

Enhancing Environmental Regulations through Public Policies on Corporate Social  
Responsibility (CSR):

A Case study of the Offshore Oil and Gas Industry in Eastern Newfoundland.

By

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# ABSTRACT

The objective of this thesis is to contribute to the public policy literature on the role that government policies can play in supporting Corporate Social Responsibility (CSR). It does so through a case study of existing and potential relationships between government policy and CSR in enhancing environmental regulations in the offshore oil and gas industry of Eastern Newfoundland and Labrador (NL). The research analytically engages two concepts; environmental governance and CSR. Theoretically, a public-policy CSR classification model is developed, using a theoretical classification schemes on the role of government in CSR. The model is used to analyze the role government in NL can play in using CSR to enhance environmental regulation in the offshore oil and gas (OAG) industry of Eastern NL. The thesis adopts a mix of primary and secondary data for the case study. Primary data is gathered through key informant interviews, which are used to supplement findings in the literature. Data collected reveals that environmental regulatory regimes in NL's offshore OAG industry currently face numerous challenges; however, the study moves away from demanding more stringent regulations as an immediate solution, and concludes by recommending that the government of NL develop a public-policy CSR strategy. Such a strategy can incrementally strengthen environment regulations in the offshore OAG industry over time.

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# LIST OF ABBREVIATIONS

AA – Atlantic Accord

BERF – Business, Enterprise and Regulatory Reform

BITC – Business in The Community

BSR – Business for Social Responsibility

CAC – Command and Control

CBSR – Canadian Business for Social Responsibility

CC – Corporate Citizenship

CEC – Commission of the European Communities

CEPA – Canadian Environmental Protection Act

CIGs – Corporate Interest Groups

C-NLOPB – Canada Newfoundland Offshore Petroleum Board

CRC – Corporate Responsibility Coalition

CSR – Corporate Social Responsibility

DCCA – Danish Commerce and Companies Agency

DFID – Department for International Development

DFO – Department of Fisheries and Ocean

DIHR – Danish Institute for Human Rights

ECSR – Environmental Corporate Social Responsibility

EG – Environmental Governance

EMS – Environmental Management System

EU – European Union

FIPPA – Foreign Investment Promotion and Protection Agreements

FSC – Forest Stewardship Council

FTA – Free Trade Agreements

GCSRPP – Global Corporate Social Responsibility Policies Project

GBS – Gravity Based Structure

GRI - Global Reporting Initiative

IGO – International Government Organization

INGOs – International Non-Governmental Organizations

ISO - International Organization for Standardization

NC – Nature Conservancy

NGO – Non Governmental Organization

NRM – Natural Resource Management

NSA – Non State Actors

NSMD - Non-State Market-Driven

OAG – Oil and Gas

OECD – Organization for Economic Development and Development

RNRM – Responsible Natural Resource Management

SNRM – Sustainable Natural Resource Management

SR – Social Responsibility

TC – Transport Canada

TNCs – Trans National Corporations

UKDTI – United Kingdom’s Department of Trade and Industry

UNCHE – United Nations Conference on the Human Environment

VSR – voluntary self-regulations

WB – World Bank

WHP – World History Project, 2016

WNA – World Nuclear Association

# CHAPTER ONE

*(..We call for a common endeavor and new norms of behavior at all levels and in the interest of all. To this end, we appeal to “citizens” groups, to non-governmental organizations, to educational institutions, and to the scientific community... they will play a crucial part in putting the world onto sustainable development paths, in laying the groundwork for Our Common Future.) - Gro Harlem Brundtland. Oslo, 20 March 1987.*

## 1.1 BACKGROUND OF THE STUDY

The relationship between extractive industries and the environment has been under intense public scrutiny since the industrial revolution. This state of affairs is exacerbated by the increasing access to and sharing of information globally. A variety of social, economic, and political factors have blurred territorial borders of environmental externalities; thus extending the socio-economic and geographical impacts of industrial or corporate activities on a unprecedented scale. Some industrial activities have resulted in catastrophic environmental issues. For example, consider the Great Smog in the United Kingdom in 1952 caused by industry’s unsustainable use of coal (Davis, 2002) and the 1984 Union Carbide gas leak in Bhopal, India, which was a product of corporate negligence (Ingrid, 2005). Other examples include the Chernobyl nuclear plant explosion in Ukraine in 1986 (World Nuclear Association, 2016); the ICMESA chemical company explosion in Meda, Italy in 1976 (World History Project, 2016) and the Piper Alpha Occidental Petroleum Ltd platform explosion in 1988 (Macalister, 2016).

As far back as 1987, the Brundtland report “Our Common Future” espoused the growing realization that it is impossible to separate economic development issues from environmental issues (WCED, 1987). Many forms of development erode the environmental resources upon which they are based (WCED 1987, pg. 19), thus by default driving industry and the

environment on a collision course (Speth and Ebrary, 2008). Hence, the definition of sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their needs calls for a renewed look at development-related practices and policies to avert this collision (WCED, 1987. p. 54).

Traditionally, governments and institutions at the national and international level have been charged with the sole responsibility for checking and controlling the activities of industry on the environment (Barry, 2007). Thus, in response to the impact of industry on the environment, government institutions have adopted various environmental policy tools, like command-and-control regulations or economic incentives. The command-and-control (CAC) approach to regulation has been the dominant response of the government to natural resource management issues (Baldwin et al., 2011). By definition, Baldwin et al., (2011) expounds that the command and control approach to regulation is an effort by the government to manage the effects of human activities on the environment through laws, incentives, threats, contracts, and agreements. The use of the word control, in the concept, generally indicates that failure to comply will be met with negative sanction (Baldwin et al., 2011).

The command-and-control approach to regulation is an excellent tool used by the government to respond swiftly and decisively to environmental problems (Baldwin et al., 2011). Nevertheless, the 1970s and 1980s witnessed the emergence of new global environmental challenges, such as overfishing, increased methane pollution from industrial farming activities, poorly regulated aquaculture activities, tropical deforestation, and climate change (Rowlands, 1995). These environmental issues, which are partly a result of globalization, prompted a growing sense of the insufficiency of state-centric initiatives in adequately addressing global environmental problems (Barry, 2007).

Globalization has broadened the range of problems that national governments are called upon to address. Hence, this situation strains the resources of nation-states by integrating far-flung markets; and in the process intensify the use and depletion of natural resources, increase waste production, and engender a race-to-the-bottom as capital moves globally to countries and locations that have less stringent environmental standards (Lemos and Agrawal, 2006).

In addressing the externalities of globalization, the command-and-control (CAC) approach to regulation has been accused of being costly, inefficient, stifling innovation, inviting enforcement difficulties, and focusing on end-of-pipe solutions (Sinclair, 1997). End of pipe solutions address only the environmental problems that occur at the end of the production process (Business dictionary, 2016). In addition, the CAC approach to environmental regulation can be captured by the very industry it seeks to regulate (Baldwin et al., 2011), and this becomes detrimental to sustainable environmental policies. Regulatory capture is a common phenomenon when regulated actors and interests acquire more power and influence than the regulator. Government regulators can be ‘captured’ ideologically when governments share the ideology of industry or politically when actors within government make decisions based on industry preferences alone.

Hence, when the command-and-control approach is extended uncritically to the management of all natural resources, irrespective of the social, economic, and environmental context, this often results in unforeseen and undesirable consequences (Holling and Meffe, 1996). The barrage of critique levelled against the state-centric approach to environmental regulation since the 1970s has garnered considerable interest among academics and policy professionals in other types of regulatory alternatives (Barry, 2007). The consequence of the search for alternatives is that the discourse around environmental regulation moved from state-centric initiatives to environmental governance. Thus, it challenged governments, Non-Governmental Organizations

(NGOs), and International Governmental Organizations (IGOs) to co-operate at the national and global levels (Rowlands, 1995).

Environmental governance is the set of regulatory processes and mechanisms through which political actors influence environmental actions and outcomes; governance includes the actions of the state, and also, encompasses actors such as communities, businesses, IGOs, and NGOs (Lemos and Agrawal, 2006). A shift from government to governance is characterized by privatization, state transformation, shared public and private authority, and non-state rule-setting supplementing or even supplanting traditional command-and-control regulation (Rosenau, 2000).

As indicated in the preceding paragraphs, globalization weakened the command-and-control approach to environmental regulations. It is, however, interesting to note that the globalization of environmental problems also contributed to the creation and development of new global regimes, institutions, and organizations, dedicated to environmental governance (Lemos and Agrawal, 2006). It is thus reasonable to suggest that globalization helped democratize the regulatory process by increasing the participation and diversity of actors who shape environmental governance. Hence, current approaches to environmental policy making is decreasingly state-centered (Klooster, 2006). Similarly, Cashore (2001) argues that traditional domestic and international environmental policy making processes have seen an increasing change in which decision-making authority is shared with business, environmental and other organized interest groups (Cashore, 2001. p. 503).

The democratization of the regulatory process sees an increasing entry of non-governmental players known as non-state-actors (NSAs). NSAs are actors, who are not representatives of the state, but they operate at the national or international level, and they have grown in relevance to

international relations (Arts, 2006). There are five types of NSAs: Intergovernmental Organizations (IGOs); International Non-Governmental Organizations (INGOs); Corporate Interest Groups (CIGs); Trans National Corporations (TNCs); Epistemic Communities, and an undefined category which encompasses terrorist networks, professional organizations, and religious groups (Arts, 2006).

The rise of NSAs as key influencers of environmental governance is traced to the early 1970s, the year the United Nations Conference on the Human Environment (UNCHE) was held in Stockholm, in Sweden (Arts, 2006). The conference gave recognition and impetus to NSAs as collaborators in the quest to address the environmental impact of globalization. Thus, in the past 40 years, NSAs have been putting pressure on business practices and in some cases on government institutions to address social, economic and environmental issues. They have adopted a wide range of tactics, including boycott campaigns, social and eco-labeling of products and production practices, and environmental certification schemes to build influence (Auld et al., 2008). Unlike the command-and-control approach to environmental regulation, NSAs under the environmental governance approach generally lack the capacity to ensure compliance through the threat of negative coercive sanction. NSAs do not have the sovereign authority that states can exert. Hence, when businesses adopt environmental regulation that go beyond the requirements of the command-and-control regulation, and is developed by NSAs, this is termed corporate social responsibility (CSR).

Corporate social responsibility is a beyond-regulatory principle that guides business activities in society (Dahlsrud, 2008). Simply put, CSR is a discretionary act by a business that goes beyond the rule of law and that is guided by ethical values beyond economic values of profit making (Bowen, 1953). According to Reinhardt et al. (2008), contemporary business practices



referred to as CSR emerged in the US in the 1950s, when legislators intentionally left policy gaps to be filled by non-governmental forms of social initiatives. The neoliberal and minimalist approach to government characteristic of the US society created a fertile ground for CSR and philanthropic activities to grow in prominence (Dentchev et al., 2015). However, today Europe is regarded as a leader in CSR and CSR-related policies. This followed primarily from the downsized role of the state in regulation and social services by the Margaret Thatcher neo-liberal conservative government in the United Kingdom in the 1970s.

CSR literatures must acknowledge the specific historical and legal nature of corporations. For example, Reinhardt et al. (2008) studied the growth of CSR in the United States and Britain and identified that corporations were granted the legal ‘fiction’ of separate corporate personality. In return, the legal system imposes fiduciary duties of care and loyalty on businesses, to the society they operate, in order to ensure directors and managers do not act negligently or subvert corporate resources. In concord with Reinhardt’s submission, Brammer et al. (2012) espouses that corporations have always been a political creation (i.e. the state granted the firm the benefit of limited liability to facilitate the accumulation of capital). This extension of limited liability created a fundamental issue of corporate governance, thence key questions like what responsibilities society should place on the corporation in exchange for the legal privilege of a limited liability became a scholarly line of inquiry (Brammer et al., 2012).

Recently, CSR has become popular amongst public policy makers, NGOs, and academics concerned about the environment. Auld (2008) posits that the renewed interest in CSR is not only because of insufficiencies of the command-and-control approach to regulation but also as a result of the perceived ineffectiveness of many governmental and intergovernmental processes in addressing environmental challenges. He espoused that the situation is aggravated by an

acceleration of economic globalization, and a general interest in pursuing innovative ‘smart regulation,’ i.e. so-called win-win regulations, which could encourage entrepreneurial innovation (Auld et al., 2008).

To have smart regulations, Porter and Linde (1995) posit that environmental regulations must adhere to three principles. Firstly, environmental regulations must create the maximum opportunity for innovation, thus leaving the path to innovation in the hands of industry (i.e. CSR) and not in the hands of the standard-setting agency. Secondly, regulations should foster continuous improvements and finally, the regulatory process should leave as little room as possible for uncertainty at every stage of the process. Similarly, interest in CSR has been sparked by questions around the impact of corporations on indigenous peoples (Banerjee, 2000); Sustainable Development (Reinhard and Stavins, 2010); working conditions in developing countries (Radin and Calkins, 2006); the environment (Forbes et al., 2010), and political campaigns in developed democracies (Crouch, 2004).

This thesis examines the debate around CSR and analyzes what role governments have played in CSR and could play in the future. It then goes further to study how CSR could potentially be used to enhance offshore oil and gas environmental regulations in eastern Newfoundland, Canada.

## 1.2. RESEARCH PROBLEM

The analytical framing of research questions around corporate social responsibility (CSR) beyond the ambit of business or economics, and from an interdisciplinary perspective is still in its nascent phase. Thus, not much research has been done to understand the potential of engaging CSR aside from its perceived economic benefits to businesses and their corporate performance. Orlitzky (2011) posits that the brushing assumption of focusing corporate social responsibility on corporate performance had led to a simplistic and narrow framing of research questions in the CSR field.

However, scholars are beginning to study and understand issues around CSR from an interdisciplinary perspective and looking beyond just the economics of CSR, to the social, environmental and even public policy significance of the concept. Scholarly works in this area of research include those by Auld and Cashore. (2008), Bernstein (2008), Cashore (2002), Lozano (2008), Laura (2008), Reinhard (2008) and Vogel (2010). These scholars have contributed to the understanding of CSR from a governance perspective in particular. This breakaway from the traditional approach of inquiry thus opens up a new terrain to explore in the field of CSR.

The literature review, which will be discussed further below, shows a slow but growing legitimate role of national governments in encouraging CSR for responsible (and in some cases sustainable) natural resource management. Examples of countries where governments actively support CSR include Denmark, Brazil, China, Mexico, Netherland, Sweden, Peru, Canada and the United Kingdom (Ascoli and Benzaken, 2009). In a World Bank publication titled, 'Public Policy for Corporate Social Responsibility,' Petkoski and Twose (2003), espouse that governments should be proactive rather than reactive to engaging CSR in public policy making.

Thus, there exists the need to research the current role of government in engaging CSR and what opportunities (if any) CSR holds for enhancing public policy in the drive for environmentally responsible (and sustainable) natural resource management. Hence, this research will use the example of the offshore oil and gas industry in Eastern Newfoundland to identify opportunities (if any) of a government-led CSR model for environmentally responsible natural resource management. Specifically, the research will examine the environmental impact of offshore activities; review the current regulatory regime in the province; examine challenges with offshore oil and gas (OAG) regulation, and evaluate how the government can engage with CSR in order to consolidate current environmental regulations in Eastern NL's offshore oil and gas industry.

### **1.3. RESEARCH OBJECTIVES**

The Canadian province of NL is bustling with natural resource development activities, ranging from fisheries to forestry to petroleum, and mining. Understanding of how CSR can be used to enhance environmental regulation is limited by a lack of research, however. Thus, the study will use the example of the offshore petroleum industry in Newfoundland to contribute to understanding how CSR can be used to enhance oil and gas regulations in offshore NL. In this context, the research will:

- Conceptualize environmental governance;
- Conceptualize corporate social responsibility (CSR);

- Characterize and classify types of government policies on CSR;
- Examine the structure of the Eastern NL offshore oil and gas industry;
- Identify the current environmental regulatory regime in the offshore oil and gas industry of Eastern NL;
- Examine the challenges of environmental regulation in the offshore oil and gas industry of Eastern NL;
- Analyze environmental CSR initiatives adopted by businesses operating in the offshore oil and gas industry of Eastern NL; and
- Develop a public-policy CSR characterization model to understand how government can use CSR to enhance offshore oil and gas regulation in NL.

## **1.4. RESEARCH QUESTIONS**

The overarching research question is: How can a public policy framework on CSR strengthen environmental regulations in Eastern NL's offshore oil and gas industry and what lessons might this case offer for the broader research agenda on the relationship between government policy and CSR? To answer this, the thesis considers the following:

- What is the relationship between environmental governance and CSR?
- What is CSR and how has it evolved historically?
- What is the current role of governments in engaging CSR?

- What is the historical structure and composition of the offshore oil and gas industry in Eastern NL?
- What is the current structure of environmental regulation in the offshore oil and gas industry of Eastern NL?
- What are the challenges with the current environmental regulations in the offshore oil and gas industry of Eastern NL?
- What types of environmental CSR initiatives have oil and gas companies in the offshore of Eastern Newfoundland adopted?
- How can the province of NL engage CSR to enhance offshore oil and gas environmental regulations in Eastern NL?

## **1.5. METHODOLOGY**

The research adopts a case study design. A case study design is used to examine a social group, community, or institution. A case study provides a tool to study selected cases in detail within its context, and make assessment and comparison (William, 2006). An understanding of the role of CSR in natural resource management in NL is difficult because of the broad array of natural resources like forestry, petroleum, and fisheries which are in abundance in the province. The broad portfolio of natural resources in the NL, therefore, make the use of a case study to understand the role of CSR in natural resource management expedient. Using the case study of the offshore oil and gas industry in Eastern NL, the research assesses the current environmental

policy regime in the province and examines the role of government in engaging CSR as a complementary tool in responsibly managing natural resources in the offshore sector.

Data collected for this research are qualitative; qualitative data are descriptive in character and good for contributing richness and great insight into human society (William, 2006). The study gathered a mix of primary and secondary data. Primary data are data that have been observed, experienced or recorded close to the event. However, written sources that interpret or record primary data are called secondary data (William 2006). The research relies exclusively on information gathered from secondary sources, in addressing the key CSR issues discussed in the first, second, and third part of the thesis. Secondary data is gathered from published peer-reviewed academic journals, relevant internet web pages, published books, print and online news articles and available government documents. A content analysis of the secondary data is used to draw out environmental CSR strategies, lines of intellectual arguments around CSR, the structure of NL's oil and gas industry, and challenges to environmental regulations in the offshore oil and gas industry of Eastern NL.

In the fourth chapter of the thesis, the research adopts a combination of secondary and primary data. Primary data was used to supplement information retrieved from the literature and other sources. The study collected primary data through the conduct of interviews. Interviews are suitable for questions that require probing to obtain adequate information (William, 2006). The study used semi-structured key informant interviews. Three in-depth interviews were conducted, one with a key decision maker from an industry association, another with a major CSR Non-Governmental Organization and the last with a major offshore oil and gas company representative operating in Eastern NL. Although the thesis draws on just three interviews, the

data obtained from interview participants revealed important insight that was not available through secondary sources.

The use of primary data as a supplement in the fourth chapter is justified by the fact that there is a dearth of intellectual understanding of the role of government in encouraging CSR for responsible natural resource management in NL. Similarly, publically available information on environmental regulations in the offshore of Eastern NL is limited, and request for interviews with several key players was denied. Interview recruitment and identification was done through online research and purposive sampling, following ethics approval of the Grenfell Campus Research Ethics Board. As a type of non-probability (non-random) sampling method, purposive sampling is where the researcher selects what he or she thinks is a typical sample based on specialist knowledge or selection criteria (William, 2006). The low response rate made it difficult to rely on primary sourced data for a holistic picture of the role of CSR in natural resource management in NL. Hence, the use of the data gathered was used more to supplement and enrich the secondary data than provide the core data for the study.

The interviews were done over the telephone and in a semi-structured format. A semi-structured interview contains structured and unstructured sections with standardized and open-format questions (William, 2006). Data were recorded electronically with the consent of the participant, transcribed and analyzed using pattern analysis to help answer the fundamental research questions. Through information collected by interviews, a description and understanding of current environmental regulatory challenges and perception of CSR as a strategic natural resource policy tool in addressing problems with responsible natural resource management in the offshore oil and gas industry was enhanced.



## **1.6. CONTRIBUTION TO KNOWLEDGE**

A review of the literature indicates a growing interest from scholars in the study of CSR outside economics and business. Papers from these scholars are dwarfed when compared to academic papers on the economic and business case for CSR. In addition, there exists a dearth of academic papers on the role of government in supporting CSR for environmentally responsible natural resource management in NL in general and in the offshore oil and gas industry of Eastern Newfoundland in particular. Thus, this research will help fill this void by contributing global and regional knowledge to the growing field of CSR and public policy making for responsible natural resource management.

The literature reviewed has revealed that no study of this nature has been carried out in the offshore oil and gas industry of Eastern NL, making not only academic but also a practical understanding of the process, its properties and opportunities unavailable at this moment. Thus, in addition to providing new knowledge about the relationship between government policy and environmentally focused CSR in NL, the research develops knowledge relevant to the provincial government by offering recommendations on how to adopt CSR as a public policy to strengthen environmental regulations in NL.

The rise in environmental governance public policy tools since the 1970s when governments started to more seriously develop alternatives to command and control regulations underlines the importance of this study. Hence understanding and enhancing the role of government in strategically facilitating CSR for environmentally responsible natural resource

management in the offshore oil and gas industry can potentially make the province of NL not just a pace setter for environmental regulation in Canada, but also an attractive business investment hub among its competitors. Similarly, the study is expected to have application value in other natural resource industries like fisheries, forestry, and mining in NL and other jurisdictions.

# CHAPTER TWO

## 2.1 INTRODUCTION

The second chapter begins analyzes two concepts around which the thesis is organized: (a) Environmental governance and (b) Corporate social responsibility (CSR). The concept of environmental governance is crucial to understanding the role of government in CSR. The evolving relationship between the state, business, and civil society is discussed. The discussion then delves into a literature review of the evolution of CSR as a concept. Chapter two also examines the changing role of government in the CSR debate, and gives examples of government engagement with CSR initiatives in the United Kingdom, Denmark, and Canada. It then discusses scholarly tools for characterizing public policies on CSR. In addition, an analytical model is developed to aid in the classification and understanding of the role of government in engaging CSR. Finally, the chapter concludes by using the model to present examples of government initiatives in engaging CSR for social, economic, and environmental reasons from around the world.

## **2.2. CONCEPTUALIZING ENVIRONMENTAL GOVERNANCE:**

*The new interplay between the state, business and civil society*

It has been established in the introductory chapter of the thesis that the current epoch of environmental regulation is influenced by globalization; hence globalization helped move the debate on regulation from government to governance. The fundamental difference between government and governance is the inclusion of NSAs in the regulatory practice and discourse. Hence, a conceptual understanding of the changing role of government, civil society, and business in environmental governance practice and discourse is provided below.

### ***ENVIRONMENTAL GOVERNANCE AND THE EVOLVING ROLE OF THE STATE***

State governments have seen a shifting emphasis from the command-and-control governing mechanism to a de-hierarchical state-business and society relationship (Wolf, 2008). The state now shares power with other actors; however this situation does not erode the authority of the state, and its ability to enforce compliance through sanction when needed. Hence, the state oversees a functional division of labor and authority between itself and non-state actors (Wolf, 2008). The evolution of the state to accommodate the dynamics of environmental governance impacted state-business and civil society relationships at the domestic and international levels of environmental policy-making.

At the domestic level of governance, the late 1970s and early 1980s saw a variety of anti-government theoretical perspectives like neoliberalism which identified a crisis in democratic capitalism (Moon and Vogel, 2008). Concepts like un-governability, government overload and fiscal bankruptcy became popular from the neoliberal perspective. These problems spurred a new interest in the role of business and the importance of CSR (Moon and Vogel, 2008). Hence, at the domestic level, environmental governance creates circumstances under which the government can change its role from a provider of regulation to an enabler (Knill and Lehmkuhl, 2002). The decision of the government to change its position depends on the problem to be addressed and the resources available to address it (Wolf, 2008). For instance, when government is faced with an environmental problem, and institutions of government have a high problem-solving capability to address the issue, and the private sector has a low problem-solving capacity to address the same problem, the government might adopt the traditional hierarchical structure of regulation (Wolf, 2008). However, if both the state and private actors have high capabilities to address the situation, then the government might adopt a cooperative approach (Wolf, 2008). Similarly, when the state has low capacity and the private sectors has a high ability to address the issue, then the governance approach becomes is expected to be complementary (Wolf, 2008).

Table 1: A table showing the change in government's role in accordance with resources available to address problems

<b>Problem-solving capability</b>	<b>Environmental Governance</b>	<b>Role of the private sector</b>
The government has a high capacity to address the problem.	A hierarchical command-and-control approach is adopted	The private sector plays a minimal role in environmental regulation
The government has an equal level of capacity with the industry in addressing the problem.	A partnership or cooperative approach is adopted	The private sector works as a partner in addressing the problems.
The government has a low capacity to deal with the problem.	State play's a complementary role	The private sector takes the lead role in dealing with the environmental problem

Source: Table developed by author

The table above helps in the understanding of the dynamics involved in environmental governance at the state level. Wolf (2008) further expresses that it can be used to explain the interaction between public-private actors beyond the state (Wolf, 2008.p. 231). He underlines the idea that a crucial difference exists between the state and beyond state levels of governance.

Beyond the state level, national governments are no longer in authority (Wolf, 2008); rather, the state has to align itself with private actors, who make legitimate claims to market or moral authority based on normative, un-coerced consent or recognition (Hall and Biersteker, 2002. p.

5). For example, the government encourages or discourages environmental practices with the use of un-coerced instruments developed by IGOs and NGOs.

## *ENVIRONMENTAL GOVERNANCE AND THE EVOLVING ROLE OF CIVIL SOCIETY*

Civil society is a domain of associational life situated above the individual and below the state (Wapner, 1997. p. 65). Unlike government institutions, civil society is composed of organized groups who are private in form and they do not want to become a part of the state apparatus (Wolf, 2008). However, they are not like businesses, in the sense that they understand their activities are not commercial, but as value oriented, and as a direct contribution to the provision of public goods (Reinalda, 2001). Thus, civil society exists whenever people mobilize through voluntary association towards initiatives meant to shape or reform social order (Scholte, 2000).

Civil society is important in the environmental governance debate. Members of the society can provide access to otherwise restricted information and thereby contribute the voice of outsider interests otherwise not represented (Wolf, 2008). Civil society is also important because it can provide a channel of accountability to the environmental governance process (Buchanan and Keohane, 2006). Similarly, they can help states and multilateral institutions to formulate, implement, monitor and even enforce policies (Scholte, 2000).

Civil society adopts various tools to influence public policy. Prevalent is the use of confrontational tactics to mobilize public support for policy alternatives (Wolf, 2008).

Confrontational tactics include sit-ins, rallies, advertisements and documentaries revealing sensitive information, and legal action. Other civil groups try to influence environmental decision-making in a less confrontational way by making their way into the institutions they seek to affect. They work as lobbyists, consultants to national delegations, or as observers to international organizations and conferences (Wolf, 2008).

Prior to the globalization of environmental problems which was discussed in the introductory chapter of the thesis, civil society existed mainly within states. However, the globalization of environmental problems increased the interaction of civil society with the machinery of governance within and beyond the state (Wolf, 2008). The entry of NSA's in the 1970s at the global level prompted a change in the role of civil society actors, as a result of civil society groups increasing interaction with the state and business post-1970s (Wolf, 2008). The most significant change in roles occurred with regard to the most direct involvement of transnational civic actors in the core of regulatory functions.

Initially, civil society focused either on the input phase of the political process, that is in setting agendas, generation norms, and program development; or on the output side of the political process, where they focused on norm implementation or the evaluation of policies (Wolf, 2008). However, civil society's involvement is slowly shifting from the peripheries to the center of the environmental governance decision-making process (Wolf, 2008). For example, civil society now develops certification schemes and conducts third party verifications in a wide range of commodity sectors. A good example is the Forest Stewardship Council, which was created with leadership from an environmental NGO, the World Wildlife Fund, in the early 1990s as a response to tropical deforestation. As an NGO itself, the FSC today has a certification scheme that is recognized by regional, national and global markets (FSC: About Us, 2016).



Table 2: Characteristics of pre-1970s and post 1970s role of civil society

<b>Civil Society’s role Pre-1970s</b>	<b>Civil Society’s role Post 1970s</b>
<ul style="list-style-type: none"> <li>• Concerned with peripheral policies like setting agendas, generation norms, and developing programs.</li> <li>• Concerned more with domestic policies</li> </ul>	<ul style="list-style-type: none"> <li>• Concerned with developing governance systems like certification schemes, standards, and market instruments.</li> <li>• Concerned with both domestic and global policies.</li> </ul>

Source: A table developed by author

### *ENVIRONMENTAL GOVERNANCE AND THE EVOLVING ROLE OF BUSINESS*

Historically, the role of business in regulatory decision making can be traced back to the era of colonialism in the mid-16<sup>th</sup> century (Wolf, 2008). During the epoch of colonialism, private companies were empowered with charters by the state to operate in colonies held by the state (Keay, 1993). The Hudson’s Bay Company, for example, operated based on the Royal Charter by King Charles II of England in 1670. The company was granted the fiduciary power by the crown, to establish and enforce laws, have its own soldiers, maintain a navy and make peace or even war (Andra-Warner, 2003. p. 37). The gradual end of this arrangement between the state and corporations in the 19<sup>th</sup> century marked a steady dwindling in that type of relationship between the state and business (Wolf, 2008), and operations of transnational corporations (TNCs) were subject to scrutiny. TNCs were then seen as the originator of regulatory problems,

rather than problem solvers, and they became addressees of public legal regulations, rather than as private regulators or partners in the public-private governance arrangement (Baade, 1980).

By the late twentieth century, the political and academic debate about the role of corporations in world politics lies in the rediscovery of business as political actors through the lens of global governance (Wolf, 2008. p. 233). The lens avails policy and academic scholars to look at TNCs beyond the stereotype of economic actors who have outgrown the regulative capabilities of individual states (Wolf, 2008). Scholars now study the changing role of business in a globalized world from a governance perspective with the use of concepts like corporate responsibility (CR), corporate social responsibility (CSR), and corporate citizenship (CC) (Scherer and Palazzo, 2007). The changing role of business in the environmental governance literature is broad with scholarly arguments themed around concepts like CR, CSR and CC. However, it is clear that the traditional boundaries between business, civil society and the government have eroded (Wolf, 2008).

Table 3: Changing role of firms from the colonial era to the 21<sup>st</sup> century

<b>Role of business in governance during colonialism</b>	<b>Role of business in governance post- colonialism</b>	<b>Role of business in governance in a global society</b>
Firms had authority as the state in the colonies. They made laws, defended territory and provided basic amenities.	Had no authority and became subjects of the law.	Has moral authority to ensure it conducts its operations responsibly. This is called CSR, CR, or CC.

Source: A table developed by the author

In summary, it is evident that the change from government to governance has impacted the state, civil society, and business in one way or the other. It stripped national governments of its rigidity, it moved civil society from the peripheral to the center of regulation, and it increased the responsibility of business from economic entities to social and environmental players. Based on this, the following sections and chapters of the research examine how environmental governance has impacted CSR, and how the government can enhance environmental governance through CSR.

## **2.3. CONCEPTUALIZING CORPORATE SOCIAL RESPONSIBILITY**

According to Moon and Vogel (2008), traditional regulations have paved the way for new relationships among the government, non-state actors and corporations. Companies have decided to adopt voluntary self-regulations and self-reporting mechanisms on one hand, while on the other hand government institutions in response have engaged and supported some of these initiatives. Similarly, non-governmental organizations (NGOs) have acted as a catalyst to facilitate this innovative process through lobbying, thus creating an enabling environment to encourage responsible and sustainable practices from a voluntary perspective (Moon and Vogel 2008). As noted above, this innovative approach by businesses to pursue sustainable social and environmental initiatives can be termed as corporate social responsibility (CSR). However, prior to venturing into the conceptual debate around CSR, it is imperative to have a grasp of the historical development of the concept of CSR in the literature.

### *HISTORICAL EVOLUTION OF CSR AS AN ACADEMIC CONCEPT*

Carroll (1999) suggested that academic concern for social responsibility appeared as early as the 1930s and 1940s; he cited works of Chester Barnard (1938), J.M. Clark (1939), and Theodore Krepes (1940) as examples. However, Carroll (1999) also states that the modern concept of CSR could be traced to an era between the 1950s and 1990s; hence, emphasis will be placed on a historical review of the concept of CSR from 1950 to the 1980s.

In the 1950s, the predecessor of CSR was referred to as social responsibility (SR) (Carroll, 1999). Howard R. Bowen in 1953 published a book titled the Social Responsibility of

Businessmen; this book marked the beginning of the modern period of academic literature on CSR. Bowen (1953), in his publication, queried what responsibility to society businessmen had.

He defined social responsibility as;

The obligation of businessmen to pursue those policies; to make those decisions; to follow those lines of action which are desirable in terms of the objectives and values of our society (Bowen, pg. 6, 1953).

It is instructive to note that Bowen conceived CSR as a businessman's responsibility; this gender bias perspective to CSR both reflected the gendered biases in the modern business world and shaped the perception of CSR from the 1950s to the mid-1970s. He further argued that although social responsibility is not a panacea, it nevertheless contains an important truth of morality and ethics that must guide business in the future. Thus, Carrol (1999), Moon, and Vogel (2008) all expressed that Bowen is the originator of modern notions of Corporate Social Responsibility.

The 1960s saw conceptual definitions from individuals like Keith Davis and Joseph McGuire. Following the businessman perspective of Bowen, Davis defined CSR as businessmen's decisions and actions taken for reasons at least partially beyond the firm's direct economic or technical interest (Davis, 1960). Davis laid the modern foundation of looking at the likely long-run economic gain of CSR to the firm. His writings on the Iron Law of Responsibility further strengthened ideas about social responsibility and a business's social power. The Iron law of Responsibility states that social responsibilities of businessmen need to be commensurate with their social power (Davis, 1960. Pg. 71). Hence, Davis is also a significant contributor to the academic study of the concept of CSR. Similarly, Joseph W. McGuire (1963) defined CSR as the idea of corporations having obligations beyond economic and legal obligations to the society.

McGuire elaborated on what he meant by beyond economic and legal obligations to include an interest in politics, in the welfare of the community, education, employee satisfaction and the society as a whole, thus including social welfare and politics as obligations of businesses (McGuire, 1963). McGuire was hence the first to hint at the political influence and relevance of CSR.

Moving on to the 1970s, writings from Carroll (1979), Johnson (1971), the Committee for Economic Development (CED) (1971), and Sethi (1975) greatly influenced and shaped the nature of CSR. For example, Harold Johnson's definition of CSR in 1971 was the first hint at the possibility of a stakeholder approach to defining the concept. Following the path of Davis (1960), Johnson (1971) states that businesses carry out social programs to add profit to their organization in the end by working with all stakeholders.

A fundamental contribution to the concept of CSR also came from the Committee for Economic Development (CED) in 1971. The committee is an American-based nonpartisan business-led public policy organization that delivers research analysis and solutions to the critical issues in America (About CED, 2016). The body is comprised of representatives from business and academia. The CED examined the relationship between business and society as a social contract. Thus, business functions by public consent with the mandate to serve the needs of the community. According to the CED:

Business is being asked to assume broader responsibilities to society than ever before and to serve a wider range of human values. Business enterprises, in effect, are being asked to contribute more to the quality of life than just supplying quantities of goods and services. Inasmuch as business exists to serve society, its future will depend on the quality of

management's response to the changing expectations of the public (CED, 2016. Pg. 16).

The CED went further by articulating three centric circles of defining Corporate

Social Responsibility:

The *inner circle* includes the clear-cut essential responsibilities for the efficient execution of the economic function i.e. good products, safe jobs and economic growth.

The *intermediate circle* encompasses responsibility to exercise this economic function with a sensitive awareness of changing social values and priorities: for example, with respect to environmental conservation; hiring and relations with employees; and more rigorous expectations of customers for information, fair treatment, and protection from injury.

The *outer circle* outlines newly emerging and still amorphous responsibilities that business should assume to become more broadly involved in actively improving the social environment. (Carrol, 1999. Pg. 15).

Prakash Sethi was another major contributor to the concept of CSR in the 1970s. Sethi (1975) discussed dimensions of corporate social performance and stratified social performance into social obligation, social responsibility, and social responsiveness. According to Sethi (1975), corporate behaviour from a social obligation perspective is a response to market forces or legal constraint. On the other hand, social responsibility implies bringing corporate behavior up to the level of being at par with prevailing social norms, values and expectations of corporate performance. Finally, Sethi espoused social responsiveness as an anticipatory and preventive approach of a corporation to social needs. It is instructive to note a progression in the voluntary responsibility of businesses to the society in Sethi's stratification. Similarly, the 1970s saw a definition from Carroll. He defined CSR as the social responsibility of the firm that encompasses economic, legal, ethical, and discretionary expectations that society has of an organization at a

given point in time (Carroll, 1979). Carroll was among the first to conceive of a legal dimension to CSR.

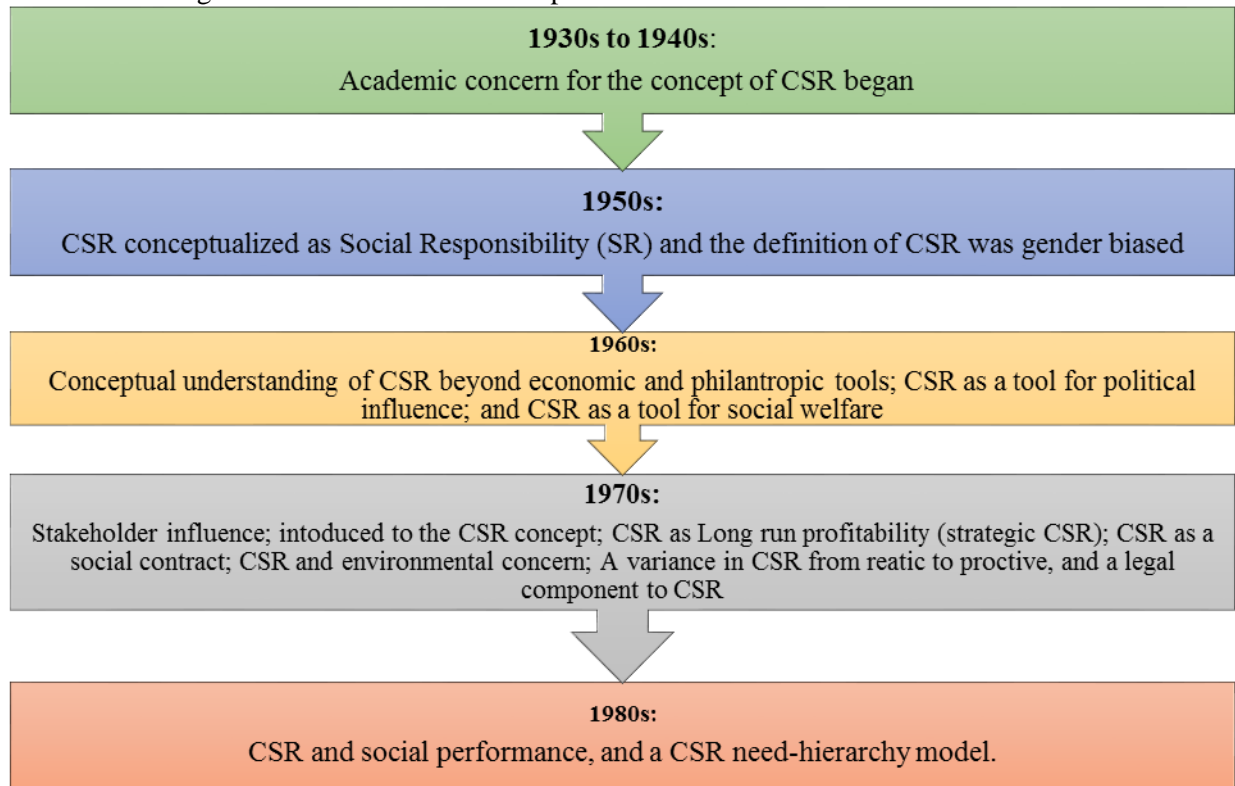
The 1980s is the last decade reviewed in the thesis. The era had no ground-breaking contributions to the conceptual definition of CSR (Carroll, 1999); however, there was an innovative drive among scholars to explore divergent perspectives of the concept of CSR. Sub-concepts like corporate social responsiveness, corporate social performance, business ethics, and stakeholder theory/management became prominent in the 1980s (Carroll, 1999). For example, Thomas Jones (1980) defined CSR as:

The notion that corporations have an obligation to constituent groups in society other than stockholders' and beyond that prescribed by law and union contract..... The obligation is a broad one, extending beyond the traditional duty to shareholders to other societal groups such as customers, employees, suppliers, and neighboring communities (Jones, 1980. Pg. 59).

In a drive to strengthen the concept of CSR, Tuzzolino and Armandi (1981) developed a need-hierarchy framework to operationalise the concept of CSR. Adopting Maslow's (1954) need-hierarchy idea, they posit like human beings, organizations have psychological, safety, affiliative, self-esteem, and self-actualization needs (Tuzzolino and Armandi, 1981). Hence, the CSR need-hierarchy framework provides a tool to assess a firm's corporate performance. However, although academic scholars have contributed immensely to the conceptual understanding of CSR, these contributions have not been without challenges, the most significant being an acceptable working definition for CSR.



Figure 1: Timeline of the conceptual evolution of CSR from 1930s to 1980s



Source: Diagram created by author

From the above diagram, it can be deduced that the 1970s saw the most significant contributions to the conceptual development and understanding of CSR. Most significant among the contributions is the inclusion of the environment in the CSR debate in the 1970s. The researcher is of the opinion that the rise of NSAs, and their acceptance at the 1970s United Nations Stockholm convention as key players in the environmental discourse, triggered the discussion on the relationship between CSR and its role in sustainable environmental practices.

## *Conceptual definition of CSR*

Conceptually, there exist inconsistencies and scholarly debates regarding the proper definition of CSR. Windsor (2001) (1993) submits that such arguments about fundamentals are typical of academic inquiry that is paradigmatically undeveloped or underdeveloped. Scholars are thus divided on an acceptable definition of the concept CSR. Scholars like Levitt do not even believe such a concept should exist, since wealth maximization is the only responsibility of businesses from his perspective. Therefore, he cautions against any broader conceptualization of CSR (Levitt, 1958).

Other scholars have defined CSR from different perspectives. For example, McWilliams and Siegel (2001) see CSR as actions that appear to further some social good. Baron (2001), however, sees CSR as executive motivations. This is similar to Freeman's opinion that CSR is an economic tool in balancing a multitude of stakeholder interests and demands (Freeman, 1984). Thus, for Freeman, it is not all about being good to the society; CSR should bring benefits to the company. Similarly, Carroll (1999) and Windsor (2001) have conceptualized CSR from a legal perspective. They believe CSR is not just a voluntary business endeavor, and that it can be imposed by law and regulation, a crucial point for the purposes of this thesis.

Thence, Orlitzky posits that greater progress may be possible if scholars focus more on specific dimensions of CSR (Orlitzky et al. 2011). In concord with Orlitzky, Dahlsrud (2008) submits that the complexity around the conceptual understanding of CSR is not because of the contradictory definitions existing in the literature, but it is as a result of varying contextual definitions among scholars (Dahlsrud, 2008). Therefore, from a conceptual perspective, a consensus seems to be emerging in the literature that CSR can be strategic (i.e. provide private

benefits to the firm), altruistic, or coerced (Husted, 2006). Similarly, as a concept, it is evident from most accounts that a definition of CSR must go beyond the assumption that firms are strictly a profit-driven economic actor in the society. Dahlsrud's (2008) point is crucial because it shifts the debate from futile arguments around a holistic definition of CSR to definitions of CSR according to multiple dimensions that account for variation across contexts. He formulated five contextual dimensions for defining CSR:

- The environmental dimension of defining CSR, which contextualizes business operations in a cleaner environment and environmental stewardship;
- The social dimension of defining CSR, which contextualizes the relationship between business and society;
- The economic dimension of contextualizing CSR, which emphasizes economic development and the profitability of business CSR initiatives;
- The stakeholder dimension of defining CSR, with emphasis on how business interacts with their employees, suppliers, customers, and communities; and
- The voluntary dimension of defining CSR, which examines business actions not prescribed by law but voluntarily based on ethical values (Dahlsrud, 2008).

What then is CSR? As underlined above, giving a broad and all-encompassing definition to CSR is a bit problematic. Nevertheless, as a solution, Alexander Dahlsrud in 2008 provided 37 definitions of CSR. At the time of writing this thesis, his collection of CSR definitions is the most comprehensive. However, using the five dimensions above as criteria, only definitions that are broad enough to include at least three elements from the five is presented in the table below.

The rationale for three as the minimum is because, mathematically, that is above the average, and from a logical perspective, it reveals the diversity in how CSR is defined.

Table 4: List of definitions that includes all five dimension CSR

Author	Definition	CSR dimensions
Frederick <i>et al.</i> , 1992	Corporate social responsibility can be defined as a principle stating that corporations should be accountable for the effects of any of their actions on their community and the environment.	Stakeholder Social Environmental
Reder, 1994	An all-encompassing notion, [corporate] social responsibility refers to both the way a company conducts its internal operations including the way it treats its workforce, and its impact on the world around it.	Stakeholder Social Environmental
Khoury <i>et al.</i> , 1999	Corporate social responsibility is the overall relationship of the corporation with all of its stakeholders. These include customers' employees, communities, owners/investors, government, suppliers and competitors. Elements of social responsibility include investment in community outreach, employee relations, creation and maintenance of employment, environmental stewardship and financial performance.	Stakeholder Social Environmental Economic
Business for Social Responsibility, 2000	Business decision-making links to ethical values, compliance with legal requirements and respect for people, communities and the environment.	Environmental Economic Social Stakeholder Voluntariness
Commission of the European Communities, 2001	A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis	Voluntary Stakeholder Social Environmental
UK Government, 2001	Corporate social responsibility recognizes that the private sector's wider commercial interests require it to manage its impact on society and the environment in the widest sense. This requires it to establish an appropriate dialogue or partnership with relevant stakeholders, be they employees, customers, investors, suppliers or communities. CSR goes beyond legal obligations, involving voluntary, private sector-led engagement, which reflects the priorities and characteristics of each business, as well as sectoral and local factors.	Voluntariness Stakeholder Social Environmental Economic
IBLF, 2003	Open and transparent business practices based on ethical values and respect for employees, communities and the environment, which will contribute to sustainable business success.	Voluntariness Stakeholder Social Environmental

		Economic
CSRwire, 2003	CSR is defined as the integration of business operations and values, whereby the interests of all stakeholders including investors, customers, employees and the environment are reflected in the company's policies and actions.	Voluntariness Stakeholder Environmental Economic
Ethics in Action Awards, 2003	CSR is a term describing a company's obligation to be accountable to all of its stakeholders in all its operations and activities. Socially responsible companies consider the full scope of their impact on communities and the environment when making decisions, balancing the needs of stakeholders with their need to make a profit.	Stakeholder Social Environmental Economic
Marsden, 2001	Corporate social responsibility (CSR) is about the core behavior of companies and the responsibility for their total impact on the societies in which they operate. CSR is not an optional add-on nor is it an act of philanthropy. A socially responsible corporation is one that runs a profitable business that takes account of all the positive and negative environmental, social and economic effects it has on society.	Social Environmental Economic
Ethical Performance, 2003	At its best, CSR is defined as the responsibility of a company for the totality of its impact, with a need to embed society's values into its core operations as well as into its treatment of its social and physical environment. Responsibility is accepted as encompassing a spectrum from the running of a profitable business to the health and safety of staff and the impact on the societies in which a company operates	Stakeholder Social Environmental Economic
Global Corporate Social Responsibility Policies Project, 2003.	Global corporate social responsibility can be defined as business practices based on ethical values and respect for workers, communities and the environment.	Voluntariness Stakeholder Social Environmental Economic

Source: Alexander Dahlsrud (2008), How Corporate Social Responsibility is defined: An Analysis of 37 Definitions

According to the above definitions, CSR is seen as a voluntary tool that is strictly initiated by business to address concerns of its stakeholders. This simplistic approach to CSR among scholars and policy practitioners does not account for various government initiatives that have spear-headed CSR. A good example is the government of the United Kingdom, which created policies around CSR. Similarly, since 2008, new developments have occurred in the CSR field that challenges the notion that CSR is voluntary. It is fair to say that Dahlsrud could not

have imagined that the government of India would mandate CSR upon businesses within its jurisdiction in 2014; hence, these new developments force us to question the meaning of the voluntary notion of CSR. Thus, based on these gaps, this thesis argues that a definition that encompasses both the role of the state and the possibility of CSR being mandate is necessary. The thesis provides a working definition of CSR as a voluntary or mandatory business practice that can be initiated by the government, civil society or business, which is based on ethical values and respect for workers, communities and the environment.

Another point to note from table 4 is the slow introduction of the environment into the sphere of CSR. Before 1970, early scholars did not see CSR as having a role to play in environmental management. For example, Keith Davis and Robert Blomstrom in 1966 wrote a textbook on Business and its Environment, and it is interesting to note that not even the word environment was mentioned in their definition of CSR (Carrol, 1999). In the decades since, the environment has arguably taken on the same importance in CSR debates as social issues. This is, however, apparently not quite the case for some of the leading researchers on CSR because the above 12 definitions taken from Dahlsrud's work were the only ones containing the environment. That means that as at 2008, 25 other writers, since 1970, did not consider the environment as a pertinent part of CSR.

The inclusion of the environment as a relevant issue along with social and ethical issues by CSR scholars was still not very popular in the early and mid-1990s. Carrol (1999) noted that when academic leaders were asked to rank critical CSR research areas, the environment came sixth, behind issues like business ethics, international relations and business and governance. This situation is, however, changing in the 21<sup>st</sup> century, with the environment becoming a critical component of business CSR strategies. It is against this backdrop that the thesis focuses on the

environmental aspect of CSR, and examines what role government can play in engaging environmental CSR for better natural resource management.



## 2.4. CSR AND THE ROLE OF GOVERNMENT

The CSR literature is moving away from questioning if CSR needs to be encouraged to how this encouragement should occur (Smith, 2003). CSR is seen as a new governance approach to the management of natural resource, where collaborative efforts are made between multiple stakeholders, including governments, to augment societal welfare (Dentchev et al., 2015). As Moon (2002) puts it, CSR is a new governance model where public policy is framed and implemented in voluntary efforts by inter-organizational networks of profit and non-profit organizations (Moon, 2002). Promoters of CSR seek to harness incentives to promote voluntary shifts towards responsible behavior, unlike the command-and-control policy approach that emphasizes mandatory enforcement and negative sanction.

Scholarly research into CSR is somewhat lopsided; in the past, the emphasis had been laid on the economic utility of CSR to businesses. Thus, little contribution has been made to understand the changing relationship between government and CSR initiatives. Scholars like Vogel and Moon (2008) posit that a new trend is emerging. Various levels and types of governments have recently begun to encourage the use of CSR to manage an array of environmental governance issues like carbon emissions in a different way, depending on the domestic policy gap (Vogel, 2010). However, from an academic perspective, they submit there is a fundamental dichotomy among CSR scholars on the relationship between government and CSR; they espoused the existence of two distinct groups.

The first group of scholars is of the opinion that the relationship between CSR and government regulatory agencies is mutually exclusive. Hence, CSR should not be in the sphere and radar of government regulation, and both could only co-exist in parallel isolation of one

another. A prominent member of this school of thought is the CSR skeptic Milton Friedman. Friedman sees little utility and possibility of government engaging CSR as a policy tool for sustainable social and environmental regulations (Carson, 1993). Friedman further posits that unlike public-policy makers, business managers are trained to do what is best for the balance sheet and shareholders value, and not explicitly for the public good as in the case of public policy officials (Friedman, 1970). This perspective is shared by some CSR skeptics. They believe that the acceptance of CSR's legitimacy by a firm may compromise the efficient functioning of markets (Crook, 2005). Other scholars criticize the silent take-over of government by corporations through CSR, arguing that it leads to excessive dependency of states upon large firms (Hertz, 2002). Hence CSR as a tool for the common good is contradictory to the profit generating model of business.

However, there exists a second group of scholars like Albareda et al. (2007), Fox et al. (2002), Crane and Matten (2004), and Gond (2011) who present a different view. Crane argues that the fear among CSR skeptics is misplaced, suggesting that the conception of an apparent dichotomy between the state and market is not tenable. The rationale is that a study of governance around the world shows that government structures the behavior of private actors to serve public ends through regulations and incentives (Crane and Matten, 2004)). Public policy is influenced by articulation and aggregation of business interests and their respective lobbying activities (Finer, 1958), irrespective of the political system. Hence, scholars in this group are of the opinion that the relationship between government and CSR initiatives is more fluid than rigid, and CSR does not exist in a vacuum. Moreover, the political environment in which a corporation operates goes a long way in determining and shaping its CSR motivations and strategies. Scholars in this group see CSR as a voluntary incentive-based regulative instrument

that government can adopt not in isolation of civil society lobbyist groups but together with those groups (Vogel, 2008). CSR is being embraced by national governance systems worldwide as a useful concept to address and shape a firm's social responsibility (Albareda et al., 2008). For example, the encouragement of CSR through ministerial leadership in the Thatcher and Blair governments in the UK (Moon, 2002), the Sarbanes-Oxley Act of 2002 on corporate disclosure in the US (Windsor, 2001), and France's new economic regulation (Dhooge, 2004). At the international level of governance, international organizations also engage CSR. For example, the European Commission sets out an agenda on CSR for businesses and governments within the member states of the European Union (Dentchev et al., 2015). Similarly, the United Nations promotes principles on human rights, labor standards, the environment and corruption among businesses through the UN Global Compact (United Nations Global Compact, 2016). Likewise, the Organization for Economic Co-operation and Development (OECD) recommends member countries to develop policies that ensure that multinational enterprises adhere to its Guidelines (Dentchev et al., 2015. Pg. 379).

Hence, it is evident that government institutions both at the national and international level show various degrees of interest in engaging CSR ((Dentchev et al., 2015), and the field of inquiry on the role of government in CSR is expected to only grow. As at the time of writing, there are 193 states recognized by the United Nations (UN, 2016), and each government has different resources at its disposal, a different public policy decision-making process, and unique political and economic systems. The divergence from one state to the other influences how governments engage CSR, and in turn, an attempt at an all-encompassing description of government's role on CSR without considering individual peculiarities will be misleading (Dentchev et al., 2015).

One major area of debate among academics on the role of government in CSR is the notion that CSR is a strictly voluntary endeavor businesses engage guided by ethical principles. For some scholars, the use of words like voluntary and ethics implies from a conceptual perspective that government should have a minimal role, if any, to play in the CSR debate. (Dentchev et al., 2015). The concept of voluntarism is usually synonymous with CSR. Academics, business managers, and government officials approach the voluntary nature of CSR from diverse perspectives (Dentchev et al., 2015). This is evident in the literature on CSR, as scholars argue about the impact of voluntary CSR on value creation in the society. The arguments are along the lines of pro-voluntarism, a mixed approach to voluntarism, and less-voluntary approach to CSR. Burke argues that CSR should strictly be a voluntary initiative, and suggests that voluntary CSR allows a firm to allocate resources in such a way that creates the greatest value for the company and society (Burke and Logsdon, 1996). The second line of argument, which is more in the middle, reveals that voluntarism in CSR may either increase or decrease the potential for value creation in society (Husted and Allen, 2007). The third line of argument, sees more utility in a less-voluntary approach to CSR. It consists of scholars like Porter and Linde: they espouse that voluntarism would ultimately not create value and only an active influence of the government on CSR would encourage innovation and value creation (Porter and Linde, 1995).

Hence, for some scholars, a brushing assumption that CSR is strictly voluntary appears to be misleading and simplistic. Few efforts have been made to understand the intricacy around CSR by scholars like Fox et al. in 2002, Albareda et al. in 2007, and Gond et al. in 2011. However, Dentchev argues the need for research on CSR and the concept of voluntarism, and the role of government in CSR. In the meantime, he provides a palliative alternative to

understanding the complexity of government's role in CSR, which he called the contingency plan. Contingency plan, according to Dentchev, is a fluid policy tool that governments should adopt in cases where voluntarism may lead to inferior competitive advantages among businesses. Once a problem is identified, according to this view, the government should step in to moderate the problem and provide a level playing field for all companies (Dentchev et al., 2015. Pg. 381). Dentchev does not conceive CSR should either be mandated or made voluntary by law; rather, his contingency plan looks at the role of government in CSR as broad, fluid and, adjustable to suit the peculiarity of the business environment it is regulating. Hence, the government can mandate some initiative while making others voluntary. This approach towards the voluntary nature of CSR guides the recommendations formulated in the subsequent chapters of the thesis.

Aside from the debate around the voluntary nature of CSR and how governments should engage it, the literature also shows that there is academic interest in studying different levels of government and how each level involves CSR. In a comprehensive study of levels of government in the CSR debate, Dentchev (2015) identified that national governments tend to play the lead role. This situation is not surprising, as a leading policy-CSR scholar argues that the national government is in most cases designated as the central governmental actor in setting out a CSR agenda (Albareda et al., 2008).

Coming right after the national government is an array of intergovernmental organizations. The European Union, the United Nations, the OECD, the World Bank and the World Trade Organization have all engaged CSR at one point or the other in the past few years (Dentchev et al., 2015). Although Dentchev's study identifies the national government a major player in the CSR debate, the study also reveals that government at the municipal, regional and supranational level are relatively active in engaging CSR too. The revelation of government's

role at the municipal or local level is critical to the scope of the thesis, which is the sub-national Province of Newfoundland and Labrador in Canada.

Table 5: Frequency, levels, and geographic orientation of government's engagement with CSR.

	Africa	Asia	Australia	Europe	Latin America	North America	Global specified	Global unspecified	Undefined	Total
Municipal	0	1	0	5	0	1	0	0	1	8
Regional	0	1	2	3	1	4	0	0	0	11
National	5	24	4	62	10	91	18	20	100	334
Intergovernmental	1	3	0	10	1	2	4	12	17	50
Court	0	0	0	0	0	10	3	0	4	17
Government agency	0	5	1	6	0	18	1	0	1	32
Public organization	0	5	1	4	0	6	0	0	3	19
Undefined	6	11	6	13	6	38	7	8	137	232
<b>Total</b>	<b>12</b>	<b>50</b>	<b>14</b>	<b>103</b>	<b>18</b>	<b>170</b>	<b>33</b>	<b>40</b>	<b>263</b>	<b>703</b>

Source: Dentchev et al., 2015.

The above table shows the spectrum of government engagement with CSR; the engagement is fluid and broad. For example, it reveals that the system of government, be it democratic, monarchical or autocratic, can shape and define the nature of CSR in society. The table further shows that governments on the continent of Europe and North America engage CSR more than governments in Africa, Australia, Asia and Latin America. This situation may not be decoupled from the political and economic system of governance in these countries. Moon and Vogel (2008) submit that in a democratic society, information sharing and lobbying may be an effective way that government, corporations, and civil society engage with CSR. However, in a repressive political environment, corrupt practices like bribery of top officials may be the order of the day, making socially and environmentally responsible behavior difficult for government and corporations to adopt as CSR initiatives.

The table similarly shows a disparity in how the national and intergovernmental institutions of both Europe and North America engage with CSR. At the national level, North America has a 30-point lead over Europe but is lagging behind by 8 points at the intergovernmental level. This situation, Pasquero (2004) argues, can be linked to the American system of governance, which embeds CSR in a property culture of individualism, democratic pluralism, moralism, and utilitarianism, thus limiting the command-and-control influence of government on corporations and by extension creating a breeding ground for CSR strategies at the national level.

In sharp contrast, Maignon and Ralston (2002) argue that in Western Europe, the collectivist culture towards public goods and stable government interaction with welfare activities and initiatives underlined the slower emergence of CSR strategies among European businesses at the national level. For example, government and labor unions in Western Europe influenced and mandated the pension, wages and health insurance scheme for businesses, making it difficult or unnecessary for corporations to include such initiatives in their corporate responsibility strategies (Vogel, 2010). However, more recently, intergovernmental organizations in Europe, like the European Union and the European Commission, have played significant roles in engaging CSR in the 20<sup>th</sup> and 21<sup>st</sup> century. Hence the active role of intergovernmental institutions in Europe accounts for the lead the continent has over North America.

In summary, although North America and Europe have different patterns of business-civil society, and government relationships, it is evident that the government in both jurisdictions play a significant role in shaping what CSR means in both cases. Hence, it is safe to agree with Fox's (submission that in general, governments have encouraged CSR through endorsement, exhortation, facilitation, and even partnering (Fox et al., 2002). However, as Dentchev et al

(2015) argues, there is still the need for more research to examine comprehensively the role of government in engaging CSR, particularly to take account of the ever-changing environment of global governance and the various under-studied sub-national contexts within states.

## EXAMPLES OF GOVERNMENT CSR INITIATIVES FROM EUROPE AND NORTH AMERICA

The literature reveals that CSR has been supported by governments in developed and developing societies (Ascoli and Benzakem 2009) (Albareda et al, 2008), and similarly in democratic and autocratic societies (Fox et al., 2002). The diversity in public policies attest to the fact that government's engagement with CSR is not novel, and the approach and motivations for these initiatives are unique from one state to the other, tailored towards identified policy needs. The model above reveals that governments can either have a proactive and strategic approach, passive and reactive approach, or adopt a haphazard approach, which merges both the strategic or reactive approach to CSR. An outline of various government policies on CSR is outlined in the table below.

### EUROPE - UNITED KINGDOM:

Compared to other European Union member states, the United Kingdom (UK) is considered to be a context where corporate social responsibility is most advanced (Peters et al., 2007). According to Brown and Knudsen (2012), under the then Prime Minister, Tony Blair, the UK was one of the first to adopt public policies on CSR. He set up a commission of inquiry, which



published in 1999 a New Vision for Business; this document sets broad goals for a government role in promoting responsible business practices. Motivations for these actions stemmed from the perceived need for the government to improve the competitiveness of companies in the UK, locally and globally (Brown and Knudsen 2012).

The year 2000 marks the year the first UK Minister for CSR was appointed, signifying the increasingly formal role of government supporting a CSR agenda. Housed within the Department of Trade and Industry (DTI), the public policies on CSR at this time were aimed at fostering the UK overall economic policy. The UK's first CSR Minister, Kim Howell, emphasized the business case for CSR with a focus on reputation and recruitment within the United Kingdom; however, externally, pressure from consumers and global supply chain issues were similarly recognized (Brown and Knudsen, 2012). However, over the following ten years, seven Ministers of CSR were appointed and the home ministry, which housed the initiative, was changed three times. Hence, this truncated CSR public policy making and eventually resulted in an indecisive direction of the UK government's policy on CSR thus far (Brown and Knudsen, 2012). However, a few patterns and dynamics can be identified.

In Brown and Knudsen's opinion, in the first few years post-2000, the emphasis of the CSR policy was on regional development and local employment. Later, in 2004, the then Minister of CSR, Stephen Timms, shifted the CSR-Policy focus to international competitiveness. He launched a project to define an international strategy for CSR that would bring together and expand existing initiatives throughout government agencies. The fourth CSR minister, Nigel Griffith, published the International Strategic Framework in 2005 to institutionalize his efforts. This points to the important fact that public policies on CSR are not static. In the UK, for example, it has been used to address contemporary societal issues as they arise.

The role of government in CSR in the UK also involves a range of actors. The main public sector actors that shape policies on CSR in the United Kingdom are the Department for Business, Enterprise and Regulatory Reform (BERR), and the Department for International Development (DFID). The main civil society actors that shape CSR in the UK are Business in the Community (BITC), and the Corporate Responsibility Coalition (CORE) (Peters et al., 2007).

#### EUROPE - DENMARK.

According to Brown and Knudsen (2012), CSR has been on the agenda of the Danish government since the early 1990s. For example, the Ministry of Social Affairs in 1993 launched a range of initiatives to encourage companies to employ immigrants, physically challenged people and long-term unemployed people. In 1995, the Minister for Social Affairs, Karen Jespersen wanted to involve businesses in an initiative to develop new solutions to social problems, with a focus on people outside the labor market with other problems than unemployment,” such as certain immigrant groups, substance abusers, or people with mental or physical handicaps.

The Ministry of Economics, as well as the Ministry of Foreign Affairs, also grew increasingly interested in the international case of CSR from around 2003, and Danish companies began to focus more on CSR challenges brought about by increased outsourcing (Brown and Knudsen, 2012). On the 16<sup>th</sup> of December 2008, the Danish Parliament (Folketing) officially endorsed international CSR and adopted a new Action Plan for Corporate Social Responsibility, which was a key element of a legislative Act amending the Danish Financial Statements Act. The Action Plan describes how globalization leads to new challenges for

companies that cannot be solved by governments alone (Brown and Knudsen, 2012). It draws from a broad portfolio of CSR tools, ranging from legislation, reporting, and voluntary multi-stakeholder initiatives (Peters and Rob, 2010). According to Brown and Knudsen (2012), the Action Plan includes four focus areas aimed at strengthening the competitiveness of Danish firms through CSR:

- Promote business-driven social responsibility among both large and small businesses;
- Facilitate business social responsibility through government initiatives including public sector purchasing schemes;
- Highlight Danish firms as front-runners in terms of climate responsibility; and
- Use CSR in order to promote Denmark as a champion of growth.

The government mandates CSR by requiring a large firm to report on the following:

- Social responsibility policies, including standards, guidelines or principles for social responsibility the business employs;
  - How the company translates its social responsibility policies into action, including any systems or procedures used; and
  - The company's evaluation of what has been achieved through social responsibility initiatives during the financial year, and any expectations it has regarding future efforts.
- If the company has not formulated any social responsibility policies, this must be reported (Brown and Knudsen, 2012).

The Danish Ministry of Economic and Business Affairs is the primary public agency responsible for the Action Plan on CSR. The Ministry partners with: the Danish Commerce and Companies Agency (DCCA); the Danish Institute for Human Rights, and; representatives from

business, NGOs, trade unions, academia, consumer groups and additional ministries (Peters and Rob, 2010).

According to Peters and Rob (2010), the Act empowers the Danish government to:

Engage CSR by mandating, creating soft law, partnering and using awareness-raising instruments to fostering CR measures within Denmark's private sector. The Danish Government has adopted a law making it mandatory for roughly 1,100 of the largest Danish companies to report their CR activities. The government also uses soft-law instruments to endorse universal principles such as the UN Global Compact. Partnering instruments tap the expertise of the private sector, NGOs, academia and the public through a process of consultation. Awareness-raising efforts focus mainly on promoting the idea of CR among small and medium-sized enterprises (SMEs) (Peters and Rob, 2010. Pg. 33).

The Danish government has also funded a UN Global Compact business network through monies from the Danish Foreign Ministry and the Danish Ministry of Economics and Business Affairs (Brown and Knudsen, 2012). The stated purpose was to prepare Danish firms for growing CSR demands from large international customers. In addition to using CSR as industrial policy, the Danish government also uses CSR to promote new forms of international development programs in collaboration with Danish firms. For example, the development branch of the Danish Foreign Ministry (Danida) has supported a wide range of public-private partnership projects. These partnerships try to encourage CSR programs of Danish firms when they operate internationally including: setting up schools in Ghana in collaboration with Danish confectionary company Toms and the NGO IBIS; funding access to water program in

collaboration with Danish pump manufacturer Grundfos; and supporting the sustainable growing of vanilla together with Danish enzyme producer Danisco (Brown and Knudsen, 2012).

## NORTH AMERICA: CANADA

According to the Global Affairs Canada website, the Government of Canada has a variety of initiatives that claim to demonstrate Canada's longstanding commitment to promoting responsible business practice. Like parts of Denmark's CSR approach, Canada's public policy on CSR is geared towards facilitating the commercial success of Canadian companies active abroad while enhancing the contribution of their activities to the broad economic growth of Canada and its trading partners (Global Affairs Canada, 2016).

The Government of Canada provides CSR-related guidance to the Canadian business community, including through Canadian embassies and missions abroad. The Government of Canada works with a range of interlocutors to promote CSR. Canada also supports CSR at multilateral and bilateral levels. Multilaterally, Canada promotes international CSR standards in a number of fora, including the OECD, the Group of Eight, the Asia-Pacific Economic Cooperation, the Organization of American States, la Francophonie, and the Commonwealth. Canada's efforts to promote CSR is further advanced at the bilateral level. For example, the inclusion of voluntary provisions for CSR in its most recent Foreign Investment Promotion and Protection Agreements (FIPAs) and Free Trade Agreements (FTAs), including those with Peru, Colombia, Panama and Honduras (Global Affairs Canada, 2016).

Canada's CSR strategy was launched in 2009 for the extractive sector, it encompasses mining, oil and natural gas. The policy was renewed in 2014 to help foster and promote

sustainable economic development and responsible business practices in countries where Canadian extractive sector companies operate abroad (Global Affairs Canada, 2016). The goal of the CSR strategy is to enhance the ability of Canadian international extractive sector companies to manage social and environmental risks, and to operate in a way that brings lasting benefits to local communities and host countries affected by their projects (Global Affairs Canada, 2016).

On a domestic level, the Ministry of Innovation, Science and Economic Development has a website dedicated to educating businesses in Canada on the importance of CSR and how to develop CSR frameworks for their businesses. It states that Industry Canada promotes CSR principles and practices to Canadian firms because it makes companies more innovative, productive, and competitive (Ministry of Innovation, Science and Economic Development, 2016). The website includes an implementation guide for Canadian businesses, a CSR toolkit, SME Sustainability Roadmap, International CSR standards, and related sites and links (Ministry of Innovation, Science and Economic Development, 2016).

It is evident from the examples that governments in Europe and North America are aware of and actively pursuing policies to enhance the potential effect of public policies on CSR. The next section in this chapter will provide a theoretical model that will further aid academic understanding of the role of government in engaging CSR.

## **2.5. THEORETICAL UNDERPINNING**

*A model characterising public policies on Corporate Social Responsibility*

Scholars have made a concrete effort to understand the relationship between public policy and CSR in the drive towards sustainable development from two theoretical perspectives. The first group of scholars, led by Albareda et al. in 2008, developed a relational framework as a model for analyzing the various public policies that governments may adopt to foster CSR. The model stratified CSR players into the government, business and civil society. It then analyzed the relationship that exists between them and how this in turn shapes CSR policies. The second group consists of scholars like Fox et al. (2002) and Steurer (2010), both of whom developed typologies to characterize CSR public policies. This approach explored the tools available to the government when interacting with CSR and under what framework these tools can and should be used. It is imperative to note that the relational framework is crucial to the understanding of CSR and the influence of various actors (business, civil society and government). However, this approach does not provide a clear picture as to what tools are available to the government and how these tools can be used to engage business's sustainable and responsible initiatives of natural resource management. Hence, the relational framework will not aid understanding of what role governments have played, and what tools and opportunities are available at the disposal of the government towards better engagement of CSR for natural resource management.

Based on the above analysis, the research reviews both Fox et al. (2002) and Steurer (2010) classification schemes of governments' role in engaging CSR. The study then draws strengths from each scheme to develop a holistic public-policy CSR classification model to aid in the theoretical understanding of why and how governments engage with CSR.

In a publication for the World Bank entitled *Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study*, Fox et al. (2002) researched a range of roles and themes related to public sector agencies. The roles and themes guide government activities

in providing an enabling environment for CSR in the drive towards responsible business practices and sustainable development. They categorized CSR initiatives along two axes; the first axis was by public sector roles. Fox et al. (2002) espoused that the government play the following roles:

- Mandating
- Facilitating
- Partnering
- Endorsing

The second axis reflects public sector activities under ten key public policy themes of the CSR agenda (Fox et al.2002). The themes are a product of the current social, economic, and environmental problems that governments want to address at a particular time; it serves as a framework that guides how the four CSR instruments can be used. Fox et al. (2002) streamlined the CSR themes into:

- Setting and ensuring compliance with minimum standards;
- Public policy role of business;
- Corporate governance;
- Responsible investment;
- Philanthropy and community development;
- Stakeholder engagement and representation;
- Pro-CSR production and consumption;



- Pro-CSR certification, “beyond compliance” standards, and management systems;
- Pro-CSR reporting and transparency; and,
- Multilateral processes, guidelines, and conventions.

The classification provided by Fox et al. (2002) has the merit of being relatively simple; that is, it is holistic in its ability to cover the complete CSR agenda in the new millennium, and neutral in that it does not reflect inherent biases toward any particular set of public sector actions as such, it only lists what roles government can play without recommending any as the best. However, this model was designed in 2002 to classify CSR tools adopted by governments for TNCs operating in developing countries in the new millennium. Hence, the scope of the classification scheme limits the ability of this tool to be applicable when addressing contemporary debates on CSR and the environment in the 21<sup>st</sup> century.

The second classification scheme is provided by Steurer. Steurer’s scheme (2010) addressed the above limitation in scope and applicability to environmental issues in his article titled, *The Role of Governments in Corporate Social Responsibility: characterizing public policies on CSR in Europe*. He posits that CSR started out as a neo-liberal concept to help downscale government regulations. However, it has matured recently into a more progressive approach of societal co-regulation between businesses, the government and civil society in recent years (Steurer, 2010). Thus, he provides a systematic characterization of public policies on CSR to understand this progressive approach towards societal co-regulation, which he argues comprehensively delineates public policies on CSR into *instruments* and *themes*. Unlike Fox et al. (2002), Steurer adopts public policy instruments in his stratification and understanding of government’s role in engaging CSR. Public policy instruments are tools of governance that represent the relatively

limited number of means or methods by which the government implements their policies (Howlett and Ramesh, 1993). Steurer states that his approach provides a broader picture of CSR public policy tools available to the government, and thus analytically equips researchers and public policy professionals with a tool in understanding the role of government in engaging CSR from a policy, and not a business, perspective. He stratified his characterization first into the following CSR Instruments:

- Legal Instruments;
- Informational Instruments;
- Partnering Instruments;
- Economic Instruments; and,
- Hybrid Instruments.

His second characterization was into the following CSR themes:

- Raise awareness and building capacity for CSR;
- Improve disclosure and transparency;
- Foster socially responsible investment (SRI); and,
- Government leads by example.

This classification scheme is neat and functional; it reflects a high level of generality and is relevant to contemporary debates on the government's role in CSR. However, it is limited in the sense that it does not encompass the role of the government in engaging CSR that is available in

the 21<sup>st</sup> century. Hence, this researcher concludes that this singular gap fundamentally weakens the analytical capacity of Steurer's framework to holistically account for a public policy role in engaging CSR initiatives. Also, Steurer (2010) noted that the four CSR policy themes he provided is subject to change as the policy field develops further (Steurer, 2010. Pg. 8).

This researcher similarly identified a disparity in CSR themes provided by Fox et al. (2002) and Steurer (2010). A further study of both schemes reveals the disparity is as a result of an attempt by both scholars to create a comprehensive list of CSR themes, roles and instruments that will address all issues. For example, the inclusion of partnership as an 'Instrument' as presented by Steurer (2010) is open to criticism. Creating and facilitating partnerships has guided the application of some economic instruments; hence, the government can decide to go into partnership with businesses, and in doing so, provide financial assistance (economic instrument), thus making it more suitable as a theme rather than as an instrument as done by Fox et al (2002) as far back as 2002.

Similarly, Fox's (2002) classification can be criticized for only stratifying CSR initiatives into government role in CSR, and CSR policy themes. The framework lacks the inclusion of CSR instruments that are available to the government, as done by Steurer (2010). The inclusion of CSR instruments in the model gives a better understanding of how the CSR policies and themes are implemented.

Such an approach to an analytical understanding of the role of government in CSR is, however, the wrong approach to take. This is because environmental issues like climate change, carbon emissions, and pollution are not static. Challenges and solutions to these problems are diverse depending on the social, economic and environmental context within which they exist. Hence, any model that classifies public-policy CSR themes, government's role and CSR

instruments should account for this continuous change. As a solution, this researcher adopts Dentchev's contingency plan approach, which sees the role of government in CSR as fluid and dependent on the peculiarity of the situation it seeks to address (Dentchev et al., 2015).

How then can we holistically understand the role of government in engaging CSR? In addressing the challenge of developing a holistic public policy CSR tool, the thesis recognizes the strengths and weakness of both classification schemes, and builds incrementally on the schemes. The current work underscores the need for integration across schemes to keep abreast with evolutionary trends in the CSR-public policy field. Thus, since Fox's classification is older but more comprehensive in scope, the thesis will synthesize both scholars' classification schemes and develop a holistic model that will take into account strengths and weaknesses of both Fox's and Steurer's classification.

The thesis thus proposes a model to characterize, holistically, government's role in engaging CSR in the 21<sup>st</sup> century. This model encompasses: the current *Role of Governments*; what *CSR Instruments* are currently available; and, examples of *CSR Policy Themes* that can shape these roles. The combination of the three elements has not been done before; hence, making this characterization model the most comprehensive to date. It is important to note that the use of examples of CSR themes in the model is an indication that there are numerous CSR-policy themes and the applicability of a policy theme to a situation does not mean it is applicable in all circumstances. Nevertheless, the author finds it important to note that governments' role, CSR instruments and themes are all fluid, and relative to the time and the challenges being addressed in that sphere of business-civil society, and government relations.

# A PROPOSED PUBLIC-POLICY CSR MODEL

## THE ROLE OF THE GOVERNMENT

### • **Mandating:**

Mandating CSR is the most engaging role government has yet played when interacting with CSR. Scholars have polarizing opinions concerning the role of government in mandating CSR and its implications.. The fourth chapter of this research discusses the debate around mandating CSR; however, in this section, the process of mandating CSR is discussed.

As a strategic public policy tool, governments define minimum environmental standards businesses must comply with. The existing legal framework is changed to include the new standard, and companies can be sanctioned for non-compliance. Examples include the establishment of emission thresholds for particular industrial activities, reporting requirements on the stock exchange, and compulsory donations.

The goal of this approach is to compel industry to innovate in the race to achieve the best (but cost effective) techniques, technology, or the best practicable environmental option to manage environmental footprints. Hence, what is “best” will change over time with technological innovation and technology transfer, opening the door for continued improvement (Fox et al., 2002).

### • **Facilitating:**

Unlike government mandating, when facilitating, the public sector plays a catalytic, secondary, or supporting role. In this case, public sector agencies enable or provide incentives to companies to engage with the CSR agenda for environmental improvements. For example, governments provide funds for research or by leading campaigns, information collation and dissemination, training, or awareness raising events, support voluntary labeling schemes, and Environmental Management Systems (Fox et al., 2002).

• **Partnering:**

Strategic partnerships can bring the complementary skills and inputs of the public sector, the private sector, and civil society to tackle complex social and environmental problems (Fox et al., 2002). In their partnership role, public sector bodies may act as main participants with full stakes in the outcome, background members with limited stakes in the outcome or mere convenors with no stakes in the outcome.

• **Endorsing:**

This approach entails political support and public sector endorsement of the concept of CSR and in particular, CSR-related initiatives of businesses. The approval can take various forms, including direct recognition of environmental efforts of businesses through award schemes, website publications, or at corporate sustainability events.

It is imperative to note that there are often no distinct lines when it comes to the government's application of these four strategies. For example, there may be cases where the government acts as a partner, but the incentive for partnership derives from the possibility

(explicit or implied) that mandating legislation may follow if a partnership is unsuccessful (Fox et al., 2002).

The above classification of government's role shows the spectrum of engagement government can have with CSR initiatives, starting from just endorsing with an arm's length approach to mandating which is full hands on approach to engagement.

Figure 2: Public policies – CSR engagement.



Source: Developed by author based on Fox et al., 2002

*Note: The red represents a low level of engagement; the blue and purple represent an average level of engagement while the green accounts for a high degree of engagement.*

## PUBLIC-POLICY CSR INSTRUMENTS

### **Legal Instrument (L.I):**

Also known as the soft stick approach, legal instruments prescribe expected choices and actions by making use of the state's legislative, executive and judicial powers. This tool is hierarchical and authoritative in nature with examples like laws, directives, and regulations. Unlike the command and control use of legal instruments, as a CSR tool it is either not universally binding, and businesses are not mandated to comply with it, or the enforcement is weak or non-existing as is the case with laws on CSR reporting (Steurer, 2010).

### **Economic Instrument (E.I)**

This tool also known as the carrot approach is based on the resources of the taxing authority and money. The rationalist approach is to influence behavior with financial incentives and market forces. Examples include tax breaks, financial awards for CSR reports, and subsidies. Unlike the command and control use of economic instruments, which sanctions with the



imposition of taxes, as a CSR tool, this tool is concerned with awarding tax breaks and subsidies as a means to encourage compliance (Steurer, 2010)).

### **Informational Instrument (I.I)**

This tool also is based on the resource of knowledge and moral persuasion. It is restricted to highlighting possible options and the likely consequences; they imply no constraints thereby with examples like campaigns, recognition, training and websites (Steurer, 2010)

### **PUBLIC-POLICY CSR THEMES:**

The CSR-public policy themes adopted below are adapted from both Steurer (2010) and Fox et al. (2002). It is a sample and not a representation of all the CSR-public policy themes government can address. CSR themes should be developed as the need arise; this will help keep it abreast with contemporary environmental, social and political changes, thus making it adaptable to any situation or society. Premised on this, the following are CSR themes that address pertinent current natural resource management issues in the 21<sup>st</sup> century:

#### **Ensure business meets and exceeds minimum regulatory standards**

The public sector can ensure firms exceed minimum standards by mandating, partnering, facilitating, or endorsing beyond regulation initiatives adopted by companies. By default, any compliance activity that goes beyond regulated requirement is a CSR initiative (Fox et al., 2002).

#### **Responsible investment**

Governments can take steps to promote socially responsible investment by enacting enabling legislation, which endorses particular systems of indicators and metrics, or by engaging

(facilitate, partner or endorse) civil society-led initiatives to promote socially responsible investment (Fox et al., 2002).

### **Philanthropy and community development**

Philanthropy and investment in community development initiatives are common CSR strategies for businesses. Governments can harness the community development potential of corporate philanthropy and social investment through dialogue (facilitate, mandate, partner, or endorse) to optimize their alignment with public sector goals (Fox et al., 2002).

### **Stakeholder engagement and representation**

The public sector has a vital role to play in facilitating meaningful stakeholder dialogue with the business community by building the capacity of civil society actors or by directly facilitating dialogue and multi-stakeholder processes (Fox et al., 2002).

### **Pro-CSR certification, “beyond compliance” standards, and management systems**

The public sector can tap into the growing field beyond compliance environmental certification and management initiatives. Some of these initiatives are developed in partnership with governments or entirely by third party bodies. In some other instances, the government has created guidelines designed to feed into the development of private sector codes of conduct or standards (Fox et al., 2002).

### **Pro-CSR reporting and transparency**

Sustainability reporting on nonfinancial policies and impact has become a tool of the CSR agenda. Social and environmental reporting by companies has attracted government attention. Hence, the government has mandated, facilitated, endorsed or partnered in ensuring transparent sustainability reports or shared with the public (Fox et al., 2002).

### **CSR education by raising awareness and building capacity**

Due to the voluntary nature of CSR, management activities and corporate performance essentially depends on how social and environmental concerns are perceived among both companies and stakeholders. Thus, a significant activity of government is to raise awareness for CSR and build the respective capacity between both groups (Steurer, 2010).

Table 6: A Public-Policy CSR Model for characterizing how Government engages CSR

Government's Role →	<b>Mandating CSR.</b>	<b>Partnering CSR.</b>	<b>Facilitating CSR.</b>	<b>Endorsing CSR.</b>
CSR Policy Theme ↓	and An example of CSR Instrument.	And An example of CSR Instrument	And An example of CSR Instrument.	And An example of CSR Instrument.
Setting and ensuring compliance with minimum standards.	Compels business to meet minimum environmental standards. <b>L.I:</b> Laws	Develops minimum standards with business. <b>E.I:</b> Provide funds and technical know-how	Encourage business to meet minimum standards. <b>E.I:</b> Use of tax cuts or access to market	Recognize firms that meet the minimum standard. <b>I.I:</b> Awards and Publication on government websites
The role of business in public policy.	Develop a framework for companies' responsibility to the environment. <b>L.I:</b> Laws	Develop frameworks on private-sector roles in public policy making. <b>E.I:</b> Provides funds and tax cuts	Promote private-sector role in public policy <b>E.I:</b> Tax breaks; Access to markets	Support private-sector role in public policy. <b>I: I</b> Awards and recognition
Responsible Investment.	Mandate responsible investment <b>L.I:</b> Laws; Metric systems.	Collaborates in responsible investment initiatives. <b>E.I:</b> Cost sharing; Funding;	Promote responsible investment initiatives. <b>E.I:</b> Tax breaks; Access to market.	Support responsible investment initiatives <b>I.I:</b> Website publications and awards.
Philanthropic and community development.	<b>*Note Applicable</b>	Framework to harnesses the potential of corporate philanthropy <b>E.I:</b> Tax incentives	Set goals to leverage corporate philanthropic initiatives. <b>E.I:</b> Tax breaks; Access to market.	Support corporate philanthropic initiatives <b>I.I:</b> Website publications and awards.
Stakeholder engagement and representation.	Framework for active stakeholder engagement. <b>L.I:</b> Law mandating stakeholder engagement.	Framework for active stakeholder engagement. <b>E.I:</b> Tax incentives.	Set goals for stakeholder engagement. <b>E.I:</b> Tax incentives.	Recognizes active stakeholder engagement. <b>I.I:</b> Publications ranking businesses and how they engage stakeholders
Pro-CSR certification. Beyond compliance standards and management Systems.	Mandate companies adopt certification or management schemes. <b>L.I:</b> Legal priority given to firms with schemes, or management systems when awarding contracts.	Implement locally appropriate certification or management systems. <b>E.I:</b> Tax incentives; Access to market.	Encourage companies to adopt certification or management schemes. <b>E.I:</b> Tax incentives; Access to market.	Recognizes companies that adopted certification or management schemes. <b>I.I:</b> Website publications;

				Awards
Pro-CSR reporting and transparency.	Mandate companies disclose environmental footprint. <b>L.I:</b> Legal priority is given to firms who report.	Develop locally relevant reporting tools. <b>E.I:</b> Tax incentives, Access to market.	Encourage adoption of third party reporting tools like GRI. <b>E.I:</b> Tax incentives; Access to the market.	Differentiate firms that are reporting from companies that are not reporting. <b>I.I:</b> Website publications; Awards
Raising awareness and building capacity for CSR.	Mandates CSR education initiatives for government, business and civil society. <b>L.I:</b> Legislations	Build institutions to educate and strengthen the capacity of CSR. <b>E.I:</b> Tax incentives; or access to the market.	Create a platform for CSR education and capacity building. <b>E.I</b> Tax incentives; or access.	Create CSR tools on online to educate business and civil society on CSR <b>I.I:</b> Websites publications; Awards

Source: Table developed by author

*Note: The red represents a low level of engagement; the blue and purple represent an average level of engagement while the green accounts for a high level of engagement*

Government’s role in engaging CSR can now be better understood with the aid of the public-policy CSR-characterization model above. The model is used in the next section, to provide a panoramic view of various public policy CSR initiatives from around the world.

The model is also used in subsequent chapters of the thesis to understand what CSR-public policies are available to the government of Newfoundland, what CSR themes are available, and what CSR instruments the government can adopt to address current regulatory challenges in Eastern Newfoundland’s offshore oil and gas industry. The aim of the model is to present the Government of Newfoundland and Labrador with a CSR public policy tool underlining the opportunities of a CSR strategy in consolidating the current environmental governance structure in the province of Newfoundland and Labrador. However, before doing

that, the researcher provides a comprehensive list of examples of government initiatives to support CSR from eight countries.

Table7: Table characterizing public-policy CSR initiatives from eight countries

Government's Role	Mandating CSR.	Partnering CSR.	Facilitating CSR.	Endorsing CSR.
CSR Policy Theme				
<i>Setting and ensuring compliance with minimum standards.</i>	<b>Brazil:</b> The National Economic Development Bank developed binding ethical codes of conduct banks must comply with when funding projects.	*No example	*No example	*No example
<i>Responsible Investment.</i>	<b>China:</b> The Chinese Communist Party developed Labor Contract Laws that mandates companies to invest in workers' protection. <b>Sweden:</b> The National government requires the National Pension Fund to draw up an annual business plan describing environmental and ethical considerations in its investment activities.	<b>Britain:</b> The United Kingdom Department for International Development (DFID), with the aim of reducing poverty and promoted human rights abroad, collaborated and financially supported the Ethical Trading Initiative. <b>Denmark:</b> The Danish Ministry of Employment in the early 2000s encouraged public-private partnerships that focus on domestic social inclusion initiatives like creating jobs for disabled people, refugees, and job training initiatives.	<b>Denmark:</b> The Danish government offers companies wage subsidies for a total of 26 weeks to enable businesses to hire workers with other problems than unemployment.	<b>Mexico:</b> The federal government organizes a public ceremony to recognize companies that invest in people with disabilities.
<i>Philanthropic and community development.</i>	*No example	<b>Britain:</b> The British government developed a tax regime for businesses that engages in corporate community involvement and giving.	*No example	*No example
<i>Stakeholder engagement and representation.</i>	<b>Peru:</b> The ministry of Mining and Energy requires companies to contribute 3 to 4 % of pre-tax profit to community development fund.	<b>Sweden:</b> The Ministry of Foreign Affairs promotes CSR through Swedish Partnership for Global Responsibility and provides members with workshops, seminars, and other engagement platforms.	<b>Peru:</b> The Ministry of Mining and Energy developed voluntary guidelines for companies to facilitate community relations and citizen participation.	*No example
<i>Pro-CSR certification. Beyond compliance Standards and Management</i>	<b>Britain:</b> the government developed a consensus-based certification standard for	*No example	<b>Mexico:</b> The Mexican Institute for Certifications and	<b>Brazil:</b> The National government

Systems.	stakeholders.		<p>Norms published CSR guidelines for the private sector, which are legally non-binding.</p> <p><b>Britain:</b> The government promoted CSR standards by encouraging United Kingdom business to adopt the Global Compact, ETI, EITI, ISO 26000 etc. to foster civil society in the Middle East and elsewhere.</p>	use a CSR label to recognize companies that have good CSR practices
<i>Pro-CSR Reporting and Transparency.</i>	<p><b>Sweden:</b> the national government mandates reporting and audits state companies.</p> <p><b>Britain:</b> The National government in 2004 introduced regulations within the Companies Act, which mandates reporting on ethical, social, and environment issues of companies in the UK and subsidiaries abroad.</p> <p><b>Denmark:</b> The Danish legislation on CSR mandates that large firms report on CSR initiatives in their annual report using UN Global Compact Guidelines.</p>	<b>*No example</b>	<p><b>Britain:</b> The British government facilitated the creation of the International Strategic Framework (ISF) in 2005, which is a standardized reporting framework for CSR, and promoted the establishment of the Extractive Industry Transparency Initiative (EITI).</p>	<b>*No example</b>
<i>Raising awareness and building capacity for CSR.</i>	<p><b>Brazil:</b> The Ministry of Labor binding requirements to publish materials promoting sustainable economic activities, and national Campaigns.</p>	<p><b>Mexico:</b> The Ministry of Economics allocates funds for CSR programs to improve the competitiveness of SMEs.</p> <p><b>Sweden:</b> The Swedish Business Development Agency funds projects promoting CSR initiatives in SMEs.</p> <p><b>Britain:</b> The Department for Environment, Food, and Rural Affairs funds projects in the nine English regions that contribute to one of the four U.K. Sustainable Development Strategy</p>	<p><b>Britain:</b> The Minister for CSR in 2002 initiated the Corporate Challenge Program, which included a £2 million campaign to foster payroll giving and employee volunteering, aimed at local charities.</p> <p><b>Sweden:</b> The Swedish Consumer Agency promotes awareness among consumers on CSR through training materials and organization of</p>	<p><b>China:</b> The Shenzhen-Exit Inspection and Quarantine Bureau developed a credit blacklist published to expose companies that break labor laws.</p>



		<p>priorities.</p> <p><b>Britain:</b> The Department For International Development funds CSR organizations that engage in Ethical Trading Initiatives.</p>	<p>roundtables with stakeholders.</p> <p><b>China:</b> The Chinese Communist Party developed guidelines on how to embed CSR into foreign and Chinese companies operating in China.</p> <p><b>China:</b> The government of Shenzhen holds a public hearing on CSR to educate local businesses on the importance of CSR.</p> <p><b>Canada:</b> The Foreign Affairs and International Trade Canada through Canadian Embassies abroad hold CSR events in various countries.</p> <p><b>Canada:</b> Industry Canada organizes workshops, provides online resources and toolkits for businesses on the benefit of CSR.</p>	
<p><i>Leadership by example.</i></p>	<p><b>Mexico:</b> The National Women’s Institute promotes gender equality by enacting enabling legislations and capacity-building inside government.</p> <p><b>Britain:</b> The National Government mandates departments and agencies to include environmental and social costs and benefits in regulatory impact assessment processes.</p> <p><b>Britain:</b> The government’s Sustainable Development Strategy developed in 2005 requires all ministries to compile action plan and report on activities.</p> <p><b>Brazil:</b> The State of Sao Paulo mandates elected Mayors to publish a list of</p>	<p><b>Brazil:</b> The National Economic Development Bank provides funds specially allocated to CSR projects.</p>		

	goals for their term, which addresses sustainable development.			
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Source: A table developed by the author, with information adopted from Ascoli and Benzaken, 2009, and Peters and Rod, 2010.

In summary, the second chapter of the thesis has been able to address three key research objectives. It conceptualized environmental governance and explained the changing relationship between the state, business, and civil society. The concept of CSR was also extensively discussed, its historical antecedence as an academic phenomenon was examined, and pertinent debates about its definition and scope were engaged. The chapter similarly delved into the theoretical debate of characterizing CSR. A model was developed using three fundamental tools: government role, CSR instrument, and CSR themes. The model was then operationalized by using it to characterize examples of government roles in CSR initiatives from around the world.

## **CHAPTER THREE:** *NL Offshore Oil and Gas industry*

### **3.1 INTRODUCTION:**

The third chapter of the thesis provides an overview of the NL oil and gas case study. Using a literature review, it examines the history of the offshore oil and gas industry in Eastern Newfoundland. The regulatory structure of the offshore industry is investigated, oil and gas projects in the offshore industry are also examined. The chapter ends with an analysis of major businesses in the industry and environmental CSR initiatives they have adopted.

## **3.2 HISTORY OF THE OFFSHORE OIL AND GAS INDUSTRY IN EASTERN NEWFOUNDLAND**

Newfoundland is an island, and with the mainland region of Labrador, is the most easterly province in Canada (Statistics Canada, 2013). The province's capital, which doubles as the largest city is St. John's, is located in the eastern part of the island (Statistics Canada, 2013). The province is the last British Dominion to join Canada and joined the federation of Canada on the 31<sup>st</sup> of March 1949 (Heritage Newfoundland and Labrador, 2011).

NL's economy is dependent on natural resources, predominantly mining, forestry, fisheries, and off and onshore oil and gas. For many years, before offshore exploration started in the province, the most important economic activity was cod fishing Neeleman, E. (2016). However, since the 1960s, the province has been experiencing chronic economic hardship. The hardship is a result of declining fish stocks, which reached its peak in the early 1990s, when the cod fish industry collapsed (Heritage Newfoundland and Labrador, 2011).

Figure 3: Map showing offshore oil and gas activities in Eastern Newfoundland



Source: Government of Newfoundland and Labrador (2001)

This chapter identifies the key dimensions of the historical, political, economic, and environmental context of the offshore oil and gas industry in Eastern Newfoundland and Labrador.

Historically, Carter (2011) espoused, the province of Newfoundland and Labrador was primarily made up of a settler population focused on the extraction and export of raw materials to meet the region's subsistent needs, which resulted in a continual dependence on external forces. This trend is characteristic of interactions with the fisheries, forestry, and now oil and gas natural resources.

Newfoundland and Labrador experienced its first oil and gas exploration off the coast of Eastern Newfoundland as early as the 1960s, with Mobil Oil carrying out the first seismic survey (Higgins, 2011); however, commercial interest in the province's oil resources was relatively low, partly because at that particular time on the global stage, there was an abundance of oil fields that were cheaper and easier to invest in (Fusco, 2007). However, with the creation of OPEC and a combination of other factors, oil prices began to rise in 1973, which kindled a renewed interest in Newfoundland and Labrador's offshore oil and gas resources. The discovery of the Hibernia oil field in 1979 by Chevron Standard Limited catapulted Newfoundland and Labrador into the community of oil and gas resource-rich nations, and in Carter's (2011) opinion, hence generated potential to break Newfoundland and Labrador from its history of poverty and underdevelopment, and transforming it to a province with high economic potentials.

From a regulatory perspective, a 1967 ruling by the Supreme Court of Canada in a case regarding offshore mineral rights in British Columbia determined that the property in the bed of the territorial sea, and the rights to explore and exploit the resources of the continental shelf off the Pacific coast, rested with the Canadian federal authority (Gilmore, 1984 Pg. 175). Hence, precedence had been set, establishing offshore regulatory jurisdiction exclusively in the hands of the Canadian federal government.

In contrast to the court's ruling, the province of Newfoundland and Labrador wanted to maintain complete hegemony on its offshore resources (Fusco, 2007). The unprecedented hope of NL emerging as a potential economic powerhouse for the North Atlantic region of Canada created friction between the provincial and federal government regarding who had the final authority on offshore oil and gas activities in Newfoundland. Thus, the desire of the province to control the offshore oil and gas resource in the offshore set it on a collision course with the

federal government of Canada, who's primary concern in the early 1970s was to profit from the sale of the oil resources (Laxer, 2008).

The on-going jurisdictional debate made the first offshore discovery (Hibernia) problematic, because the province was poised to implement its established regulations. These underlined maximum local benefit, while the federal government on the other hand had created its own goals for oil development with emphasis on strengthening the national treasury with oil revenues (Fusco, 2007). The federal government believed at that time that oil was too valuable to leave to the province, and the development of the Hibernia field was an essential part of the national energy strategy; the strategic view contradicted the goals of the province in its drive for economic benefits to the region.

The conflict of interest at the federal and provincial level resulted in a lengthy legal battle over jurisdiction between the federal and provincial government (Fusco, 2007), and as a direct impact, oil and gas developments were delayed off the East coast of NL for many years. The dispute took a new turn on the 12<sup>th</sup> of February, 1982, when the NL Progressive Conservative government, headed by Premier Peckford, submitted a question to the Court of Appeal of the Supreme Court of Newfoundland (Gilmore, 1984. Premier Peckford asked the court:

Do the lands, mines, minerals, royalties or other rights, including the right to explore and exploit, and the right to legislate, with respect to the mineral and other natural resources of the seabed and sub-soil from the ordinary low-water mark of the Province of Newfoundland to the seaward limit of the continental shelf or any part thereof belong or otherwise appertain to the province of Newfoundland? (Gilmore, 1983. Pg. 175).

The Attorney General of NL worked with his colleagues in Alberta, British Columbia and the federal Supreme Court to answer the question. Although the Attorney General of Canada

submitted an answer nullifying any claims Newfoundland may have to the offshore, the Attorney General of Newfoundland was able to present an extensive Factum in response to his counterpart at the federal level. A Factum is a written summary of a litigant's position to be taken and expounded upon in a judicial proceeding, including a concise summary of relevant facts and law and brief arguments with reference to authorities where applicable (Duhaime's Law Dictionary, 2016).

The Factum traced NL's right to the offshore resource to as far back as March 31<sup>st</sup>, 1949, when the territory joined Canada. The Factum expressed that prior to becoming a province in Canada, Newfoundland possessed sufficient international personality to be directly endowed with all the rights attributed by international law to a coastal state in the seabed and subsoil adjacent to its coasts (Gilmore, 1983. Pg.176). Such rights include sovereignty over the bed and subsoil of international waters and territorial sea, and sovereign rights for the exploration and exploitation of the natural resources of the continental shelf, giving rise to a proprietary right in municipal law (Gilmore, 1983). His opinion is in accordance with Higgins (2011) article which states that section 37 of the Terms of the union expressed that:

All lands mines, minerals, and royalties belonging to Newfoundland at the date of Union (1949), and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the Province of Newfoundland, subject to any trust existing in respect thereof, and to any interest other than that of the Province in the same (Higgins, 2011).

The Attorney General of Canada wrote a counter Factum stating that Newfoundland could not demonstrate that the province entered the Confederation with the rest of Canada, and having a significantly different agreement from those of British Columbia or any other province ((Gilmore, 1983). Hence, Newfoundland lacked the status to avail itself of rights at international



law and that its territory is extended only to the low-water mark (Gilmore, 1984 Pg. 176). In 1984, the Supreme Court of Canada ruled in favor of the federal government, and conferred ownership and jurisdiction of the offshore in Newfoundland to the Government of Canada (Carter, 2011).

The hopes of the province settling its jurisdictional dispute with the federal government in court were dashed. However, the legal decision did not sit well with the provincial government. Premier Peckford shifted his efforts on a new arrangement that would give NL joint management role and access to most of the revenue generated (Higgins, 2011). With the continued use of lobbying, a political compromise was reached, with the then Progressive Conservative leader, Brian Mulroney, who made a written promise that, if elected in 1984, he would give the province equal say over the management of the offshore, and make it the principal beneficiary of the offshore oil and gas industry (Higgins, 2011).

Brian Mulroney won the September 1984 election, and started talks with the province on a co-management structure of the offshore as promised. The arrangement led to the signing of a Newfoundland Atlantic Accord on the 11<sup>th</sup> of February, 1985 (Higgins, 2011). The document established a joint management scheme for the province's offshore oil and gas resources with the federal government; it gave the province of Newfoundland royalty benefits as if the oil resources were located on land (Fusco, 2007).

### **3.3 ENVIRONMENTAL REGULATION IN THE OFFSHORE OIL AND GAS INDUSTRY**

#### *THE ATLANTIC ACCORD (AA)*

The AA empowered the province with significant decision-making powers and financial benefits, with the province and the federal government of Canada equal partners in the management of offshore resources (Higgins, 2011). The purpose of the Accord among other things is:

- a) to provide for the development of oil and gas resources offshore Newfoundland for the benefit of Canada as a whole and Newfoundland and Labrador in particular;
- b) to recognize the right of Newfoundland and Labrador to be the principal beneficiary of the oil and gas resources off its shores, consistent with the requirement for a robust and united Canada;
- c) to recognize the equality of both governments in the management of the resource, and ensure that the pace and manner of development optimize the social and economic benefits to Canada as a whole and to Newfoundland and Labrador in particular; and
- d) to provide that the Government of Newfoundland and Labrador can establish and collect resource revenues as if these resources were on land, within the province (Government of Newfoundland and Labrador, 1985)

The Accord also ensured that the residents of the province benefit from the offshore oil industry through jobs and training opportunities. Priority was also given to local businesses when contracting offshore oil and gas projects (Higgins, 2011).

A major component of the Accord outlined how revenue would be distributed. The province was empowered to collect taxes and royalties from offshore petroleum resources as if it were on land and it owned them (Higgins, 2011). Monies from taxes and royalties were protected from the equalization payments for the first years of oil production. Equalization payments distribute money from Canada's richer provinces to its poorer ones. Hence, provinces that earn more than the national average pay into the equalization funds each year, while provinces that fall below the national average receive money (Higgins, 2011). The protection was crucial because it gave the region an opportunity to grow, as against losing it all to equalization. Higgins expressed that by 2011, the province was recognized as a richer province, hence, NL pays into the equalization program as against receiving from it.

To ensure regulation was not impeded by the complexity of a joint management arrangement, the Atlantic Accord created a co-management board. The Canada – Newfoundland Offshore Petroleum Board (C-NLOPB) was established in 1986 to administer the relevant provisions of the Canada-Newfoundland Atlantic Accord Implementation Act (CNAAIA), which was enacted in 1987 (Carter, 2011), and the Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act in 1990 (C-NLOPB, 2016).

The Board consists of seven (7) members; three of whom are appointed by the federal government of Canada, three are appointed by the government of Newfoundland and Labrador. The seventh member of the board is the chairman, who is jointly appointed by both levels of

government (C-NLOPB, 2016). Members of the board cannot be public servants of both levels of government (Atlantic Accord, 1985). Financial operations of the board are managed by both the federal and provincial government, with each jurisdiction paying one-half of the approved annual cost of the Board operations (The Government of Newfoundland and Labrador, 1985).

### *DECISION-MAKING IN RELATION TO OFFSHORE MANAGEMENT*

The Atlantic Accord stratified offshore oil and gas decision-making among the C-NLOPB, Federal Minister, and Provincial Minister. Decisions made by the Board are further delineated into;

- a) decisions made by the Board subject to no ministerial review or directives; and
- b) decisions made by the Board subject to the approval of the appropriate Minister, or subject to discretions from the Ministers of both governments (The Government of Newfoundland and Labrador, 1985).

Decisions made by the Board, which is not subject to ministerial review or directives, are not considered fundamental decisions. Hence, they are final and binding. Such decisions include:

1. The Declaration of Discoveries:
  - Declaration of significant discoveries and commercial discoveries.
2. Production License
  - Granting and renewal of a production license
  - Exclusion of lands from a production license
3. Compliance functions:

- Prosecuting, notices, and orders regarding offenses
4. The Administration of Regulations Respecting "Good Oilfield Practice"
- orders relating to waste
  - entry into pooling and unitization agreements
  - administration of technical regulations related to safety, environmental protection, resource conservation, and other matters during the exploration, development and production phases
  - production installation, facility and operations approvals, certification of fitness
  - oil and gas committee appellate functions
5. The Exercise of Emergency Powers (which may be vested in the Chief Executive Officer) Respecting Safety, Spills and Conservation:
- orders to prevent waste (excluding waste from flaring of gas or unsound recovery methods)
  - taking action or directing action to repair, remedy or mitigate the impacts of an oil spill
  - orders, evidence of financial responsibility, inquiries (The Government of Newfoundland and Labrador, 1985).

Fundamental decisions made by the board require a notice of the decision be transmitted to both levels of government before such a decision becomes final. Both levels of government will review the decision and advise the Board (The Government of Newfoundland and Labrador, 1985). According to the Accord (1985), fundamental decisions are:

- a) Rights Issuance, comprising:
- the calling for proposals relating to the granting of interest in lands and the selection of the proponent to whom interest is to be awarded;
  - the direct issuance of interest in lands;

- the determination of the terms and conditions to be contained in an Exploration Agreement;
  - the variation of the conditions contained in an Exploration Agreement; and
  - the continuation of any provisional lease or the variation in the conditions now applying in such lease.
- b) Extraordinary Powers, comprising the issuance of orders:
- directing an interest holder to drill a well;
  - requiring the commencement, continuation, increase or suspension of production;
  - canceling the rights of an interest holder; and,
  - requiring an interest holder to introduce specific measures to prevent waste.
- c) Approval of the development plan with respect to:
- the choice of the production system,
  - the proposed level of recovery of the resource in place,
  - the pace and timing of the implementation of the project, and
  - any fundamental revision to any of the foregoing.

The Accord allows for NL to receive economic benefits like royalties, corporate income tax, sales tax, rentals, and license fees, from petroleum-related activities in the offshore. The Act also set up a development fund, with the purpose to defray the social and economic infrastructure costs related to the development of oil and gas in the offshore in Newfoundland (The Government of Newfoundland and Labrador,1985).

The Accord provides for an oil pollution and fisheries compensation regime. The regime is a financial pool to cover and compensate the damage of oil spills to the fishing industry in Newfoundland. The administration is managed by a committee consisting of representatives from the Government of Canada, the Government of Newfoundland and Labrador, the Petroleum industry, and the fishery industry (The Government of Newfoundland and Labrador,1985). The

Accord also provides for an Environmental Studies Revolving Fund (ESRF). The fund is used to set-up an Environmental Studies Management Board, which is required to submit a copy of annual reports and recommendations to the C-NLOPB. Similarly, the Accord creates a requirement for businesses to present a benefit plan that encompasses research and development, education and training in the province (The Government of Newfoundland and Labrador, 1985), thus providing an example of a mandate for CSR (even if it was not designed using CSR discourse or terms).

#### *THE C-NLOPB AND OFFSHORE ENVIRONMENTAL REGULATIONS*

The creation of the C-NLOPB ushered in new templates for offshore management based on joint management. It is comprised of jointly appointed petroleum boards supported by professional staff, who exercise delegated, regulatory powers under federal and provincial statutes mandated to coordinate the essential administrative functions for the oil and gas sector in NL (Clancy, nd). The board enjoys substantial autonomy as a crown agent; they are, however, responsible to designated federal and provincial ministers, who also exercise powers of review, confirmation and override of select types of decisions through an elaborate series of trumping arrangements with the board (Brown, 1991).

The Canada – Newfoundland Offshore Petroleum Board operates at arms-length from governments, and reports to both the Federal and Provincial Ministers of Natural Resources (C-NLOPB.ca, 2016). Environmental regulation of oil and gas activities in offshore eastern Newfoundland is the primary responsibility of the Environmental Affairs Department (EAD) of

the C-NLOPB. The EAD has the final authority for environmental protection, environmental assessment, environmental compliance as well as investigation (Carter, 2011).

The C-NLOPB, manages all offshore oil and gas activities, with statutes, regulations, and guidelines (C-NLOPB, 2016). These policy instruments encompass offshore activities from exploration to development, production, and decommissioning (Cnlopb, 2016). Before an application is submitted for approval, proponents are required to fulfill a complex set of requirements. An applicant must complete an environmental assessment, which is required by the Canadian Environmental Assessment Act (CEA) as well as the Atlantic Accord Implementation Act (Cnlopb, 2016). Then the operator must obtain a Certificate of Fitness and a Letter of Compliance from Transport Canada, for drilling installation. Proponents must also file a Safety Plan, an Environmental Protection Plan, and a Contingency Plan that includes an oil Spill Response Plan (Cnlopb, 2014). In addition, applicants must submit documentations on financial responsibility, and a declaration of Fitness, attesting that the equipment and facilities and personnel being used during operation are fit for the purpose. When a proponent meets these criteria, then they can submit an application to the C-NLOPB (Cnlopb, 2014).

From an environmental policy perspective, the Canadian Environmental Assessment Act (CEA) is the most significant legislation that regulates the environmental impact of offshore activities. Noted inter alia, the CEA is a prerequisite for all exploration and drilling projects in the offshore oil and gas industry in eastern Newfoundland (Cnlopb, 2016). At the development stage of any offshore oil and gas activity, the CEA empowers the C-NLOPB to mandate a proponent to submit some or all of the following; an Environmental Impact Assessment (EIA), and Environmental Protection Plan (EPP), and Oil Spill Response Plan (OSRP), before any project is approved (Carter, 2011). The Environmental Protection Plan (EPP) sets out



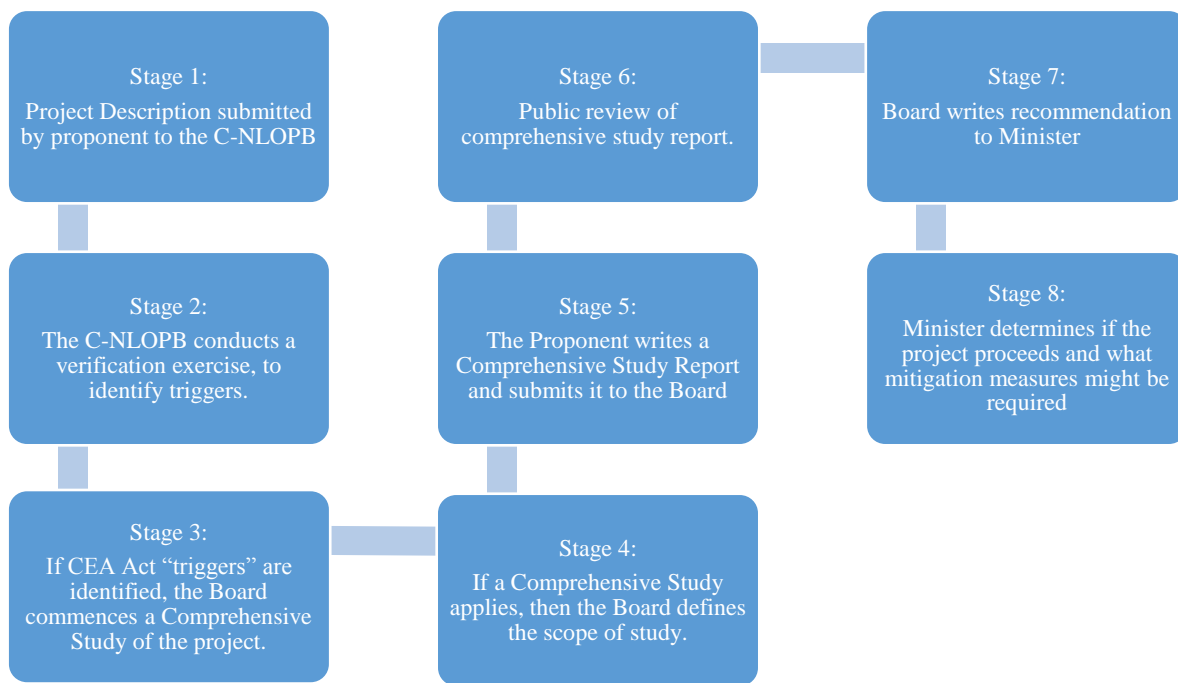
procedures, practices, resources, and monitoring necessary to manage hazards to and protect the environment from the proposed work or activity (EPP Guidelines, 2011). Similarly, section 5 of the Newfoundland Petroleum Drilling and Production Regulations (NPDPR) of 2009, requires applicants to develop an efficient management system that integrates operations and technical systems with the management of financial and human resources (Department of Justice, 2009). Among other requirement outlined in section 5, the management system should include processes for setting goals for the improvement of safety, environmental protection and waste prevention (Department of Justice, 2009). Section 9 of the NPDPR of 2009 further describes that an EPP should include a summary of the management system, and a reference, demonstrating how it will be applied to the proposed work. Also, a summary and description of the environmental hazards identified for the project shall be included. Sections 19, 20, 22, 23, and 24 of the regulation further outlines an operator's general duties with respect to environmental protection (EPP Guidelines, 2011. Pg. 3).

As noted above, the CEA requires a proponent to submit EIA, EPP, and OSRP. However, the above paragraphs focused on EPP because it is most relevant regulation among the three, which adopt a governance approach to regulation. The ability of the C-NLOPB to mandate proponents to develop Environmental Management Systems as a criterion for application approval is as a result of environmental governance. EMS is an externally imposed standard by NSAs, relating to how a firm manages its impact on the environment (Auld et al., 2008). Hence, the state relies on NSAs to audit and certify proponents before a project application is approved. The decision to approve or reject a project is done by the board; however, it seeks input from experts at the federal level such as the Department of Fisheries and Ocean (DFO), Environment

Canada (EC), Natural Resources Canada (NRCan), and, where relevant, the provincial counterparts of these departments (Carter, 2011).

The applicability of the CEA Act depends on whether a project involves one or more of four specific triggers. These triggers are: (1) the federal government participates in the project (either as the proponent or is otherwise committed to its completion), (2) a federal authority provides financial assistance for the project, (3) it involves federal lands, and/or (4) other federal laws apply. Nonetheless, if triggers are not present, the Board decides if there will be further environmental assessment, and if so, what kind.

**Figure 4:** A simplified flowchart of the offshore regulatory process in Eastern Newfoundland.



Source: Flow chart developed by the author, adapted from Carter, 2011.

In addition to the *CEA Act*, operators must follow other environmentally relevant federal legislations listed below.

- Canada Oil and Gas Operations Act of 1985 (administered by the Federal parliament)
- Fisheries Act of 1985 (administered by DFO)
- *CEPA* Disposal at Sea authorizations (managed by EC)
- Marine Conservation Areas Act of 2002 (administered by the Minister of Canadian Heritage)
- Migratory Birds Convention Act of 1994 (managed by EC)
- Species at Risk Act 2002 (administered by the Minister of Canadian Heritage, Minister of DFO and Minister of Environment).
- Canada Wildlife Act of 1985 (administered by EC's CWS)
- Canada Shipping Act of 2001 (relating to marine pollution discharges, administered by TC) (Carter, 2011).

The Board consults with the departments and agencies involved in the legislation above and may require that all relevant federal approvals from these bodies be in place prior to authorizing work (and work cannot proceed without these approvals). Note that provincial authorization, specifically the Environmental Protection Act administered by the NL Environment Department, would be required only when activities occur onshore (Carter, 2011).

Table 8: Summary of key regulatory actors in offshore oil and gas regulation in Eastern NL.

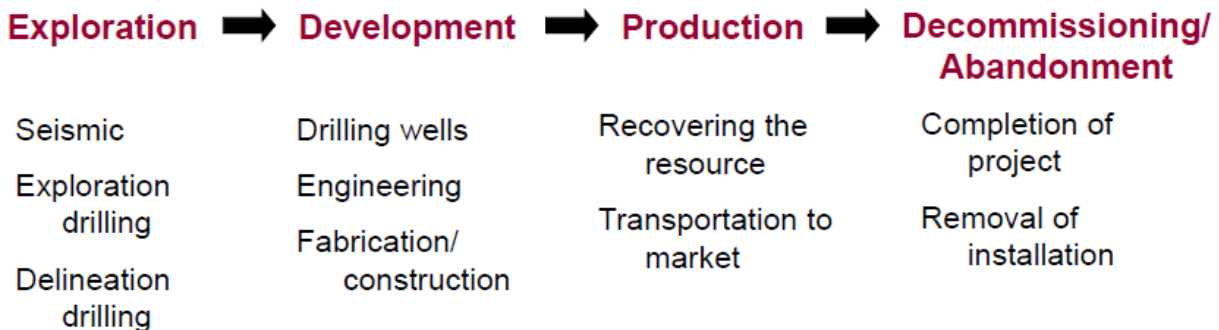
<p><b>Environmental Regulatory Key Actors in NL's Offshore</b></p> <p>Lead Environmental Authority: The Board</p>
<p><b>Consulted Federal Authorities</b></p> <p>DFO</p> <p>CEAA</p> <p>EC</p> <p>Minister of Canadian Heritage</p> <p>TC</p>
<p><b>Consulted Provincial Authorities</b> (<i>only in the case of onshore activities</i>)</p> <p>– Department of Environment and Conservation.</p>

Source: Carter, 2011

### 3.4. OFFSHORE OIL AND GAS PROJECTS IN EASTERN NEWFOUNDLAND

Analysis of projects in the offshore is stratified into currently producing, and projects under development. Adopting this approach helps in enhancing an understanding of the offshore oil and gas activities in Eastern Newfoundland. The life cycle of an oil and gas project is complex. There are five stages projects go through, and it is imperative to have an understanding of the life cycle of an offshore oil and gas process. Hence, a cursory knowledge of these stages is provided, before delving into specific projects in the offshore oil and gas industry of Eastern Newfoundland.

Figure 5: A diagram showing the life cycle of an oil and gas project in Eastern Newfoundland



Source: Barnes (2014)

The first stage in the process is the exploration phase, which encompasses three levels. The first is a seismic survey; this is the use of sound energy to map geological structures under the seabed. It is used to map best locations to sea for oil and gas resources (Barnes, 2014). The second level is drilling; drilling is the only way proponents can determine if oil or gas is actually

present in a mapped site (Barnes, 2014). Delineation drilling is used to assess the commercial value of a discovered site (Energy-pedia, 2015)

The second stage in the process is the development phase; however, after the oil is discovered in commercial quality in the exploration phase, it can take five to ten years for the project to pass all regulatory requirements, and be granted approval to move to the development phase (Barnes, 2014). The second phase includes three levels too; the first tier is commercial drilling, it then moves on to engineering and fabrication to bring the oil to the sources (Barnes, 2014).

The third stage in the process involves the production of the discovered oil and gas resource. Production can occur offshore via fixed or floating platforms (Barnes, 2014). Similarly, the produced oil will be transported to the market. Offshore operators typically send crude oil to a trans-shipment terminal. Trans-shipment is a two-stage transportation process; it is the transfer of cargo from one vessel or conveyance to another vessel for further transit to carry the cargo to its ultimate destination (USLEGAL, 2016). Shuttle tankers carry the oil to a shore-based terminal where it is stored in heated tanks, until it is then shipped to markets in a conventional tanker (Barnes, 2014).

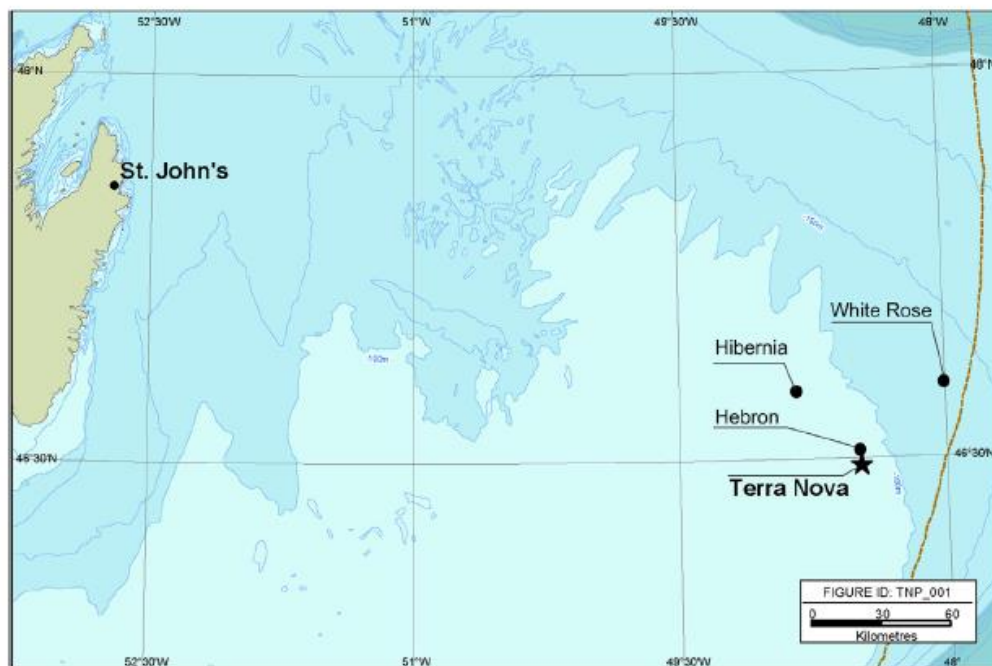
The last stage in the process is the decommissioning phase. The operational lifespan of an offshore project is between ten to twenty years (Barnes, 2014). However, once the oil and gas reserves are depleted, the project is decommissioned, meaning that infrastructure is removed (Barnes, 2014).

Now that a cursory understanding of the complex process of offshore oil and gas production has been made, the remaining part of this section examines the current projects taking

place in Eastern Newfoundland. It stratifies the projects into currently producing and projects in the exploration phase, for better understanding.

## *CURRENTLY PRODUCING PROJECTS*

Figure 6: Map showing current offshore oil and gas activities

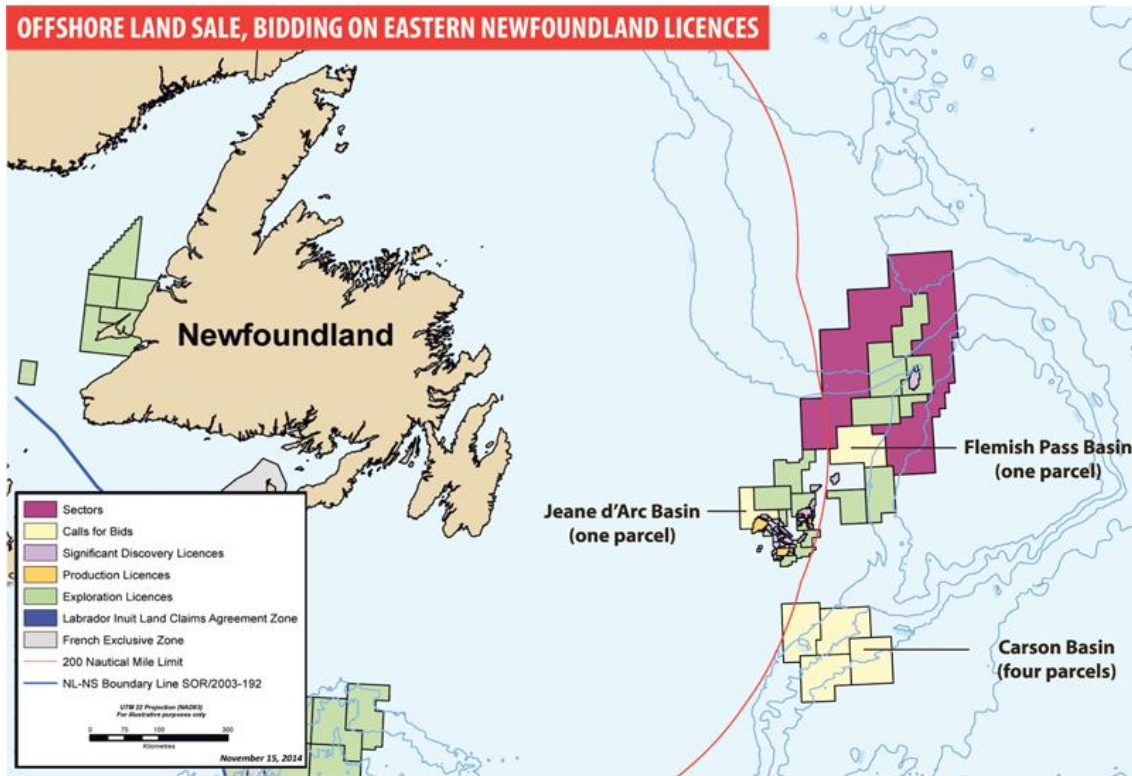


Source: C-NLOPB (2016)

\*The Hebron project is not yet producing

According to Turner, NL currently has three producing offshore operations. These are Hibernia, Terra Nova, and White Rose. All three of these projects are located in the Jeanne D'Arc Basin of the Grand Banks, approximately 300 kilometers east of St. John's (Turner, 2010).

Figure 7: Map showing the Jeanne D'Arc Basin



Source: C-NLOPB (2016)

### *THE HIBERNIA OILFIELD:*

Discovered in 1979, the Hibernia Oilfield is operated by the Hibernia Management and Development Company Ltd. (HMDC). The development phase of that project commenced in late 1990 and continued until the mating of the Gravity Based Structure (GBS) and its topsides at Bull Arm NL in 1997, after which the platform was towed to and installed at its site on the Grand Banks in June of that year. Commercial production from the Hibernia field commenced in November 1997 and is ongoing. In recent years, the project has been further expanded to include the Hibernia South Extension Unit, from which production began in 2011.



The shareholders of Hibernia Management and Development Company Ltd. (HMDC) are ExxonMobil Canada with 33.125%, Chevron Canada Resources with 26.875%, Suncor with 20%, Canada Hibernia Holding Corporation with 8.5%, Murphy Oil with 6.5%, and Statoil Canada Ltd. with 5% (Hibernia, 2016) More information about these companies are provided in the analysis of environmental CSR initiatives of businesses below.

Figure 8: The Hibernia Production Platform



Source: C-NLOPB (2016)

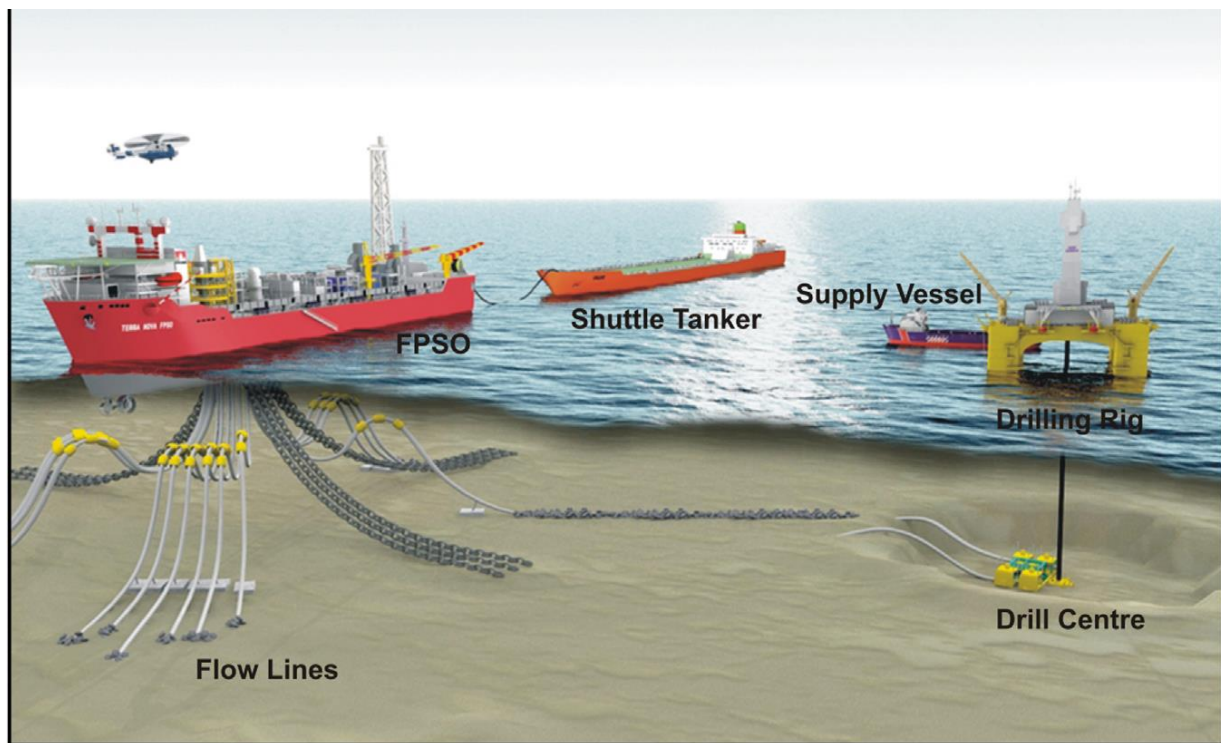
#### *TERRA NOVA OILFIELD:*

The Terra Nova oilfield was discovered in 1984 and declared a significant discovery in 1985. The oilfield has reserve estimates of approximately 500 million barrels of recoverable reserves. The Terra Nova Project is currently in operation by Suncor Energy Inc. using a Floating Production, Storage and Offloading (FPSO) vessel. Dry-dock construction of the Terra Nova FPSO vessel began in early 1999, and it arrived at Bull Arm in May 2000 where outfitting,

hook-up and commissioning of the ship took place. The FPSO reached the oilfield in August 2001 and began producing oil in January 2002 (Suncor, 2016).

The Shareholders of Terra Nova project includes Suncor Energy with 37.65%, ExxonMobil with 19%, Statoil with 15%, Husky Energy with 13%, Murphy Oil with 10.47%, Mosbacher Operating with 3.8% and Chevron Canada with 1% (Suncor, 2016).

Figure 9: The Terra Nova Floating Production Storage and Offloading Vessel



Source: Barnes (2014)

## *WHITE ROSE OILFIELD*

White Rose Oilfield and Satellite Expansion: Discovered in 1984, a significant discovery license for the field was issued in January 2004. Husky Energy Inc., utilizing an FPSO vessel, operates the White Rose oilfield and its satellite expansions, and first oil produced was in November of 2005 followed by the North Amethyst development in May 2010. Husky Energy is the operator and majority owner in the White Rose oil field with 72.5% and Suncor Energy with 27.5% (C-NLOPB, 2010).

**Figure 10:** The Sea Rose Floating Production Storage and Offloading Vessel



Source: Barnes (2014)

## *OILFIELD PROJECTS UNDER DEVELOPMENT*

### *HEBRON OILFIELD*

Hebron is an oil field located offshore NL in the Jeanne d'Arc Basin 350 kilometers southeast of St. John's, NL (see map above). ExxonMobil Canada Properties (EMCP) is the operator of the Hebron project on behalf of the project co-ventures. The co-venture is made up of ExxonMobil Canada Ltd, Chevron Canada Limited, Suncor Energy Inc., Statoil Canada Ltd. and Nalcor Energy Oil and Gas Inc. (Habron Project, 2016).

First discovered in 1980, this oilfield is estimated to contain in excess of 700 million barrels of recoverable oil, 429 billion cubic feet of natural gas, and 30 million barrels of natural gas liquids (C-NLOPB, 2010). The Hebron Project is currently under development and will utilize a stand-alone concrete Gravity Based Structure (GBS) being constructed at Bull Arm, which will be designed for an oil production rate of 150,000 barrels of oil per day. First oil from the Hebron Project is planned for 2017.

On August 20<sup>th</sup> 2008, a formal agreement was signed between the Newfoundland and Labrador Government and various co-venture partners to develop the Hebron offshore development project (C-NLOPB, 2010). The Province will retain a 4.9% equity stake in Nalcor Energy. The project is located between the three existing operations, approximately 8 kilometers north of Terra Nova.

Figure 9: Graphic representation of the Hebron project



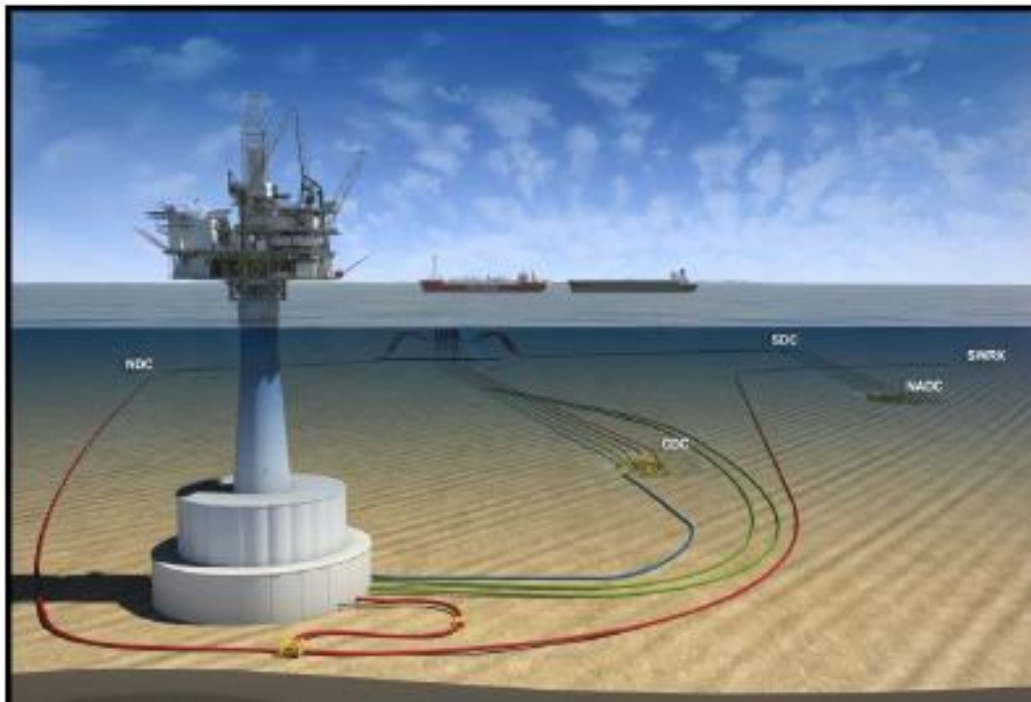
Source: Barnes, 2014

### *WHITE ROSE EXTENSIONS*

Since the development of the main White Rose field, several satellite fields surrounding the current operation have been discovered. These fields include the North Amethyst, West White Rose and South White Rose. The South White Rose Tie-Back project received approval in September 2007, whereas North Amethyst Tie-Back Project received approval in April 2008. Evaluation of the resource potential for West White Rose is ongoing (C-NLOPB, 2010). The developments in the White Rose satellite fields will follow a new development agreement in which the provincial Government, through Nalcor Energy, will have a 5% equity stake in the operations. Thus, Husky Energy owns 68.8%, Suncor owns 26.1%, and Nalcor Energy Oil and Gas owns 5% (Barnes, 2014).

Construction of subsea components for the North Amethyst field, along with modification to the Sea Rose FPSO, was completed in 2009 and first oil occurred in mid-2010. The current C-NLOPB estimate of the recoverable oil is 68 million barrels, with an additional 60 million barrels having been announced by project operator Husky Energy in 2009 (C-NLOPB, 2010).

Figure 12: Graphic representation of the White Rose project



Source: Barnes, 2014

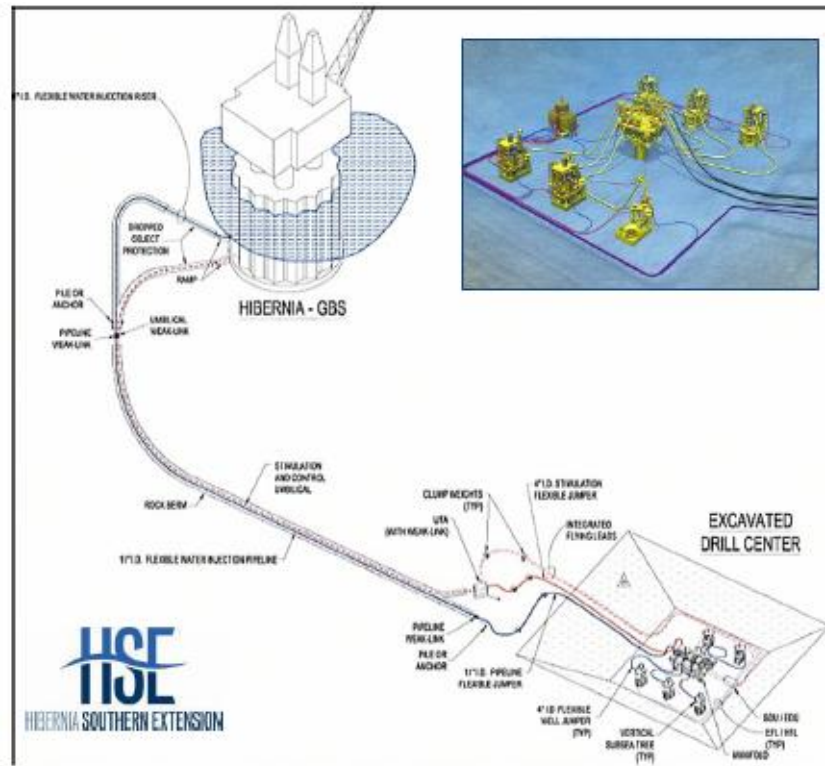
### *HIBERNIA SOUTHERN EXTENSION*

Drilling in 2005 and 2006 around the Hibernia field confirmed significant volumes of oil in the southern area of the field. Current C-NLOPB reserve estimates indicate 220 million barrels of recoverable oil; 50 million in the block and 170 in the Hibernia South area (C-NLOPB, 2010).

An MOU was signed between the Hibernia partners and the Province on June 16, 2009 concerning the development of Hibernia South and Extension (HSE). The block has been approved for development through an amendment to the original development plan. The producer for this block was drilled from the platform in 2009, whereas the water injector was drilled in 2010. As part of the development agreement, production from this reservoir block is subject to a higher royalty rate of 42.5% of net revenues (C-NLOPB, 2010).

Subsea tieback wells will be required for field development in the Hibernia South area. The MOU contains a provision that gives the provincial Government, through Nalcor Energy, a 10% equity state in the new developments, as well as enhancing the royalty scheme. Formal agreements were reached between the Province and its industry partners on February 16, 2010 (Tuner, 2010).

Figure 13: Graphic representation of the Hibernia South Extension project



Source: Barnes, 2014



### **3.5. IMPACT OF OFFSHORE OIL AND GAS ACTIVITIES ON THE ENVIRONMENT**

Oil and gas activities, like other industrial activities, have temporal and potentially spatial impacts on the environment. A primary concern surrounding the NL offshore oil and gas industry is that is the industry may do serious damage to the ocean environment (Heritage Newfoundland and Labrador, 2011). As indicated inter alia, most of the oil deposits on which the industry currently depends is located on the Grand Banks. The Grand Banks is home to diverse fish, seabird, and marine mammal populations (Heritage Newfoundland and Labrador, 2011). This section is divided into two parts: it takes a look at pollutions from offshore activities, and the impacts of pollution on the natural environment.

Pollution is the most evident impact of oil and gas activities have on the environment in Eastern Newfoundland, and pollution can be stratified into: produced water; drill muds and cuttings; oil spills; air pollution, and noise pollution.

#### **Produced water:**

This is the formation water from the oil-bearing substrata brought to the surface with the oil and gas or seawater injected into the reservoir during the production phase of oil or gas extraction (DeBlois et al., 2014). Produced water is the largest single wastewater stream in oil and gas production. It includes formation water, injection water and process water that is extracted along with oil and gas during petroleum production.

#### **Air pollution:**

Atmospheric emissions during drilling activities may include exhaust from equipment, as well as emissions from the storage and flaring of hydrocarbons associated with well testing

(where required). From the burning of diesel fuel for power generation on the drill unit and other routine activities, the primary air contaminants would be carbon dioxide (CO<sub>2</sub>), carbon monoxide (CO), sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>) and particulate matter. Depending on the type and size of the drilling unit, the estimated consumption of marine diesel would typically be in the range of 100-150 barrels per day, with the associated air emissions therefore being comparable to that from a single large container ship of the type that commonly transits through NL waters (Stantec 2011). Large drilling platforms on the Grand Banks emit dangerous greenhouse gasses. The GHG emitted affects wildlife and encroaches on wildlife habitat, which in turn alter migratory patterns of some birds, and increase bird mortality rates (Heritage Newfoundland and Labrador (2011)).

#### **Drill muds and cuttings:**

Drilling muds are fluids that are circulated in oil and gas wells to clean and condition the hole, to lubricate the drill bit and to counterbalance formation pressure (SEA, 2014). According to DeBlois et al., (2014), drill cuttings are composed of crushed rock created by drilling and associated materials i.e., formation oil and drilling fluids. Drilling fluids are used for a variety of purposes including lubrication, sealing a well, and removal of drill cuttings from a drill bit; after use they are referred to as muds. Cuttings are brought to the surface mixed with drilling fluids and oil, and must be cleaned prior to disposal. Waste disposal for any well drilled includes both drilling fluids and drill cuttings (DeBlois et al., 2014).

#### **Oil spills:**

Oil spills are one of the gravest environmental hazards of the industry. Spills harm marine wildlife both offshore and along the adjacent coastlines. In Newfoundland, diving birds like auks

and sea ducks are among the species most affected by oil spills (Heritage Newfoundland and Labrador 2011). Environmental incidents that may be associated with offshore drilling activities include potential blowouts (subsea and surface), as well as other possible batch spills of hydrocarbons or other substances from a drill rig, production platform and/or associated vessel activities. These events may vary considerably in terms of their nature, scale, duration and potential environmental consequences (DeBlois et al., 2014). Spills to the marine environment can occur during the standard and routine use, storage and movement of fuels, drilling fluids, lubricants, and other chemicals and substances on offshore installations and supply vessels. The harsh and often unpredictable weather conditions of the North Atlantic may increase the likelihood of accidents at sea or of spills during the transfer of oil from FPSOs to Shuttle tankers (Heritage Newfoundland and Labrador, 2011). NL experienced its largest oil spill on the 21st of November 2004, when a mechanical failure caused 1,000 barrels of crude oil (165,000 liters) to flow into the ocean from the Terra Nova FPSO of Petro-Canada (Heritage Newfoundland and Labrador, 2011).

### **Noise Pollution:**

The noise generated from oil and gas activities offshore can have a severe impact on the marine ecosystem, as it could alter migration, spawning and even hunting. For example, scientists note that seismic exploration might be harming species because the constant background noises interrupt mating and feeding (Carter, 2011. Pg. 106). Also, loud underwater seismic shooting used to find oil deposits can alter fish and marine mammal behavior or even worse, damage fish physiology (Heritage Newfoundland and Labrador, 2011).



### **3.6. OFFSHORE ENVIRONMENTAL CSR INITIATIVES IN EASTERN NL**

CSR has been engaged by major offshore oil and gas businesses operating in Newfoundland. CSR can be hard to distinguish from basic compliance (Laufer, 2003). The reason is that firms can drown the readers of their CSR reports in technical data but do not do more than comply with the basic environmental laws (Dentchev et al., 2015. Pg. 380). Premised on the above, the author considers Environmental Management Systems (EMSs), contributions to environmental research, and certification schemes as mandated initiatives required by the Atlantic Accord. Hence, a look at other environmental CSR initiatives that go beyond basic legal requirements is examined below.

As of writing, there are five key Trans-National Corporations (TNCs) operating in the offshore of Eastern Newfoundland. These five TNCs are Suncor Energy, Exxon Mobil, Chevron, Statoil, and Husky Energy. Hence, this section will provide a background of these companies, what CSR strategies they have adopted, and what role government played in engaging the CSR strategy.

#### **SUNCOR ENERGY**

Suncor Energy is a Canadian energy company based in Calgary, Alberta. The company was founded in the year 1919, in Montreal, Canada as a subsidiary of an American company called Sun oil (Suncor, 2016). In 2009, Suncor acquired Petro-Canada, the 11<sup>th</sup> largest company in Canada at that time (Suncor, 2016).

Suncor is the operator of the Terra Nova development. It is also the only company that holds interests in all currently producing fields offshore Eastern Newfoundland (Suncor, 2016). The company operates in Newfoundland, Alberta, Montreal, Norway, United Kingdom, Libya, and Syria. Information gathered from the corporate website indicates that Suncor is focused on running in a safe, reliable and environmentally responsible way in all its operations. A look at Suncor's environmental initiative is provided below.

### *THE QUIDI VIDI/RENNIE'S RIVER DEVELOPMENT FOUNDATION*

Suncor Energy has a partnership initiative with the Quidi Vidi/Rennie's River Development Foundation to promote environmental education in Newfoundland and Labrador. The QVRRDF is a non-profit charitable organization established in 1985 by a group of individuals who wanted to protect and enhance Rennie's River, which is a major waterway flowing through the heart of St. John's into the Quidi Vidi Lake (Suncor, 2016).

With financial support from Suncor, QVRRDF operates the Suncor Energy Fluvarium Centre as a public environmental education center focused primarily on the interpretation of freshwater and riparian ecology. The center was created with the vision to become the primary aquatic resource center for the province of Newfoundland and Labrador, by engaging the community, creating awareness and inspiring all to protect and conserve water resources. The QVRRDF educates, advocates and leads stewardship initiatives for the conservation and enhancement of freshwater ecosystems with the Northeast Avalon region of Newfoundland and Labrador (Suncor, 2016).

Suncor has adopted other CSR initiatives in Newfoundland that are not directly related to the environment, like donations to the Janeway Children's Hospital Foundation, the Bliss Murphy Cancer Care Foundation, the Newfoundland Symphony Orchestra, Junior Achievement of Newfoundland and Labrador and the construction of the Suncor Energy Offshore Research and Development Centre at the St John's campus of Memorial University of Newfoundland (Suncor, 2016).

## **EXXON MOBIL CANADA**

ExxonMobil Canada is a branch of the parent company called Exxon Mobil, with its headquarters in Texas, US. The company was created in 1999 by the merger of two major oil companies, Exxon and Mobil (ExxonMobil, 2016). Exxon Mobil operates in North America, Middle East, Asia, South America, Sub-Saharan Africa, and Europe (ExxonMobil, 2016). Exxon Mobil, also known as Imperial Oil conducts both upstream and downstream activities in Canada.

In Newfoundland, the company is the lead partner in the Hebron project, with a 33% ownership stake. ExxonMobil Canada similarly holds interests in the Maritimes and Northeast pipelines and Newfoundland Transshipment Terminal LTD. Information gathered from ExxonMobil's corporate website indicates that the company is focused on running in a safe, reliable and environmentally responsible way in all its operations. A look at its environmental initiatives that go beyond legal requirements is provided below.

### *PROTECTING HABITAT AREAS IN EASTERN NEWFOUNDLAND AND LABRADOR*

In 2011, the management team of Hebron, led by ExxonMobil partnered with the Nature Conservancy of Canada (NCC) to Protecting Habitat Areas in Eastern Newfoundland and Labrador. The Hebron Project made a financial contribution of almost \$13,000 towards NCC's science-based conservation work in the Fog Forest Natural Area (NCC, 2016).

The NCC identified the Avalon Peninsula's Fog Forest as one of the three most critical areas for habitat conservation in Newfoundland and Labrador. Its goal in the Fog Forest Natural Area is to conserve habitat for Canadian lynx, the endangered boreal felt lichen, and the Woodland Caribou, which has experienced a 60% drop in population over the last 10 years in Newfoundland and Labrador (NCC, 2016).

The Fog Forest Natural Area contains old growth forests, wetlands, rivers and freshwater ponds. The old growth forests are the largest untouched of their kind remaining on the Avalon Peninsula. The Fog Forest provides habitat and refuge for many rare lichens, forest birds and mammals (NCC, 2016).

Similarly, in 2012, Hebron contributed to Nature Conservancy of Canada's (NCC) drive to protect 11 acres of land along the coastline on North America's easternmost point. The 11 acres are on the southern shore of the famous Cape Spear Peninsula, located in the scenic town of Petty Harbour - Maddox Cove just outside St. John's (Hebron Project, 2016). Hundreds of thousands of marine and coastal seabirds nest in the area, providing incredible wildlife viewing opportunities during annual migrations; hence ExxonMobil believed that the conservation of this coastline is critical in providing a safe place for seabirds to roost and feed, including Atlantic puffins (Hebron Project, 2016). Puffin chicks are attracted to houses and streetlights, which can lead them away from the habitat they need to survive, thus the conservation of this habitat



prevents incompatible development and helps protect puffins and other birds from unintentional harm (Hebron Project, 2016).

#### *PARTNERSHIP WITH THE OCEANS LEARNING TO FUND PROJECTS FOR SCHOOLS IN NL*

In 2013, the Hebron team partnered with the Oceans Learning Partnership to support the Digital Oceans Project for schools in Newfoundland and Labrador. The Oceans Learning Partnership is a private-public partnership that supports and promotes the development of hands-on, at-sea learning experiences for high school students in Newfoundland and Labrador (Hebron Project, 2016).

The Hebron Project has contributed a total of \$550,000 to the OLP. Collaborating with the Learning Oceans Partnership, the program was for students from 30 high schools in rural areas of the province, giving them access to technology, and educational materials live from vessels and university field facilities. The students were to develop a website and applications, for mobile devices that will aid them research and understand the marine environment (Hebron Project, 2016).

#### *DONATIONS FOR MINI-AQUARIUM OCEAN LABORATORY*

In 2013, ExxonMobil led the management team of the Hebron project to make a lead corporate donation of \$100,000 to the Petty Harbor, for a mini-aquarium ocean laboratory. The mini aquarium will feature 30 small exhibits that fit in an 800 square foot room originally built

by the Petty Harbor Fishermen's Coop for filleting Codfish, pre-moratorium. The mini aquarium provides a unique learning experience for families, tourists and students to get hands-on experience with local marine life and to inspire sustainability (Hebron Project, 2016).

#### *\$400, 000 IN SUPPORT FOR OCEAN EDUCATION PROGRAM*

In 2011, Hebron contributed more than \$400,000 to support a Coastal Connections pioneering ocean education program for student in the K-12 school system. The floating classroom initiative was a partnership with Parks Canada, the Marine Institute, and the provincial government departments of Education, Environment and Conservation, and Fisheries and Aquaculture (Hebron Project, 2016). Developed by Captain Jan Negrijn, formerly of the Marine Institute, the floating classroom concept was established to address the gap in ocean-related education in schools, particularly as it relates to the marine and coastal ecosystems of Newfoundland and Labrador.

#### *SUPPORT FOR GREEN TEAMS IN NL*

The Hebron Project sponsored the Arnold's Cove Green Team during the third financial quarter of 2015. Green Teams are an initiative of the Newfoundland and Labrador Conservation Corps, which provides employment and training opportunities to the province's youth in environmental and cultural fields (Hebron Project, 2016).

## **CHEVRON**

Chevron is an American trans-national energy corporation, with headquarters in California. The company is currently active in 180 countries, and is engaged in oil, natural gas, and geothermal energy (Chevron Canada, 2016a).

Chevron has been exploring new sources of energy off the shores of Atlantic Canada for more than 30 years. Off the east coast of Newfoundland and Labrador, Chevron has a 26.9% interest in the Hibernia Field that includes two key reservoirs, the Hibernia and Ben Nevis Avalon formations (Chevron Canada, 2016 b). Chevron owns 23.8% non-operated working interest in the unitized Hibernia Southern Extension area of the Hibernia field, and holds 29.6% in the Hebron field development. Chevron also has a 1% interest in the Terra Nova project (Chevron Canada, 2016 c).

Information gathered from Chevron's corporate website indicates that the company is focused on running in a safe, reliable and environmentally responsible way in all its operations. A look at its environmental initiative that go beyond legal requirements is provided below.

*BUILDING ENVIRONMENTALLY SUSTAINABLE COMMUNITIES IN NL*

In the drive to protect the environment and manage environmental footprint, Chevron partners with the Conservation Corp in Newfoundland and Labrador to sponsor interns throughout the province to build environmentally sustainable communities, with the help of educational programming (Chevron Canada, 2016 b).

## **STATOIL**

Statoil is a Norwegian trans-national energy company headquartered in Stavanger, Norway. Statoil was founded in 1972 and is currently operational in thirty-six countries (Statoil, 2016). In Canada, Statoil operates both in the oil sands industry in Alberta, and the offshore industry in Atlantic Canada. The company owns interests in several explorations, development and production licenses offshore Newfoundland, with an office to manage these operations in St. John's (Statoil, 2016). Statoil is engaged in exploration, non-operating production and non-operating field developments offshore Newfoundland (Statoil, 2016).

Information gathered from Statoil's corporate website indicates that the company is focused on running in a safe, reliable and environmentally responsible way in all its operations. However, a review of the company's corporate page revealed the company has engaged with only one environmental initiative that went beyond legal requirements in Newfoundland.

### *MARINE EDUCATION COMPETITION*

The Marine Advanced Technology Education Centre's annual Remotely Operated Vehicle (ROV) competition is an example of a partnership for Statoil. High school students are challenged to design and develop ROVs to solve underwater challenges. This annual event aligns with a Heroes of Tomorrow program and has a focus on developing science, technology, engineering, and math skills (Statoil, 2016).

## **HUSKY ENERGY**

Husky is one of Canada's largest energy companies with headquarters in Calgary, Alberta. The company operates in Western Canada, Atlantic Canada, and the Asia-Pacific Region (Husky Energy, 2016). The Atlantic Region of Canada is core to the development strategy of the company; in offshore NL, the company focuses on the Jeanne d'Arc Basin which is home to the White Rose and Terra Nova oil field, and the Flemish Pass, where Husky and its partners have made discoveries (Husky Energy, 2016).

According to the Husky website, the company is committed to responsible corporate citizenship. This includes the integration of social, environmental and economic considerations into its core businesses while engaging key stakeholders and conducting business in an ethical manner (Husky Energy, 2016). However, after extensive study of the corporate internet site, the research was unable to identify any environmental initiatives in Newfoundland that went beyond legal requirements.

The closest initiative to an environmental CSR identified is the company's investment in educating and employing Newfoundlanders in mitigating the company's operational impact on the environment. The company looks for graduates and trades people with an understanding of the industry with particular emphasis made on science and technology programs at Memorial University. Husky created the Subsea and Harsh Environment Engineering Research at the St. John's Campus of Memorial University of Newfoundland and Labrador, where selected graduates and trades persons are trained (Husky Energy, 2016).

An analysis of the CSR initiatives in the province of Newfoundland shows that businesses operating offshore have focused mainly on environmental education and conservation efforts in Newfoundland. From a governance perspective they have also worked with other NSAs like conservation groups, and foundations. However, it is instructive to note that there was no direct support identified from neither the C-NLOPB nor the Government of Newfoundland for any of these CSR initiatives.

In term of the impact of these efforts, a closer look at the CSR initiatives of businesses operating offshore Newfoundland shows limited engagement beyond regulatory action in the province. First, it is hard to identify initiatives particular to Newfoundland from all companies except ExxonMobil Canada. This could be as a result of poor information sharing between the operating branches in Newfoundland and the corporate office. Similarly, the lack of information could be an indication that the four (among the five) companies operating in Eastern Newfoundland do not engage CSR environmental initiatives in the province.

This situation is stark when you juxtapose what some of these businesses do in other jurisdiction where they also operate. For example, although Husky did not have a clear environmental CSR strategy here in Newfoundland, this is not the case with Alberta, where Husky has outlined on their website various environmental CSR conservation initiatives, which in some cases go beyond the requirement of their area of operational impact (Husky, 2016). The situation is the same with Suncor. When you compare Suncor's CSR initiatives explained above to other jurisdictions they operate in Canada, there is an apparent disparity in volume and impact of environmental CSR initiatives. For example, Suncor has actively been investing in renewable energy initiatives in other jurisdictions of its operations. According to the Suncor Connections website, the parent company is one of the largest renewable energy players in Canada, with six

wind operations in Ontario, Saskatchewan and Alberta, with generating capacity of 255 megawatts, which is enough to power about 100,000 Canadian homes and avoid approximately 500,000 tons of carbon dioxide each year (Suncor Connections, 2016). However, Suncor has not actively engaged in any renewable energy initiative in NL as at the time of writing this thesis.

Thence, the province is faced with two fundamental challenges. The first is the identified fact that major oil businesses in NL scarcely engage environmental CSR initiatives that either address their operational impact on the environment, or improve the ecological integrity of the province of Newfoundland and Labrador. The second problem is that neither the C-NLOPB nor the Government of Newfoundland engages the sparse CSR initiatives of businesses offshore NL to complement and strengthen environmental regulation in the province. These problems should be addressed if the province is to leverage the positive impacts a CSR strategy can have on natural resource management in Newfoundland and Labrador. For example, although EMS's and Safety Certifications are requirements companies must have before approval by the Board, These NSA tools were once purely voluntary environmental initiatives businesses engaged to show commitment to the environment.

Thus, regulators and the provincial government need to recognize the potentials of the environmental governance structure in the province. In doing this, the government should adopt a strategic approach to work with businesses and civil society in complementing the current command and control approach to regulation in the offshore oil and gas industry in NL.

In summary, chapter three of the research addressed three of the research objectives. It examined the structure of the offshore oil and gas industry in NL, and the importance of the industry to the economy of the province. It also studied the offshore oil industry regulatory



environment, the jurisdictional struggle between the province and the federal government, and the C-NLOPB. The chapter concluded with an analysis of environmentally focused CSR initiatives of businesses in the offshore oil and gas sector.

## **CHAPTER FOUR:** *A CSR strategy for Offshore Environmental*

### *Regulation*

#### **4.1 INTRODUCTION:**

Chapter four examines environmental challenges peculiar to the offshore oil and gas sector of Eastern Newfoundland. In doing this, transcribed information from interviews and data analysed from secondary literatures are used to understand current regulatory problems in the offshore industry that pose obstacles to the development of more effective relationships between government policy and CSR. The chapter then examines what role (if any) CSR can play in overcoming these challenges, and enhancing environmental regulations. The chapter concludes by proposing a CSR strategy that could enhance environmental governance in the offshore industry in Eastern Newfoundland.

## **4.2 OFFSHORE ENVIRONMENTAL REGULATIONS IN EASTERN NEWFOUNDLAND.**

This section of the chapter provides an understanding of the current problems faced in regulating offshore oil and gas activities in Eastern Newfoundland. The data analyzed in this section were gathered from both primary and secondary sources. This approach was adopted in order to provide a clear picture of what key stakeholders perceive as challenges with regulation. Information gathered was studied with a view to drawing out similarities and differences in opinions from primary and secondary data collected.

Secondary data was sourced from reports on the C-NLOPB website, articles and a Ph.D. thesis, while primary data was gathered using key informant interviews. Interviews of key informants, who could give insider perspectives about current regulation, its effectiveness, and challenges, was conducted in order to gather information on pertinent issues around environmental regulations in the offshore of Eastern Newfoundland that might not otherwise be included in secondary data sources.

Stakeholders in Eastern Newfoundland's offshore can be streamlined into three categories; Government regulators, Businesses, and Civil Society, which encompasses Industry Association and NGOs. Interview requests were sent out to at least four key stakeholders in each of the categories. However, only one respondent from business, and two from civil society indicated interest and willingness to be interviewed. Similarly, due to the sensitivity of the questions asked, all interviewed participants expressed an interest to remain anonymous. Participants include a key informant from one of the major oil and gas companies in the offshore of Eastern Newfoundland, an important source from civil society, and the Executive Director of

a CSR think-tank in Canada. For anonymity, the key informant from the civil society #1, the interviewee from the offshore company is considered respondent #2, and the ED from the CSR think-tank is called respondent #3. Although the number of respondents is lower than anticipated, the researcher is able to acquire in-depth information to enrich the discussion on the challenges of regulating the environmental impact of offshore oil and gas activities, and how a CSR strategy can consolidate current environmental governance in the offshore of Eastern Newfoundland.

## THE CHALLENGES WITH OFFSHORE ENVIRONMENTAL REGULATIONS IN EASTERN NEWFOUNDLAND.

In her Ph.D. dissertation, Carter (2011) disclosed that environmental regulation of offshore oil and gas activities in Eastern Newfoundland has been very problematic. Looking at the standards oil and gas companies are held up to in addressing their impact on their operating environment, Carter argued that all is not well with how the industry is regulated. This opinion was echoed by an interviewee who opined that:

My position is that there is a very close relationship between the regulator and the regulated. This situation does weaken the province's environmental regulations, and it weakens our bargaining power on the type of deals Newfoundland can get from the oil companies (respondent #1, 2016).

Carter, in concord with the above statement, submits that the economy of the province of Newfoundland and Labrador is heavily dependent on the success of the offshore oil and gas industry, and this puts the province in a somewhat disadvantageous position when regulating

business activities in this area. In addition, Carter posits that companies in the offshore are aware of this dependence, and hence leverages the situation by investing in lobbying initiatives to hijack and prevent stringent regulations (Carter, 2011). What led to this situation?

In response, one interviewee explained that offshore companies poach and hire senior level officials working in government and use them to weaken regulatory compliance. For example, according to a respondent, a senior level bureaucrat who was with the provincial government and responsible for writing a large portion of one benefits agreement, and responsible for the enforcement of the same benefits agreement, was employed by an oil and gas company just two years after leaving government. Thus, the respondent remarked:

...so the possible question on the mind of other government staffers close to retirement will be, how will I enforce policies that will negatively impact a potential future employer of mine? There are no conditions around post-employment mobility, so what companies do is to hire people in very senior government positions and use those people to push their way through regulations. I think that is a concern (respondent #1, 2016).

Another reason for the unhealthy cordial relationship between the regulated and the regulator is what Carter (2011) underlined as a relationship based on dependency. The province of Newfoundland and, by extension, the Federal Government of Canada depends heavily on the success of the offshore industry and the ability of business to fulfill their royalty and tax obligations. She explained this by studying the political economy of oil and gas development in the offshore of Eastern Newfoundland.

These problems produce many other symptoms indicating that the environmental regulatory regimes in the offshore of Eastern Newfoundland are weak and partly “captured” by industry. Regulatory capture is the process through which special interests affects state

intervention in any of its forms (Dal Bo, 2006). According to Stigler, who is the proponent of the concept, it is a situation where regulated monopolies end up manipulating the state agencies that are supposed to regulate them (Dal Bó, 2006). The symptoms of the problem are further discussed below.

### *(a) CURSORY PROJECT APPROVAL PROCESS*

The environmental assessment process in the offshore of NL is problematic. Carter opined that the C-NLOPB, who is the primary regulator, consistently adopts the least severe form of environmental reviews and screening when conducting environmental assessments. She came to this conclusion because of what she termed the “very weak or non-existent opportunity for public comment” and “a lack of follow-up programs to verify or mitigate identified impacts” (Carter, 2011, Pg. 114). She further opined that when a comprehensive assessment is even required, the final recommendation of the panel is not binding; the C-NLOPB can ignore or even override it (Carter, 2011, Pg. 114).

She goes further to state that regardless of the magnitude of the assessment needed, the threshold for identifying a significant environmental impact is too high. That is, the assessment would require impacts on entire populations and, hence, the environmental assessment document classifies most effects as negligible (Carter, 2011, Pg. 114).

*(b) LIMITED TRANSPARENCY*

Carter criticized the C-NLOPB for not being very open with information to the public for an independent evaluation of offshore oil development (Carter, 2011). Similarly, one interviewee expressed that currently, there is a lot of secrecy in the offshore oil and gas industry, and that if information is actually shared, it is shared among only a very small group of people, which excludes university scholars and independent research experts (respondent #1, 2016). In 2009, Fraser and Ellis conducted a public environmental audit of the government's management of the offshore industry, and out of the five requests for data sent to the C-NLOPB, not one was approved (Fraser and Ellis, 2009). Similarly, in writing this thesis, the researcher experienced a major problem of getting information from the C-NLOPB. All electronic mails sent to the Manager of Environmental Affairs requesting for information and even an interview were not responded to.

However, information gathered from the regulator's website indicates that environmental data can not be made publicly available without express permission of the operators due to the sensitivity of such information (C-NLOPB, 2016). Hence, the relationship between environmental regulation and disclosure is complex and dependent upon many factors, including economic repercussions from disclosure. Fraser and Ellis (2009) do not agree with the above position of the Board because, they note, oil and gas operations occur in publicly owned waters; oil and gas operations discharge pollutants that have the potential to impact publicly owned resources; the government (and public) developed the legislation regulating the offshore industry and protection of the environment, and thus remains explicitly responsible for any environmental impacts, and the government (and public) receive financial gains from oil and gas operations (Fraser and Ellis, 2008. Pg. 315). In NL, the current situation appears to be one of self-reporting

with prescriptive government oversight with virtually no disclosure. The reality of the environmental management of the offshore industry in NL is that the public is forced to trust a government entity that plays a dual role of promoting offshore development and protecting the marine environment. The importance of transparency of the regulator has been identified as an outstanding issue in the management of offshore oil and gas resources (Fraser and Ellis, 2009. Pg. 315).

### *(c) LIMITED PUBLIC CONSULTATION*

In the race to approve a proponent's project, the C-NLOPB does not conduct intensive public consultations. For example, the initial steps in offshore oil developments are not very open to public involvement. Land selection is primarily made by confidential nomination within the industry; the C-NLOPB only conducts an internal assessment, and limited consultation with other government departments before the Board decide whether to issue a call for bid or not (Shrimpton et al. 2003, 19).

Carter (2011) states that research on public participation at the rights issuance stage indicates that the Board's current consultation standards are inadequate and ineffective in engaging community groups (Carter, 2011, Pg. 116). In processes, even when the C-NLOPB engages more with the public in comprehensive studies and review panels, there is often the problem of short commenting timelines given to respondents. For example, the Natural History Society (NHS), who was the primary commentator selected for the Terra Nova project, was given only fourteen days to submit comments (Carter, 2011). The tight timeline would mean that



respondents would not be able to offer a comprehensive and well-researched comment regarding the proposed project.

*(d) FEW “NO-GO” AREAS*

When the Board is approving projects, it protects very few areas and there is no regional plan to guide land leasing. Environmental protection is not a criterion when choosing land for exploration (Carter, 2011). Although there are key ecological areas offshore NL meriting protection against oil and gas development, such as the Southeast Shoal on the Grand Banks on the border of Canadian and international waters, few offshore areas have been designated as marine protected areas, prohibiting oil exploration, and development in contrast to, for example, neighboring Nova Scotia (Shrimpton et al. 2003. Pg. 19).

*(e) WEAK CARBON EMISSIONS REGULATIONS*

NL's oil industry is driving up the province's carbon emissions and therefore the province risks exceeding targets emissions. This problem is a significant environmental impact of this industry (Janes 2010). Yet environmental regulatory authority in the offshore, the Board, has no regulations limiting emissions in place; operators must only report estimated annual emissions. Carter espouses that in a C-NLOPB document, it noted early on in the Terra Nova panel review that the Board merely recommends operators to evaluate and report on the feasibility of designing its facilities to reduce GHG emissions (Carter, 2011).

However, a representative from the oil and gas industry argues that this is not a deliberate oversight. He/she expressed the desire of industry to reduce GHG emissions, but that the current operating climate does not allow it. He/she said:

We have discussed with the province over the years, the fact that we are 300 km offshore, not on a grid and not able to avail of cleaner power, e.g. hydropower. Most of our emissions do come from power generation, so as legislation becomes more stringent we do not have the opportunity to offset. Essentially, our emissions are fixed and based on the need to generate our own power. We do use natural gas which is the cleanest of the hydrocarbon fuels and that is an environmental concern that we are dealing with on a frequent basis (respondent #2, 2016).

*(f) WEAK OIL SPILL REGULATION*

The environmental assessments for oil and gas projects in Eastern NL predict insignificant adverse effects of oil spills on seabirds from oil spills < 1000 barrels (Burke et al. 2012). However, the validity of these predictions and the measure of comfort they provide are confounded by reliance on inadequate baseline data, on seasonal fluctuations in the seabird densities and species compositions around offshore platforms (Burke et al. 2012 p. 122). The reality is that oil spilled on the water around platforms poses a significant risk for marine birds, as it destroys the insulative properties of their feathers (O'Hara and Morandin, 2010). Similarly, even small spills can potentially kill large numbers of birds (Burger and Fry, 1993).

Similarly, the oil spill response in offshore Newfoundland is marked with difficulties due to overarching questions relating to privatization and the specific issues of under specified standards. Since the Brander-Smith report privatized spill response in 1993, East Coast Response Corporation Ltd. (ECRC) has the mandate to provide an effective response at an affordable cost (Carter, 2011). Hence, objectivity in environmental protection of a for-profit industry-owned company whose operations are guided by the principles of cost savings and profitability is questionable. Similarly, an interviewee expressed that:

Taking the harsh environment of offshore oil and gas activities, the recovery of oil spilled on the ice and under ice is a major challenge to the environment, especially as we explore further North (respondent #1, 2016).

On the other hand, he/she further stated that current regulations impede speedy clean up when an oil spill occurs because of the lack of clarity with the current rules around what to use to clean up. For example, he/she stated that:

To use a dispersant, you need federal approval and by the time you get approval, it will be too late. A regulatory change that will enable quick deployment of dispersants is necessary (respondent #1, 2016).

*(g) WEAK INFRASTRUCTURE TO CONDUCT MONITORING*

Monitoring to prevent or respond to oil spills and to the other environment incidents is faced with many challenges in Newfoundland. Burke et al. (2012) contend that NL lacks comprehensive scientific research needed to generate sufficient statistical power to detect adverse effects of oil spill, and that the reliance on industry to self-report the environmental effects of oil spill is unreliable. Thus they conclude in their research that the true level of adverse effects on seabirds around platforms on the Grand Bank is unknown and recommend that changes to the industry-biased structure of the C-NLOPB (Burke et al., 2012).

The reality is that Newfoundland is not institutionally mature or equipped with the right facilities to oversee the activities of business operations in the offshore. Thus, oil and gas companies self-monitor and submit reports to the C-NLOPB. Carter (2011) argues that self-monitoring is questionable because the process lacks objectivity and will introduce some form of bias, company staffers responsible for this are not dedicated to the process full time since this is a duty attached to his/her primary responsibility and these monitors do not include trained biologists (Carter, 2011). Similarly, an interviewee expressed that:

The current testing facilities that we have are not well equipped to adequately test and mitigate the impact of offshore oil and gas activities on the East coast of Newfoundland. For example, we do not have salt tanks to simulate the oil spill, hence Newfoundland

uses alternative chemicals to test oil spills. Nevertheless, the problem with this is that the characteristic of oil is not particularly the same with the alternatives used, and this will make conclusions from data analyzed unreliable. I am not sure we are prepared as we should be (respondent #1, 2016).

Carter (2011) stated that the Board justifies this lack of on-site independent monitoring as a safety precaution in the interest of safety. However, independent monitors are present in some parts of other major offshore industries in Newfoundland such as the fishing industry (Carter, 2011). Similarly, safety precautions are put in place when non-essential staffers like photographers are allowed on site. Hence, the argument that independent monitoring cannot be possible because of safety concerns is therefore not tenable.

#### *(h) INEFFECTIVE ENFORCEMENT AND COMPLIANCE MEASURES*

Fines ranging from minor voluntary settlements to fines in the millions of dollars and imprisonment could act as compliance mechanisms. However, there are many instances of environmental infractions for which the Board never seeks compensation (Carter, 2011, Pg. 125). Similarly, Fraser and Ellis (2009) states that small spills from the offshore facilities are very frequent, but there is never any “hard” response to them from the Board. Yet the environmental impact of small spills may be severe: depending on the movement of seabirds and the timing of a small spill, it “may kill substantially more birds than large spills” (Fraser and Ellis 2009. Pg. 147).

*(i) LACK OF SKILLED REGULATORS:*

The industry representative interviewed expressed that experienced government officials are poached and this creates a skill vacuum within the regulatory institution. He/she expressed that:

...I do not know if we have enough expertise within the government to negotiate a good benefits agreement, including environmental regulations. Oil companies have a vast experience in terms of oil development in Nigeria, off Norway, and all over the world so they end up having a broad picture of various benefit agreements (respondent #1, 2016).

*(j) LACK OF SKILLED WORKERS:*

Similarly, the Newfoundland workforce is not competitively skilled according to some sources, and this weakens the competitiveness and bargaining power of the province when interacting with industry. The industry representative expressed that the multinational companies come in:

.....and used the same arguments across jurisdictions that the NL workers are not productive enough. No doubt that applies, but when you frame the question around workers' productivity, then it becomes difficult for the government to ask them to take up the additional burden and adopt stricter regulations in terms of the economic, social and environmental benefits to the province (respondent #1, 2016).

However, in sharp contrast to the opinions raised above, during an interview with a key offshore oil and gas business in Eastern Newfoundland, the interviewee expresses that

regulations in the offshore industry in Canada are very stringent when compared to other jurisdictions. He/she expressed that:

...we look to places like Australia, the North Sea sector, Africa and the Gulf of Mexico; we feel that we are operating with the most stringent regulations out of each of those sectors (respondent #2, 2016).

He/she further expressed that exceeding regulation is the goal for business in the offshore of Eastern Newfoundland. There is a general understanding that if you abide by regulation everything will be okay; thus, he/she opined that:

..... Businesses in the industry do not operate in that manner. Regulatory compliance is not the end. We operate to reduce incident using a Low as Reasonable or Practicable (LARP) strategy to manage all types of risks in the offshore..... although we don't make the regulations as responsible industry players we live to it, and go beyond it to the extent possible. Our view is going beyond the letter of the law and going into the intent and spirit of the regulation (respondent #2, 2016).

However, he/she expressed that there is room for regulatory improvement in how the Board manages offshore activities in Eastern Newfoundland. He/she revealed that from a business's perspective currently the industry faces only two major regulative challenges. The first problem in regulation has to do with current regulations around greenhouse gas emissions in offshore Eastern Newfoundland. As a sharp contrast to Carter's (2011) opinion of a weaken regulation, the interviewee expressed that industry rather sees GHG emission regulations as being too stringent and unrealistic. The informant revealed that the previous government had not paid sufficient attention to the realities of offshore exploration, and hoped the new government rapidly addressed this challenge.

The second concern raised, which was also a sharp departure from the findings of Carter (2011), is in the reporting of oil spill incidents. The interviewee expressed that current regulations are very stringent and consistent. However, businesses in the industry believe the discussion around oil spill reporting should be around introducing clarity as to what regulators consider as a pollutant. He/she expressed that:

...if we take the drilling and production regulation, a pollutant is considered as any substance that is released into the natural environment. Whereas if you look at the Fisheries Act it is considered as a deleterious substance that affects fish and fish habitat, there is the Canada shipping Act, the Arctic Waters Pollution Act etc. and none of them clearly defines what a deleterious substance is. Most of the acts consider a harmful substance as making a significant impact on the environment, whereas, the drilling and production regulation states that a pollutant is any substance that is released into the natural environment so that could simply be fresh water going into sea water (respondent #2, 2016).

The vagueness in defining what a pollutant is creates a problem for businesses in the industry. The problem is that they are then required to report everything that is introduced into the marine environment, irrespective of the volume. The interviewee stated that:

..... We have to report on every single drop. We report on the order of magnitude in milliliters, whereas on land for example, the minimum threshold is 70 liters. So the fact that the board reports every spill incident that we have transparently, that could easily be taken out of context, if you just look at the number of spills that have been reported without looking at the volume, our concern is that, with that type of reporting, it could very easily be taking out of context. For example, we may have 10 spill events, but when we

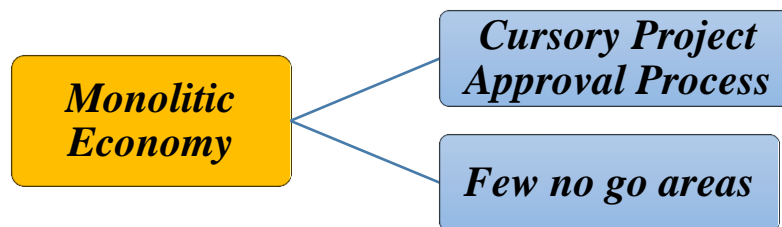


look at the volume, that may actually be 10 milliliters, since we have reported spills of less than a milliliter (Interviewee #2, 2016).

In summary, the section has examined problems with regulation in the offshore. The analysis above reveals that offshore environmental regulations in NL face three major challenges and they will be discussed below:

- The first is the monolithic economy of the province. The dependence on royalties from offshore oil and gas activities weakened environmental regulations. Data gathered presented above from respondents and the literature shows a relationship between cursory project approvals by the board, and the need to further offshore oil and gas exploration in Eastern NL. Similarly, the same relationship can be used to explain the few no-go areas for environmental protection.

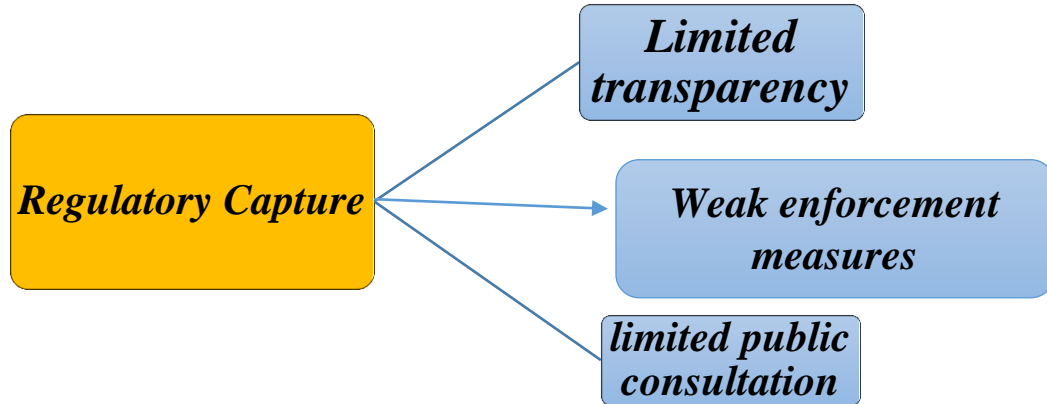
Figure: Problem 1 with offshore environmental regulation



Source: Created by author

- The second major challenge with offshore regulation is regulatory capture. Data gathered from both the literature and the interview respondents indicate that key decision makers in the C-NLOPB and the DNR are poached by industry and used to further their business agenda. This situation results in limited transparency, limited public consultations, and adoption of the weakest enforcement measures.

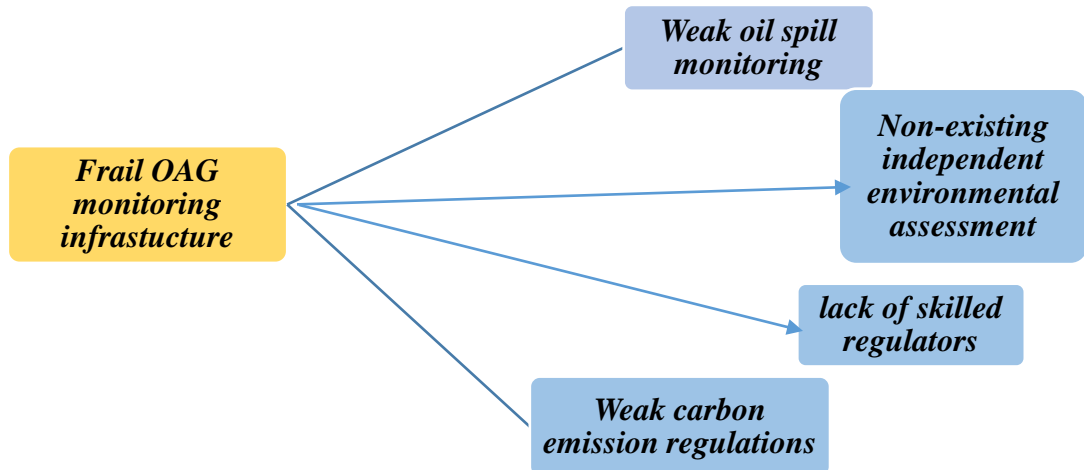
Figure 15: Problems 2 with offshore environmental regulation



Source: Created by author

- The last major challenge with offshore oil and gas regulation is the frail offshore oil and gas infrastructure to monitor environmental impacts. Data gathered from both respondents and the literature reveals that regulators do not currently have the capacity to monitor of carbon emissions and oil spills in the offshore of Eastern NL. These activities are left in the hands of companies who self report without external audits.

Figure 16: Problems 3 with offshore environmental regulation



Source: Created by author

The data gathered from respondents and literature also shows the difference in opinion between businesses and civil society. The research was, however, unable to interview key decision makers at the C-NLOPB or members of the Newfoundland and Labrador Department of Natural Resources. As said *inter alia*, all efforts to assess the Board and government’s opinion on the current state of environmental regulations were declined; this is an area where further research will be needed in the future.

With that said, it is hypothesized that the general opinion of companies in the offshore is that the current regulatory regime in the offshore is stringent and there is little or no utility in adopting stringent regulations. If anything, regulators should clearly define existing laws like the meaning of a deleterious substance, or even adjust current regulations to address the peculiarity of offshore operations like the GHG emission requirements and the volume of oil spill reported.

When businesses’ perception is contrasted with the opinion of civil society, members of the latter group are more likely to see the current environmental regulatory regime in the province as weak and even captured by TNCs operating in the offshore of Eastern

Newfoundland. They call for stringent regulations that would increase regulatory and independent monitoring, reporting on environmental impacts. They also call for more experienced technocrats in the regulatory industry, and regulations to avoid technocrat poaching and regulatory hijack by companies in the offshore. Is there an innovative way to address this problem? The thesis posits that a CSR strategy would help strengthen environmental regulations offshore Newfoundland.

Hence, this thesis argues that the root cause of regulatory challenges in the offshore of Eastern Newfoundland is a result of three phenomena. The first being a political economy that makes the province dependent on the oil and gas industry; secondly, and related, is the close relationship among government regulators and businesses, who recruit top level government officials, and then leverage their influence by investing in lobby initiatives to hijack prevent stringent regulations; and the last phenomenon is the weak monitoring infrastructure the province has to monitor and regulate the environmental impact of offshore oil and gas activities.

### **4.3 DEVELOPING A PUBLIC-POLICY CSR STRATEGY FOR ENVIRONMENTAL REGULATIONS**

The use of command-and-control regulation becomes difficult if the government is too cordial with those it regulates, or the regulated has more economic and technical power than the state. Newfoundland faces the challenge of being caught in the web of both scenarios. As indicated in the historical study of the NL offshore industry, the province needs the royalties and taxes it derives from offshore exploration in order to lift it out of the economic disaster, brought about with the decline of the cod fishing industry. For example, the continued decline in oil royalties due to the 2015/2016 oil price dip has prompted the government to contemplate laying off workers and raising taxes. Hence, the relationship between NL and the industry has been shown to be too cordial and one of dependence.

As for economic power, a look at the net worth of TNCs like Chevron and Exxon Mobil indicates they have more economic power than some countries. To put this in context, NL's GDP is CND\$ 33.514b (Statistics Canada, 2013); however, when you compare it with Chevron's GDP of \$196.36b (Trivett, 2011) or Exxon Mobil's GDP of \$354.64b (Trivett, 2011), it is clear the industry has more economic power than the state. Thus, demanding the immediate adoption of stringent regulations to address environmental issues in the offshore of NL may not be feasible, at least until the dependent relationship the province has on the proceeds from the offshore oil and gas industry is addressed. Hence, this situation calls for a look at innovative environmental policies that can help in complementing current regulatory challenges, and put the province on a course towards sustainable and responsible policies for offshore oil and gas natural resource management.

Adopting a public-policy CSR governance tool allows the government to establish framework conditions that encourage corporate responsibility and the use of beyond-required efforts of business to complement regulatory measures in the pursuit of common good (Peters and Rob, 2010). It is important to note that although a public policy on CSR is not a panacea to all the problems with environmental regulations discussed in the above section, it has the potential to incrementally strengthen offshore environmental regulations in the province.

The research has been able to show with various examples from around the world, that the opportunities of CSR as a public-policy tool at the domestic, national, and international level of governance is gaining traction among academics and public policy practitioners. Yet as Dentchev's (2015) table shows, only two domestic governments have formally engaged CSR. Likewise, Interviewee #1 expressed that CSR has over the years been seen as a national or international strategy used to promote issues, ranging from sustainable development to image building and even access to natural resources (Interviewee #1, 2016). However, when such beyond-law regulations are introduced at the provincial level, it is not classified as a public policy on CSR. For example, the municipal government of Vancouver in British Columbia developed a Sustainable Programs for Businesses and Employees initiative (City of Vancouver, 2016), which is voluntary. Also, according to the Atlantic Accord companies in the offshore of NL are mandated to set aside funds for research, adopt Environmental Management Systems, and even various third party certification schemes. Yet Newfoundland does not consider these requirements as CSR, which may be as a result of the fact that it is mandatory. But according to Dentchev (2015)'s contingency plan framework, CSR can be mandated or made voluntary depending on the regulatory context. Hence, because CSR is wrongly conceived as only a national or international policy tool, such initiatives are not termed public policies on CSR.

Based on the above, this thesis will be the first to use the characterization model developed in chapter two to identify how the Board and the government at the provincial level can engage CSR for better environmental regulations in managing natural resources.

In order to understand what opportunities and challenges CSR may hold for Newfoundland, an interview was conducted with a leading CSR policy practitioner in Canada. The interviewee has a wealth of experience in helping the federal government shape and define its CSR strategy. Hence, data gathered from the interview is crucial in helping the researcher understand how a public policy on CSR can complement current environmental regulations in the offshore of Eastern Newfoundland. When asked about the challenges the province of Newfoundland and Labrador could face in adopting a CSR strategy, the interviewee (2016) identified that a significant problem is the slow realization of the vast potential of CSR in Canada as a whole. He/she opines that CSR is a very valuable tool for natural resource management, but it has not been utilized to its full potential at the federal and provincial levels of government in Canada. He/she argues that, unlike Canada, across the globe governments are beginning to engage CSR from a more holistic perspective. The government of Canada, continues to engage CSR solely as an economic tool for international relations. For example, since 2009, Global Affairs Canada has been using CSR at the federal level to advance the country's extractive sector abroad (Global Affairs Canada, 2015). The interviewee expressed this situation is a major challenge because:

When the national government, who is perceived by the province as the leader in CSR, only creates CSR programs to bolster the international extractive businesses, this is not acceptable; this is not progressive. This is not what CSR should be about (respondent #3, 2016).

He/she is of the opinion that the Canadian CSR strategy should go beyond its current limits of encouraging and promoting the Canadian extractive sector internationally (respondent #3). This author agrees with this submission, and sees the need for the federal government to step up as a pace setter, and actively encourage governments at the provincial level in engaging CSR. He/she further opines that the slow realization of the potential of CSR at the provincial level is also as a result of the limited impact that the enhanced federal strategy has had on Canadian businesses.

The interviewee expressed that:

...the CSR office created by the federal government was a total sham, there was a scandal of about one hundred and eighty-five thousand dollars going to the head of CSR for Canada, and there was no one appointed to that position. It is the worst case of social and green washing I can think of (respondent #3, 2016).

With changes in the Canadian federal political context, however, there is renewed potential for the development of a more progressive CSR strategy. For example, respondent #3 opines that things may be looking different in the next few years, under the Liberal Party/Justin Trudeau administration. He/she expressed that Trudeau seems to bring a renewed interest in revitalizing the role of the CSR office in engaging businesses and promoting corporate sustainability initiatives both within and without Canada. Hence the federal government could develop initiatives that will help provinces like NL in adopting a CSR strategy. As he/she expresses, the Trudeau administration is:

...trying to build bridges, but they themselves do not know what the new CSR strategy will look like at this point. However, based on what my peers are telling me, the process will be more open,



participatory and, collaborative under this administration (respondent #3, 2016).

He/she further express that:

...There are talks in the business community about Canada's brand, and under the new administration, Canada is seen as more open and collaborative, from a business perspective on the global stage, there's now more respect for Canada and a good CSR strategy will be good optics for the nation and will inspire the provinces of Canada (respondent #3, 2016).

While Canada waits for what changes to the CSR agenda at the federal level, the author explores opportunities for a NL environmental public-policy on CSR. This is premised on the realization that the government at the provincial level is not restricted by laws from developing a CSR strategy. According to respondent #3 (2016) NL should incorporate CSR at the very beginning of the regulative process. He expressed that this will give clarity to all stakeholders that government's engagement with CSR is not haphazard but strategic. He stated that:

CSR in the oil and gas industry should be embedded in the process and included in every decision that is made in relation to that project. It should not be just a program to maintain a social license, but it should be part of the business management process of every step of that project. And it should involve the community, government, business, local NGOs, and everyday citizens, and if you are not doing it that way, the chances are that you are not doing it responsibly and your chances of moving your project forward should reduce dramatically (respondent #3, 2016).

He/she further espouse that at the initial stage of the application process, proponents that are placing a bid could mandate or be encouraged to demonstrate how they are willing to go beyond

current environmental regulative expectations at the time of the application. He/she also underlined the importance of the stakeholder engagement process by saying:

The engagement with stakeholders should go beyond the life of the project so that communities are not left to deal with the massive environmental remediation problem or massive ecological and economic glut alone, because investment in that project no longer exists. This is common with retired mining projects (respondent #3, 2016).

Engagement with stakeholders should be an integrative process that allows for open collaboration process in decision-making. Historically, the stakeholder engagement in various environmental processes has been limited or nonexistent (Interviewee #3, 2016). It is similarly shocking to note that the Board has not only not supported voluntary initiatives to strengthen environmental regulations, but has in some cases actively dissuaded civil society from engaging in voluntary initiatives. According to interviewee #1, the C-NLOPB has dis-incentivized voluntary environmental initiatives in the province. For example, the respondent notes that:

Companies have offered to do air quality tests, but regulators said no because the rig is not on land, and there is no human population surrounding the platform, they do not have to do it. Even though people are working and supplying the rig, and mammals could be impacted. My opinion is that the government should encourage them to do it, so that the province will get a first mover advantage, if we will want to develop an industry here and not just want to copy what everyone else is doing (respondent #1, 2016).

How then can NL achieve the first mover advantage of adopting a governance approach to public-policy and CSR that will bring about innovation in how offshore environmental impacts are managed? Peters and Rob (2010) provides an answer. In a publication for the UN

Global Compact, Peters and Rob (2010) explain that for a governance approach to CSR to work, the government must establish conditions in which CSR can flourish. The state (province) must:

Create a policy environment that facilitates, provides incentives, encourage, or even mandate responsible business activities (Peters and Rob, 2010).

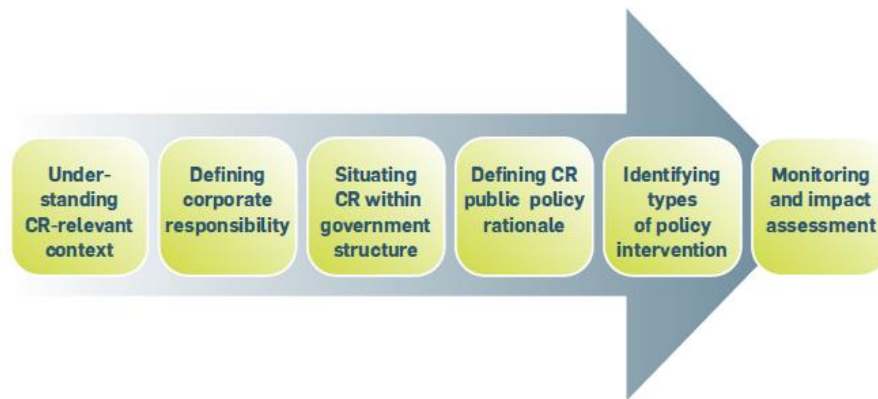
Hence, Peters and Rob (2010) propose a six-step practical guidance for developing a CSR policy framework based on best practices in countries in the North and South. They posit that the six-steps guide provides the government with a compass that is useful in designing a comprehensive and coherent policy strategy for CSR (Peters and Rob, 2010. Pg. 40). These steps serve as a guide and reference point for how a public policy on CSR can be developed in NL for the offshore industry. The six-step guide is as follows:

- **Understanding the CSR-relevant context:** Peters and Rob (2010) espouse that CSR is a context-dependent concept. Thus, policy themes that are relevant to one society or state, may be deemed irrelevant in another. So in the development of a public-policy on CSR, the historical, political, economic, and cultural context of the offshore oil and gas industry must be taken into consideration. Hence, a base line study will have to be carried out to assess what role the government in a particular jurisdiction can play in CSR to complement CAC regulations.
- **Defining Public-policy CSR:** Peters and Rob (2010) state that the second step is creating a local and contextually relevant definition of government's role in CSR. In their opinion, a governance approach to CSR is a relatively recent phenomenon. The government, civil

society, and businesses will have to agree on a conceptual understanding of what a public-policy CSR means for the offshore, its objectives, goals, and what role the state, business and civil society will play in the process.

- **Situating CSR within a government structure:** At the third stage, the lead government agency should be defined (Peters and Rob, 2010). In the case of NL, the options are either the C-NLOPB, or the Department of Natural Resources, or the Department of Business, Tourism, Culture and Rural Development. They could also set up a board with representation from all aforementioned departments. Similarly, at this stage, the number of stakeholders from government, civil society and business should be identified.
- **Defining the Public-policy CSR rationale:** The fourth stage helps all relevant stakeholders go over the first three steps and the government gives a clear reason why there is a public policy on CSR (Peters and Rob, 2010). In the case of offshore NL, the rationale can be the need to make the province a pacesetter in strengthening environmental regulations.
- **Identifying appropriate types of policy intervention for CSR:** Choosing the appropriate types of policy interventions to foster CSR is one of the most challenging tasks for governments designing an enabling framework for action (Peters and Rob, 2010. Pg. 42). Here, the NL government would have to decide if it wants to mandate, partner, facilitate, or just endorse environmental CSR in the offshore industry.
- **Monitoring and impact assessment:** As the last stage in the process, the government should develop systems to monitor and assess the implications of public policies on CSR (Peters and Rob, 2010). This will help the NL government decide if it wants to change a particular element or approach in the policy in order to meet new challenges as they arise.

Figure 17: A diagram showing the 6-step policy process for developing a CSR policy strategy



Source: Peters and Rob, 2010.

The CSR characterization model developed in the theoretical framework provides a model and insight into to how the province might develop a public policy CSR model that takes into account the contextual peculiarities of the Eastern Newfoundland offshore oil and gas regulatory environment. The model addresses the first step in the 6-step CSR policy strategy; however, the remaining five stages in the CSR strategy listed above is beyond the scope of this thesis and further research will be needed to address them. In summary, the chapter examined challenges with environmental regulation peculiar to the offshore of Eastern Newfoundland. The study also examined what opportunities and challenges the province will encounter when adopting public policy on CSR.

# CHAPTER 5: CONCLUSION

## 5.1 Introduction:

Chapter five summarizes the entire research effort and gives a holistic picture of the key themes discussed in the thesis. It also uses the CSR characterization model to present the recommendations to the provincial government and the C-NLOPB on the need to enhance offshore OAG regulations with corporate social responsibility. The chapter concludes with a discussion of areas where further research is needed.

## 5.2 Summary

The fundamental objective of the thesis was to examine how the government of NL can use corporate social responsibility (CSR) to enhance environmental regulations in the offshore oil and gas industry in Eastern Newfoundland. To address the question, the first chapter of the thesis traced the evolution of environmental governance to the early 1960s when governments at the national and international level were solely responsible for controlling the activities of industry on the environment. The command-and-control (CAC) approach was the dominant tool of regulation at that time, and it was an excellent tool to swiftly and decisively respond to environmental problems. Nevertheless, the 1970s and 1980s witnessed the emergence of new environmental challenges, such as overfishing, increased methane pollution from industrial farming activities, poorly regulated aquaculture activities, tropical deforestation, and climate change. These environmental issues were facilitated by globalization and the CAC approach was accused of being too costly, inefficient, stifling innovation, inviting enforcement difficulties, and focusing on end-of-pipe solutions. As a result, environmental regulation moved from being an

entirely state-centric initiative to environmental governance, which includes more players. The shift from government to governance was characterized by privatization, state transformation, shared public and private authority, and non-state rule-setting supplementing or even supplanting traditional command-and-control regulation. Thus, over the past 40 years, Non State Actors (NSAs) became key players in environmental regulation. NSAs are actors who are not representatives of the state, but they operate at the national or international level. NSAs have adopted a wide range of tactics, including boycott campaigns, product labeling and eco-labeling, and environmental certification schemes to build influence. When businesses adopt environmental regulation developed by Non-State Actors, this is termed corporate social responsibility (CSR). However, the thesis drew strong evidence from the literature to show that in the past 15 years, governments from around the world have developed policies to engage with corporate social responsibility, to address social, economic, and environmental issues. The thesis thus argues that CSR can be enhanced and facilitated in effective ways through public policies.

In the second chapter, the research further examined the concept of environmental governance. It examined how environmental governance has changed the role of the state from being a sole regulator to a co-regulator. It also examined how environmental governance has changed the role of non-state actors from trying to influence policies at the periphery to makers of regulations. As for business, environmental governance has changed the role of companies from economic actors to becoming entities with social, economic and environmental responsibility to society. Chapter two also examined the historical evolution of the concept of CSR, and debates among CSR scholars on a definition for the concept. The chapter then examined the changing role of government in CSR as a new governance approach adopted by public policy makers, whereby government encourage companies to adopt beyond-regulation

initiatives developed by NSAs. To strengthen this point, examples of counties where CSR has been encouraged was given, specifically the United Kingdom, Denmark and Canada.

A model to help policy makers in NL identify how governments from around the world have engaged with CSR was also developed in chapter two. The model was developed by drawing strength from Fox et al. (2002) and Steurer's (2010) models of classifying public policy initiatives to engage CSR. The model adopted three key criteria in classifying public policy initiatives, which are: the role of government; public policy CSR instruments, and public policy CSR themes. The model was then used to characterize public policies on CSR from eight countries.

Chapter three examined the offshore oil and gas industry in NL. It identified: the history of offshore activities in the province, the jurisdictional battle between the federal and provincial government on control of the offshore resource, how offshore oil and gas is regulated in Eastern NL, and the challenges faced in regulating the industry. Chapter three also examined offshore oil and gas activities going in the province, and the environmental impact of these offshore oil and gas activities. The chapter concluded by examining offshore environmental CSR initiatives adopted by companies in Eastern Newfoundland.

Chapter four examined challenges with offshore environmental regulation in NL. The research used a literature review and key informant interviews to identify key challenges with environmental regulation in the NL offshore oil and gas industry. The fundamental problems identified include: (i) the monolithic economy of NL, which makes it dependent on the success of the offshore oil and gas industry, often at the expense of the environment; (ii), the ability of offshore oil and gas companies to capture environmental regulations; and (iii) weak infrastructure to monitor oil and gas activities. These challenges result in other problems such as:



a race to quickly approve offshore projects; limited transparency on the part on the CNLOPB and offshore companies; limited public consultations; few no-go areas; weak carbon emission regulations; weak oil spill response; lack of skilled regulators; lack of skilled workers; and ineffective enforcement and compliance measures.

The thesis then examined how a public policy on CSR can strengthen environmental regulations. The study concluded by using the classification model developed in chapter two to identify regulatory issues that can be enhanced through a public policy on CSR. The findings were used to make recommendations to the Government of NL.

### **5.3 ANALYSIS AND RECOMMENDATIONS:**

#### **A PUBLIC-POLICY CSR MODEL FOR OFFSHORE ENVIRONMENTAL REGULATIONS IN EASTERN NEWFOUNDLAND**

NL's offshore environmental regulation is weak because of numerous reasons identified in the thesis. Scholars like Carter (2011) and Fraser and Ellis (2009) have argued that regulators tend to turn a blind eye to environmental violations in the province. As a panacea, they propose more stringent regulations, demanding the government to take the bull by the horn and compel industry to be more responsible and sustainable. Such an approach is justified by logic and evidence; however, it does not take into account of the impact of the economic context, which influences the public policy making process in the offshore sector of Eastern Newfoundland.

The current epoch of NL's economy is very dependent on the non-renewable oil and gas industry, offshore of Eastern Newfoundland. In 2016, the provincial government announced various financial cuts to public expenditures mainly because of the continued dip in the international price of crude oil. Hence, given the reality of NL's dependence on oil in a policy making context, it is not shocking that the thesis discovered that regulators are faced with "adopting the least stringent regulations" approach with the aim of wooing industry to invest in the province. Thence, as respondent #1 noted, the Government of NL is at a disadvantage when negotiating with industry; thus, demanding tougher regulations from such a government for the offshore industry may be the right thing to do, but it is not a practical solution, at least until the province weans itself from its dependence on that industry.

In place of demanding that regulators immediately adopt stringent regulations, it is recommended that the Government of NL adopt an innovative approach to this public policy

dilemma. The thesis adopts and proposes CSR as an environmental governance tool to supplement the current command-and-control regulatory regime existing in the offshore. The CSR model developed in the thesis is used to contextualize public policies that can help the government develop a CSR strategy for enhancing environmental regulations in Eastern NL.

## CONTEXTUALIZING CSR PUBLIC POLICIES TO NL.

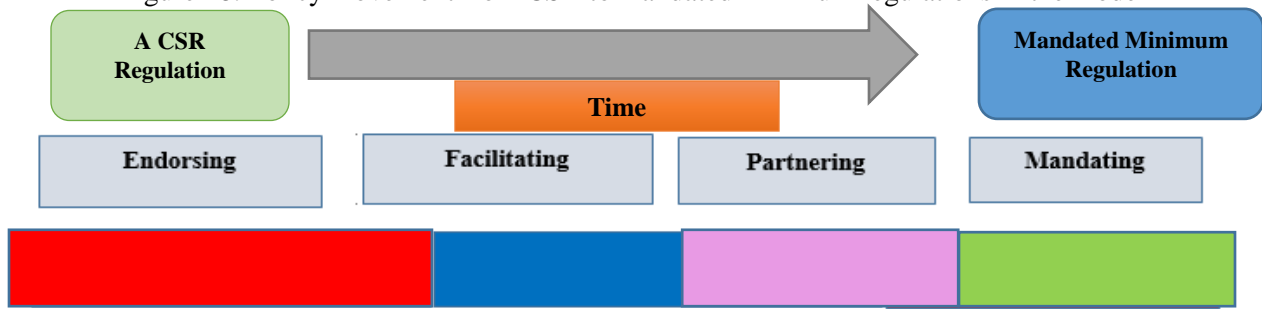
Environmental problems in NL have been streamlined into three types: monolithic economy, regulatory capture, and frail offshore oil and gas monitoring infrastructure. It is imperative to recognize that the drive to diversify the economy and re-capture regulations from industry can not be achieved through a CSR strategy alone. The issues require the swift and prompt characteristics of the CAC approach to regulation. Hence, the CSR model will not be able to address these problems without ongoing and more fully developed forms of existing approaches to government regulation. However, the frail offshore oil and gas monitoring infrastructure can be strengthened using a CSR strategy. Hence, the province of NL can enhance environmental monitoring by using the CSR model developed.

## GOVERNMENT'S CSR ROLE IN OFFSHORE NL:

The C-NLOPB and the provincial government of NL will have to decide who will be responsible for developing a public-policy on CSR. According to the characterization model, government can either endorse, facilitate, partner, or mandate CSR. The current economic situation that the province is facing may impede the ability of the government to mandate beyond

regulatory initiatives. However, the government can begin by endorsing and initiative, then move on to facilitating and partnering in order to reduce costs and resource needs. Hypothetically, it is assumed that at the point of partnering, a lot of businesses will have already adopted the beyond-regulation initiative, and at that point, government would then be able to mandate it on the entire industry that should, in theory, be more “ready” by that point.

Figure 18: Policy movement from CSR to mandated minimum regulations in the model



*Note: The red represents a low level of engagement; the blue and purple represent an average standard of engagement while the green accounts for a high degree of commitment.*

Source: Diagram developed by the author

The above approach recognizes the unique peculiarities of the offshore oil and gas industry in NL. As an incremental public policy approach, the goal is for the province to improve environmental regulations in the offshore continuously by actively moving industry to beyond-regulatory initiatives through the spectrum of being merely endorsed to becoming mandated minimum industry standards over time.

## CSR INSTRUMENT AVAILABLE TO THE GOVERNMENT OF NL

The characterization model examined in this thesis identified three CSR instruments available to the government of NL. They are legal instruments, economic instruments, and information Instruments. The use of information is the easiest CSR instrument available to the government of NL. Hypothetically, the government of NL can use information to encourage CSR initiatives. Examples of information instruments include website publications that rank companies' environmental initiatives from most responsible to least responsible. Similarly, the provincial government can give annual awards to the most responsible businesses in the offshore of Newfoundland.

Hypothetically, the current economic reality of NL in light of the continued dip in oil revenue means that financial incentives may not be the best route to take at the moment. However, more research should be conducted to identify possible economic incentives the government can provide. For example, the province can make the volume and impact of environmental CSR initiatives that a company has engaged in a crucial decider in who is awarded a contract or whose project is approved.

Legal instruments encompass mandatory requirements to report, invest or adopt a new standard. The use of legal instruments is often considered the last tool in the CSR instrument box and it should be used with caution. A hypothetical assumption is that the Government of NL will be successful in using a legal CSR instrument if the initiative they want to mandate is already popular among companies in the industry. For example, data gathered from the literature and interviews shows that industry currently reports on some of their environmental CSR initiatives; hence, the province can make it a legal requirement for firms to report on its environmental CSR

initiatives in the province. It could also require this as part of what should be submitted at the initial stage of a project application.

## CSR THEMES IDENTIFIED IN NL OFFSHORE:

The challenges identified in the course of this research were examined and these challenges are the rationale for recommending environmental public policy CSR themes applicable to the NL offshore oil and gas industry. They are as follows:

### *(a) ENSURING BUSINESS MEETS MINIMUM STANDARDS:*

Information gathered from the secondary literature and interviewed participants showed that there are current greenhouse gas emissions (GHG), oil spill, and waste discharge requirements to address environmental pollution from OGAs. While the effectiveness of existing regulation is up for debate because of the lack of data from the C-NLOPB, interview data gathered from a business representative indicates companies operating offshore NL strive to exceed requirements of the regulations. The government should develop a CSR strategy that will outline how to move these initiatives from a voluntary endeavor to a new minimum environmental standard by using the CSR policy instruments discussed above.

### *(b) RESPONSIBLE INVESTMENT:*

The research was able to gather information about offshore oil and gas company investments in environmental initiatives in Eastern Newfoundland. This includes Research and

Development (R&D) with Memorial University of Newfoundland in offshore related issues. However, as an interviewee noted, the province does not have viable infrastructure to properly assess the environmental impacts of offshore oil and gas activities in order to develop innovative alternatives to reduce the effects of oil and gas activities to the barest minimum. Hence, it is recommended that the government use the above CSR policy instruments to develop policies to encourage CSR investments in environmental testing and assessment facilities. Hypothetically, the government can mandate that firms partner with educational and research institution in NL to do so.

*(c) PHILANTHROPIC AND COMMUNITY DEVELOPMENT:*

Oil and gas companies invest in philanthropic initiatives and data gathered from interviewees and from secondary sources show that Eastern Newfoundland has benefited from a few philanthropic efforts. These include environmental education, conservation initiatives, donations to environmental groups, and sponsorships. Initiatives like these should be encouraged more; however, more research will be needed to understand how to gradually move these environmental initiatives from being voluntary to becoming mandated over time.

*(d) STAKEHOLDER ENGAGEMENT AND REPRESENTATION:*

Data gathered from both secondary and primary sources underlined the poor stakeholder engagement processes in the offshore oil and gas industry. Both the regulator and businesses are identified as culpable when it comes to the poor performance in engaging stakeholders and



addressing their concerns. Some businesses, however, involve stakeholders a little more than others; although this may not have a high impact at this point, it should be recognized and encouraged with the intention of becoming mandated over time. Moreover, a concerted effort is needed to objectively analyze how engagement can be moved from being endorsed to becoming a mandated minimum standard for operating in the offshore of Eastern Newfoundland.

*(e) PRO-CSR CERTIFICATION, BEYOND COMPLIANCE STANDARDS AND MANAGEMENT SYSTEMS:*

All companies operating offshore have some form of environmental management system (EMSs). This situation is evident from the analysis of data gathered from both secondary and primary sources. These EMSs in some cases are more stringent than current regulatory standards. Hypothetically, a public policy CSR strategy should recognize businesses with the best environmental management systems, environmental certification schemes and other standards. The policy should move these identified standards from voluntary initiatives to mandated minimum requirements for all industry businesses over time.

*(f) PRO-CSR REPORTING AND TRANSPARENCY:*

Data gathered from secondary sources and an interviewee shows that secrecy may shroud the current governance process in the offshore oil and gas industry. In addition, very limited information is available online about business CSR initiatives in NL when compared to provinces like Alberta. A public policy CSR strategy should encourage companies operating here

in NL to be more open and transparent with information in the offshore of NL. Hypothetically, the public policy on CSR should help businesses move transparent reporting from voluntary initiatives to mandated beyond-regulatory requirements over time.

**Table 9:** A model characterizing the potential role and CSR themes that can address the environmental issues identified in the offshore of eastern Newfoundland.

<b>Government's Role</b>		<b>Endorsing CSR.</b> And CSR Instrument. Recognition	<b>Facilitating CSR.</b> And CSR Instrument. Economic Incentive	<b>Partnering CSR.</b> And CSR Instrument Economic Incentive	<b>Mandating CSR.</b> And CSR Instrument. Laws/Regulations
<b>CSR Policy Theme</b>	<b>Contextual environmental issues to be addressed in NL.</b>				
Ensuring business exceeds minimum regulatory standards	Greenhouse gas emissions (GHG), Oil spill, and waste discharge treatment.				
Responsible Investment.	Corporate investment in viable infrastructure to help accurately assess the environmental impacts of offshore oil and gas activities.				
Philanthropic and community development.	Encourage investment in environmental education, conservation initiatives, donations to environmental groups, and sponsorships				
Stakeholder engagement and representation.	Encourage more stakeholder participation in environmental decision-making processes.				
Pro-CSR certification. Beyond compliance Standards and Management Systems.	Leverage businesses Environment Management Systems				
Pro-CSR Reporting and Transparency.	Encourage beyond regulatory reporting requirements				

Source: Table prepared by author

## **5.4. Suggestions for further study**

This thesis has argued that CSR can be used to strengthen environmental regulations in the offshore of Eastern Newfoundland. Hence, the fundamental objective of the research has been met. However, given the lack of research in this field generally and in this sector within NL specifically, the study has opened up three key areas for further study:

The first area of study is the need to assess the perspective of both the C-NLOPB and the DNR on using CSR to address the six contextual environmental issues identified in the thesis as being peculiar to NL. The study should encompass how both regulators can endorse, facilitate, partner, and mandate CSR initiatives in Eastern NL. The second area of study will need to research how the five other steps in Peters and Rob's (2010) CSR strategy can be used to develop a holistic CSR strategy for the province of NL. These include: defining what a public policy on CSR means to the province; identifying which government department is responsible for leading the initiative; defining the public policy rationale for a CSR strategy in Newfoundland; identifying appropriate types of policy intervention for CSR, and; researching how to monitor the impact of the CSR strategy in enhancing environmental regulations in NL. The third area where further study is needed is the use of the CSR strategies in other natural resource sectors in NL. This might include, for example, fishery, mining and forestry sectors.

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## **APPENDIX 1**

### **Email recruitment letter and for use when contacting potential participants by telephone:**

Dear XXXX (Business and industry organization representative, government official).

I am a masters' student and researcher based at Grenfell Campus, Memorial University, in the city of Corner Brook, Newfoundland and Labrador. I would like to extend an invitation to you to take part in my research project. I am looking for interview respondents to support my study: "The role of Government in supporting Corporate Social Responsibility for Natural Resource Management: A case study of the off-shore oil and gas industry in Eastern Newfoundland". The objective of this project is to identify the current role of government in supporting CSR for natural resource management and also to provide government with a CSR strategy for supporting responsible natural resource management in Eastern Newfoundland's off-shore oil and gas industry.

The purpose of interviews is to gather information from people knowledgeable of the off-shore environmental regulatory regime in Eastern Newfoundland. The research will involve face-to-face interviews with environmental managers in government departments, representatives from the oil and gas and environmental industry and businesses in the off-shore oil and gas industry.

If you are willing to be interviewed, the interview will last approximately 1 hour but the actual length will depend on how much you have to say. The questions will focus on the role of government in supporting CSR for environmentally responsible natural resource management in Eastern Newfoundland's off-shore oil and gas industry. The outcome of the research will be a policy brief recommendation to government, academic conference papers and peer review journal publications.

Your participation in my research would be free and entirely voluntary. Your name will not be used in any publications without your permission. If you are willing to be interviewed as part of this project, or if you want to find out more about the project, please respond to this email message and I will contact you with further details.

If you are willing to participate or would like more information, please contact me at (bedu@grenfell.mun.ca). If you are not willing or you are unable to participate in this research, please do let me know. I hope to hear from you in the near future.

Yours sincerely,

Banjo Edu  
MA Candidate  
Environmental Policy Institute  
Grenfell Campus, Memorial University

List of agencies, organizations and companies from which to identify potential participants.

Section	Name of organisation
Government	<ol style="list-style-type: none"><li>1. Canada- Newfoundland Off-shore Petroleum Board</li><li>2. Department of Natural Resources</li><li>3. Department of Business, Culture and Tourism</li></ol>
Business	<ol style="list-style-type: none"><li>4. Exxon Mobil</li><li>5. Husky Energy</li><li>6. Suncor</li><li>7. Statoil</li></ol>
Industry Association	<ol style="list-style-type: none"><li>8. Newfoundland Environmental Industry Association</li><li>9. NOIA</li></ol>



Appendix 2:

### **Participant Informed Consent Form**

*For key informant interviews with people with knowledge about*

*The role of government in supporting Corporate Social Responsibility for environmental responsible natural resource management in off-shore oil and gas in Eastern Newfoundland.*

Researcher: Banjo Edu, Environmental Policy Institute, Grenfell Campus, Memorial University.  
bedu@grenfell.mun.ca.

You are invited to take part in a research project entitled ‘*the role of Government in supporting Corporate Social Responsibility for Natural Resource Management: A case study of the off-shore oil and gas industry in Eastern Newfoundland*’

This form is part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. It also describes your right to withdraw from the study at any time. In order to decide whether you wish to participate in this research study, you should understand enough about its risks and benefits to be able to make an informed decision. This is the informed consent process. Take time to read this carefully and to understand the information given to you. Please contact the researcher, *researcher’s name*, if you have any questions about the study or for more information not included here before you consent.

It is entirely up to you to decide whether to take part in this research. If you choose not to take part in this research or if you decide to withdraw from the research once it has started, there will be no negative consequences for you, now or in the future.

#### **Introduction:**

I am a Masters Student researcher from Grenfell Campus, Memorial University of Newfoundland. As part of my Masters’ thesis, I am conducting research under the supervision of Dr. Paul Foley entitled: “The role of Government in supporting Corporate Social Responsibility for Natural Resource Management: A case study of the off-shore oil and gas industry in Eastern Newfoundland.”

**Purpose of the study:** The purpose of this part of the study is to learn about government, industry and industry associations’ perception of CSR for responsible natural resource management. I am interviewing people who have knowledge about this. The purpose of these interviews is to gather information about the perceived role and actual role of government in this.

If you consent to participate in this interview, I will ask you about your knowledge of environmental challenges and the potential role of a government CSR strategy in encouraging responsible natural resource management.

Questions may include:

1. How effective are current environmental regulations in addressing environmental challenges in the off-shore oil and gas industry?
2. What role has the provincial government played in facilitating CSR for environmentally responsible natural resource management in the off-shore industry of Eastern Newfoundland?
3. What challenges will government face in adopting a strategic CSR policy for responsible natural resource management in Eastern Newfoundland's off-shore oil and gas industry?
4. What types of environmental CSR initiatives have businesses adopted in general and in the off-shore oil and gas industry in particular in addressing environmental challenges in the off-shore oil and gas industry of Eastern Newfoundland?
5. How effective have these CSR initiatives been in helping you address environmental challenges when compared to government regulations? And how supportive has government been of these CSR initiatives?
6. How supportive will businesses be of a government CSR strategy for responsible natural resource management in the off-shore oil and gas industry?
7. How supportive will environmental and oil and gas industry associations in Newfoundland be of a government CSR strategy for responsible natural resource management in the off-shore oil and gas industry?

Interviews will help me identify challenges and opportunities involved in creating a CSR strategy for responsible natural resource management. The information gathered will be used for academic conference presentations and publications. It will also be used to create policy briefs and submitted to participating government departments and agencies.

The interview will last about 1 hour, but the actual length will depend on how much you have to say. I expect to conduct only one interview, but I may request a brief follow-up interview in person or by phone for added clarification.

Participation in the interview is free and voluntary. You may refuse to participate. You may refuse to answer specific questions. And you may decide to end the interview at any point. I don't think there are any risks to you if you participate. Your participation in this research can contribute to the overall knowledge base for designing a credible and effective CSR strategy for responsible natural resource management in the off-shore oil and gas industry.

Your name will not be used in any written reports or publication without permission.

If you agree, interviews will be recorded using a digital audio device. This will ensure I get all the information you provide accurately. I will later transcribe the interviews into Microsoft Word documents. The transcription is what will be used for data analysis. Transcripts will be safely and securely stored in password-protected files. To maintain confidentiality, we will assign each interview a number and we will store the original transcripts and the master list with the names of interviewees separately in password protected files, with only me having access. Data will be destroyed 10 years after the completion of the project.

### **Ethical Research:**

The proposal for this research (has been reviewed) by the Research Ethics Board at Grenfell Campus, Memorial University, and found to be in compliance with its ethics policy. If you have ethical concerns about the research (such as the way you have been treated or your rights as a participant), you may contact the Grenfell Campus Research Ethics Board through Lan Ma at [lma@grenfell.mun.ca](mailto:lma@grenfell.mun.ca) or by phone at 1-709-639-7596.

1. I agree to participate in the research project understanding that my participation is voluntary, that I may end my participation at any time, and that if I withdraw the audio-recordings and transcripts for my interview will be destroyed.  Yes/  No
2. I agree to be audio-recorded during the interview.  Yes/  No
3. I understand that every reasonable effort will be made to assure my identity will be kept confidential and that my name will not be identified in any reports and publications without explicit permission. I also understand that in some circumstances, it may be difficult to assure my identity is not revealed.  Yes/  No
4. I understand that if I indicate in the interview that there are certain comments I would like to be 'on the record' this means my name and affiliation can be included in any reports and publications where those comments are cited.  Yes/  No
5. I hereby consent to participate in this study.  Yes/  No
6. A copy of this Participant Consent Form has been given to me for my records  Yes/  No

Signature of participant

Date

I have explained this study to the best of my ability. I invited questions and gave answers. I believe that the participant fully understands what is involved in being in the study, and that he or she has freely chosen to be in the study.

Signature of Banjo Edu, Principal Researcher

Date

Contact:

Banjo Edu

Environmental Policy Institute

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