced countries.

"Corporate environmental performance is considered an important component of the CSR construct, and its potential usefulness as a forward-looking measure of firm financial performance has gained acceptance, both in the literature and in practice. Although the assessment of the CSR-financial performance relationship relies heavily on qualitative data and subjective interpretation, the financial impact of environmental governance is easier to assess a priori, particularly now that the law punishes negative environmental performance with concrete financial penalties more than ever before" (Nadja Guenster et al 2011: 680)

" The first companies to release stand-alone Environmental Reports were those in the petrochemical sector, starting in the 1980's and early -90's (for example , Shell Canada produced its " Progress Toward Sustainable Development report in 1991) while the mining sector started producing environmental reports more slowly in the 1990s and gradually gathered momentum. It has been noted that companies operating in so-called environmentally-sensitive industries such as mineral extraction, oil and gas, chemicals and forestry are more likely to provide social and environmental disclosure."(Jenkins et al 2006:273) *"A recent survey by KPMG suggests that the mining industry is now moving towards a leadership position in the disclosure of social and environmental information" (ibid)*

However, complaints for lack of CSR for companies in developing countries include a much broader range of concerns besides environmental ones. For instance, many allegations range from health impacts affecting entire communities, increased violence and displacement caused by the arrival of corporations to poor labour conditions.

Chapter 3
Canadian Presence within the Colombian Mining Sector

3.1 A Critical view on "better practices" spillovers of Canadian mining Companies Operating in Colombia

Latin America has been the region towards major investment of Canadian mining industry has been directed. This is due to historical abundance of minerals in the region (predominantly in gold and silver industry), geographical proximity, relative security in the region, and recent closer trade relations. "Canada is Latin America's third largest source of foreign investment after the United States and Spain. Canadian mining companies owned over 1,300 mineral properties in Latin America and spend over CA $400 million on exploration in the region, which accounted for over 37 % of the total exploration budget in Latin America. On an individual country basis, Canadian companies accounted for the dominant share of exploration in Argentina, Bolivia, Colombia, Ecuador, French Guyana and Suriname" (Lemieux in Segabien 2012:2). Furthermore, "Canada's share of the world's exploration budget has been approximately 20 percent in recent years. Canadian mining investment abroad amounts to over CA $50 billion in outward foreign direct investment, which makes the industry second only to financial services in terms of Canadian outward FDI" (Segabien et al 2012 :2).
Since the beginning of the liberalization of Latin American economies starting in the 1980's, legal frameworks and trade agreements between mining companies and host countries have been greatly adapted in order to attract foreign investment towards increasing mining in the region and facilitating commerce among partners. Recently in Colombia, in August of 2011, a Free Trade Agreement between Colombia and Canada came into force which calls for the expansion of existing Canadian mining projects in Colombia, as well as giving a "green light" for new projects. According to Sergio Diaz – Granados, Minister of Trade Industry and Tourism, only between 2005 and 2010 bilateral trade was duplicated between Colombia and Canada. It Augmented form 687 million USD to 1.355,57 million USD and with forecasts expected to continue growing due to tighter trade relations with the FTA effective since August of 2011 . According to pro export figures for 2011, 34% of Canadian FDI in Colombia is directed to its mining sector. (Pro-Export 2011)

Canada represents a fundamental trade- partner for Colombia. Thus, under the expectations for future expansion of Canadian corporate presence, several questions about their social impact are raised, which makes CSR a relevant topic to research about in response to civil societies higher demand for CSR in Colombia in the coming years particularly in the mining sector. The negotiation of Free Trade Agreement between Colombia and Canada entailed complex concerns at the negotiation table which included long debates on "assuring" to take into account the protection of labour rights, and particularly both countries concern on maintaining high environmental standards in any negotiation. Regardless how promising new prospects of Canadian FDI in Colombia, this does not ensure greater focus on CSR in host countries even as Canadian regime appears to exert more demands for companies to comply with high CSR standards. To what extent these closer relations through FTA's ensure positive spillovers regarding CSR standards? In a Country like Colombia, where mining is heading towards more private investment in mining, this means that companies engagements in CSR and its integration to developmental projects is key to prospects of not only the mining sector, but also the country's economic development potential. However, the increase of projects abroad for the extraction of minerals has also revealed Colombia's need to demand more responsible investment and push for greater disclosure from foreign mining companies. The faster the mining sector is expanding today in Colombia, the more clear has become the need for companies to act in a more "developmental way" and truly engage in socially responsible practices. This has raised major concerns for the Colombian government to ensure more effective channelling and integration of CSR investment into Colombia's development strategies, which includes the expansion of the mining sector in a "sustainable manner".

In order to illustrate the manner in which Canadian and Colombian regimes interact through mining corporations, a group of twenty eight Canadian mining companies established in Colombia was selected. Through analyzing companies as a form of interaction among the two regimes it was expected to reflected possible positive spillovers of CSR practices(or for a change constraints to these to take place) from one regime to another. Moreover, the idea of using Canadian companies assumed its "strong "domestic CSR culture even though subject to host country's national regulation, would significantly influence its operations abroad taking as an example some of the operations held in Colombia.

3.2 How to Select Committed vs. not Committed?

In order to understand the levels of commitment to CSR of Canadian companies in Colombia certain criteria was taken into consideration. Initially, there was a scanning of mandatory vs. voluntary standards guiding social and environmental disclosure for the selected group of companies. This included the revision of annual reports, videos and advertisement on companies' web portals, press releases and booklets/publications of any kind referring to social or environmental activities performed by these companies. Furthermore, all companies were contacted in search for additional research material other than that publicly available on firms' web-pages. The request for additional information was found to have very low response. Furthermore, the few companies which replied, merely pointed at the sections on their webpage's to find such information, hence, not adding any extra research value other than that already considered previous to contacting them. Nevertheless, considering that companies wish to satisfy consumers and the public, it is assumed that it is their interest to make visible any action that represents their commitment to CSR. Thus, the low response from the companies was expected since it is reasonable that companies would ensure to make public any CSR related activities. In fact, in many cases companies seemed to "overstate" their efforts to achieve company's highest standards. Moreover, some videos were found to be misleading and intentionally targeted for serving "branding" and "reputation" image, not necessarily consistent with local community needs.

A first scan of all information collected through companies' disclosure allowed to have a broad overview of companies' commitment levels to CSR practices. For this purpose, several characteristics were specifically outlined for each of the companies. Thus, through concentrating on the most comparative data, such as: reporting methods, recognition and signatory of international standards, stock exchange market, company size, location/region, types of CSR programs, community relations as well as if they had "good" or bad practices records.

Nevertheless, there were many challenges in making the data collection comparable from one company to another. The data available was significantly heterogeneous among companies and many times difficult to access. Hence, drawing direct comparisons among such a variety of companies was not possible. In addition, while it was already tedious to address lack of consistent reporting methods and disclosure, there were several companies which showed no information whatsoever regarding CSR. This encounters made it impossible to adequately "rank" them from lowest to best performance levels. Nonetheless, enough information was gathered in order to place companies into smaller sub-groups which had common characteristics amongst them according to their CSR "commitment levels".

In recognition of the bias embedded in corporate reporting, special attention was given to combine data available from company's portals as well as that disclosed through press releases and organizations dedicated to report on companies activities.

The information gathered from other sources different from the firms itself was a very important aspect within the research methods. In essence, revealing however not perfect, a more objective view of firms' commitment levels to responsible practices. Thus, comparatively analyzing what companies advertise to what they "do in practice".

Table 3 shows the result from the sub-grouping after the collection and comparison of data available. Companies labelled in *Yellow* were considered to have a significant greater interest on CSR. For instance, this group included those companies which were signatories of international standards, prepared separate CSR reports as well as environmental reports apart from their annual financial statements, and certainly, no major well known negative events concerning their social and environmental impacts. These normally were accompanied by very visible methods, namely, videos, pictures and testimonies of locals whom had benefited from good practices, hence, showing their "interest" in incorporating CSR into business models. On the other hand, those in *Red* were categorized as showing no interest at all on CSR, amongst these, there were those currently subject to great public debates and CSR complaints. These companies located at every end gave a more visible comparison of bad to apparent better practices business models. Those in *White* were considered to make some reference to CSR policy, however lacked the characteristics of those labelled as holding good practices.

Those companies at the extremes, namely in *Yellow Red* and were the bulk of the major analysis.

Table 3

List of Companies

1.Antioquia Gold	6.Bandera Gold	11.CB Gold	16.Cosigo Resources	21.Hudbay Minera Inc	26.Sunward Resources
2.Arcturus Ventures	7.Barrik	12.Colombia Gold Crest	17.CuOro Resources	22.Medoro (Merged with Gran Colombia)	27.Waymar Resources
3.AuRo Resources	8.Bellhaven Copper and Gold	13.Colombian Goldfields Ltd	18.ECO ORO (Now Greystar)	23.Miranda Gold	28. Yamana Gold Inc
4.B2gold	9.Caerus Resource	14.Colombian Mines Corporation	19.Galaway Resources	24.Seafield Resources	
5.Batero Gold	10.Calvista gold Corp	15.Continental Gold	20.Gran Colombia Gold	25.Solvista Gold and Mercer Gold	

Source: Own Elaboration

Highlights of Company's Disclosure

Some basic facts were drawn from each company in order to make possible correlation amongst them: The research tried to look into the following aspects for each company in order to position them into the different groups.

Table 4

Data Focus

General Facts	Aspects Related To CSR Practices	
• **Operation Status** Extraction and Exploration Categories. • Location/Region	**Financial Statements**	• Environmental Expenditures

• Product and Trading Stock Exchange • Size • Current Projects in Colombia and other developing countries.	**Reports on CSR Disclosure**	• CSR Policy to health, environment and socio-economic aspects) • Sustainability Reports • CSR Reports • Standards and Guidelines of CSR for which they are signatories.
	Social Stance	• Community Relation • Record for bad Practices
	Professiona l Capability	• Addressing previous consultation requirements • Coordinators or CSR Managing Personnel.

Source: Own Elaboration

3.3 Disclosure for Bad Practices

Most of the criticism to foreign companies when operating abroad is rooted on the difference for their practices at home vs. those implemented abroad given social disturbances in host countries. The report prepared by *Mining Watch* Canada and *CENSAT- Agua Viva* for *Inter Pares* of four case studies in the mining and oil sectors involving Canadian investments in Colombia, found that Canadian companies in fact were prompt to are aggravate, cause or benefit from serious human rights abuses. Some of which included social disturbances related to displacement of local populations, "rewarding" terrorist groups (responsible for human right violations) in order to continue their exploitation activities , imposing serious environmental impacts on vital water supplies affecting local people's economic livelihoods and security. (Mining Watch 2009)

One off the most visible examples of this type of cases occurred in Marmato, a town of traditional mining in the Department of Caldas where since its foundation in 1540 traditional mining has prevailed. The region's gold –mining potential attracted the interest of Medoro Resources and its merging partner company in Colombia, which formed the actual "Gran Colombia Gold", and in 2007 this big conglomerate established a different course for the exploitation of gold in this region. However, the establishment of this foreign company in the region did not occur without civil resistance. Only a few weeks after the Canada-Colombia Free Trade Agreement was ratified in August, one of the most visible leaders, father Jose Reinel Restrepo Idarraga, opponent of the displacement of the town due to the open pit-pit mine, was murdered. Although Gran Colombia Gold has claimed not to have any relation to the possible causes of his murder and publicly rejected any kind of violence, the fact that the company has not shown good community relations spurs public suspicion to inevitably draw connections of his assassination to his outspoken negative declarations about the company to the Colombian press shortly before he was murdered.

Other types of concerns issues involve complaints against the World Bank group investment in Eco Oro Minerals (Greystar) in Bucaramanga, just in June of 2012. The complaints directly raised lack of trust for the *Compliance Advisor Ombudsman (CAO),* the independent mechanism of the *International Finance Corporation (IFC)* for failing to address concerns to preserve Colombian wetlands of Santurbán and potentially causing severe and irreversible social and environmental impacts such as that present at this important water source for 2.2 million Colombian. However, this company showed apparently a "good record" from that outlined on company's documents revealing their CSR practices. Hence, an example of low reliability to that which companies discloses. Likewise, other similar stories were taking into consideration when consulting secondary sources in search for bad practices records of these companies.

Conclusion

One of the major challenges when doing research about these companies is not limited to the fact that many of them simply do not report on CSR, but rather the fact that they are constantly changing. This often results in significant administrative adjustments due to merging purposes, making the collection of the information quite exigent and hindering traceability of data for long periods of time. These issues interfere with consistent reporting and disclosure which definitely poses future constraints to enforcement mechanisms that wish to implement a certain level of CSR activities at the national level in the future. Thus, the actual dynamics of companies in fact allow socially "irresponsible" companies to find their ways around legislation given the ease for instance, to simply become a new corporation under a different name.

Chapter 4
The Canadian Regime

4.1 Context of Canadian Regime- What institutions set a bottom line- for CSR in Canada?

Canadian mining and exploration companies have for a long time been crucial players in the international extractive sector. According to the Ministry of Foreign Affairs of Canada, mining and energy investment is the third-largest component of Canadian direct investment abroad. Canadian mining companies have invested over billion Canadian Dollars in developing countries. The so called international "commodity boom" has secured promising business opportunities for extractive companies to profit from the persistent world demand and high prices for these types of commodities. Hence, it is the aim for the mining industry of Canada to continue increasing exploration and extraction of minerals abroad, and in this manner, respond to the expected international demand in the following decades.

Canada holds a strong national CSR culture which is believed to be rooted in its institutional capacity. These institutions build reliability on government regulation with effective penalties, an active civil society with strong influence and in a position to threat companies of losing license- to- operate as well as interest groups researching and improving CSR practices all over the country. A compilation of some of the institutions that interact towards building good CSR practices in Canada is shown in **Table 5.**

Table 5

Canadian Institutions

Companies and Organizations	NGO's	Canadian Business Associations	CSR Investment Research Group
Canadian Business for Social Responsibility	Canadian Council for International Cooperation	Mining Association of Canada	Michael Jantzi Research
Conference Board of Canada's	Amnesty International Canada	Canadian Chemical Producers Association	EthicScan Canada
Canadian Centre for Business in the Community	Mining Watch	Retail Council of Canada	
Canadian Centre for Philanthropy's Imagine Program	Halifax Initiative	Canadian Association of Petroleum Producers	
Centre for Innovation and Corporate Responsibility	The International Institute for Sustainable Development	Prospectors and Developers Association (PDAC)	
Interpraxis Consulting	Taskforce on the Churches and Corporate Responsibility		

Source: Department of Foreign Affairs and International Trade (DFAIT)

Implementing International and National Standards

Significant participation of institutions and coordination between entities was found to enforce each other's capacity to follow common objectives towards complying with international standards. For instance, several companies show interests in the Organization for Economic Cooperation and Development (OECD) guidelines for multinational enterprises, for this purpose, the government of Canada has established a *National Contact Point* within the *Department of Foreign Affairs and International Trade* which helps to support the implementation of such guidelines. Likewise, for the implementation of the World Bank Group IFC's Performance Standards, *Export Development Canada* became a signatory to the Equator Principles (EP) a bench mark which is consistent with IFC Performance Standards. (DFAIT 2012)

Likewise, these institutions allow other international standards to be implementing such as those outlined by Th*e Voluntary Principles on Security and Human Rights,* The *Global Reporting Initiative (GRI),* and The *Extractive Industries Transparency Initiative, (EITI).* For these to perform effectively, the combination of clear guidelines and government supporting programs is essential and certainly is key factor which helps companies' commit to follow national and international standard

4.2 The Mining Association of Canada MAC

The Mining Association of Canada (MAC) is the industry association at the heart of the private sector guiding CSR of the mining sector in Canada, there-fore, reflect a lot of what it targeted at the national level in Canada. Crucial to these association guidelines includes its well-known initiative *Towards Sustainable Mining* (TSM) launched in 2004 to address the mining social license to operate. This initiative represent this notion of accountability through its commitment to "best practices" by creating standards and annual reporting requirements mandatory for members which is also externally verified. The TSM targets six areas to which it has established some performance indicators, these are:

1. Tailing management
2. Energy Use and Greenhouse gas emissions management
3. Aboriginal and community outreach
4. Crisis management planning
5. Biodiversity conservation management
6. Safety and health

Reporting with an environmental focus

Environmental reporting and disclosure is given special attention by Canadian regulators. "Of all the Canadian industries, however, the one in greatest need of sustainable development is mining simply because of its propensity to cause significant environmental damage on numerous fronts, and the fact that its operations affect a wider range of stakeholder groups than most industries." (Hilson 2000:204)

The most important Government measure to set guidelines of sustainable development is *Canada's Minerals and Metals Policy of the Government of Canada: Partnerships for Sustainable Development.* With its implementation it has helped pushed forward sustainable development of mining organizations and individual companies that wish to follow government guidelines.

Nevertheless, there is on major weakness of many sustainability interpretations is that 'sustainable development' is used interchangeably with 'environmental management' or 'environmental protection'. "In such cases, there is the propensity to resolve only one type of problem — environmental deterioration — while ignoring the importance of economic and social goals (De Graaf et al., 1996), two equally important pillars of sustainable development".(Hilson 2000:202)

4.3 Canadian CSR abroad

Even if Canada holds such a positive international reputation for CSR culture of its mining industry at home, however, mining operations of Canadian companies abroad have been heavily criticized. As a result, CSR demand for companies in developing countries has risen given the strong opposition to the industry. Some examples of institutions permanently working for raising Canadian CSR standards when operating abroad include organizations such as *Halifax initiative* or *MineWatch*. These have been aware of several allegations against the industry's "bad practices" which have become well known to the international community. As Canadian extractive companies began to gain such a bad reputation abroad, it encountered higher demands for accountability from the international community, but also triggered the rise of strong opposition at the national level. Furthermore, another debate around financial institutions which supply extractive industry the economic means to carry out their operations also helped shape the debate on CSR demands for companies operating abroad. For instance, the Canadian Pension Plan (CPP) is a major source of investors in the extraction industry. As negative claims reached Canadian people, then the system was criticized for using Canadian citizen's funds to support socially and environmentally unsound practices to which civil society reacted very negatively. Hence, severe allegations of misconduct regarding environment protection and human rights violation and the spread of so called "evidence" supporting these claims lead to greater resistance from NGO's and civil society. Hence, the argument on meeting CSR standards in order to qualify for financing became of great importance for mining companies and policymakers.

The government of Canada acknowledged this problem in 2005, which lead to a *National Round Table* in 2006 to discuss and elaborate a report which made public several recommendations to address issues in relation to Canada's Corporate Social Responsibility strategy for the extractive industry aiming at reducing negative impacts in developing countries.[5]This was a very positive turn to the debates on CSR because it meant a higher demand for meeting high standards; promoted more transparency and more complex reporting mechanisms for CSR implementation abroad. The Government responded by taking significant steps to promote and support corporate social responsibility and established a *National Contact Point* within the Department of Foreign Affairs and International Trade of Canada , encouraging companies operating abroad to follow the OECD Guidelines for Multinational Enterprises.[6] As a result to public demand, the Canadian government had to direct policies in line with the IFC's standards on social and environmental sustainability and further pressure companies to engage in voluntary codes of conducts such as the Equators Principles (EPs). Hence, implementing EP's as credit risk management framework through which environmental and social risk are determined in project finance transactions based on these stated guidelines.[7]

Some other important actors which review international issues that affect the financial, commercial and reputational interests of MSC members abroad include the *International Social Responsibility Committee (ISR)* and the *Standing Committee on Foreign Affairs and International Trade (SCFAIT*) which reports on mining in developing countries CSR.

Nevertheless, government efforts are undermined and limited to recommend the companies to adopt certain guidelines which are explained partially by their voluntary nature. This has allowed Canadian companies for a long time to operate in a very permissive environment, because local governments of host countries did not strictly enforce these standards either. Canadian companies were not held accountable by the local government of the host countries precisely because they were constrained by the same "competitiveness" to attract FDI to the region which in fact aimed at "lowering costs" for foreign companies. In essence, I believe that instead of advocating for more CSR in the region, the region experimented in a "race- to- the bottom" in order to introduce policies of less regulation (In many cases this meant lower human rights and environmental standards) in the name of more investment in pushing for economic growth. Attempts were made to change the non-legally binding institutions under which Canadian mining companies would be held accountable for their non-responsible practices when operating abroad. Private's member Bill C-300 first revised on February of 2009 and officially sponsored by John Macay, a member of parliament, aimed to remove the

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[5] The Advisory Group Report can be found at: http://www.mining.ca/www/media_lib/MAC_Documents/Publications/CSRENG.pdf

[6] More information about how Canadian Government has responded towards promoting greater CSR can be found at the following link on the International Affairs and International Trade Canada: http://www.mining.ca/www/media_lib/MAC_Documents/Publications/CSRENG.pdf

[7] A description of the 10 baseline principles are explained in detailed at : http://www.equator-principles.com/index.php/about-the-equator-principles

voluntary character of CSR operations abroad and establish legal norms to ensure “responsible practices” .On October 27, 2010, the Canadian Parliament voted down the bill after strong opposition and lobbying of those representing the mining industry in Canada, whom indicated that the bill would only harm Canadian mining industry competitiveness and predicted no positive impact on CSR abroad.8 As Tony Andrew, executive director of Prospectus and Developers Association of Canada (PDAC) stated: "Bill C-300 would not have enhanced corporate social responsibility," "Canada's competitors would have used the passage of Bill C-300 as a tool to undermine the competitiveness of Canadian firms in the highly competitive global extraction industry. Frivolous or vexatious claims would have been filed against Canadian firms by competitive interests at no cost or risk to themselves, tying up important projects and putting well-paying local jobs and community development projects in developing countries at risk."

In response to the failure of Bill C-300’s becoming into force, the government established different non-binding mechanisms such as CSR Counselor’s review process. Before, the National Round Table one could say the debate placed the lack of serious commitment to CSR almost entirely in the hands of developing countries. This means that because Canadian companies operating abroad where subject to local laws, they were allowed to barely meet a minimum social and environmental standards required by the local authorities, who as mentioned earlier, turned to be very low precisely since “costs of investment” were kept to the lowest in order to attract more FDI.

Conclusion

After going deeper into key associations and Canadian government’s institution, it was clear that however imperfect, Canadian CSR culture is driven by clear frameworks and guidelines related to business integrity acting towards social, environmental, and health and safety objectives. There is also transparency and disclosure in place for the sound management of public funds and the proper mechanism to allow them to be reviewed regularly.

MAC plays a crucial role in ensuring detailed public disclosure through performance measures and protocols which certainly builds a common vision for CSR for the private sector. Nevertheless, there seems to still be criticism due to the fact that “members represent less than half the companies operating mines in Canada[9]. Furthermore, another weakness is that the requirements of TSM

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[8] Specific details about the legislative process for the revision of Bill C-300 are public at the website of the Parliament of Canada : http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&Bill=C300&Parl=40&Ses=3

9 The list of all companies in Canada was found in the **Canadian Minerals Yearbook (CMY)–2009:** APPENDIX A -Maps of Metal and Diamond Mines and Mills, and Selected Metallurgical Works in Canada.*http://www.nrcan.gc.ca/minerals-metals/business-market/canadian-minerals-yearbook/2009-review/4245*

are primarily about developing management processes rather than about real outcomes. For example the tailings management performance indicators are: "management policy and commitment; management system development; assigned accountability and responsibility; annual management review; and an operation, maintenance and surveillance (OMS) manual" (MineWatch 2012). This indicates that there is no actual response to key concerns but rather management focus serving to compensate for strong environmental regulations.

On the other hand, even if there is civil society's capacity to influence political debates for home practices and abroad to be the same as demonstrated through bill-300, there is still a long way to go regarding Canadian operations abroad.

Chapter 5
Colombian Regime

5.1 Context Colombian Regime

Current Colombian head of state, Juan Manuel Santos, has pointed at the development of the energy and mining sector as one of government's main pillars pushing government policy and the *National Development Plan (PND).* These pillars are referred to as *"Las Cinco Locomotoras",* a metaphor used for five "locomotives" symbolizing different sectors in the economy which include; mining, infrastructure, housing, agriculture and innovation which are said to be those which stimulate economic growth and act in line with the government's "democratic prosperity" policy. Different from other countries such as Peru or Chile, Colombian mining sector had for a long time been constrained by its internal armed conflict which prevented to develop further numerous mining exploration and extraction projects. It has been argued by advocates of this view that internal-conflict in the country prevented many of the conflict-zones to be exploited. Thus, this gave no opportunities for foreign mining companies to reach areas with tremendous mining potential, and given the lack of government control in these areas, there had seemed for decades to be no interest for foreign investors to engage in such "risky investments". Colombian actual government has implemented a policy of "Democratic security", which has given further incentives to attract FDI to the country by promising greater surveillance and apparent control over these territories. As the state has strengthened its military presence in previously abandoned conflict-areas and as a result displacing conflict to the boarders of the country, this has in essence freed-up areas now targeted for mineral exploitation. Therefore, this has made of Colombian unexplored mineral abundant areas almost "virgin" lands appealing for prospective mining investors. Other civil groups who challenge the view of the government shed light on alternative relevant reasons why Colombia has become an attractive country for mining foreign investment, for instance, arguing that the government policy is carelessly "giving away" its resources to foreign companies through tax incentives and allowing no effective regulation enforcement to hold these multinationals accountable for the possible negative social and environmental impacts of their operations. Additionally, regarding the effect of companies in regions of conflict, those which actually oppose government view on conflict free zones attracting foreign investment dispute that the presence of these companies has nevertheless occurred in regions already experiencing armed conflict, furthermore claiming their presence has actually help exacerbate local conflict.

According to a report prepared by MiningWatch Canada and CENSAT-Agua Viva for Inter Pares in 2009,the Colombian context presents major challenges for investment projects to be able to uphold human right standards.

> *"The Colombian Government is eager to promote foreign investment, through for example, bilateral agreements with other countries and changes to domestic*

legislation to improve conditions for investors. At the same time, institutional controls and government oversight and accountability are notably weak in the areas of human security, environmental protection, the recognition of Indigenous and minority rights, and the legal registration of property – the very areas that are crucial to ensuring that the human rights impact of such investment is positive"
(MiningWatch et al 2009:22)

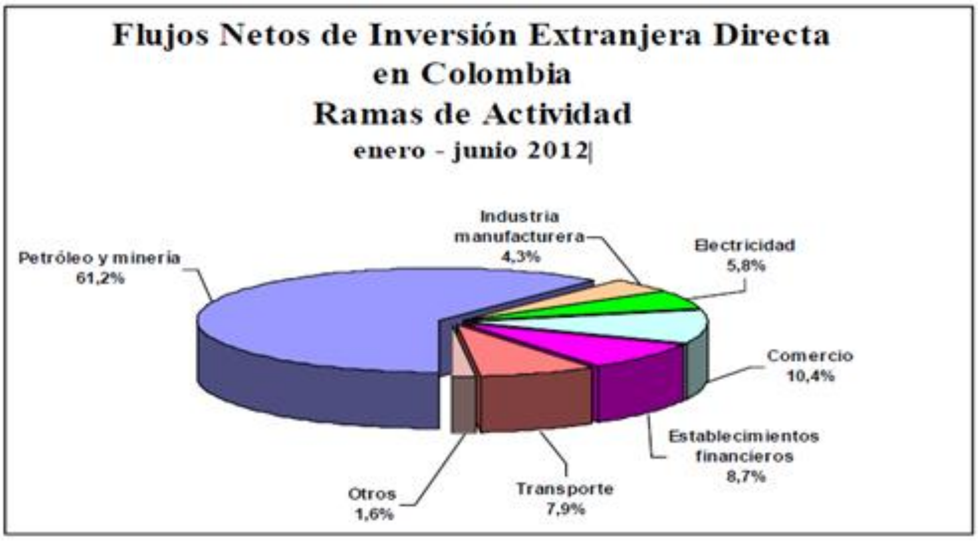
5.2 Colombian mining industry:

According to the World Bank, Colombia is one now of the most secure countries to do business (World Bank 2012). The mining sector in Colombia is one which is taking the lead in stimulating the economy in a prosperous direction. National figures reflect this optimistic international notion of secure business and that the country is becoming one of the most attractive countries for investors. These investment expectations have taken place hand in hand with public policy which aims at attracting foreign capital and promotion of various free trade agreements.. According to the statistics provided by the central bank of Colombia for the first semester of 2012, the country has received US$ 7.798 m in FDI which is US$ 1.204 m superior to that reported for the first semester of 2011. The percentage accounting for FDI represents 83% of total foreign capital inflows which is around 4,3% of GDP for the same period.

The distribution in percentage for all sectors are: Mining and Energy (61.2%), Commerce (10.4%), financial establishment (8.7%), transportation and communication (7.9%), electricity (5.8%) and (4.3%) in manufactures.

Table 5

FDI Flow to Different Sectors



Source: Central Bank

5.3 Institutional and Legal framework

Colombian mining landscape:

A description of its mining landscape is compulsory if we think about what, if anything sets a bottom line for CSR in Colombia. On the one hand, there is **artisanal mining**, mostly small-scale that implements low technological processes, but rather practiced for hundreds of years in more traditional manner. This form of mining is legal, however, sometimes wrongly associated and confused with **illegal mining**. This form of mining by nature is against national law and hence subject to no national recognition or regulation. This form is usually undertaken by criminal group such as those involved in narco-trafic activities or armed conflict to finance their activities. Consequently given the close association among different types of small-scale mining practices, these forms are both generally blamed to exist without the proper environmental regulation and safety and health standards. On the other hand, the **large scale mining** sector is officially comprised of 13 big multinational corporations including Angloamerican, Anglogold Ashanti, Cerrejón, Colombia Natural Resources, Drummond, Grancolombia Gold, Greystar, Medoro, Minas Paz del Río, MINEROS S.A., MPX Colombia, and Prodecoy Vale. Executive Director of Large-Scale Mining Sector in several occasions has publicly emphasized that this type of mining is different from other types in the sense that it takes into account national and international standards which implement policies of social environmental and industrial responsibility. While "other", that is, artisanal, informal and illegal types had negative environmental impacts, water contamination, deterioration of community welfare, and no social development. Likewise, ex-minister of finance and public credit Rudolf Hommes expressed on a recent column on *El Tiempo* journal that insisting on a radical environmentalism or doubling taxes for big miner corporations as some pretend, then would cause investment to go elsewhere. Thus, in his view it is a better option for the country to try retaining this type of investment and then "obliging" them to do more for the community, for capacity building, local employment and environment (Hommes 2012).

There is clearly no national union regarding the different views on the social impacts of small-scale vs. large scale mining. Furthermore, such large informal and illegal mining activities make it quite challenging to reach public cohesion given such a complex mining landscape in the country. Consequently, on the one hand, there exist states stance that raises concerns about the apparent disadvantages of artisanal, informal and illegal mining and uses such claims to justify pushing towards more "modern and responsible" large- scale mining projects. On the other hand, there seems to be a major focus among environmentalist and activist discourse which focuses on their discontent of harmful effects of legal but "unregulated" multinationals. Each position at each end blames each form of mining of hindering a "sustainable development" path of the mining industry. That is, one which best incorporates economics, social and environmental aspects.

5.4 Key Actors

Table 6

Key Institutions

CIVIL SOCIETY	GOVERNMENT	INSDUSTRY
Academics	Mining and Energy *National Mining Plan* 2006-2019	Large Scale Mining Sector: Colombian Mining Association (Ex: Asomineros)
Labour and Mining Trade Unions	Colombian National Mining Agency	Small Scale Miners Artisanal Mining (Ex:OroVerde)
Indigenous Groups	Legal Authorities	ANDI
Social Movements	Environmental Authorities	Illegal Mining
NGO's		
Local Communities		

Civil Society

The different expectations of the mining sector to contribute significantly to the development of the country and not merely to its economic growth has spurred major debates and raised public concerns. Civil activist show disapproval of lax regulatory institutions and question whether foreign companies pay what they "should", that is, not only the percentage or amount subject to minimum taxes and produce royalties under national law, but also externalities and their social responsibility. Civil society vigorously criticizing Colombian policy for giving outrageous benefits to big multinational corporations and whom are radically against "*Locomotora minero energetica*" such as: RECLAME, CUT, USO, Academics, Environmental Organizations and various Social Movements[10], have in recent years acted more fiercely to express discontent about mining multinationals not generating any of the promised progress, employment, technological spillovers and certainly no development to those region in which they operate. Example of the various public manifestations can be represented by the recent mobilizations taking place in

[10] **The following were identified as some of most visible society actors:**

- **Colombia Punto Medio** *www.colombiapuntomedio.com*
- **CUT (Central Unitaria de Trabajadores)***www.cut.org.co*
- **USO (Unión Sindical Obrera de petróleo)** *www.usofrenteobrero.org*
- **SINTRACARBON (Sindicato de Trabajadores del Cerrejón)***www.sintracarbon.com*
- **RECIAME (Red Colombiana Frente a la Gran Minería Trasnacional)** *www.reclamecolombia.org*
- **Movimiento por la Defensa de los Derechos del Pueblo (Modep)** *hmodep.org/*
- **RAZON PUBLICA** *www.razonpublica.com*

21 cities all-over the country where the different social groups gathered to "stop the mining- energy locomotive" (El Espectador 2012).

Professor Guillermo Rudas assures that according to national statistics taken form the National Statistics Department of Colombia (DANE), the mining sector "should" have paid 15.3 billion Colombian pesos in taxes, however, only 5.6 billion where collected. The remaining 9.7 billion where identified as tax exemptions, tax elusion or avoidance. Hence a significant amount greater than the total royalties of approximately 6.4billion pesos. For the case of Coal mining, the largest in the country, he states that these mining companies should have paid tax rates of 35% of their profits; however, they only paid 8% (Portafolio 2012).

Government

The role of the state has been defined under 3 major roles by the DNP, these are:

- Facilitate safe mining activity
- Promote sustainable development of mining sector
- Watchdog of mining resources

The "National Mining Plan"

The Colombian Government has adopted policies towards greater private investments and acted merely as facilitator to encourage private sector to undertake mining projects. Thus, this plan encourages private development of infrastructure in mining regions and the promotion of a financial system structure which is fueled by private banks. Moreover, one of the most outstanding targets is the control of illegal and informal mining. The justification attributed to revenue losses from tax evasion and incurring "extra costs" for permanent surveillance and control over uncontrolled areas. These range from public sanitary challenges given lack of industrial security to avoiding extra public expenditure due to administrative costs and personnel attending this problematic and seeking to strictly apply mining law.

Table 7

Colombian National Mining Plan

Major Objectives:	Specific Objectives	Notes/ Analysis
Making the best use of the country's com-parative advantages as represented in the geological-mining potential of its territory.	•Doubling the current coal production volume •Increasing fourfold precious ore production •Enlarging the area contracted for geological-mining exploration purposes	•Increasing mineral exploitation productivity levels to increase and diversify mining products at the international market. This by adopting strategies to "modernize" exploitations technically and administratively.
Attracting an increasing number of investors into the market of access to mining-resources	•Transforming Colombia into one of the main three destinations of private invest-ment, national and international, destined to mining exploration. •Optimize mining efficiency on responding to contracting and customer service	• Main focus on **attracting foreign and national private investment:** Great interest towards promoting private companies which are sustainable in the Long- Term. Hence, less emphasis on interest in developing small-scale mining or public national investment. • Development of **private banking** enhance private sector is considered the potential "muscle" force to undertake mining project. • Competitive strategies aiming to **reach international markets**: Building and raise levels of security and hygiene to reach international acceptable standards at the international level.
Obtaining for the State a higher capture of value from the successful results of the mining activity	•Policy towards the elimination and "mitigation "of informal and illegal mining.	• **Auditing and monitoring:** Lax and vague regulatory framework, however clear motivation to eradicate illegal and informal forms of mining **(For eg. Article 306 of mining law on *Mining Code of 2001*).** • Commitment targeting at "optimization" of procedures to avoid the slow moving of mining titles. According to the president of Asomineros, In Colombia in the last 10 years there have been 19 thousand request for mining titles while in Peru there is between 7 to 8 thousand per years. Apparently, a more operational an efficient normative environment is desired and it assume to reduce the incentive for illegal and criminal mining to take place. •Accelerate a process of mining titles and to "modernize" laws.

Source: National Mining Development Plan (UPME 2006)

National Mining Agency of Colombia

This Agency is responsible for administrating mining resources and granting titles for exploration and exploitation in coordination with the Ministry of Environment responsible for environmental licenses. It was created only in November of 2011, with the purpose of ameliorating the efficiency of the mining sector following a similar structure as that one established for the *National Hydrocarbons Agency* which was targeted at attracting greater FDI. The most visible focuses of this agency include greater inspection and stricter enforcement of mining legislation and in doing so, it rules under the guidance of *The Mining Code of 2001* (Law No. 685 of 2001) regulation framework and its more recent modifications in 2010.

Industry

The role of the National Business Association of Colombia and Asomineros on CSR

The National Business Association of Colombia (ANDI) exists since September of 1944 in Colombia and today more than 1100 companies from different sectors of the economy belong to it. The ANDI has undergone a policy process in relation to its view on CSR and developed a strategic plan that counts with the presences of ANDI in 10 regions and its 28 Sectional Chambers. In essence, ANDI has become the leading guiding policy for major private investors in Colombia.

About Incentives and Taxes

While it is not within the scope of this paper to analyse tax incentives for foreign companies, it is important to draw attention to how the Colombian regime, under the demands from ANDI have used ways to attract large-scale investment into the mining sector. Much of this debate in the country revolves around National Tax and Costumes Office (DIAN). *Asomineros,* mining association within ANDI, requested DIAN to implement what resulted on tax code 15766 of 2005. This tax code is believed to favor megamining particularly because it allows deduction of royalties payments through taxes incentives. This means that miners profits increases according to international commodities market prices while not affecting the portion dedicated to royalties, this one remains constant. What this does to international mining companies is allow them to augment their profits as precious metals prices increase without any augmentation in proportion to their royalties due.

According to Rudas 2012, taxes which are paid by mining companies are too low. In fact, he believes that the companies are able to save even higher value from tax exemptions than the amount they pay in royalties. In essence, he finds Colombian policy not only favouring big mining corporations but basically allowing Colombian sub-soil to be exploited more than free.

Conclusions

The Colombian regime includes government institutions acting as supervisor and facilitator of projects undertaken by the private sector. Hence, it is the responsibility for companies themselves to adopt a more developmental stance to which they are expected to "self-regulate". There is evidence that government positions favours lax voluntary CSR measures out of apprehension of loosing investment opportunities. Therefore, the national mining plan avoids becoming more exigent in term of taxes increases and royalties collection, as well as other activities which suppose a greater cost to incoming companies. Moreover, through research on the Colombian regime form the different important actors within the regime, social unrest and lack of trust was found concentrated towards large mining companies which included many Canadian companies. Several complaints about these companies not even paying what they "should" hints a less optimistic views to meet society's expectations to go "beyond" the minimum required by law.

Furthermore, it was mentioned that one of the major constrains that prevent this bottom line CSR in Colombian mining industry refers to the lack of consistency and fast changing dynamics of companies. Nevertheless, even with all the loopholes embedded within the Colombian regime, it would be mistaken to ignore private sectors' efforts in attempting to introduce stronger regulation and complying with CSR international standards. Although in an imbalanced manner, ANDI and particularly *Asomineros* association have exerted enough pressure to guide national policy presumably towards setting a bottom-line. Hence, we cannot judge the behaviour of CSR disinterested or not committed companies to be entirely pending within an anarchic system.

Likewise different key actors taking active part within civil society seems to have grown more visible in the latest years, and the manifestations in protest against large- cooperation is showing lack of civil cohesion towards following national mining plan which is perceived to favour large-scale mining. Hence, defending the interest of artisanal and small- scale mining and practices which seemed to suffer the most from the stigma of inefficiency and for posing the most challenges towards acting sociably responsibly.

Chapter 6

In the second chapter the theoretical framework was laid out. A number of agencies and multi-parties initiatives on CSR were outlined giving the notion that indeed, the global community has established what we would call a CSR "bottom- line" for mining companies. Moreover, it was also recognized that there is a common trend for companies' interest to satisfy the public, therefore explaining the popularity to adopt CSR strategies in the business models for mining corporations. These strategies mostly targeted at branding and corporate image purposes in order to compensate for the bad reputation given big environmental impacts. However, several limitations to this *illusory* bottom-line were also described which particularly shed light to the low reliability of CSR reporting and disclosure. The heterogeneity of guidelines and principles continues to be a big constraint to credibly standardizing reporting, auditing and monitoring procedures. Moreover, the biggest constraint itself derived from the voluntary nature of these international standards which found to be less effective in regimes which do not hold the proper capacity to "self-regulate". Several Canadian companies operating in Colombia were chosen for that matter. The purpose was finding effects from better practices of an industry with institutions holding higher CSR standards such as those in Canada reflected in their operations in Colombia through the interaction of both regimes through mining companies. For a change, regardless the efforts of both regimes to coincide on better practices, several constraints for higher standards to be accomplished were evident, including also records for bad practices from a few of the selected companies.

The two very different regimes were explored separately in order to identify institutional differences which could hinder the possibility transferring technical and administrative capacity from one regime to another. First, an overview of Canadian industry background as well as the main institutions within the mining industry in Canada where researched in chapter 4. Likewise, in chapter 5, a similar identification of actors was done for the mining industry in Colombia as well as a description of particular characteristic of the mining landscape which was found to be quite distinct involving a much greater portion of artisanal mining as well as a important presence of illegal mining operations, generations a completely different industry atmosphere.

The Canadian regime was found to have "sufficient" (although imperfect) institutional capacity to hold high CSR international standard levels at home. However, big criticism was drawn to the differences when operation abroad. For instance, one major challenge of host countries like Colombia to implement or "oblige" companies to comply with international CSR standards is precisely its stubborn focus to attract FDI into the mining sector regardless the high social cost. Thus, by focusing in "lowering costs" for foreign companies, results in a "race- to- the bottom" through the introduction of policies of less regulation, royalties exemptions and tax incentives that are intended to guarantee economic expansion of the sector in the future.

Within the Colombian regime, CSR based on voluntary strategies and principles struggle to cope with the vague definitions of what CSR in the context of Colombia means or entails. Lack of proper guidance provides room for incoming companies to adopt whichever means of CSR serves the interest of the company, if any, ultimately subject to lax regulatory framework.

Colombian regime is pursuing a capitalist model, with privatization and self-regulations codes of conduct at the core basis for the mining industry developmental model. Thus CSR policies must find ways to strengthen its institutional capacity, otherwise, it will suffer the typical transformation of mineral economic boom, with the mining sector pulling wagon of the "*locomotora minero-energetica*" at the expense of social and environmental costs. There is clearly no national union regarding the different views on the social impacts of small-scale vs. large scale mining. Furthermore, such large informal and illegal mining activities make the conditions of the industry quite unique.

How do Regimes Interact?

There is several channels through which possible positive spill-over effects could take place given the interaction of both regimes towards reaching a bottom line in CSR. One of the most important aspects refers to mining corporations established in foreign countries through which it was concluded their CSR policies differ when operating abroad. This form of interaction is subject to previous agreements on CSR embedded in trade relations among the regimes. For example, the FTA between Colombia and Canada finally taking place the 15th of August of 2011, includes CSR provisions encouraging them to promote voluntary principles of responsible business conduct. Such compromises lead to the creation of parallel agreement which focused on strengthening institutions. For instance, this included the compromise of the Colombian government to present annual reports which evaluated the impact on human rights with the implementation of the agreement. This was the first agreement to be signed with a developed country, and in was the first to reach the necessary agreements on "sufficient standards" which assured the benefits, from the perspective of the host country, potentially having an impact on its development strategies.However lack of institutional capacity and key actors coordination prevent these positive spillovers to occur.

The research found some of the most effective forms of interaction among the regimes to be attributed to civil society participation among the two regimes. That is to say that Colombian and Canadian activists set themselves a very important advocacy goal of ensuring that Canadian funds, such as those presented by the CIDA respected labour, human rights and environmental standards. For example, while in Colombia, civil protest was taking place simultaneously Canadian labour, faith, social justice, and solidarity organizations sent a letter to the Canadian Embassy in Colombia expressing concerns for Canadian mining companies aggravating or benefiting from violence. Civil society in Canada acted through the Canadian Embassy in Colombian to cooperate with investigating the murders of father Jose Reinel Restrepo.

Final Remarks

The final question then is to think about how "global" is this bottom- line? Even with the global trends indicating that there is raising number of companies interested in becoming signatories to international CSR global initiatives within both regimes, there is big challenges to think about how these set of standards follow an international agenda which doesn't necessarily address local demands of the host countries. Institutional development is crucial for mining sector expansion and CSR commitment is one of the biggest missing elements.

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