



FIRST PEOPLES WORLDWIDE CORPORATE MONITOR OCTOBER 2014

Canada Sparks “Outrage” at World Conference

Once again, Canada has sparked outrage among its Aboriginal population, this time for using the [UN World Conference on Indigenous Peoples](#) “as an opportunity to continue its unprincipled attack on the [UN Declaration on the Rights of Indigenous Peoples](#) (UNDRIP).” At the conference, an outcome document was produced calling on countries to “take appropriate measures at the national level...to achieve the ends of the UNDRIP” and affirming that “decisions potentially affecting the rights of Indigenous Peoples should be undertaken only with their Free, Prior, and Informed Consent (FPIC).” Canada was the only country to raise objections to the outcome document, insisting that it cannot “commit to uphold provisions in the UNDRIP that deal with FPIC if these provisions were ‘interpreted as a veto.’” Canada’s behavior at the conference was condemned by the [Assembly of First Nations](#) and other Aboriginal leaders across the country. According to Matthew Coon Come, Grand Chief of the [Grand Council of the Crees](#), “the right of FPIC is crucial to us...The government has never explained what it means by ‘veto.’ Is a ‘veto’ absolute? If so, then a ‘veto’ isn’t the same thing as ‘consent.’”

It is unclear why Canada continues to backslide on an issue that is so crucial to its economic agenda. While Canada is certainly not the only country failing to uphold its commitments to UNDRIP, it has positioned itself as the document’s most vocal opponent, perpetuating the tensions that threaten to paralyze its natural resource future.

Sources: [Union of BC Indian Chiefs](#)

Tribes Urged to Ban Fracking

In October 2014, the [Eastern Band of Cherokee Indians](#) declared a ban on hydraulic fracturing on its sovereign lands in North Carolina. Similar bans have been passed by the [Onondaga Nation](#)

(New York), the [Standing Rock Sioux Tribe](#) (North Dakota/South Dakota), and the [Turtle Mountain Band of Chippewa Indians](#) (North Dakota). “[Last Real Indians](#) and [Honor the Earth](#) are among Native American organizations calling for pressure on tribal councils to approve anti-fracking resolutions, as efforts increase to drill for fossil fuel in treaty territory.”

It appears that some tribes’ negative experiences with fracking are prompting others to take preventative measures against the industry, extinguishing potential opportunities for oil and gas companies. According to the Standing Rock Sioux Tribe, “we have learned from the land-grab activities that occurred in the early days of the Bakken oil boom on the [Fort Berthold Reservation](#), where hundreds of millions of dollars were lost due to unethical practices by groups/corporations/companies claiming to streamline the negotiating process for the leasing agreements of tribal member allottees. Many members were scammed into lease agreements, only to receive a fraction of the profits that were to be yielded from their lands. We do not wish to see this happen to our members here on Standing Rock.”

Sources: [Indianz.com](#), [Indian Country Today](#)

First Equitable Origin Certification in Colombia

In September 2014, [Equitable Origin](#) (EO) announced its first certification of socially and environmentally responsible oil at [Pacific Rubiales’](#) Quifa and Rubiales sites in Colombia. The certified sites “collectively produce approximately 250,000 barrels of oil per day, 25 percent of Colombia’s national total. Pacific Rubiales is the first operator to have sites certified to the [EO100™ Standard](#), a fully integrated certification and certificate trading system designed to incentivize and assess the sustainability performance of oil and gas producers.”

The EO100™ Standard contains specific provisions for Indigenous Peoples’ rights, including Free, Prior, and Informed Consent, and was informed by nearly 70 public consultations and community workshops throughout the Amazon region, reaching approximately 1,000 Indigenous Peoples. EO is currently seeking feedback on the EO100™ Standard to help them ensure it “reflects current industry best practices and stakeholder expectations.” Their [online consultation tool](#) is available for anyone to submit comments until December 5, 2014. A second public consultation will be held next year.

Sources: [Equitable Origin](#)

Entering Conservation Partnerships with Caution

In October 2014, [Survival International](#) (SI) reported that "Baka men and women in Cameroon are regularly victims of violence and intimidation by wildlife officers and the soldiers that accompany them...rather than target the powerful individuals behind organized poaching, [these] wildlife officers and soldiers pursue Baka who hunt only to feed their families." SI also alleges that the [World Wildlife Fund](#) (WWF) "provides essential support and funding for these anti-poaching squads...despite the evidence that the anti-poaching squads have grossly abused the rights of the Baka."

Companies frequently gravitate to the WWF and other large conservation NGOs for their environmental partnerships. Although these groups have attempted to [improve their reputation with Indigenous Peoples](#) in recent years, tensions persist from decades of "conservation" approaches that separated Indigenous Peoples from their traditional lands and livelihoods. The surfacing of stories like this indicates these approaches might not be fully extinguished; companies should enter partnerships with these groups with caution to ensure Indigenous Peoples' rights are not violated.

Sources: [Survival International](#)

ExxonMobil Human Rights Lawsuits Proceed

In September 2014, [Foley Hoag](#) reported that "the District Court for the District of Columbia ruled that two closely related cases filed against Exxon Mobil Corporation, and several of the company's subsidiaries, could proceed. Plaintiffs in both cases...allege that the company is liable for human rights abuses committed by members of the Indonesian military who had been engaged to provide security for the company's operations in Indonesia." The cases were filed under the [Alien Tort Statute](#) (ATS), a 1789 law giving US courts jurisdiction to hear civil suits brought by foreigners for violations of international law.

Last year, the Supreme Court dismissed a similar lawsuit against [Royal Dutch Shell](#) because the plaintiffs' did not present sufficient evidence to overcome the presumption against

extraterritorial application of US law. However, the ruling did not directly answer the question of whether corporations could be tried under the ATS, implying that the presumption could be overcome in other circumstances. The District Court's recent decision "allows plaintiffs to file for leave to amend their complaint in order to try and demonstrate that the facts of the case sufficiently "touch and concern" the US so as to overcome the presumption against extraterritoriality that applies to ATS cases."

Sources: [Foley Hoag](#)

RepRisk Reports on Indigenous Peoples

In September 2014, [RepRisk](#) published a report on "the environmental, social, and governance (ESG) risks businesses face in their encounters with Indigenous communities." The report identified the sectors and countries that are most exposed to these risks, based on the RepRisk Index, which is a "quantitative risk measure that captures criticism and quantifies risk exposure related to ESG issues. It is based on the number and frequency of the risk incidents captured by RepRisk, the severity and novelty of the criticism or incident, as well as the source of the news." RepRisk identified the most exposed sectors as food and beverage, forestry, mining, oil and gas, and utilities, and the most exposed countries as Ecuador, India, Indonesia, Peru, and the Philippines. Additionally, the report includes six case studies that "analyze the effects of hydropower in Brazil, tar sands in Canada, forestry in the Democratic Republic of Congo, mining in Guatemala, palm oil in Indonesia, and transgenic crop production in Paraguay."

Sources: [RepRisk](#)