

**RAID**  
*Rights & Accountability in Development*

31 October 2006

VIA FACSIMILE and E-MAIL: (613) 992-2337 and [MacKay.P@parl.gc.ca](mailto:MacKay.P@parl.gc.ca)

Honourable Peter MacKay  
Minister of Foreign Affairs  
125 Sussex Drive  
Ottawa, Ontario K1A 0G2  
Canada

Dear Minister MacKay:

By way of introduction, Rights and Accountability in Development (RAID) is an Oxford, UK-based nongovernmental organisation. In my capacity as executive director of RAID, I was one of fifteen experts invited by Foreign Affairs Canada to participate in the Calgary Roundtable on “Corporate Social Responsibility and the Extractive Sector Operating in Developing Countries”, which took place earlier this month. RAID co-coordinates OECD Watch, an international NGO network that promotes corporate accountability through the effective implementation of the *OECD Guidelines for Multinational Enterprises*.

We are deeply concerned to hear that a member of the OECD Watch network, Carlos Zorrilla of *Defensa y Conservacion Ecologica de Intag* (DECOIN), an Ecuadorian nongovernmental organisation, has become the subject of a campaign of intimidation apparently in connection with his work to protect the rights of local communities in Cotacachi County, Imbabura Province.

It is our understanding that an arrest order has been issued for Mr. Zorrilla on charges of robbery and assault – accusations that he wholly denies. We have strong grounds for believing that these charges may have been fabricated because of DECOIN’s opposition to Ascendant Copper Corporation’s (ACC) activities in the Intag cloud forests. We have a number of reasons to be sceptical about the charges against Mr. Zorrilla as well as concerns about the way in which the Ecuadorian police attempted to arrest him.

According to our sources, on 17 October, a large group of police, some bearing automatic weapons and others wearing ski-masks and all in bullet proof vests, arrived at Mr. Zorrilla’s house in the early hours of the morning. Mr. Zorrilla was not present. The police arrived in five unmarked cars without license plates, at least one of the cars is said to belong to ACC. Although some of the police wore uniforms, they did not display name tags and when asked by a man working for Mr. Zorrilla to identify themselves, they refused. The police failed to produce a search warrant and in front of Mr. Zorrilla’s wife and son then proceeded to ransack their home. Some time later, a District Attorney from the city of Cayambe appeared with warrants that he briefly showed Mr. Zorrilla’s wife. At the end of the search, when the family was outside of the house and no witnesses were present, police claim to have discovered a hand gun and a plastic bag allegedly containing drugs.

The charges against Mr. Zorrilla apparently date from an incident on 13 July 2006 when some 400 citizens from Cotacachi County held a rally outside the Ministry of Energy and Mines in Quito, in which Mr. Zorrilla participated. The demonstrators were calling on ACC to abandon its plans to develop the Junin concession. Mr. Zorrilla had a camera and was filming the demonstration.

At one point during the demonstration, he came across two women who were handing out anti-DECOIN literature. One of the women was identified as Leslie Brooke Chaplin, an American citizen from Arizona. Ms. Chaplin had a brief conversation with Mr. Zorrilla, in the presence of numerous witnesses, in which she told him that a friend had hired her to distribute the leaflets. A few days later, Ms. Chaplin apparently went to the police and accused Mr. Zorrilla of stealing a \$1,200 video camera and \$500 in cash.

Mr. Zorrilla was never notified that charges had been filed against him. The court appointed a public defender to represent him who also failed to notify Mr. Zorrilla of the legal proceedings against him. As a result, Mr. Zorrilla did not come forward within the 90-day period to refute the charges. When this period expired, the District Attorney asked the judge to issue a warrant for Mr. Zorrilla's arrest. During all this period, Mr. Zorrilla's place of residence had not changed and it is hard to comprehend why the authorities were unable to notify him about the court proceedings, if, as the events of 17 October indicate, they knew where he lived.

RAID's relationship with Mr. Zorrilla and DECOIN dates back to January 2005 when RAID provided Mr. Zorrilla with advice about filing a complaint in relation to ACC's alleged breaches of the *OECD Guidelines for Multinational Enterprises*. In June 2005, Mr. Zorrilla was part of an OECD Watch delegation to the OECD Investment Committee. DECOIN and the Canadian co-complainants withdrew their complaint in January 2006, because of an overly restrictive interpretation of the Guidelines' procedures. The Canadian National Contact Point had refused to countenance a proposal that the initial meeting between the parties should not be kept confidential.<sup>1</sup> It is regrettable that the NCP-facilitated mediation did not take place as it might have helped prevent a further deterioration in relations between the communities and ACC.

DECOIN has been a vocal opponent of ACC's proposed Junin mine, and it is a matter of public record that the tensions between communities that oppose the Junin project and pro-mining actors have been escalating over the past three years. Over this time, there have been a series of allegations about the actions of Ecuadorian law enforcement officials and members of a community organisation, CODEGAM, set up by supporters of the mining project and financed by AAC. To our knowledge, these allegations have not been adequately investigated by the Ecuadorian authorities.

RAID's misgivings about the independence of the judiciary and the right to a fair trial in Ecuador are shared by many international observers. The U.S. State Department, for example, in its 2005 Report on Ecuador's Human Rights Practices (released by the Bureau of Democracy, Human Rights and

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<sup>1</sup> NGOs feared that a confidential meeting would exacerbate the already tense situation if community representatives were prohibited from reporting back to community members after their meeting with ACC and Canadian officials. They asked the NCP to see if the company would agree to have the meeting's outcomes transparent, but the NCP flatly refused. In a 11 January 2006 e-mail, Stephen de Boer, International Trade Canada, stated to Mr. Zorrilla:

As we mentioned in the last email, confidentiality is a non-negotiable starting point for all NCP facilitated meetings as clearly set out in the OECD Guidelines. We do not and will not approach parties in advance of a dialogue to see if they will waive this condition. Furthermore, Canada's National Contact Point will not facilitate a meeting that is inconsistent with the Guidelines. If you do not agree to the preset terms for all NCP dialogues you are free to withdraw your interest in being involved in this process."

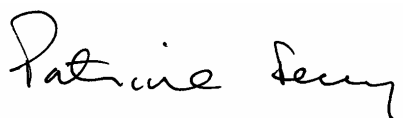
Labor, March 8, 2006) notes, “While the law provides for an independent judiciary, in practice, the judiciary was susceptible to outside pressure and corruption”. It adds, “Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes”. In December 2004, Human Rights Watch criticised the Ecuadorian Congress for violating “the principle of judicial independence by purging nearly all of the Supreme Court justices. The overhaul of the Supreme Court is one in a series of measures that have consolidated control over the justice system in the hands of the president and his allies”.

We therefore urge you to take all possible action to ensure that Mr. Zorrilla’s legal rights are properly respected, that the charges against him be promptly and fully investigated and that due process is observed. But we also urge you to press the Ecuadorian authorities to make an equally thorough investigation into allegations that Mr. Zorrilla and other members of DECOIN have been subjected to repeated acts of intimidation and harassment by pro-mining actors, including by people connected to CODEGAM.

Mr. Zorrilla is well-respected and trusted. The charges against him seem neither credible nor compatible with his record of non-violent opposition to mining in the Intag. From our own experience, we know that it is not unusual for human rights and environmental advocates to face threats and other forms of intimidation. Earlier this year, one of RAID’s board members was subjected to death threats for his work to demand transparency and accountability in the Democratic Republic of Congo’s mining sector.

As the Canadian Government is currently engaged in comprehensive consultations about improving the behaviour of Canadian extractive industry companies operating abroad, how the Government responds to Mr. Zorrilla’s situation will be an important test of Canada’s willingness to ensure that its companies act within the law and respect international human rights standards, including the right of those peacefully opposed to mining projects to express their views freely and without fear of reprisal.

Yours sincerely,



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