

High Commissioner Her Excellency Ms. Louise Hand, PSM  
Australian High Commission  
Suite 710 - 50 O'Connor Street  
Ottawa

Dear H.E. Ms. Louise Hand, PSM:

In solidarity with the people of El Salvador, we write to request that you and your government urge Melbourne-based OceanaGold and its subsidiary, Pac Rim Cayman, to immediately withdraw its US\$301 million claim against El Salvador being heard this week at the World Bank's International Centre for Settlement of Investment Disputes (ICSID).

OceanaGold is using this lawsuit to punish El Salvador for having put in place a de facto moratorium on large-scale mining in response to local opposition to the company's project and nationwide concern over the considerable environmental risks that this industrial activity poses to the country's most important water source.

Given the Australian Government's current position to not sign any investor protection agreements that would allow foreign corporations to sue Australia for its public policy decisions, we hope that you will sympathize with the situation that El Salvador is now in, which we describe in further detail here.

Since 2005, mining-affected communities; broad segments of Salvadoran civil society including the National Roundtable against Metallic Mining and the Catholic Church; the Human Rights Ombudsperson's Office; political parties; government institutions; and public opinion have categorically opposed industrial mining in El Salvador given the negative impacts of proposed projects on an environmentally-stressed country largely dependent on a single watershed. In a rare instance of a national, non-partisan, widely concerted consensus, in 2008, the Government of El Salvador introduced a de facto moratorium on large-scale mining that the current administration of President Salvador Sánchez Cerén has steadfastly committed to maintain.

Despite this widespread opposition to mining in El Salvador, in October 2013, Melbourne-headquartered OceanaGold acquired Pacific Rim Mining, whose efforts had been fully channelled in its lawsuit against the Government of El Salvador. Notably, Pacific Rim Mining had not complied with El Salvador's environmental permitting protocols to obtain a license to put its El Dorado project into operation. Rather, before El Salvador instituted the de facto moratorium, the company tried to lobby the national government to loosen regulations to suit its permit application. When its efforts were unsuccessful, and unwilling to accept the country's clear democratic will to prohibit mining, Pacific Rim hastily moved a Caymans Islands subsidiary to Nevada and launched a multi-million dollar legal attack under the US-Dominican Republic-Central American Free Trade Agreement (DR-CAFTA) and a national investment law in El Salvador. ICSID rejected the claim under DR-CAFTA but allowed the company to continue under the Salvadoran investment legislation that has since been amended to prevent similar suits in the future.

The mining project OceanaGold acquired is also tainted by deadly conflict. Since 2009, four community members opposed to Pacific Rim's project have been assassinated, the full circumstances of which have yet to be fully investigated. Many other community members still live under death threats.

We hope that you will share our astonishment that OceanaGold has vowed to continue pursuing its claim against the people of El Salvador and to use the ICSID to subvert democratic decision-making over mining and environmental health in El Salvador. We recall the legal assault that Philip Morris Asia launched against your country when Australia bolstered public health policies through increased cigarette packaging regulation. We also applaud your country's 2012 announcement that it would refuse to sign any trade agreements with investor-state dispute settlement provisions similar to those through which El Salvador and Australia are being punished. Such matters should not be decided by the World Banks' investor state arbitration tribunal or any other foreign tribunal. Rather, local democratic institutions, not corporate bullying, should prevail over matters of such high public interest.

Given the shared experience in standing up to foreign multinationals, we hope the Australian government will join with tens of thousands around the world in demanding that OceanaGold respect El Salvador's national sovereignty and immediately withdraw its \$301 million claim against the people of El Salvador. The stakes for Salvadorans are high. \$300 million represents half of the country's annual health budget, and we are worried about the repercussions that a potentially negative outcome of the suit could have on the government's already taxed capacity to address the challenges it faces related to migration, chronic insecurity, and sustainable economic growth. As we know you will appreciate, a democratically elected government should not be punished for standing up for its people's best interests.

Thank you for your time and consideration.

Respectfully,

Canadians Against Mining in El Salvador  
MiningWatch Canada  
The Council of Canadians  
SalvAide