IN THE MATTER OF AN ARBITRATION UNDER THE RULES OF ARBITRATION OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, THE UNITED STATES-COLOMBIA TRADE PROMOTION AGREEMENT AND THE LAWS OF COLOMBIA

COSIGO RESOURCES, LTD., COSIGO RESOURCES SUCURSAL COLOMBIA, TOBIE MINING AND ENERGY, INC.,

Investors

v.

THE REPUBLIC OF COLOMBIA

Respondent

LAW OFFICE OF KEVIN W. BOYD

507 W. 10th Street
Austin, Texas 78701
United States of America

Counsel for Claimants

February 19, 2016

TABLE OF CONTENTS

ANNEX OF DOCUMENTS

(See tabs in Annex)

NOTICE OF DEMAND FOR ARBITRATION AND STATEMENT OF CLAIM

I. Preface

1. Notice is hereby given pursuant to Article 3 of the United Nations Commission on International Trade Law Arbitration Rules ("UNCITRAL") and as provided for in Article 10.16 of the United States-Colombia Trade Promotion Agreement that the Claimants, being Cosigo Resources, Ltd., Cosigo Resources Sucursal Colombia, Inc., and Tobie Mining and Energy, Inc. (hereinafter referred to as "Tobie"), intend to seek arbitration regarding the wrongful expropriation, made without compensation and based in fraud, of Mining Concession IGH-15001X (hereinafter referred to as the "Taraira South Mining Concession"). This document shall constitute the notice of demand to arbitrate and the statement of the claim required by Article 18 of the UNICTRAL Arbitration Rules.

II. Identifying Information

2. Necessary identifying information for each Claimant, as required by 10.16.2. of the United States-Colombia Trade Promotion Agreement are as follows:

    1. COSIGO RESOURCES, LTD.

        3854 Cadboro Bay Road
        Victoria, B.C.
        Canada V8N 4G4
        Place of Incorporation: Vancouver, British Colombia, Canada

    2. COSIGO RESOURCES SUCURSAL COLOMBIA, INC.

        AA 246010
        Bogotá, Colombia
        Place of Incorporation: Bogotá, Colombia

    3. TOBIE MINING AND ENERGY, INC.

        C/O Law Office of Kevin W. Boyd
        507 West 10th Street, Austin, Texas 78701
        United States of America
        Place of Incorporation: Nevada, United States of America

3. Necessary identifying information for each Respondent are as follows:

    1. THE REPUBLIC OF COLOMBIA

        Office of the President

Palacio de Nariño
Calle 7, No. 6-54
Bogotá, Colombia

III. Representation and Assistance

4. In this arbitral proceeding, representation of Claimants will be provided by legal counsel as described below:

Kevin W. Boyd
Law Office of Kevin W. Boyd
507 West 10th Street
Austin, Texas 78701
United States of America

Olga Seelig
Seelig, P.C.
9600 Great Hills Trail, Ste. 150W
Austin, TX 78759
United States of America

Travis J. Phillips
Associated Counsel with
The Law Office of Kevin W. Boyd
507 W. 10th Street
Austin, Texas 78701
United States of America

5. Assistance in the arbitral proceeding will be provided by the following individuals:

Andres Rengle
Managing Director
Cosigo Resources, Inc.
3854 Cadboro Bay Rd.
Victoria, BC
Canada V8N 4G4

IV. Reference to Arbitration Clause Invoked

6. Claimant, Tobie Mining and Energy, Inc., as a United States domestic corporation, invokes Article 10.16 of the United States-Colombia Trade Promotion Agreement, which provides the relevant provisions concerning the settlement of disputes by arbitration by a Party to the Trade Promotion Agreement and an investor of another Party to the Trade Promotion Agreement. Those same provisions provide for an election of arbitration rules under

UNCITRAL or the I.C.S.I.D. standard. Claimants Cosigo Resources, Ltd., and Cosigo Resources Sucursal Colombia, are present as fellow holders of an interest in the mining concession the subject of this notice. ACITAVA, the "Association of Indigenous Communities of Taraira and Vaupés", also has an interest in the claim, but does not qualify as a Claimant. Claimants hereby announce that arbitration shall be pursuant to UNCITRAL arbitration rules.

7. While not specifically invoked, Claimants note that Cosigo Resources, Ltd., a Claimant in this matter, possesses an independent right to seek arbitration under the same UNCITRAL standard pursuant to the Canada-Colombia Free Trade Agreement

V. Factual History

8. Beginning in the mid-1980s several geological studies were carried out by the Republic of Colombia in the region surrounding the town of Taraira, in the Vaupés Department of Colombia, near the border with Brazil. These studies identified a series of quartz-sandstone outcroppings known as serranias as having significant deposits of gold. In particular, the location[1] (hereinafter known as "Taraira South"), has gold deposits with a value of at least 16.5 billion dollars (United States). Notably, the Taraira region had hosted numerous small-scale mining operations throughout the late Twentieth Century.

9. Acting through its local representative, Andres Rendle, Tobie originally provided funding and equipment for the staking of several mining claims in the Taraira region, and was ultimately awarded rights to stake a claim at the Taraira South location as a prerequisite to establishing a mining lease. Shortly thereafter, Tobie transferred the majority of its interest in the claim to Cosigo Resources, Ltd., a publicly traded Canadian limited liability company. In 2015, ongoing business dealing between Tobie and Cosigo resulted in the transfer back to Tobie of a majority interest in the Taraira South claim.

10. Following the staking out of the Taraira South claim in 2007 as well as the separate Taraira North claim, both an environmental study and a one and a half year prior consultation with the indigenous population of the general area were carried out. The consultation, in line with standard practices in Colombia, involved three multi-week visits to the local native

[1] See the Mining Registry Entry, attached as Exhibit 1, and fully incorporated by reference, for the specific geographic location.

communities in and around the region, each occurring approximately six months apart, and requesting feedback on whether the native, indigenous communities were supportive of mining in the Taraira region. The prior consultation having been certified by the Colombian government, Cosigo Resources Sucursal Colombia[2] applied for a mining concession contract with the National Mining Agency (hereinafter referred to as "ANM"), a subsidiary agency of the Ministry of Mines and Energy.

11. During the same time period, a dispute arose between the various indigenous communities of the lower Apaporis region, including the Taraira region regarding support for mining and economic development in the area. An advocacy group identifying itself as ACIYA (an abbreviation for "Association of Indigenous Communities of Yaigojé Apaporis") and long associated with the N.G.O. Fundacion Gaia Amazonas had historically claimed to represent these communities. As a result of this dispute, a new advocacy group called ACITAVA (an abbreviation for "Association of Indigenous Communities of Taraira and Vaupés") formed on October 29, 2008, and formally recognized by the Ministry of the Interior and Justice by Resolution 9 of February 8, 2011.[3] Notably as a result of the dispute leading to its creation, ACITAVA issued a public notice that the Director of Fundacion Gaia Amazonas, Martin von Hildebrand, was *persona non grata* in its communities.[4] Per ongoing discussions with the native communities of the region, it was agreed that ACITAVA would have a twenty percent ownership share in the mining concession

12. Under Colombian law, the terms of a mining concession agreement are not subject to negotiation, but are provided by the Mining Code and granted if approved by ANM.[5] Technical approval of the mining concession was granted in December 2008. Legal approval was granted in April 2009. However, thereafter and for some reason that was never provided despite numerous requests for explanation from Ingeominas, the predecessor to what is now called ANM, even after receiving legal and technical approval, , notice that the mining concession had been granted was delayed until September 16, 2009. Even after this five-month delay, and despite near continuous petitioning from Cosigo

[2] A wholly owned subsidiary of Cosigo Resources, Ltd., formed for the purpose of operating mining concessions in Colombia.

[3] See Col. Res. 9 of February 8, 2011.

[4] See *Persona Non Grata* Letter of ACITAVA, attached as Exhibit 10, and fully incorporated by reference.

[5] See Col. Law 685 of 2001.

Resources Sucursal Colombia, it was another month and a half before Ingeominas (now ANM) allowed representatives of Cosigo Resources Sucursal Colombia to sign the mining concession, on October 29, 2009, the same day as the resolution creating the park was published.[6] The substantial delay was clearly for the improper purpose of foreclosing the legal grant of the mining concession. Notably, the mining concession provided that it was binding as of the day of signing.[7] The mining concession agreement was filed in the Mining Registry, as required by Colombian law, on December 3, 2009.[8] Given that the technical and legal approval clearly predated the prior consult carried out by PNN, as discussed below, it is abundantly clear that the legal interest in the mining concession predates the interest in establishing the Yaigojé Apaporis Park.

13. Contemporaneously, as the mining concession approvals were being reviewed and granted, the Special Administrative Unit of the Network of National Natural Parks of Colombia (hereinafter referred to as "PNN") began a prior consultation of the native, indigenous communities in the region around the towns of Taraira and La Pedrera in Vaupés Department, Colombia, regarding the possible placement of a national park.[9] This was done with the aid of employees of an N.G.O. known as Fundacion Gaia Amazonas, who acted as translators and transcribers for PNN.[10] Colombian law requires a prior consultation occur before major infrastructural changes, such as the placement of a park, a road, or a mine effect indigenous or African-descended communities.[11] Despite the standard practice that a prior consultation revisit the native communities multiple times, no such follow up was carried out.[12] The entire prior consultation of the indigenous communities took no more than 20 days.[13] The prior consultation was certified as complete by Dominguez in her

[6] See Taraira South Mining Concession, attached as Exhibit 5, and fully incorporated by reference.
[7] *Id.*
[8] See Mining Registry Filing, attached as Exhibit 1, and the Mining Registry Detailed Listing, attached as Exhibit 2 and fully incorporated by reference.
[9] A prior consultation (or "*consulta previa*") is a required mechanism in Colombian law calling for the state to conference with ethnic indigenous or African-descended communities that may be affected by any given government act.
[10] See the Protocolization Acts, attached as Exhibits 18 and 19, and fully incorporated by reference.
[11] See Col. Const. Art. 7, 330; Col. Const. Ct. Dec. C-891/02 of October 22, 2002; Col. Decree 1320 of 1998.
[12] See the Protocolization Acts, attached as Exhibits 18 and 19.
[13] *Id.*

capacity as Prior Consultation Group Coordinator at the Ministry of Interior and Justice.[14] However, the official public record log of the prior consultation reveals that it was not completed at the time of certification.[15] Further, the preconsult phase was never properly completed and certified by the Prior Consult Group, INCORA and the Colombian Institute of Anthropology were never involved and thus unable to vet the proposal for its impact on the indigenous communities, no representative of the local municipality was allowed to participate in the prior consult, no representatives of the Departments of Amazonas or Vaupés were present, and the official copy of the prior consultation log does not include the full list of names intended to be interviewed and contained in the handwritten log also filed as part of the public record.[16] This list of names indicates that PNN did not interview a majority of the individuals the prior consultation was directed toward and that many of the signatures were ascribed by the same hand.[17] PNN has also claimed that support for the placement of the park among the indigenous communities of the region was unanimous.[18] However, PNN itself acknowledge in a letter to Martin von Hildebrand, dating from November 2008, that at least nine of the indigenous communities did not support placement of the Yaigojé Apaporis Park.[19] Notably, before the prior consultation began, PNN was informed by a publicly filed letter dated June 24, 2009, from the Ministry of Interior and Justice's Prior Consultation Group Coordinator, fully signed by Dominguez, that the proposed procedures by which the prior consult would be undertaken were legally insufficient, since only the first step of the entire process had been initiated, it was the Prior Consultation Group that had to coordinate the preliminary procedures for the prior consultation, and any follow up measures after its conclusion rather than PNN, and that the Prior Consultation Group was aware of disagreement within the indigenous communities about PNN placing the Yaigojé Apaporis Park which PNN had yet to address.[20] Despite recognizing that opposition to the park existed, the Prior Consult Group, in a follow up letter dated June 30, 2009, acknowledged working with ACIYA in setting up the prior

[14] See Certification of Prior Consult (14 July 2009), attached as Exhibit 48, and fully incorporated by reference.
[15] See the Protocolization Acts, attached as Exhibits 18 and 19.
[16] *Id.*
[17] See Exhibit 19.
[18] See Response to ACITAVA Demand, attached as Exhibit 17, and fully incorporated by reference.
[19] See PNN Letter to von Hildbrand, attached as Exhibit 25, and fully incorporated by reference.
[20] See Letter of June 24, 2009, attached as Exhibit 27, and fully incorporated by reference.

consult, but failed to acknowledge even the existence of ACITAVA amongst the indigenous communities, although ACITAVA had been centrally involved in local opposition to the Park and had affiliated itself with Claimants beginning in January 2009.[21] The cumulative errors committed in the prior consult have had the effect of violating Articles 6, 7, 8, and 15 of Convention 169 of the International Labour Organization.[22]

14. As required by Colombian law, PNN thereafter requested on September 25, 2009, that INGEOMINAS, the predecessor of AMN, advise it of any interests it may have in the Taraira region.[2324] Despite the technical and legal approvals of the Taraira South mining concession already issued, a long history of geological exploration of the area, and indications of native, indigenous mining in the region, the public record notice provided to PNN did not list or reference any mining interest or exploration in the Taraira area.[25]

15. The Yaigojé Apaporis National Park was created by Resolution 2079 signed on October 27, 2009, and publicly published on October 29, 2009.[2627] Notably, PNN did not wait to receive all advisory notices from other branches of the Colombian government before publishing the Resolution.[28] Publication of Resolution 2079 prior to PNN receiving all notices of interest is illegal under Colombian law.[29] The mining concession agreement was finalized and signed on October 29, 2009, the same day as the PNN resolution. As a result of the October 29, 2009, publication of Resolution 2079, all further work on the mining ceased after October 29, 2009. Despite this cessation of activity, the Taraira South mining

---

[21] See Letter of Ingred Paola Guaqueta Zarete, dated June 30, 2009, and attached as Exhibit 28, and fully incorporated by reference. See also Letter of ACITAVA, dated January 11, 2009, attached as Exhibit 14, and fully incorporated by reference.

[22] See Col. Law 21 of 1991, which ratified Convention 169 of the International Labour Organization.

[23] See PNN Request Letter, dated September 25, 2009, attached as Exhibit 33, and fully incorporated by reference.

[24]See Law 489 of 1998, generally. See also Article 2, Decree 357 of 2011, and Article 19, Decree 216 of 2003. Under these requirements, the various branches of government are required to coordinate with each other and insure that their various actions do not conflict.

[25] See AMN Response Letter, attached as Exhibit 44, and fully incorporated by reference.

[26] See. Col. Res. 2079 of 2009.

[27] See Col. Law 99 of 1993, providing that government resolutions become active upon publication to the public. However, it should be noted that Article 32, Decree 2372 of 2010 additionally requires that a national park must be filed in the Office of Public Instruments.

[28] See National Agency of Hydrocarbons Notice, dated November 9, 2009, attached as Exhibit 44, and fully incorporated by reference.

[29] See Law 489 of 1998, generally. See also Article 2, Decree 357 of 2011, and Article 19, Decree 216 of 2003.

concession was filed in the Mining Register on December 3, 2009. The Yaigojé Apaporis national park created by Resolution 2079 has never yet been filed in the Public Registry, despite such filing being mandatory.[30]

16. However, despite the placement of the National Park creating a functional seizure of any and all rights inherent in the mining concession, ANM continued to accept annual payments called for under the Mining Code as necessary consideration for the continued exercise of the mining concession during the exploration, assembly, and construction phases of a mining operation.[31]

17. In protest at the park's creation despite local opposition, ACITAVA has filed a nullification suit against PNN, arguing that the Yaigojé Apaporis Park was so improperly created that it behooved Colombia as a nation to remove it.[32]

18. ACITAVA has also filed an *acción de tutela*[33], charging that PNN had improperly and insufficiently carried out the prior consultation, and that justice required the consultation be redone.[34] Notably, the Constitution of Colombia requires that a *tutela* must be decided no more than ten days after its initial filing.[35] As of the time of the filing of this pleading, the *tutela* remains undecided.

19. On September 10, 2012, the Colombian Constitutional Court, meeting in regards to the *tutela*, examined the creation of the Yaigojé Apaporis Park and requested that public hearing be held amongst the region's indigenous communities regarding the park's existence.

---

[30] See Article 32, Decree 2372 of 2010.

[31] See Payment Receipts, attached as Exhibit 7, and fully incorporated by reference.

[32] See File No. 2011-00205, in the First Section of the Administrative Chamber of the Council of State.

[33] A "*tutela*" is a summary proceeding in which a writ of protection is filed before the Colombian Constitutional Court, provided for by Article 86 of the Colombian Constitution, and intended to act as a swift remedy to protect fundamental constitutional rights when no other remedy is available. It has been compared to injunctive relief in the United States' legal system. See Bechara, Álvaro J., *Colombian Business Law* (Bogotá: Editorial Temis S. A., 2006); p. 10-11.

[34] See *acción de tutela Benigno Restrepo Perilla on behalf of the Traditional Authorities of the Indigenous Communities of the town of Taraira and for the Indigenous Citizens v. Ministry of Environmental and Territorial Development, 2009-7622.*

[35] *Constitution of Colombia*, Art. 86: "In no case can more than 10 days elapse between filing the writ of protection and its resolution," (*nota bena*: this is an unofficial translation).

20. On September 13, 2012, fifty three indigenous women leaders in the region also jointed the *tutela* as co-petitioners.[36]

21. Despite the Constitutional Court's order, public hearing was not held. In response, on September 18, 2013, the co-petitioners to the *tutela* filed a collective request with the Constitutional Court urging that a final resolution be issued.

22. On January 31, 2014, a public hearing was finally held regarding the *tutela*, and three Magistrates of the Constitutional Court visited the Yaigojé Apaporis Park. However, the hearing was held in a non-ACITAVA community. Approximately one week before the hearing date, representatives alleging to be from Fundacion Gaia Amazonas visited the community, Centro Providencia, in conjunction with employees of PNN and cut down and burned a large field within the territory of the park for a helicopter landing without receiving any permits from the Ministry of Environment and Sustainable Development, any other branch of the Colombian government, or carrying out a prior consult.[37][38] This group then trained several members of that community to misrepresent themselves as the current Board of ACITAVA, including Luis Puinabe and his son, Rubiel Arbey Mendez Cuinabe. However, the board of ACITAVA has never been changed since its creation, the original board has never vacated their seats, and no election of new board members was ever held amongst ACITAVA members.[39] The day of the hearing, these falsified board members misrepresented to the Constitutional Court Magistrates that they were the board of ACITAVA, and that ACITAVA was now in complete agreement with ACIYA that the Yaigojé Apaporis park should continue to exist. The morning of the hearing Fundacion Gaia Amazonas employees posted signs at the meeting hall providing that Eliezer Macuna, an actual member of the ACITAVA board, and Evelio Cordero, a member of the ACITAVA mining committee, were specifically banned from attending, and refused to allow them entrance to the hall.

---

[36] See *Id.*

[37] Notably, there appear to be no records indicating a permit for such an action.

[38] See the photo, included as part of the Letter to the Constitutional Court, attached as Exhibit 45, and fully incorporated by reference.

[39] As of February 2014 the Colombian Ministry of Interior and Justice confirmed there had never been a change in the official Board of ACITAVA.

23. As of the time of this filing, no judgment regarding the *tutela* has been handed down. The nullification case filed by ACITAVA has sat without a decision being reached by the Court. Since these cases have frozen without resolution, ANM has also filed suit, seeking to nullify the mining concession at issue, arguing that it had been granted after the Yaigojé Apaporis park was validly created by Resolution 2079, and thus could not be valid.[40] Despite an answer having been filed, no decision has issued. Regardless of the filing made, ANM itself issued technical and legal approval of the mining concession before the Resolution 2079 was signed or published, and continued to accept annual payment of maintenance fees until the present day.

24. At the time of this filing, the three cases theoretically impacting the mining concession's status are on file in Colombia awaiting decisions and have been for years. The *tutela*, in particular, having been filed August 18, 2011, was constitutionally required to be answered over three years ago. Distressingly, the filing parties find themselves in this position due entirely to the wrongdoing of the Colombian government. PNN, as a subsidiary agency of the Ministry of Environment, Housing, and Territorial Development, and at the direction of Julia Miranda Londoño falsified records regarding the prior consultation that was a necessary prerequisite to establishing the park, and those fraudulent records were knowingly certified by Claudia Teresa Caceres Dominguez, as Coordinator of the Prior Consultation Group at the Ministry of Interior and Justice. AMN, and its predecessor Ingeominas, as a sub-agency of the Ministry of Mines and Energy thereafter knowingly failed to provide an accounting of the mining interests present in the Taraira region, including the technical and legal approvals for the mining concession and the historical presence of indigenous surface mining. When ACITAVA, representing the local communities, then sought relief through the courts PNN manufactured a false board of ACITAVA to misrepresent the situation, and in all three cases the Courts have refused to render judgment, despite a clear mandate to do so.

25. The placement of the Yaigojé Apaporis Park over the Taraira South mining concession was an illegitimate taking, both founded in fraud and without compensation. Even if it were a legitimate action of the state, it is a clear expropriation without compensation of all

[40] See File No. 25000233600020130182200 in the Administrative Court of Cundamarca (Section 3) Subsection "A."

property interests inherent in the Taraira South mining concession validly granted by ANM, and for which ANM accepted continuing, annual payments of consideration for exploration, evaluation, and construction. Plaintiffs are due damages and all Defendants are equally, jointly, and severally liable for the fair market value of the property rights seized. Attempts at negotiating a settlement or conciliation with PNN and ANM have failed. Plaintiffs do not believe it PNN's actions are a coincidence given that the majority interest holders in the mining concession are foreign investors. The course of conduct of Colombia, as witnessed through its agencies, courts, and representatives, makes clear that fair opportunity before the law and due process of law are not available.

VI. Claims

Count 1 – Expropriation Arising from Fraud

26. The expropriation of the Taraira South mining concession through the placement of the Yaigojé Apaporis park was rooted in the fraudulent acts of PNN who, as described above, falsified the appearance of majority consent to the placement of a park from the indigenous communities, and falsified many signatures to the log of the prior consultation, which were all written by the same hand. This was done at the direct order of Londoño and, these fraudulent acts were aided and abetted by Fundacion Gaia Amazonas, whose employees accompanied PNN on the prior consultation and acted as translators and scribes, and by Dominguez, who in her capacity as Prior Consultation Group Coordinator certified the prior consultation as completed before all of the communities had even been visited.[41]

27. PNN and Fundacion Gaia Amazonas presented further fraud on January 30, 2014, when they falsely presented Luis Puinabe and Rubiel Arbey Mendez Cuinabe, as well as other, unknown men, to the Constitutional Court Magistrates, as being the current members of the board of ACITAVA, despite never having been elected to that position or having been members of ACITAVA.

Count 2 – Expropriation without Compensation

[41] Her certification bears the date of July 14, 2009. See Exhibit 48. Review of the Original and Transcribed Protocolization Act, Exhibits 18 and 19, indicates the consult itself was still ongoing after July 14, 2009.

28. From these actions, it is clear that Londoño, PNN, ANM, Dominguez, and Fundacion Gaia Amazonas engaged in a civil conspiracy to commit fraud and force the existence of the Yaigojé Apaporis Park, thereby wrongfully expropriating the Taraira South Mining Concession into the Yaigojé Apaporis Park without providing any compensation for such taking.

29. Article 58 of the *Constitution of Colombia*, as amended by Legislative Act No. 1of 1999, provides that there shall be no expropriation of property rights without compensation.[42] The principle that expropriation of property must be accompanied by payment of compensation to the owners of the expropriated property rights is widely recognized, and also enshrined in the United States Constitution.[43] Notably, this same principle is enshrined in the United States-Colombia Trade Promotion Agreement, which provides that "No party may expropriate...a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization except: (a) for a public purpose; (b) in a non-discriminatory manner; (c) on payment of prompt, adequate, and effective compensation; and (d) in accordance with due process of law and Article 10.5."[44] The actions of the Republic of Colombia and its subsidiary ministries and agencies have thus violated Article 10.7 of the Trade Promotion Agreement, and this claim may be brought as authorized by Article 10.16.1.(a) and (b).[45] The expropriation of the mining claim was therefore wrongful both in the method of the taking and in the failure to compensate for the taking.

30. Significant geological studies carried out over a long term of years indicate a strong interest in mining in the region; an interest emphasized by the indicia of local, small-scale mining efforts in and around the Taraira South location. Drawn by these indications and Colombia's own efforts in attracting investors to the region, the Claimants expended considerable effort and costs in establishing a mining claim, interfacing with the local communities, and achieving a mining concession. The technical and legal approvals for the concession were granted before the prior consultation carried out by PNN, a valid mining

[42] *Constitution of Colombia*, Art. 58.
[43] *United States Constitution*, 5th Amend., "nor shall private property be taken for public use, without just compensation;" 14th Amend., "nor shall any State deprive any person of life, liberty, or property, without due process of law."
[44] See United States-Colombia Free Trade Agreement, Art. 10.7, p. 10-4.
[45] *Id.*, p.10-10.

concession was issued by the government of Colombia through its sub-agency, ANM, and registered in the Mining Registry, and ANM thereafter until the present has continued to accept payments of consideration for the continued operation of the site. Despite all this, the mining concession has been inoperable due to the placement of the park over its location. No compensation has ever been received for this taking. It is thus clear that interests in the Taraira South mining concession had vested, and that the fair market value compensation for those interests must be provided.

VII. Relief Sought

31. Claimants seek that the Taraira South location should either be relieved of the burden placed upon the land by the Yaigojé Apaporis Park or that the fair market value of the mining operation be provided in compensation for the seizure, in addition to all attorney's fees accrued in bringing this matter forward to litigation., Claimants believe the relief sought must account for the true fair market compensation for the mining lease, in light of those geological studies carried out in the region, and must also consider the substantial costs incurred by Claimants in surveying the Taraira South site, staking a claim thereupon, beginning exploration, continuing to address maintenance payments for the site, and ultimately preparing for mining. Total relief sought is thus $16.5 billion (United States) based upon the iron and gold deposits underlying the Taraira South Mining Concession, in addition to $11 million (United States) for costs accrued in preparing the site and obtaining the mining lease, as well as payments made to the nation of Colombia to secure and maintain the mining lease..

VIII. Arbitrator

32. Claimants announce that it is preferred the arbitration be carried out in English, in the city of Houston, Texas, United States of America, as a location relatively convenient to all parties, approximately five hours by air travel from both Bogotá and Vancouver, and that the arbitration be carried out with the American Arbitration Association (AAA) as the arbitrating authority. Three (3) arbitrators shall be designated, and Claimants declare Brian Coleman to be the first chosen arbitrator, pursuant to the UNICITRAL Rules and the United States-Colombia Trade Promotion Agreement. Claimants hereby announce their

waiver of any right to initiate or continue before any administrative tribunal or court under the laws of the United States or Colombia any proceeding with respect to any measure alleged to constitute a breach of Article 10.16 of the United States-Colombia Trade Promotion Agreement.

IX. Documents Annexed Hereto

33. Annexed hereto are legal and factual documents which support the claims and allegations made in this notice. Many have been referenced throughout the course of this document, and all documents annexed hereto are hereby incorporated in their entirety by reference into this notice and statement of claim. Claimants recognize that additional documents may be relevant to this matter and therefore reserve the right to amend and supplement production of such documents as and when possible.

1. Mining Registry Filing
2. Mining Registry Detailed Listing
3. Mining Registry Listing
4. Notice to Sign Mining Concession
5. Taraira South Mining Concession
6. Letter of January 14, 2009
7. Consideration Payments
8. ACIYA Letter of March 19, 2008
9. ACIYA-PNN Agreement
10. *Persona Non Grata* Letter of ACITAVA
11. ACITAVA Statement of Non-Representation
12. ACITAVA Letter of June 8, 2011
13. Request for Indigenous Mining Area
14. Notice of Indigenous Communities
15. Disaffiliation Letter of Santa Clara and Campo Alegre

16. ACITAVA Letter Seeking Reparations

17. PNN Response to ACITAVA Reparations Demand

18. Transcribed Protocolization Act

19. Original Protocolization Act

20. PNN Map Showing Park

21. PNN Meeting Invitation

22. Letter of October 10, 2008

23. PNN Request for Mining Interest Information

24. PNN Travel Report

25. PNN Letter of November 13, 2008

26. PNN Letter of June 9, 2009

27. Dominguez Letter of June 24, 2009

28. Ministry of Interior Letter of June 30, 2009

29. PNN Letter of Unclear Date

30. PNN Memo Regarding Invitation to Prior Consult Meeting

31. Letter of Indigenous Captains Opposing Parks' Establishment

32. PNN Letter to Academia Colombiana de Ciencias Exactas, Fisicas y Naturales

33. PNN Request for Mining Interest Information of September 25, 2009

34. Additional PNN Request for Mining Interest Information

35. PNN Memo Regarding Mapping Issues

36. PNN Handwritten Agreement as to Mapping

37. Emails Regarding Mapping Issues

38. PNN Memo Regarding Lack of Information

39. PNN Analysis and Commentary on Park Creation

40. SIMCI Letter to PNN Regarding Coca Crops

41. PNN Memo Regarding Coca Grown in Intended Park

42. PNN Letter to Ministry of Environment

43. Recommendations of Academia Colombiana de Ciencias Exactas, Fisicas y Naturales

44. ANH Response to PNN Information Request

45. Letter Regarding PNN Park Cabins on Sacred Site

46. ACITAVA Complaint Regarding Helicopter Landing Site

47. Picture of False ACITAVA Board

48. Certification of Prior Consult (14 July 2009)