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Fixing Free Trade Agreements: *Putting People and the Planet over Corporate Profit*

Today's trade rules are not designed first and foremost to protect workers, the environment or public health. They are written by corporate lawyers and trade bureaucrats with no citizen input and very little congressional oversight. The rules designed to protect foreign investors and are written with an eye to safeguarding corporate profits. The agreements include a dispute resolution system that allows foreign corporations to sue governments when they feel that laws and regulations, including environmental protections, harm their investments. Since the establishment of this dispute resolution system in the North American Free Trade Agreement (NAFTA), numerous cases have been brought forward that threaten the environment and public health. Right now, two cases pending under the Central America Free Trade Agreement (CAFTA) endanger good environmental governance.

The Trans-Pacific Partnership (TPP), the first trade deal to be negotiated by the Obama Administration, presents an opportunity for reform. Considering the history of attacks on environmental protections brought about by bad trade rules, we must call on the Obama Administration to reform the rules in the TPP now and restore a balance between investor rights and the public interest.

The Pacific Rim CAFTA Lawsuit

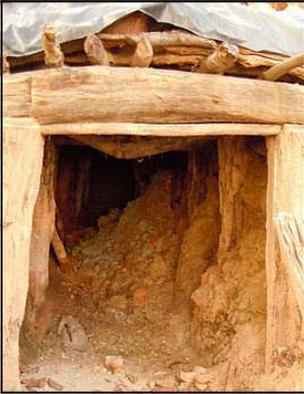
An example of a recent egregious investor-state dispute was brought under CAFTA by Pacific Rim Mining Corp., a Canadian-based multinational firm that wanted to establish a massive gold mine using water-intensive cyanide ore processing in the basin of El Salvador's largest river, Rio Lempa. A diverse civil society coalition in El Salvador persuaded their government to complete an in-depth environmental study of this and other proposed mining projects and to consider reforming their national mining law. After being granted their exploration permit, Pacific Rim applied for an extraction permit. However, Pacific Rim never completed the feasibility study necessary to obtain an exploitation permit for its mine so El Salvador denied Pacific Rim's extraction permit.

In December 2007, Pacific Rim reincorporated one of its subsidiaries based in the Cayman Islands as a Nevada Corporation and, in December 2008, the new U.S. subsidiary instigated a CAFTA investment suit to demand \$77 million in compensation, claiming that the Salvadoran government's failure to issue the company the exploitation permit it needed in order to operate the mine violated its CAFTA foreign investor rights. This case is still pending, but it illustrates the expansive corporate powers offered under our current free trade agreements.



The Commerce Group CAFTA Lawsuit

Commerce Group Corp is a Wisconsin-based company that owns a San Sebastian Gold Mine in El Salvador, less than three miles northwest of the city of Santa Rosa de Lima. Commerce Group's mining activities over the past 40 years have resulted in severe environmental and public health problems. The Salvadoran government revoked Commerce Group's mining permit in September 2006 for failure to comply with the country's mining law, including failure to meet the requirements for an environmental permit. In March of 2009, Commerce Group Corp and San Sebastian Gold Mines, Inc retaliated by filing a suit under CAFTA, demanding \$100 million in compensation from the Salvadoran government, including for alleged "lost profits." The case was dismissed on technicalities in March of 2011, but the Government of El Salvador still spent \$800,000 in legal fees defending the claim. It is appalling that a government could be forced to spend such a large sum of money defending legitimate legislation and protecting citizens.

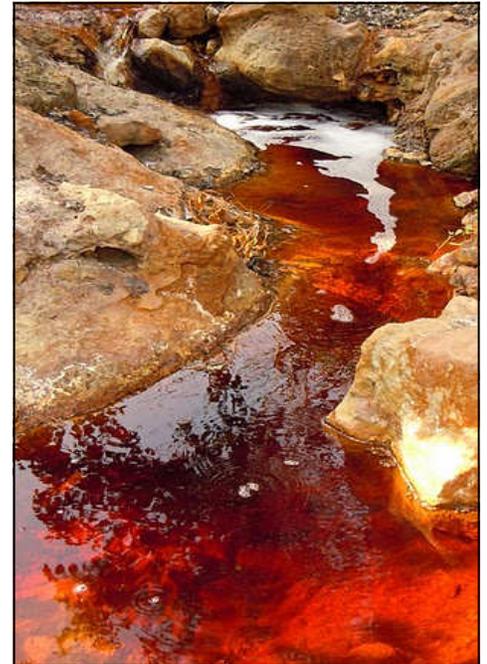


Mining Dangers: Environmental and Health Impacts

- Acid drainage from Commerce Group's abandoned mine is continually causing environmental and public health effects on the people of Santa Rosa de Lima.
- Water running through the town is 100,000 times more acidic than uncontaminated water found in the same region.
- A 2006 study of the local waterways surrounding the San Sebastian river revealed elevated levels of cyanide and heavy metals, for example, an aluminum level 1800 times higher than even the World Bank's own recommended limit.
- The Commerce Group mining activities have made this water so toxic that the river is nearly devoid of fish.
- People in Santa Rosa de Lima depend on this water for washing clothes and dishes, cooking, crops, and livestock.
- Chronic headaches and kidney disease are only a few examples of the widespread reports of human health problems in the region.
- The average mine uses about 90,000 liters of water an hour, equivalent to what a typical Salvadoran family would consume in 20 years.

Commerce Group should be the one paying for the problems they have caused the people and the environment of Santa Rosa de Lima, not the other way around.

Trade agreements should promote a higher quality of life for all, not simply serve as vehicles to increase corporate profits. Trade rules should be seen as a tool to create and retain good jobs here at home, protect our air, water, and land, and foster sustainable and equitable development worldwide. As the Administration embarks on negotiations for the first Obama trade deal, the Trans-Pacific Partnership, we must learn our lessons from the failed trade agreements of the past and stake out a different course for the future, where peoples' lives and livelihoods are protected.



Contact your Member of Congress and ask them to stand up for workers, the environment, and democracy in U.S. trade policy. Call today and urge them to withhold their support for the Transpacific Partnership, which the U.S. is currently negotiating, until the investment chapter is reformed.

Footnotes

1. Perez-Rocha, Manuel. "Mining for El Salvador's Gold -- In Washington." Institute for Policy Studies. Aug. 10th, 2010. Web. <http://www.ips-dc.org/articles/miningforel Salvador'sgold-inwashington>.
2. Public Citizen Global Trade Watch: CAFTA Investor Rights Undermining Democracy and the Environment: Pacific Rim Mining Case"
3. "Mining Companies Turn to CAFTA and File Suit Against El Salvador." U.S. -El Salvador Sister Cities. Joomla!, 2010. Web. <<http://www.elsalvadorsolidarity.org/>>.
4. "Petition: Act against Mine Pollution --No Dirty Gold in El Salvador" Wisconsin Network for Peace and Justice. November 11, 2010. Web. <<http://www.wnpj.org/node/4638>>

For more information on the Sierra Club's Responsible Trade Campaign contact:
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