

CONGRESSIONAL BRIEFING
TOM LANTOS HUMAN RIGHTS COMMISSION
ALLEGED ABUSE OF INTERPOL RED NOTICE
WASHINGTON D.C., SEPTEMBER 12, 2016
Statement by Leonard Anthony Homeniuk

Summary: Leonard Anthony Homeniuk is a former President and CEO of Centerra Gold Inc., a publicly listed mining company, operating in Kyrgyzstan. He is a citizen of Canada and the U.S.; born on January 29, 1947; currently residing in Santa Barbara, California. His INTERPOL Red Notice was issued by Kyrgyzstan in September 2014, alleging 2003 – 2004 “involvement in corruption” and “collusion” with the former President, Prime Minister and other public officials of that country who were subsequently removed from their offices by a revolutionary coup and are currently viewed as political opposition. Mr. Homeniuk was arrested by the Bulgarian authorities on the basis of this Red Notice in July 2015; detained in the country for 90 days, including jail and house arrest, pending judicial hearings for extradition to Kyrgyzstan. He was released and allowed to return to the U.S. when the Kyrgyz authorities failed to provide documentation required in support of their extradition request. His appeal to the Commission for the Control of INTERPOL’s Files in Lyon (the “Commission”) resulted in the permanent removal of the extract of his Red Notice from INTERPOL public web site and the addendum to the file that “the request for extradition of the subject issued by the authorities of Kyrgyzstan was rejected by the authorities of Bulgaria.” However, the Red Notice itself remains in places to date, since the Commission found that: (a) “offences concerned are of common law character,” although “there are some political elements surrounding the case”; (b) the Commission’ purpose is not “to conduct an investigation, to weigh evidence, or to make a determination on the merits of a case,” and (c) Mr. Homeniuk is invited “to contact the relevant national authority in Kyrgyzstan to undertake any measure ... appropriate for the follow up... at national level.”

To date, Kyrgyzstan refused to provide any basis for their allegations, despite numerous requests by Mr. Homeniuk and his former employers. It is impossible for Mr. Homeniuk to receive a fair trial in Kyrgyzstan and it is impossible to force the Kyrgyz authorities to stop using their criminal system to achieve their political and economic goals.

Continued presence of the INTERPOL Red Notice makes it impossible for Mr. Homeniuk to travel internationally, harms his reputation and makes it very difficult for him to make a living as a mining sector professional.

For more details, please refer to freelen.org website.

Background: In September of 2014, Kyrgyzstan, a former Soviet Union Republic in Central Asia, issued an INTERPOL Red Notice for the arrest of Leonard A. Homeniuk, a former executive of Cameco Corporation and Centerra Gold Inc., both publicly listed Canadian mining companies involved in the development of Kumtor gold project in Kyrgyzstan. Criminal charges against Mr. Homeniuk and the associated Red Notice concerned his involvement, as the President and the CEO of Cameco Gold Inc. and Centerra Gold Inc., in the restructuring of the Kumtor gold project in 2003 – 2004. Mr. Homeniuk retired from the company in 2008.

From 1992 and to date, Cameco Corporation and its successor Centerra Gold Inc. remained the largest foreign investors and private employers in Kyrgyzstan, investing over a \$1 billion in that country and employing more than five thousand people in the development of the Kumtor gold project. To date Centerra Gold Inc., listed on the Toronto Stock Exchange, continues to operate this project in Kyrgyzstan. However, since 2011 the company and the Kyrgyz Government have been locked in an ever-escalating, highly public, economic and political dispute, which appears to have no clear resolution in site. **This on-going dispute between Centerra Gold Inc. and Kyrgyzstan is the only true and real reason for Kyrgyzstan’s criminal prosecution of Mr. Homeniuk and for his INTERPOL Red Notice. He did nothing wrong and nothing illegal.**

Statement: I am a Geologist and a Geophysicist who worked for Cameco Corporation and its affiliates for more than 35 years. I started as a field geologist and became the CEO of a publicly listed Cameco subsidiary, Centerra Gold Inc., in 2004. I retired from the company in 2008. Cameco Corporation divested its interest in Centerra Gold Inc. in 2010. The last 16 years of my career before my retirement from Centerra Gold Inc. were focused on the development of the Kumtor gold mine in the Kyrgyz Republic. I was responsible for its construction and continued commercial operations since 1997.

The Kumtor Project is the most significant industrial asset of the Kyrgyz Republic, accounting for approximately 9% of its GDP and 30% of its export. It is the largest single employer, other than the Government, in that country. From the beginning, the Kumtor project was highly visible, closely scrutinized by the public, and subject of many political debates. Throughout, the project remained a hot political topic in the Kyrgyzstan and was used by various politicians in their internal political struggle. A number of multilateral agencies, such as EBRD, IFC, World Bank and IMF - all followed the project very closely and EBRD and IFC provided it with substantial financing in the form of loans and held equity in Centerra Gold Inc. The involvement of multilateral financial institutions offered additional significant level of transparency and certain guarantees of full compliance with all applicable laws, including anti-corruption laws.

After the country’s two revolutionary coups in 2005 and 2010, it became politically expedient to blame the largest foreign investor and previous political regimes for signing Kumtor agreements “unfavorable” to Kyrgyzstan. It became a political lightning rod that kept public attention away from any unfavorable economic and political developments in the country.

The original Kumtor agreements were entered by the Government of Kyrgyzstan and Cameco Coproation in 1992; revised in 1994; renegotiated and restructured in 2003 – 2004 when Centerra Gold Inc. was formed, and renegotiated once again in 2009 - 2010 – all at the request of the Kyrgyz authorities and for the benefit of Kyrgyzstan, so that the country could receive more revenues as the project improved. Each time, in compliance with strict corporate policies, the agreements were vetted by independent financial and legal advisors; reviewed by multilateral financial institutions involved; made publicly available and completely transparent, and duly authorized by corporate boards and appropriate Kyrgyz authorities.

Yet, in 2014, long after I have retired, when Centerra Gold Inc. and the Government of Kyrgyzstan failed to reach yet another agreement, the Kyrgyz authorities began to systematically retaliate against the foreign investor. I, the former executive most associated with the Kumtor project and best known in the Kyrgyz Republic, became their first, but not their last victim.

My Red Notice was based on an indictment issued by the Prosecutor General's Office of the Kyrgyz Republic on June 9, 2014 and the court's decision dated the same date, calling for my arrest. **Yet neither the company nor I, received any notice of these proceedings, nor was I given any opportunity to respond or defend himself. My whereabouts in the United States were well-known and easily ascertainable, yet no one made any attempt to contact me.**

The Kyrgyz indictment alleged that I “colluded” with the former President, Prime Minister and other public officials while renegotiating and restructuring the Kumtor agreements in 2003 – 2004, acting in the interests of my employer Cameco Corporation and against the economic interests of Kyrgyzstan resulting in “unfair” agreements. It also alleged “corruption” in my actions as the President and the CEO of the company for (a) authorizing a payment of \$11 million to our joint venture partner, the state-owned and government-controlled Kyrgyz corporation (**not a person or an official**) – a transaction that **was fully transparent and specifically provided for in the agreements** and which represented a legitimate business payment from one joint venture partner to another, and (b) executing an agreement, **fully approved by the Board and publicly disclosed in compliance with all applicable stock exchange legal requirements**, for the purchase of a remaining mining interest in a Mongolian gold projects from an Australian publicly listed company. It further called the agreements “economically unfavorable” to Kyrgyzstan, “criminal” and “corrupt.” It provided no evidence or proof of any of its allegations.

Then, at the request of the Kyrgyz Prosecutor General's office, citing that I am “hiding from the prosecution,” the Kyrgyz court issued a warrant for my arrest.

It reality, neither the indictment nor the court order had any factual or moral justification. Subsequently, numerous public statements issued by various public officials in Kyrgyzstan, including the current President, revealed a simplistic yet vary dangerous thought process on the part of the Kyrgyz authorities: 1. The Kumtor project is the country's “one and only golden

goose” and that “golden goose” refuses to give more; 2. We cannot get neither political nor economic satisfaction from the foreign investor through normal negotiation; 3. We have to declare the current agreements with the foreign investor to be “against the country’s interests” and “illegal”; 4. Everyone knows that the previous political regimes that authorized these agreements were “criminal” and “corrupt”, 5. Therefore, we can say that the agreements themselves and those who authorized them are “criminal” and “corrupt”. 6. We can use our criminal and judicial systems which are under our complete control to declare them to be so. No need to prove anything, because “all people” in Kyrgyzstan know that previous regimes and the Kumtor agreements are “criminal” and “corrupt,” and, finally, 7. We can use INTERPOL to both legitimize our actions and threaten our opponents.

It suffices to review publicly available official publications and documents on Kumtor to come to these conclusions. According to the INTERPOL Commission, on the face of it, Kyrgyzstan complied with INTERPOL’s very basic statutory requirements for issuance of a Red Notice. In fact, by allowing Kyrgyzstan to do so, this otherwise very valuable international institution became a pawn in Kyrgyzstan’s economic war with its foreign investor and its political war with the opposition represented by past regimes.

Meanwhile, the Kyrgyz authorities continue to mount further retaliations against Centerra Gold Inc. They raided the company’s offices, detaining its management and prevented them from leaving the country. They also issued a court order disallowing the company to deal with any of its assets. In response, Centerra Gold Inc. appealed to international arbitration, scheduled for this fall, and entered into corporate transactions aimed at further diluting the Kyrgyz interest and mitigating its political risks.

Retaliating, the President of the country recently announced proposed changes to the Constitution of Kyrgyzstan, making the Statute of Limitation specifically inapplicable to criminal prosecutions related to the Kumtor project or anyone involved in its agreements. Furthermore, it is proposed that the Constitution should be amended so that no international body’s decision could trump a decision by the Kyrgyz court.

One of the President’s recent statements said that either Cameco and Centerra’s executives should “pay Kyrgyzstan” or “those who do not pay, should be serving time in Kyrgyzstan.”

What does it all mean for a professional, such as myself, or for any person involved in global transacts, even non-commercial, in some less developed developing countries? It means that without doing anything wrong, and without any due process or impartial substantive review of any criminal allegations against us, we become internationally hunted criminals. This can happen to any one of us at the whim of any country that chooses to use and abuse its statehood and thus available to it international institutions to further its own economic or political interests through extortion and bullying, or simply to retaliate. We have no practical recourse. None.

The INTERPOL Commission said that “it is not its purpose to conduct an investigation, to weigh evidence, or to make a determination on the merits of a case.” The question is, who should be doing all that if the country that issues the Red Notice cannot or is unwilling to provide a fair hearing? Who should take the responsibility for destroying people’s lives, depriving them of their fundamental rights, including “liberty” and “pursuit of happiness”?

This experience took a very significant toll on me and my family, and I would not wish it on anyone. It is physically destructive, morally unbearable, and economically prohibitive to fight both an unscrupulous country and INTERPOL that enables its abuse. When it comes to INTERPOL Red Notice, all of its members are not equal. Pretending that they are results in tremendous human suffering and degrading of INTERPOL itself, as an international instrument for police cooperation. There must be a forum for a fair hearing associated with INTERPOL Red Notice system.