**FIRST PEOPLES WORLDWIDE**

**CORPORATE MONITOR**

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**New Reports Indicate Market Shift in Canada**

In December 2013, two reports were released about First Nations and resource extraction in Canada. The first [report](http://www.theglobeandmail.com/incoming/article15936361.ece/binary/Responsible%20Energy%20Resource%20Development%20in%20Canada%20-final.pdf) predicts that Canada is headed towards a “gridlock in energy development that will rob the country of future wealth unless it can solve vexing environmental and Aboriginal conflicts.” It was produced by a group of 21 leaders from First Nations, the extractive industry, the financial industry, environmental groups, and the Canadian government, including Rick George (former CEO of [Suncor Energy](http://www.suncor.com/default.aspx)), Jim Bouchier (Chief of the [Fort McKay First Nation](http://www.fortmckay.com/)), Greg Schmidt (former President of the [Energy Council of Canada](http://www.energy.ca/users/folder.asp)), and Brian Felesky (Vice Chairman of Investment Banking of [Credit Suisse Canada](https://www.credit-suisse.com/ca/en/)). According to Felesky, “Canada can realize this great potential or lose it...and we have to act on a very timely basis because money is fungible. And it’s going to other markets that are solutions-driven and are building these facilities while we have this unfortunate impasse.”

The second [report](http://www.fraserinstitute.org/uploadedFiles/fraser-ca/Content/research-news/research/publications/opportunities-for-first-nation-prosperity-through-oil-and-gas-development.pdf), released by the [Fraser Institute](http://www.fraserinstitute.org/) (a right-leaning think tank), estimates that more than 600 extractive projects, worth a total of $650 billion, are on or near First Nations territories and could be imperiled by community opposition. The report details the Canadian government’s failure to establish adequate procedures and policies regarding the “duty to consult” with First Nations, and the implications this has for the private sector. In response to the report, John Daly, Chief Analyst for [Oilprice.com](http://oilprice.com/Energy/Energy-General/Canadas-Indigenous-First-Nations-Threaten-600-Billion-in-Energy-Deals.html), wrote “with $600 billion in potential energy deals at stake, Ottawa ought to sharpen their listening capabilities very carefully.”

Sources: [Globe and Mail](http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/canada-heading-for-energy-gridlock-group-warns/article15941026/), [Oilprice.com](http://oilprice.com/contributors/John-Daly/articles)

**Country Matters**

One of the six risk indicators used in First Peoples Worldwide’s *Indigenous Rights Risk Report* was Country Risk, which examined the strength of legal protections for Indigenous Peoples and the general state of human rights and civil liberties in the country in which a particular project took place. Country Risk was weighted to account for just 10 percent of a projects’ overall risk score, but was a key driver of other risk indicators. Of the 21 projects with the highest overall risk scores, 100% were in at least medium risk countries, 64% were in at least high risk countries, and 36% were in critical risk countries. By comparison, of the 370 projects total, 51% were in at least medium risk countries, 23% were in least high risk countries, and 18% were in critical risk countries.

A recent [report](http://www.rightsandresources.org/documents/files/doc_5715.pdf) by [The Munden Project](http://www.mundenproject.com/) offers an explanation for this correlation: “[Countries with weak legal recognition of customary land claims] often lack accessible and legitimate grievance procedures or conflict resolution mechanisms, such as reliably impartial (and speedy) judicial processes. This makes direct action via legal channels an impractical option when viewed from communities’ perspectives. If the operator is unresponsive to local complaints, the only form of redress becomes disrupting the operation through any means available, which simultaneously serves as the best way to attract domestic and international support.”

**A Business Reference Guide to UNDRIP**

In December 2013, [the UN Global Compact](http://www.unglobalcompact.org) released [*A Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples*](http://www.unglobalcompact.org/docs/issues_doc/human_rights/IndigenousPeoples/BusinessGuide.pdf) at the second annual [UN Forum on Business and Human Rights](http://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx) in Geneva. The Guide aims to help companies comprehensively understand the rights enshrined in the [UN Declaration on the Rights of Indigenous Peoples](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf), and recommends practical actions for respecting and supporting them.

The Guide is the product of an 18-month collaborative process in which thousands of stakeholders from around the world were invited to provide input. The process included an in-person consultation workshop with Indigenous leaders at the twelfth annual [UN Permanent Forum on Indigenous Issues](http://undesadspd.org/IndigenousPeoples.aspx), and the convening of an Advisory Group comprised of experts on issues pertaining to business and Indigenous Peoples’ rights. The UN Global Compact’s deliberate inclusion of Indigenous Peoples in the process bolsters the legitimacy and validity of the Guide. The Guide should serve as a valuable reference point for companies seeking to develop best practices regarding the rights of Indigenous Peoples.

Sources: [UN Global Compact](http://3blmedia.com/News/CSR/UN-Global-Compact-Launches-Business-Guide-Rights-Indigenous-Peoples)

**Wilmar International Adopts FPIC Policy**

In December 2013, [Wilmar International](http://www.wilmar-international.com/) (SGX:F34), an agribusiness group headquartered in Singapore, announced a new [Sustainability Policy](http://www.wilmar-international.com/sustainability/) that contains a number of laudable commitments, including the full and demonstrable application of Free, Prior, and Informed Consent. The company also promised to refrain from developing plantations on peatlands and areas of High Conservation Value, to implement zero-burning methods of land clearance, and to reduce its carbon emissions in accordance with the [UN Framework Convention on Climate Change](http://unfccc.int/2860.php). The policy applies to all of the company’s activities, as well as those of its subsidiaries and third-party suppliers.

Wilmar is one of the largest producers of palm oil in the world, and it will take time for the company to implement the policy across its global operations. [Friends of the Earth](http://www.foe.org), which has campaigned against Wilmar for years, issued a [statement](http://www.foe.org/news/archives/2013-12-palm-oil-giant-wilmar-international-promises-to-end) reading “we are strongly cognizant that Wilmar’s commitment to improvement comes in the wake of many years of land-grabbing, fueling of conflicts, destruction of endangered habitat and other abuses...Friends of the Earth will be closely monitoring the implementation of Wilmar’s stated commitments to ensure that Wilmar takes immediate steps to fulfill its promise and comply with its policy.” Although it is important for NGOs to play a role in ensuring that Wilmar abides by the policy, they should remember to allow the company sufficient time for implementation. By using new policies as fodder for campaigns against companies, NGOs can disincentive other companies from adopting similar measures and hinder the progression of industrywide change.

Sources: [Wilmar International](http://www.wilmar-international.com/sustainability/), [Friends of the Earth](http://www.foe.org/news/archives/2013-12-palm-oil-giant-wilmar-international-promises-to-end)

**Fracking Licenses Issued in Botswana**

In November 2013, the government of Botswana confirmed that hydraulic fracturing is taking place in the [Central Kalahari Game Reserve](http://www.expertafrica.com/botswana/central-kalahari-game-reserve) (CKGR). The concessions were issued to companies, including [Tamboran Resources](http://www.tamboran.com/) and [Debswana](http://www.debswana.com/Pages/Welcome.aspx) (a joint venture between the government and [De Beers](http://www.debeers.com/)), without the knowledge or consent of the San (also known as the Bushmen), who have inhabited the CKGR for thousands of years.

For more than two decades, the government of Botswana has attempted to evict the San from the CKGR, in order to make way for conservation, tourism, mining, and other industries. Although court rulings have upheld the San’s right to remain in the CKGR, they continue to face routine discrimination and harassment, and are under pressure to abandon their hunter/gatherer lifestyles. Because of the government of Botswana’s disregard for the rights of the San, companies entering the CKGR are at extremely high risk of encountering community opposition and [drawing attention from activist groups](http://www.survivalinternational.org/news/9762).

Sources: [The Guardian](http://www.theguardian.com/environment/2013/nov/18/botswana-accusations-fracking-kalahari), [Botswana Gazette](http://www.gazettebw.com/?p=6363)

**Ecuador Shuts Down Indigenous NGO**

In December 2013, the Ecuadorian government shut down [Fundación Pachamama](http://www.pachamama.org/), an Indigenous organization opposed to the country’s plans to auction oil concessions on Indigenous territories, for allegedly "deviating from the aims and objectives for which it was created" and "engaging in political activities...that affect the public peace or that interfere in public policies that threaten the internal or external security of the state."  In his weekly national radio address, Ecuadorian President Rafael Correra accused the organization of "aggression" against a Belarusian businessman and a Chilean ambassador during a protest in Quito.  Correra also read a list of people from other organizations involved in the protest.  Correra insisted that "real Indigenous leaders" support the auction, but there is little evidence to support his claims, as his list of protesters included leaders from the Confederation of Indigenous Nationalities of Ecuador, the Governments of Original Nations of the Ecuadorian Amazon, and several Achuar, Kichwa, and Zápara organizations.

Ecuador, like Peru, is receiving lukewarm interest in its auctioning of oil concessions on Indigenous territories.  The government's decision is probably intended to quell Indigenous dissent in the short-term to make the country appear more attractive to foreign investors, but will ultimately generate more community resistance and further jeopardize the long-term returns of oil activities in the country.

Sources: [Amazon Watch](http://amazonwatch.org/news/2013/1206-amazon-watch-statement-of-support-for-fundacion-pachamama-ecuador), [Indian Country Today](http://indiancountrytodaymedianetwork.com/2013/12/08/ecuadorian-government-shuts-down-indigenous-advocate-organization-152599), [Amnesty International](http://www.amnesty.org/en/library/asset/AMR28/003/2013/en/4af234ee-4877-4ac8-adf4-85463755a6aa/amr280032013en.html), [Fundación Pachamama](http://www.pachamama.org/news/government-of-ecuador-shuts-down-fundacion-pachamama)

**Court Requires Transparency from Brazilian Bank**

In October 2013, a Brazilian court ordered the [Brazilian National Development Bank](http://www.bndes.gov.br/) (BNDES) to publicly disclose reports used to appraise and justify loans exceeding US$46 million. The court ruled that the BNDES’ refusal to disclose such information “reveals a system of planned obscurity” in its operations. It is expected that the BNDES will appeal the decision.

The lawsuit, which was filed by a Brazilian newspaper in 2011, was probably motivated, at least in part, by the BNDES’ financing of the controversial Belo Monte Dam in the Brazilian Amazon. In 2012, the BNDES approved a US$10.8 billion loan for the dam, 11 percent of which was earmarked for social and environmental programs. Regardless, the dam continues to face regular delays and disruptions from affected Indigenous Peoples. As the costs of ignoring FPIC pile up, the BNDES (a public institution funded by Brazilian taxpayers) is under increasing scrutiny to be more transparent about the risks and reasons behind its lending decisions.

Sources: [Amazon Watch](http://amazonwatch.org/news/2013/1024-brazilian-federal-court-rules-for-public-scrutiny-over-bndes-loans), [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)

**The Cost of Ignoring FPIC**

In November 2013, two more mining projects were shut down by the courts in South America. A Chilean court, less than one month after lifting its 18-month suspension of [El Morro](http://www.goldcorp.com/English/Unrivalled-Assets/Mines-and-Projects/Central-and-South-America/Development-Projects/El-Morro/Overview-and-Development-Highlights/default.aspx) (owned by [Goldcorp](https://www.google.com/finance?q=TSE%3AG&ei=xZh7UqDOGoSusgfKlgE) [TSE:G] and [New Gold](https://www.google.com/finance?q=NYSEMKT%3ANGD&sq=new%20gold&sp=1&ei=v5l7UojHH-eEsgfMOA) [NYSEMKT:NGD]), accepted an appeal from Diaguita communities and refroze the project. The appeal negated the court’s earlier claim that the communities were sufficiently consulted about the project.

Meanwhile, a Brazilian court ruled against the issuance of an environmental permit to [Belo Sun’s](https://www.google.com/finance?q=TSE%3ABSX&sq=belo%20sun&sp=3&ei=-0U3UYDfCo2kkQOsOQ&hl=en) (TSE:BSX) proposed [Volta Grande Project](http://www.belosun.com/Projects/Volta-Grande/default.aspx) in the Brazilian Amazon, because it violated the country’s legal obligations to Indigenous Peoples under [ILO Convention 169](http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm). Belo Sun reported that it will “take all applicable legal measures to appeal the decision…and defend the validity and legality of the licensing process”, but did not mention intentions to strengthen its relationship with affected Indigenous communities. The proposed location of the Volta Grande Project is downstream from the Belo Monte Dam, and the court’s decision could have been prompted by concerns about the cumulative negative impacts of the two projects.

Sources: [Mining.com](http://www.mining.com/chile-once-again-freezes-goldcorps-el-morro-project-37188/) [Indigenous Peoples Issues and Resources](http://indigenouspeoplesissues.com/index.php?option=com_content&view=article&id=18381%3Apara-belo-sun-mining-project-suspended-in-brazilian-amazon&catid=23%3Asouth-america-indigenous-peoples&Itemid=56&utm_source=feedburner&utm_medium=email&utm_campaign=Fee), [The Star](http://www.thestar.com/news/world/2013/02/14/brazil_wants_more_research_on_amazon_gold_mine_before_canadian_company_proceeds.html)