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Mining for Profits in International Tribunals

How Transnational Corporations Use Trade and Investment Treaties as Powerful Tools in Disputes Over Oil, Mining, and Gas

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Cover photos: The photograph on the left is of the house of Ira Leon Rennert , CEO and President of The Renco Group Inc. and Chairman of Doe Run Resources Corp. The photograph on the right is of La Oroya mining complex in Peru, which Doe Run Peru operates. See p. 10 for a summary of the Renco v. Peru investor-state lawsuit.

Key Findings

Investor-state lawsuits related to oil, gas, and mining disputes are on the rise – particularly in Latin America

- Transnational corporations are increasingly turning to international arbitration tribunals to resolve disputes over natural resource rights. At the most frequently used tribunal, the International Center for Settlement of Investment Disputes (ICSID), there are 137 pending cases. Forty-three of these cases are related to oil, mining, or gas. [1]
- By contrast, in 2000, there were only three pending ICSID cases related to oil, mining, or gas. There were only 7 such cases filed during the entire decades of the 1980s and 1990s.
- The 43 current extractive industries cases include: 14 related to oil, 10 related to gas, 14 related to mining (including 4 over gold), and another 5 related to combination oil/gas projects.

Latin American governments are being particularly targeted

- Latin American governments make up about 10 percent of the 157 ICSID member governments. And yet they are the targets of 68 (50 percent) of all ICSID cases and 25 (nearly two-thirds) of the 43 current extractive industries cases.

Regional breakdown of all ICSID cases related to oil, mining, and gas:

- Latin America: 25 (58%)
- Africa: 8 (19%)
- Eastern Europe: 5 (12%)
- Central Asia: 4 (9%)
- North America: 1 (2%) (the case is against Canada)

The increase in investor-state lawsuits related to extractive industries has coincided with an increase in commodity prices

- The price of oil rose steadily throughout the past decade, before plunging in 2008. However, by September 2011, it had rebounded to $100.8 per barrel, up from $25 in January 2000.[2]
- The price of gold has quintupled, from $282 per ounce in January 2000 to a record breaking $1,900 per ounce in September of 2011.[3]
- The price of gas rose from $86 per thousand cubic meters in January 2000 to roughly $140 (in the U.S. domestic market) in September 2011. In May, 2011 it had reached 257$ USD. [4]

The potential economic impact of investor-state lawsuits on Latin American countries is significant

- In 2009, the international gold mining firms Pacific Rim and Commerce Group each sued the Salvadoran government, demanding $77 million and $100 million respectively (the equivalent of nearly 1% of El Salvador's GDP). Although ICSID dismissed the Commerce Group case, El Salvador still had to pay $800,000 in legal fees.
- In March 2010, Chevron won about $700 million in a suit against Ecuador, the equivalent of 1.3% of that nation's GDP.
- The increase in investor-state lawsuits and the economic costs they incur on Latin American countries may prevent the creation of future environmentally and socially responsible legislation.

I. Introduction

In the context of high global prices for natural resources, developing country governments seeking to increase the benefits of those resources for their own people are finding themselves increasingly at odds with transnational corporations.

In these battles over resource rights, transnational companies are increasingly using a powerful new weapon – the right to sue governments in international arbitration tribunals granted under a complex web of free trade agreements (FTAs) and thousands of bilateral investment treaties (BITs).

This report explains the institutional framework that allows global firms to mine for profits in international arbitration tribunals. It then documents the increased use of these rights by transnational corporations involved in the oil, mining, and gas industries, particularly in Latin America.

II. International Arbitration Tribunals and the Trade and Investment Treaties They Enforce

In past centuries, disputes over foreign investments were resolved either through the host country's domestic judicial system or through government-to-government processes. In Latin America, there was a particularly strong sentiment among governments that it would be an infringement on national sovereignty to take such matters out of the hands of national authorities.

In 1868, Argentine jurist Carlos Calvo formulated the "Calvo Doctrine," which became influential throughout the region. It prevented foreign investors from claiming more rights and privileges than those granted to national citizens, and barred foreign governments from breaking a sovereign state's laws to protect its citizen's private claim.[5] It also required foreign investors to file any dispute arising in a host country with that country's legal system, therefore subjecting the investors to domestic law.

In the past three decades, most countries in the region have shifted away from the Calvo Doctrine. This shift has coincided with increased pressure by economic powers like the U.S. and the European Union, as well as international institutions like the World Bank and International Monetary Fund (IMF) which have enforced a neoliberal agenda and openly advocated for Latin America to open its borders to free trade. [6] As a result, almost every government in the region –with a few exceptions- has accepted the argument that they would attract increased amounts of foreign investment if they allowed investors from other countries to bypass domestic courts and seek recourse through international dispute settlement mechanisms.[7] However, there is no evidence that providing investors with this supranational power has actually resulted in increased investment inflows to a particular country. In fact, the developing countries that have been the largest recipients of foreign investment (China, India, Brazil) have not signed such deals with the United States. Nevertheless, most countries in the world are now obliged to provide such sweeping foreign investor rights through an expanding web of international arbitration tribunals, bilateral investment treaties (BITs), and free trade agreements (FTAs).

International Center for Settlement of Investment Disputes (ICSID)

Foreign investors often have a choice of venue for international arbitration. This report focuses primarily on the International Center for Settlement of Investment Disputes (ICSID), which is associated with the World Bank.[8] ICSID is the most frequently used tribunal and it is the only one that publishes a registry of its cases. Other tribunals, such as the UN Commission on International Trade Law (UNCITRAL), have resisted even this small measure of transparency.

Private foreign investors can bring claims to ICSID against national governments, demanding compensation for actions that significantly diminish the value of their investments. Created in 1966, ICSID was almost dormant for the first 30 years of its existence. What brought it to life was the explosion of bilateral investment treaties (BITs). Worldwide, the number of signed BITs went from 1,000 in 1995 to more than 2,750 today.[9] Beginning with the 1994 North American Free Trade Agreement (NAFTA), free trade agreements signed by the United States have also included "investor-state" dispute settlement in their investment chapters.[10]

BITs and U.S. FTAs grant broad new rights to transnational corporations. Here are some of the main elements of a typical agreement, which have become highly controversial:

1. Investor-State Dispute Resolution

Private foreign investors can bypass domestic courts to sue governments directly in international tribunals.

2. Restrictions on "Indirect" Expropriation

Whereas expropriation in the past applied to physical takings of property, current rules also protect investors from "indirect" expropriation, interpreted to mean regulations and other government actions that significantly reduce the value of a foreign investment. Hence, corporations can sue over environmental, health, and other public interest laws developed through a democratic process. While the tribunals cannot force a government to repeal such laws, the threat of massive damages awards can put a "chilling effect" on responsible policy-making.

3. "Fair and Equitable Treatment" Standards

These terms have no definable meaning and are inherently subjective, allowing arbitrators to apply their own interpretations to government actions in countries with diverse histories, cultures and values systems.

4. National Treatment and Most Favored Nation Treatment

Governments must treat foreign investors and their investments at least as favorably as domestic investors and those from any third country. While this is touted as a basic principle of fairness, it strips the power of governments to pursue national development strategies used in the past by nearly every successful economy. Moreover, a regulatory action that applies to all corporations but has a disproportionate impact on a foreign investor could be targeted as a national treatment violation.

5. Ban on Capital Controls

Governments are banned from applying restrictions on the flows of capital, even though such controls helped some countries escape the worst of the global financial crisis of the late-1990s. Even the IMF has stopped demanding that governments lift controls on capital flows.

6. Limits on Performance Requirements

Governments must surrender the authority to require that foreign investors use a certain percentage of local inputs in production, transfer technology, and other conditions used in the past as responsible economic development tools.

III. Analysis of Current Oil, Mining, and Gas Cases

This section analyzes the oil, mining, and gas cases filed with ICSID. They do not represent the total number of mining-related investor-state cases around the world, since information about cases before international arbitration bodies is not publicly available.

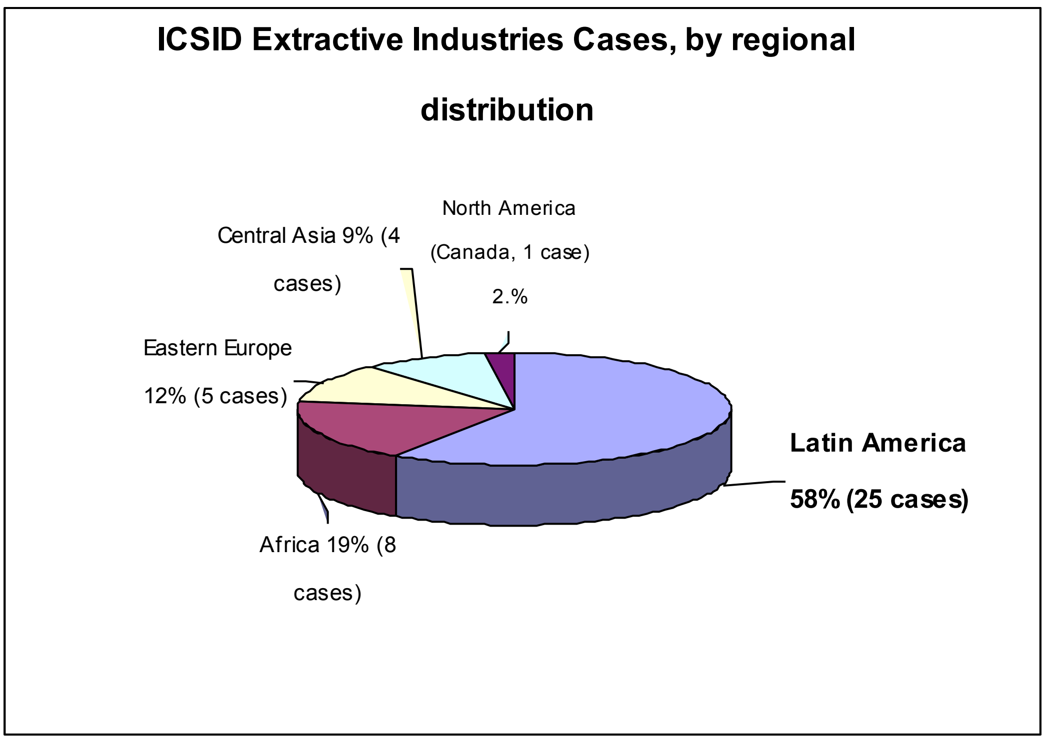
Out of a total of 137 pending cases at ICSID, 43 are related to oil, mining, or gas. Of these, 16 were filed in the past two years.[11] By contrast, in 2000, there were only three pending ICSID cases related to oil, mining, or gas. There were only 7 such cases filed during the entire decades of the 1980s and 1990s.

The 43 current extractive industries cases include: 14 related to oil, 10 related to gas, 14 related to mining (including 4 over gold), and another 5 related to combination oil/gas projects.

Latin America a Major Target

The trend of using "investor-state" lawsuits as a hammer in resource rights fights is most evident in Latin America. Countries of this region make up only about 10 percent of the total 157 ICSID member governments, but they are the targets of 50 percent of all pending ICSID cases and 58 percent of pending extractive industries cases.

In part, Latin America's disproportionate share of investor-state cases may be due to new political leadership in the region. In several countries, candidates have won elections after promising to reverse the longstanding practice of allowing foreign corporations to extract natural



wealth and keep the bulk of the profits for themselves. Some governments have also become more demanding in terms of environmental impact assessments. After taking office, these leaders have followed through by taking more assertive positions in negotiating with global investors. And as they have done so, they have become more aware of the constraints imposed by bilateral investment treaties and free trade agreements signed by their predecessors. In 2007, the Bolivian government withdrew from ICSID, and has since amended its constitution to deny jurisdiction of international tribunals to hear disputes over investments in the hydrocarbons sector.[12] Similarly, in 2009, Ecuador took measures to withdraw from ICSID and has also terminated nine BITs, (mostly with other developing nations in the Latin America).[13]

The political shifts in some Latin American countries have coincided with an increased presence of transnational corporations in the area following a steep rise in global commodity prices. This combination has raised the stakes of long-standing conflicts. The price of oil rose steadily throughout the past decade, before plunging in 2008. By September of this year, it had rebounded to $100.8 per barrel, up from $25 in January 2000.[14]

Similarly, the price of gas rose from $86 per thousand cubic meters in January 2000 to $140 (in the U.S. domestic market) in September 2011.[15] The price of gold has also skyrocketed, rising from $282 per ounce in January 2000 to a record high, breaking $1,900 per ounce in September 2011.[16] The price of gold is only expected to continue to soar in 2012,[17] encouraging extractive corporations to increase production at all costs (at the expense of environmental and social wellbeing), and raising the likelihood of even more disputes over this precious commodity.

There are currently 155 mining concessions in Honduras, 111 in Guatemala, and 29 in El Salvador (in the case of El Salvador, all are in the exploration stage and have not been granted extraction permits).[18] In Mexico, there are 198 operating mining corporations from Canada alone.[19]

The new mining rush in Latin America has exacerbated tensions with local communities that have long demanded a fairer share of the benefits of their natural resources and have also opposed environmentally destructive practices.[20] Indigenous groups and local populations throughout the region have risen up to protect their rights to their lands and water sources against the destructive forces of transnational mining corporations.[21] For example, in El Salvador, the resistance has taken form in the development of "*La Mesa Nacional Frente a la Minería Metálica*," a coalition of non-profit organizations and local activists working together to oppose gold mining.[22] In other countries, like Peru and Guatemala, locals have organized strikes and ongoing protests and rallies to fight back against powerful mining corporations, in some cases, physically blocking the entrance of mining officials into their lands.[23]

In what has been called the "resource curse," extractive activities tend to produce significant returns for investors but grave environmental and social costs for the host country and the local communities. Although corporations use the argument that they are creating employment opportunities that are needed in poor areas, in most cases, the jobs they create do not compensate for the jobs they destroy through land loss and environmental degradation, especially in rural areas that depend on agriculture. For example, although the Marlin Mine in Guatemala provides 160 jobs for locals, the pollution from the mine has undermined the 40,000 people in the area who rely on subsistence agriculture for economic security.[24] A recent Tufts University study on that mine finds that, "when juxtaposed against the long-term and uncertain environmental risk, the economic benefits of the mine to Guatemala and especially to local communities under a business-as-usual scenario are meager and short-lived." The study warns too that "economic benefits drop off sharply when the mine closes because jobs will end and because there has been little investment in building sustainable industry and enterprise" and that "while environmental costs will likely rise, perhaps exponentially, in the post-closure phase, economic benefits will end abruptly with the closure of the mine."[25] In fact, bilateral investment treaties contain clauses that prohibit governments from applying performance requirements on foreign investors to ensure that these investments benefit the host country.

Furthermore, in most Latin American countries, mining workers are not unionized, and the jobs available to them offer low wages and dangerous working conditions. In fact, in 2010 alone, over 200 miners were killed in mining accidents throughout Latin America.[26] Mining jobs are also nonpermanent and end when the mine closes, giving workers little economic security whatsoever.

The influx of transnational mining corporations in Latin America has also led to social unrest within the affected communities. Mining corporations like Pacific Rim in El Salvador have provoked mistrust among neighbors and have even been accused of backing organized crime that has included kidnappings and assassinations of anti-mining activists.[27]

The ramifications of BITs and FTAs have been to reduce countries' power to uphold their sovereign rights, while granting transnational corporations increased access to their resources with less regulatory restrictions. When nations do stand up for their rights and the public interest, corporations are able to sue them in international tribunals. This allows corporations to undermine countries' democratic process, challenging national laws and disregarding public opinion. Furthermore, this power granted corporations may not only render existing national laws insignificant, but may also have further implications in preventing countries from creating new legislation for fear of being sued.

IV. Examples of Extractive Industries Cases

The following are seven examples of international arbitration cases related to oil, mining, or gas:

Pacific Rim Cayman LLC v. El Salvador (Gold mining)

In June 2009, Canadian mining company Pacific Rim Cayman LLC (Pacific Rim) sued the state of El Salvador under CAFTA for $77 million, after the Ministry of the Environment of that country denied the company extraction permits for its "El Dorado" gold mine. The permits were denied on environmental and public health grounds.[28] Pacific Rim is the first company to pursue international arbitration against El Salvador using CAFTA provisions. Since Canada is not part of that free trade agreement, Pacific Rim is using its U.S. subsidiary in Reno, Nevada to gain access to CAFTA's investor-state dispute settlement mechanism.

There has been significant social uproar against the mining project from civil society groups, spear-headed by the "*Mesa Nacional Frente a la Mineria Metalica*." This coalition brings together a wide range of social and community groups that have already opposed 29 mining projects in the region over similar environmental and health concerns. Three activists with ties to the anti-mining campaign have been murdered in the past two years.[29]

On January 4, 2010, the government of El Salvador presented preliminary objections to the suit, using provisions in CAFTA aimed at preventing frivolous investor-state cases. El Salvador argued that Pacific Rim had failed to provide sufficient evidence to support its claims, which center on charges of "discriminatory treatment." Although Pacific Rim had permits for exploration, the government maintained that this did not give the firm automatic rights to the mining concession.[30] However, on August 2, 2010 the ICSID tribunal rejected these objections, stating the case would proceed. In response, El Salvador has launched a new set of objections, maintaining that Pacific Rim, a Canadian corporation, should not be allowed to file suit under CAFTA, since Canada is not a party to the agreement. The Salvadoran government argues that Pacific Rim relocated to Nevada, U.S.A. in anticipation of filing a claim under CAFTA and that the case should be dropped due to an abuse of process. The two parties await further decision by the tribunal.[31]

A second mining company, Commerce Group Corp. and San Sebastian Gold Mines Inc., filed another lawsuit (also at ICSID) against El Salvador on August 2009 for $100 million dollars. This lawsuit was also over extraction permits. However, because Commerce Group failed to wave its case in Salvadoran courts before submitting its arbitration under CAFTA in international courts, the case was dismissed.

Despite this victory, the Salvadoran Government was still forced to pay $800,000 to ICSID in legal fees after the tribunal declared that Commerce Group's case was not frivolous, plus the costs incurred to pay for lawyers for its defense.[32]

Although less than the $100 million Commerce Group had asked for, this amount remains a significant sum for a developing country like El Salvador. This case is a prime example of how corporate arbitration under FTAs and BITs results in a lose-lose for governments, who always pay a cost in the end, no matter the outcome.

On July 15, 2011, Commerce Group submitted a request for an annulment of the award granted by the ICSID tribunal on the grounds that "the Tribunal manifestly exceeded its powers," and that "the award fails to state the reasons on which it is based." This case remains pending.

Chevron v. Ecuador (Oil)

On March 30, 2010, an arbitration panel at the United Nations Commission on International Trade Law (UNCITRAL) ruled in favor of Chevron in a suit against the government of Ecuador. Chevron's claim, filed in 2006, related to several cases the company had pursued in that country's domestic courts, alleging violations of oil contracts. Specifically, Chevron accused the government of paying the oil giant a discount rate for oil that was supposed to be used for the domestic market, and then selling the oil for a higher price in international markets.

In their ruling, the arbitrators found that the Ecuadorean courts had caused unreasonable delays in resolving these suits and this represented a violation of the U.S.-Ecuador BIT. The arbitration panel awarded the oil giant $700 million (the equivalent of 1.3% of the country's GDP), plus interest. The final payout is subject to change based on further proceedings to determine applicable taxes and other costs. [33] Chevron has also been engaged in another legal battle against Ecuador, this one, relating to a legal case brought by approximately 30,000 Amazon residents in Lago Agrio, alleging that the company is responsible for environmental abuses that have caused widespread health problems.[34] Chevron has fought this multibillion dollar lawsuit for eight years and has brought claims in U.S. courts to prove Ecuador has violated its due process, and even filed an international arbitration in the UN Commission on International Trade Law (UNCITRAL) in September 2009, seeking to prove that Ecuador was in violation of its BIT with the United States.[35]

Although an Ecuadorean judge in the Lago Agrio case ordered Chevron to pay up to $8 billion in damages to the plaintiffs, Chevron claims that the decision was obtained through fraud and that the government of Ecuador has violated the "fair and equitable treatment" and other provisions of the U.S.-Ecuador BIT by colluding with these Amazonian plaintiffs. On March 17, 2011, the U.S. Court of Appeals for the Second Circuit ruled that Chevron could proceed with their challenge of the ruling in Ecuadorean courts.[36]

Blackfire v. Mexico (Mining)

In February 2010, the Canadian-based mining firm Blackfire Exploration reportedly threatened to sue Mexico over the closing of a highly controversial open pit barite mine in the state of Chiapas. According to the Mexican daily newspaper *Milenio*, the firm threatened officials with a claim for $800 million in compensation under the investment rules of the North American Free Trade Agreement (NAFTA).[37]

As in many other Latin American countries, there has been strong local resistance to the negative social and environmental impacts of mining activities. On November 27, 2009, one of the most prominent critics of Blackfire, Mariano Abarca Roblero, was shot to death in front of his home in Chicomuselo. Abarca was a leader of the Mexican Network of People Affected by Mining (REMA, from the Spanish). Three current and former Blackfire employees have been arrested for his murder.[38]

Less than two weeks after the assassination, state environmental authorities in Chiapas ordered the temporary closure of the mine, claiming the firm had been building roads without authorization, causing pollution and toxic emissions, and affecting the direction and flow of water sources.[39] A coalition of Canadian environmental and human rights groups has also accused the firm of bribing a local mayor to buy support.[40] And in August 2011, Canadian authorities confirmed that a criminal investigation is underway.[41]

Maersk Oil and Anadarko v. Algeria (Oil)

In July 2009, the Danish firm Maersk Oil filed an ICSID claim against the government of Algeria over a windfall profits tax on oil. Anadarko, a U.S.-based joint venture partner of Maersk, brought a similar complaint before the arbitration tribunal of the International Chamber of Commerce in February 2009.[42]

The Algerian parliament passed the oil tax in 2006 and it went into effect in 2007. Government officials explained that the tax was an effort to retain more of the benefits of the country's oil wealth, raise revenues to invest in diversifying its economy, and preserve the nation's resources for future generations by slowing down oil exploration. The tax applies a 5% to 50% rate to "excess" profits when oil prices average more than $30 a barrel.[43] The United States applied a similar oil tax between 1980 and 1988.

Algerian President Abdelaziz Bouteflika announced the windfall tax on July 5, a national holiday commemorating independence from France.[44]

Renco Group Inc. v. Peru (Mining)

On April 7, 2011, Renco Group Inc. filed a claim with UNCITRAL against the Peruvian government on behalf of itself and its subsidiary, Doe Run Peru. The U.S. corporation is asking for $800 million in damages after the Peruvian government revoked Doe Run's operating license for the La Oroya smelter in July 2010.[45]

The Peruvian government charges that since its takeover of the smelter in 1997, Doe Run has failed to comply with an environmental clean-up program (*Programa de Adecuación y Manejo Ambiental*, or PAMA), continuing to make La Oroya one of the most polluted sites in the world.[46] According to organizations that support the local community, "although Doe Run did not start the contamination in La Oroya, the company has certainly contributed to the problem that it inherited."[47] Studies conducted several years ago, while Doe Run was still in operation, showed that 99 percent of the children under seven in the neighborhood closest to the smelter had blood lead levels higher than those considered acceptable by the Centers for Disease Control.[48]

Before shutting down, Doe Run Peru had requested an extension for its environmental cleanup contract to secure financing from creditors. However, the Peruvian government denied its request as it had already given the corporation an extension earlier that year. Instead, the government canceled Doe Run Peru's operating licenses, citing failure to meet Peru's environmental legal standards.[49]

The U.S. corporation is now accusing the Peruvian government of violating the Trade Promotion Agreement between the U.S and Peru, a bilateral free trade agreement that came into force on February 1, 2009.[50] Renco Group claims that Doe Run Peru has been subjected to unfair treatment, and that they have been treated more harshly than the previous owners of the smelter, the state-owned enterprise Activos Mineros. Furthermore, Renco Group Inc. argues that the Peruvian government has not lived up to its responsibility in the environmental rehabilitation program it agreed to when Doe Run Peru purchased the smelter and that Peru has failed to protect the company against third party claims over environmental problems, as the firm claims it is obliged to do under the free trade agreement. (One such claim was brought against Doe Run by 137 Peruvian children who had been exposed to toxic pollutants from the smelter).[51]

Despite Renco Group's claims, Peru maintains that it gave Doe Run ample time to comply with environmental standards, granting the corporation two extensions to complete the environmental rehabilitation program. Furthermore, Peru claims that the government should not be held liable for contamination occurring after Doe Run took over the smelter. Citing a report by DIGESA, an independent Peruvian environmental health authority, activists argue that pollution levels peaked in 2007, at a time when Doe Run was running the facility.[52]

Bear Creek Mining Corporation v. Peru (Mining)

The Bear Creek Mining Corporation has threatened to sue the government of Peru for cancelling the company's authorization to own the Santa Ana mining project in June of 2011.

After months of organized protests by locals on the Peruvian-Bolivian border in opposition to Bear Creek's mine (which soon escalated into a broader protest against all environmentally destructive mining operations in the region),[53] the Peruvian government took action and stopped the Canadian corporation from beginning operations on the proposed Santa Ana silver mine. In addition, the government halted all new mining concessions in the southern Puno province for three years.

Bear Creek, which has operated in Peru for over a decade, has maintained that it has done nothing wrong and that it has complied with all Environmental and Social Impact Assessment procedures. The company has stated that it will take legal action under the Canada-Peru FTA as well as the Peruvian appeal process if the government refuses to reverse its decision.[54] In July 2011, Bear Creek filed for a Constitutional injunction until a court determines whether the Peruvian government violated its constitutional rights.[55]

Crystallex v. Venezuela (Gold mining)

On March 9, 2011, the Crystallex International Corporation filed an arbitration claim under ICSID against the government of Venezuela.

In September 2002, the Canadian corporation received exclusive rights to explore and develop the Las Cristinas properties, which is thought to be one of the largest gold deposits in Latin America.[56] However, on February 3, 2011, the Venezuelan government cancelled its contract with Crystallex due to Crystallex's inactivity in progressing with the project within the previous year.[57]

In response, Crystallex filed a claim against Venezuela, seeking compensation of more than $3.8 billion.[58] They claim that Venezuela has breached its bilateral treaty with Canada, specifically regarding its protections against expropriation, unfair and inequitable treatment and discrimination.[59] The case remains pending.

Similar cases have also been brought against the Venezuelan government by Williams Companies Inc., which filed a case with ICSID on April 20, 2011 after losing the rights to the El Furrial & Pigap II gas compression facilities,[60] as well as by Highbury International AVV & Ramstein Trading Inc., which filed a case with ICSID on January 5, 2011.[61]

V. Alternative International Investment Policies

The oil, mining, and gas cases highlighted in this report are just one illustration of the imbalance in current rules that govern international investment. The system gives foreign investors sweeping powers to undermine laws and regulations, but no new obligations to support public welfare or the environment.

Civil society organizations and policymakers around the world are exploring alternative approaches that would promote a more equitable balance between corporate interests and the broader public interest. Examples of this go back to the work on Alternatives for the Americas by the Hemispheric Social Alliance[62]. Some more recent examples include a statement by dozens of academics on the International Investment Regime[63], a joint proposal by several U.S. environmental, consumer and other groups[64] and a letter signed by more than 250 economists calling for trade reforms to allow capital controls[65].

The Institute for Policy Studies has partnered with The Democracy Center, based in Bolivia, to create a Network for Justice in Global Investment to help facilitate a debate over a range of policy options, including withdrawing from the current system, re-writing the rules to support sustainable development and protect national sovereignty, and replacing the system with alternative institutions. To learn more, see: www.justinvestment.org.

Appendix: Worldwide Oil, Mining, and Gas Cases before ICSID
(As of November, 2011)

	Investor/Claimant	Country/ Respondent	Project	Date filed
1	Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A.	Albania	Oil storage and distribution project	9/12/2011
2	Maersk Olie, Algeriet A/S	Algeria	Exploration and production of liquid hydrocarbons	6/29/2009
3	Enron Creditors Recovery Corp.	Argentina	Natural gas transportation company	4/11/2001
4	LG&E Energy Corp	Argentina	Gas distribution enterprise	1/31/2002
5	Sempra Energy International	Argentina	Gas supply and distribution enterprise	12/6/2002
6	Camuzzi International S.A.	Argentina	Gas supply and distribution enterprise	2/27/2003
7	Gas Natural SDG S.A.	Argentina	Gas supply and distribution enterprise	5/29/2003
8	Total S.A.	Argentina	Gas production and distribution	1/22/2004
9	Mobil Exploration and Development Inc. Suc. Argentina & Mobil Argentina S.A.	Argentina	Gas production concessions	8/5/2004
10	Niko Resources (Bangladesh) Ltd.	Bangladesh	Petroleum development contract	5/27/2010
11	Niko Resources (Bangladesh) Ltd	Bangladesh	Gas purchase and sale agreement	7/28/2010
12	Pan American Energy LLC	Bolivia	Exploration and exploitation of hydrocarbons	4/12/2010
13	Quiborax S.A., Non-Metalic Minerals S.A. & Allan Fosk Kaplún	Bolivia	Mining concession	2/6/2006
14	Plama Consortium Limited	Bulgaria	Oil Refinery	8/19/2003
15	Antoine Goetz and others	Burundi	Mining, banking and service enterprises	3/27/2001
16	RSM Production Corporation	Cameroon	Hydrocarbons Exploration and Exploitation Concession Agreement	9/19/2011
17	Mobil Investments Canada Inc. & Murphy Oil Corp.	Canada	Petroleum development projects	12/19/2007
18	International Quantum Resources Limited, Frontier SPRL & Compagnie Miniere de Sakania SPRL	Democratic Republic of the Congo	Mining concession	10/22/2010
19	Burlington Resources, Inc.	Ecuador	Hydrocarbon concession	6/2/2008
20	Perenco Ecuador Limited	Ecuador	Hydrocarbon concession	6/4/2008
21	Occidental Petroleum Corporation & Occidental Exploration & Production Compnay	Ecuador	Hydrocarbon concession	7/13/2006
22	Natural Gas S.A.E.	Egypt	Gas pipelines construction and	3/22/2011

			operation agreement	
23	Pac Rim Cayman LLC	El Salvador	Mining concession (gold)	6/15/2009
24	Commerce Group Corp. and San Sebastian Gold Mines, Inc.	El Salvador	Mining concession	8/21/2009
25	Carnegie Minerals (Gambia) Limited	Gambia	Mining concession	10/23/2009
26	Ioannis Kardassopoulous	Georgia	Oil and gas distribution enterprise	10/3/2005
27	Ron Fuchs	Georgia	Oil and gas distribution enterprise	7/16/2007
28	Caratube International Oil Company LLP	Kazakhstan	Oil exploration and production contract	8/26/2008
29	Turkiye Petrolleri Anonim Ortakligi	Kazakhstan	Oil exploration and production joint venture	1/14/2011
30	Diamond Fields Liberia, Inc.	Liberia	Mineral exploration operations	5/20/2011
31	The Rompetrol Group N.V.	Romania	Oil refinery	2/14/2006
32	Metal-Tech Ltd.	Uzbekistan	Molybdenum plant	2/4/2010
33	Vannessa Ventures Ltd	Venezuela	Gold and copper mining project	10/28/2004
34	Mobil Corporation and others	Venezuela	Oil and gas enterprise	10/10/2007
35	ConocoPhillips Company and others	Venezuela	Oil and gas enterprise	12/13/2007
36	Gold Reserve Inc.	Venezuela	Mining company (gold)	11/9/2009
37	Universal Compression International Holdings, S.L.U.	Venezuela	Oil and gas enterprise	4/12/2010
38	Opic Karimum Corporation	Venezuela	Oil exploration production	6/16/2010
39	Highbury International AVV and RAmstein Trading Inc.	Venezuela	Mining concession	1/5/2011
40	Crystallex International Corporation	Venezuela	Mining company (gold)	3/9/2011
41	The Williams Companies, International Holdings B.V., WilPro Energy Services Limited & WilPro Energy Services	Venezuela	Gas compression and injection enterprises	4/20/2011
42	Nova Scotia Power Incorporated	Venezuela	Coal supply agreement	1/26/2011
43	Tenaris S.A. and Talta – Trading e Marketing Sociedade Unipessoal LDA	Venezuela	Hot briquetted iron production plant	9/30/2011

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