



January 8, 2014

Foreign Affairs, Trade and Development Canada
125 Sussex Drive
Ottawa, Ontario
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Canada

Sent by email to: csr-extractives-rse@international.gc.ca

Re: Corporate Social Responsibility Strategy Review

We are writing in response to the Government of Canada's request for stakeholder feedback as it reviews *Building the Canadian Advantage: a Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector*. We commend the Government of Canada for proactively seeking stakeholder input on the strategy and for continuing to acknowledge the importance of ensuring Canadian extractive sector companies meet or exceed international CSR norms.

With just under C\$6 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies integrating best environmental, social and governance (ESG) practices into their strategy and operations will build long-term sustainable value for all stakeholders, and provide higher risk-adjusted returns to shareholders. The company evaluations, corporate engagement and research activities that we conduct to fulfill our responsible investment commitments give us insight into Canadian companies' progress in responding to ESG risks, the obstacles they face, and how appropriate policy could support their efforts.

NEI Investments has been engaged in supporting the development of a Canadian CSR strategy for the extractive sector since our participation in the 2006 National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries ("the Roundtables"). Since that time we have made several submissions to the Government of Canada that relate to the outcomes of the Roundtables, some of which we reference in this submission.

Due to the very short timeline provided for this consultation, combined with the consultation period falling over the holiday season, we are not able to provide more detailed feedback than that provided below. We are concerned that the limitations of the consultation process will likewise hinder other stakeholders from providing substantive opinions and would recommend that the Government of Canada consider a deeper consultation effort consistent with the materiality of this issue to the Canadian extractive sector. In the interim, we have provided some high level comments below.

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Implement the recommendations of the National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries

The Roundtables provided a substantive set of recommendations that enjoyed multi-stakeholder backing. We have written previously to express our support for the Roundtables recommendations and believe continued support is still warranted.¹ We note that some of the recommendations have already been implemented, and commend the Government of Canada for taking these actions. However, there are several recommendations that are still outstanding and we believe the imperative for enacting these recommendations has only grown stronger.

The Mining Association of Canada commissioned a report in 2012 that assessed the implementation status of the Roundtables recommendations.² While almost two years has passed since the release of this report, we believe that the findings are still relevant. The report found that of the 27 recommendations, 3 had been implemented, 15 were either partially implemented or required ongoing implementation, and 9 had not been implemented at all. As such, we believe it worthwhile to reiterate our support for the full implementation of the recommendations.

Integrate the United Nations Protect, Respect and Remedy Framework and Guiding Principles on Business and Human Rights into the CSR Strategy

Since the release of the CSR Strategy, the single biggest development in the field of business and human rights has been the release of the Protect, Respect and Remedy Framework and the associated Guiding Principles on Business and Human Rights (the “Guiding Principles”).³ We are aware that the Centre for CSR Excellence is looking into creating operational guidance on implementing the Guiding Principles.⁴ We would confirm that integrating the Guiding Principles into the CSR Strategy should be a priority.

In particular, we note that the Guiding Principles place an emphasis on performing effective human rights due diligence in order to properly assess, and mitigate, the potential for human rights impacts from development. We believe that there is a role for the Government of Canada to promote best practices in human rights impact assessment (HRIA) that ensures these assessments are inclusive, transparent, and independent. The HRIA is currently a very under-utilized and unevenly applied tool that has great potential for improving the outcomes for all stakeholders.

Implement the recommendations of the Resource Revenue Transparency Working Group

NEI Investments took part in Natural Resources Canada’s July 2013 consultation roundtable in Vancouver on mandatory reporting of resource revenues.⁵ We have been very encouraged by the Government of Canada’s commitment to the creation of a mandatory transparency framework for extractive sector companies and support the ongoing efforts to implement a framework. Since the consultation on mandatory transparency reporting closed, the Resource Revenue Transparency Working Group (RRTWG) has issued its final recommendations. NEI Investments was one of the lead authors of an investor statement of support for the RRTWG signed by 24 Canadian investment institutions representing over \$362

¹ https://www.neiinvestments.com/Documents/PublicPolicyAndStandards/2008/Prime_Minister_CSR_Roundtables.pdf

² http://oncommonground.ca/wp-content/uploads/2012/07/Final-MAC-Roundtables-Report-December-21-2011-3_5.pdf

³ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁴ <http://web.cim.org/csr/>

⁵ Highlights of our formal feedback to the consultation can be found here:

https://www.neiinvestments.com/Documents/PublicPolicyAndStandards/2013/Extractives%20Transparency_NEI%20Comments_final_website.pdf



billion in assets under management.⁶ We continue to support the work of the RRTWG and believe the final recommendations put forth by the working group should form the basis for any mandatory reporting framework for Canadian companies.

We believe the value of the multi-stakeholder nature of the working group cannot be overstated. It is rare for the extractive sector and non-governmental organizations to sit down and collaborate and even rarer for them to agree on explicit guidance for industry. It would be a significant missed opportunity if the Government of Canada did not build upon the success of this group.

Support companies looking to implement free, prior and informed consent (FPIC) as part of the commitment to the International Finance Corporation Performance Standards on Social and Environmental Sustainability

An existing pillar of the current CSR Strategy is to promote voluntary international CSR performance guidelines, one of which is the International Finance Corporation Performance Standards on Social and Environmental Sustainability (“the IFC Performance Standards”). The IFC Performance Standards underwent significant revision in 2011. NEI Investments provided comments to the IFC consultation process.⁷ Perhaps the most significant development to arise out of this revision process was the inclusion of the requirement for free, prior and informed consent (FPIC) in certain situations where Indigenous Peoples’ rights are at risk.⁸

There is currently very little guidance for companies and communities looking to effectively implement FPIC. We believe that the Government of Canada, as part of its mandate to promote the IFC Performance Standards, could act as a convener for practical, multi-stakeholder efforts to further the understanding of FPIC implementation. We would point to the work of the Boreal Leadership Council (BLC) as an example of the kind of multi-stakeholder approach that should be supported. The BLC is a collaboration of leading conservation groups, Aboriginal groups, resource companies and financial institutions that facilitates solutions-based dialogue on issues facing the boreal region of Canada. In 2012 the BLC produced a summary of key issues, lessons and case studies towards practical guidance for developers and Aboriginal communities on FPIC.⁹ The BLC has since hosted a multi-stakeholder forum to further delve into the issues raised by the report. We believe there is a role for the Government of Canada to convene similar discussions between engaged stakeholders.

In conclusion, we believe that there is significant merit in continuing the evolution of Canada’s CSR Strategy. We appreciate the opportunity to voice our opinion but would strongly encourage the Government of Canada to utilize a more robust consultation process that enables the effective participation of all stakeholders. If you have any questions regarding this letter or our submitted comments please contact Jamie Bonham, Manager Extractives Research & Engagement, NEI Investments (jbonham@neiinvestments.com; 604-742-8328).

Sincerely,
NEI Investments

A handwritten signature in black ink, appearing to read "Jamie Bonham", with a long horizontal line extending to the right.

⁶ https://www.neiinvestments.com/Documents/2013_ESG/Investor%20Statement%20RRTWG.pdf

⁷ Our submission to the consultation can be found here:

http://www.neiinvestments.com/Documents/PublicPolicyAndStandards/2011/IFC_Performance_Standards.pdf

⁸ The expectation for FPIC is explained in Performance Standard 7 (Indigenous Peoples).

⁹ <http://www.borealcanada.ca/documents/FPICReport-English-web.pdf>



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