

29 March 2009
Manila, Philippines

The Right Honourable Stephen Harper
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON
Canada
K1A 0A2

Dear Prime Minister Harper,

It is with great regret that we, the undersigned participants of the International Expert Workshop on Indigenous Peoples' Rights, Corporate Accountability and Extractive Industries, and the International Conference on Extractive Industries and Indigenous Peoples, note the adoption of the new Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector. It is a strategy that falls far short of upholding Canada's international commitments on human rights, Indigenous Peoples and the environment. By advising on existing voluntary guidelines, instead of imposing binding, regulatory requirements, it is one that will do little to stop abuses by Canadian extractive companies from continuing unabated and unpunished.

Among the Indigenous Peoples present at these two meetings — the first was organized by the Tebtebba Foundation and the second by United Nations Permanent Forum on Indigenous Issues (UNPFII) — are those who earlier in the decade shared personal reports of abuse by Canadian mining companies with the Parliamentary Standing Committee on Foreign Affairs and International Trade (SCFAIT). In 2005, as you know, that Committee responded by calling on the Government of Canada to “establish clear legal norms ... to ensure that Canadian companies and residents are held accountable when there is evidence of environmental and/or human rights violations associated with the activities of Canadian mining companies.”

In “Building the Canadian Advantage” that recommendation has been ignored, as have the groundbreaking consensus recommendations that resulted from the National CSR Roundtable process. Together these recommendations represent the views of national Parliamentarians, civil society, Indigenous Peoples, industry, labour, socially responsible investors, academics and members of the Canadian public. Given this breadth of support, it is disappointing that the Conservative Government of Canada has chosen to so freely set aside the progressive outputs of democratic and officially mandated dialogue.

A key concern in the new CSR Strategy is the absence of an independent and empowered

ombudsperson to investigate and respond to the concerns of affected communities, and the lack of provisions for sanctions and withdrawal of public support when extractive companies fail to comply with human rights and environmental standards. Furthermore, an appointed CSR counselor, who requires the consent of the company involved to undertake a review, and who may target his or her review at both communities and their allies, offers no real recourse for communities that have been adversely affected by Canadian extractive companies, and raises serious questions about corporate co-optation of this instrument, as well as fears that the review process may be used against Indigenous Peoples.

Over the course of the last seven days, numerous participants at the International Conference on Extractive Industries and Indigenous Peoples and the International Expert Workshop on Indigenous Peoples' Rights, Corporate Accountability and Extractive Industries have made it clear that the abuse of Indigenous Peoples' rights to lands, territories and resources at the hands of Canadian extractive companies is ongoing. This reality once again underscores the failure of voluntary, industry-driven initiatives to protect human rights and reinforces the need for extra-territorial regulation of extractive industries, especially in the context of weak governance in host countries.

It is our position that the "Canadian Advantage" has already been established in the global extractive sector and it has been established at the expense of the environment and of Indigenous Peoples. The advantage that has been lost is Canada's reputation as a leader on human rights.

As these important meetings draws to a close in Manila, we call on the Government of Canada to take immediate steps to bring its CSR Strategy for the Canadian International Extractive Sector into line with the recommendations of the SCFAIT Report and the Report of the Advisory Group to the National Roundtables on CSR and the Canadian Extractive Sector in Developing Countries.

It is also critical that any effort by the Canadian government reflects respect for Canada's obligations under such agreements as the Convention on the Elimination of Racial Discrimination, as well as internationally recognized rights that have been entrenched in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). As you are aware, UNDRIP was endorsed by the Canadian House of Commons last year and in 2007 the Committee on the Elimination of Racial Discrimination's (CERD) concluding observations to Canada noted: "with concern the reports of adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples living in these regions." CERD concluded by recommending that Canada "explore ways to hold transnational corporations registered in Canada accountable."

Until such a time as full regulatory measures governing Canadian extractive companies can be enacted, we further encourage Canadian Parliamentarians, including members of the Conservative Party of Canada, to consider passing the proposed *Bill C-300, an Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*. Over the short-term this Act would effectively supplement the Canadian CSR Strategy by requiring publicly-funded extractive companies to uphold standards like the International Finance

Corporation's Performance Standards on Social and Environmental Sustainability, with Ministers empowered to review complaints and required to report back to Parliament. Particularly welcome are the suggested amendments contained within *Bill C-300*, which would lead to the withdrawal of support by Export Development Canada and the cessation of investment by the Canadian Pension Plan where extractive operations are inconsistent with the guidelines that are endorsed in section 5 of the Act.

Ultimately, we request that you reconsider your limited CSR response and commit to measures that genuinely address the serious human rights and environmental abuses associated with Canadian extractive industry companies.

For your information, we have attached the Manila Declaration, the document that resulted from the International Conference on Extractive Industries and Indigenous Peoples, and will forward the report of the Expert Group Workshop when it is finalized.

We look forward to receiving your reply and request that it be directed to the Secretariat for the UN Permanent Forum on Indigenous Issues, so that they might in turn forward it to participants of the Manila meetings.

Thank you for your consideration of our concerns, which echo those raised by over 100 participants from 35 countries.

Institutional Signatories (as of 31 March 2009)

AMAN (Indigenous Peoples Alliance of the Archipelago - Indonesia)

Cordillera Peoples Alliance (Philippines)

Kanak Agency for Development (New Caledonia)

Centre for Environmental Research and Development (Papua New Guinea)

Western Shoshone Defense Project (USA)

PIPLinks - Indigenous Peoples Links (UK)

Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) (Philippines and UK)

Centre for Human Rights and Development (Mongolia)

Indigenous Peoples' Forum of North East India (India)

Almáciga (Spain)

Forest Peoples Programme (UK)

The North-South Institute (Canada)

Individual Signatories (as of 31 March 2009)

Mr. Brian Wyatt, National Native Title Council (Australia)

Mr. Cathal Doyle, Irish Center for Human Rights (Ireland)

Ms. Meaghan Simms, The North South Institute (Canada)

Ms. Elisa Canqui Mollo (Bolivia)

Ms. Victoria Tauli-Corpuz, Tebtebba (Philippines)

Mr. Luis Vittor, Coordinadora Andida de Organizaciones Indigenas (Peru)
Mr. Andrew Korinko Ole Koisamou, Centre for Pastoralists Development (Kenya)
Mr. Legborssi Saro Pyagbara, Movement for the Survival of the Ogoni People (Nigeria)
Mr. Magne Ove Varsi, Galdu Centre for the Rights of Indigenous Peoples (Norway)
Mr. Alexey Mimanzo, RAIPON (Russia)
Ms. Nyurguyana Dordina, Batani International Development Fund for Indigenous Peoples of the North, Siberia and the Far East (Russia)
Mr. Anders Blom, The National Union for Swedish Sami People (Sweden)
Ms. Liubov Passar, Association of Indigenous Peoples of Khabarousk Region (Russia)
Mr. Sujarni Alloy, Aliansi Masyarakat Adat Nusantra Kalimantan Barat (Indonesia)
Ms. Mina Susana Setra, Aliansi Masyarakat Adat Nusantra (Indonesia)
Ms. Urantsooj Gombosuren, Centre for Human Rights and Development (Mongolia)
Mr. Windel Bolinget, Cordillera People's Alliance (Philippines)
Ms. Rebecca Bear-Wingfield, Australian Nuclear Free Alliance (Australia)
Mr. Sarimin Boengkih, Kanak Agency for Development (New Caledonia)
Mr. Jeffery Simon, Akali Tange Association Incorporation & Porgera Alliance (Papua New Guinea)
Ms. Matilda Koma, Centre for Environmental Research & Development (Papua New Guinea)
Mr. Martin Velasquez Maliqueo, Confederacion Mapuche (Argentina)
Mr. Jose Valentin Muiba Guaji, Coordinadora de las Organizaciones Indigenas de la Cuenca Amazonia (Ecuador)
Ms. Blanca Grefa, FCUNAE (Ecuador)
Ms. Julie Ann Cavanaugh-Bill, Western Shoshone Defence Project (USA)
Mr. Larson Bill, Western Shoshone Defence Project (USA)
Ms. Jo Villanueva, Philippines

Non-participant institutional and individual signatories (as of 31 March)

Grand Council of the Crees (Eeyou Istchee), Canada
Ecological Society of the Philippines (Philippines)
Environmental Studies Institute Miriam College (Philippines)
Mr. Yapasuyongu Akuyana, Association for Taiwan Indigenous Peoples' Policies (Taiwan)
International Indian Treaty Council (IITC, USA and Canada)
Nepal Federation of Indigenous Nationalities (Nepal)
Mr. Xavier Kujur (Save the Jharkand Forests Movement, India)
Mr. Paul Joffe (Canada)