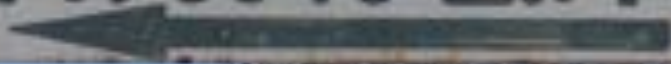


Minera Excellón de México
S.A. de C.V.
Proyecto La Platosa



***Unearthing
Canadian Complicity:
Excellon Resources, the Canadian
Embassy, and the Violation of Land and
Labour Rights in Durango, Mexico***

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Thanks to the Ejido de La Sierrita de Galeana and Local 309 of the National Union of Miners and Metal Workers (SNTMMSSRM) for your perseverance and determination to have your rights respected in the face of an unjust mining model being imposed through processes of economic globalization and its supporters, nationally and internationally. Thanks to the Project for Economic, Social and Cultural Rights (ProDESC) in Mexico City and your ongoing accompaniment of the struggle of the Ejido La Sierrita and Local 309, including to David Espinoza, Daniel Pacheco, Christopher Benoit and Dante López for your support during MiningWatch Canada's visit to La Sierrita in December 2012. Thanks to the United Steelworkers and Alexandra Eshelman for undertaking the Access to Information Request that turned up the evidence presented in this report and for seeing this project through to publication.



MiningWatch Canada

Mines Alerte



Unearthing Canadian Complicity: Excellon Resources, the Canadian Embassy and the Violation of Land and Labour Rights in Durango, Mexico

That Canadian diplomatic services work to support Canadian business interests internationally is no secret. In fact it is assumed to be part of normal consular efforts. It is also generally assumed that such efforts are guided and restricted by the principles and standards of behaviour that a country has agreed to accept and promote internationally, whether on corruption, militarization, environmental protection, labour, or human and indigenous rights. There is strong evidence, however, from the behaviour of Canadian government representatives in Mexico that such assumptions are not valid when a Canadian mining operation is involved.

Documents obtained from the Canadian Department of Foreign Affairs, Trade and Development (DFATD) under an access to information request directly implicate the Canadian Embassy in Mexico in Toronto-based Excellon Resources' efforts to avoid addressing violations of its agreement with the agricultural community (*Ejido*) on whose land it operates the La Platosa mine in the state of Durango. This included Embassy tolerance of, and even support for, violent state repression against a peaceful protest at the *Ejido* La Sierrita during the summer of 2012.

Understanding the behaviour of the Canadian Embassy in Mexico is an important indicator of how Canadian missions are operating abroad, given that Mexico is the principal destination for Canadian mining investment outside of Canada¹ and that Canadian firms make up some 70% of the foreign mining corporations operating in Mexico.² The adoption of the North American Free Trade Agreement with the US and Canada in 1994, and with it, constitutional reforms that enabled collectively held lands to be rented, opened up the Mexican mining sector to foreign investment.³ The conflict

between the *Ejido* La Sierrita and Excellon Resources is just one of many involving Canadian mining firms in Mexico and throughout the region.⁴

The results of our analysis in this report reinforce our concern that Canadian missions abroad are promoting and protecting the interests of Canadian mining companies to the detriment of the individual and collective rights of affected communities. In this case, the



View of La Platosa mine. Jen Moore photo.

Canadian state's lack of accountability mechanisms for abuses occurring is also glaring. But even more troubling is the Embassy's failure to demand even basic human rights protections for the affected community when the Embassy knew that state repression would be used to the advantage of a Toronto-based company in the Mexican context where state armed forces are implicated in outrageous levels of violence, including forced disappearances,⁵ torture,⁶ and murder.⁷

[nas.org/files/El_mineral_o_la_vida_0.pdf](http://www.nas.org/files/El_mineral_o_la_vida_0.pdf).

4 Grupo de Trabajo sobre Minería y Derechos Humanos en América Latina, "El impacto de la minería canadiense en América Latina y la responsabilidad de Canadá: Informe Presentado a la Comisión Interamericana de Derechos Humanos," Nov. 2013.

5 For example, most recently, *Proceso* magazine has reported on evidence pointing to the involvement of federal police and army in the recent murder of 6 and forced disappearance of 43 rural teachers' college students from Ayotzinapa, Guerrero in September 2014. Army officers are also implicated in the assassination of 22 civilians in Tlatlaya, in the state of Mexico in June 2014.

6 Amnesty International, "Out of Control: Torture and Other Ill-Treatment in Mexico," September 2014; <http://www.amnesty.org/en/library/info/AMR41/020/2014/en>

7 Official sources in Mexico report over 150,000 homicides and over 23,000 disappeared since the so-called 'war on drugs' was announced in 2006, although actual numbers are bound to be much higher given that most violent crimes go unreported.

1 Natural Resources Canada, "Canadian Mining Assets", January 7, 2013.

2 United Steelworkers, Common Frontiers & MiningWatch Canada, "Corruption, Murder and Canadian Mining in Mexico: The Case of Blackfire Exploration and the Canadian Embassy," May 2013.

3 Francisco López Bárcenas and Mayra Montserrat Eslava Galicia, *El Mineral o La Vida: La legislación minera en México*, (2011) 68-69, online: <http://www.lopezbarcen.org/sites/www.lopezbarce->

Canadian Mining Companies in Mexico: No Stranger to Conflict

Excellon is not unique. Canadian mining companies in Mexico are regularly at the centre of conflict. Here are ten recent examples:

1. Alamos Gold, Esperanza project, Morelos: Owned until recently by Esperanza Resources, Mexico's federal environmental authority denied the Esperanza project an environmental licence on June 5, 2013¹, around which time mine opponents denounced acts of intimidation, including threats and a home being raided.² The proposed open-pit gold project is hotly contested by area residents, environmental groups, and state authorities over risks to water, flora and fauna, and for its close proximity to the Xochicalco archaeological site.³

2. Almaden Minerals, Tuligtic project, Puebla: Agrarian communities in the municipality of Ixtacamaxitlán have been publicly denouncing and demonstrating against Almaden's exploration activities in the north of the state of Puebla. They claim that the company's project is a violation of their right to self-determination and that the company and state authorities have used deception and attempts to foster division in order to try to advance the project.⁴

3. Blackfire Exploration, Payback barite mine, Chiapas: Blackfire Exploration's short-lived mining activities in the municipality of Chicomuselo, Chiapas, from 2007–2010, led to the murder of Mariano Abarca, who had been outspoken about the environmental and social impacts of the mine, broken promises, and threats from armed mine workers and company representatives. After Abarca was killed in November 2009, the mine was suspended on environmental grounds and corruption allegations surfaced, which are the subject of an RCMP investigation.⁵

4. First Majestic Silver, La Luz silver project, San Luis Potosí: The La Luz silver project is located in an area of San Luis Potosí known as Wirikuta that is a sacred pilgrimage site of the Wixárika Indigenous people.⁶ In November 2014, the Wixárika Regional Council reiterated their demand for First Majestic to abandon their project when another Canadian company, IDM Mining Inc (formerly Revolution Resources), decided to abandon further exploration there.⁷

5. Fortuna Silver, San José silver mine, Oaxaca: Between January and June 2012, numerous members of the Coordinating Committee of the United Villages of the Ocotlán Valley, which leads opposition to Vancouver-based Fortuna Silver's mine in San José del Progreso, Oaxaca, were shot or assaulted. Bernardo Vásquez and Bernardo Méndez were killed.⁸

6. Goldcorp, Los Filos gold mine, Guerrero: Evidence of serious health impacts in Carrizalillo, Guerrero have been documented in connection with Goldcorp's Los Filos mine, whose cyanide heap-leach pad is only hundreds of metres from the centre of the community. These include a high incidence of eye, skin, respiratory, and gastrointestinal problems, as well as a significant increase in premature births.⁹ In April 2014, the Ejido Carrizalillo paralysed the company's mine for 33 days when the company refused to negotiate in good faith a new land use agreement that would address, among other things, health and environmental concerns.¹⁰

7. Goldcorp, Peñasquito gold mine, Zacatecas: After a four year wait, in January 2013, the Ejido Cerro Gordo won an agrarian court decision ordering Goldcorp to return 600 ha of land located within the company's massive open-pit gold mine for having been illegally occupied.¹¹ In January 2015, Cerro Gordo and three other Ejidos blocked the main entrance to the mine in protest, including for lack of potable water, environmental damage, broken agreements and that the company has still not returned Cerro Gordo's land.¹² Within days, the army and federal police were brought in to guard the mine,¹³ after which community members were compelled to lift the blockade and enter into dialogue with the company.¹⁴

8. MAG Silver, Cinco de Mayo project, Chihuahua: In October 2012, Ismael Solorio Urrutia and his wife Manuela Martha Solís Contreras, outspoken opponents of MAG Silver's mine project because of its potential impact on scarce local water supplies, were murdered in Chihuahua.¹⁵ Weeks later, Ejido Benito Juárez voted to expel MAG Silver and prohibited any mining for 100 years on their lands.¹⁶

9. New Gold, Cerro de San Pedro gold mine, San Luis Potosí: Since 2007, this open-pit gold mine has operated despite local opposition and court rulings that revoked its original environmental permit¹⁷ and found that land use contracts were fraudulent.¹⁸ In May 2014, a heavy rainfall caused leach ponds to overflow into water sources used by the community of La Zapatilla where 13 people were reported affected,¹⁹ while an environmental organization denounced the lack of response from state authorities to this and repeat complaints.²⁰

10. Timmins Gold Corp. and Goldgroup, Caballo Blanco project, Veracruz: Environmental groups have been campaigning against this project, in particular because of its close proximity to the Laguna Verde nuclear power station. They argue that regular blasting in the development and operation of the project could jeopardize the integrity of the plant and lead to a radioactive disaster.²¹ In mid-2012, federal environmental authorities denied the company a zoning permit for the mine²² and the company indicated several months later that it would "defer" further consideration of its application for an environmental permit.²³

[See footnotes, page 16]

I. Report Overview

Embassy correspondence and briefing notes obtained from DFATD pertain to the period from July to November 2012,⁸ during which time the Ejido La Sierrita peacefully demonstrated against Excellon's silver, lead, and zinc mine after exhausting formal channels for their complaints in Canada and while continuing to call for dialogue with the company in Mexico.

Two complaints brought to Canadian offices in 2011 and 2012 outline how the company was in violation of its land use contract and violating landowner and worker rights. As a result, during the period under consideration in this report, Canadian officials in Ottawa and the Embassy in Mexico had considerable information about this conflict.

Review of the disclosed material leads to the following observations:

- There was a high degree of contact between the Embassy and Excellon management, including a clear intention on the Embassy's part to share information gathered from community members and their legal counsel with the company without their consent;
- The tone of all Excellon-Embassy correspondence is friendly and supportive;
- The Embassy actively assisted the company by lobbying key Mexican officials;
- Despite high rates of violent repression in Mexico at the hands of state forces, the Embassy accepted that state repression be used against the Ejido La Sierrita's peaceful protests. One trade commissioner went so far as to wish the company well the night before police and army moved in on the encampment

⁸ United Steelworkers (USW) made the request for these documents to the Department of Foreign Affairs, Trade and Development on November 1, 2012. A full year later, USW received 244 pages of redacted emails, briefing notes and memos, company correspondence and press releases, and news clippings.

that Ejido members had installed on private land;

- Throughout, there was a deafening silence from the Embassy with regard to any concerns pertaining to Excellon's conduct and its refusal to address repeated complaints from workers and the community through dialogue and negotiation.



Ejido La Sierrita. Joshua Berson photo.

Our assessment of the documents obtained from DFATD leads us to conclude that, contrary to Canadian Government assertions that it promotes responsible behaviour from Canadian mining companies, the Canadian Embassy supported Excellon, despite detailed knowledge about serious human rights violations, prioritizing the short-term commercial interests of this small Canadian mining company over the wellbeing and rights of workers and the community.

This examination of a critical moment in the conflict between the Ejido La Sierrita with Excellon Resources deepens our analysis of the one-sided behaviour of the Canadian Embassy in Mexico, which we began with the examination of the role of the Embassy in the case of Blackfire Exploration in Chiapas from 2007-2010.⁹ It helps us more clearly illustrate how the Canadian Government is a part of the problem with the Canadian overseas mining sector for enabling and defending company operations while minimizing and disregarding human rights violations against mining-affected communities, workers and the environment in order to privilege the economic interests of Canadian-registered mining firms.

⁹ United Steelworkers, Common Frontiers and MiningWatch Canada, May 2013.

II. What We Knew Before We Obtained the Documents from DFATD:

On August 29, 2012, approximately 100 soldiers and officers of the Mexican Army and federal and state police agencies used force to break up a peaceful protest in front of the La Platosa mine, owned and operated by Toronto-based Excellon Resources in the northern state of Durango, Mexico.

The Ejido La Sierrita – an agricultural community of some 127 collective landholders – was demanding that Excellon comply with a land rental agreement signed between the two parties in 2008. Workers, who were also present at the camp, were calling on Excellon and the government to respect their right to freedom of association, part of an organizing effort motivated by health and safety concerns at the mine and especially

after the death of mine worker Paulin Contreras in early 2010.

The demonstration began on July 8, 2012, after two official complaints had been filed against the company in Canada to no avail and efforts at talks with the company had repeatedly broken down. The company decided to shut down the mine at this time, since workers joined the protest out of solidarity with community members. Company personnel continued to enter the mine throughout the protest, in particular taking measures to prevent flooding. The protesters set up a blockade on private property near the mine site owned by a local Mexican resident who gave her consent for the protest to take place on her land.

Murder, Corruption, and Environmental Degradation Don't Deter the Canadian Embassy: The Case of Blackfire Exploration

In May 2013, United Steelworkers, Common Frontiers and MiningWatch Canada released a report based on an access to information request regarding the Canadian Embassy in Mexico and Blackfire Exploration in Chiapas that operated a mine for two years before it was shut down. [1] This study found that:

- **The Embassy enabled Blackfire** to start up its mine by putting pressure on the state of Chiapas when there was not clear community consent for the mine and the company was facing permitting challenges.
- **The Embassy undertook to troubleshoot for Blackfire** as protests about which it was aware grew against the mine.
- **The Embassy then ignored threats to local activists** even after receiving direct testimony from local leader Mariano Abarca who travelled to the Embassy to warn that the company had broken promises, that its mine was doing environmental damage, and that there were armed workers intimidating him and others opposed to the mine.

Within a couple of weeks, Mariano Abarca was arrested off the street while he was making preparations for a forum against mining in his community. The Embassy knew that Abarca was arrested on the basis of spurious allegations made by the company against him. Despite this, despite Abarca's testimony about armed workers and despite 1,400 letters sent to the Embassy expressing dire concern for Abarca's life, the Embassy focused on ensuring the continuity of the company's operation.

Six weeks later, Abarca was murdered, the mine was shut down on environmental grounds and it came to light that the company had been making direct payments into the personal bank account of the local mayor in order to help keep down protests, which are now subject of an RCMP investigation.

- **Even then, the Embassy continued defending company interests.** The Embassy distanced itself – not so much from the company – but rather from the investigation into the murder, refusing to meet with affected community groups.

Some two months later, the Embassy finally sent a fact-finding delegation to the community and reported back to the highest echelons of the Canadian government about testimonies of unfulfilled promises, lack of community support, environmental damage and corrupt practices. Even then, it continued to advise the company about how Blackfire could sue the state of Chiapas under the terms of NAFTA for having closed the mine.

Source: United Steelworkers, MiningWatch Canada and Common Frontiers, "Corruption, Murder and Canadian Mining in Mexico: The Case of Blackfire Exploration and the Canadian Embassy," May 2013; <http://www.miningwatch.ca/news/report-reveals-how-canadian-diplomacy-supported-deadly-blackfire-mining-project>

At the time, the Mexico City-based Project for Economic, Social and Cultural Rights (ProDESC) questioned what influence a well-connected, Ottawa-based lobbyist that Excellon had just hired might have had in bringing about state repression against the community protest. ProDESC is a non-governmental organization that has accompanied the Ejido since 2007 and the workers affiliated with Local 309 of the National Miners Union since 2010.

One week before state forces moved in on the community's protest, the Canadian lobbyist registry showed that Will Stewart of Ensignt Canada had registered to lobby on behalf of Excellon's Executive Vice Presi-

dent, Brendan Cahill. According to the registry, Stewart sought "government support for Excellon Resources' operations in Mexico." Presumably, Mr. Stewart's previous post as chief of staff for Minister of Foreign Affairs John Baird made him an advantageous choice.

However, the documents obtained from the Department of Foreign Affairs, Trade and Development (DFATD) under the Access to Information Act indicate that – while a well-timed phone call from Mr. Stewart to Mexican authorities may still have been useful to Excellon – well before August 23, the company had crucial backing from Canadian Ambassador Sara Hradecky and her staff at the Embassy in Mexico.

III. What the DFATD Documents Reveal:

July 10-12, 2012: Anything you say can and will be shared with the company

A couple of days into the protest at the La Platosa mine, representatives from the Ejido La Sierrita and ProDESC sought a meeting with the Canadian Embassy in Mexico City in order to share their concerns regarding Excellon's operations, including the company's unwillingness to enter into dialogue, and about how the Embassy could play a role in resolving the conflict. The Embassy agreed to meet on Thursday, July 12.

Canadian Ambassador Sara Hradecky does not appear to have regarded the meeting as an important or useful opportunity for the Embassy to better understand the issues or to the validity of the allegations against Excellon. Rather, what concerned Ambassador Hradecky was how the Embassy could glean information from this meeting for the company:

"I agree that the Embassy needs to receive these folks, to listen and not comment, just as we would if someone came to present a petition to us. I am happy if Shauna receives them, but I would think a [trade] rep – to listen, possibly to gather intel helpful to the company – would also be appropriate. If these folks had come to protest outside the embassy, TD [Trade Department] and FSDP [Foreign Service Development Program] would normally receive together, incl so that 2 people receive them vs someone alone. Dexter, if u choose to exempt yourself, do you have someone else who can step in with a view to gathering useful info, and providing a whole-of-Embassy meeting?" wrote Hradecky on July 10, 2012.¹⁰

July 28-29, 2012: The Embassy at Excellon's disposal

The Embassy also played a key role in forging relationships between Excellon and state government officials in Durango, in a similar fashion to what DFA-TD documents have previously revealed about how the Canadian Embassy applied diplomatic pressure at the state level to support Blackfire Exploration's operations



Meeting of Ejido La Sierrita members, December 2012. Jen Moore photo.

¹⁰ Access to information request A201202266, page 000041

Excellon Resources in the Ejido La Sierrita, Durango: Unfulfilled Commitments to Landowners and Labour Rights Violations

A 45-minute drive outside of the city of Gómez Palacio, the Ejido La Sierrita is in the middle of the Chihuahua Desert. Its namesake is the short stretch of mountains spanning several dozen kilometres across their land, part of the Sierra Madre mountain range. When Toronto-based Excellon Resources arrived in 2004, the Ejido saw an opportunity to attract members who had migrated away in search of work. The company took advantage of this eagerness by using deceit and the threat of expropriation to force the Ejido to sign a land use contract for 27 hectares, which was decidedly lop-sided in the company's favour. The company established La Platosa silver mine on this land.

In 2008, with the help of the Mexico City-based Project for Economic, Social and Cultural Rights (PRODESC), and after significant struggle, the Ejido reached an improved land use agreement for 1,100 hectares with the Canadian silver and base metals producer whose only operating mine, La Platosa, is across the federal highway from the community. Some of the mine's surface operations are located on lands belonging to the community and much of the silver that is extracted by the mine is located below these community lands.

In 2010, the Ejido also undertook its own land use plan to guide it in developing other productive projects to best serve the community, making sustainable use of available resources on their lands.

The agreement with Excellon included a payment of around \$500,000 USD per year for Ejido members, as well as preferential access to contracts for food services and transportation, a water treatment plant to treat water discharged from the mine (to make it safe for irrigating their desert land for agricultural uses), a payment to a community development fund, and 600,000 shares in the company.

Unfortunately, while the Ejido received regular annual payments under the agreement, the social and environmental clauses in the contract went unfulfilled. During the presentation of a complaint filed under the OECD Guidelines for Multinational Corporations with government offices in Ottawa and Mexico City, the Ejido highlighted the company's failure to build a water treatment plant to ensure Ejido members can use water being removed from the mine for agriculture, and the company's failure to provide the Ejido with food services contracts at the mine and to ensure preferential hiring of Ejido members. Furthermore, the community complained that the company had explored on lands not included in the contract, an express ground for rescission of the contract, leaving significant environmental damage.

Local residents who went to work in the mine have also complained about working conditions, particularly after Paulin Contreras was killed on the job in 2010. Workers then faced intimidation when trying to form an independent union local to address their concerns. In 2012, some fifty workers whom the company identified as union supporters lost their jobs. More recently, in 2014, Jorge Antonio Valentín Carrillo and Evaristo Soto Nava were killed in another mine accident in which three others were injured.

Source: MiningWatch Canada, "We rent our land, not our dignity". (April 29, 2013), online: <http://www.miningwatch.ca/article/we-rent-our-land-not-our-dignity>, and Proceso, "Accidente en mina de Durango deja dos muertos y tres heridos". (January 11, 2014), online: <http://www.proceso.com.mx/?p=362123>

in Chiapas from 2007 to 2010.¹¹

Early the morning of Saturday, July 28, Ambassador Sara Hradecky sent an email to someone who appears to be the Governor of Durango, although the precise name is redacted. Writing in Spanish, she indicated: "Company directors from Excellon Resources have been in touch with us with regard to the current situation. They told us that the company is facing serious financial losses and that it is reconsidering the viability of its operations at the La Platosa mine." She stated that a representative of the company "will travel from Canada to Durango on Tuesday July 31 and that he is very inter-

ested in meeting with you to talk about this very important matter. Given the extent of Canadian investment in your state, we believe that it would be appropriate for this meeting to take place." She provided Excellon's contact information in Toronto and concluded expressing her "thanks for the support of your government and for the excellent relationship between such fraternal countries as Mexico and Canada."¹²

A few hours later, in an email titled "Re: request for meeting with Governor," Excellon VP Brendan Cahill reported to Trade Commissioner Alexander Cerat about a meeting that Cahill had had with the Mexican

11 United Steelworkers, Common Frontiers and MiningWatch Canada, May 2013.

12 Access to information request A201202266, page 000038-39, translation our own.

Ministry of the Interior the night before. Cahill stated that the company threatened to “declare force majeure” at the mine if the state did not intervene to end the blockade and said, “the feds recognized that they needed to act, and that the state [of Durango] was not capable of resolving the situation.” As a result, he continued, according to his account of the meeting, the Mexican government official concluded, “the blockade must be removed; it will be removed by force; or it will be removed by negotiation.” Cahill noted that it is “strange that he put force before negotiation,” extrapolating that “it may be the ultimatum that will be delivered to the blockaders – the authorities will remove the blockade unless you remove the blockade and negotiate.”¹³ Cahill stated that the company had decided to hold off declar-

The trade commissioner expressed no apparent concern about the federal government’s offer to threaten or to use armed force against the community’s peaceful protest, concluding: “The Embassy remains at your disposition should Excellon want further institutional linkages.”¹⁶

August 6-14, 2012: Mexican state accepts legitimacy of community protest; Excellon desperately seeks support

A week later, Excellon’s VP Brendan Cahill was distraught that the Mexican authorities had not cracked down on the community protest. He sent a letter in Spanish to Mexican President Felipe Calderón Hinojosa, Durango Governor Jorge Herrera Caldera, Minister of Government Alejandro Poiré Romero, and Secretary of Economy Bruno Ferrari García de Alba, threatening to shut down operations if a clear action plan was not worked out.¹⁷ The same letter was copied to the Canadian Minister of Foreign Affairs John Baird, Canadian Ambassador Sara Hradecky, and Mexican Ambassador to Canada Francisco J. Barrio-Terrazas.

The company indicated that it would terminate service contracts, lay off an estimated 290 employees, close the plant, and maintain the mine, likely flooding it in order to minimize costs.¹⁸

The company’s high level appeal precipitated a question from the Ministry of International Trade the next day, passed along by Deputy Director Lorraine Flannery: “Has there been any contact between DFAIT



Sign in La Sierrita: “Water Not Fit for Human Consumption”. Prometeo Lucero, Red TDT photo.

ing force majeure, pending the outcome of a meeting that the federal government had scheduled for the following Monday, July 30 “at the local army base (federal).” The meeting would include “Federal ministries of the Interior, Economy and Labour; State ministries of the Interior, Economy and Labour; Local and federal police; the army.”¹⁴ He believed that a meeting with the state governor might be unnecessary and could “confuse the issue.”¹⁵

13 Access to information request A201202266, page 000031

14 Access to information request A201202266, page 000031

15 Access to information request A201202266, page 000031

16 Access to information request A201202266, page 000031

17 Access to information request A201202266, page 000002-04, 000025-27

18 Access to information request A201202266, page 000002-04, 000025-27

Voluntary Standards in Canada and Mexico Prove Inadequate

From 2011-2012, landowners and workers in dispute with Excellon Resources filed complaints in Canada and Mexico, desiring mediated dialogue with the company:

1. **On April 8, 2011**, Excellon workers from Section 309 of the National Mining Union submitted a complaint to Canada's Corporate Social Responsibility Counsellor for the Extractive Industries. The Counsellor undertook a site visit to Durango in July 2011 and found that the complaint was "a good faith, bona fide request" from "directly affected groups, who surfaced areas of substantive concern, with a view to resolving them in a constructive, mediated dialogue."¹

The CSR Counsellor's Final Report stated: "that they did not feel adequately trained, that the process of investigation after an accident does not help in avoiding future problems. Workers expressed their view that they do not feel safe. Several times we heard of significant problems with statutory pay increases, overtime pay and so on. Workers expressed concerns that those who were participating in the union drive were suffering retaliation from mine management."²

Nonetheless, the process ended in October 2011 after Excellon Resources refused to come to the table. The company's withdrawal closed the complaint process because Canada's CSR Counsellor lacked any tools to secure company agreement to dialogue,³ and lacks a mandate to undertake an independent investigation to determine if rights are being violated, or to otherwise arrive at a resolution of the issues.⁴

2. **On May 29, 2012**, communal landowners from the Ejido La Sierrita and workers from Local 309 of the National Miners Union filed another complaint against Excellon Resources, this time under the OECD Guidelines for Multinational Corporations with offices in Ottawa and Mexico City.⁵ They requested that Canada take the lead on the complaint given concerns that they would not get fair treatment were the complaint referred to Mexico.⁶

Landowners and workers alleged severe labour rights violations and failure to comply with the land use contract with the Ejido La Sierrita, including that the company had explored on lands not included in the contract, leaving significant environmental damage. The complaint also alleged the company's failure to build a water treatment plant to ensure Ejido members can use water being removed from the mine for agriculture, or to provide the Ejido with food services contracts at the mine or preferential hiring of Ejido members. It also echoed labour rights violations submitted to the CSR Counsellor.⁷

Despite the explicit request for Canada to take the lead, Canada deferred the request to Mexico.⁸ The entire process in Mexico was beset with procedural flaws, including that the Mexican National Contact Point (NCP) justified its decision not to proceed to the next stage of the process by referring to the company's refusal to engage with the workers and landowners, rationale that would allow any company to bring a halt to a complaint process in the initial stages (just as the Canadian CSR Counsellor process ended). Other notable irregularities include the unduly high threshold for the acceptance of evidence, particularly given the conciliatory nature of the NCP, as well as the NCP's contention that many of the issues raised were public order issues and unsuitable for mediation. This argument ignores the fact that the complaint accused Excellon of specific human rights violations. The Mexican NCP closed the complaint without resolution on November 28, 2012.⁹

[1] Office of the Extractive Sector Corporate Social Responsibility Counsellor, "Closing report: Request for review file #2011-01-MEX" (October 2011), online: http://www.international.gc.ca/csr_counsellor-conseiller_rse/publications/2011-01-MEX_closing_rep-rap_final.aspx?lang=eng

[2] Ibid.

[3] In November 2014, while not announcing any changes to the mandate of the CSR Counsellor, the Canadian Government announced that it would try to compel companies to participate in complaint processes in the future through "withdrawing of Government of Canada support in foreign markets as a result of a company's non-participation in the dispute resolution mechanisms of the Office of the CSR Counsellor or Canada's National Contact Point (NCP) for the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises." Source: Department of Foreign Affairs, Trade and Development, "Harper Government Announces Enhanced Corporate Social Responsibility Strategy to Strengthen Canada's Extractive Sector Abroad". (November 14, 2014), online: <http://www.international.gc.ca/media/aff/news-communiques/2014/11/14a.aspx?lang=eng>

[4] MiningWatch Canada, "Concerns with regard to the mandate and review procedure of the Office of the CSR Counsellor for the Government of Canada," March 2011; http://www.miningwatch.ca/sites/www.miningwatch.ca/files/MiningWatch_Brief_on_CSR_Counsellor.pdf

[5] Project for Economic, Social and Cultural Rights, Mexico - MiningWatch Canada - United Steelworkers, "Mexican Workers, Landowners File Second Complaint Against Canadian Mining Company Excellon Resources," May 29, 2012; <http://www.miningwatch.ca/news/mexican-workers-landowners-file-second-complaint-against-canadian-mining-company-excellon>

[6] The Mexican NCP is responsibility of the General Directorate for Foreign Investment in the Ministry of Economy.

[7] Project for Economic, Social and Cultural Rights, Mexico - MiningWatch Canada - United Steelworkers, May 29, 2012.

[8] Letter From Judith St. George, then Chair of Canada's National Contact Point for the OECD Guidelines for Multinational Enterprises, to MiningWatch Canada, June 28, 2012.

[9] Trade Union Advisory Committee to the OECD (TUAC), assessment of the complaint process following a fact-finding mission to Mexico from February 28-March 1, 2013. Available online: <http://www.tuacocedmneguidelines.org/CaseDescription.asp?id=163>

[now DFATD] and Excellon, or has Excellon requested any assistance from the Government?”¹⁹

Over the next several days, diplomats at the Embassy in Mexico and bureaucrats in Ottawa developed a briefing note about the conflict for the Minister of International Trade Ed Fast.²⁰ The note described the company’s interest in Mexico and that ProDESC had assisted mine workers in submitting a labour rights complaint to the Office of the CSR Counsellor for Extractive Industries in April 2011 that ended when the company refused to enter into dialogue in September 2011. It also noted that Canada’s National Contact Point (NCP), responsible for administering the OECD’s Guidelines for Multinational Enterprises, had received a complaint from landowners and workers in May 2012, with support from ProDESC, MiningWatch Canada, and several Mexican and Canadian labour organizations, which was passed off to the Mexican NCP office in June 2012. Finally, in describing the local community protest begun in July 2012, the Embassy clearly accepted the company’s characterization of the protest as ‘illegal’²¹ or ‘unlawful,’²² although these words are redacted from some versions of the memo that appear in the DFATD documents obtained.

When the protest had still not ended by August 14, Brendan Cahill determined that the federal and state governments did not agree with the company’s – and, by virtue of having largely followed the company’s lead, the Embassy’s – read of the situation. In an email to Embassy Trade Commissioner Wayne Robson, Cahill wrote: “Yesterday, we were effectively ambushed by the federal and state governments. There was no sign of the

blockade being removed, and we’re not even sure that the Ejido was advised of or in any way in agreement with the plan presented to us by the government. We were expected to negotiate across the blockade, exactly as we said we would not and cannot do. *Basically, both federal and state governments recognized an extortionate blockade as a viable negotiating tactic*”²³ (emphasis our own).

Cahill concluded his letter asking the Embassy to request a meeting with the Governor of Durango for Executive Chairman, President and CEO of Excellon Peter Crossgrove the following week. The Embassy made the arrangements and after the meeting with the Governor, Cahill reported back to the Embassy calling the results “muddily promising at the moment” and thanking the Trade Commissioner for the favour.²⁴



Sunset, Ejido La Sierrita. Joshua Berson photo.

August 28-30, 2012: Company and Embassy had prior knowledge about army and police crackdown on community protest

On the afternoon of Tuesday, August 28, the company and the Embassy were expectant. Cahill wrote an email, copying upper company management and the Embassy trade commissioners, in which he reported: “A representative of the federal Ministry of the Interior is meeting with local officials, including the local army and police chiefs, to plan to complete the new access opening tomorrow morning. Both state and federal governments have finally agreed (only took seven weeks) that they have authority to make arrests in the face of this ongoing illegal trespass. The outstanding state, and pending fed-

19 Access to information request A201202266, page 000002-04, 000266

20 Access to information request A201202266, page 000002-04, 000239-262

21 Access to information request A201202266, page 000002-04, 000255, 257

22 Access to information request A201202266, page 000002-04, 000135, 137, 241, 243

23 Access to information request A201202266, page 000097

24 Access to information request A201202266, page 000051

eral, criminal charges will be justification for opening the second access [to the mine] tomorrow. Fingers crossed, we'll see what happens – at least the authorities finally seem to be fully seized of the situation.”²⁵

It appears that Senior Trade Commissioner Wayne Robson sent a copy of Cahill's message to various Canadian bureaucrats at DFATD and the Canadian Am-



Aftermath of the October 24, 2012 attack on the Ejido La Sierrita protest camp. El Siglo de Torreon photo.

bassador in Mexico. He then replied to Cahill: “We are hopeful that there will be some movement on the process tomorrow as per your email. Thanks very much.”²⁶

On Wednesday August 29, an estimated 100 soldiers and officers of the Mexican Army and federal and state police agencies used force to break through the peaceful protest. The action came as a surprise to the community and its supporters. ProDESC issued a press release aghast at the apparently abrupt reversal in the Mexican authorities' position. They stated: “The Mexican government had maintained a role as mediator in the conflict at the La Platosa mine. The government, at both the state and federal levels, has assured the members of Ejido La Sierrita that it supports their right to protest and is outraged by Excellon's failure to negotiate in good faith with the community.”²⁷ There is no evidence that either the company or the Embassy made any

effort to dissuade the Mexican authorities' from using violence against community members.

Trade Commissioner Robson did receive a request from the company asking that the Embassy forward the company's press release to the Mexican Ambassador to Canada “with the advice that tomorrow the decision will either be taken to fully reopen the mine

or fully shut it down on care and maintenance.”²⁸ Excellon's press release went on at great length using derogatory language aiming to undermine the role of ProDESC and the National Mining Union in the community struggle. Meanwhile, Robson's only comment about the use of state force against the Ejido's protest was that “the company accessed the mine today with the assistance of the Federal, State and Municipal police as well as the military.”²⁹ He indicated that Ambassador Hradecky would likely do the favour for the company to send along the Excellon release to her Mexican counterpart in Ottawa.

September 17-27, 2012: Continued backing for Excellon

Short weeks after the military and police supported Excellon in violently breaking through the peaceful protest, after which the company decided to restart normal mine operations, the Embassy was busy reinforcing the Canadian government and industry's strategic relationship with the state of Durango.

Ambassador Hradecky invited Cahill to attend “a working luncheon” in Durango on September 24, 2012, which was billed as a “roundtable ... to discuss ‘Canadian investment in Durango’ to have a frank exchange with participants and gather views on the current investment regime, security, and social context.”³⁰ This was part of the Ambassador's “first official visit”³¹ to Durango from September 23-25 that had the objective to “reinforce Canada's profile in key states, not least because democratic and structural changes have given Governors in-

25 Access to information request A201202266, page 000019

26 Access to information request A201202266, page 000172-177

27 Project for Economic, Social and Cultural Rights, Mexico (PRODESC), “Excellon Hires Ottawa Lobbyist; Mexican Government Sends in Army,” August 31, 2012; <http://www.mining-watch.ca/news/excellon-hires-ottawa-lobbyist-mexican-government-sends-army>

28 Access to information request A201202266, page 000089-96

29 Access to information request A201202266, page 000089-96

30 Access to information request A201202266, page 000029

31 Access to information request A201202266, page 000056

creasing power and autonomy.”³² During her visit to Durango, the Ambassador discussed the conflict between the Ejido La Sierrita and Excellon. The Embassy reported that the Governor would “continue working with federal counterparts to ensure a predictable investment environment.”³³ Furthermore, “Ambassador Hradecky thanked him for having met twice personally with senior management from the company.”³⁴

Excellon attended the September 24 roundtable, along with other members of the Canadian business community, including: Canadian Pacific Railways, First Majestic Silver, Great Panther Silver, PanAmerican Silver, Primero Mining, and Esperanza Resources.³⁵ The Embassy signed an agreement for bilateral cooperation during the trip³⁶ and concluded that “the visit served to strengthen the Embassy’s dialogue with the state of Durango”³⁷ and “was important for continued access to, and support from, the Durango Government at the highest levels.”³⁸

Excellon’s Brendan Cahill readily accepted the invitation to participate in the roundtable in Durango, but the company’s problems were not yet over. Five days before the Ambassador travelled to Durango, Cahill wrote to say that they had regained full access to the mine as of September 7, but that the protest continued. Furthermore, they were “facing delays in regaining our explosives permit from the army. We have definitely not received any sort of straight answer, but they have said the presence of protesters causes a security risk regarding the explosives.”³⁹ The company had already called the state Governor and was “seeking a meeting with the President or his deputy,”⁴⁰ but nonetheless hoped the

Embassy could help out.

The response of the Embassy to this request is unknown. But when the company notified the Embassy on September 25 that the Ejido’s protest had been reinforced and that the company was “arranging a meeting with the Mexican Ambassador to Canada” and considering its legal options, the Trade Commissioner responded: “Please let us know if we can facilitate in any way.”⁴¹

One month later, on October 24, the Embassy received an urgent message from ProDESC that a group of mine union members from another part of Mexico,



Meeting of Ejido La Sierrita members, December 2012. Jen Moore photo.

accompanied by Excellon’s Chief Operating Officer Robert Moore, broke into the community’s encampment outside of the La Platosa mine and used mine equipment to destroy everything that they had there. ProDESC’s press release notes how municipal police had threatened the community members of a possible eviction earlier that week and raised concern that the federal and state government authorities had not taken adequate measures to protect the lives and physical integrity of the workers and members of the Ejido who were acting in defence of their rights.⁴² The Embassy’s discussion in response to this event is largely redacted.⁴³

Three weeks later, Trade Commissioner Wayne Robson wrote an email, copied to the Ambassador and others, that appears to be a congratulatory note in recognition of Brendan Cahill being promoted to President of Excellon, in which Robson stated: “We look forward to continuing our work with you in the upcoming year.”

32 Access to information request A201202266, page 000056

33 Access to information request A201202266, page 000057

34 Access to information request A201202266, page 000057

35 Access to information request A201202266, page 000059

36 Access to information request A201202266, page 000062

37 Access to information request A201202266, page 000061

38 Access to information request A201202266, page 000061

39 Access to information request A201202266, page 000028

40 Access to information request A201202266, page 000028

41 Access to information request A201202266, page 000046

42 Access to information request A201202266, page 000188-190

43 Access to information request A201202266, page 000191, 194-199

Excellon becomes *persona non grata* in La Sierrita

Excellon's refusal to meet its contractual obligations or to engage in good faith dialogue with the Ejido La Sierrita, along with violent evictions of the community's protest camp in August and October 2012, ended the company's welcome in this community.

The destruction of the Ejido's protest camp early in the morning on October 24, 2012, was a particularly decisive moment. During a December 2012 visit to La Sierrita, MiningWatch Canada heard directly from community members about this event.

Only about six people were in the camp at the time, while others maintained a second camp that had been set up further down the road. According to the six present, it was early morning and they were waking up, starting to get breakfast ready when the company's then-Chief Operating Officer, Rob Moore, led a convoy of white pick-up trucks bearing company logos and several busloads of people from mines in the states of Zacatecas and Chihuahua toward their camp.

One elderly woman who was among the six recalled how women employed by the company arrived ahead of the convoy, warning them that they should get out of there, that they could get hurt. Her husband added that the company COO cut the wire fence that they had erected around the camp. After the fence was cut, a scooptram drove out of the mine site and rolled into their camp.

"They knocked it all over, all of the food was knocked over," said one woman. "The scooptram picked up the canvas wall of the kitchen and held it up like a flag," said one man. Then everything was burned. It all took about twenty or thirty minutes. "We expected that we might have been evicted by other people, soldiers or the federal police perhaps, but not by them. We didn't expect that from them, but they did it by their own hand," expressed the elderly woman in dismay.

Another community member stated: "This was an eviction and a robbery. Rich people don't lack for anything, but this is an offence to us."

"We rent the land, not our dignity," remarked another.

Several years ago, Excellon figured into La Sierrita's local development plan. Now, it is an unwelcome presence that the Ejido is working to free itself from. "Before the company arrived, we managed to get along," stated David Espinoza, President of the Ejido. And they will again. He and other members have concluded that they must focus on their own projects to create work and gain independence from the mine.

In September 2012, the Ejido undertook to rescind the contract with the company and get back their land. The lawsuit for annulment of the land use contract is currently in its final stages. The community members hope that the court's ruling respects their human rights.

Source: MiningWatch Canada, "We rent our land, not our dignity," April 29, 2013; <http://www.miningwatch.ca/article/we-rent-our-land-not-our-dignity>

IV. Conclusion: Canadian State Complicity in Corporate Impunity

In an April 2014 letter to the United Steelworkers, the Canadian Embassy in Mexico reiterated the Government of Canada's oft-stated position with regard to Canadian mining companies operating abroad in connection with Excellon Resources:

"The Government of Canada encourages and expects all Canadian companies working around the world to respect all applicable laws and international standards, to operate transparently and in consultation with host governments and local communities, and to conduct their activities in a socially and environmentally responsible manner [...] our Government continues to promote

[...] responsible business practises."

To the contrary, on the basis of the disclosed 2012 communications between Excellon and the Canadian Embassy, there is no indication that Embassy staff were concerned that there might be substance to alleged rights violations against Excellon or that Excellon's conduct might not comply with Canada's notion of what constitutes 'responsible business practices'. In fact, there is no suggestion that the Embassy considered Excellon's conduct as anything but acceptable, despite formal complaints having been filed with Canada's Extractive Sector Corporate Social Responsibility (CSR) Counsellor⁴⁴

⁴⁴ MiningWatch Canada and the United Steelworkers, "CSR Counsellor Fails in First Attempt to Resolve Dispute as Excellon

and the Canadian National Contact Point (NCP) for the administration of the Guidelines for Multinational Enterprises under the Organization for Economic Cooperation and Development (OECD).⁴⁵

Absent from the 244 pages obtained from DFA-TD under this access to information request is any evidence that the Embassy urged the company to dialogue with the Ejido, to address outstanding social and environmental issues, to demonstrate respect for the freedom of association of company workers, to respect their right to protest peacefully, to avoid the use of armed repression of a peaceful protest, or even to avoid disproportionate use of force when it knew that the army and police were planning to crack down on the community encampment. Rather, these documents provide a troubling illustration of what the Canadian Government might mean by “economic diplomacy” when it declared this to be a central facet of its Global Markets Action Plan released in November 2013,⁴⁶ indicating that the whole of the Canadian diplomatic corps would be at the service of private interests, and how this approach could further enable corporate abuses.

Excellon’s stance that the peaceful protest was “illegal” or “unlawful”, a characterization that seems to have been readily accepted by the Canadian Embassy, was at no point backed up by legal action taken by the Mexican authorities. It can be assumed that the fact that the “outstanding state, and pending federal, criminal charges”⁴⁷ were never actually brought is due to the legitimate nature of the protest which was carried out

on private property with the consent of the landowner. Nevertheless, this did not prevent the Mexican authorities from breaking through the peaceful protest in favour of Excellon’s interests when faced with concerted political pressure.

Contrary to providing any evidence that the Canadian government is abiding – at a minimum – by its obligations under the seven international human rights conventions that it has signed, along with other international human rights norms, these documents reveal Canadian complicity in the efforts of a Canadian mining firm to avoid responsibility for its social, environmental and labour obligations to the Ejido La Sierrita and Local 309 of the National Miners’ Union in Durango. They demonstrate the Embassy’s willingness to facilitate relationships, especially at the state level, that may have enabled the community’s property to be sacked and their safety to be put at risk in order that the mine could continue operating, without ensuring that the company comply with contractual agreements that it had with the landowners and workers.

Combined with the ineffectiveness of the Canadian CSR Counsellor⁴⁸ and the Canadian NCP⁴⁹ to provide a helpful response to earlier complaints brought to Canada by the Ejido and union members, and the subsequent, anticipated failure of the Mexican NCP to do the same, these documents provide clear and troubling insights into how Canada is complicit in helping to uphold the state of impunity in which mining companies are operating in Mexico, which leaves communities and workers with few, if any, effective channels to have their grievances meaningfully addressed. They further illustrate how the Embassy’s support of Canadian mining companies serves to enable the sort of arrogant and abu-



Meeting of Ejido La Sierrita members, December 2012. Jen Moore photo.

Resources Abandons Dialogue,” October 27, 2011; <http://www.miningwatch.ca/news/csr-counsellor-fails-first-attempt-resolve-dispute-excellon-resources-abandons-dialogue>

45 ProDESC, MiningWatch Canada and the United Steelworkers, “Mexican Workers, Landowners File Second Complaint Against Canadian Mining Company Excellon Resources,” May 29, 2012; <http://www.miningwatch.ca/news/mexican-workers-landowners-file-second-complaint-against-canadian-mining-company-excellon>

46 Canadian Department of Foreign Affairs, Trade and Development, “Harper Government Launches New International Trade Plan,” November 27, 2013; <http://www.international.gc.ca/media/comm/news-communications/2013/11/27a.aspx?lang=eng>

47 Access to information request A201202266, page 000019

48 MiningWatch Canada and United Steelworkers of Canada, October 27, 2011.

49 Trade Union Cases: OECD Guidelines for Multinational Enterprises, “Excellon Resources Inc. V Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana (SNTMMSSRM), 30 of the SNTMMSSRM”, <http://www.tuaoecdmneguidelines.org/CaseDescription.asp?id=163>, Accessed July 19, 2014.

sive behaviour they display, such as in this case.

These findings are unlikely to come as a surprise to a great many in Latin America who already view Canadian authorities as highly biased actors. As one fairly moderate Minister of Environment from the region who preferred to remain anonymous said in the context of a discussion about mining and Canadian policy: “I don’t know if Canada has been quite so discredited in its history [...] I don’t think they really care.”⁵⁰ A Sub-secretary of Energy and Mines from the region has also stated: “As far as I can tell, the Canadian Ambassador here is a representative for Canadian mining companies.”⁵¹

Further, when family members of slain community activist, Mariano Abarca, met with the Canadian Embassy in Mexico to share findings similar to this report in regard to the Embassy’s relationship with Blackfire Exploration’s operations in Chiapas between 2007–2010, they received a similar response to the above-cited letter to the United Steelworkers. The Embassy provided no explanation for its unconscionable defence of Blackfire, whose operations were shuttered on environmental grounds shortly after Mariano Abarca was assassinated and around the same time that evidence emerged that the company had been bribing the local mayor.⁵² Rather, Embassy officials repeated: “We encourage Canadian mining companies to respect local laws and human rights and to implement Corporate Social Responsibility programs.”⁵³ When asked if, at a minimum, the Embassy could speak with Mexican authorities in order to ensure protection for the lives of Mexicans who are threatened or criminalized for speaking out against the operations and abuses of Canadian mining companies, officials responded that this would be tantamount to interfering in Mexican sovereignty. They did not consider, however, that the then-Ambassador was interfering in Mexican sovereignty when, on behalf of Blackfire, he intervened with the Governor of Chiapas to support the company’s operations.

These findings may, however, come as a surprise to Canadians to learn that the trouble with the Canadian mining industry in a country like Mexico – as mentioned, the top destination for Canada’s overseas in-

vestment in the globalized mining sector – is not just a problem with corporate behaviour or with the response of local authorities. Rather, it is also a problem with the Canadian state, which has been harnessed to promote and protect a narrow set of commercial interests in the extractive sector, which has profound and lasting negative social, environmental, and economic impacts on affected communities who have little recourse for these harms and who often risk their lives in the fight to have their rights respected.

Canadians should not only demand that the Canadian government do its part to address the problems with corporate impunity for these abuses, but also demand that its economic agenda be reoriented to prevent such harm and instead promote and protect Indigenous and human rights, workers and the environment with which industrial mining is consistently at odds.

V. Recommendations

To the Canadian government:

- Replace the CSR Strategy for the International Extractive Sector with actual legislation to regulate the overseas operations of Canadian-registered mining companies in strict accord with international environmental, labour, and human rights standards, including full respect for the rights of Indigenous peoples to self-determination and free, prior, and informed consent.
- Repeal the so-called ‘economic diplomacy’ policy under the Global Markets Action Plan,⁵⁴ which purports to channel 100% of Canada’s diplomatic corps into promoting private interests in key markets, which means even more support for Canadian mining companies as a principal area of Canadian investment around the world.
- Insofar as DFATD, Canadian Embassies and other government agencies provide advice and assistance to Canadian companies operating abroad, create robust eligibility criteria for all government supports. These requirements must ensure respect for individual and collective human rights, including the Indigenous right to Free, Prior, and Informed Consent, as well as to not obstruct the democratic and participatory decision making processes of non-Indigenous communities, especially when communities have decided against mining activities in their territory.
- Adopt federal legislation that allows non-Canadians who are affected by the overseas operations of extractive

50 Dr. Anthony Bebbington, “Comments to the House of Commons Standing Committee on Foreign Affairs and International Development,” February 29, 2012; <http://www.miningwatch.ca/sites/www.miningwatch.ca/files/Bebbington%20testimony.%20SCFAAE.%2029Feb12.pdf>

51 Ibid.

52 Jennifer Moore, “Canadian Embassy Snubs Family of Slain Mexican Activist,” September 4, 2013; <http://www.cipamericas.org/archives/10557>

53 Ibid.

54 DFATD, Global Markets Action Plan, November 2013; <http://www.international.gc.ca/global-markets-marches-mondiaux/index.aspx?lang=eng>

companies to bring civil lawsuits before Canadian courts. The statute should clarify that Canadian courts provide an appropriate forum to hear claims against extractive companies registered in Canada. To this end, we urge parliament to debate and pass Bill C-323, or comparable legislation, as soon as possible.

- Create an independent ombudsman mechanism to receive complaints and verify the compliance of Canadian extractive companies with legally binding standards.
- For the last 20 years, Canada has pursued and negotiated trade and investment agreements that promote and protect the interests of investors at the expense of human rights, labour rights, environmental standards, and democratic decision-making and public accountability. The conduct of Canadian mining companies such as Excellon Resources Inc. is one of the results of that agenda. Canada must revise its current trade and investment agreements and must pursue a different trade agenda that is based on respect for Indigenous, human, labour, and environmental rights, which must include refusing to sign and or ratify any further trade and investment agreement that include investor-state dispute settlement procedures.

To Excellon Resources' Shareholders and Investors

It is urgent that Excellon Resources' shareholders and investors take immediate action to address and reverse management's track record of thwarting contracts and labour law, as well as human rights and ethical norms, causing considerable harm to the Ejido La Sierrita, National Mining Union Local 309 and ProDESC, including:

- a) The use of deception and pressure tactics to obtain its first land-use contract,
- b) The bad faith with which it has acted in regard to social and environmental terms in its second land-use contract,
- c) Precarious working conditions at the mine, evidenced by three men killed on the job since 2010, and another three injured,
- d) Intimidation and reprisals that workers have faced in their attempts to organize,
- e) Its constant refusal to enter into mediated dialogue with the landowners and workers, despite their having submitted formal complaints and peacefully protested for months,
- f) A smear campaign undertaken against ProDESC for its accompaniment of the peaceful and law-abiding struggle of the Ejido La Sierrita and National Mining

Union Local 309 in defence of their individual and collective rights,

- g) Lobbying Canadian and Mexican officials, including repeated threats to shut down the mine, leading to the use of armed force against a peaceful protest in August 2012, and
- h) The reported involvement of company officials in the violent eviction of October 2012.

This behaviour has led the Ejido La Sierrita to take legal action to rescind its contract with the company on whose land the La Platosa mine has been operating. In this context, Excellon's shareholders and investors should insist that management:

- Acknowledge that it has contravened its agreement with the Ejido La Sierrita and refrain from interfering in judicial proceedings that the Ejido La Sierrita has undertaken in order to annul its contract with the company.
- In accord with Mexican law and the terms of its agreement with the Ejido, return the community's land to the Ejido, as well as provide full compensation to the community for all damages that the mine operation has caused to their lands.
- In accord with Mexican law and the company's obligations to not interfere in the full enjoyment of labour rights of its employees, cease all efforts to block or obstruct workers' freedom of association, including all involvement with protection contracts (contracts that protect an employer against independent union organizing in Mexico), and respect the labour rights of members of Local 309 of the National Mining Union.
- Cease making public or private statements against ProDESC, which has the effect of putting the lives and integrity of the persons involved in this organization at risk, as well as against any human rights, environmental or social organization that might accompany communities and workers in areas where it operates in the future.
- Cease investing in lobby efforts to pressure state officials in Canada, Mexico, or anywhere else. This practice fosters corruption and impunity, and encourages the use of repressive armed force against communities and workers, putting their lives and physical integrity at risk.
- Respect and protect individual and collective human rights through the adoption and implementation of policies to guarantee respect for community and worker rights in any future operations, including fulfilling all clauses of any contracts or other agreements that are negotiated with them.

Notes for Text Box “Canadian Mining Companies in Mexico: No Stranger to Conflict”

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- [11] Georgina Howard, “Lejos de El Dorado”. Report Indigo, (May 30, 2013), online: <http://www.reporteindigo.com/reporte/mexico/lejos-de-el-dorado>
- [12] Alfredo Valadez Rodríguez, “Bloquean comunal el acceso a la mina Peñasquito”. La Jornada, (January 12, 2015), online: <http://www.jornada.unam.mx/2015/01/12/estados/030n2est>
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