

# Sustainable Development in Emerging Markets & CSR Codes of Conduct: Oil and Gas Industry in Brazil

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**ABSTRACT:** This paper intends to provide a comparative analysis of corporate social responsibility codes of conduct (CSR Codes) of the oil and gas industry operating in Brazil with the provisions embodied in the international legal framework system, such as the United Nations Declaration of Human Rights and the Fundamental Conventions of the International Labour Organization. For comparative purposes, and given the usual structure that CSR Codes tend to follow, the analysis has been developed around the three most emphasized issues – namely, labor and human rights, environment and socio-economic issues – which in turn have been divided into common subcategories of CSR Codes. One can argue that if CSR Codes are actually based on the new international sustainable development law, which may be used to verify CSR Codes' compliance and enforcement, CSR Codes can be seen as a «global commons» understanding framework to improve sustainable development operations in emerging markets such as Brazil.

**Keywords:** CSR; Oil and Gas Industry; Sustainable Development Law, Human Rights, Environment, Socio-Economic Issues

## INTRODUCTION

The idea of sustainable development is linked to the notion of global economic growth (NAÍM, 2000:86-103; NOLAND & PACK, 2003; COSTA, 2009:101). The notion of sustainable development emerged into the global setting during the 1980's. Our Common Future (1987) collects a progressive view of economic development, entailing social justice, income distribution, full employment, safe and healthy working environment, environmental protection, among other issues. At the international level, an important number of legal instruments deal with the notion of sustainable development, such as the Universal Declaration of Human Rights 1948 (UDHR), the Fundamental Conventions and Recommendations of the International Labour Organization (ILO), the United Nations Framework Convention on Climate Change (UNFCCC) et al. There is no disagreement among mainstream scholars that labor and human rights, environment and socio-economic issues have a negative impact on sustainable economic growth especially in emerging markets (COSTA, 2009:105).

In the early 1990's, Codes of Conduct of Social Responsibility (CSR Codes) have emerged as they are well known nowadays (MAY; CHENEY & ROPER, 2007:15-30; ZERK, 2006:15; KEINERT, 2008:12). CSR Codes represent a change in the companies' traditional paradigm (ADAMS, 2002:223-250; CARROLL, 2000:466-478; FRYNAS, 2005:581-598; WOOD, 1991:691-718; ZERK, 2006:15; COSTA, 2010). Through CSR Codes, multinational companies may have an important role to play in order to improve quality of life for communities where they are operating in particular and to sustainable development in general, as long as their codes do fully comply with the international legal framework on sustainable development.

This paper analysis to what extent CSR Codes can be used as a tool towards sustainable development in an emerging country such as Brazil. Despite the fact that CSR Codes' statements are not identical; there are similar criteria among them all. As CSR Codes are becoming more and more homogeneous in a mimetic and isomorphic appreciation (MEYER & ROWAN, 1991:44; 1977:344), the homogeneity of CSR Codes makes possible a comparative analysis of their statements. Also, it makes possible a further exam of CSR Codes' statements and their consistency and compliance with the international legal framework system on sustainable development matters, in order to support the importance that CSR Codes may represent to improve sustainability at the global level and more specific in emerging markets such as Brazil.

## LITERATURE REVIEW

Sustainable development comprehends humanity's present needs without compromising the needs of future generations (OUR COMMON FUTURE, 1987). CSR Codes' goal is to provide safety for companies' global level activities by establishing a minimum standard of sustainable conduct. No country is autonomous from global economic forces such as multinational companies and their CSR Codes. That's why Zaheer's (1995) recalls that the liability related to foreign operations and the extent to which it affects the performance of multinational companies in foreign countries has attracted much attention in the recent past. Actually, as per DiMaggio & Powell (1991:12), processes, structures and behaviors of different companies become more alike, isomorphic and mimetic (MEYER & ROWAN, 1991:44; 1977:344; SCOTT, 2001:166; JEPPEPERSON, 1991:143, COSTA, 2009:35). This notion applies to CSR Codes' statements as well (MEYER & ROWAN, 1991:44; 1977:344). It is true that isomorphic and mimetic degrees of CSR Codes' statements are not the same among multinational companies. Despite this assumption, sustainability, within CSR Codes, has three distinct basic, isomorphic and mimetic axes, namely: labor and human rights, environmental and socio-economic issues. It is not an easy task to frame CSR statements' value and, above all, if any value and or enforcement should be conferred to them. Anyway, it is true that companies' statements present in CSR Codes belong to well known areas of sustainable development law, such as labor and human rights, environment and socio-economic issues.

Despite the fact that CSR Codes' statements are not identical; there are, however, similar criteria among them all. In fact, CSR Codes are becoming more and more homogeneous in a mimetic and isomorphic appreciation (MEYER & ROWAN, 1991:44; 1977:344). And, the homogeneity makes then possible a comparative analysis of their statements. As CSR Codes' statements embody sustainable development provisions present at the international legal framework system it is possible a further exam of CSR Codes' statements and their consistency and compliance with the international legal framework system on sustainable development law. If CSR Codes' statements comply with sustainable development law, they can be used as a tool towards sustainable development in an emerging country such as Brazil and may be perhaps be used as a «global commons» solution.

## METHODOLOGY

CSR Codes have three distinct basic axes: labor and human rights, environmental issues and socio-economic issues. It seems however that only on sectors where major investment projects are needed that one can find the highest isomorphic and mimetic degrees of CSR Codes. In fact, the oil and gas industry is a good example. This paper examines how oil and gas companies operating in Brazil respond to sustainable development issues in their CSR Codes. The chosen companies are: BP p.l.c. (BP), Canadian Natural Resources Ltd. (Canadian Natural), ChevronTexaco Corporation (ChevronTexaco), Eni S.p.A (Eni), Exxon Mobil Corporation (ExxonMobil), Galp Energia (Galp), Marathon Oil Corporation (Marathon), Occidental Petroleum Corporation (Oxy), Petróleo Brasileiro SA (Petrobras), Statoil ASA (Statoil), The Royal Dutch/ Shell Group of Companies (Shell), TOTAL S.A. (Total) and Odebrecht S.A. (Odebrecht). The selection of the companies was based on their relevance in the Brazilian oil and gas market. Secondary data were collected and classified from the selected companies, taken from publications, reports and documents posted on the selected oil and gas companies' websites. It is clear that CSR Codes have similar criteria that can be used as a case study method (YIN, 1989; EISENHARDT, 1989:532-550), despite the fact that no CSR Code is identical (COLLIER, 1993; LIJPHART, 1975; KING, KEOHANE & VERBA 1994; COSTA, 2008). The comparative method is very well adapted to confirm the assumption that CSR Codes may be a tool for integrating companies' responsible practices.

This study intends to corroborate the assertion that CSR Codes of the oil and gas industry may be a tool for integrating companies' responsible practices in emerging markets, such as the Brazilian market, throughout a comparative analysis of CSR Codes of major oil and gas companies operating in Brazil and the international framework on sustainable development law. This assumption may be true as long as CSR Codes' statements are in accordance with the international legal framework. This paper presents a comparative analysis of CSR Codes of the oil and gas industry operating in Brazil and the international treaties and conventions, guides and standards related to sustainable development law. Despite the fact that sustainable development provisions embodied at the international legal framework system are countless, one can recall the UDHR and the UNFCCC, the Convention on Biological Diversity (CDB Convention), Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES Convention), the United Nations Convention against Transnational Organized Crime and its Protocols, the United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (UN Norms), the International Chamber of Commerce Business Charter for Sustainable Development, the OECD Guidelines on Multinational Enterprises, the Global Sullivan and Global Compact Principles, the SA8000 and the Sullivan Principles, among others.

## 1 – CSR CODES: LABOR AND HUMAN RIGHTS

The first issue aims to compare the CSR Codes' statements vis-à-vis labor and human rights. Issue # 1 breaks out into eight categories as follows: a) General Policy; b) Wages and Benefits; c) Hours of Work; d) Training and Education; e) Free Association and Collective Bargaining; f) Forced Labor; g) Child Labor; and h) Discrimination, Moral and Sexual Harassment.

### a) General Policy

The UDHR and the International Covenant on Economic, Social and Cultural Rights establish that all man has the right to work, to fair and favorable conditions of work, without discrimination and with appropriate payment. For instance, the Amnesty International's Human Rights Principles for Companies recommends "an explicit company policy on

human rights which includes support for the Universal Declaration of Human Rights". Nevertheless, the international legal framework does not, actually, deal with aspects related to the control and enforcement of these rights. The same can be said regarding CSR Codes. They do not mention practical and effective measures of control, enforcement and implementation of these fundamental rights proclaimed by fundamental international conventions. Indeed, CSR Codes establish broad principles and strategies on human rights and labor. Few companies, such as Canadian Natural and Galp, do not include specific general policies regarding human rights in their CSR Codes. One can not argue lack of compliance when non-existing legal enforcement is in fact available. Nevertheless, there is a great gap between the legal theoretical protection approach and its effective implementation, both from CSR Codes and the international legal framework.

Figure 1.a. General Policy

| Companies            | General Policy  |
|----------------------|---|
| <b>BP</b>            | "Supports the belief that human rights are universal. They are enshrined in the UN Universal Declaration of Human Rights"                                     |
| <b>ChevronTexaco</b> | "In accordance with the Sullivan principles, expresses support for universal human rights"  |
| <b>Eni</b>           | "Eni refers to the protection of human and labor rights, of safety and the environment, [...], as outlined by international institutions and conventions"     |
| <b>ExxonMobil</b>    | "We believe that [they] are consistent with the spirit and intent of the principles set forth in the Universal Declaration of Human Rights [...]"             |
| <b>Marathon</b>      | "incorporating economic, environmental, and social codes of conduct into our business strategy"   |
| <b>Odebrecht</b>     | "Believes the reduction of social inequalities helps drive the development of all sectors in all countries"   |
| <b>Oxy</b>           | "reduce the potential impact of our business operations on the environment and to safeguard the health and safety of our workers and neighboring communities" |
| <b>Petrobras</b>     | "Petrobras supports the belief that human rights are universal and enshrined in the UN Universal Declaration of Human Rights"                                 |
| <b>Shell Group</b>   | "Respect the human rights of their employees"   |
| <b>Statoil</b>       | "We will observe and promote fundamental standards for human rights, labour rights and the environment"   |
| <b>Total</b>         | "Adheres to the principles of UDHR 1948 and the UN Global Compact principles labor standards. Adheres to the principles of the ILO"                           |

## b) Wages and Benefits

Minimum wage standards may help to improve living conditions at a global level. These standards are covered by the UDHR, the UN International Covenant on Economic, Social and Cultural Rights, Caux, Tripartite Declaration, SA 8000, Sullivan Principles and the UN Norms. Most CSR Codes' statements claim the full respect to workers' salaries and benefits. Few CSR Codes are silent on this matter. For instance, Galp and Total do not have any specific strategy on salaries or benefits to workers. Almost all CSR Codes acknowledge international standards

in their human resources policies related to wages and benefits. The retention of highly qualified employees through competitive salaries is approached by CSR Codes of Oxy, Petrobras and ExxonMobil, for instance (COSTA, 2009:51). In brief, minimum wage standards and benefits and working hours are mentioned in most CSR Codes, exception made to Canadian Natural and Total. Thus, one can affirm the compliance of most CSR Codes' statements with the international legal framework.

Figure 1.b. Wages and Benefits

| Companies     | Wages and Benefits   |
|---------------|--|
| BP            | "Will set base pay and benefits at competitive levels within each national and business framework"   |
| ChevronTexaco | "Pay policy is to administer wages and salaries in a manner that will maintain a competitive position sufficient to attract and retain high-caliber personnel" |
| Eni           | "Offers equal opportunities to all its employees, making sure that each of them receives fair treatment based on merit, without discrimination of any kind"    |
| ExxonMobil    | "Overall compensation program is carefully designed to attract and retain talented men and women"  |
| Galp          | "In the Covenant Security for Workers the company does not reduce the category of the workers or cut their salary"   |
| Marathon      | "Will ensure that employees are adequately trained and educated on HE&S issues"  |
| Odebrecht     | "which is supplemented by education for work through classes, partnerships and other forms of continuous education"  |
| Oxy           | "Wages, benefits and terms are designed to attract and retain top quality talent"  |
| Petrobras     | "It is part of the company's policy the commitment to invest in their employees' talent and [...] to promote competitive payment practices"                    |
| Shell Group   | "Employees are rewarded for personal performance and team achievements". "Options and share purchase programmes were extended"                                 |
| Statoil       | "Levels of pay are about average for the industry, and never below the national statutory minimum of a country"  |

**c) Hours of Work**

Hours of work standards may also help to improve living conditions at a global level. For instance, SA 8000 limits working hours and overtime. Most CSR Codes from gas and oil companies operating in Brazil do not include statements on employees’ working hours. Some CSR Codes claim to respect local and domestic laws, such as ExxonMobil, Petrobras and Statoil. Shell, for example, guarantees that no employee “has to work more than 48 hours a week” and Statoil states that “hours of work are in accordance with the law or requirements in the different countries in which it operates”. Working hours are

mentioned by few CSR Codes, such as Eni, Exxon Mobil, Shell and Statoil. This is not the general rule. There are many exceptions, such as BP, Canadian Natural, Chevron Texaco, Galp, Marathon, Odebrecht, Oxy, Petrobras and Total. Most CSR Codes do not set a minimum value or overtime working hours. However, the international legal framework does not actually deal with a specific limit of hours of work. This issue is expected to be dealt with the domestic legislation. In view of this fact, CSR Codes are in accordance with the international legal framework system.

**Figure 1.c. Hours of Work**

| Companies          | Hours of Work  |
|--------------------|--|
| <b>Eni</b>         | “The working hours represent one of the principal elements in the organisation of work [...] which combines the need for flexibility of the hours of work with the safeguarding of the individual and collective rights” |
| <b>Exxon Mobil</b> | “Follows, at minimum, all local legal requirements”  |
| <b>Shell Group</b> | “No employee is paid less than the legal minimum wage, nor has to work more than 48 hours a week”  |
| <b>Statoil</b>     | “Hours of work is in accordance with the law or requirements in the different countries in which it operates”  |

#### d) Training and Education

The International Covenant on Economic, Social and Cultural Rights recommends that Governments shall include technical and vocational guidance and training programs, policies to achieve steady economic, social and cultural development and productive employment under conditions safeguarding fundamental political and economic freedoms. CSR Codes also play an important role in education and training capital, especially in developing countries or least developing countries (MIYAMOTO, 2003;

COSTA, 2009:53). Eni for instance provides university and post-university training, and Odebrecht provides classes and partnerships with educational institutions for employees. Most CSR Codes guarantee training to employees, especially with regard to safety and health. Few companies, such as Canadian Natural, Oxy and Total, do not include policies regarding training and education. Therefore, the majority of CSR Codes complies with the international legal framework system.

Figure 1.d. Training and Education

| Companies     | Training and Education  |
|---------------|---|
| BP            | “Our workforce will be carefully selected and trained, and their skills and competencies regularly assessed”  |
| ChevronTexaco | “In accordance with the Sullivan principles, compensates employees to [...] provide the opportunity to improve their skill and capability”                              |
| Eni           | “Offers equal opportunities to all its employees, making sure that each of them receives fair treatment based on merit, without discrimination of any kind”             |
| ExxonMobil    | “Will strive to hire and retain the most qualified people available and maximize their opportunities for success through training and development”                      |
| Galp          | “Our social role as an economic operator involves [...] creation of jobs, education, training and personal development of our workers”                                  |
| Marathon      | “Will ensure that employees are adequately trained and educated on HE&S issues”   |
| Odebrecht     | “The technical training coincides with many of the company’s safety programs and is a critical component of its strategy to transfer technology to the local workforce” |
| Petrobras     | “The Company commits itself to investing in the talent of its employees and in the development of their technical and management skills”                                |
| Shell Group   | “Offers a whole range of internal and external training courses and programmes covering important aspects of our business”  |
| Statoil       | “Annually spends in excess of NOK 2 million, or more than NOK 12,0 per employee, on HSE training with the aim of building awareness and expertise”                      |

**e) Free Association and Collective Bargaining**

The UDHR, the International Covenant on Economic, Social and Cultural Rights, ILO 87, ILO 98, SA 8000, Sullivan Principles, Global Compact, the UN Norms, the Tripartite Declaration and the OECD Guidelines establish the main foundations of the sustainable development framework legislation to protect employees to join unions and to establish collective bargaining. At least in general terms, most CSR Codes recognize the respect of the freedom of their employees to take part in unions and collective bargain, as long as in respect with the local legislation. Galp claims that it “allows for free union and collective negotiation” and Eni states that “all employees enjoy the right to join the union of their choice and benefit from fundamental rights of these

unions”. Oxy, for instance, states that respects “employees’ voluntary freedom of association with respect to causes, organizations or political parties they may wish to support or join”. Exceptions to this general rule are: Canadian Natural, Exxon, Marathon, Odebrecht and Total. From a CSR Code perspective, almost all Codes recognize the freedom of their employees to create unions and to take part in collective bargains. In fact, many CSR Codes refer to the UDHR, ILO fundamental Conventions, OECD Guidelines and Tripartite Declaration, just to mention a few ones. One can affirm compliance of the majority of CSR Codes with the international legal framework.

**Figure 1.e. Free Association and Collective Bargain**

| Companies            | Free Association and Collective Bargain  |
|----------------------|--|
| <b>BP</b>            | Free Association and Collective Bargain  |
| <b>ChevronTexaco</b> | “In accordance with the Sullivan Principles, the company respects employees’ voluntary freedom of association”   |
| <b>Eni</b>           | “All workers are entitled to belong to trade unions of their choice and to benefit from fundamental union rights”  |
| <b>Galp</b>          | “Allows free association in Trade Unions and the collective bargaining”  |
| <b>Oxy</b>           | Respects “employees’ voluntary freedom of association with respect to causes, organizations or political parties they may wish to support or join”   |
| <b>Petrobras</b>     | “Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining”  |
| <b>Shell Group</b>   | “Do not stop any employee from joining a union and almost a fifth of Shell employees are estimated to be members”  |
| <b>Statoil</b>       | “Committed to a set of core labor standards which we believe should be universally applied, regardless of a country’s level of development including freedom of association and collective bargaining” |

## f) Forced Labor

The ILO Forced Labour Convention 29, 1930 (ILO 29) and the ILO Convention on the Abolition of Forced Labor of June 5 1957 (ILO 105) prohibit the use of forced labor or other forms of abuse such as physical punishment, female abuse or involuntary servitude. CSR Codes declare that forced labor has to be banned. The unanimity is no longer valid on the understanding of the notion of forced labor. Marathon, Odebrecht, Shell, Exxon and Galp do not actually define what forced labor is; they only mention on their CSR Codes is the respect to the fundamental human rights, as per the international conventions. Other companies are much more explicit. It is the

case of BP and ChevronTexaco. Eni's CSR Code says that "forced labor is prohibited, whether it is slavery or work done in similar ways". BP is the only company that claims to extend the prohibition to forced labor to their suppliers, partners and contractors. Forced labor is vehemently rejected by most CSR Codes of the gas and oil industry. For that, they refer to ILO Fundamental Conventions and to the UDHR. Canadian Natural, Galp, Marathon and Odebrecht are the exception to this assumption. Therefore, CSR Codes are most of them in conformity with human and labor rights issues present in the international legal framework as regard forced labor.

Figure 1.f. Forced Labor

| Companies     | Forced Labor  |
|---------------|---|
| BP            | "Will not employ forced labour"   |
| ChevronTexaco | "In accordance with the Sullivan principles, operates without unacceptable worker treatment such as physical abuse and involuntary servitude or other forms of abuse" |
| Eni           | "Forced labour is prohibited; whether it is slavery or work performed by inmates"   |
| ExxonMobil    | "Condemns the violation of human rights in any form". "Condemns human rights abuses"  |
| Oxy           | "Operates without unacceptable worker treatment such as physical punishment and involuntary servitude or other forms of abuse"  |
| Petrobras     | "The elimination of all forms of forced and compulsory labour"  |
| Shell Group   | "Published management primers on human rights and preventing child labour as part of a wider programme of awareness training and management"                          |
| Statoil       | "Committed to a set of core labour standards which we believe should be universally applied, [...] including freedom from forced labour"                              |
| Total         | "Adheres to the principles of UDHR 1948 and the UN Global Compact principles labor standards. Adheres to the principles of the ILO"                                   |

**g) Child Labor**

The UDHR, the Fundamental Conventions of the ILO deal with child labor. The OECD Guidelines more specifically stipulates that “child labor is prohibited, especially in its most strenuous forms”. Elimination of work discrimination is a concern of the UN Covenant on Civil and Political Rights and the ILO 100 in particular. The majority of CSR Codes is unanimous in reprovig child labor. Few exceptions to this rule: Canadian Natural, Galp, Marathon and Odebrecht. The unanimity also falls apart on how to establish a modus operandi to reach such a goal. Some CSR Codes have general statements and policies based on the most relevant international treaties and conventions, such as ChevronTexaco, Exxon Mobil, Petrobras, Oxy, Statoil, Total and Eni.

Oxy commits to operate “without unacceptable worker treatment, such as exploitation of children” and Exxon Mobil, for instance, “condemns human rights abuses”. There are very few CSR Codes that unequivocally prohibit child labor, as is the case of BP’s Code which states that “we will not use child labor in our operations”. Also, most CSR Codes use broad language within the framework of international agreements regarding child labor. However, one can not affirm that there is a complete lack of conformity among CSR Codes towards child labor within the international legal framework system. Compliance with the international legal framework on child labor should be improved on CSR Codes.

**Figure 1.g. Child Labor**

| <b>Companies</b>     | <b>Child Labor</b>   |
|----------------------|--|
| <b>BP</b>            | “Will not use child labour in its operations or in the provision of its goods or services and will seek to facilitate the transition to alternatives to child employment, such as apprenticeships, training and further education” |
| <b>ChevronTexaco</b> | “In accordance with the Sullivan principles, operates without unacceptable worker treatment such as the exploitation of children”  |
| <b>Eni</b>           | “Child labor is prohibited, especially in its most strenuous forms, and the right of children to complete their development and education must be safeguarded”   |
| <b>ExxonMobil</b>    | “Condemns human rights abuses”   |
| <b>Oxy</b>           | “Operates without unacceptable worker treatment such as exploitation of children”  |
| <b>Petrobras</b>     | “the effective abolition of child labour.”   |
| <b>Shell Group</b>   | “preventing child labour as part of a wider programme [...]. Made a positive impact on defeating child labour in Brazil”   |
| <b>Statoil</b>       | “Committed to a set of core labour standards which we believe should be universally applied, [...] including the elimination of child labour”  |
| <b>Total</b>         | “Adheres to the principles of the ILO, in particular, to those concerning the use of child labor”  |

## h) Discrimination, Moral and Sexual Harassment

The most relevant international legal instruments related to discrimination are the UDHR, the Fundamental Conventions of the ILO, the OECD Guidelines, the SA8000 and the UN Norms. Current issues related to discrimination such as sexual or moral harassment are only present in international guides and standards such as the Global Compact, the Amnesty International, the Caux Principles, and the ICC Business Charter. Sexual or moral discrimination is a matter of serious concern for CSR Codes. All CSR Codes condemn discrimination, except for Canadian Natural that does not mention this topic on its CSR. Eni declares that will not discriminate

against opinions and, together with Galp, highlights also the importance of gender equality. Petrobras acclaims the end of discrimination related to labor. It is interesting to note that Odebrecht proclaims further non-discrimination related to weight, height or physical conditions. Any form of moral or sexual harassment and sexual abuse is condemned by all CSR Codes. All of them declare that any sexually coercive, threatening or abusive behavior pattern cannot be allowed. One can affirm that CSR Codes are more precise, accurate and objective than the international legal framework regarding discrimination matters.

**Figure 1.h. Discrimination, Moral and Sexual Harassment**

| <b>Companies</b>     | <b>Discrimination, Moral and Sexual Harassment</b>  |
|----------------------|---|
| <b>BP</b>            | “Will practice inclusion by eliminating intentional and unintentional exclusionary behaviors”   |
| <b>ChevronTexaco</b> | “Committed to following the laws, within and outside the U. S., prohibiting discrimination in employment matters”   |
| <b>Eni</b>           | “Offers equal opportunities to all its employees, making sure that each of them receives fair treatment based on merit, without discrimination of any kind”   |
| <b>ExxonMobil</b>    | “Provide equal employment opportunity [...] regardless of their race, color, sex, religion, national origin, citizenship status, age, physical or mental disability, veteran or other legally protected status” |
| <b>Galp</b>          | “No discrimination by race, sex, language, religion, political party, nationality, economical position or any other condition”  |
| <b>Marathon</b>      | “Prohibits discrimination against any employee or person with whom it does business”  |
| <b>Odebrecht</b>     | “Does not permit prejudice or discrimination of any kind”   |
| <b>Oxy</b>           | “Committed to a policy of equal employment opportunity, a diverse workforce and a workplace free from discrimination hostility or harassment”   |
| <b>Petrobras</b>     | “On September 24 2007, the Federal Government and Petrobras formalized the onset of the second edition of the company’s Pro-Gender Equality Program”  |
| <b>Shell Group</b>   | “Committed to giving all employees the opportunity to develop their expertise and skills in accordance with our business needs and their potential”   |
| <b>Statoil</b>       | “Wants diversity in age, gender and cultural background”  |
| <b>Total</b>         | “Ensures the development of its employees’ professional skills and their careers without discrimination”  |

**2 – CSR CODES: ENVIRONMENTAL ISSUES**

The second issue aims to compare the CSR Codes’ statements vis-à-vis environmental matters. Issue # 2 breaks out into four categories as follows: a) General Policy; b) Pollution Control and Hazardous Substances; c) Biodiversity; and d) Water.

**a) General Policy**

Many international treaties, conventions, protocols, covenants, guides and standards that have been examined include statements about environmental control and management and the need of periodic evaluation audits regarding health, safety and environment, as well as employee training programs. As for environmental conservation, ISO 14001 stipulates that a global management system should include an organizational structure, planning activities, responsibilities, practices, procedures, processes and

resources to develop, implement, reach, critically analyze and keep the environmental policy. Almost all CSR Codes mention ISO norms. All CSR Codes mention environmental control and management as a general policy, especially regarding health and safety, and environmental issues. In fact, the nature of the activity of this industry – oil and gas – requires this statement on CSR Codes. All CSR Codes include periodic control and very detailed inspection programs, following the precautionary principle. Almost all CSR Codes have implemented audits and periodic evaluations of health, safety and environment programs, as Oxy, Galp, Shell, Petrobras, Odebrecht, Total and Canadian Natural. All CSR Codes’ statements are in accordance with the legal framework on sustainable development. Indeed, their statements respect the most relevant set of legal instruments on environmental issues.

**Figure 2.a. General Policy**

| Companies               | General Policy  |
|-------------------------|---|
| <b>BP</b>               | “Committed to demonstrating respect for the natural environment and work toward our goals of no accidents, no harm to people and no damage to the environment”            |
| <b>Canadian Natural</b> | “Conducts all of its operations in a way that protects the health and safety of employees, contractors, the public and the environment”                                   |
| <b>ChevronTexaco</b>    | “protect the safety and health of the people and the environment”.<br>“Verifies conformity with company policy and government regulations.”                               |
| <b>Eni</b>              | “Committed to [...] reducing the environmental impact of such activities”   |
| <b>ExxonMobil</b>       | “Committed to continuous efforts to identify and eliminate or manage safety risks associated with its activities”   |
| <b>Galp</b>             | “Health and Safety are fundamental values and therefore adopts a practice based on prevention”  |
| <b>Marathon</b>         | “Recognizes the need to explore, produce, transport and manufacture energy products in an environmentally responsible manner”   |
| Odebrecht               | “take into account safety concerns, their own health, the health of other Members, and environmental preservation”  |
| <b>Oxy</b>              | “Makes health, safety and environmental protection an integral part of designing, manufacturing, marketing, distributing, using, recycling and disposing of its products” |
| <b>Petrobras</b>        | “Over the years, we have introduced increased external monitoring of our activities: [...] remedial action plans have been signed with re-known environmental entities”   |
| <b>Shell Group</b>      | “Consistent with their commitment to contribute to sustainable development, Shell companies have a systematic approach to health, safety and environmental”               |
| <b>Statoil</b>          | “Objectives in health, safety and the environment: zero harm to people or the environment; zero accidents or losses”  |
| <b>Total</b>            | “the aim is to contribute to an efficient and properly managed utilization of all sources of energy and products it deals in”   |

**b) Pollution Control and Hazardous Substances**

The Pollution Prevention and Abatement Handbook of IFC states that “pollution prevention programs should focus on reducing the impacts of wastewater discharges, oil spills, and soil contamination and on minimizing air emissions”. All CSR Codes claim the respect of international standards of environmental protection and safety, such as ISO 14001 and ISO 9001. CSR Codes of the gas and oil industry are in compliance with the international legal framework. Indeed, the majority of CSR Codes set up strict con-

trol and goal plans related to leak of oil and hazardous substances. Most CSR Codes mention the disposal of hazardous products, as well as recycling and reusing control programs for these products. To avoid environmental damages, as well as to prevent accidents, all CSR Codes recognize the importance of the Environmental Impact Assessment (EIA). This is the specific the case of the Codes of ChevronTexaco, ExxonMobil, Galp, Marathon, Oxy, Petrobras and Total.

**Figure 2.b. Pollution Control and Hazardous Substances**

| Companies               | Pollution Control and Hazardous Substances  |
|-------------------------|---|
| <b>BP</b>               | “Reported in 2001 that it reduced its operation greenhouse gas (GHG) emissions by 10% from its 1990 baseline”   |
| <b>Canadian Natural</b> | “implementing cost-effective ways of reducing our greenhouse gas emissions per unit of production”  |
| <b>ChevronTexaco</b>    | “In a continued effort to reduce greenhouse emissions, the company is committed to ‘zero flare’ development”  |
| <b>Eni</b>              | “To improve HSE performance, it is important to have in place a system of measurement and control [...] the Group is member of the Oil Spills Response Ltd (OSRL) [...]”  |
| <b>ExxonMobil</b>       | “Committed to continuous efforts to identify and eliminate or manage safety risks associated with its activities”   |
| <b>Galp</b>             | “Health and Safety are fundamental values and therefore adopts a practice based on prevention”  |
| <b>Marathon</b>         | “Recognizes the need to explore, produce, transport and manufacture energy products in an environmentally responsible manner”   |
| Odebrecht               | “take into account safety concerns, their own health, the health of other Members, and environmental preservation”  |
| <b>Oxy</b>              | “Makes health, safety and environmental protection an integral part of designing, manufacturing, marketing, distributing, using, recycling and disposing of its products” |
| <b>Petrobras</b>        | “Over the years, we have introduced increased external monitoring of our activities: [...] remedial action plans have been signed with re-known environmental entities”   |
| <b>Shell Group</b>      | “Consistent with their commitment to contribute to sustainable development, Shell companies have a systematic approach to health, safety and environmental”               |
| <b>Statoil</b>          | “Objectives in health, safety and the environment: zero harm to people or the environment; zero accidents or losses”  |
| <b>Total</b>            | “the aim is to contribute to an efficient and properly managed utilization of all sources of energy and products it deals in.”  |

### c) Biodiversity

The protection of biologic diversity is present in the UN Framework Convention on Climate Change, Convention on the Conservation of Migratory Species of Wild Animals, Convention on the Conservation of European Wildlife and Natural Habitats, ASEAN Agreement on the Conservation of Nature and Natural Resources, CERES Principles, among other instruments. Biodiversity is a crucial issue to CSR Codes. Almost all Codes have clear and precise policies for the ecosystem and biodiversity conser-

vation and protection. ChevronTexaco, BP, Shell and Statoil take part in the Energy and Biodiversity Initiative. Total and Petrobras, for example, have created foundations to maintain marine biodiversity and protect ecosystems. The majority of CSR Codes take into account the series of international treaties, conventions, statements and protocols on this matter. Few companies, such as Canadian Natural, Marathon and Odebrecht, do not include policies regarding biodiversity in their CSR Codes.

**Figure 2.c. Biodiversity**

| <b>Companies</b>     | <b>Biodiversity</b>  |
|----------------------|--|
| <b>BP</b>            | “developing a consistent approach to identification and designation of protected areas”  |
| <b>ChevronTexaco</b> | “Over the past several years, we have expanded our understanding of biodiversity conservation concerns relevant to our business”       |
| <b>Eni</b>           | “Will pay the utmost attention to the environment and ecosystem affected by its business activities”                                   |
| <b>ExxonMobil</b>    | “Concerned with helping to sustain the world’s biological diversity”   |
| <b>Galp</b>          | “Support of the Second National Conference on the Conservation of Nature”  |
| <b>Marathon</b>      | “Recognizes the need to explore, produce, transport and manufacture energy products in an environmentally responsible manner”          |
| <b>Odebrecht</b>     | “take into account safety concerns, their own health, the health of other Members, and environmental preservation”                     |
| <b>Oxy</b>           | “Oxy’s Elk Hills oil and gas field in California is high quality habitat for several endangered and threatened species”                |
| <b>Petrobras</b>     | “continues to sponsor programs aimed at preserving marine biodiversity”  |
| <b>Shell Group</b>   | “First energy company to establish a Biodiversity Standard”  |
| <b>Statoil</b>       | “Participant in the Energy biodiversity initiative (EBI) together with three other oil companies and five environmental organizations” |
| <b>Total</b>         | “Maintaining biodiversity is essential for the planet’s ecosystem”   |

**d) Water**

The UN Framework Convention on Climate Change is a fundamental instrument to the protection of the water, among other instruments. Most CSR Codes show a real concern with water consumption. They also show real concern with climate change and efficient energy saving measures. ChevronTexaco, for instance, is proud of its program of “greenhouse gas emission reduction [...] and the search for new ener-

gy technologies”. It is important to note that Exxon Mobil, Marathon, Odebrecht, Petrobras and Galp do not have specific policy for the use and consumption of water in the industrial process as the other CSR Codes. Water and water protection is a major concern of the international legal framework system and most of CSR Codes are in accordance with this legal framework.

**Figure 2.d. Water**

| Companies               | Water   |
|-------------------------|---|
| <b>BP</b>               | “developed a new approach to global water issues and to sustainable water management”   |
| <b>Canadian Natural</b> | “minimizing produced water volumes onshore and offshore through cost-effective measures”  |
| <b>ChevronTexaco</b>    | “As a result of concerns about global climate change, committed to a four-fold plan of action”  |
| <b>Eni</b>              | “Sustainable management of water requires attention to potential savings in the use and treatment of waste to reduce concentration of pollutants” |
| <b>Oxy</b>              | “Will conserve the use of water in our facilities”  |
| <b>Shell Group</b>      | “Efficient use of natural resources – for example, energy, land, water – reduces our costs and respects the needs of future generations”          |
| <b>Statoil</b>          | “Environmental monitoring covers both water quality and seabed sediments”   |
| <b>Total</b>            | “The Exploration & Production business has launched a vast program to improve the quality of its wastewater discharges by 25% over five years”    |

### 3 – CSR CODES: SOCIO-ECONOMIC ISSUES

The third issue aims to compare the CSR Codes’ statements vis-à-vis socio-economic issues. Issue # 3 breaks out into five categories as follows: a) General Policy; b) Land Rights and Displacement; c) Corruption and Bribery; d) Political Contributions and e) Financial Transparency.

#### a) General Policy

The UN International Covenant on Economic, Social and Cultural Rights and the UN Covenant on Civil and Political Rights lay the legal foundations for the protection of socio-economic issues at the international level. The international rules and standards that have specific statements on socio-economic issues are the Principles Caux, the Sullivan Principles and the OECD Guidelines. All CSR Codes emphasize the importance of sustainable development, both from an economic and a social point of view. With this categorical statement, one can only admit

their conformity with the international sustainable development legal framework. All CSR Codes emphasize the value of sustainable development, both from an economic and a social point of view. It is easy to verify and to confirm the socio-economic impact of the gas and oil industry’s activities on the communities where companies have their operations (COSTA, 2008). Most CSR Codes display broad statements regarding public participation policies and the importance to cooperate, consult and dialogue with all stakeholders. Almost all CSR Codes – such as BP, ExxonMobil, Petrobras, Eni, Statoil, Oxy and Total – are unanimous in confirming the importance of training the local population and the high probability of hiring them in the future. Job creation for the local population is one of the major concerns of CSR Codes. All CSR Codes of the gas and oil industry are in compliance with the international legal framework.

Figure 3.a. General Policy

| Companies        | General Policy  |
|------------------|---|
| BP               | “Aim is that countries and communities in which it operates should benefit directly from its presence [...], so that it creates substantial human progress” |
| Canadian Natural | “supports a charity which reaches out to children living on the streets”  |
| ChevronTexaco    | “Seeks to foster sustainable growth and social progress through partnerships with host communities, governments and nongovernmental organizations”          |
| Eni              | “Contributes actively to the welfare of the populations and countries where it operates”  |
| Exxon Mobil      | “Prepares comprehensive environmental and social assessments”   |
| Galp             | “Our social role as an economic operator [...] contributing towards the creation of jobs, education, training and personal development of our workers”      |
| Marathon         | “Supports a wide range of organizations dedicated to education, health and human services, civic and community improvement”                                 |
| Odebrecht        | “Contributes to the socio-economic, technological and entrepreneurial development of the sectors and countries in which it is active”                       |
| Oxy              | “to assist our neighbors in developing ways to become self-sufficient and to achieve economic sustainability without creating dependency”                   |
| Petrobras        | “Conduct business and activities with social and environmental responsibility”  |
| Shell Group      | “We will constantly look for appropriate ways to contribute to the general well-being of the community”   |
| Statoil          | “Social investment projects should seek to build local capacity in the fields of health, education, human rights and governance”                            |
| Total            | “Through partnerships, supports local development, in particular in the areas of healthcare, education and economic development”                            |

## b) Land Rights and Displacement

The UN Guiding Principles on Internal Displacement is the main legal instrument related to displacement. Many activities of the gas and oil industry can lead to human displacement, whether voluntary or involuntary. The statements of some CSR Codes go beyond the international treaties and conventions, and the international rules and standards. And they even determine specific conducts applied to cases of displacement or resettling, such as BP and Odebrecht's Codes. Besides trying to avoid any involuntary displacement, CSR Codes from BP and Odebrecht stress the importance of dialog and, above all, the payment of a fair compensation to the local

population. The other CSR Codes deals with this issue in a more superficially approach. Odebrecht is the only company, in fact, that takes into account the cultural asset of local the population in its evaluation of the social impact of its presence. Apart from these two companies, the other CSR Codes only refer to land rights, resettlement and displacement in very broad commitments and general policies. One can affirm however compliance in broad terms of most CSR Codes with the international legal framework, exception made to Canadian Natural, Galp, Marathon, Oxy, Statoil and Total.

Figure 3.b. Land Rights and Displacement

| Companies     | Land Rights and Displacement  |
|---------------|---|
| BP            | "Tries to avoid physical resettlement wherever possible"  |
| ChevronTexaco | "Abides by Sullivan Principle"  |
| Eni           | "Land acquisition is always obtained through voluntary agreements with landowners"  |
| Exxon Mobil   | "With the direct input of local citizens, programs were also developed to compensate for temporary loss of crops and in some instances for resettlement"  |
| Odebrecht     | "Community participation in planning and implementing resettlement should be encouraged relying to the greatest extent possible on existing cultural and social institutions of resettles and their host communities" |
| Petrobras     | "The Company maintains ongoing contact with indigenous agencies [...] and discusses actions with their leaders"   |
| Shell Group   | "For instance, building new facilities may require local residents to be resettled"   |

### c) Corruption and Bribery

As per the OECD Convention, corruption in international transactions raises deep moral and political concerns and distorts international competitiveness. In the same spirit of the OECD Convention, one can mention the Global Compact and the UN Norms. Corruption and bribery may undermine the important role that multinational companies can play in the global economic setting in order to accomplish

the sustainable development goal (COSTA, 2008). Most CSR Codes reject any sort of payment related to bribery and corruption of public or private employees, whether directly or indirectly. Most CSR Codes have specific provisions against corruption and bribery, exception made to Canadian Natural, Galp and Odebrecht. Thus, one can confirm compliance with the international sustainable development law framework.

**Figure 3.c. Corruption and Bribery**

| <b>Companies</b>     | <b>Corruption and Bribery</b>   |
|----------------------|---|
| <b>BP</b>            | “Never offers, pays, solicits or accepts a bribe in any form and prohibits third parties, such as agents and consultants, to do so”   |
| <b>ChevronTexaco</b> | “Abides by Sullivan Principle [...] not offer, pay or accept bribes. There may be instances in which foreign officials request or expect payments or gratuities to expedite the proper performance of routine governmental action. No payments of these types may be made without the advance approval of the Corporation Controller” |
| <b>Eni</b>           | “Abides by Sullivan Principle [...] not offer, pay or accept bribes. There may be instances in which foreign officials request or expect payments or gratuities to expedite the proper performance of routine governmental action. No payments of these types may be made without the advance approval of the Corporation Controller” |
| <b>Exxon Mobil</b>   | “Prohibits bribery and corruption”  |
| <b>Marathon</b>      | “no gift, favor or entertainment should be accepted or provided if it will obligate, appear to obligate or is intended to obligate or unduly influence the recipient”   |
| <b>Oxy</b>           | “No employee, agent or representative shall pay or offer any bribe or give or offer anything of value to any public official”   |
| <b>Petrobras</b>     | “Businesses should work against all forms of corruption, including extortion and bribery”   |
| <b>Shell Group</b>   | “The direct or indirect offer, payment, soliciting and acceptance of bribes in any form are unacceptable practices”   |
| <b>Statoil</b>       | “All forms of corruption are regarded as unacceptable, even facilitation payments”  |
| <b>Total</b>         | “The giving or receiving of gifts or entertainment must remain within acceptable limits both [...] as regards any anti-corruption legislation”  |

**d) Political Contributions**

The ICC Business Charter states that “contributions to political parties or committees, or to individual politicians, may only be made in accordance with the applicable law, and all requirements for public disclosure of such contributions shall be fully complied with”. Similar, the OECD Guidelines stipulate that enterprises should “not make illegal contributions to candidates for public office or to political parties or to other political organizations”, and that any “contributions should fully comply with public disclosure requirements and should be reported

to senior management”. The majority of CSR Codes have similar statements. Almost all CSR Codes state that they do not tolerate any sort of payment or promise of payment to a political party, to a public servant or to a political post candidate with the purpose of obtaining or maintaining business, no matter how much money is at stake. It is the case of CSR Codes of BP, Shell and Statoil. One can affirm compliance of CSR Codes’ statements with the international legal framework, exception made to Canadian Natural, Galp and Petrobras.

**Figure 3.d. Political Contributions**

| <b>Companies</b>     | <b>Political Contributions</b>   |
|----------------------|--|
| <b>BP</b>            | “Never makes political contributions, whether in cash or kind, to any political party or to organizations”   |
| <b>ChevronTexaco</b> | “Where and to the extent permitted, makes political contributions to appropriate candidates”   |
| <b>Eni</b>           | “Does not give any direct or indirect contributions in whatever form to political parties, organizations, committees or trade unions”                |
| <b>Exxon Mobil</b>   | “Does not make contributions to political candidates or political parties except as permitted by applicable laws”                                    |
| <b>Marathon Oil</b>  | “Any proposed contribution should be arranged through Governmental Affairs”  |
| <b>Odebrecht</b>     | “Campaign contributions must be made in accordance with the applicable laws”   |
| <b>Oxy</b>           | “The direct or indirect use of the company’s funds or assets for political contributions is prohibited, unless authorized by the Board of Directors” |
| <b>Shell Group</b>   | “Does not make donations to political parties and treats this issue in the same way as Bribery and Corruption”                                       |
| <b>Statoil</b>       | “This means that we make no political contributions”   |
| <b>Total</b>         | “Every employee who could be considered as a representative of the Group is required to abstain from political activity”                             |

### e) Financial Transparency

Companies' financial transparency is crucial to achieve global sustainable development at the local, regional and global level. International rules and standards abound with examples of financial transparency recommendations. For instance, the UN Norms, the OECD Guidelines, the ICC Business Charter, the Caux Principles and the SA 8000. Most CSR Codes deal with financial transparency. CSR Codes are almost unanimous in claiming a strong commitment to financial transparency. However, there is no unanimity among CSR Codes regarding the publicity level of their financial statements. Some companies declare that they disclose their financial statements only to external auditors and stakehold-

ers to assure transparency. Others declare that they statements will always be open to the public, no matter if they are "good or bad". It is almost impossible to confirm or to deny conformity of CSR Codes with the legal framework on financial transparency. The reason is simple: companies do disseminate their financial information in very different ways and as per local legislation. However, one can not deny that the majority of CSR Codes' statements comply with the international legal framework on sustainable development, exception made to Canadian, Marathon and Odebrecht CSR Codes that have no specific mention on this issue.

**Figure 3.e. Financial Transparency**

| <b>Companies</b>     | <b>Financial Transparency</b>  |
|----------------------|--|
| <b>BP</b>            | "Produces financial reports that are reliable, accurate and timely, and ensures that all transactions are properly handled and reported and that assets are financially safeguarded" |
| <b>ChevronTexaco</b> | "To ensure the integrity of our accounting records, all entries to books must be prepared with accuracy and honesty"   |
| <b>Eni</b>           | "Accounting transparency is based on the use of true, accurate and complete information for construing entries in the books of accounts"   |
| <b>Exxon Mobil</b>   | "All transactions must be accurately reflected in its books and records"   |
| <b>Galp</b>          | "Adopts, internally and vis-à-vis the community, a posture of responsibility and transparency"   |
| <b>Oxy</b>           | "Accounting standards and applicable US laws require that all transactions and dispositions of assets must be properly recorded in all the books and accounts"                       |
| <b>Petrobras</b>     | "According to the DJSI evaluation criteria, Petrobras stood out for its Transparency"  |
| <b>Shell Group</b>   | "All business transactions [...] must be reflected accurately and fairly in the accounts of the company"   |
| <b>Statoil</b>       | "Makes its policy available to the public, openly reports its performance and uses a competent and independent body to verify its reported data"                                     |
| <b>Total</b>         | "The Group regularly provides to all its shareholders full and transparent information and is attentive to their concerns"   |

## CONCLUSION

Sustainable development includes social justice, equal income distribution, full employment, safe and healthy working environments, environmental protection and socio-economic welfare. The international legal framework that supports sustainable development rules is composed by mandatory instruments – treaties, conventions – and by guides and standards of international organizations. CSR Codes display statements in order to attend companies' safety at the international level throughout a minimum standard of conduct and behavior. These statements are prepared and based on this hybrid international regulatory system: the emerging sustainable development law. CSR Codes can play a central role to improve the quality of life in places where multinational companies do operate. However, CSR Codes compliance with a legal framework is necessary, even if this framework system is still under evolution and does not establish any mandatory enforcement rule. The respect of these premises may allow companies, through their CSR Codes, to improve human and socio-economic welfare at global level. In fact, this study has shown that most of the statements present at CSR Codes of the major oil and gas companies operating in Brazil do comply with the international framework on sustainable development law. Thus, compliance of CSR Codes with the international legal system is a proven fact. Nevertheless, States and their respective domestic legislation are not able to exert full control on transnational players, such as the transnational or multinational companies (PENINOU; HOLTHUS; KEBSCHULL & ATTALI, 1979; COSTA, 2010). Despite the lack of control over CSR Codes by States, one can argue that compliance of CSR Codes with the international legal system may be seen as a «global commons» understanding framework to improve sustainable development (COSTA, 2010).

However, some questions may be raised based on the conclusions of this study: 1) How to control enforcement of CSR Codes of the oil and gas industry at the global level? 2) How to monitor in a very efficient way at the global level the enforcement and compliance of all CSR Codes industries with the international framework on sustainable development law? 3) Can CSR Codes' statements be judicially used against companies when compliance of these statements is not fulfilled? 4) Are CSR Codes of the oil and gas industry an effective mechanism for globally integrating responsible practices of all

other industry sectors or only on industries where important investments are needed as the oil and gas industry? 5) Finally, are CSR Codes of less complex industry in accordance with the international framework on sustainable development law as well? The results of this study encourage future research on a better understanding of the implementation, enforcement and compliance of CSR Codes of other sectors where CSR initiatives are still in the early stages of development.

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## **AUTHOR'S BIOGRAPHY**

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