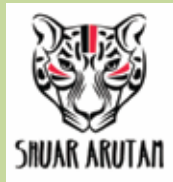




The Amazon Community of Social Action "CASCOMI" (by its acronym in English) is an Ecuadorian indigenous and peasant organization created for the defense of collective rights and nature. CASCOMI was established in 2014 and it is part of the Confederation of Native Nationalities of the Ecuadorian Amazon "CONFENIAE" (by its acronym in English).

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The organization of the Shuar Arutam indigenous people was established in 2003 to defend the land, culture, and way of living of the Shuar Arutam. It is conformed by 10,000 people who belong to the Shuar nationality. Its territory is located in the Cordillera del Condor, in the southeast of Ecuador.

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CHINESE COMPANIES IN THE ECUADORIAN MINING SECTOR: THE CASES OF THE MIRADOR AND SAN CARLOS PANANTZA PROJECTS





Chinese Companies in the Ecuadorian Mining Sector: The Cases of the Mirador and San Carlos Panantza Projects

Open Letter to Chinese Authorities (March, 2018)

We write this letter from the parishes of Tundayme, San Miguel de Concha and Santiago de Panantza, located at the South of the Ecuadorian Amazon. In our parishes, there are two copper mining projects: Mirador and San Carlos Panantza. Since 2010, Mirador is owned by Chinese companies Tongling Nonferrous Investment Co. Ltd. (TNMC) and China Railway Construction Corporation Limited (CRCC), which make up the company Ecuacorrientes S.A. (ECSA). Since 2012, new mining concessions with Chinese financing were also granted to the company Explorcobres S.A. (EXSA) thus creating the San Carlos-Panantza project.

We want to start by telling you that our living spaces are very beautiful, surrounded by mountains and rivers impregnated with the presence of our ancestors, and that our identity is linked to the territory. Therefore, any interference in our space not only has implications in our present and future, but also puts at risk everything we have built in the past.

We imagine that many of the Chinese institutions to which we address in this document do not know of our existence or of these mining projects. We also imagine that the Chinese institutions, given the geographical distance and the difference of language and culture, do not know Ecuador in depth. Therefore, let us tell you that Ecuador is a very special country; it is a world pioneer in recognizing multiculturalism and the Rights of Nature in its Constitution. In addition, given the profoundly democratic nature of the

Ecuadorian political system, indigenous peoples and social movements are essential actors to give legitimacy and viability, in the long term, to the decisions of the governments in power.

We also want to inform you that our peoples are opposed to these mining projects. In the few years of existence of these projects, they have already provoked violence, evictions, abuses and have negatively transformed our environment and our lives, not only because of the destruction of the environment, but also because they have impoverished us economically.

We believe that the Chinese government, particularly the entities that authorize operations abroad, as well as the Chinese companies and banks that have supported these projects, are co-responsible for what is happening in our territories. We hope that the information we share in this document will help you to reconsider your intervention, and specifically we ask you to do the following:

- Accept our invitation to visit our territory and check on-site what is stated in this document. We will be happy to coordinate the meetings, and adapt ourselves to your time and availability.
- Conduct a comprehensive assessment of the social and environmental damage, and design a comprehensive plan to compensate for damages to people and the environment. We suggest that such evaluation be carried out by independent entities with international credibility.
- Be open to consider the closure of the Mirador project and stop the San Carlos-Panantza project.

Certainly, we will continue to exercise the right to resistance and mobilization - which are rights enshrined in the Constitution of Ecuador - in order to recover our territory and achieve reparation for damages. However, we hope that with your support and understanding we can, hopefully very soon, use our energy to make our own dreams come true.

Sincerely,

Luis Sánchez Shimiraycela
President of the Amazonian Community
Condor Mirador Mountain Range (CASCOMI)

Vicente Numi Tsankip
President of the Organization of the Pueblo
Shuar Aruntam

A Bit of Context

The Condor mountain range is known for its variety of habitats and micro-habitats, very different from the rest of the Andes. It is estimated that the Condor mountain range is home to more than 600 species of birds, including 14 species belonging to categories threatened with extinction, 120 species of amphibians and 59 species of reptiles. In each hectare of the mountain range a more than 220 species of trees have been found.

The Shuar people have inhabited these territories for hundreds of years. The Shuar have lived ancestrally of the use of the resources of the Amazonian forest practicing hunting, gathering, fishing, agriculture and raising animals as main activities for their subsistence. The Shuar maintain a close physical and spiritual relationship with the Amazon rainforest, source of their sustenance and place of experience of their spirituality.¹

The Shuar Arutam community is made up of 10,000 people, belonging to the Shuar nationality. Its territory is located in the Condor mountain range, in the extreme southeast of Ecuador, between the Kuankus and Cenepa rivers, and bordering the south with Peru. It has a territorial surface of 200,000 hectares and was created between 2001 and 2003, in the first Assembly with leaders of 60 Shuar Centers.²

All the biodiversity and ancestral knowledge of indigenous and peasant communities of the Condor mountain range in the Amazon region is gradually being devastated by the extractive megaprojects of natural resources. In Ecuador, there are two mining projects that since their concession (now in the hands of Chinese companies) have generated resistance from the Amazonian communities. These are:



forced eviction - Tundayme - sept 2015

1- Indigenous territory and governance, "Shuar Arutam: Forest Conservation and Territorial Order". Link: http://www.territorioindigenaygobernanza.com/ecu_15.html (Last access: February 15, 2017).

2- Ibid.

The Mirador Project

Mirador is a megaproject of copper and gold mining that is expected to extract 60,000 tons of rock a day from an open pit mine 1,000 meters deep and 1.5 kilometers in diameter. The project is located at the border area between Ecuador and Peru. In 2010, TNMC and CRCCC acquired 96% of the shares of Corrientes Resources (Canadian company) for an amount of USD 655 million³ and established the Chinese consortium Ecuacorrientes (ECSA). In March 2012, ECSA signed a contract with the Ecuadorian government to develop the Mirador mining project.

The Mirador project is one of the most conflictive projects and one that has generated the most resistance in the history of the country. Only three days after the signing of the contract with ECSA in 2012, a massive march was mobilized from El Pangui (the canton where the Mirador project is located) and traveled almost 380 km on foot to Quito, the capital of Ecuador. The march ended with the delivery of a letter to the Chinese Embassy in Quito. In the letter, local communities demanded the exit of Chinese companies from the Mirador project. A few months later, several leaders of social organizations presented an injunction arguing that the contract with ECSA violated the Human and Nature Rights contained in the Constitution of Ecuador.⁴

The San Carlos-Panantza Project

The San Carlos-Panantza project comprises an area of 41,760 hectares, located at the parishes of San Miguel de Concha and Santiago de Panantza, in the canton of San Juan Bosco and Limón Indaza, in the province of Morona Santiago. The company pretends, mainly, the obtaining and exploitation of copper, whose concession belongs to China Explorcobres S.A. (EXSA); and according to the data of the official website of the Ministry of Mining, the project will be valid for approximately 25 years.⁵ For the extraction, the company plans to build two open pit mines in which it will process 90,000 tons of copper a day, generating large amounts of waste and using thousands of liters of water every day.



Homes destruction - Tundayme - sept 2015

The Panantza-San Carlos project affects multiple communities of at least 10 Shuar indigenous centers of the Tariamiat, Arutam and Churuwia Associations, as well as numerous peasant families. In the project area, there are also several communities which belong to the Shuar Bomboiza and Arutam Associations, including the Kupiamais, Waakis, Ayantás, Piunts Centers. Moreover, there are also farms and peasant enclosures: Rocafuerte, Santa Rosa, La Delicia, San Miguel, La 27 and others.

Eviction and Dispossession of Livelihoods of Local Communities

The installation of these mining extraction projects has been a nightmare for indigenous and peasant families who have been forced to abandon their lands. These facts have attracted the attention of United Nations rapporteurs, national and international human rights organizations, local governments, state accountability agencies, the media and social organizations.

The current situation of several communities is precarious since they do not have clean water or access to water sources (one of the main causes of their health problems). The Yanúa Kin community is an example of this situation where crops, animals and homes were destroyed and contaminated due to soil and sediments thrown by the company to the Wawayme, Tundayme and Kimi rivers. People who depend on the Tundayme river also present problems due to the diversion of the river channel. These facts violate the precepts of the Mining Law (Article 81).

Evictions in the Mirador Project Area

ECSA has used all kinds of tactics to occupy the lands of the indigenous and peasant communities in order to install the facilities of the Mirador project,⁶ such as manipulating land prices⁷ and taking advantage of the economic need of some members of the indigenous communities to use them to confront people who refuse to sell their land.⁸ Faced with the majority rejection of local communities, ECSA has repeatedly requested "mining bondage" (administrative measure that allows the State to appropriate the lands). By using this measure, ECSA has achieved the violent eviction of 32 families (a total of 116 people, including 52 children and adolescents, 12 people aged 65 and over, and 58 adults) in the parishes of Tundayme and El Güismi.⁹ Among the evicted is the elderly Shuar Rosario Wari of 95 years old, who did not want to leave the territory of their ancestors. As a result of the forced eviction, Rosario Wari suffered a severe emotional crisis. Another example is the one that occurred on May 12, 2014, when 50 policemen wearing balaclavas destroyed a school and the San Marcos neighborhood church.

For all of these reasons, on October 21, 2015 CASCOMI accused ECSA for alleged crime of terrorism.¹⁰ Despite the insistence of the families to clarify the responsibility of the company, the prosecutor of El Pangui dismissed the complaint, arguing that after a year of investigation no evidence for conviction has been found. CASCOMI believes that the decision by the prosecutor has not adhered to due process and is analyzing options to take the complaint to Ecuadorian upper and international courts.

3- "The financing of China Railway Construction Corporation and Tongling Nonferrous Metals Group", Profundo Research, July 23, 2013.
4- Writ of Appeal presented on behalf of the complainants by the Attorneys Mario Melo Cevallos and Juan Auz Yaca before the Judges of the First Civil, Commercial, Tenancy and Residual Chamber of the Provincial Court of Pichincha. July 2013. s / f. Once the national route was exhausted, a petition was submitted to the IACHR on 12-23-2013. Interposition of extraordinary protection action in January 2015 before the Constitutional Court of Ecuador.
5- Website of the Ministry of Mining. Link: www.mineria.gob.ec/proyecto-san-carlos-panantza/ (Last accessed: November 8, 2017).
6- "Large-scale mining and land appropriation. Business strategies in the case of the Mirador project", CEDHU, January, 2015.
7- Only in terms of the land valuation, in March 2014, at the request of the Ministry of Non-Renewable Natural Resources, the Ministry of Urban Development and Housing made a methodological analysis to determine the commercial prices of the properties affected by the Mirador mining project and found that these prices ranged between USD 2013.60 and USD 3443.26 per hectare, that is, much more than what the company offered to the farmers, which is between USD 400 and 700 per hectare.
8- Sánchez Vázquez, Luis, Esben Leifse, and Ana Dolores Verdú Delgado, "Large-scale Mining in Ecuador: Conflict, Resistance and Ethnicity", AIBR, Revista de Antropología Iberoamericana 12.2, 2017.
9- Ecological Action, "The open wound of the Condor", 2017. Pg. 92
10- Crime typified in the Ecuadorian Comprehensive Penal Code in Art.366 that says: "The person who individually or with formed armed associations, provokes or maintains the population or a sector of it in a state of terror, through acts that endanger life, the physical integrity or the freedom of the people or endanger the buildings, means of communication, transportation, using means capable of wreaking havoc, will be sanctioned with imprisonment of ten to thirteen years ..."
11- Inredh. Link: <http://www.inredh.org/index.php/noticias-inredh/ddhh-ecuador/553-urgente-militares-y-policias-ingresan-a-comunidad-shuar-para-desalojar> (Last access: November 20, 2017).

Evictions in the San Carlos-Panantza Project Area

On August 11, 2016, the eight families that made up the Shuar Nankints community (San Juan Bosco canton), were evicted by a contingent of approximately 2,000 police and military personnel,¹¹ in order to give way to the works of the mining company EXSA.¹² On November 21, 2016, a group of Shuar people occupied the mining camp installed in the Nankints area, located in the Santiago de Panantza parish in San Juan Bosco canton; a day later they were evicted by military forces.¹³ On December 14, the Shuar Nankints people decide to retake their territory, and in this context, a policeman was killed and seven police officers and two Shuar were injured. For this episode, military groups, helicopters and war tanks were mobilized to the conflict zone.¹⁴ On the same day, former President Rafael Correa decreed the state of emergency in the province. Since the declaration of the state of emergency and the military incursion in the San Juan Bosco canton, at least 35 Shuar families belonging to the communities of Nankints, San Pedro, Kutukus, and Tsuntsuimi have been forced to leave their territory. According to Jesus Domingo Nayash Pinchupá, Trustee of the Tsuntsuimi community, and Rodolfo Chumpi, professor of San Pedro de Punyus, approximately 508 people have been displaced.¹⁵



Improvised military camp - Panantza community - By: Mongabay Latam

The Mirador and San Carlos-Panantza Projects Violate Ecuadorian Laws and Community Rights

Some examples of the violations that occurred:

- **The number of concessions exceeds the extension allowed by Constituent Mandate N° 6 (Mining Mandate, 2008).** ECSA has 4 concessions - which has been observed by the Comptroller General of the State.¹⁶ According to Article 4 of the Mining Mandate, the same owner cannot have more than three mining concessions.
- **The mining easements should not have been established in indigenous territories.** ECSA has obtained the declaration of mining easements over indigenous territories (territory under collective title in favor of CASCOMI). The Constitution of Ecuador (Art 57.4) and the Constitutional Court ruling in No 001-10-SIN-CC, of March 2010, state that no servitude can be constituted on indigenous lands, characterizing them as inalienable, indefeasible and indivisible.
- **There must be no mining activity in areas with high ecological value.** The Quimi Valley, Tundayme, El Guismi and part of the Pangui (where the Mirador project is developed) are part of the Cordillera del Condor, a biodiversity reserve of 150 km² in area, in which there are 16 ecosystems that regulate water for the region,¹⁷ in addition to the 227 water sources that have been registered in protective forest.¹⁸ The Ministries of Mines and Petroleum and of Non-Renewable Natural Resources, the National Mining Directorate and the Zamora Chinchipe

Regional Directorate did not observe the Arts. 3 [3] and 12, as well as Final Provision No. 1 of the Mining Constituent Mandate, because they did not applying the Ministerial Agreement 172 that defines the procedure to carry out the evaluations of concessions that include springs and water sources and for not having declared the extinction without compensation, of the mining areas Curigem 19 East, Curigem 18 East, Mirador 1 Este and Mirador 2 East, located within the Protector Cordillera del Condor which is a protected forest for environmental reasons.

- **The mining projects affects the access and quality to water.** The current situation of several communities is precarious since they do not have clean water or access to water sources (cause of many of their health problems) as is the case of the Yanúa Kin community whose crops, animals, and homes were destroyed and contaminated due to the earth and sediments thrown by the company to the Wawayme, Tundayme and Kimi rivers. People who depend on the Tundayme river also present problems due to the diversion of the riverbed, thus disregarding the mining law (Article 81).
- **Non-compliance with prior consultation with the community.** The Ecuadorian state has allowed ECSA and EXSA to replace the free and informed prior consultation with socialization and information mechanisms such as the one developed in Tundayme on November 5, 2010. In Ecuador, the consultation is a state obligation, the breach of this obligation makes the Mirador and San Carlos-Panantza projects "unenforceable and will cause the nullity of the respective contracts" according to the Environmental Management Law, Art. 28. The Ecuadorian Constitution (Art. 57.7) recognizes and guarantees to communes, communities, indigenous peoples and nationalities, free and informed prior consultation, as well as Article 81 of the Citizen Participation Law; the ruling of the Constitutional Court to the unconstitutional demand of the Mining Law (Judgment 09-IN. 03/18/2010); Inter-American jurisprudence, ILO Convention 169 (Article 6.2); and the United Nations Declaration on the Rights of Indigenous Peoples.
- **The project invades national security areas (border line).** The Mirador project is within the national security border area, which violates both the provisions of the Ecuadorian Constitution, the National Security Law (Articles 39 and 40), and the Mining Law (Art. 26 and Art. 32).
- **Part of the concession is in areas where there is tangible and intangible cultural heritage.** The Ministry of the Environment did not respect the Mining Law (Article 26), the Organic Law of the General Comptroller of the State (Article 77) and the Constitution of Ecuador (Article 380), when granting the advanced exploration license of the Mirador Project-North, despite

12- Images from the evictions, News channel 24 hours, link: <https://www.youtube.com/watch?v=JjymyHh7gMg>; Radio Centinela, link: <https://www.youtube.com/watch?v=FT9jCz0ok> (Last access: November 20, 2017).

13- Nankints communique. Link: <http://www.elcomercio.com/actualidad/comuneros-shuar-campamentominero-moronasantago-mineria.html> (Last access: November 20, 2017).

14- "The Police looks 20 natives in the Pananza area", El Comercio, December 22, 2016. Link: <http://www.elcomercio.com/actualidad/policia-nativos-panantza-militares-muerte.html> (Last access: November 8, 2017).

15- Testimony of Jesus Domingo Nayash Pinchupá, Trustee of the Tsuntsuimi community and Rodolfo Chumpi, professor of San Pedro de Punyus, San Carlos de Limón parish. Interview, February 4, 2017.

16- General Comptroller of the State DIAPA-0027-2012, "General report to the management of the Ministry of the Environment and other institutions related to the Mirador and Panantza-San Carlos projects", September 24, 2013. Pgs. 31 -34.

17- Neill, David A. Botanical inventory of the Cordillera el Condor region, Ecuador and Peru: activities and scientific results of the project, 2004-2007. Link: www.mobot.org/MOBOT/research/ecuador/cordillera/pdf/EntireSpanishRe-port.pdf (Last access: November 12, 2014).

18- On March 23, 2005, the Ministry of the Environment, through Ministerial Agreement No. 137, declared the Cordillera del Condor as an "area of protective forest and vegetation," resolving "the need for the declaration and delimitation of the forest and Protective vegetation in areas of this Cordillera del Condor, because they contribute to the conservation of the soil and wildlife; they are located in areas that allow controlling the preservation of watersheds; and they are located in the eastern Ecuador-Peru border zone, which is a strategic zone for national security" (MAE, Ministerial Agreement 137, Forests of the Cordillera del Condor in the Gualaquiza canton, preamble and Art. 1). It also appears in the record of Forests and Vegetation Protectors of Ecuador of 2011.



Lands for the company

there being a report on archaeological studies of 2006¹⁹ (made by the mining company of that time) in which it was recommended to carry out deeper archaeological studies for the existence of cultural heritage.

- **The declaration of the state of exception in 2016 in Morona Santiago.** This extreme measure was taken by the presidency of the country and lasted for 60 days. The state of emergency limited several constitutional rights, including the right to free movement, (Article 66.14) freedom of expression and opinion (Article 66.6), the right to associate and meet (Article 66.13), and the right to the inviolability of the home (Article 66.22); it was

absolutely disproportionate for the purposes that were foreseen, because it failed to comply with the proportionality, necessity and reasonableness parameters set forth in the Constitution. The military and police personnel in the area served to keep the mining camp in operations and continue the exploration phase of the San Carlos-Panantza mining project.²⁰

- **Persecution of human rights defenders and limitation of association rights.** Decree 16 and 739 published in 2013 and 2015 respectively, have been used as legal instruments that have diminished the right to association and have served to establish control over social organizations.
- **Violence and affections to life and physical integrity.** The CONFENIE (Confederation of Indigenous Nationalities of the Ecuadorian Amazon), CONAIE (Confederation of Indigenous Nationalities of Ecuador) and FISCH (Interprovincial Federation of Shuar Centers),²¹ have been able to verify the violation of the human rights to the communities of four Shuar centers (Nankints, Tsuntsuim, San Pedro, Kutukus). This includes injuries caused by incendiary bombs, high-caliber bullet wounds, more than 80 children, pregnant women and adolescents forced to leave their homes, and more than 60 children who lost access to education in their respective establishments.
- **Three deaths of communal leaders.** These large mining projects have already claimed the lives of three indigenous leaders: Professor Shuar Bosco Bisuma was killed (2009) as a result of a confrontation with the public forces; the Shuar leaders Freddy Taish (2013) apparently killed by shots of a soldier, and the murder of José Tendentza (2014) for which two ECSA employees had been accused. In addition, several communities and organizations leaders that oppose the mining project have been persecuted by ECSA security personnel and have been criminalized for defending their territory. These facts have been denounced at the Inter-American Commission on Human Rights.²² They have also been exposed during the Ecuadorian Universal Periodic Reviews in 2012 and 2017 in front of the United Nations Human Rights Council.²³

19- Mejía, Fernando y Rosalva Chacón, "Final Report of the Mirador Archaeological Project: Prospecting of the Sagheap 1 and 2, Tailings Pool 1, Access Road, Camp, Plant, Aggregate Quarry and Barge-Bridge-Crossing Pipe sector, El Pangui Canton, Province of Zamora-Chinchipe". Unpublished report delivered to the INPC, Loja, 2006. Pg. 33.

20- For more information on the state of emergency, see "Legal analysis of the state of emergency in the province of Morona Santiago in relation to the clashes between members of the Shuar People and the National Police."

Link: <https://www.fundacioniam.org/single-post/2016/12/18/An%C3%A1lisis-jur%C3%ADdico-del-estado-de-excepci%C3%B3n-en-la-provincia-de-Morona-Santiago-en-relaci%C3%B3n-a-los-enfrentamientos-entre-miembros-del-Pueblo-Shuar-y-la-Polic%C3%ADa-Nacional> (Last access: November 20, 2017).

21- Through a press release of February 28, 2017, signed in Gualaquiza, they have compiled confirmed data of the situation of affected people and other particular circumstances.

22- IACHR, session 154, March 2015, Recommendations to the Ecuadorian State: "(...) For its part, the Inter-American Commission expressed its concern over the lack of respect for the right to prior, free and informed consultation, criminalization and attacks committed against indigenous leaders, and the effects on the rights to an adequate environment and water. Moreover, it urged the State to respond to these allegations of human rights violations, stressing the importance of working together with civil society organizations."

23- UPR Ecuador, XIII session, May 21 to June 4, 2012; the compilation prepared by the Office of the High Commissioner for Human Rights, Geneva, in the chapter "Right to life, liberty and security of the person" expresses concern over alleged abuses and violence by the armed forces against some indigenous peoples to secure the interests of extractive companies. Likewise, in the UPR to the State of Ecuador on May 1, 2017, it received recommendations aimed at strengthening the current situation of indigenous peoples in relation to the impact generated by oil and mining extractive activities on indigenous territories and how these impacts on the exercise of fundamental rights.

- **Violations of workers' rights.** ECSA has generated unrest among workers in the surrounding communities due to mistreatment, lack of adequate reparation, illegal dismissals, and accidents in the work place. These actions have breached the principle of job stability protected in Arts. 33 and 326 of the Ecuadorian Constitution and Art. 4 of the Labor Code. On May 10, 2014, ECSA's management dismissed 11 workers and technicians in retaliation to their demands for working condition improvements. Before these news, the workers' committee "Katmandu" joined with 150 workers took over the mining camp protesting for the violations of their rights. Then, in May 2016, ECSA dismissed more than 15 workers, although ECSA paid the respective liquidations for the years of service, they did not recognize reparations for work-related illnesses and accidents to which some of the workers were entitled.

Non-compliance with the Chinese guidelines in the Mirador and San Carlos-Panantza Projects



state invasion in the communities

Several Chinese state entities have promulgated guidelines to steer the environmental and social behavior of banks and Chinese companies when granting financing or developing projects abroad. Although these guidelines are not mandatory, they do contain principles and recommendations highly relevant to the problems that have arisen in the Mirador and San Carlos-Panantza projects; for example in relation to: i) compliance with Ecuadorian laws and international best practices; ii) the comprehensive assessment of environmental and social risks; iii) compliance with the human rights of communities and workers; and iv) the delivery of complete and timely information and proactive communication with the community.

Unfortunately, the Chinese guidelines have not been taken into account by the Chinese financiers of these projects, which are the Development Bank of China, the Bank of China, the Bank of Exports and Imports of China and the Industrial and Commercial Bank of China, nor by the Chinese contractors TNMC and CCCRC. To illustrate the lack of implementation of the Chinese guidelines, we have selected some articles of the Green Credit Guideline (Chinese Banking Regulation Commission, 2012); the Guidelines on Environmental Protection in Investment and External Cooperation (Chinese Ministries of Commerce and Environment, 2013); the Social Responsibility Guide for Chinese Contractors (International Association of Chinese Contractors, 2012) and the Corporate Social Responsibility Guidelines for Mining Companies Abroad (China Chamber of Commerce for Imports and Exports of Metals, Minerals and Chemicals, 2014).

Chinese Guidelines	Relevant Considerations in Chinese Guidelines	Comments on the implementations of Chinese Guidelines
<p>About compliance with Ecuadorian laws and international best practices:</p> <p>Green Credit Directive (Art. 21)</p> <p>Social Responsibility Guide for Contractors (Literal 3.3)</p> <p>Guidelines on Environmental Protection in Investment and External Cooperation (Arts.: 5; 9; 18)</p> <p>Corporate Social Responsibility Guidelines for Mining Companies Abroad (Arts.: 2.4.5; 2.71; 2.713)</p>	<ul style="list-style-type: none"> Chinese banks must ensure that project sponsors comply with laws on environmental protection, land, health, safety, etc. Chinese companies should periodically publish on the implementation of the laws and regulations of the host country. Chinese companies should train employees on the laws of the host country, good international practices and the environmental and social policies of the companies with the aim of achieving full compliance with them. Chinese mining companies must respect the right to free, informed and prior consent of local communities and indigenous peoples; obtain respective environmental permits; and respect cultural heritage and not carry out new explorations in protected sites. 	<ul style="list-style-type: none"> ECSA and EXSA have violated several Ecuadorian laws and international human rights instruments, for example: Mining Law, Arts. 19, 26, 32, 36, 81; Mining Mandate, Arts. 4; Law on Environmental Management, Art. 28; Ecuadorian Constitution, Art. 33, 57, 313 and 323; Law of Citizen Participation, Art. 81; Work Code, Art. 4; Article 14 letter C of Executive Decree 1040; Convention 169 of the International Labor Organization, Art. 6.2; United Nations Declaration on the Rights of Indigenous Peoples, Arts.10, 18, 26.2, 29 and 30. The project EIA includes a "Negotiation and Land Use Program" that was to be guided by the Performance Standards of the International Financial Corporation (The IFC is the private arm of the World Bank). The IFC standard was not implemented. Indigenous and peasant communities did not give their consent to the Mirador and San Carlos-Panantzaza project in their territories. ECSA's EIA did not recognize the presence of indigenous peoples in the areas of direct and indirect impact of the project. The fact that ECSA has violated several Ecuadorian laws and best international practices shows that companies have failed to train their employees. Nor have companies informed the public about their compliance.
<p>About the comprehensive assessment of environmental and social risks:</p>	<ul style="list-style-type: none"> Chinese banks must perform "complete, thorough and detailed" due diligence; monitor and control the environmental and social risks of the 	<ul style="list-style-type: none"> Several Ecuadorian organizations have written to Chinese banks -at least three times- requesting that they conduct a due diligence process, but never received a response.

Chinese Guidelines	Relevant Considerations in Chinese Guidelines	Comments on the implementations of Chinese Guidelines
<p>Green Credit Directive (Arts.: 15; 16 y 21).</p>	<p>and social risks of the project; and develop a checklist on the client's environmental and social performance.</p>	
<p>About compliance with the human rights of communities and workers:</p> <p>Social Responsibility Guide for Contractors (Literal: 4.2; 4.2.2 y 4.2.5)</p> <p>Guidelines on Environmental Protection in Investment and External Cooperation (Art.: 3)</p> <p>Corporate Social Responsibility Guidelines for Mining Companies Abroad (Arts.: 2.4.1; Art. 2.4.3: y 2.8.4)</p>	<ul style="list-style-type: none"> Implement a plan to restore livelihoods, compensate people fairly. Protection of the legal rights of Chinese and foreign workers. Respect the human rights of employees. Develop a commitment policy and a due diligence process to identify, prevent, mitigate and resolve adverse impacts on human rights. Establish a grievance mechanism that is legitimate, accessible, predictable, fair, transparent and compatible with rights. 	<ul style="list-style-type: none"> Around 116 people have been evicted in a violent way and without compensation for material damage in Mirador. The San Carlos-Panantzaza project evicted 508 people: 100 from San Pedro; 308 from the community of Tsuntsuimi; and, 50 people left Kutukus. In May 2014, eleven ECSA workers were dismissed for claiming their rights. In 2016, several workers were fired. ECSA recognized only partially the payments and compensation to which the dismissed workers were entitled. ECSA does not have a commitment and due diligence policy on human rights. ECSA has not created a complaint mechanism.
<p>About delivering complete and timely information, and proactive communication with the community:</p> <p>Social Responsibility Guide for Contractors (Literals: 3.5; 3.6 y 4.71)</p> <p>Corporate Social Responsibility Guidelines for Mining Companies Abroad (Arts.: 2.1.5; 2.1.6; y 2.2.5).</p>	<ul style="list-style-type: none"> Establish multi-stakeholder communication mechanisms (including NGOs) to guarantee their participation and access to information; and respond to the opinions and suggestions of the actors. Publish payments made to government institutions. 	<ul style="list-style-type: none"> ECSA has not created mechanisms for communication and access to information, nor has it responded to letters and requests for meetings of numerous organizations. ECSA has not published payments made to government institutions.



Mining work in the Wawaimi river basin

Conclusions

The Mirador and San Carlos-Panantza mining projects have not brought the promised benefits to the affected local communities. On the contrary, these projects have brought poverty, dispossession, confrontation and death, and continue to operate illegally and immorally because:

- Chinese companies and banks involved in the project have not respected the Ecuadorian Constitution and several national laws.
- Chinese companies and banks involved in the project have ignored Chinese environmental and social guidelines promulgated by several Chinese state agencies, and Chinese regulatory bodies have failed to ensure their implementation.
- Chinese companies and banks have disrespected international human rights protection treaties and have ignored international best practices, although they have pledged to respect them.

As a result, the Ecuadorian government and Chinese entities face serious financial and reputational risks, and should take responsibility for the economic, social and environmental damages that they have caused to local communities.