

April 3, 2006

ILO Investigating complaint against Canadian Skye Resources mining company operating in Guatemala:

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CANADIAN MINING COMPANIES, ANNUAL SHAREHOLDER MEETINGS & ON-GOING DEVELOPMENT, HUMAN RIGHTS AND ENVIRONMENTAL VIOLATIONS & HARMS IN GUATEMALA

ï On Thursday, April 20, 2006, INCO Ltd. will hold its annual meeting at the Design Exchange, Trading Floor, 234 Bay Street, T-D Centre, Toronto.

ï On Monday, May 16, 2006, Skye Resources Inc. will hold its annual meeting [donít yet know where?].

Below, you will find a report on past and present development, human rights and environmental harms and violations associated with Skye Resources nickel mining operations that Skye purchased from INCO.

On request, Rights Action can provide extensive background info on the harms and violations of the past and present associated with this nickel mining operation.

Please distribute this info around and around. To get on-off this elist: [info@rightsaction.org](mailto:info@rightsaction.org)

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GUATEMALA: ILO upholds complaint made by indigenous communities against mining firm in Izabal:

∑ Communities denounce 'made up' consultations ∑ Lawyer for mining firm related to President Berger ∑ Municipality fears irreparable environmental damage

The International Labor Organization (ILO) has upheld a claim made in early 2005 by the Guatemalan Central Confederation of Rural and Urban Workers (CFTCC) that the government did not carry out consultations with local communities when awarding exploration licenses to mining companies in the department of Izabal. The mining authorities maintain that the consultations, which the Constitution deems a prerequisite for mining exploration, were indeed carried out. The ILO has now set up a three-man committee which will study the case and draw up a report.

Communities in the area to be explored feel threatened by the long-term damage to the environment, which they believe could be serious. On the other hand, the support given by the government to the mining projects being carried out by the Canadian firm Skye Resources, could be explained by the fact that the main lawyer for the company's subsidiary in Guatemala is a relative of the current President. Meanwhile, the Commission for Energy and Mines is in the process of deciding whether to ask for an explanation from the Minister for Energy and Mines.

#### ILO PREPARES REPORT

In March 2005, the CFTCC made a complaint to the ILO in which it alleged the failure of the government to fulfill part of Article 169 on indigenous and tribal peoples. The claim states that the government, through the Ministry of Energy and Mines (MEM), awarded an exploration license to Exploraciones y Explotaciones Mineras Izabal (EXMIBAL) without having consulted the Maya Q'eqchi' people living in the municipality of El Estor, Izabal, home to 19 communities and almost 6,000 people.

Rights to the license (codename LEXR-902) are now owned by the Compañía Guatemalteca de Níquel (CGN), a subsidiary of the Canadian firm Skye Resources Inc. The validity of the Environmental Impact Study, carried out at the time of awarding the license, has been questioned by the CFTCC and development associations from the municipality.

The ILO, currently preparing a report into the case based on information from the CFTCC and the Guatemalan government, is unwilling to comment on the issue. Miguel Lucas, secretary general of the CFTCC, is confident that the government's arguments will not stand up under scrutiny, asserting that "the communities held a meeting to establish who had been consulted (by the government) and we discovered that no one had — only that people had come to tell them what the government was intending to do".

#### A HISTORY OF EXCLUSION & DENIED TERRITORIALITY

Exclusion and discrimination on ethnic and cultural grounds were recently verified and documented in the Human Development Report for Guatemala published by the United Nations Development Program (UNDP).

For this reason, the issue of mining on indigenous lands opens up the debate on various aspects of territoriality.

In a recent paper, Silvel Elías, a professor from the Department of Agronomy at Guatemala's San Carlos University (USAC), identified two key aspects of the question of indigenous territoriality, a concept best understood as "the control and decision-making capacity that an ethnic group has over its own lands."

Elías talks of "legitimate territoriality, which is expressed in the ongoing fight by communities to assert their rights over their lands, resources and own institutions", and of "denied territoriality, represented by the set of policies, ideologies and laws that the State maintains with the aim of imposing a single system of politico-territorial organization in the country, in which indigenous aspirations are permanently suppressed".

For Elías, the current government's policies come under the category of "denied territoriality", particularly with regards to the mining issue.

According to the UNDP report, in El Estor, the proposed site of the new mine, 68.5% of the population live in poverty, with 14.2% facing extreme poverty, despite the fact that mining has long taken place in the area.

International nickel prices are at their highest since 1988. On March 23, a pound of nickel was worth US\$6.85, nearly three times its 2001 value ( Inforpress 1642 ). Despite this, in November 2005, the government reduced its stake in the El Estor project to 11%, with Skye Resources owning the other 89%.

#### CONFLICT OF INTERESTS BETWEEN MINING FIRMS AND GOVERNMENT?

Once again, the Guatemalan President, Oscar Berger Perdomo, is personally connected to people directly involved in mining projects. It was recently discovered that Rodolfo Emilio Sosa de León, the father of the President's son's wife, is the main partner in A.D Sosa & Sosa, the legal practice representing CGN.

It is not Sosa de León's first involvement with the mining industry. He was president of the oil firm Basic Resources, as well as its lawyer, for more than 20 years. Together with the President, he was also a partner in the legal firm Sosa, Berger, Pemüller & Asociados. In 2005, it also emerged that both Berger and Vice-President Eduardo Stein had family links with another mining project, this time in San Marcos ( CAR XXXIII, 11).

This complex web of familial ties could be another factor behind the government's refusal to yield on the issue of conceding exploration licenses, a position which has even caused it to break off talks with

the High Level Commission on Mining which was discussing the matter (CAR XXXIII, 11).

Meanwhile, the congressional Commission for Energy and Mines is currently collecting signatures in order to propose a law aimed at suspending the concession of licenses for 90 days. According to the press officer for the Commission, Walter Hermosilla, "several members of the Commission with ties to the ruling GANA party had opposed the proposed law, in a clear show of support for the mining industry."

PHOENIX AND THE "INVENTION" OF CONSULTATIONS In its complaint to the ILO, the CFTCC states that no consultations have been carried out among communities in El Estor. According to Lucas, the MEM, CGN and the municipality have been "inventing" consultations, explaining that "they have turned up with a lawyer and statements already written, and that's what they call a consultation."

Another incident which would support Lucas's comments took place on March 20, when a group of young men claiming to work for the UNDP arrived in El Estor, saying that they had come to promote social communication and disseminate information on the mining industry. The supposed UNDP employees were carrying a covering letter signed by Fermín Gómez, representative for Skye Resources 's 'Phoenix' mining project. Gómez also claims to be a Mayan priest and the Commissioner for Indigenous Matters and Ceremonial Sites, a position he used, in a public ceremony in January 2005, to obtain permission from the land to carry out mining operations. Community representatives also say that the group had identification accredited by the MEM and an official file which referred to a project, identified as GUA/04010, between the MEM and the UNDP.

The Commission for Energy and Mines is currently evaluating whether to question the head of the MEM over the issue, alleging that he has been acting purely in defense of the mining firms' interests.

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#### RELATED EVENTS & ACTIVITIES:

- Glamis Gold is holding its Annual Shareholder Meeting in Toronto, May 3rd. Rights Action is planning educational speaking tours in Canada ñ with leaders from Glamis Gold mining affected communities in Guatemala and Honduras, before and during the Annual Shareholder Meeting. Want to organize events in your community?
- Rights Action has copy of the 'Sipakapa Is Not For Sale' documentary, concerning Mayan-Sipakapense and campesino opposition to the Glamis Gold mine in Guatemala. Want to buy a copy - \$20 + shipping?
- Rights Action is leading an educational delegation to Guatemala ñ including mining affected communities ñ from July 22-28, 2006. Want

to come?

For more info: [info@rightsaction.org](mailto:info@rightsaction.org), 416-654-2074

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