

El Salvador government considers ban on mining as permit freeze leads to CAFTA arbitration

By Fernando Cabrera Diaz
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El Salvador's ruling FMLN party is considering a ban on precious metal mining in response to public opposition to perceived environmental degradation. The government of El Salvador has not issued mining permits for two years, and as a result is now facing two arbitration claims before the International Centre for Settlement of Investment Disputes (ICSID).

In August ICSID registered a claim by Commerce Group Corp., a company based in Milwaukee, Wisconsin, and its affiliate San Sebastian Gold Mines. The Claimants contend that El Salvador revoked its mining permits without justification, and in violation of the Dominican Republic-Central American Free Trade Agreement (CAFTA-DR).

A similar claim by the Vancouver-based Pacific Rim was registered by ICSID in June. Pacific Rim claims that Ecuador violated CAFTA-DR by refusing to grant exploitation concessions and environmental permits after it had met the necessary requirements.

Pacific Rim is seeking in excess of the US\$77 million it claims to have invested in El Salvador since 2002, mostly in its El Dorado Gold Mine project located in the north-central department of Cabañas. In a press release, the company charges: "Despite strong local support and the inclusion of carefully engineered and reliable environmental protections for the proposed El Dorado Mine, the Government has not met its responsibility to issue the Enterprises the permits necessary to advance the project to the final step of full production."

The CAFTA-DR claim was initiated by Pacific Rim's Nevada-based subsidiary Pac Rim Cayman LLC, which owns two local subsidiaries, Pacific Rim El Salvador (PRES) and Dorado Exploraciones (DOREX), which are involved in the El Dorado project in EL Salvador. Pac Rim Cayman is protect by CAFTA-DR unlike its Canadian parent company.

Pacific Rim complains that the previous Salvadorian President Elias Antonio Saca froze the mining industry in the country by not issuing permits to miners for his last two years in office which ended with elections in March. In February Business News Americas quoted Saca as saying that he would rather pay US\$90 million (in an eventual arbitration) than approve Pacific Rim's permit.

The current left-wing FMLN government of Mauricio Funes has taken a more conciliatory tone, indicating it will try to reach negotiated settlements with mining companies. However, in June FMLN

lawmaker Lourdes Palacios introduced a bill that would ban precious metal mining in the country. Under the proposed bill , mining firms would be given 6 months to wind down their operations.

The negative climate for mining in El Salvador is common in Central America where foreign mining companies are perceived to be degrading the environment and threatening public health without providing much benefit to locals.

The Catholic Church has been a leading critic of the mining industry in the region. In May 2007, the Episcopal Conference of El Salvador issued a statement calling the experiences of neighbours in the region that had authorized mining “lamentable”, citing irreversible damage to the environment and harm to human health as a result of the use of large amounts of cyanide in the extraction of gold and silver.

Local civil society groups united under the banner of the Mesa Nacional Frente a la Minería Metálica have protested against the water contamination and corruption that they associate with the industry.

In December Pacific Rim President and CEO Tom Shrake lashed out at non-governmental organizations for their opposition to the mine, calling their resistance “anti-development.” Mr. Shrake has argued that the El Dorado project would set new environmental standards within all of the Americas.

The use of cyanide to extract gold and silver is a common industry practice. Pacific Rim plans to oxidize and thus neutralize the cyanide before water containing it is released, as a response to concerns about the substance.

However, the use of cyanide remains a dangerous practice and over the last decade spills have had significant biological consequences in the United States, Europe, Central America, Africa, and Asia, said Thomas Power, a mining industry expert and economist at the University of Montana, in an interview with ITN. Leakage of cyanide has been reported at a significant percentage of mines using the chemical, said Professor Power.

Sources:

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