

January 16, 2006

Stephen de Boer  
Deputy Director  
Investment Trade Policy Division  
International Trade Canada  
125 Sussex Drive  
Ottawa, Ontario K1A 0G2

Dear Mr. de Boer:

Please be advised of our decision to withdraw the complaint regarding Ascendant Copper Corporation that was filed with the Canadian National Contact Point for the *OECD Guidelines for Multinational Enterprises* (Guidelines) on May 16, 2005. It is our assessment that the National Contact Point has failed to comply with the Guidelines' procedures in its handling of our complaint.

In the case of "specific instances," such as our complaint regarding Ascendant, subsection I.C.1 of the Procedural Guidance for implementation of the Guidelines directs the NCP to "[m]ake an initial assessment of whether the issues raised merit further examination and respond to the party or parties raising them." The Guidelines further direct the NCP to fulfill its responsibilities in an efficient and timely manner.

We have not received a response from the NCP regarding its initial assessment of our complaint, nor have we any knowledge of the NCP's assessment. Moreover, the complainants have not received confirmation from the NCP that it has accepted our complaint.

Nevertheless, we assume that the NCP believes our complaint to have merit given its offer to facilitate a meeting with Ascendant in Ecuador. We have welcomed the opportunity for such a meeting.

However, the NCP once again disregarded the Procedural Guidance for the Guidelines when it failed to convey our request regarding confidentiality to Ascendant. Subsection I.C.4 (a) of the Procedure Guidance explicitly allows for the parties to a specific instance to waive the requirement of confidentiality in a meeting facilitated by the NCP. This is what we asked you to pursue.

As explained in previous correspondence to you, a tense environment rife with mistrust prevails in the Intag. The meeting proposed by the NCP between Ascendant executives and a reduced number of local representatives, with strict confidentiality restrictions, is likely to exacerbate local conditions. If authorities are precluded from disseminating information about such a discussion to their constituencies, their participation in the meeting will become vulnerable to misrepresentation. Rather than alleviating tension and paving the way for mutual understanding, such a meeting is likely to heighten mistrust.

Also as stated in prior correspondence, we appreciate the need for confidentiality when dealing with sensitive business information. We have expressed our willingness to respect any request made by Ascendant to treat such specific information as confidential.

We are perplexed by your objection to our request that Ascendant be consulted regarding the issue of confidentiality, given the NCP mandate to operate in accordance with core criteria of visibility, accessibility, transparency and accountability.

Finally, we were very surprised by your suggestion that the proposed meeting be carried out in English. As stated in the complaint, the central actors in this dispute are the local populations that stand to be affected by mineral development and who oppose this project. The complainants do not represent these populations and cannot make decisions on their behalf. It is for this reason that we insisted that local authorities participate in the proposed meeting. It would be highly inappropriate to expect these local leaders to participate in English.

Given your disregard for these circumstances and failure to adhere to the Guidelines' Procedural Guidance, we see no value in continuing to pursue our complaint with your office.

Yours truly,

Jamie Kneen and Karyn Keenan (for)  
Carlos Zorrilla  
DECOIN



Karyn Keenan  
Friends of the Earth Canada



Jamie Kneen  
MiningWatch Canada

cc:

Pierre Pettigrew  
Minister of International Trade

Navdeep Bains, MP  
Chair, House of Commons Standing Committee on Foreign Affairs and International Trade

Robert Fonberg  
Deputy Minister of International Trade

Mr. Mathew Loken  
Ecuador Desk Officer  
Foreign Affairs Canada

Mr. Christian Lapointe  
Canadian Ambassador to Ecuador

Patricia Feeney  
OECD Watch