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FEATURED Q&A

What's Behind the Conflicts Over Mining in Peru?



Peru's government is planning to update the country's mining laws, Finance Minister Carlos Oliva said recently. // File Photo: Peruvian Government.

Q Peru's government on Aug. 9 suspended a construction permit it had recently granted Southern Copper for the \$1.4 billion Tía María mining project, which local opposition has delayed for nearly a decade. Earlier this month, Peruvian Finance Minister Carlos Oliva said the government is preparing legislation to update the country's decades-old mining laws, but added that it is unlikely to make any big changes on taxes on mining companies. What are the reasons for local opposition to mining projects in Peru? How likely is the Peruvian government to re-grant the construction license to Southern Copper, and does the cancellation have wider implications for mining companies looking to operate in the country? What's wrong with Peru's current mining laws, and what sorts of provisions should the legislation to update them include?

A Eileen Gavin, principal consultant at Verisk Maplecroft: "Reasons for community opposition vary by project, but almost exclusively stem from socio-environmental concerns—the potential impact on water quality and availability, as well as water and air pollution. Another leading factor is poorly defined, or absent, legal frameworks regulating Free, Prior and Informed Consent (FPIC), which create legal uncertainty, both for investors and indigenous communities. Procedures have been patchy and piecemeal at best and corrupt and duplicitous at worst; therefore, Peru remains high risk on Verisk Maplecroft's Indigenous Peoples' Rights Index. And we expect conflict to escalate further under governors elected on anti-mining and pro-decentralization platforms. In July, the ombudsman reported 185 social

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Mexico, Firms Reach Deal on Pipeline Contracts

Mexico's government has reached an agreement with several companies over contracts for the operation of natural gas pipelines in the country.

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BUSINESS

Colombia Ordered to Repay \$19 Mn to Glencore Unit

A World Bank tribunal has ordered the South American country's government to repay a fine it had imposed on Glencore's coal mining subsidiary, Prodeco.

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POLITICAL

Brazil Reverses Stance on Amazon Aid Refusal

A spokesman for Brazilian President Jair Bolsonaro, who has been feuding with French President Emmanuel Macron, said the South American country will accept aid to help extinguish fires in the Amazon rain forest as long as Brazil can decide how to spend the money.

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Bolsonaro // File Photo: Brazilian Government.

POLITICAL NEWS

Brazil Reverses Refusal of Aid to Fight Amazon Fires

The Brazilian government on Tuesday said it was ready to accept foreign aid to help put out fires raging in the Amazon rain forest but only if Brazil could determine how the money would be spent, in an apparent attempt to quell a public spat between Brazilian President Jair Bolsonaro and French President Emmanuel Macron, Reuters reported. “The Brazilian government, through its president, is open to

“This money, when it enters the country, will have the total governance of the Brazilian people.”

— Rêgo Barros

receiving financial support from organizations and countries. This money, when it enters the country, will have the total governance of the Brazilian people,” presidential spokesman Rêgo Barros said. His remarks came after governors of states in the Brazilian Amazon told Bolsonaro they needed funding to deal with the record fires. Bolsonaro had initially rejected the nearly \$20 million offer from the G7 group, which includes France, Britain and the United States, and then backtracked, saying he would consider accepting the aid if Macron withdrew “insults” against him, CNN reported. The two presidents had engaged in a testy exchange online, with Bolsonaro mocking Macron’s wife and accusing him of having a colonialist mindset and Macron calling Bolsonaro a liar and saying Brazilian women are “probably ashamed” of him, Reuters reported. After the meeting with governors, Bolsonaro said that his government would present a series of measures to address the Amazon region by Thursday of next week, without providing more details, Folha de S.Paulo reported.

ECONOMIC NEWS

Mexico, Companies Reach Deal on Gas Pipeline Contracts

Mexico has reached a deal to end a dispute with several companies over contract prices regarding the operation of natural gas pipelines in the country, avoiding international arbitration, Mexican President Andrés Manuel López Obrador said Tuesday, The Wall Street Journal reported. The agreement proves that “through dialogue we can arrive at deals that are good for our nation,” López Obrador said during a morning press conference alongside pipeline company leaders including Carlos Slim, Mexico’s wealthiest individual, and the heads of two private sector associations. The terms of the deal were not immediately made public, but Manuel Bartlett, who presides over Mexican state-run power utility CFE, said service fees paid by the CFE will be lowered and set to a fixed rate, rather than escalating each year, as previously outlined. “The relevant part is that instead of having growing fees, we have equalized fees,” said Slim, who is the president of pipeline operator Carso Energy, The Wall Street Journal reported. “This ensures that the CFE will pay less at the end of the day and be able to take advantage of today’s low interest rates,” he added. The government expects to eventually save some \$4.5 billion from the deal, according to López Obrador, Reuters reported. [Editor’s note: See related [Q&A](#) in the July 19 issue of the Energy Advisor.]

BUSINESS NEWS

Colombia Ordered to Repay \$19 Million to Glencore Subsidiary

A World Bank tribunal has ordered Colombia to repay a \$19 million fine it had imposed on Glencore’s coal mining subsidiary, Prodeco,

NEWS BRIEFS

Twenty-Three Killed in Bar Attack in Mexico’s Veracruz State

Attackers at a bar in Mexico’s Gulf coast city of Coatzacoalcos killed 23 people and injured another 13 late on Tuesday, the Associated Press reported. The attackers set a fire that blazed the bar, killing eight women and 15 men. There was no immediate information on the injured. The Veracruz State prosecutor’s office said authorities were searching for the attackers.

Tropical Storm Dorian Bears Down on Puerto Rico, Virgin Islands

Tropical Storm Dorian is expected to lash the Virgin Islands and Puerto Rico today, bringing possible landslides, flooding and power outages, the Associated Press reported. U.S. President Donald Trump declared an emergency on Tuesday night, ordering federal assistance in the area. As of 8 a.m. Eastern Time today, the storm was about 60 miles southeast of St. Croix, moving northwest, with maximum sustained winds of 60 miles an hour, according to the U.S. National Hurricane Center.

Venezuela’s Digital Money Remittance Platform Begins Operation

Venezuela’s cryptocurrency remittance platform, Patria Remesa, is live and in service, the country’s national superintendent of crypto-actives, Joselit Ramírez, said on a state radio show, Cointelegraph reported Tuesday. “It is the most simple, easiest and safest way to send money,” Ramírez said, while encouraging Venezuelans to save in the Petro cryptocurrency, adding that “it’s the only way for income not to depreciate,” the government said in a statement. Venezuelan President Nicolás Maduro created the Petro to avoid economic sanctions from the United States and other countries, Cointelegraph reported.

but it rejected the company's request for \$575 million in damages, the Colombian government said Tuesday, Reuters reported. Glencore had brought the case to the World Bank's International Center for Settlement of Investment Disputes, asking it to award it damages after Colombia's national comptroller issued the million-dollar fine in January 2016, *Semana* reported. The comptroller had said Prodeco, one of the biggest miners in the Andean country, had incorrectly calculated royalties it should have paid under its Calenturitas contract, fining it for not complying with the terms of the deal. "The tribunal only ordered the return of the \$19.1 million plus interest and rejected all of the other demands—confirming its confidence in the integrity and the institutions of the comptroller and Colombian judges," Colombia's national agency for judicial defense of the state said in a statement, Reuters reported. In a statement, Prodeco said it was important that the issue had been resolved and reiterated its hopes to continue developing long-term investments in Colombia, the wire service reported. The South American country is the fifth-largest coal exporter in the world.

Shareholders OK Buy of Santander Consumer Chile

Shareholders of Banco Santander Chile on Tuesday approved the bank's purchase of 51 percent of Santander Consumer Chile from SKBergé and Grupo Santander, the Santiago-based bank said in a statement. Santander Chile's board had agreed to a purchase price of 61.1 billion Chilean pesos (\$86 million). Santander Consumer Chile is the country's second-largest automobile insurer, with a portfolio of 407 billion pesos as of the end of March. The company insures more than 30,000 cars annually, said Banco Santander Chile. "The automobile market in the country has stood out for strong growth, with the sale of cars expanding to double digits in the last four years," said Claudio Melandri, Santander Chile's president. "This purchase will allow the bank to enter this high-growth business with consistently positive

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conflicts; of 93 active socio-environmental conflicts, 62 were mining related and 18 hydrocarbons related, underlining the dominance of the extractives in social conflicts. We do not foresee any progress with the Tía María mine for now, not least because Peru may see a snap election. Against this backdrop of political instability, extractives companies face rising levels of operational and legal ambiguity, which may delay or deter investments and stall overall economic growth in 2019-2020. Social licenses to operate are a 'must-have' to secure investment, deploy capital effectively and deliver the returns that institutional stockholders expect. But the 1992 mining law provides insufficient socio-environmental protections. There is a general agreement, including within the industry, that the current framework is excessively bureaucratic, which hinders transparency and accountability. President Vizcarra is not the first and will not be the last to stumble on the governance problems afflicting mining. His proposed solution—enhanced decentralization and more financial clout for regional governments—makes sense on paper. We would caution, however, that it appears to skate over the problem of equally weak regional governance, and thus may prove insufficient to resolve the current situation."

A **Pablo de la Flor, executive director of Sociedad Nacional de Minería, Petróleo y Energía (SNMPE) in Lima:** "Mining is one of the main engines of economic growth in Peru, contributing more than 60 percent of total exports and generating 1.5 million jobs. Just as important, over the last decade, the industry has transferred close to \$15 billion

financial results, which will allow us to expand with new alliances, businesses and customers." Additionally, Santander Consumer Chile signed a 10-year renewable commercial agreement with SKBergé, through which Santander Consumer Chile will be SKBergé's first financ-

(half of all income taxes paid) to local governments in the regions where it operates. Unfortunately, the latter have only managed to spend 65 percent of their budgets. The persistence of critical deficits in access to basic local services (water and sanitation, electricity, health, education) in a context

“ Mining is one of the main engines of economic growth in Peru.”

— Pablo de la Flor

of abundant fiscal resources but limited state delivery capacities at the subnational level has stoked frustrations among local communities and created conditions for social conflicts to proliferate. Fears about the potential environmental impacts of the projects have also played a role. The recent government decision to backtrack and suspend the building permit for the Tía María mine in Arequipa creates a terrible precedent for other investment initiatives and is a bad signal for investors operating in the country. The company responsible for the project had complied with all the legal requirements, committing to postpone construction. More concerning, President Vizcarra has ceded to pressure from groups involved in the recent protests and announced his intention to modify the current mining law. This law enabled Peru to become a mining powerhouse, attracting \$65 billion in investments and multiplying production by a factor of 9. The timing for the proposed revamp could not be worse, with the global economy in a tailspin, mineral prices dropping and growth in Peru at a low point."

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ing option in its concessionaires, the bank said in its statement. The deal is subject to approval by Chile's Financial Markets Commission. Banco Santander Chile is the South American country's largest bank in terms of loans.

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A Keith Slack, director of strategy and campaigns at EarthRights International: “The current conflict in Peru around Southern Copper’s Tía María project is part of a larger pattern of mining-related social conflict that has affected the country for the past 20 years. The conflicts are rooted in communities’ lack of direct benefits from mining, their concerns about water contamination (the key issue in the Tía María project) and the imposition of projects without adequate consideration of communities’ own development needs and priorities. The conflicts have been exacerbated in some cases by violent re-

“**The conflicts have been exacerbated in some cases by violent repression of protests by police forces...**”

– Keith Slack

pression of protests by police forces acting at the behest of mining companies, as has happened at Tía María. Under Peruvian law, mining companies can contract police forces directly for security services. EarthRights International, along with Peruvian partner organizations, has recently filed a legal claim in Peru challenging the constitutionality of the laws that allow these contracts. Additionally, community opposition leaders have had spurious legal charges brought against them by local governments in an effort to silence their opposition. This is part of a broader effort to criminalize dissent that has also contributed to increased tensions and conflicts around mining projects. To ease these tensions, the Peruvian government should reform laws and policies to end the direct contracting of police by mining companies, stop the criminalization of legitimate protest and opposition and develop stronger dialogue channels that enable communities to express their concerns—and be listened

to—before these concerns escalate into protest.”

A Gisselle Vila Benites, Ph.D. candidate in geography at the University of Melbourne: “If the mining sector wants a productive and peaceful future in Peru, it will be through the improvement of participation and engagement of subnational governments and communities, as well as with the strengthening of the environmental institutions. The regional presidents of the Peruvian Macro-South suggested that these claims can only be solved with the enactment of a new mining law. Their intent is not only to question some administrative measures, but also to challenge the current social contract between communities, the state and mining companies. In a way, this political maneuver expresses the limits of a business model that attends to project communications and corporate social responsibility as the only axis to procure a social license to operate. In the case of Tía María, it frames the distrust of the Tambo people in the proposed high-tech initiatives not to pollute the water bodies, especially the underground water reservoirs that supply the agro-based economy of the valley. The company has reassured that such a scenario is unlikely to happen. However, the people’s mistrust has not diminished, finding roots in a history of mining contamination in the region as well as in the perception of a weak environmental authority without the capacity to react and sanction big companies. A new deal will be highly contingent on regional actors’ capacity for organization and agenda-setting, and how they engage in dialogue amid a national political crisis. For now, the future of Tía María and the mining law seem closely tied.”

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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