

**Measuring the Reverse Flow of Risk:
A Case Study of the Marlin Mine Project in
Guatemala**

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Introduction

About This Report

This report was written to analyze the involvement of a Canadian mining company in Guatemala in order to better understand how the actions of a multinational corporation (MNC) can positively and negatively affect an area characterized by latent conflict. This case study was modeled after a similar case study performed by Terry Bell on a copper project in Burma¹ and made use of an in-depth study of private sector risk analysis by Leah Berger² (both available on the CIFP website:

<http://www.carleton.ca/cifp/>).

This report uses the Country Indicators for Foreign Policy (CIFP) as a framework for analyzing “the reverse flow of risk: the risk of a company aggravating a conflict situation.”³ It is hoped that this paper, and others like it, will provide students, educators and those in the public and private sectors a greater understanding of the complexity and need for enhanced corporate social responsibility (CSR) in conflict-affected areas.

¹ Bell, Terry (June 2005). Measuring the reverse flow of risk: A case study of the Monywa copper project in Burma. *Country Indicators for Foreign Policy (CIFP)*, Retrieved May 8, 2006, from <http://www.carleton.ca/cifp/docs/MonywaCopperProject.pdf>

² Berger, Leah (December 2002). Private sector risk analysis and conflict impact assessment: Measuring the reverse flow of risk. *Country Indicators for Foreign Policy (CIFP)*, Retrieved May 8, 2006, from <http://www.carleton.ca/cifp/docs/PrivateSectorRiskAnalysis.pdf>

³ Campbell, Ashley (May 2002). The private sector and conflict prevention mainstreaming. *Country Indicators for Foreign Policy (CIFP)*, Retrieved May 8, 2006, from <http://www.carleton.ca/cifp/docs/mncsriskassesmentreportupdated.pdf>, p2.

This paper is divided into four main sections:

- The **first** section will provide the reader with some context by examining a number of key social, political and economic indicators of Guatemala
- The **second** section will examine the Marlin Mine project specifically and some incidents that occurred relating to the project
- The **third** section will examine the reverse flow of risk using the risk assessment template formulated by Leah Berger and CIFP
- The **fourth** section will put forward various scenarios based on the risk assessment analysis.

About CIFP

CIFP has its origins in a prototype geopolitical database developed by the Canadian Department of National Defence in 1991. The prototype project called GEOPOL covered a wide range of political, economic, social, military, and environmental indicators through the medium of a rating system. In 1997, under the guidance of Andre Ouellete, John Patterson, Tony Kellett and Paul Sutherland, the Canadian Department of Foreign Affairs and International Trade decided to adopt some elements of GEOPOL to meet the needs of policy makers, the academic community and the private sector.

The CIFP project as it became known has since then operated under the guidance of principal investigator David Carment of Carleton University and has received funding from DFAIT, IDRC and CIDA. The project represents an on-going effort to identify and assemble statistical information conveying the key features of the political, economic, social and cultural environments of countries around the world.

The cross-national data generated through CIFP was intended to have a variety of applications in government departments, NGOs, and by users in the private sector. The data set provides at-a-glance global overviews, issue-based perspectives and country performance measures. Currently, the data set includes measures of domestic armed conflict, governance and political instability, militarization, religious and ethnic diversity, demographic stress, economic performance, human development, environmental stress, and international linkages.

About The Author

Amy Keuhl is an MA candidate at the Norman Paterson School of International Affairs (NPSIA) at Carleton University in Ottawa. One of her major research interests is examining the linkages between international trade and poverty alleviation. Amy completed a BA Honours in International Development at the University of Guelph and has spent time travelling and studying in India.

Executive Summary

Multinational corporations (MNCs) are generally viewed as having a significant role to play in the economic development of developing countries in areas such as trade and foreign investment. Over time, however, the realization of the need for corporate social responsibility (CSR) has come to the forefront as allegations of corruption and lack of respect for basic human rights surface against MNCs. This is especially true for MNCs engaged in the extractive industry where the linkages with violence and

civil war have become increasingly evident.

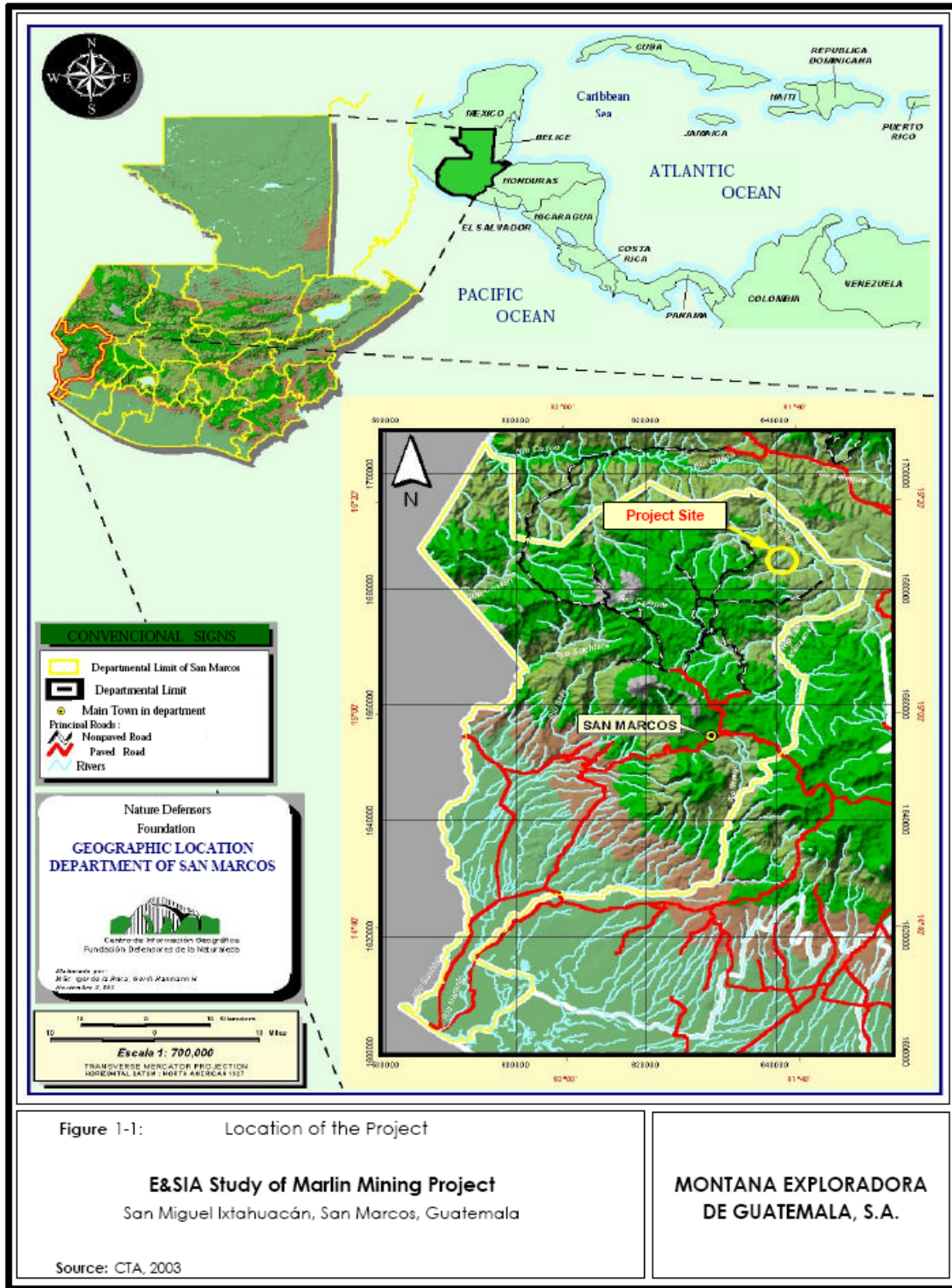
This report will examine the Marlin Mine project taking place in the Western Highlands of Guatemala. An examination of various social, economic and political indicators will provide a context for addressing the development of the mining project in Guatemala and the events that took place in 2004-2005.

Despite a long history of civil war, Guatemala in 2004 seemed to favour foreign investment due to the success of the 1996 Peace Accords and actions taken by the government to promote investment in its extractive sector. Montana, a subsidiary of the Canadian mining company Glamis Gold, began the construction of the Marlin Mine in 2004 with the help of a \$45 million loan from the International Finance Corporation (IFC).

Despite a number of projects and activities performed by the company to avoid conflict and mitigate various risk factors, a number of violent incidents occurred, tensions surrounding the mine mounted and a formal complaint against the mine was launched. This led to a review of the mining project by the IFC's Compliance Advisor Ombudsman (CAO) which has since been closed.

Based on the available evidence, it appears that the failure of Montana and the IFC to ensure complete community involvement with the Montana project led to a reverse flow of risk with negative effects.

Figure 1: The Location of the Marlin Mine



Source: Social and Environmental Impact Assessment Study,
[http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/\\$FILE/E&SIA%20Study%20Executive%20Summary.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/$FILE/E&SIA%20Study%20Executive%20Summary.pdf), p 1-7.

Section 1: Guatemala

1.1. Political History



The Republic of Guatemala is the largest country in Central America and is the most populous, with a population of around 13 million.⁴ The country is bordered by Mexico and Belize to the north and by Honduras and El Salvador to the South. Guatemala has been called one of the most unequal societies in the world, due largely to the political and economic dominance of the ladino population of the indigenous Indian population.⁵

Ever since the Spanish first arrived in 1524, the ladino population, made up of Europeans, black Africans and mestizos, have excluded the rest of the population from political, economic and social participation within society. This caused "severe economic discrimination and political repression"⁶ of the indigenous Amerindians of Mayan descent which comprise about half of the Guatemala population and who inhabit mainly the

western and northern highlands of the country.⁷ Other sub-groupings within the population include the K'iche, Kaqchikel, Mam, Q'eqchi and other Mayan and indigenous non-Mayan groups.⁸ Although Spanish is the predominant language, 23 other languages are officially recognized, including those of the indigenous populations.⁹

In 1523-4, Guatemala became a Spanish colony following the conquest led by Pedro de Alvarado.¹⁰ Independence was gained in 1821, and the country was governed by dictatorial regimes until 1944.¹¹ Social and agrarian reforms were attempted between 1944 and 1954 by Juan José Arévalo and Jacobo Arbenz. However, Arbenz was overthrown in a US-backed military coup, leading to a long period of civil war between a series of right-wing military governments and various leftist guerrilla movements.

In 1982 General Efraín Ríos Montt seized power in a military coup and presided over a vicious counter-insurgency campaign against the Unidad Revolucionaria Nacional Guatemalteca (URNG) which was comprised of three guerrilla groups. Montt's so-called "scorched earth" tactics were used against the URNG and wiped out entire villages in predominantly indigenous rural areas.

In January 1996, Alvaro Arzú of the Plan por el Adelantamiento Nacional (PAN) assumed the presidency. Armed conflict continued until the end

⁴ Economist Intelligence Unit (EIU), (July 12, 2006). Country Profile - Main Report. *eiu.com*, Retrieved May 8, 2006, from http://portal.eiu.com.proxy.library.carleton.ca/index.asp?layout=displayIssueArticle&issue_id=720844057&opt=full

⁵ Polity IV, (2003). Polity IV Country Report 2003: Guatemala. Retrieved May 8, 2007, Web site: http://www.cidcm.umd.edu/polity/country_reports/Gua1.htm

⁶ Ibid.

⁷ EIU Country Profile

⁸ CIA World Factbook, (April 17, 2007). Guatemala. Retrieved May 8, 2007, Web site: <https://www.cia.gov/cia/publications/factbook/g eos/gt.html>

⁹ Ibid.

¹⁰ BBC News, (Jan. 24, 2007). Country Profile: Guatemala. Retrieved May 8, 2007, Web site: http://news.bbc.co.uk/1/hi/world/americas/country_profiles/1215758.stm

¹¹ EIU Country Profile

of 1996 when the UN-brokered **Peace Accords** were signed between the government and the URNG. This ended 36 years of civil war. Estimates of the number of deaths during the war range from 100,000¹² to 200,000¹³ and it is estimated that 1 million people became refugees during those 36 years.¹⁴

[The CIFP score for number of refugees produced is 6.0. See Appendix 1 for the complete indicator listing.]

The Peace Accords and ILO Convention 169

The signing of the Peace Accords in 1996 included the ratification of International Labour Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. Article 15.2 of the Convention states:

"In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities."

Source: UNHCHR website,
<http://www.unhchr.ch/html/menu3/b/62.htm>

The Peace Accords included comprehensive blueprints for political, social and economic reforms, and in 1995 and 1996 separate agreements were signed regarding the rights of the majority indigenous population; socioeconomic and land issues; demilitarisation; constitutional reform; the legalisation of the URNG; a partial amnesty for crimes committed during the conflict; a formal ceasefire; and a timetable for implementing the peace commitments.¹⁵

In January 1997, a group of international donor countries and financial institutions was created to assist in the implementation of the peace accord agreements through the provision of financial assistance. This group consisted primarily of the World Bank, the Inter-American Development Bank (IDB), the Central American Bank of Economic Integration (BCIE), the US, the EU, Spain and Germany.¹⁶

Since the signing of the Peace Accords, some successes have been achieved including the demobilization of the guerrillas, the reduction of government armed forces by one-third to 31,000¹⁷ and continued presidential elections. Major challenges remain, however. Human rights abuses by the police persist despite the creation of a civilian police force, judicial reform has been slow and there is a lack of government accountability.

The Frente Republicano Guatemalteco (FRG) led by **Alfonso Portillo** won the 1999 presidential election. Portillo seemed to seek reform through the appointment of both right-wing cabinet ministers with left-wing human rights advocates; however he was constrained by the former dictator

¹² Polity IV Country Report and CIA World Factbook

¹³ Freedom House, (2006). Country Report. Retrieved May 8, 2007, Web site:
<http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=6972>

¹⁴ CIA World Factbook

¹⁵ EIU Country Profile

¹⁶ Ibid.

¹⁷ Ibid.

Montt who was a member of the National Assembly.¹⁸

Many of Portillo's attempts to implement the 1996 Peace Accords, such as enacting land reforms, have been blocked by Montt and his supporters in Congress.¹⁹ In 2003, Portillo succeeded in abolishing the Estado Mayor Presidencial (EMP) - the military presidential guard responsible for numerous human-rights violations. However, it is alleged that human rights violations, corruption and polarisation of the political parties increased during the Portillo administration.²⁰

In January 2004, **Oscar Berger Perdomo** of the centre-right Gran Alianza Nacional (Gana) began his four-year term as president. Berger has had the support of Alvaro Arzu who had been president between 1996 and 2000. Berger has also received the strong support of the business community.²¹ During Berger's time in office, former President Portillo and a number of high-ranking military officers have been indicted for corruption. Guatemalan relations with the US have improved under President Berger and these relations are expected to improve with the Central American-Dominican Republic-United States Free-Trade Agreement (CAFTA-DR) which came into effect July 2006.²²

[The CIFP ranking for Regime Durability is 8.3 out of 9 whereas the Polity IV rank is 7 or 'low durability'²³]

1.2. Rights and Freedoms

Although the framework for democracy exists in Guatemala, there are still major shortcomings in the country's governance. **Elections** take place and there is universal suffrage for anyone 18 years of age and older.²⁴ The President, who is both chief of state and head of government, is elected by popular vote for a four-year term and may not serve consecutive terms, as stipulated by the constitution. The 2003 presidential and legislative elections were regarded by international observers as being free and fair, despite some instances of intimidation, violence and fraud.²⁵

Guatemala was ranked 8 out of 10 (with 10 being fully democratic) for its level of democracy by a Policy IV assessment.²⁶ However, its scores in other areas are much lower. For example, in the area of political rights and civil liberties, Guatemala was ranked 4 out of 7 on both accounts by Freedom House, earning the status "Partly Free".²⁷

[The CIFP rating is 5.6 out of 9 with 9 being 'not free']

Many **freedoms** are granted under the constitution; however, there are limitations to those freedoms in practice. Both religious freedom and academic freedom are guaranteed by the constitution. However, those who practice the Mayan religion have faced discrimination and academics who speak out about human rights abuses receive death threats.²⁸ The same is true for human rights groups which become targets of violence despite freedom of association which is guaranteed in the constitution.²⁹

¹⁸ Polity IV Country Report

¹⁹ Ibid.

²⁰ EIU Country Profile

²¹ Ibid.

²² Export.gov, (no date). U.S.- CAFTA-DR Free Trade Agreement. Retrieved May 8, 2007, Web site:

<http://www.export.gov/fta/CAFTA/index.asp?dName=CAFTA>

²³ Polity IV Country Report

²⁴ CIA World Factbook

²⁵ Freedom House Country Report

²⁶ Polity IV Country Report

²⁷ Freedom House Country Report

²⁸ Ibid.

²⁹ Ibid.

Although **freedom of the press** is granted by the constitution, in practice, consequences of speaking out against the government or exposing corruption can include intimidation, threats, and even outright violence.³⁰ Television and radio networks are primarily under the ownership of one individual and newspaper ownership is concentrated by moderate business elites.³¹ The national TV stations are criticized for being pro-government while newspaper editorials are said to have conservative views.³²

Corruption is a major problem and, despite efforts to promote transparency, there has been little improvement made, according to Freedom House.³³ Out of 163 countries, Guatemala was ranked 112, according to Transparency International's 2006 Corruption Perception Index (CPI). Its CPI score was 2.6.³⁴

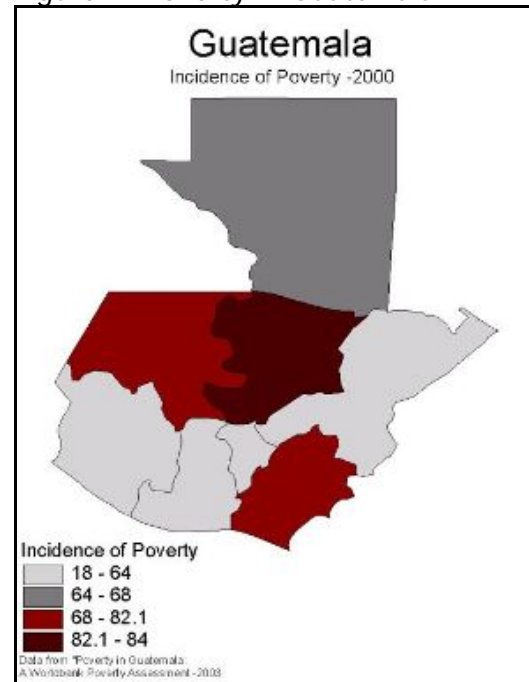
[The CIPF score for corruption is 7.8 out of 9 with 9 being 'high corruption']

1.3. Human Development

There are some positive indicators on certain aspects of Guatemala's human development. A 2000 report by the World Health Organization on access to water and sanitation found that 92% of the population had access to water sources and 85% had access to sanitation.³⁵ Life expectancy for the total population is estimated to be between 66³⁶ and 69³⁷ years of age.

The country also faces a number of severe challenges with respect to its human development indicators. There is **widespread poverty**, especially in the countryside and among male-headed indigenous communities,³⁸ resulting in chronic malnutrition among the rural poor.³⁹ Although some sources cite a low infant mortality rate of around 3%,⁴⁰ other sources point out that infant mortality rates among the Mayan population are "among the highest in the hemisphere."⁴¹

Figure 2: Poverty in Guatemala



Source: EarthTrends,
http://earthtrends.wri.org/povlinks/map/m_50.php

Guatemala ranked 118 out of 177 countries in the UNDP's 2006 Human Development Report which includes indicators such as access to health

³⁰ Freedom House Country Report

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Transparency International, (2006). Corruption Perceptions Index 2006. Retrieved May 8, 2007, Web site: http://www.transparency.org/policy_research/suveys_indices/cpi/2006

³⁵ World Health Organization, (2006). Global Water Supply and Sanitation Assessment Report. Retrieved May 8, 2006, from http://www.who.int/water_sanitation_health/monitoring/Glassessment8.pdf

³⁶ Freedom House Country Report

³⁷ CIA World Factbook

³⁸ BBC Country Profile and EIU Country Profile

³⁹ U.S. Department of State, (Feb. 2007). Background Note: Guatemala. Retrieved May 8, 2007, Web site: <http://www.state.gov/r/pa/ei/bgn/2045.htm>

⁴⁰ CIA World Factbook

⁴¹ Freedom House Country Report

care, clean water and sanitation, education and literacy, and economic performance.⁴² The national poverty rate is 57.9% and it is estimated that 33.8% of the population earns less than \$2 a day.⁴³

Guatemala is considered to be one of the most **inequitable** countries in the region, with a GINI coefficient of 56 (where 0 = perfect equality and 100 = perfect inequality). Almost half of all income goes to 10% of the population and two-thirds of all income goes to the top 20%.⁴⁴ Consequently, between 75%⁴⁵ and 80% of the population live below the poverty line and around 13.5% of the population⁴⁶ (around 7.6 million people) live in extreme poverty.⁴⁷ Child labour is rampant with an estimated 20% of the workforce consisting of children.⁴⁸ This is the highest level of child labour in the Americas.⁴⁹

Education services in Guatemala need significant improvement. Adult literacy rate is estimated to be between 69.1 and 70.6%⁵⁰, among the worst in the hemisphere.⁵¹ There are high levels of illiteracy among the indigenous population in rural areas and especially among women.⁵² Some

of the reasons for this are poor access to basic education and high desertion rates in the rural areas.⁵³

Government spending on education has not increased significantly over the past decade. In 1998, education was allotted 2.1% of GDP. In 2002 the amount was 2.5% of GDP.⁵⁴ The government has indicated its desire to improve the educational system by increasing primary school completion, enhanced community participation and the creation of standards.⁵⁵ One of the highest priorities of the Berger government is the strengthening of the education system.⁵⁶

The **health care** system also needs a great deal of improvement. In 2003, spending on public health was only 2.1% of GDP, among the lowest in Latin America.⁵⁷ Deaths among infants are attributable to infectious, respiratory, nutritional and perinatal-related diseases.⁵⁸ Poor access to healthcare services is most common among low-income groups including the indigenous population and those in rural areas.⁵⁹

There is widespread **violence** against women and children, and there are high murder rates for women and children who live on the streets (especially prostitutes).⁶⁰ 531 murders were reported during the first 10 months of 2005.⁶¹ This number was higher than the number reported during the same period in 2004.⁶² There are also growing problems with the trafficking of women and children from, to, and within Guatemala for the

⁴² UNDP, (2006). Human Development Report 2006. Retrieved May 8, 2007, from Beyond Scarcity: Power, poverty and the global water crisis Web site:

http://hdr.undp.org/hdr2006/statistics/countries/data_sheets/cty_ds_GTM.html

⁴³ EarthTrends, (2007). World Resources Institute. Retrieved May 8, 2007, from EarthTrends: The Environmental Information Portal Web site:

<http://earthtrends.wri.org/gsearch.php?va=cp&kw=Guatemala&theme=0>

⁴⁴ U.S. Department of State

⁴⁵ CIA World Factbook

⁴⁶ EIU Country Profile

⁴⁷ U.S. Department of State

⁴⁸ Freedom House Country Report

⁴⁹ Ibid.

⁵⁰ CIA World Factbook and UNDP Human Development Report

⁵¹ U.S. Department of State

⁵² EIU Country Profile

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Freedom House Country Report

⁶¹ Ibid.

⁶² Ibid.

purposes of sexual exploitation and child labour.⁶³
[The CIFP score for overall human development was 6.47]

1.4. Crime and Security

Guatemala faces serious problems of criminal activity due to “the ready availability of firearms, the high unemployment and poverty rates, a poorly trained and under-resourced police force, and a weak justice system.”⁶⁴ Despite attempts by the government to reinforce local police forces using the military, crime levels have remained unchanged.⁶⁵ Organized crime is rampant and includes bank robberies, drug trafficking, money-laundering activities, car theft and kidnapping.⁶⁶

Guatemala City is ranked as one of the most violent cities in Latin America⁶⁷ and murder rates are the highest in the Western Hemisphere. Over 5,500 homicides took place in 2005.⁶⁸ This number is extremely high compared with other Latin American countries.⁶⁹ Lynchings in rural areas have started to decrease over the past two years, however they are starting to occur in urban areas.⁷⁰

Overall crime levels have increased in rural areas over the past few years, including frequent armed attacks on vehicles.⁷¹ Violence against tourists has also become common, resulting in the creation of the Policia de Turisma (tourist police) in 2001.⁷²

Drug trafficking is a major problem in Guatemala. In November 2005, US officials arrested Adan Castillo, Guatemala’s chief drug enforcement investigator on charges of smuggling cocaine through Guatemala en route to the US.⁷³ It is estimated that 75% of cocaine in the US is imported through Guatemala.⁷⁴

A major source of violence related to drug trafficking is the **youth gangs**, also known as ‘maras’. It is estimated that there are at least 8,000 gang members in Guatemala.⁷⁵ The main source of conflict comes from the Mara Salvatrucha and the Mara 18 gangs who rival each other for control of local drug distribution. In 2005, at least 50 people had been killed due to gang violence.⁷⁶ Many of the attacks took place in the country’s prisons which are crumbling, overcrowded and full of members from both gangs.⁷⁷ A weak legal system combined with underpaid and often corrupt prison guards compounds the problem.⁷⁸

Although Guatemala’s **judiciary** is independent, it is “plagued by corruption, inefficiency, capacity shortages, violent intimidation of judges, prosecutors, and witnesses.”⁷⁹ Procedural rights are often not followed due to the ineffectiveness of the judiciary and indigenous people are often excluded from participation within the judiciary.⁸⁰

⁶³ Freedom House Country Report

⁶⁴ EIU Country Profile

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Freedom House Country Report

⁶⁹ Bell, Alistair (Oct. 11, 2005). FEATURE-Gang wars shake Guatemala’s crumbling jails. *Reuters AlertNet*, Retrieved May 8, 2006, from <http://www.alertnet.org/thenews/newsdesk/N30141890.htm>

⁷⁰ EIU Country Profile

⁷¹ Ibid.

⁷² Ibid.

⁷³ Thompson, Ginger (Nov. 17, 2005). World Briefing | Americas: Guatemala: U.S. Arrests Top Drug Officer On Drug Charges. *The New York Times*, Retrieved May 8, 2006, from <http://query.nytimes.com/gst/fullpage.html?res=9E05E2DB113EF934A25752C1A9639C8B63&n=Top%2fReference%2ftimes%20Topics%2fOrganizations%2fd%2fDrug%20Enforcement%20Administration>

⁷⁴ Freedom House Country Report

⁷⁵ Ibid.

⁷⁶ Bell, Alistair, 2005

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Freedom House Country Report

⁸⁰ Ibid.

Demonstrations have become more and more common over the past few years due to widespread poverty and weak rule of law. Demonstrators include landless farmers, public-sector workers and civilian defence patrollers who supported security forces against the guerrillas during the civil war.⁸¹ Political violence has increased over the past two years, targeting human rights activists, journalists, trade union leaders and those who represent subsistence farmers.⁸² Although the majority of demonstrations are peaceful, they can sometimes turn violent, leading to crack-downs by police forces.

The police have been accused of using lethal force, abusing and torturing suspects, engaging in corrupt activities, involvement in extortion and kidnappings and killing suspected gang members.⁸³ There have also been an increasing number of deaths resulting from violent clashes between police and peasants occupying disputed lands.⁸⁴

The UN Verification Mission in Guatemala (MINUGUA), which had been monitoring the implementation of the Peace Accords for the previous ten years, ended in November 2004.⁸⁵ According to UN Secretary General Kofi Annan, Guatemala had made “enormous progress in managing the country’s problems through dialogue and institutions.”⁸⁶

1.5. Economic Conditions

In 2006, GDP per capita (PPP) was estimated to be between \$4,900⁸⁷ and \$5,369, which is relatively high

compared with El Salvador (\$3,715), Honduras (\$2,855) and Nicaragua (\$2,701). The agricultural sector plays an important role in the economy, employing about half of the labour force.⁸⁸ About 23% of the GDP and 75% of exports can be attributed to the agricultural sector,⁸⁹ with the main products being coffee, sugar and bananas.⁹⁰

There has, in recent years, been some **diversification** away from these traditional agricultural exports towards more non-traditional agricultural products such as winter vegetables, fruit and cut flowers.⁹¹ Tourism and exports of textiles and clothing have also increased over the past several years.⁹² Following the signing of the 1996 Peace Accords, it was hoped that Guatemala would be able to incur rapid economic growth to alleviate poverty. These hopes were thwarted in 1998 with the collapse of coffee prices which negatively affected farmers in the rural areas.⁹³

Significant **reforms** and macroeconomic stabilization took place under Portillo, leading to reduced levels of foreign debt⁹⁴ and increased foreign investment within the country.⁹⁵ Despite the reforms, investor confidence has been weak, causing economic growth to slow during 2001-2004.⁹⁶ The current President, Perdomo, has promised “more transparency and a commitment to eliminating corruption.”⁹⁷

⁸¹ EIU Country Profile

⁸² Ibid.

⁸³ Freedom House Country Report

⁸⁴ EIU Country Profile

⁸⁵ U.S. Department of State

⁸⁶ Ibid.

⁸⁷ CIA World Factbook

⁸⁸ Ibid.

⁸⁹ U.S. Department of State

⁹⁰ CIA World Factbook

⁹¹ U.S. Department of State

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ CIA World Factbook

⁹⁶ EIU Country Profile

⁹⁷ EIU Country Profile

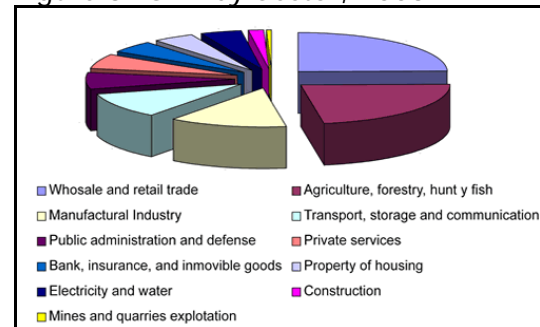
One reason for decreased business and consumer confidence under Portillo was due to allegations of official corruption. The **Central American Free Trade Agreement (CAFTA)** is expected to help reverse the situation through its anti-corruption provisions.⁹⁸ The CAFTA came into effect on July 1, 2006 between Guatemala and the US. One of its provisions makes bribing a public official in any manner related to trade a criminal offence.⁹⁹ The US accounts for 39.6% of Guatemala's imports and receives 28.9% of Guatemalan exports, making it the country's largest trading partner.¹⁰⁰

Guatemala is currently a member of the **Caribbean Financial Action Task Force (CFATF)**. The CFATF is "an organisation of states and territories of the Caribbean basin which have agreed to implement common counter-measures against money laundering."¹⁰¹ Guatemala had been labelled as being a "non-cooperative country" by the Financial Action Task Force (FATF), but this title was removed in July 2004 after a number of financial reforms were put into place.¹⁰² However, the government still faces the challenges of "increasing transparency and accountability in Guatemala's public finances, broadening the tax base, and completing the implementation of

financial reforms"¹⁰³ in order to fully comply with the standards of the FATF.

During the civil war, an estimated 1.2-1.4 million Guatemalans immigrated to the United States.¹⁰⁴ These expatriates contribute significantly to the Guatemala's economy through remittances. **Remittances** account for a significant portion of Guatemala's foreign income, making up 9.7% of GDP in 2005.¹⁰⁵ The total value of remittances exceeds the total value of exports and tourism combined.¹⁰⁶

Figure 3: GDP by Sector, 2003



Source: Investor's Guide to Guatemala, <http://www.marn.gob.gt/cdmguatemala/Investor's%20Guide/macroeconomicdata.htm>

The **mining sector** is a small part of Guatemala's economy, representing less than 1% of GDP.¹⁰⁷ Limited quantities of resources mined include antimony, barites, gypsum, marble, limestone, silica, sand, gravel and gold. Gold and silver reserves are found in the eastern part of the country in Chiquimula and in the western highlands in Chimaltenango and San Marcos.¹⁰⁸

The government has historically tried to boost investment in the mining sector. For example, in June 1997, Congress passed a law allowing mining companies to reduce their production

⁹⁸ USTR, (no date). Guatemala. Retrieved May 8, 2007, Web site:

http://www.ustr.gov/assets/Document_Library/Reports_Publications/2004/2004_National_Trade_Estimate/2004_NTE_Report/asset_upload_file5_14_4768.pdf

⁹⁹ Ibid.

¹⁰⁰ U.S. Department of State

¹⁰¹ FATF, (no date). FATF Members and Observers . Retrieved May 8, 2007, from Caribbean Financial Action Task Force (CFATF) Web site: http://www.fatf-gafi.org/document/28/0,2340,en_32250379_32236869_34355164_1_1_1_1,00.html

¹⁰² EIU Country Profile

¹⁰³ U.S. Department of State

¹⁰⁴ CIA World Factbook and EIU Country Profile

¹⁰⁵ EIU Country Profile

¹⁰⁶ CIA World Factbook

¹⁰⁷ EIU Country Profile

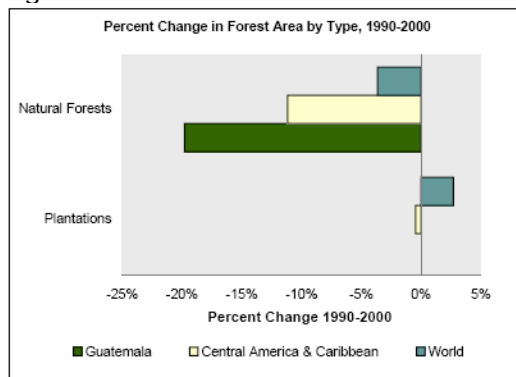
¹⁰⁸ Ibid.

royalties from 6% to 1%.¹⁰⁹ This law also made it easier for mining companies to invest in Guatemala by simplifying its approval process for new operations.¹¹⁰ In 2004, conflict arose between the Berger government and civil society groups which were concerned with the environmental aspects of new mining projects.¹¹¹ [The CIFP score for economic performance is 5.91 or 'medium'.]

1.6. Environmental Degradation

Guatemala is faced with many serious problems of environmental degradation, including deforestation, soil erosion, loss of biodiversity and pollution. According to one source, deforestation took place at a rate of 16% between 1990 and 2000,¹¹² amounting to around 54,000 ha.¹¹³ This is quite high, compared with Central America overall (11%) and the world (2%).¹¹⁴

Figure 4: Deforestation in Guatemala



Source: EarthTrends, http://earthtrends.wri.org/pdf_library/country_profiles/for_cou_320.pdf

These practices are difficult to end since two-thirds of Guatemalan

families need this wood to cook their meals and for their other energy needs.¹¹⁵

Deforestation is particularly pronounced in the Western Highlands region, leading to problems of erosion.¹¹⁶ This is because around 90% of the population that inhabit the Western Highlands are dependent on wood as their primary source of energy.¹¹⁷

Environmental policies regarding the regulation and conservation of forests are called for under the constitution and a 1986 environmental law.¹¹⁸ Such policies have been difficult to achieve due to clashes between environmentalists and business interests.¹¹⁹ There are some protected areas in Guatemala in which the responsibility for the sustainable use of the forests is managed by the *Comite Nacional de Areas Protegidas* (Conap) and the *Instituto Nacional de Bosques* (Inab).¹²⁰

In January 2001 the Ministry of Environmental and Natural Resources was created to help improve the coordination and capacity of all organizations working to prevent deforestation.¹²¹ The Ministry has been criticized, however for poor regulation and weak enforcement.¹²²

Guatemala is party to the following **conventions**: Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), Kyoto Protocol, Convention to Combat Desertification (CCD), Convention on International Trade in Endangered

¹⁰⁹ EIU Country Profile

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² EarthTrends, online

¹¹³ FAO, (2003). Food and Agriculture Organization of the United Nations. Retrieved May 8, 2007, from Summary Web site:

<http://www.fao.org/forestry/site/18308/en/gtm/>

¹¹⁴ EarthTrends, online

¹¹⁵ SID, (2006). Strategies for International Development. Retrieved May 8, 2007, Web site: <http://www.sidworld.org/history-guatemala.html>

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ EIU Country Profile

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

Species of Fauna and Flora (CITES), Ramsar Convention, and World Heritage Convention.¹²³ [The CIPF score for environmental stress is 6.47 or 'medium'.]

1.7. The Western Highlands

The western highlands are an important region within Guatemala and account for 18% of the country.¹²⁴ This area has **ecological significance** for a number of reasons. First, about 80% of the country's rivers empty here, making it an important watershed.¹²⁵ Second, this area contains the greatest varieties of conifer, oak, birch and poplar trees in all of Central America.¹²⁶

Figure 5: The Western Highlands



Source: Reach Out International, <http://www.reach-out-international.org/reach/guatemalainfo.html>

Due to the deforestation that has been taking place in the region, at least 16 areas are protected, however enforcement of these protected areas is said to be very weak.¹²⁷ The western highlands are **densely populated**, providing homes for over 30% of the population.¹²⁸ The majority of the population inhabiting

¹²³ CIP, (2004). Center for International Policy. Retrieved May 8, 2007, from Central America Program Web site: http://www.ciponline.org/central_america/guatemalafaqs.htm

¹²⁴ EIU Country Profile

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

this region are indigenous descendents of the Mayan who rely on subsistence farming for their survival.¹²⁹ In fact, 40% of the country's farms are located in this region,¹³⁰ although the farmland is very unequally distributed. 58% of all cultivated terrain in the area can be accounted for by a mere 5% of farms.¹³¹ The remainder of the land is divided into small subsistence plots.¹³² The Peace Accords contained commitments to re-distribute the land; however progress on this front has been slow.¹³³

Section 2: The Marlin Mine Project

2.1. Background

The Marlin Mine is a gold and silver mine located 48 km southwest of the city of Huehuetenango in the western highlands, approximately 300 km northwest of Guatemala City.¹³⁴ It is located in the two municipalities of San Miguel Ixtahuacan and Sipacapa in the department of San Marcos. The project is located within the borders of three towns in San Miguel (San Jose Nueva Esperanza, Agel and San Jose Ixcaniche) and one town, Tzalem, which is located in Sipacapa.¹³⁵ The mine is accessible by an all-season

¹²⁹ National Geographic, (2007). Guatemala. Retrieved May 8, 2007, Web site: http://www3.nationalgeographic.com/places/countries/country_guatemala.html

¹³⁰ EIU Country Profile

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Glamis Gold Ltd., (no date). Properties. Retrieved May 8, 2007, Web site: <http://www.glamis.com/properties/index.html>

¹³⁵ CAO, (Sept. 7, 2005). Assessment of a complaint to CAO in relation to the Marlin Mining project in Guatemala. *Compliance Advisor Ombudsman*, Retrieved May 8, 2006, from <http://www.cao-ombudsman.org/pdfs/CAO-Marlin-assessment-English-7Sep05.pdf>, p5.

road, which is connected to a paved highway near Huehuetenango.¹³⁶

The mine is described as “a conventional milling operation with a combination of open pit and underground mining,”¹³⁷ and is the first major open pit mine to exist in Guatemala in over 20 years.¹³⁸

Figure 6: The Location of the Marlin Mine



Source: Glamis Gold Ltd.,
<http://www.glamis.com/properties/index.html>

The Marlin Mine is owned and operated by **Montana Explorada de Guatemala, S.A.**, as subsidiary of **Glamis Gold Limited**. The Marlin deposit was first discovered in 1998

but was not acquired by Glamis Gold Ltd. until its July 2002 merger with Francisco Gold Corp.¹³⁹ Glamis Gold Ltd. is a mid-cap sized gold mining company based in Reno, Nevada and is listed on both the Toronto and New York Stock Exchanges.¹⁴⁰

After performing a feasibility study, construction of the mine began in the first quarter of 2004.¹⁴¹ Commercial production began in December 2005. According to the Glamis Gold Ltd. website, “the project is fully permitted and enjoys strong local support, as well as backing by the Guatemalan Government and the World Bank.”¹⁴²

Glamis Gold Ltd. was acquired by **Goldcorp Inc.** in November 2006.¹⁴³ Goldcorp is one of the largest gold mining companies in the world with over 70% of its reserves situated in the NAFTA countries,¹⁴⁴ and is listed on the Toronto and New York stock exchanges. The company currently has 11 operations and 7 development projects throughout the Americas.¹⁴⁵

Glamis engaged the **International Finance Corporation (IFC)** in funding the project. IFC was founded in 1956 as the private sector financing arm of the World Bank Group and is

¹³⁶ IFC, (2007). Environmental Impact Assessment (EIA) Summary with attachments : Community Action Plan, Indigenous Peoples Action Plan, Environmental Impact Assessment Executive Summary, Other. Retrieved May 8, 2007, Web site:
<http://ifcln001.worldbank.org/IFCExt/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a?opendocument>

¹³⁷ Goldcorp Inc., (2005). Marlin Mine. Retrieved May 8, 2007, Web site:
http://www.goldcorp.com/gold_projects/marlin/

¹³⁸ CAO, (June 6, 2006). Guatemala - Marlin. Retrieved May 8, 2007, Web site:
http://www.cao-ombudsman.org/html-english/complaint_marlin.htm

¹³⁹ Glamis Gold Ltd.

¹⁴⁰ IFC, (no date). Basic Facts About IFC. Retrieved May 8, 2007, from International Finance Corporation Web site:
[http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/\\$FILE/Basic_Facts_2007.pdf](http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/$FILE/Basic_Facts_2007.pdf)

¹⁴¹ Glamis Gold Ltd.

¹⁴² Ibid.

¹⁴³ Goldcorp Inc., (Nov. 4, 2006). Goldcorp Completes Acquisition of Glamis. Retrieved May 8, 2007, Web site:
http://www.goldcorp.com/news_releases/index.php?mod=cnt&act=cnt&id=542

¹⁴⁴ Goldcorp Inc., (2005). Goldcorp Overview. Retrieved May 8, 2007, from Corporate Profile Web site:

http://www.goldcorp.com/about_us/overview/
¹⁴⁵ Goldcorp Overview, 2005

owned by its 179 member countries.¹⁴⁶ As of June 2005, IFC's worldwide committed portfolio was \$19.3 billion.¹⁴⁷

What Does IFC Do?

The aim of the International Finance Corporation (IFC) is to promote "private businesses in developing countries by making loans and equity investments, helping companies mobilize financing in the international financial markets, and providing advisory services to businesses and governments."

Source: IFC website,
[http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/\\$FILE/Basic_Facts_2007.pdf](http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/$FILE/Basic_Facts_2007.pdf)

In order to be eligible to receive financing from IFC, projects must fulfill three criteria. Projects must: (1) be profitable for investors, (2) benefit the economy of the host country, and (3) comply with stringent social and environmental guidelines.¹⁴⁸

According to the IFC website, Glamis requested IFC's participation in two aspects. The **first** was to assist Glamis in navigating the political situation in Guatemala and to help mitigate some of the risks of doing business there. At the time, there were very few significant mining projects in Guatemala, making it difficult to assess what the impact of the Marlin project would be. The **second** aspect of IFC participation was to assist Glamis in developing

partnerships with the local community so as to ensure that the project's benefits outweighed the negative impacts.¹⁴⁹

IFC provided Glamis with a \$45 million loan for the Marlin project and assisted the company in implementing its "environmental and social programs by working closely with the company, NGOs, local municipalities, and the community."¹⁵⁰

A Social and Environmental Impact Assessment, submitted to the government in June 2003 by Montana (a subsidiary of Glamis), outlined a description of the project. The length of the project was expected to be 13 years, with 1 year devoted to the construction of the mine, 10 years of operations and 2 years for the closure of the mine.¹⁵¹ The mine was designed according to North American standards and would include a dump site for waste, a mineral processing plant, a plant for neutralizing the residuals or tailings and a site for the neutralized tailings.¹⁵² (See Appendix 2, Figure 12)

¹⁴⁹ IFC, (2007). Summary of Project Information (SPI). Retrieved May 8, 2007, from International Finance Corporation Web site:

<http://ifcln001.worldbank.org/IFCExt/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/9e42e13df0ff8b3485256e61006d226a?opendocument>

¹⁵⁰ The World Bank, (2007). Oil, Gas, Mining & Chemicals. Retrieved May 8, 2007, from Glamis Gold Ltd.'s Montana Exploradora Marlin Project in Guatemala Web site:

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTOGMC/0,,contentMDK:20421886~pagePK:210058~piPK:210062~theSitePK:336930,00.html>

¹⁵¹ Montana Exploradora de Guatemala, S.A., (June 2003). Social and Environmental Impact Assessment Study. "Marlin Mining Project", Retrieved May 8, 2006, from [http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/\\$FILE/E&SIA%20Study%20Executive%20Summary.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/$FILE/E&SIA%20Study%20Executive%20Summary.pdf), p1-2.

¹⁵² Ibid.

¹⁴⁶ IFC, (no date). Basic Facts About IFC. Retrieved May 8, 2007, from International Finance Corporation Web site:

[http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/\\$FILE/Basic_Facts_2007.pdf](http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/Basic_Facts_FactSheet_2007/$FILE/Basic_Facts_2007.pdf)

¹⁴⁷ IFC, (no date). IFC in Brief. Retrieved May 8, 2007, from International Finance Corporation Web site:

[http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/IFC_in_Brief_2006/\\$FILE/IFC_in_Brief_2006.pdf](http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/IFC_in_Brief_2006/$FILE/IFC_in_Brief_2006.pdf)

¹⁴⁸ IFC, Basic Facts About IFC

The process of mining gold and silver at Marlin involves a number of steps:

First, the rock is crushed and ground by a jaws crusher and then by a mill. A sodium cyanide solution (called a 'lixiviation solution') is then added to the rock which is put in a vibrating sieve.

Second, the mixture remains in lixiviation tanks for a period of 72 hours whereupon a soluble component of precious metals is produced.

Third, a net enriched solution is prepared by separating the precious metal solution from the residual mud.

Fourth, the enriched solution travels through a circuit of precipitation with zinc and any solid residuals pass through a neutralization circuit and are then sent to the tailings deposit site. The cyanide solutions are re-used in future circulations.

Fifth, precipitation of the enriched solution takes place using zinc, producing gold and silver which is then filtered, dried and melted.

Lastly, any cyanide in the tailings is completely neutralized so that it does not pose a danger to the environment. The treated tailings are then placed in a reservoir. (See Appendix 2, Figure 13)

2.2. Pre-Mining Activities

In compliance with Government Resolution 23-2003, Montana submitted an initial environmental assessment (IEA) to Guatemala's Ministry of Environmental and Natural Resources. In June 2003, a full Social and Environmental Impact Assessment Study was completed by Montana and submitted to the government. The environmental impacts of the mine were identified and assessed using World Bank guidelines.¹⁵³

The most important **environmental impacts** identified in the Study included air quality, noise pollution, deforestation, water contamination and the change in the visible landscape.¹⁵⁴ The Study noted that air quality and noise pollution levels would remain within the limits allowed by the World Bank. A reforestation program was scheduled to begin in August 2003 to mitigate forest loss and to improve the visual landscape once the project was completed and a plan was put into place to mitigate the transportation of sediments into surface water.

The Study also examined the potential impact on the local economy, geomorphology, aquatic life and wildlife. Montana developed an environmental management plan which included the environmental policies and commitments made by Montana, plans for forestry and wildlife management, waste water treatment, waste management, environmental monitoring, health and safety plans and a plan for the abandonment and restoration of the area.¹⁵⁵

In February 2004, Montana submitted an **Montana, Indigenous Peoples Development Plan** to the IFC. This plan contained detailed information about the local communities in terms of population size, ethnicity, housing, education and basic utilities. According to Montana, company representatives met extensively with municipal and village officials to allow the dissemination of information about the project through open lines of communication, ensure community participation and input in the project and in other development projects funded by Montana.

The Marlin project is located in the town of San Jose Nueva Esperanza

¹⁵³ Social and Environmental Impact Assessment Study, p1-13

¹⁵⁴ Ibid., p1-16

¹⁵⁵ Ibid., p1-21

(107 inhabitants), near the communities of Agel (931 inhabitants) and San Jose Ixcaniche (370 inhabitants). Mam-Mayan peoples make up 93% of the local community and Mam is the main language spoken, although some also speak Spanish.¹⁵⁶ The majority of the population engages in subsistence farming of corn and beans but cannot produce enough to sustain themselves. Family members are often required to migrate periodically to the south coast to work on coffee and sugar cane plantations to supplement the family's income. It is estimated that 80% of indigenous residents, including women and children, are involved in this migration.¹⁵⁷

This **seasonal migration** was viewed as negative by the community due to the stressed incurred on family and community life due to the dislocation. The financial gains were also small due to low wages and the decrease in global coffee and sugar prices, leading to the fewer jobs. This seasonal migration also made it difficult for the landowners to tend to their own crops or develop improved agricultural techniques due to their frequent absence.¹⁵⁸ Some families receive remittances sent from relatives living in the US. Cattle are owned by some families.

¹⁵⁶ Social and Environmental Impact Assessment Study, p1-21

¹⁵⁷ Montana Exploradora de Guatemala, S.A., (Feb. 19, 2004). Montana, Indigenous Peoples Development Plan. Retrieved May 8, 2006, from [http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/\\$FILE/IPDP%2002-19-04.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/$FILE/IPDP%2002-19-04.pdf), p8.

¹⁵⁸ Montana Exploradora de Guatemala, S.A., (Feb. 20, 2004). Montana, Land Acquisition Procedures. Retrieved May 8, 2006, from [http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/\\$FILE/LAP%2002-20-04.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/$FILE/LAP%2002-20-04.pdf), p7.

It was expected that the mine would **employ** approximately 1000 people during the construction phase and around 200 while the mine was in full operation.¹⁵⁹ The company planned to recruit around 200 people from the local towns of San Miguel Ixtahuacan and Sipacapa to work at the mine.¹⁶⁰

Montana wanted to create a number of development projects that would assist the local community. Due to a lack of capacity of the local government to carry out these projects, Montana partnered with Citizen's Development Corps (CDC) to create Fundacion Sierra Madre.¹⁶¹

What is CDC?

Citizen's Development Corps (CDC) is a "non-profit organization that supports private sector development and economic growth in emerging and transitioning economies throughout the world by delivering practical strategies and solutions, high impact programs, and the expertise of experienced business professionals."

Source: CDC website,

<http://www.cdc.org/DesktopDefault.aspx>

Fundacion Sierre Madre (FSM) was created to provide long-term developmental assistance to the community both during and following the closure of the Marlin Mine in five main areas:

- (1) Health care,
- (2) Education and training,
- (3) Sustainable economic development,
- (4) Environmental programs,
- (5) Community infrastructure and local government capacity building projects.¹⁶²

FSM received a budget of US \$389,000 in its first year and an experienced

¹⁵⁹ Montana, Land Acquisition Procedures, p7

¹⁶⁰ Ibid., p1-5

¹⁶¹ Montana, Indigenous Peoples Development Plan, p11

¹⁶² Ibid., p10-11

Guatemalan was chosen to manage the Foundation.¹⁶³ A detailed monitoring plan was written to outline the cost estimates and financing of the projects for FSM in 2003, and a work plan was developed for 2004.

In February 2004, Montana submitted a report to the IFC on its **Montana, Land Acquisition Procedures** for the Marlin project. Although Montana owned the rights to all subsurface minerals within the 5 kilometer² area where the mine was to be constructed, it had to acquire the land surface from the local residents by purchasing, leasing or renting the land, or through other voluntary arrangements.¹⁶⁴

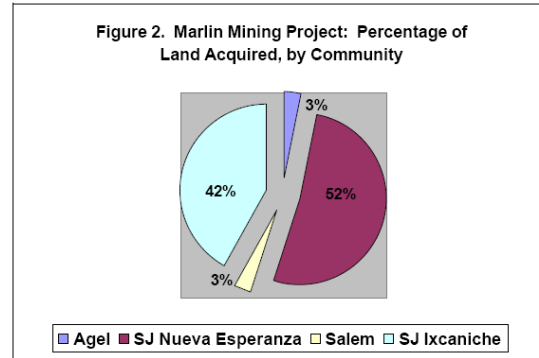
According to Montana, most landowners **preferred to sell** their land rather than resettle for the following reasons:

- (1) 90% of land owners did not reside on their property,
- (2) the price Montana offered for the property (Q 4,000/cuerda or US\$4,567/acre) was substantially higher than the value of comparable land in communities near the project (Q 350-1500/cuerda),
- (3) most of the land was only marginally arable and therefore not suitable for agriculture,
- (4) some landowners showed a desire to use the proceeds from the land for other business ventures such as transportation¹⁶⁵, and
- (5) for many landowners, the land was acquired relatively recently, so there was not a strong cultural attachment to the land.¹⁶⁶

The report acknowledged that the idea of resettlement held strong negative connotations for many of the indigenous people. This was due to

the fact that the Guatemalan government had forcefully resettled some indigenous peoples in the western highlands during the La Violencia of the 1970's and 1980's.¹⁶⁷

Figure 8: Land Acquisition by Community



Source: Peridot S.A., September 2003

Source: Montana, Land Acquisition Procedures, [http://ifcln001.worldbank.org/IFCExt/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/\\$FILE/LAP%2002-20-04.pdf](http://ifcln001.worldbank.org/IFCExt/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/$FILE/LAP%2002-20-04.pdf), p6.

As of February 2004, 89% of all land acquisition had taken place for the Marlin Mine.¹⁶⁸ \$4.6 billion was budgeted for land acquisition and compensation to landowners.¹⁶⁹ Over \$300,000 was budgeted in 2004 for the relocation of a municipal building, one school and two churches within the village of San Jose Nueva Esperanza.¹⁷⁰ Montana also created a Community Relations Department which would address grievances and charitable requests from local citizens.¹⁷¹

In February 2004, Montana submitted its **Montana, Public Consultation and Disclosure Plan** to the IFC. This Plan was intended to satisfy various aspects of Guatemalan mining and environmental law such as Article 45 which requires public consultation and

¹⁶³ Montana, Indigenous Peoples Development Plan, p14

¹⁶⁴ Montana, Land Acquisition Procedures, p1

¹⁶⁵ Ibid., p4

¹⁶⁶ Ibid., p1

¹⁶⁷ Ibid., p4

¹⁶⁸ Ibid., p9

¹⁶⁹ Ibid.

¹⁷⁰ Ibid., p3

¹⁷¹ Ibid., p9

Article 46 which gives the public the right to be involved in and/or oppose the issuance of a mineral exploitation license.

The Plan was also intended to satisfy the right of public consultation and disclosure as outlined in the ILO (International Labour Organization) Convention No. 169 (The Indigenous and Tribal Peoples Convention) which was ratified by the Guatemalan government in 1996. **Article 6** of the Convention requires consultation with indigenous communities on matters that may affect them and **Article 7** gives indigenous communities the right to participate in decision on matters that will affect them and requires that studies be performed to assess the effect of proposed actions on indigenous communities. **Article 15** requires that indigenous communities be consulted on mining projects and **Article 16** requires consultation on projects that require the transfer of indigenous lands.¹⁷²

In this Plan, Montana described in detail its **public consultation** and disclosure activities. Immediately following the acquisition of the Marlin project, Montana met with people from the local communities to identify the needs of the communities. In response to the needs that were identified in these initial meetings Montana did the following:

- (1) funded the salaries of two teachers and donated school supplies;
- (2) made repairs and improvements to water distribution systems in affected villages;
- (3) installed chlorinators in the water systems of San Miguel Ixtahuacan and Sipacapa and provided training for the operators;

¹⁷² Office of the High Commissioner for Human Rights, (2002). Convention (No. 169) concerning Indigenous and Tribal Peoples. Retrieved May 8, 2007, Web site: <http://www.unhcr.ch/html/menu3/b/62.htm>

- (4) improved several non-project access roads for communities near the project area, including the installation of storm drainage systems;
- (5) constructed a non-project road across the Tzala River for the Municipality of Sipacapa and;
- (6) sponsored several health and immunization clinics.¹⁷³

Concerning the **environmental aspects** of the Mine, Montana performed a number of public surveys of the affected communities during September 2002 and February 2003. As a response to the concerns voiced by citizens, Montana hired an experienced Central American specialist to develop a public consultation and disclosure process for the Marlin project and instituted measures to control dust and to repair damage on affected access roads.¹⁷⁴

Environmental monitoring and contingency planning committees made up of members from the local population were created and tours of the mine in operation and of the nearby communities were given to government officials, community leaders and the Guatemalan media.¹⁷⁵

To ensure that the public was aware of the availability of Montana's Environmental Impact Assessment (EIA), Montana put **notices** in local newspapers in both Spanish and Mam and paid for radio announcements on a widely listened to local radio station which were made three times a day for one week in both Spanish and Mam.¹⁷⁶

¹⁷³ Montana Explorada de Guatemala, S.A., (Feb. 24, 2004). Montana, Public Consultation and Disclosure Plan. Retrieved May 8, 2006, from [http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/\\$FILE/PCDP%20%2002-20-04.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bdc7285256e610054690a/$FILE/PCDP%20%2002-20-04.pdf), p4.

¹⁷⁴ Montana, Public Consultation and Disclosure Plan, p5

¹⁷⁵ Ibid., p8

¹⁷⁶ Ibid., p5

Montana also made the Executive Summary available in the affected villages via a CD player which contained a recorded version translated into Mam. A number of presentations on the EIA process and findings were also given to affected communities and other interested parties.¹⁷⁷

As the project moved from the exploration into the development stage, Montana continued to formalize the public consultation and disclosure process. An experienced Guatemalan national was hired to head the Marlin Project Community Relations Department and documentation and reporting components were instituted in the Department.¹⁷⁸ Indigenous Mam-speaking local residents were trained to form a “**Community Relations Group**” which held 83 community meetings attended by 5,491 people from the affected communities, held 9 open house meetings and gave 44 guided tours of the project to a total of 906 visitors.¹⁷⁹

FSM had planned to establish a Community Advisory Council (CAC), made up of local representatives, which would assist the foundation in its programs and activities.¹⁸⁰ This was intended to take place in 2004, but did not occur due to time and resource constraints. Plans were made for its formation in 2005.¹⁸¹

2.3. Impacts of the Mine

The Marlin Mine had a number of direct economic impacts on local

communities. In an April 28, 2005 news release, Glamis Gold claimed that of the \$4.8 million paid to Marlin employees, 84% went to Guatemalan residents and over \$2.4 million went to indigenous peoples from San Miguel Ixtahuacan and Sipacapa.¹⁸² It was estimated that the majority of the estimated 400 workers who will work at the mine over its operation will be primarily from the local communities.

Figure 9: View of the Mine from Above



Source: Glamis Gold website, <http://www.glamis.com/properties/guatemala/AMR/Enviro%20Audit%20and%20Review.pdf>

Local governments also benefited directly from the mine. According to Guatemala mining law, a 1% **royalty** on gross sales from gold and silver production must be paid to and split equally by the Guatemalan government and San Miguel Ixtahuacan. Montana agreed to voluntarily provide Sipacapa with a 0.1% royalty since a small part of the mine facility falls within the community's boundary.¹⁸³ These royalties are expected to amount to over \$14 million over the mine's lifetime, allowing for increased municipal budgets and improved infrastructure.¹⁸⁴

¹⁷⁷ Montana, Public Consultation and Disclosure Plan, p5

¹⁷⁸ Ibid., p6

¹⁷⁹ Ibid.

¹⁸⁰ Ibid., p7-8

¹⁸¹ Montana Exploradora de Guatemala, S.A., (March 31, 2005). Environmental and Social Performance: Montana, Annual Monitoring Report (AMR). Retrieved May 8, 2006, from http://www.goldcorp.com/resources/project_pdfs/marlin/amr.pdf, p19

¹⁸² Glamis Gold Ltd., (April 28, 2005). Glamis Highlights Marlin Project Benefits for Guatemala. News Release, Retrieved May 8, 2006, from <http://www.glamis.com/properties/index.html>

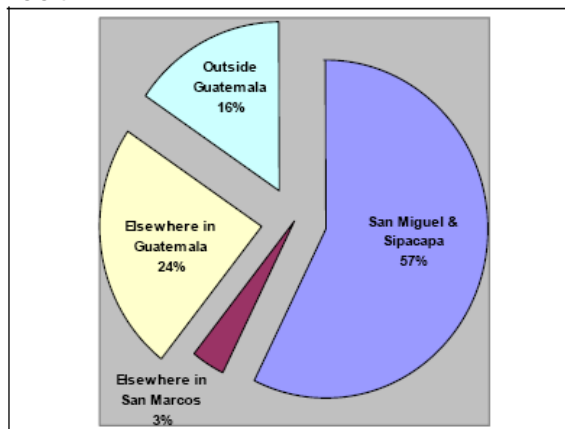
¹⁸³ Glamis News Release, 2005

¹⁸⁴ Ibid.

The government also gains increased **tax revenue** from the project. Montana has reportedly paid millions in tax payments and will pay \$6 million in property and social security taxes.¹⁸⁵ Income taxes will bring an estimated \$54 million of tax revenue to the country, although these payments will not commence until 2008.¹⁸⁶

Montana also claimed to have spent over \$2.5 million in **community development** and infrastructure initiatives over the previous two years and providing over \$400,000 of funding to Fundacion Sierra Madre (FSM), plus \$4 million in grants over the next ten years to fund the building of roads and bridges, 37 teachers' salaries, adult literacy programs, communal banks, vocational training and rural health initiatives.¹⁸⁷

Figure 10: Workforce by Residence, 2004



Source: Montana, Annual Monitoring Report, http://www.goldcorp.com/resources/project_pdfs/marlin/amr.pdf

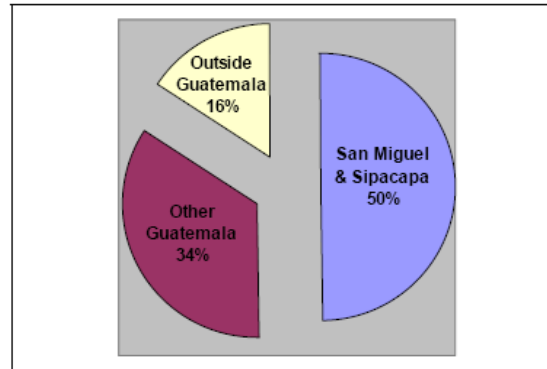
Glamis' 2004 Annual Monitoring Report provides greater detail about the impact of the mine on the local community. As of December 2004, Glamis had employed 1,527 people in the construction of the mine with the

¹⁸⁵ Glamis News Release, 2005
¹⁸⁶ Ibid.
¹⁸⁷ Ibid.

majority coming from San Miguel and Sipacapa (see Figure 9).

The total amount of the 2004 payroll was Q38,705,944 or US \$4,868,000¹⁸⁸ with around half of the salaries being paid to residents of San Miguel and Sipacapa (see Figure 10).

Figure 11: 2004 Payroll by Place of Residence



Source: Montana, Annual Monitoring Report, http://www.goldcorp.com/resources/project_pdfs/marlin/amr.pdf

Full-time employees of Montana receive company **benefits** such as health insurance, life insurance, accidental death and dismemberment insurance, overtime pay, Christmas bonus, 15 vacation days per year and transportation to and from the mine. Rotating employees who work several weeks per month do not receive life, medical or dismemberment insurance, nor do temporary employees.¹⁸⁹ Approximately 150 rotating employees were hired in December 2004.¹⁹⁰

Economic benefits are also derived from the purchase of **goods and services** by Montana. During 2004, Montana purchased US \$100,309 worth of goods and services from the San Miguel and Sipacapa communities.¹⁹¹ Out of the 40 primary residences purchased by Montana, 29 homeowners stayed within the same

¹⁸⁸ Montana, Annual Monitoring Report, p10
¹⁸⁹ Ibid.
¹⁹⁰ Ibid.
¹⁹¹ Ibid., p12

community and 11 moved to a different community, demonstrating that widespread dislocation did not occur.¹⁹²

The Marlin Project **Community Relations Group** held 100 discussions with 6,400 people during 2004 and conducted a total of 150 tours of the project for 2,574 people.¹⁹³ Montana also produced various forms of public communications including flyers, newsletters, pamphlets, videos, newspaper ads and radio announcements which were intended to provide local households with information about the project and specific issues relating to the mine.¹⁹⁴

According to Glamis' 2004 Annual Monitoring Report, a number of families did not have to migrate to the south coast during 2004 due to employment opportunities with the Marlin Mine.¹⁹⁵ A possible outcome of this was overall **increased school enrolment** in the communities of San Jose Ixcaniche, San Jose Nueva Esperanza, Salitre and Salem over the 2002 and 2004 period.¹⁹⁶ In 2004, Montana funded the salaries of teachers at nine schools, made improvements to eight schools and provided construction materials for four schools near the mine.¹⁹⁷

Montana made some **basic upgrades** to local communities, including the construction of chlorination systems in San Miguel and Sipacapa and training for water system operators, the provision of pipes to improve water distribution in San Jose Ixcaniche, improvements to the Agel water system and latrines to some of the

smaller communities.¹⁹⁸ According to the Report, 49 new businesses have been created in the communities near the mine, with 17 of those having a direct connection to the project.¹⁹⁹

Fundacion Sierra Madre (FSM) has performed a number of activities in each of its target areas:

(1) Health Care: 12 health care facilities and 9 medicine supply stores were renovated, 10,000 people in the surrounding communities were provided with basic health care services and training, health fairs were held in San Miguel Ixtahuacan and Sipacapa.²⁰⁰ FSM had previously partnered with a local NGO, APROSAMI, to deliver maternal health care services to 14 local communities.²⁰¹ In 2004 one doctor and a nurse's aide were added to APROSAMI's health care staff.

(2) Education and Training: Vocational training was provided in conjunction with the government agency Instituto Tecnico de Capacitacion y Productividad (INTECAP). The program allowed local men and women to be trained in trades such as masonry, plumbing and carpentry in order to be employed in the construction and operation of the mine.

(3) Sustainable Economic Development FSM provided training and marketing assistance for indigenous women with the assistance of the Foundation of Financial Consulting and Development of Social Service Institutions (FAFIDESS). 72% of participants of FSM training courses in 2004 were women, and women comprised all 311 members of the 17

¹⁹² Montana, Annual Monitoring Report, 2004, p13

¹⁹³ Ibid., p17

¹⁹⁴ Ibid.

¹⁹⁵ Ibid., p20

¹⁹⁶ Ibid., p24

¹⁹⁷ Ibid., p27

¹⁹⁸ Ibid., p22

¹⁹⁹ Ibid., p23

²⁰⁰ Ibid., p27

²⁰¹ Ibid., p12

communal banks which were created in 2004 by FDM/FAFIDESS.²⁰²

(4) Environmental Services and Development: Extensive reforestation was performed within the project areas and in San Miguel Ixtahuacan y Sipacapa in 2004 to approximately 117 hectares of land.²⁰³ 78 land owners benefited from these reforestation activities and will receive technical assistance from Montana for five years which includes ground preparation, fertilizers and pest control products.

(5) Infrastructure and Local Capacity Building: Montana built a road leading from the mine to the Pan American Highway, giving previously remote villagers access to major commerce centers.²⁰⁴ A bridge on a non-project road was also constructed by Montana, allowing direct access between San Miguel Ixtahuacan and Sipacapa. FSM also provided assistance to local municipalities in the areas of budgeting, financial controls and transparency in order to increase government efficiency in these areas.²⁰⁵

2.4. Conflict

Despite efforts made by Glamis to communicate with local community members and to provide local communities with benefits from the mine, conflict surrounding the mine began to take place. According to an article in the Guatemalan newspaper Prensa Libre on November 4, 2004, 95.5% of those surveyed by Vox Latina were against the mining project.²⁰⁶ 83.5% of those polled

believed that the mine would create environmental destruction in the area and would have an overall negative impact.²⁰⁷

In November 2004, an open letter to President Berger from the **Frente por la Vida coalition** accused the previous Portillo government²⁰⁸ of issuing the permit for the Marlin mine without the consent of the affected indigenous communities,²⁰⁹ directly contravening ILO Convention 169. The coalition called for a halt in the construction of the mine, a ban on the use of cyanide in Guatemala's Mining Law, and for Guatemala's Mining Law to be brought in line with ILO Convention 169 which would require the prior and informed consent of affected indigenous communities before mining exploration permits are provided.²¹⁰

The letter also expressed **concerns** with the water usage of the mine, the long-term destruction of the environment, water contamination, cyanide leakage, the possibility of violence and conflict, and the loss of agricultural jobs, culture and social cohesion.²¹¹ The letter was signed by ten organizations including the Canadian Auto Workers, Rights Action Canada and MiningWatch Canada.

http://www.miningwatch.ca/index.php?/Guatemala/Cdn_govt_support

²⁰⁷ Ramirez, Alberto, 2004

²⁰⁸ Vogt, Daniel (Jan. 10, 2005). 40 Days of Protest Against Glamis Gold's Marlin Mine in Guatemala. Retrieved May 8, 2007, from MiningWatch Web site:

http://www.miningwatch.ca/index.php?/Guatemala/40_Days_of_Protest

²⁰⁹ MiningWatch, (Dec. 21, 2004). Glamis Gold Accused of Violating Indigenous Rights. Retrieved May 8, 2007, Web site:

http://www.miningwatch.ca/index.php?/Guatemala/Glamis_Accused_of_Violating_Indigenous_Rights

²¹⁰ Ibid.

²¹¹ Ibid.

²⁰² Montana, Annual Monitoring Report, p28

²⁰³ Ibid., p51

²⁰⁴ Ibid.

²⁰⁵ Montana, Indigenous Peoples Development Plan, p14

²⁰⁶ Ramirez, Alberto (Nov. 4, 2004). Opposition to mining activity in San Marcos. Retrieved May 8, 2007, from MiningWatch Web site:

A report by Sandra Cuffe of the NGO **Rights Action** written in early January 2005 stated that growing opposition to the mine was taking place and that "the vast majority of the population in the affected municipalities...are opposed to the project and have not been properly consulted."²¹²

The **first violent incident** took place in December 2004 when trucks carrying milling cylinders for the project became stuck about 150 km from the mine in the town of Los Encuentros.²¹³ According to Glamis, the transportation contractor had received permits to dismantle two pedestrian bridges that would block the passage of the trucks. As the workers from the transport company tried to cut away part of the bridge so that the trucks could pass, around 2000 local indigenous people gathered to protest the convoy and construct a blockade.²¹⁴

As a result, a small vehicle carrying tools and fuel for the mine was set on fire and four employees were injured.²¹⁵ Tensions mounted for over the next 40 days during which time crowds returned to the site each time attempts were made to move the trucks.²¹⁶ On January 10, 2005, the Guatemalan police force and the national army were dispatched, resulting in the death of one farmer, Raul Castro Bocel and in several injuries.²¹⁷ Glamis contends that there is no clear evidence that the death was

a result of the confrontation between the police and demonstrators.²¹⁸

In March 2005, **two more violent incidents** occurred. 23-year-old Alvaro Benigno Sanchez, a bus driver for a contractor company,²¹⁹ was attacked and killed by two men who worked for Grupo Golan, the security company that was hired by Montanta for the Marlin project.²²⁰ The two men, who were not on duty at the time of the attack, hit Benigno and shot him five or six times.

In the same month, a vehicle owned by the indigenous rights group Fundacion Maya was set on fire and **death threats** directed at staff member Carlos Humberto Guarquez, local mayor Dominga Vasquez and her journalist husband Alfonso Guarquez (brother of Carlos Humberto Guarquez), were left around the burning vehicle.²²¹ This took place in the municipality of Solala which is located approximately 120 km from the Marlin project.²²²

Despite the conflict, construction of the mine remained on schedule. Glamis put out a news release on April 20, 2005, in response to the events of March 13. According to this news release, the killing was the result of a private dispute between the men and

²¹² Cuffe, Sandra (Jan. 10, 2005). Report on Mining in Guatemala. Retrieved May 8, 2007, from MiningWatch Web site: http://www.miningwatch.ca/index.php?/Guatemala/Cuffe_report

²¹³ CAO Assessment, 2005, p4

²¹⁴ Vogt, Daniel, 2005

²¹⁵ Montana, Annual Monitoring Report, 2004, p15

²¹⁶ Ibid.

²¹⁷ Vogt, Daniel, 2005

²¹⁸ Montana, Annual Monitoring Report, 2004, p15

²¹⁹ Glamis Gold News Release, 2005

²²⁰ Crossin, Corine, & Banfield, Jessie (Jan. 2006). Conflict and Project Finance: exploring options for better management of conflict risk. *International Alert*, Retrieved May 8, 2007, from <http://www.international-alert.org/publications/getdata.php?doctype=Pdf&id=236&docs=721>.

²²¹ MiningWatch, (April 5, 2005). Death Threats in Guatemala Against Community Leaders Opposing the Mining Operations of Glamis Gold, a Canadian/U.S. Mining Company. Retrieved May 8, 2007, Web site: http://www.miningwatch.ca/index.php?/Guatemala/AI_UA_Glamis

²²² Glamis Gold News Release, 2005

Glamis representatives assisted the Sanchez family in filing charges against his assailant. Glamis also filed charges for the theft of one of its vehicles and pledged the company's full cooperation with law enforcement authorities in this matter.²²³

Glamis stated that the use of force is only to take place under very extreme circumstances, and that this policy had been reviewed with the security contractor prior to being hired. As a result of the incident, Glamis' operating and security procedures were to **undergo review** to ensure that similar events did not take place.

Glamis' President and CEO, Kevin McArthur, stated "the company has no knowledge of any individuals or organizations taking hostile action or making threats toward Guatemalan citizens or others who have criticized the Company's efforts. Furthermore, the Company has zero tolerance for, does not condone and would never support such activities under any circumstances."²²⁴

2.5. Environmental Concerns

Due to concerns about the environmental impact of the mine, Guatemalan NGO Madre Selva hired an independent hydrogeologist, Robert Moran, to review Montana's **Environmental Impact Assessment (EIA)**. The release of the report in February 2004 reached the conclusion that the Marlin project EIA failed to include a great deal of technical data that other EIA's normally contain, such as information on rock geochemistry, baseline water quality, well completion date, aquifer testing and site rainfall.²²⁵ The report also concluded

that the environmental impacts of the mine would likely be much more significant than what was presented in the EIA.

Issues such as increased competition for water, water contamination, and environmental degradation following the closure of the mine were also raised in the report, suggesting that Montana had been overly optimistic in its portrayal of the mine's benefits while overlooking some important risks. Moran also showed that although Montana's EIA made numerous statements that it would comply with World Bank guidelines, this meant very little due to the overall weakness of those guidelines.

For example, a number of **toxins** such as chloride, nitrate and ammonia were not included in IFC guidelines, and the allowable levels of other toxins such as arsenic, cadmium and lead are much higher than the levels allowed in Canada or the US.²²⁶ Due to the failure of Montana to include certain basic details in its EIA, Moran concluded that the EIA "would not be acceptable to regulatory agencies in most developed countries" including Canada, the US and the EU.²²⁷

According to the 2004 Annual Monitoring Report, Montana's environmental monitoring program, the following would be monitored every three months: discharges and liquid effluents from the project, noise levels, air quality, water quality and socioeconomic conditions in nearby communities.²²⁸

²²³ Glamis Gold News Release, 2005

²²⁴ Ibid.

²²⁵ Moran, Robert E. (Feb. 2004). New country, same story: Review of the Glamis Gold Marlin Project EIA, Guatemala. Retrieved May 8, 2006, from

http://www.miningwatch.ca/updir/Moran_Marlin_rpt_Feb_2005.pdf, p10

²²⁶ Ibid., p8

²²⁷ Ibid., p10

²²⁸ Montana, Annual Monitoring Report, 2004, p16

2.6. Result of the Conflict

In January 2005, a formal complaint was filed with the IFC's **Compliance Advisor Ombudsman (CAO)** by the Colectivo MadreSelva, representing indigenous people in Sipacapa. The complaint expressed the concerns that the indigenous people had not been informed about or consulted with on the project, thus violating ILO Convention 169.²²⁹

There were also **fears** expressed about the usage of cyanide in the project, the irreversible long-term damage this could cause to the health and environment of the surrounding areas,²³⁰ crises that have occurred in other operation sites in tropical and subtropical zones, fears that the subsidiary could shut down, leaving behind environmental contamination and destruction at the expense of the affected communities,²³¹ and the over-usage of water the project in an area of water scarcity.²³²

In response, the CAO met with the IFC project team, reviewed the project, and sought a technical review of the EIA by an independent source.²³³ The CAO issued an assessment report in September 2005 and performed two follow-up missions in October 2005 and January-February 2006. The complaint has since been closed.

²²⁹ Colectivo MadreSelva, (Jan. 28, 2005). Complaint Against the International Finance Corporation/World Bank. Retrieved May 8, 2007, Web site: <http://www.cao-ombudsman.org/pdfs/Complaint-English%20Translation1.pdf>, p1 of 8

²³⁰ Colectivo MadreSelva, p4 of 8

²³¹ Ibid., p6 of 8

²³² Ibid., p7 of 8

²³³ CAO, (June 6, 2006). Guatemala - Marlin. Retrieved May 8, 2007, Web site: http://www.cao-ombudsman.org/html-english/complaint_marlin.htm

Section 3: Measuring the Reverse Flow of Risk

In her paper entitled "Private Sector Risk Analysis and Conflict Impact Assessment: Measuring the Reverse Flow of Risk", Leah Berger identifies a number of risk assessment indicators used to measure the reverse flow of risk, designed explicitly for MNCs involved in resource extraction. Reverse flow of risk is "the risk of a company aggravating a conflict situation"²³⁴ due to its activities in a given area.

An analysis of these indicators seem to indicate that despite efforts by Montana to mitigate the risk factors present, the company directly or indirectly aggravated the conflict situation, causing a reverse flow of risk.

3.1. Geographic Impact of the Conflict

An MNC's decision to operate in a conflict-affected area is directly impacted by the perceived geographic reach of a conflict.²³⁵ Due to the relative stability of the country since the signing of the Peace Accords, Guatemala seemed to have a good investment environment. However, a country analysis suggests that there is latent conflict in the country, especially in the countryside, as a result of Guatemala's long history of civil war.

In its report, the CAO stated, "neither the IFC nor the project anticipated the possibility of localized conflict arising as a result of the project."²³⁶ Yet despite attempts made by Montana to ensure that benefits from the mine would be felt by local populations, localized conflict did occur in both January and March 2005.

²³⁴ Campbell, Ashley, p2

²³⁵ Berger, Leah, p23

²³⁶ CAO Assessment, 2005, pii

Given the complexity of events surrounding the January 2005 incident, it is difficult to determine whether the violence that took place was aggravated by the mine, the Guatemalan police force, misinformation that was spread about the mine²³⁷, or a combination of all three factors.

The fact that the violence took place 100-150 km away from the mine suggests that greater efforts will need to be made to ensure accurate dissemination of information throughout the region in order to reduce the reverse flow of risk the company may have on the impacted area.

3.2. Attitude and Policies of the Government and Opposition

The government had been pursuing policies to attract increased foreign investment in Guatemala, particularly in the extractive sector. For example, the government had enacted the new Mining Law which lowered the 6% royalty rate to 1%.²³⁸ There does not seem to be any evidence of armed opposition to the project in the region prior to the construction of the mine.

The burning of a company truck in January 2005 which took place as part of the 40-day riot appears to be an isolated case of outright hostility towards the mine, although it may be indicative of widespread sentiment towards the mine.

Similar to the January 2005 incident, this situation may have been avoided through increased dissemination of information about the project. It may be very difficult for Montana to address this problem now since there

are high levels of distrust among the many of the affected communities.

3.3. Human Rights

Human rights and, more specifically, indigenous rights, play a fundamental role in the conflict surrounding the Marlin Mine and the reverse flow of risk of the mine in the surrounding areas. The context surrounding the mine is one of increased awareness of the rights of indigenous people in Guatemala. ILO Convention 169 states that indigenous peoples should be consulted about exploration projects that take place on their land, although the sub-surface resources remain the property of the state.

The CAO was unable to find any evidence of government consultation with local communities before exploration licenses were granted for the area of the Marlin Mine.²³⁹ Some have suggested that, due to this apparent lack of consultation, the exploration licenses were granted illegally by the Guatemalan government and therefore Montana is operating illegally in the area.

As of September 2005, this case had been brought before the Inter-American Human Rights Commission (IAHRC), but a decision had not yet been made.²⁴⁰ A decision that is not in favour of Montana could have severe negative impacts on the project and lead to renewed conflict in the area.

3.4. Severity of the Conflict

Due to increasing conflict, Montana contracted out the hiring of security guards through a private company. This action, although common among MNCs, can lead to the use of force against a country's own citizens by the security personnel.²⁴¹ The March 2005

²³⁷ CAO Assessment 2005, p37

²³⁸ Ibid., p6

²³⁹ Ibid., p28

²⁴⁰ Ibid.

²⁴¹ Berger, Leah, p35

incident in which an off-duty security guard shot and killed a local resident may be such an occurrence, or it may simply be the result of a private dispute, as Glamis Gold has alleged.²⁴² As of September 2005, the police were still investigating the crime.²⁴³

Critics argue, however, that the World Bank Group and the IFC did not have policies in place that related to human rights and the management of security forces.²⁴⁴ Thus, better policies on security hiring and practices may reduce the reverse flow of risk that the mining company places on the community in which it mines.

3.5. Development Induced Displacement

Two important indicators of development induced displacement include the average amount of compensation per household as a result of displacement and the number of consultative meetings held with local groups/leaders.²⁴⁵ According to Montana, all landowners were fairly compensated for the land sold to Montana for the project and that actual levels of displacement were quite small since the majority of landowners lived elsewhere.

The CAO report found that no complaints had been brought to the Guatemalan Human Rights Ombudsman or any other investigators by people who had sold land to Montana.²⁴⁶ Montana maintains that it engaged in extensive consultations with local residents through village meetings, surveys, and individual meetings with landowners.²⁴⁷

Furthermore, according to Montana, a large number of families have been able to stay in the area year-round instead of migrating to the south coast for work, due to employment opportunities at the mine. The CAO report suggested that Montana's practice of hiring locally seemed to have prevented the in-migration of those outside of the community in search of employment. Thus, Montana appears to have overcome the negative aspect related to displacement, thus reducing the reverse flow of risk caused by development induced displacement.

3.6. Private Sector Investment

Development of the private sector has taken place as a result of deliberate investments by Glamis. Fully 50% of the payroll went to those from San Miguel and Sipacapa in 2004 and 34% went to other Guatemalans. Between 2003 and 2004, Montana spent approximately \$741,929 on 149 community development projects in San Miguel Ixtahuacan and Sipacapa.²⁴⁸ These projects included improvements made to non-project roads, improvements to municipal, school and church facilities, funding for teachers and school supplies and other charitable contributions.

Fundacion Sierra Madre (FSM) has provided training and capital which has allowed local individuals to start new businesses such as hand-sewing rock bags for the mine's geologists, chicken farming and a forest nursery project. Through these types of investments, Glamis has reduced the reverse flow of risk in the area by seeking to foster a positive relationship with the local communities and enhancing local economic development.

²⁴² Glamis Gold News Release, 2005

²⁴³ CAO Assessment, 2005, p34

²⁴⁴ Ibid.

²⁴⁵ Berger, Leah, p38

²⁴⁶ CAO Assessment, 2005, p29

²⁴⁷ Glamis Gold News Release, 2005

²⁴⁸ Montana, Annual Monitoring Report, 2005, p29

3.7. Social Development

As discussed above, Glamis has made a number of financial contributions to enhance the social development of the local communities of San Miguel and Sipacapa. These contributions have included payments for teachers salaries, school improvements, health centre improvements, the provision of basic health services, health fairs, the installation of chlorination systems in the municipal water systems and trained staff, and latrine installation.

Priority target groups for poverty reduction strategies by the company included indigenous households and women. The investments made by Glamis were aimed to improve the overall living standards of the communities, thus reducing the reverse flow of risk by the company.

Residents in San Miguel benefited the most from these investments to the local community since 85% of the mine falls within the municipality of San Miguel. As a result, tensions arose in Sipacapa due to misinformation about the mine as well as displeasure that residents of San Miguel had been receiving greater benefits from the mine and related community development projects. This has led to anger and feelings of resentment and exclusion among those in Sipacapa. These concerns led, in part, to the formal complaint submitted to the CAO.

The CAO report remarked that efforts have been made to provide a more equitable (but not equal) distribution of benefits and opportunities between the two municipalities. More open lines of communication may help to reduce the reverse flow of risk in this situation, although the CAO acknowledges that the mistrust of the mining company among those in Sipacapa will make open dialogue extremely difficult.

3.8. Environmental Degradation

The formal complaint submitted to the CAO by Sipacapa residents was also based largely on environmental concerns. Sipacapa residents were concerned that the mine would impede their access to local water supplies and that the mine would contaminate their water supply. The CAO concluded that Sipacapa's water supply would not be affected by the mine, however, these findings have been challenged by an independent hydrologist who concluded that there is "a reasonable likelihood of significant degradation of water quality, especially in the years following mine closure."²⁴⁹

In its September 2005 response to the CAO's report, MadreSelva called again for the IFC and World Bank Group (WBG) to withdraw their support for the Marlin Project. Although there are those in the local communities who support the mine, the failure to adequately address these environmental concerns adds to the reverse flow of risk posed by the company.

Section 4: Scenarios

4.1. Worst Case Scenario

The worst case scenario would consist of an exacerbation of tensions leading to outright violence in the region. This outcome could be likely if the Inter-American Human Rights Commission (IAHRC) finds the mine to be operating illegally, leading to increased hostility towards the mine and mine workers. The failure of Glamis to provide more benefits and opportunities which are

²⁴⁹Moran, Robert E. (Sept. 22, 2005). Letter to CAO. *Annex: CAO Marlin Mine Assessment: Technical Responses*, Retrieved May 8, 2006, from http://www.cao-ombudsman.org/html-english/documents/MadreSelvaResponseCAOAssessmentReportEnglishwithTechnicalReviewAnnex_English_000.pdf, p7 of 18.

perceived as being more equitable to residents of Sipacapa could also lead to increased hostilities.

Finally, contamination of the water supply by the project would most likely lead to anger and perhaps acts of violence within the effected communities. Failure of the company to provide what is perceived by local residents to be an adequate amount of money for future contingency plans in the case of mine closure and water contamination will also negatively affect the reverse flow of risk by the company.

4.2. Best Case Scenario

The best case scenario would entail a decrease of tensions in the area with respect to mine operations. This could occur if the Inter-American Human Rights Commission (IAHRC) determines that mine operations are taking place legally and if mine operators continue to work with local communities to open the lines of communication. Residents of all local communities must be able to experience tangible benefits as a result of the mine, which could include economic benefits and job opportunities, educational opportunities, an enhanced health care system and improved infrastructure such as new roads and bridges.

The government would be fully involved in all aspects of regulating the mine and play an enhanced role in using mine revenue to benefit the indigenous people. The indigenous people would feel a greater sense of entitlement over their land and empowerment in making decisions for their families and communities as a result of increased consultation by the government and Glamis.

Tensions would also lessen as a result of increased transparency and efforts made by Glamis to address the

environmental concerns put forward by Sipacapan residents, the CAO and independent specialists in hydrology. This scenario would lead to a minimal reverse flow of risk, enhanced development of the area and the ability to use the Marlin Mine as a model for future successful extractive developments.

4.3. Most Likely Scenario

Based on an assessment of the current situation, it seems the most likely scenario would be one in which tensions will remain in the affected communities, but may be overcome by meaningful efforts on the part of Glamis to re-establish trust with the affected communities and to take real steps in addressing the issues brought forward in the CAO report and in the letter by MadreSelva.

In order to gain the support of the communities, it seems Glamis must be able to provide equitable benefits and opportunities to local residents in the form of both employment and community development activities. Glamis must also ensure to the best of its ability that the security forces protecting the mine do not engage in acts of violence toward local residents. Regardless of the outcome of the IAHRC decision, it seems clear that Glamis must work more closely with the indigenous populations in all phases of the project, and ensure that its dealings with the Guatemalan government are above dispute.

Glamis must also ensure that the concerns of local communities and independent sources regarding environmental degradation are dealt with adequately. This would likely include plans for substantial financial compensation to deal with water contamination during both the life of the mine and following the closure of the mine for a reasonable amount of time. If Glamis is able to accomplish

these difficult tasks, the mine may be able to bring enhanced economic and social development to the area and pave the way for future extractive industry developments in Guatemala.

Conclusion

The relative stability that existed in Guatemala following the 1996 Peace Accords and efforts made by the Guatemalan government to promote mining, seemed to create a welcoming environment for investment in mining projects in Guatemala. Despite the attractiveness of the Western Highlands as a site for mine development, certain factors could not be overlooked, such as the historical lack of indigenous rights and violence towards indigenous people in the region, extreme levels of poverty, a lack of health care, and low levels of training and education.

Company documents suggest that Glamis realized the risks these factors posed to any mining project, and made a number of efforts to mitigate the risks through various development projects and other activities. Yet, despite all these efforts, public dissatisfaction towards the mine has grown and violent incidents and death threats have occurred which seem to be related directly or indirectly to the Marlin Mine. As a result, demands have been made for the relinquishing of IFC loans and the closure of the mine. Thus, it can be concluded that a reverse flow of risk, or the risk of a company aggravating a conflict situation, has occurred.

The main area of concern seems to be the accusation that Glamis is operating illegally and violating the human rights of the indigenous people under Convention 169 of the ILO. The lack of evidence regarding initial

consultations prior to exploratory work in the area is certainly worrisome. It appears the IFC should have made more of an effort to ensure that full consultation of the local indigenous communities had taken place before granting the \$45 million loan.

Even though there are records of more recent consultations performed by Glamis with local communities, the concerns raised by these communities, noted by the CAO, cast some doubt as to the extent and effectiveness of these consultations. The question that can be raised for future developments is 'how much consultation is necessary and who determines whether the amount performed is sufficient?' This is an area that could benefit from further examination.

Other major concerns with the Marlin Mine include the risk of environmental degradation posed by the mine - both during the life of the mine and well into the future - as well as the need for policies on security and human rights by Glamis and the IFC. Conflicting information on both these issues detracts from the credibility of Glamis and of the IFC as a body to promote and enforce corporate social responsibility (CSR).

In both these cases, it seems the IFC should have been more accountable in ensuring that the procedures it had in place were of the highest quality and were being fully implemented by the recipient of the loan. This finding supports the idea that both corporations and lending institutions are responsible for corporate social responsibility (CSR) and that more work needs to be done to ensure that the policies and procedures prescribed by lending institutions relate directly to the context surrounding the borrowing institution.

Appendices

Appendix I: CIFP Risk Weighted Scores for Guatemala, 2005/2006

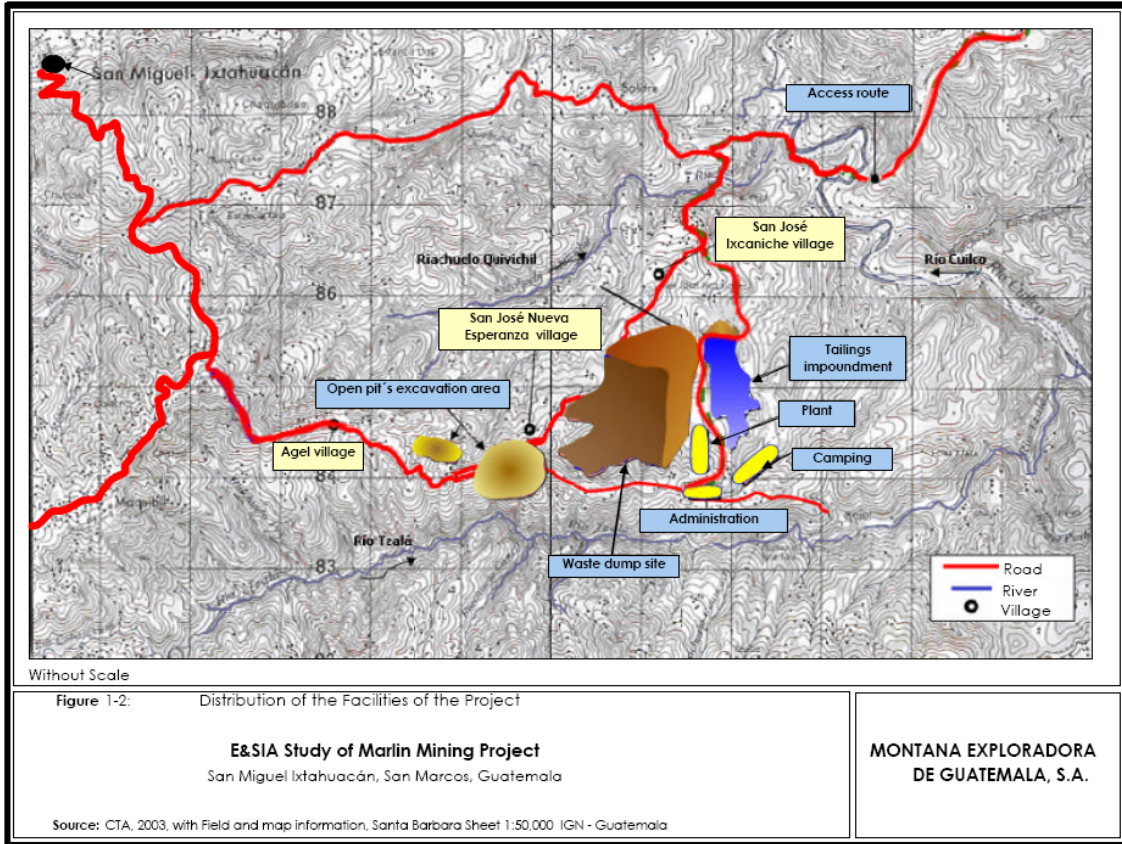
Guatemala	Global Rank Score	Trend Score	Volatility Score	Sum	Avg.	Weighted Avg.
History of Armed Conflict					3.47	27.73
Armed Conflicts	1.0	0.0	0.0	1.0		
# of Refugees Produced	5.0	0.0	1.0	6.0		
# of Refugees Hosted, IDPs, Others of Concern	2.4	0.0	1.0	3.4		
Governance and Political Instability					7.06	35.28
Level of Democracy	3.2	0.0	2.0	5.2		
Regime Durability	7.3	0.0	1.0	8.3		
Restrictions on Civil and Political Rights	5.6	0.0	0.0	5.6		
Restrictions on Press Freedom	5.4	1.0	2.0	8.4		
Level of Corruption	7.8	-1.0	1.0	7.8		
Militarization					3.95	19.75
Total Military Expenditure (Constant 1998 US\$ millions)		
Military Expenditure (% of GDP, Constant 1998 US\$)	1.2	0.0	1.0	2.2		
Imports of Maj. Conv. Weapons	2.0	0.0	0.0	2.0		
Total Armed Forces	5.0	0.0	0.0	5.0		
Total Armed Forces (per 1,000)	4.6	0.0	2.0	6.6		
Population Heterogeneity					6.00	24.00
Ethnic Diversity	6.0	single measure	single measure	6.0		
Religious Diversity		
Risk of Ethnic Rebellion (Single Measure)	6.0	single measure	single measure	6.0		
Demographic Stress					6.33	31.67
Total Population	6.0	exempt*	exempt	6.0		
Population Growth Rate (Annual %)	8.4	0	0	8.4		
Population Density (people per sq km)	6.0	exempt*	exempt	6.0		
Urban Population (% of Total)	3.0	exempt*	exempt	3.0		
Urban Population Growth Rate (Annual %)	6.6	0.0	0.0	6.6		
Youth Bulge (Pop. Aged 0-14 as a % of Total)	8.0	-1.0	1.0	8.0		
Economic Performance					5.91	47.29
GDP Growth Rate (Annual %)	5.8	0.0	0.0	5.8		
GDP Per Capita (PPP, Current International \$)	6.0	0.0	0.0	6.0		
Inflation [Consumer prices (annual %)]	6.6	0.0	1.0	7.6		
Official exchange rate (LCU/US\$, period avg.)	4.2	0.0	0.0	4.2		

FDI [Net inflows (% of GDP)]	7.2	0.0	0.0	7.2		
Total Debt Service (% of GNP)	2.6	0.0	0.0	2.6		
Trade Openness (Trade as a % of GDP)	8.0	0.0	0.0	8.0		
Inequality Score (GINI Coefficient)	8.0	single measure	single measure	8.0		
Foreign Aid (% of GNI)	3.8	0.0	0.0	3.8		
Human Development					6.47	19.42
Access to Improved Water Source (% Tot. Pop.)	4.0	single measure	single measure	4.0		
Access to Sanitation (% Tot. Pop.)	5.0	single measure	single measure	5.0		
Life Expectancy (Years)	6.0	-1	1	6.0		
Infant Mortality Rate (per 1000 live births)	6.0	-1	1	6.0		
Maternal Mortality Rate (per 100,000 live births)	6.0	single measure	single measure	6.0		
HIV/AIDS (% of Adult Population)	6.0	0	2	8.0		
Primary School Enroll (% Relevant Age Group)	6.4	0	2	8.4		
Secondary School Enroll (% Relevant Age Group)	7.8	-1	2	8.8		
Literacy rate, adult total (% of people ages 15 and above)	7.0	-1	1	7.0		
Health expenditure per capita (current US\$)	5.0	0	1	6.0		
Child Labour (% Children aged 10-14)	5.0	-1	2	6.0		
Environmental Stress					6.47	32.33
Rate of Deforestation (Percent)	8.0	single measure	single measure	8.0		
Arable Land (hectares per person)	6.4	0.0	1.0	7.4		
Freshwater Resources (cubic meters per capita)	4.0	single measure	single measure	4.0		
International Linkages					5.20	26.00
Economic Organizations Index	3.0	single measure	single measure	3.0		
Military/Security Alliances Index	9.0	single measure	single measure	9.0		
UN Organizations Index	3.0	single measure	single measure	3.0		
Multipurpose and Miscellaneous Orgs. Index	4.0	single measure	single measure	4.0		
International Disputes	5.0	1	1	7.0		
Unweighted Sum					50.86	
Unweighted Average					5.65	
Total Weighted Sum						263.47
Risk Index (Weighted Average)						5.49

*Note: Population, Population Density and Urban Population are exempt from trend analysis in this calculation because globally, and almost without exception, these variables always increase and have a positive trend score. Instead, CIFP emphasizes trends

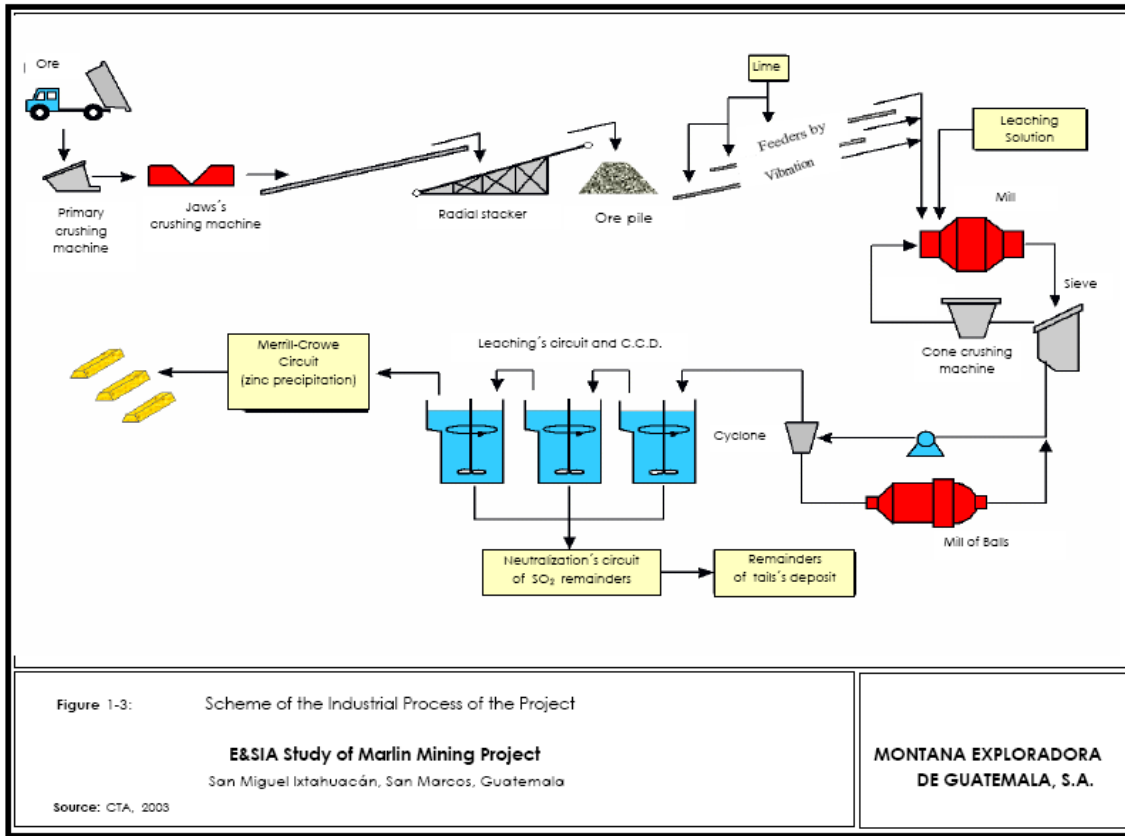
Appendix 2: Additional Figures

Figure 12: Marlin Project Facilities



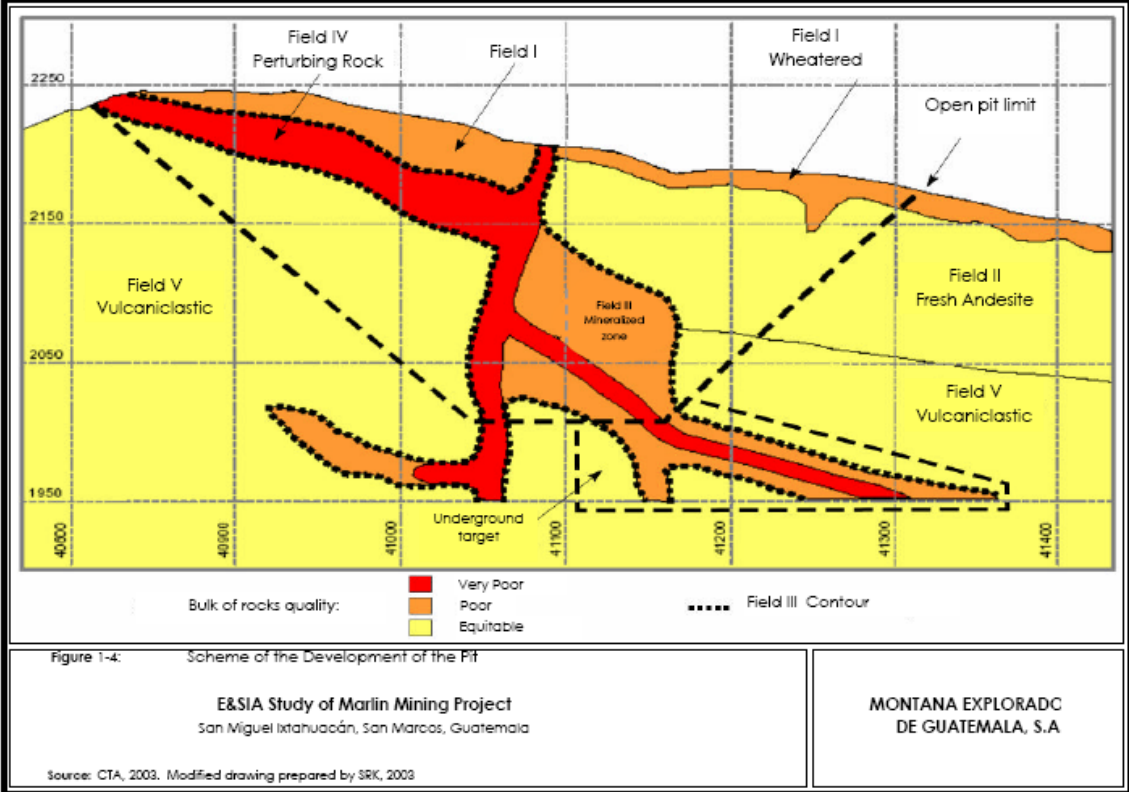
Source: Social and Environmental Impact Assessment Study,
[http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/\\$FILE/E&SIA%20Study%20Executive%20Summary.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/$FILE/E&SIA%20Study%20Executive%20Summary.pdf)

Figure 13: The Mining Process



Source: Social and Environmental Impact Assessment Study,
[http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/\\$FILE/E&SIA%20Study%20Executive%20Summary.pdf](http://ifcln001.worldbank.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/$FILE/E&SIA%20Study%20Executive%20Summary.pdf)

Figure 14: Cross-section of the Pit



Source: Social and Environmental Impact Assessment Study,
[http://ifcln001.worldbank.org/iftcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/\\$FILE/E&SIA%20Study%20Executive%20Summary.pdf](http://ifcln001.worldbank.org/iftcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/60b8beb20d6bd6c7285256e610054690a/$FILE/E&SIA%20Study%20Executive%20Summary.pdf)

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