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Panama Government Says It Will Not Develop Indigenous Copper Project After Mine Reform

by Sean Mattson
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It came as little surprise when Panama’s legislature finally reformed its 1960's-era mining code on Feb. 10 to facilitate foreign investment in developing Panama’s massive copper deposits (NotiCen Dec. 9, 2010 ID 078083). Despite the usual protests and an unusually long 11-hour-plus debate in the Asamblea Legislativa (AL) a day before final approval, the law was passed with an overwhelming 42-15 vote, as the coalition of President Ricardo Martinelli put a bow on yet another bill from the executive.

The surprise came a few days later, as major indigenous anti-mining protests brewed. On the evening of, Feb. 13, Martinelli’s press office sent a statement promising the government would not "start, promote, or approve during the totality of our administration, the development of Cerro Colorado or any other deposit in indigenous territories," referring to the copper-rich area of Ngöbe-Buglé land in western Panama that authorities have wanted to develop for decades.

The shock of shelving the Cerro Colorado mine didn’t last long. Fifteen minutes later, the press office repeated the same brief bulletin but added a caveat at the end: there would be no development "unless the indigenous-territory authorities request it." Within the hour, a bamboozled news media was invited to a Monday morning press conference for some clarification.

Reporters half-expected Panama’s mining authorities from the Ministerio de Comercio e Industrias (MICI) to explain the different statements with the celebrated Latin American political catchphrase "no estoy ni a favor ni en contra, sino todo lo contrario" – I’m neither in favor nor opposed, rather entirely the opposite.

The official message was much clearer, even if it did not prevent massive protests later in the week. Trade and Commerce Minister Roberto Henríquez read the original statement—in the Ngöbe-Buglé dialect as well as in Spanish. The caveat was left out. When asked whether indigenous leadership could choose to develop mines, Henríquez asked reporters to ignore the previous night’s addition to the statement. "The statement I read today was the official statement from our government," he said. "[The caveat] should be disregarded; it does not add to or take anything away from the intention of our government to not develop metal mining in indigenous territories, especially in Cerro Colorado."

The government’s original plans were different. MICI authorities last year told foreign press and analysts that the government had hoped to send the mine reform to lawmakers in July and launch a bidding process for the government-owned concession to Cerro Colorado before the end of 2010. Authorities said that MICI had a steady flow of potential mine investors visiting with officials and that indigenous leaders supported mining as a cornerstone of a government plan to lift the Ngöbe-Buglé region out of poverty.

Officials last week did not explain the abrupt about-face. Henríquez simply said that the government was respecting Ngöbe-Buglé wishes to keep mines out of their territories. "We
respect their desire to not have mining, and we are committed to there not being any," said Henríquez, adding that the Cerro Colorado concession, owned by the MICI entity Corporación de Desarrollo Minero (Codemin), would gather dust through the remainder of Martinelli’s five-year administration.

"Codemin will stay where it is," he said. "It will remain inactive, simply taking care of the archives and papers that are there....In the next three-and-a-half years, you won’t hear us speak of Codemin. Codemin will stay exactly how it has been for the 18 months of this [administration], which is to say, asleep."

**Protests as doubt persist**

Henríquez’s comments did not stop nationwide protests across Panama in the ensuing days. In one of the largest protests, Panamanian media reported at least 2,000 demonstrators blocked the Pan-American Highway near the Ngöbe-Buglé stronghold of San Félix, calling for the mining reform to be repealed and to demand better guarantees against new mining projects.

Unlike last year’s violent clashes that killed up to ten people in Panama’s Bocas del Toro province (NotiCen, Sept. 9, 2010) after the government-rammed-through legislation of controversial labor reforms—part of the rider-stuffed "sausage law" that was later repealed—the protests were relatively peaceful as the government mostly kept promises to keep police away from the rallies.

One demonstration just east of Panama City ended in a handful of arrests after riot police launched tear gas to clear out protesters who had blocked a bridge, local media reported.

The most-high-profile person injured in the protests was labor vice minister Luis Ernesto Carles, who sported a neck brace after being roughed up during the San Félix protest. Carles appeared on television on Feb. 14 to announce the government had reached an agreement with indigenous leaders on a presidential accord to leave Cerro Colorado’s reserves untouched for the duration of the administration.

Still, doubts persist. Ngöbe-Buglé leadership will be renewed in March and observers will be watching whether a change in leadership will spark a change in sentiment, even though a change in the long-standing and widespread opposition to mining in the fiercely independent territory seems unlikely.

Letting go of the multibillion-dollar investment Cerro Colorado means for Panama would become a second major concession—after backing down from the sausage law—to the Martinelli administration in recent months.

"Following the uproar over the new mining code, the administration needs to back off a little and give the country some time to settle down," said Heather Berkman, a New-York-based Latin America analyst at Eurasia Group. "A project like Cerro Colorado demands real, thoughtful consultations with the local communities affected and a valid and well-designed environmental impact assessment. They also need a solid public-relations and communications strategy to convince the local population that the economic benefits to those affected will outweigh the costs."

"But, many Latin American governments—and even other mines in Panama—don’t have the best track record on dealing with these issues, so the Martinelli administration will have to tread carefully," she added.
One out of two ain't bad

Where the administration may be focusing its attention is at the Cobre Panama copper-mine project in central Panama, which got a much-needed boost from the mine reform. While the reform toughened environmental regulations, increased royalties for the government, and legislated against illegal mining, one of the reform's key components was to allow companies with foreign-government shareholders to invest in mining in Panama, which was prohibited under the old law.

Canada's Inmet Mining has investment agreements for the Cobre Panama project that depended on the reform. Approval of Inmet's environmental impact study—which the government said cost just shy of US$20 million dollars—is likely the last major step before Inmet can get the massive copper mine on pace for its 2016 commercial production target.

Panama's environmental groups are opposed to the project, but the likelihood of spillover protests hitting Cobre Panama seems slim at the moment. Still, anti-mine protesters have promised to continue blocking the Pan-American Highway across Panama in coming days, regardless of the government commitment to leave Cerro Colorado alone—for the time being.

"I think they've had to diffuse tensions for now," said Berkman. "But I don't think this mine [Cerro Colorado] is off the table."

-- End --