

## **Communities and Government Officials Redraw Borders that Barrick Seeks to Dissolve**

Last Thursday, Barrick Gold presented its second quarter results. In addition to a 35% drop in quarterly profits, the company revealed important news about Pascua Lama, a key investment located on the border between Chile and Argentina. Rather than provide details about operational start-up, which was scheduled for mid-2013, Barrick announced a further, year-long delay and revealed exorbitant cost overruns of between 50 and 60% of recent estimates. Project costs will increase by as much as US\$3 billion, bringing the total expense to an astounding US\$8 billion, a marked contrast from initial estimates in 2001 of US\$950 million.

Standard and Poor's subsequently downgraded Barrick, citing "execution risks surrounding Pascua Lama" and issued a "negative perspective" for the company. Barrick insists that its difficulties stem from inflation and low productivity, but this explanation fails to persuade. Recent developments have angered shareholders, have caused internal shifts, including the dismissal of CEO Aaron Regent, and have strengthened the position of local communities, who have insisted in the project's infeasibility for more than ten years.

Pascua Lama is the first bi-national mining project on the planet. Located in the Andes, it straddles the border between Chile and Argentina, in the Atacama Region and the Province of San Juan respectively. Over the years, poor planning and heavy-handedness have resulted in a series of project setbacks. This year, the difficulties have grown, creating uncertainty about project development.

In 2010, Barrick applied for loans for the project from public financial agencies in Canada (Export Development Canada) and the United States (Export-Import Bank). Affected communities then provided the agencies with information about Barrick's operations in their territories and this year, Barrick withdrew its requests, forfeiting both the loans and the accompanying political endorsement. It seems clear that both public agencies were poised to reject the company's request, which would have sent a negative signal to shareholders.

Earlier this year, the Supreme Court of Argentina struck down an injunction obtained by the company, unions and the provincial Government of San Juan that blocked the application of national glacier protection legislation in that province. The law, which now applies in San Juan, prohibits mining activity on or near glaciers. Chilean authorities have fined Barrick for failing to comply with its environmental license regarding the protection of glaciers on the border. Recent inspections by farmers and community leaders reveal that the Toro 1 glacier has all but disappeared.

This year Barrick experienced a further, unexpected administrative challenge that will be difficult to resolve. After seventeen years in effect, Argentina chose not to renew a bi-national taxation treaty with Chile. The treaty provided the legal framework under which a

special tax agreement concerning Pascua Lama was hastily negotiated, after more than three years of conversations between officials and experts from Chile and Argentina. The negotiation took place in 2009, following visits by Aaron Regent to Michelle Bachelet, then President of Chile, and Peter Munk to Cristina Fernandez, President of Argentina. Several Argentine officials, who viewed the agreement as prejudicial to national interests, resigned in protest. Because the tax agreement for Pascua Lama refers to the international treaty, the applicability of the former is thrown into question with the expiry of the latter.

Three project workers have died so far this year, bringing the total to nineteen on the Chilean side and an unknown number in Argentina. Pressure is mounting on both sides of the border for legislative measures to protect workers who operate at extreme altitudes. Pascua Lama is under construction at more than 4500 metres above sea level.

These problems have all occurred prior to mine start-up. In addition, the Atacama environmental authority has fined Barrick, the Inter-American Commission on Human Rights has accepted a complaint regarding the project, the Chilean General Water Directorate reports that there has been a reduction in the volume of some area glaciers of as much as 70%, significant modifications have been made to the original project, and an access road was rerouted after communities demanded that trucks bypass residential areas. There can be no doubt that these events increase project costs, undermine confidence and have a negative effect on the population's expectations about Pascua Lama.

Barrick underestimated the difficulties associated with undertaking a highly contaminating economic activity on an international border, with all the associated administrative, social and environmental challenges. For the company, it was enough that the administrations of Eduardo Frei and Carlos Menem signed a bi-national mining treaty behind their citizens' backs, facilitating mining activity in the previously inaccessible border area.

However, it's clear that communities, and those government officials who are responsive to the public interest, can counter arbitrary, political acts. While Barrick's new CEO, Jamie Sokalsky, failed to mention these actors last week, their actions create instability, raise costs, create delays and cause other projects, such as Cerro Casale, to be shelved. Empowered local communities see ever greater possibilities to establish limits that protect their way of life.

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