**FIRST PEOPLES WORLDWIDE**

**CORPORATE MONITOR**

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**Rising Standards in the Global South – The Belo Monte Dam**

On November 26, the [Brazilian National Development Bank](http://www.bndes.gov.br/) (BNDES) approved a $US22.5 billion loan to finance construction of the Belo Monte Dam in Brazil, the world’s third largest hydroelectric dam. Approximately 11 percent of the loan (US$3.2 billion) was designated specifically for social and environmental programs, the largest ever investment by BNDES for such purposes.

The dam, which was authorized by the Brazilian government without an environmental impact assessment or Free, Prior, and Informed Consent from affected communities, has been the subject of 53 judicial actions in Brazil, and construction was suspended at least five times in 2012 alone. The conditions of the BNDES loan indicate that the dam’s social and environmental consequences have reached levels not anticipated during the planning process, and that national development institutions in the Global South are making the same concessions to human rights as many multinational and private lenders.

Sources: [Foley Hoag](http://www.csrandthelaw.com/2012/12/brazils-belo-monte-move-will-national-development-banks-start-taking-human-rights-and-environmental-concerns-more-seriously/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csrandthelaw+%28Corporate+Social+Re)

**Rising Standards in the Global South – China Requiring Risk Assessments**

On November 12, the Chinese government announced that all major industrial projects in China must pass a social risk assessment before they begin. Several Chinese projects were recently suspended or cancelled because of their social impacts on Indigenous Peoples and other local communities.

In September 2012, the China Power Investment Company’s Myitsone Dam in Burma was halted by the Burmese government, because of opposition from Kachin villagers who were to be forcibly relocated by the project. Also in September 2012, protests by Penan and Kenyah villagers suspended construction of the Murum Dam in Malaysia, the first international project of the China Three Gorges Corporation. In October 2012, the Chinese government cancelled plans to expand a petrochemical plant in Ningbo, after three days of demonstrations by local residents.

According to [Foley Hoag](http://www.csrandthelaw.com/2012/11/social-risk-assessment-china-raises-its-game/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csrandthelaw+%28Corporate+Social+Responsibility+and+the+Law%29), the decision is aimed at reducing these costly holdups, rather than obtaining legitimate public support for development. For this reason, the assessments’ effectiveness in reducing costs and strengthening social stability is questionable.

Sources: [New York Times](http://www.nytimes.com/2012/11/13/world/asia/china-mandates-social-risk-reviews-for-big-projects.html), [New York Times](http://www.nytimes.com/2012/10/29/world/asia/protests-against-sinopec-plant-in-china-reach-third-day.html), [Foley Hoag](http://www.csrandthelaw.com/2012/11/social-risk-assessment-china-raises-its-game/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csrandthelaw+%28Corporate+Social+Responsibility+and+the+Law%29), [Kachin News](http://www.kachinnews.com/news/2342-chinese-company-tries-to-gain-the-support-of-locals-to-restart-myitsone-dam-project.html)

**Opportunities for Business with Indigenous Peoples - Australia**

[Indigenous Business Australia](http://www.iba.gov.au/) (IBA), an organization that economically empowers Indigenous Australians through commercial ventures, reported that the number of Indigenous Australians interested in starting businesses through IBA increased by 30 percent this year. To raise capital to meet the growing demand for startup funds, IBA recently took a 31 percent stake in Message Stick Communications (Private), a technology, communications, and media service provider founded by Indigenous entrepreneur Michael McLeod.

Named for the Aboriginal tradition of carving and transporting messages on sticks, Message Stick Communications is majority Indigenous-owned and has had an annual growth rate of over 125 percent since 2005. The company’s clients include Johnson and Johnson (NYSE:JNJ) and KPMG (USA: Private).

Companies should take advantage of the expanding network of successful Indigenous-owned businesses in Australia, and seek partnership opportunities that enable both parties to grow.

Sources: [The Australian](http://www.messagestick.com.au/section/41-in-the-news.aspx)

**Opportunities for Business with Indigenous Peoples - Philippines**

An Aytas community in the Philippines is opening their territory to private investment from the tourism industry, under the condition that locals benefit from the increased economic activity. Community leaders said the territory, which sits 1,200 feet above sea level and provides spectacular views of mountain ranges, has potential to become a major tourist attraction. They cited the Native American casinos near San Diego, California as models for tourism development in their community. When Indigenous Peoples have opportunities to harness economic gain from their assets, they will often not only accept, but welcome private investment.

Sources: [Business Mirror](http://businessmirror.com.ph/index.php/news/regions/569-aytas-governor-support-entry-of-investors-in-nabuklod)

**The Risks of Bad Practice – Chevron Subpoenas Investors**

In November 2012, Chevron (NYSE:CVX) subpoenaed one of its investors, Trillium Asset Management, which sponsored several shareholder proposals questioning the company’s handling of legal disputes in South America, and requesting the company to improve its social and environmental performance. The [subpoena](http://www.scribd.com/doc/116292660/Billenness-Subpoena) demands that Trillium submit documents relating to these proposals in court.

The subpoena is part of lawsuit Chevron is filing against the parties involved in bringing charges for environmental damages to the company. Although Trillium is not a defendant in the lawsuit, it’s clients are concerned with Chevron’s refusal to comply with a 2011 Ecuadorian court [ruling](http://www.nytimes.com/2012/01/04/world/americas/ecuador-18-billion-ruling-against-chevron-is-upheld.html) ordering it to pay US$19.04 billion for environmental damages to Indigenous communities in the Ecuadorian Amazon. Stock market analysts said that despite Chevron’s history of strong growth, investors should examine their positions in the company against their current risk profiles. On November 9, an Argentine court froze all of Chevron’s assets in the country (estimated at US$2 billion) due to the company’s refusal to comply with the Ecuadorian court ruling. Following the Argentine court’s decision, the company experienced a steep downturn in share price ($7.96/$7.21).

Sources: [New York Times](http://www.nytimes.com/2012/12/09/business/chevron-takes-aim-at-an-activist-shareholder.html?pagewanted=1&_r=2&ref=business), [Seeking Alpha](http://seekingalpha.com/article/1027071-chevron-a-dividend-champion-in-trouble)

**The Risks of Bad Practice – Hydro Tasmania Withdraws from SCORE**

On December 4, Hydro Tasmania, an Australian public energy company, announced that it is withdrawing from the Malaysian government’s [Sarawak Corridor of Renewable Energy](http://www.sarawakscore.com.my/modules/recoda/) (SCORE) project, which involves the construction of twelve dams in the Malaysian state of Sarawak. The company provided SCORE with consulting and management services worth an estimated US$3 million per year.

Despite being advertised by the Malaysian government as a model of best practice for socially responsible hydropower, SCORE is expected to displace thousands of Indigenous Peoples. Malaysian and Australian Indigenous groups campaigned for Hydro Tasmania to halt its involvement in the project. Following a November 2012 meeting between an Indigenous delegation and company executives, the company committed to pulling all personnel from the project by the end of 2013, after carrying out remaining contractual obligations.

Sources: [Sarawak Report](http://www.sarawakreport.org/2012/12/pulling-out-hydro-tasmania-is-to-quit-sarawak-exclusive/), [New Matilda](http://newmatilda.com/2012/11/29/sarawak-leaders-protest-australia), [Environmental News Service](http://ens-newswire.com/2012/12/05/hydro-tasmania-to-withdraw-from-sarawak-dam-building-program/)

**The Importance of Transparency – Industry Sues SEC**

On October 10, four industry groups (filed a lawsuit against the [Securities and Exchange Commission](http://www.sec.gov/) (SEC), challenging the legality of Section 1504 of the [Dodd-Frank Wall Street Reform and Consumer Protection Act](http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf), which requires extractive companies to disclose all payments to governments exceeding US$100,000. By requiring companies to disclose data that can be used to identify fraudulent behavior, the law is intended to improve transparency and corporate governance. A similar measure is being considered by the European Union. The plaintiffs argue that the law’s benefits are difficult to quantify, and that the SEC approved the law without conducting a sufficient cost-benefit analysis.

A company’s transparency and corporate governance are measured by a wide range of tangible and non-tangible factors, including health, education, income disparity, and cultural cohesion of affected communities. Companies must be willing to perform the research and consultation necessary to adequately measure these important factors.

Sources: [The Hill](http://thehill.com/blogs/e2-wire/e2-wire/261377-oil-business-groups-sue-sec-over-disclosure-rule), [Bloomberg](http://www.bloomberg.com/news/2012-10-22/sec-sued-over-conflict-minerals-rule-by-business-groups.html), [Foley Hoag](http://www.csrandthelaw.com/2012/10/u-s-chamber-of-commerce-sues-sec-to-overturn-extractive-industry-transparency-rule/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csrandthelaw+%28Corporate+Social+Responsibility+and+the+Law%29)

**Policy Alert - Native Americans Oppose Coal Terminals**

Native American tribes are opposing the construction of coal export terminals along the coast of Oregon and Washington. The tribes allege that the terminals pose environmental risks to their natural resources and sacred sites, which are protected by treaties signed with the federal government in the nineteenth century. In September 2012, the [Affiliated Tribes of Northwest Indians](http://www.atnitribes.org/) requested that the federal government conduct a collective environmental impact assessment for all the terminals, rather than individual assessments for each terminal.

Native American treaty rights will have key implications for the debate surrounding the terminals. Tribes in the Pacific Northwest have historically exercised greater influence over their natural resources than tribes in other regions of the US. In 1974, the US Supreme Court reaffirmed tribal communities’ rights to co-regulate salmon production in Washington. In 2012, tribal fishing rights were a driving force behind the removal of the Elwha River Dam in Washington, one of the largest dam removal projects in US history.

Sources: [New York Times](http://www.nytimes.com/2012/10/12/us/tribes-add-powerful-voice-against-northwest-coal-plan.html?pagewanted=all)

**Policy Alert – The Duty to Consult After Sarayaku**

The [American Society of International Law](http://www.asil.org/) published a [study](http://www.asil.org/pdfs/insights/insight121128.pdf) examining the implications of the 2012 [Inter-American Commission on Human Rights](http://www.oas.org/en/iachr/) (IACHR) [ruling](http://www.amnesty.org/en/news/ecuador-inter-american-court-ruling-marks-key-victory-indigenous-peoples-2012-07-26) declaring that Ecuador’s failure to consult with the Sarayaku people before conceding their territory to oil companies was a violation of international law. Ecuador argued that it did not ratify [ILO Convention 169](http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm), which affirms Indigenous Peoples’ consultation rights, until after making the concession, but the IACHR held that the duty to consult was a “general principle of international law.” The decision sets a precedent for holding all countries in the [Organization of American States](http://www.oas.org/en/default.asp) accountable to consulting with Indigenous Peoples regarding development on their territories, regardless of what international instruments they have ratified.

In a recent interview with the [New Left Review](http://newleftreview.org/), Ecuadorian President Rafael Correra expressed support for oil exploration, but acknowledged its environmental ramifications and insisted that companies “exploit those resources in the right way.”

Sources: [American Society of International Law](http://www.asil.org/pdfs/insights/insight121128.pdf), [Green Left](http://www.greenleft.org.au/node/52789)