

Mine Risk Management > Politics

Bolivia pays up over Quiborax expropriation



The country's mining minister Cesar Navarro Miranda announced the agreement on June 7, just days after the Washington DC-based International Centre for Settlement of Investment Dispute rejected an attempt by the South American country to annul a ruling in favour of Quiborax.

"This was a long and difficult process and we are extremely satisfied that in the end justice prevailed," Andres Jana of Santiago law firm, Bofill Mir & Alvarez Jana, one of the attorneys who represented Quiborax in the case, told *Mining Journal*.

The dispute dates back to 2004 when the Bolivian government annulled 11 claims held by Quiborax's local subsidiary Non-Metallic Minerals after inspections uncovered irregularities in customs and tax affairs.

The decree was issued against the background of significant social turmoil in the South American country as people protested a plan to export Bolivia natural gas to the US via Chile.

The following year privately-held Quiborax sought arbitration under the bilateral investment treaty signed between the two countries a decade earlier with proceedings beginning in December 2007.

In September 2015, the centre ruled that the Bolivian state should pay Quiborax compensation worth just US\$48.6 million based on its estimate of the value of the claims.

"It is extremely satisfactory for my client to be able to end this long and difficult process, and not just in terms of the money, but because the tribunal decided they were right and deserved to be compensated," Jana said.

Among other issues, the tribunal found that insufficient evidence was provided of the alleged tax and customs breaches, that the claimant was not properly informed of the audits and that the company had been discriminated against as a Chilean company.

Relations between the neighbouring countries are overshadowed by a dispute over access to the Pacific coast which Chile annexed from Bolivia in the late 19th century.

The compensation was based on income from sales of ulexite lost as a result of the expropriation of the claims up until the date of the award, plus interests and half of the company's arbitration costs.

After failing to convince the tribunal to annul the ruling, the government agreed this month to pay Quiborax US\$42.6 million.

Signing a contract to pay the compensation, Bolivia's minister of mining Cesar Navarro Miranda highlighted that the amount the government would finally pay was US\$14 million less than the compensation and interests ordered by the centre.

Bolivia has paid compensation to several foreign investors in recent years, especially in the wake of the nationalisations carried out under president Evo Morales since 2007. In 2014, the government reached deals with oil company Pan American Energy, India's Jindal Steel & Power and Spanish power company Red Electrica.

Still pending is arbitration with Glencore over the nationalisation of the Vinto tin and antimony smelters, and the Colquiri zinc mine, the country's second largest.

Unlike some other multinationals caught up in state-investor disputes, Quiborax was a medium-sized company which suffered "significant hardship as a result of the process", Jana said.

The company has been producing ulexite from the Salar de Surire in northern Chile, just a few kilometres from the Bolivian border, for the past three decades. Its processing plant in the port city of Arica has capacity to produce 36,000 tonnes of boric acid and 100,000t of agricultural products annually.

"This investment arbitration system may have some problems, but it also has some positive features," Jana said.



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