

CCIC Commentary

The Canadian International Institute for Extractive Industries and Development

May 4th, 2012

Introduction

The Canadian Council for International Co-operation (CCIC) brings together a wide range of civil society groups – development agencies, labour unions, human rights organizations, faith-based groups, academic organizations, etc. - in what is a diverse community of practice on international development. On an issue such as the extractive industries and development, we observe a broad range of strategies being pursued by different members that all aim to address the need of strengthening the link between the presence of mining companies in developing country communities and positive and lasting development impacts. The track record is not strong, and the challenge is immense. But the fact that the extractive industry plays such a key role within our domestic reality, and is increasingly becoming a key element of the Canadian presence overseas, makes this a topic that our sector must engage with as a priority.

CIDA is moving decisively in directions that put the private sector, and more precisely the extractive industry, at the center of its growth and development strategy. This invites for a lively debate amongst key stakeholders on the merits of such a strategy, and more importantly the risks and opportunities it provides for Canadian groups and countries/communities in developing countries. Being a country with a long history in the extractive industry, it is definitely true that we have a lot to share about our challenges, successes, and lessons learned around this industry. But it is also true that we still have a host of unresolved issues at home which bring into question the capacity of this industry to address growth and poverty alleviation in a sustained fashion. As a leader in the industry (as determined by the size of the international Canadian mining sector alone), Canada has an obligation to also lead in the search for more sustainable ways for this industry to contribute to equitable and sustainable development at home and abroad.

CCIC would like to see the Institute being proposed play a role in not only sharing the Canadian success stories for the benefit of the communities in resource-rich developing countries, but also being a place where sound research and critical debate around the outstanding challenges that this sector poses for development can be nurtured, and within the framework of a broad multi-stakeholder process. This would include not only bringing to the table the priority issues of those voices that are critical of the current state of the industry, but also civil society groups affected by the industry in the global south and in Canada (i.e. indigenous peoples, artisanal miners, local governments, etc.) as well as partner countries that have their own successes and outstanding challenges to share. By taking such an approach, the risk that is inherent in the current strategy being promoted by the government, which is too easily categorized as glossing over the outstanding challenges and benefitting the growth of the Canadian extractive industry above all, could be mitigated. And most importantly, the Institute could make a truly significant

contribution to addressing one of the most pressing developmental and international cooperation challenges for Canada at present.

Growth and Development

As stated in the introduction of the consultation note, the starting point inspiring the creation of the CIIEID is the belief that investments in the extractive sector can generate sustainable growth, advance developing countries' development, contribute to poverty reduction, and improve quality of life. The extractive sector, it states, can provide high quality jobs, generate significant government revenue and attract private investment capital in the sector and more broadly. The main obstacle, the note points out, is to be found in the weak capacity of developing countries to manage resources.

While we support the CIIEID purpose to help meet the needs of national and regional governments of resource-rich developing countries to strengthen resource governance and the management of extractive sector operations, we have concerns with regard to the prominent role the Canadian private sector may play in determining the orientation of the Institute, as well as the client approach put forward. It is important to acknowledge the inherent conflict of interest between strengthening the capacity of local and national governments in resource-rich developing countries to manage the wide range of elements of the industry, in benefit of the local population, on the one hand, and the narrow profit objectives of many players in the industry on the other. How will the Institute respect and facilitate the developing states' key role in ensuring that they – states and their citizens – actually benefit from growth and that public policies are in place so that these benefits are distributed equitably amongst all?¹ Will the Institute be able to achieve a balanced agenda that addresses all stakeholder interests but privileges the development needs of the population in developing countries above all else?

The proposed focus of the Institute is in line with the CIDA Strategy on Sustainable Economic growth and in particular its pillar aiming at building economic foundations by strengthening the necessary legislative and regulatory environment for business. It acknowledges the importance of corporate social responsibility (CSR) in natural resource management, but does not directly address the rights of populations and communities affected by resource investments.

The Paris Declaration principle of ownership supposes developing countries define, through participatory processes with their citizens, policies according to their specific needs and their own specific development goals. To achieve this, a key element is a strong civil society in host countries that can hold their governments accountable to addressing governance and distribution gaps.

The consultation note for the CIIEID states that it will not support civil society advocacy because other organizations may be better placed to support this work than the Institute.

¹ The elusive quest for pro-poor growth? An analysis of CIDA's Sustainable Economic Growth Strategy, A CCIC discussion paper by Brian Tomlinson (AidWatch Canada) and Fraser Reilly-King (CCIC), December 2011, http://www.ccic.ca/_files/en/what_we_do/2011_12_Pro-poor_growth_paper_e.pdf

However if these other organizations are not identified and explicitly supported at the same time and in tune with the support to the Institute, the chances that the potential for the industry to contribute positively towards the achievement of development goals will be seriously hampered.

The example of Africa

The experience of past decades does not provide solid support to the assumption that economic growth leads to development and poverty reduction. The example of Africa, a mineral-rich continent, is telling. The wealth endowed by many countries has not translated into development for the local populations and the countries where natural resources are being exploited. Employment rates are low and poverty is pervasive and endemic in mining communities. Countries rich in natural resources and dependent on mining production are often found among the heavily indebted poor countries (HIPC) and have the worst ratings on the Human Development Index (HDI).

In the 80's and 90's, World Bank (WB) and International Monetary Fund (IMF) policies encouraged these countries to privatize their mining sector in order to advance their development. The reforms focused on governance, facilitated foreign investments in the sector, and redefined the role of the state. By 2001, 35 African countries had revised their respective mining codes in order to make them less constraining for foreign investments².

More recently, in the midst of the global financial crisis, African parliaments and civil society began to scrutinize contracts that were signed under unfavorable conditions (corruption, armed conflicts, and political pressure). Half a dozen countries - Guinea Conakry, Liberia, the Democratic Republic of Congo (DRC), Sierra Leone, Tanzania, and Zambia – embarked in processes to renegotiate those contracts, and in some cases managed to raise royalties, which were below levels elsewhere in the world.

In light of the limited results of decades of investments in the mining sector, that have not translated into economic and social sustainable development, African mining ministers and civil society underwent a thorough process of reflection that led to the "African Mining Vision", a document adopted by the Heads of State of the whole continent in 2009. This Vision implies an important paradigm shift in terms of who sets the objectives for the development of important mineral resources in Africa, what those objectives should be, and a redefinition of the strategies and policies at the national and regional levels to reach these objectives³.

² Africa-Canada Forum – Briefing Note 3 Africa Matters: Ensuring the Highest Environmental and Human Rights Standards for Canadian Corporate Investment in Africa
http://www.ccic.ca/files/en/working_groups/acf_2010-04_africa_matters_note_3_e.pdf

³ Étude sur le rôle du secteur privé dans la réalisation des intérêts du Canada en développement international, Bonnie Campbell, Présentation au Comité permanent des affaires étrangères et du développement international, le 4 avril 2012, p. 5

This Vision lies at the heart of the 2011 UNECA [report](#) entitled “Minerals and Africa’s Development: The International Study Group Report on Africa’s Mineral Regimes” and also informs the planned African Mineral Development Centre with which the Institute would need to ensure harmonization and close collaboration. The consultation note rightly states that the Institute “would need to ensure harmonization and collaboration with other centres of expertise” and we encourage CIDA to establish clear directives as to how this important paradigm shift, and the recommendations of the report, should be taken into account as an important guiding element for the approach that the Institute will take in addressing the challenges and opportunities that the extractive industry presents in continents such as Africa.

Corporate Accountability

In 2005 a Parliamentary initiative resulted in multi-stakeholders roundtables across the country to debate corporate accountability in Canada’s extractive industries operating overseas. The multi-stakeholder (industry, government and civil society) Advisory Committee produced a consensus final report, with recommendations that address the negative environmental and social impacts that are too often associated with Canadian extractive operations. The centerpiece of the report is the recommendation for a Canadian CSR Framework that would:

- Establish CSR standards and reporting obligations for Canadian companies;
- Reference international human rights standards and provide for the creation of human rights guidelines for the application of the CSR standards;
- Create an ombudsman office to receive complaints regarding the operations of Canadian companies in the developing world and to assess corporate compliance with the standards;
- Include a provision for withholding government services from companies in cases of serious non-compliance;
- Be incorporated into binding legislation so that compliance is mandatory;
- Integrate the internationally-recognized principle of Free, Prior and Informed Consent for indigenous peoples.

In 2009 the government launched the *Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector*⁴. The Strategy discarded the Advisory Committee Report’s key recommendations and chose instead to promote voluntary guidelines without a monitoring mechanism, set up the Office of the Extractive Sector CSR Counselor with no independent investigation powers; established a CSR Centre of Excellence which has received limited funding, and did not allow for any sanction mechanism for bad corporate behavior (like for example, cutting access to Export Development Canada (EDC) funding).

The Canadian Network on Corporate Accountability (CNCA), of which CCIC is a founding member, played a key role in the lead-up to and during the Round Tables, namely with representatives on the Advisory Committee. The CNCA has been

⁴ See <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/csr-strategy-rse-strategie.aspx?lang=eng>

disappointed with and critical of the government's response to the Round Tables recommendations because of their lack of ambition and for not being effective in ensuring greater corporate accountability. The CNCA March 2012 press release⁵ calls for progress on the Recommendations from the National Roundtables in light of continued serious human rights and environmental impacts as a result of Canadian companies operating overseas. It echoes a recent report commissioned by the Mining Association of Canada (MAC) which reveals that only 3 of the Roundtables' 27 recommendations have been implemented. It also states that Canada is lagging behind in terms of emerging best practice in the extractive sector. "For example, although the Canadian government has joined the Extractive Industry Transparency Initiative as recommended in the Roundtables Report, it has not followed the lead of countries such as Norway and the USA in implementing the EITI domestically."

Given that the issues and challenges with the extractive industry that provided the impetus to the Roundtables remain generally unresolved, and given the weak capacity of the government to regulate Canadian companies operating abroad, there is concern over the predominant role the extractive industry seems set to play within the Institute. And even more so, since the space allowed for Canadian and developing countries' civil society participation seems to be inexistent, or at best very limited.

The consultation note refers to the government CSR strategy but it is unclear how it will ensure harmonization with for example with the Corporate Social Responsibility Centre for Excellence, a multi-stakeholder body that is part of the government CSR Strategy. We reiterate the importance of promoting multi-stakeholder stewardship for the Institute and any initiative of this nature, and strongly encourage CIDA to be much more specific about how the CSR Centre of Excellence will relate to this new Institute.

Finally, we believe that any effective and efficient strategy to advance development must be based on a whole of government approach. While aid remains an important source of revenues and support for developing countries, other government policies relating to this sector are equally if not more important given their impact on developing countries' capacities to sustain growth and foster development according to their own plans (for example trade policy or illicit tax evasions).

We thank CIDA for the opportunity to share some initial thoughts on its proposed Canadian International Institute for Extractive Industries and Development and would conclude by requesting that a formal multi-stakeholder consultation process, with more directed questions and with a clear mechanism for recommendations to be considered in the final design of the Institute, be included in the start-up phase of this endeavor. We are encouraged to read that the host university will be expected to establish a separate and independent governing body for the Institute that includes representation from various stakeholder groups. It is imperative that civil society groups, including representatives of Indigenous Peoples in Canada and abroad be an integral part of such a governance structure.

⁵ See CNCA Cites Lack of Progress on Recommendations from National Round Tables on Corporate Responsibility, <http://cnca-rcrce.ca/category/publication/press/>