

Corporate Attacks: Environment

Case Study: Mining

Investor-State Dispute Settlement (ISDS) grants corporations shocking powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. The cases are decided by tribunals composed of three private attorneys, some of whom rotate between serving as “judges” and bringing cases against governments. The tribunalists are paid by the hour and are unaccountable to any court system or electorate. Under U.S. trade and investment pacts alone, corporations have already won more than \$3.6 billion in taxpayer money, with \$38 billion still pending.

Infinito Gold v. Costa Rica

Case Pending

In February 2014 Infinito Gold, a Canadian mining firm, [filed a \\$94 million claim against Costa Rica under the Costa Rica-Canada BIT](#) for a Costa Rican court decision to revoke Infinito’s Las Crucitas open-pit gold mining concession on environmental grounds. The mining license was secured in 2008 from then-President Oscar Arias and his environment minister. The Costa Rican Administrative Appeals Court later [ordered a criminal investigation of Arias](#) for having signed off on the project while environmental studies were still incomplete. The concession raised significant environmental concerns, including deforestation of 153 acres of pristine tropical rainforest. It also posed a [significant health concern related to the leaching of chemicals](#) used in the mining process that could contaminate drinking water near the San Juan River system.

A Costa Rican court [revoked the concession in 2010](#) on the basis of environmental damage caused by the project. Polls indicated that more than [75 percent of the Costa Rican population opposed the proposed mine](#), due in part to environmental concerns. Several weeks before the court ruling revoking Infinito’s concession, the Costa Rican legislature [voted unanimously to ban new open-pit metal mines](#). Infinito appealed to Costa Rica’s Supreme Court, which [upheld the lower court ruling](#) against the firm in 2011. In its investor-state claim, Infinito asks a three-person tribunal to second-guess the rulings of Costa Rica’s courts and rule that Costa Rica’s prohibitions on new open-pit mining permits are an “unlawful expropriation” of Infinito’s investment and a violation of the firm’s BIT-protected right to “fair and equitable treatment.” “As a result of the new ban on open-pit mining, Industrias Infinito cannot apply for any new mining rights over the project area,” [the firm noted in its brief](#). The case is pending.