

August 30, 2004

GUATEMALA: INCO NICKEL COMPANY, INDIGENOUS PEOPLE and COMMUNITY DEVELOPMENT RIGHTS.

Rights Action forwards this letter, written by Jacqui Stephens, a UNBC student who went to Guatemala in May 2004 on an educational trip headed by Prof. Catherine Nolin, in conjunction with Rights Action.

If you want on/ off this elist: [info@rightsaction.org](mailto:info@rightsaction.org).

Please widely distribute this letter to media, politicians and friends across Canada.

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The Canadian Government Supports Canadian Mining Investment in Guatemala: An Open Letter to the Canadian Public, Family, and Friends  
--- By Jacqui Stephens [[stephenj@unbc.ca](mailto:stephenj@unbc.ca)]

I recently travelled to Guatemala as a member of a group of students from the University of Northern British Columbia to explore issues of power, resistance, and human rights. The following letter is based upon observations and discussions with various grass-roots organisations, community members, local officials, and the Canadian Ambassador.

Through background research and my recent trip to Guatemala, I've learned that the International Nickel Mining Company of Canada, Ltd. (INCO) has a long and dark history in El Estor, Guatemala. Since its arrival in the 1960s, INCO and local subsidiary EXMIBAL has infringed upon the rights of the local Maya-Q'eqchi' people. While the construction and running of the mining operation did provide jobs and certain social services to the people of El Estor, the majority of local residents did not benefit.

The U.N.-sponsored Commission for Historical Clarification reported in 1999 that during the height of the Guatemalan civil war in the late 1970s, also the period when EXMIBAL was actively mining, numerous human rights abuses

were carried out in the El Estor region by the military and people affiliated with INCO/ EXMIBAL. These abuses included the forced relocation of communities and the murder of community leaders.

After only two years of operation, the El Estor mine ceased operation in 1982. The mining site remains intact, with 32 workers employed locally for maintenance purposes. The last mining pit sits open, a scar on the side of the mountain, as there remains ore to be extracted. INCO owns a large expanse of land in the El Estor region, and holds additional concessions to lands for the purpose of nickel exploration and exploitation. INCO/ EXMIBAL holds 220 square kilometres in land concessions around El Estor, accounting for ten percent of the municipality. INCO's El Estor mining concession is valid until 2005 and the company is currently discussing whether it is economically viable to return to the area, or whether another mineral company will take over the site. Two of the frontrunners are Canadian: Jaguar Nickel Inc. and Skye Resources Inc.

#### CANADIAN GOVERNMENT POSITION

During a meeting with the Canadian Ambassador to Guatemala, James Lambert, in Guatemala City on 26 May 2004, the question was asked as to the Canadian Government's position on Canadian companies opening and operating in a post-conflict country still living with impunity. Ambassador Lambert replied that the Government of Canada is fully supportive of Canadian mining companies investing in Guatemala. The Canadian Embassy is committed to support neo-liberal trade arrangements and must promote Canadian investment in Guatemala in order to assist Guatemala's development model with limited regard for the social implications of such investment. Ambassador Lambert believes it is important to move beyond the past and into a future where Canadian companies can provide economic help to Guatemalan communities. According to Ambassador Lambert, if INCO or another Canadian company returns to mining in El Estor, Canada would become the second largest foreign investor in Guatemala. Ambassador Lambert feels that such a move would

be  
beneficial to the citizens of both Guatemala and Canada.

The Ambassador does not feel that it is necessary to focus on the alleged human rights abuses carried out by security forces linked with INCO/EXMIBAL. He states that INCO's history in Guatemala is a fascinating story that is worthy of further research, acknowledging that the company has been accused of reinforcing the military governments of the day, of providing slush funds, of getting rid of labour leaders, etc. The Ambassador has met with current INCO/EXMIBAL representatives but these meetings focus on the future: "Right now when I talk to INCO we're not talking about, did you murder union leaders, did you do this, did you do that, we're talking about them re-initiating an important economic activity." While demonstrating an interest in learning more about INCO's history in Guatemala, the Ambassador feels that economic development is the number one concern for both Canadians and Guatemalans.

#### COMMUNITY CONTROLLED "DEVELOPMENT" versus PRO-BUSINESS "DEVELOPMENT"

The development model pursued by the Canadian Government and Canadian mining companies overlooks the more important social needs of Guatemalans and works against locally-driven, long-term, sustainable development. While job creation is an important part of the equation, so are the vast lands that local Maya-Q'eqchi' people have lost and stand to lose to resource development. Land is integral to indigenous cultures, and without lands on which to live, indigenous peoples are increasingly marginalised.

Canadian mining company Jaguar Nickel stated in its 2003 Annual Report that it holds 1200 square kilometres of land in Guatemala and that by using these mountainous lands for resource development, local land owners are able to use the more fertile lands for agriculture production. Unfortunately, large

land owners already control the most fertile lands in Guatemala. In meeting with a number of both indigenous and non-indigenous communities throughout Guatemala, it is apparent that the local Maya peoples are not the land owners and were pushed off these lands and into the mountains. Now they risk being displaced from their new homes. Where are they to go next?

#### NON-COMPLIANCE WITH INTERNATIONAL LAW

According to the Ambassador, mining is a difficult but necessary business around the world. If INCO chooses not to renew its concession around El Estor, the role of the Canadian Embassy is to ensure a fair bid process and to support all of the interested Canadian companies. Any Canadian company investing in Guatemala could make an important economic contribution to the area.

The Ambassador stresses the importance of good business practices, particularly compliance with the International Labour Organization's (ILO) Convention 169, adopted in June 1989, that requires consultation with local indigenous peoples prior to any development. ILO 169 (<http://www.unhcr.ch/html/menu3/b/62.htm>) states that governments shall consult and give consideration to all peoples affected by development, promote the participation of these peoples in decision-making processes, and facilitate the development of local initiatives and institutions. The Guatemalan Government has ratified ILO 169. The Canadian Government, on the other hand, has not ratified ILO 169.

The Canadian Ambassador, as a representative of the Canadian Government, states that neither the Canadian Embassy nor the Canadian Government will blindly support any Canadian company and both have a duty to urge Canadian companies to comply with ILO 169. However, there is no mechanism in place to enforce any companies to undertake the consultation process. Currently, ILO Convention 169 is not being respected in resource developments in the

El Estor region. The bottom line is that Canadian investment in Guatemala is profitable for Canadian businesses and, subsequently, the Canadian economy, regardless of local social costs.

#### INCO's LOCAL PARTNER

The current mayor of El Estor, Rigoberto Chub, denied during a meeting on 17 May 2004 that any human rights abuses were carried out by EXMIBAL employees and stated that the documented abuses in the Truth Commission Report are false. Mayor Chub welcomes the possibility of the return of mining to El Estor as it will bring needed jobs to the area. Local EXMIBAL representatives present at the meeting were also hopeful of re-starting operations in the near future and believe that EXMIBAL's presence in El Estor has always been a positive one.

According to some of the people I spoke to in El Estor, Rigoberto Chub is former military and was himself involved in various human rights abuses, including murder. Many local Q'eqchi' people, understandably, do not look upon the close association of the Mayor and the EXMIBAL company favourably.

INCO/ EXMIBAL may not be the company that returns to mining in El Estor, but the other options do not look any brighter for the people of the area. Jaguar Nickel's 2003 Annual Report stated that they are committed to social responsibility. This responsibility was summed up in one small paragraph, stating: 'We have had positive preliminary meetings with mining and political authorities, contributed educational and medical materials to local residents, and helped furnish the school.'

Included in the report is a large colour photograph of one of their most important contributions to date, a number of benches for a local school. There is no mention of any discussions with local community members or

indigenous peoples. These promises are the sort of social benefits communities can expect from mining development.

#### MAYAN LEADERS SPEAK OUT

Local Maya-Q'eqchi' community members spoke out against the return of EXMIBAL or any mining company to the El Estor area during a community gathering in Chichipate, a community near El Estor, on 17 May 2004.

These

people lost their best lands to large land owners decades ago, and were then

pushed off their mountainous lands by resource developers. One

community

member lost two sons, and another member lost one son, all community leaders, to death squads associated with EXMIBAL. This story is a common one

among local residents. Representatives of three different Q'eqchi' villages

spoke of their united opposition to mining. They are worried of losing what

lands they have left as it is common practice for official documents relating to community land ownership to be changed or go missing.

#### CALL TO CANADIANS

The Q'eqchi' people of the El Estor region are asking Canadians, as citizens

of the same country as the INCO company, to speak out against the mining

operation and give an international voice to the Q'eqchi' struggle.

Canadians need to speak out against INCO. Their practices are not sound and

they do not undertake appropriate consultations with local indigenous populations. The primary concern of mining companies is economic gain, with

social and environmental concerns often falling to the wayside.

Pressure

needs to be put on Canadian companies and on the Canadian Government to

improve development practices and to work on creating alternative development models. The Maya-Q'eqchi' are only one example of indigenous

peoples worldwide struggling against resource development and their voices

need to be heard.

#### RECOMMENDATIONS

Write to the following people and demand that Canadian mining

companies  
refrain from further development until indigenous communities are  
fully  
consulted, as per ILO 169:

Scott Hand, Chairman and CEO INCO Ltd. 145 King Street West, suite  
1500,  
Toronto, Ontario, M5H 4B7 Canada

John Yates, President, Jaguar Nickel Inc. 910-55 University Avenue,  
Toronto, Ontario, M5J 2H7 Canada

Skye Resources Inc. 300-570 Granville Street, Vancouver, BC, V6C 3P1  
Canada

James Lambert, Canadian Ambassador to Guatemala, Canadian Embassy,  
Apartado  
Postal 400, Guatemala, C.A.

If you write a letter to INCO, please e-mail it to:

General information, [inco@inco.com](mailto:inco@inco.com)  
Steve Mitchell, director of public affairs, [smitchell@inco.com](mailto:smitchell@inco.com)  
Sandra Scott, director of investor relations, [sescott@inco.com](mailto:sescott@inco.com)  
Catherine O'May, manager of shareholder services, [comay@inco.com](mailto:comay@inco.com)  
INCO Public Affairs, [socialresponsibility@inco.com](mailto:socialresponsibility@inco.com)  
AEPDI, Daniel Vogt, [dvogt@intelnet.net.gt](mailto:dvogt@intelnet.net.gt)

Please also e-mail letters to politicians, Members of Parliament, the  
media,  
etc.

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RIGHTS ACTION, with its main office in Guatemala, is a development and  
human  
rights NGO that funds and supports over 50 community development  
organizations in Chiapas, Guatemala, Honduras, Peru, Nicaragua, and  
engages  
in north-south education and activism related to global development  
and  
human rights issues.

**CONTACT US:**

- to come to Guatemala on a fact-finding educational delegation  
- to be a community development and human rights accompanier in  
Guatemala

[info@rightsaction.org](mailto:info@rightsaction.org)/ 416-654-2074/ [www.rightsaction.org](http://www.rightsaction.org)

