

How Good is Canada's Word?

Vancouver's Corriente Resources is in deep in Ecuador

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"Companies should respect society and the environment," said former Canadian International Trade Minister Michael Fortier during a recent visit to Ecuador. "And if they don't, we will not approve of their continued operations."

The Ecuadorian capital was the final stop on Fortier's Latin American tour in mid-August, which also included Mexico and Panama.

Canadian capital makes up over 90 per cent of the money being invested in Ecuador's nascent metal mining sector. The industry has been in development for about 15 years but has yet to see any large-scale mineral projects go into production despite dozens planned.

Widespread local opposition during a period of policy change has led companies to lobby hard for political support from the Canadian government.

And since the Ecuadorian National Constituent Assembly passed a decree on April 18 toughening up mining regulations, Canadian government officials have stepped up their support for the over 25 Canadian-financed companies exploring in Ecuador.

The decree ordered most mineral concessions revoked for various reasons, including proximity to headwaters, overlap with protected natural areas, concessions obtained through government officials with insider knowledge and failure to consult with local communities.

Both Fortier and Canadian ambassador to Ecuador Christian Lapointe have expressed concern to the Ecuadorian government over the decision.

But it is likely that a combination of political pressure from Canada and a lack of political will from President Rafael Correa's government (which favours mining to bolster state revenue) will leave most criteria for revoking mineral concessions unapplied. Large-scale metallic mining activities, however, have been suspended until a new mining law is approved.

The law, anticipated to replace the government decree, has had extensive industry input and will likely be approved by an interim congress now that Ecuador's new Constitution has been approved by a referendum.

Despite these developments, Canada is keeping the pressure on. Before Canadian elections were called on September 7, Fortier announced that Prime Minister Stephen Harper would travel to Ecuador to meet with Correa. It would be surprising if mining is not on his agenda.

Collective rights disregarded

Despite Fortier's assurances, Canada's help for mining companies does not ensure respect for

communities acting in defence of their rights and their environment.

Shortly after President Correa's January 2007 inauguration, a nationwide movement against mining began to coalesce.

The rural, environmental, and indigenous organizations in the coalition have emphasized the lack of respect for communities' right to consultation guaranteed in the current constitution. Many of these groups have been lobbying for a provision that would require local consent for mining activities to be included in the new constitution, although this has ultimately been opposed by the government.

Alberto Acosta, the former Minister of Energy and Mines and past President of the National Constituent Assembly, said that in lieu of community consultation, "Companies have specialized in how to divide communities," leading to "near civil war" in parts of the country.

Familiar strategies to divide communities include fabricating charges against mining opponents, allegations often made by third parties with a known connection to mining companies. Threats and the use of force have also been employed. And corporate-community relations programs that are often aimed at particular individuals or groups within a community fostering or aggravating strong differences over mining are widely seen as buying the 'social license' that companies need.

The April mining decree included the failure to consult with communities as one of the criteria for revoking mineral concessions. However, protecting companies appears to be Canada's priority.

Ian Harris, Senior VP of Ecuacorriente, a subsidiary of Vancouver-based Corriente Resources Inc., recently wrote that, "The Canadian Embassy in Ecuador has worked tirelessly to affect change in the mining policy – including facilitating high-level meetings between Canadian mining companies and President Rafael Correa."

Another industry leader commented that the embassy has reminded the President and his ministers to respect Canada's Foreign Investment Promotion and Protection Agreement (FIPA) with Ecuador.

Amongst other things, the FIPA says that Canadian investments cannot be expropriated "without prompt and adequate compensation."

Compensation is not ensured in the mining decree, which orders revocation of mineral concessions without compensation.

Under the investment agreement, companies also have "access to binding international arbitration for disputes arising from a breach of the treaty," notes Michael O'Shaughnessy from the Department of Foreign Affairs.

So far, the partial application of the mining decree has meant that the companies have apparently not felt the need to seek recourse under the treaty. However, the question remains as to whether the treaty is also playing a role in limiting the application of the decree.

Indiscriminate support

Further challenging Fortier's claim is Canadian government support for companies with a questionable human rights record.

In one strange twist of events, the Ottawa-based research and advocacy organization MiningWatch

Canada received “malicious” letters from two indigenous representatives, including Shuar leader Ruben Naichap.

The letter included “bizarre accusations of genocide and that we were somehow paying people to blockade the road,” says Communications and Outreach Coordinator Jamie Kneen.

What MiningWatch had done was post information on its website about heavy military repression against anti-mining resistance in the area pertaining to Corriente Resources’ Mirador Project.

A report submitted by several Quito-based human rights organizations to the Inter American Commission of Human Rights describes human rights violations resulting from this incident.

It was later verified that the correspondence from Naichap was written on a computer owned by Corriente Resources.

Corriente is one of a handful of companies banking on an extensive gold and copper mining district in Ecuador’s Southern Amazon. Their mineral concessions include a 20km by 80km band across five counties in two provinces.

Company representatives have also enjoyed regular discussions with the Ministry of Mines and Petroleum, have had input into the country's mining law, and have attended a meeting with top Ecuadorian officials along with seven other companies that was facilitated by the Canadian embassy shortly after the mining decree was announced.

MiningWatch, on the other hand, is still waiting for a response to a letter to the embassy sent over a year ago about why the Canadian government supports Corriente.

Kneen wants to know why “one of the companies at the centre of one of the hottest conflicts where people have been shot at, tear gassed, a congressman has been taken hostage for about three days... and that has had a stop work order, [is] being treated as a respectable corporate citizen.”

A Fair Deal?

Despite this conflict – or perhaps because of it – Corriente has also run the highest profile pro-mining publicity campaign of any company in Ecuador.

Using the slogan “A Fair Deal,” the campaign focuses on the promise of jobs and development. But its questionable choice of local collaborators is suspected to have undermined indigenous organizations and aggravated tensions in the Amazon region.

Don Clarke, vice president of sustainable development for Ecuacorriente, promotes himself as a specialist in facilitating company relations with indigenous communities.

Writing for the Canadian Foundation for the Americas (FOCAL), Clarke says, “Companies that lack the corporate capacity to understand indigenous issues quickly encounter issues that can dramatically impact their bottom line and render the business environment hostile.”

This may be true, given that areas desired by extractive industry increasingly include indigenous territories.

Clarke’s approach in Ecuador has been challenged by indigenous organizations, especially given the

support he has provided to such controversial representatives as Ruben Naichap, who signed one of the letters that MiningWatch received last year.

As early as 1998, two regional Shuar federations from the Southern Amazon publicly denounced Naichap for “conflictual, divisionist and individualistic behaviour that has caused serious problems within their communities.”

In 2007, a Shuar Association that groups together indigenous communities near one of Corriente’s main projects also expelled Naichap for aggression and corruption.

Naichap has worked closely with Don Clarke over the last year and a half, becoming a sort of national and international emissary on behalf of Corriente and the large scale mining industry in general.

Clarke indicates that Corriente has a “Memorandum of Understanding” with Ruben Naichap’s Shuar Federation, one of two in the Province of Zamora Chinchipe.

The agreement includes regular financial support that, Clarke says, he believes the "communities manage appropriately.” In addition, it includes stipulations about labour and services and is viewed as a step toward an eventual Impact Benefit Agreement.

María Belen Páez, from Quito-based Pachamama Foundation, says that money provided by companies in such cases “provokes tension, aggravates conflicts and without doubt arrives at extremes of violence.”

Angel Awak is President of the nationally-recognized Shuar Federation of Zamora Chinchipe, which works with Amazonian and nationwide indigenous organizations that are highly critical of mining.

Awak attributes the 'grave conflict' that they are experiencing to mining and other extractive industries.

He says money causes problems, particularly at the level of the community where “it is used to buy people’s conscience and begins to divide families.” He is also worried about a group that is said to be forming to confront mining opponents. Naichap is believed to be involved with this new organization.

Clarke responds by saying, “Our company has always been open to work with anyone that wants to be worked with... It’s not the role of the company to decide who’s legitimate or not, our role is to work with stakeholders.”

But given his stated expertise in community relations, his easy dismissal of the tension his company generates begs the question about how “corporate capacity to understand indigenous issues” is being used. And whether “a hostile environment” might actually work in the company’s interest to mask and weaken opposition to their particular projects.

A little respect

“To enter, one should have permission,” considers Awak, “Just like going into someone’s house.”

“This small group of people [referring to Naichap] is speaking out because they have the resources to do so. For those of us who are on the defense, we just don’t have resources for the world to hear us” he continued, adding, “Our people need quality education and healthcare, but without destruction.”

With state forces aligned on the side of industry, and coalitions of indigenous organizations and

environmental groups fighting to prevent mining from taking place without local consent, the struggle in Ecuador is far from over. As a result of President Correa's support for the mining industry, however, the fight might move from national politics to tough battles at the local level.

MiningWatch Canada's Kneen suggests that Fortier needs to keep his word. "We're not saying that Canadian businesses don't deserve some level of support," he explained.

But, he said, "Historically, Canada's objectives internationally have included democratic development and protection of human rights... If those are still being respected we need to see how these decisions are being made."