

# CANADA'S FREE TRADE AGREEMENT WITH ECUADOR: WHY WE SAY **NO**



Canada and Ecuador have negotiated a free trade agreement that is fiercely opposed by Indigenous Peoples, trade justice advocates, water defenders and human rights and environmental justice organizations in Ecuador. We join them in opposing the deal for the following reasons.

## 1. There is a dire human rights crisis in Ecuador.

Ecuadorian and international human rights organizations have documented widespread, systematic, [extremely serious human rights violations in Ecuador](#), increasing [militarization](#), [brutal repression of dissent](#), [misuse of the criminal justice system](#) to unjustly jail human rights defenders, [executive decrees and expedited anti-democratic legislation](#) that undermines the rule of law.

Governments that truly value human rights and democracy do not cement trade agreements with egregious violators of constitutional guarantees, international obligations and the rule of law.

## 2. Civil society organizations and Indigenous organizations in Ecuador were never consulted.

While Canada pledged to secure an inclusive trade deal respecting democracy and human rights, civil society organizations, Indigenous nations and rural communities in Ecuador were not informed that negotiations were taking place or consulted.

This violates the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Canada and Ecuador have fully adopted and integrated into domestic law. The lack of consultation also violates Ecuador's obligations under the Escazú Agreement.

Parliament's Standing Committee on International Trade [recommended](#) to the Government of Canada that "no trade agreement between Canada and Ecuador is concluded without full, transparent and effective consultation with, and no agreement is implemented without the free, prior and informed consent of affected Indigenous Peoples in Ecuador," including the Mujeres Amazónicas Defensoras de la Selva collective. This recommendation has not been met.

### **3. The FTA threatens the rights of Indigenous Peoples in Ecuador.**

The Confederation of Indigenous Nationalities of Ecuador (CONAIE), the country's largest Indigenous organization, has repeatedly said ["NO" to the Free Trade Agreement](#) because it will promote the expansion of mining without transparency or consultation. CONAIE and other Indigenous organizations have also denounced Canadian mining activities in Ecuador on multiple occasions for causing lasting harm to the rights, sovereignty and territory of Indigenous Peoples. Companies have been conducting advanced exploration and drilling activities in Indigenous territories [without including all affected communities](#) in their consultation processes. UN experts assert that by [excluding communities](#) that fall within mining concessions from proper consultation and failing to provide information about these projects, companies have ["exacerbated social conflict."](#)

Projects have also advanced despite [suspension orders by local courts](#) for failing to ensure free, prior and informed consent. Given the track record of Canadian mining companies in Ecuador, there are grave concerns that the FTA will open the door to more violations of Indigenous rights and social conflict.

### **4. The FTA will multiply mining-related harms.**

According to a Canadian summary of the negotiated outcomes with Ecuador, both governments agree to enforce environmental laws and abstain from lowering levels of environmental protection to attract investment. However, there is no effective way to enforce this promise. And already, Ecuador has introduced a new [Law for the Strengthening of the Strategic Mining and Energy Sectors](#) which [removes key environmental licensing requirements](#) in order to [fast-track mining projects](#).

[Canadian mining projects](#) also have been allowed to advance in ecologically-sensitive areas of Ecuador, putting at risk vital water sources for millions of Ecuadorians. Furthermore, in farming communities where there is vocal opposition to the environmental impacts of mining, [the military has been deployed](#) to fast-track and rubber-stamp environmental consultations and violently suppress peaceful protests. Companies have colluded to bring fabricated criminal charges against land and water defenders.

This free trade agreement will set the stage for a dramatic increase in mining-related environmental harms and conflict in Ecuador at a moment when the planet faces unprecedented climate crises and where it is [extremely dangerous](#) to be an environmental and human rights defender.

### **5. Threats to the rights of women and girls.**

The Confederation of Indigenous Nationalities of Ecuador (CONAIE) [has warned](#) about threats to the rights and safety of women and girls from the promotion of mining.

“Gender-based, racist violence takes the shape of persecution of women who defend nature and Indigenous territory, as well as exploitation and sexual violence towards girls and young women in zones where there is extractivism,” says the group.

Mujeres Amazónicas Defensoras de la Selva, a collective formed by women from nine Indigenous Nations and over 40 Indigenous communities in the Ecuadorian Amazon, [has expressed opposition](#) to the free trade agreement, stating “we cannot allow more mining and oil projects that devastate our lands, ecosystems ... and the physical and mental health of Indigenous women.” The organization says Amazonian women have been disproportionately affected by the destruction of the social fabric, corruption, alcoholism, gender violence and sexual violence in communities impacted by Canadian extractive companies. These experiences lead to greater insecurity for Indigenous women and girls.

In a massive failure of due diligence, Canada’s so-called Gender-Based Analysis Plus of the Canada-Ecuador Free Trade Agreement did not consider the [gender-based impacts](#) of any part of the FTA, including chapters supporting Canadian mining activities, on women in Ecuador.

## **6. Undemocratic corporate investment protections threaten rights and the environment.**

An [authoritative UN expert report](#) concludes that Investor-State Dispute Settlement (ISDS) mechanisms of the kind negotiated into the Canada-Ecuador Free Trade Agreement have catastrophic consequences for the environment and human rights. Foreign investors, including mining companies, frequently use ISDS mechanisms to sue governments over environmental protection measures or the failure to quell local opposition to extractive projects and permits. Under ISDS, foreign investors bypass domestic courts and sue governments directly for lost profits before private international arbitration tribunals. The awards are so massive—in the tens to hundreds of millions and even billions of dollars—that even the threat of an ISDS claim can dissuade a government from regulating in the public interest.

ISDS is unconstitutional in Ecuador. The constitutional ban was adopted by popular referendum in 2008 after a [democratic review](#) of investment treaties that looked at the billions of dollars Ecuador had to pay foreign oil, gas and mining companies in ISDS awards. Twice in the past two years, the Noboa government has held referendums seeking approval to make changes to the constitution that would remove the ban on ISDS. Both times, an overwhelming majority voted no.

It is a highly disturbing slap in the face to democracy to put ISDS in a new agreement when the constitution and the people of Ecuador [are clearly opposed](#). Notably, when ISDS was removed from the Canada-U.S.-Mexico Agreement (CUSMA) in 2018, [Canada’s then foreign affairs minister said](#): “ISDS elevates the rights of corporations over those of sovereign governments. In removing it, we have strengthened our government’s right to regulate in the public interest, to protect public health and the

environment.” That vital protection is what will be taken away if a Canada-Ecuador Free Trade Agreement with ISDS is implemented.

## **7. Worker protections will be further undermined.**

While Canada’s summary of negotiated free trade outcomes says both countries will be prohibited from weakening national labour laws, Ecuadorian President Noboa has pre-emptively proposed drastic changes to the country’s worker rights provisions. This includes “flexibilizing” the 40-hour work week to enable 10-hour workdays and the removal of overtime and supplemental pay.

These changes have been [vehemently opposed](#) by labour rights organizations, experts and unions because they negate hard-won labour rights protections, increase job precarity, undermine freedom of association and the right to collective bargaining, and leave workers vulnerable to the will of their employer for fear of losing their job. These changes will have [serious implications](#) for workers in agro-export industries that may benefit from tariff removal in the Canada-Ecuador Free Trade Agreement.

In Ecuador, [less than 1% of workers](#) are protected by a collective bargaining agreement. In agro-export industries such as Ecuador’s cut flower industry and in the increasingly important farmed shrimp sector, which also [depletes sensitive mangrove ecosystems](#), forced and child labour is common. [UN experts have denounced](#) government inaction on such abuses.

Fundamental labour rights must be meaningfully protected, not undermined, in the trading of goods between Canada and Ecuador.

## **8. Canada has no meaningful mechanism to prevent or provide redress for abuses committed by Canadian companies abroad.**

Despite [long-standing calls](#) for Canada to adopt binding legislation on corporate accountability, including mandatory human rights and environmental due diligence rules, Canada has failed to act. A free trade agreement that seeks to enhance corporate access to markets and capital in a country where mining-related and labour abuses are already well-documented would lead to greater impunity for Canadian companies that violate human rights.

Canada should not advance any new trade and investment agreement with Ecuador without having enacted rigorous human rights and environmental due diligence legislation, together with effective access to remedy.