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English translation

To the President of the World Bank

Mr. James Wolfenhson

And to the Ombudsman

International Financial Corporation

We, the undersigned, as members of the Guatemalan society, do appear before you with the purpose of **SUBMITTING A FORMAL COMPLAINT AGAINST THE INTERNATIONAL FINANCIAL CORPORATION (IFC) WHICH IS FINANCING THE OPEN PIT METAL MINING EXPLOITATION GRANTED TO MONTANA EXPLORADORA DE GUATEMALA S.A., MARLIN MINING PROJECT, LOCATED IN THE MUNICIPAL DISTRICTS OF SAN MIGUEL IXTAHUACAN AND SIPACAPA OF THE SAN MARCOS DEPARTMENT, REPUBLICA DE GUATEMALA**, about the following

FACTS:

1. The MARLIN project is located in an indigenous area, where people speak their own languages Mam and Sipacapense. These two indigenous peoples were never informed or consulted on the exploration and later exploitation of a gold and silver mine in their territory. This is a grave violation of the 169 Agreement of the International Labour Organization, which guarantees that any exploitation of resources in indigenous territory should be informed to and consulted with the indigenous, not only in its environmental aspect, but also on the social and cultural effects that said exploitation may have on the indigenous population. The government of Guatemala has publicly admitted that these people were never consulted, therefore there is full evidence of the violation of such international

rule, which binds all the ratifying States such as Guatemala and all international organizations, to respect International Law.

2. The mine was authorized by the resolution seven hundred seventy nine – two thousand four, slash CRMM, slash EM, dated September twenty-ninth, two thousand three. (779 – 2004 / CRMM / EM, September 29, 2003). The Board of Environmental Management and Natural Resources of the Ministry of Environment and Natural Resources, approved the Environmental Impact Evaluation Study of the MARLIN mining project (Montana Exploradora de Guatemala S.A.), located in the municipal district of Ixtahuacán, in the San Marcos department, where an area of twenty square kilometers was considered for the exploitation of mining products denominated gold and silver.
3. On November twenty-seventh, two thousand three, the Guatemalan Ministry of Energy and Mines granted a license for mining exploitation to Montana Exploradora de Guatemala, S.A. for a period of twenty-five years.
4. The Guatemalan society in general was not adequately informed about the way in which the mining company would operate, or about the possible implications that said activity would entail, both for the area exploited and for the rest of the areas involved. The indigenous population was excluded from the design and evaluation of mining exploration and exploitation plans and were not consulted on their priorities for their development, as is guaranteed by Agreement 169 of the ILO.
5. Upon learning about the damage that open pit mining activity has begun to cause in the area, we, as members of the Guatemalan society, are worried about its consequences, and have concluded that we do not agree on the continuation of said activity, either in San Miguel Ixtahuacán and Sipacapa or in other locations in our country.

6. Among the anomalies we have detected in the granting of the license for San Miguel Ixtahuacán and Sipacapa is the fact that the Environmental Impact Evaluation asserts that the population affected was consulted, both by Montana Exploradora de Guatemala S.A. and by the Guatemalan Ministry of Environment and Natural Resources. Said consultations were not of the knowledge of the population affected; moreover, they were not conducted according to the requirements of the Agreement 169 of the ILO on Indigenous Peoples and Tribes, ratified by the Guatemalan State in 1996. Consultations should have been made in the language of the communities, with their own authorities and procedures, since the Sipacapense and Mam are recognized indigenous people.
7. The management and planning process was kept concealed from the public and the population began to realize this after the initiation of the mine's construction works.
8. The mining activity is already underway and according to the Environmental Impact Evaluation the *"Area of indirect influence covers mainly the district of San Miguel Ixtahuacán and, to a lesser degree, the district of Sipacapa. The area of direct influence covers part of the Tzalem river basin, The Quivichil microbasin and the communities of Agel, San José Nueva Esperanza, San José Ixcanichel mainly, and Tzalem to a lesser degree."* Therefore the territory, water and forest resources are being affected.
9. The extension of the area affected (area of indirect influence) can be noticed from the purchases of land in our community to expand mining activities; this is stated in the Environmental Impact Evaluation, where it says: *"The company Peridot S.A. at the request of MONTANA initiated, in 1998, the purchasing of land for the Project, which was intensified in 2002 and aims at the*

acquisition of an area of approximately 6 square kilometers. The areas where the project will be located are within the district of San Miguel Ixtahuacán as well as in Sipacapa.

10. In the Environmental Impact Evaluation, Montana Exploradora de Guatemala S.A. asserts that: “ *San Miguel and/or Sipacapa are not expected to be affected by noise or dust or any other type of chemical or physical contamination.*” However, we believe that health risks to be suffered by the people in the area have not been objectively evaluated. Although they assure that clean mining will be developed in the area, we know through information from other sources that contamination from cyanide and other products used for this activity, as well as the use of our water and forest resources, will sooner or later cause damage to our health, since our environment has already been affected.

11. As to the use of cyanide, a study by German Professors Paul Muller of Saarbrücken University, Friedhelm Korte of Munich University and Petra Sauerlanda, based on the Berlin Declaration on gold extraction using the cyanide process and various examples of said activity throughout the world concluded:

1. Important scientific analyses (especially eco-chemical, in biogeographical, hydrological and geochemical ecosystems) emphatically prove that the cyanide process for gold extraction cannot be accepted, owing to its irreversible damage to ecosystems. The necessary technologies for safety (detoxification, neutralization, reduction of availability for ecosystems among other heavy metals) are within limited reach. These technologies cannot guarantee the existence of safe gold mining. Taking into account the economy, water conservation, chemistry and the protection of nature, open pit mines

using the cyanide process are not authorized under the laws of Germany or the European Economic Community.

2. The analysis of ecosystems in operation sites show that in tropical and subtropical zones there is a periodical recurrence of crises. The technologies to reduce risk are not manageable and cannot be controlled. The breakage of dams, seeping, transport accidents (e.g. Summitville, Colorado/USA 1993; Harmony Mine, South Africa 1994; Philippines 1995; Omai, Guyana 1995; Homestake Mine, South Dakota, USA 1996; Gold Quarry Mine, Nevada territory of Western Shoshone, USA 1997; Kumtor, Kyrgistan 1998; Baia Mare, Rumania 200) and other small accidents, indicate that these companies do not act carefully.

3. Economic analyses show that the activities of the main gold producers (e.g. Anglo Gold, South Africa; Gold Fields, South Africa; Río Tinto, Reino Normandy, Australia) are concentrated in poor countries and regions with low production costs and insufficient legal control standards.

4. The analyses of the social effects on the population and the humanitarian situation show that there are no positive results from gold extraction by cyanide. Short term profits are always followed by a constant deterioration of life quality, as compared with previous standards.

5. This negative balance proves that gold extraction by cyanide permanently contradicts the Río Declaration. Gold mining destroys, in the long run, the basic needs of life and jeopardizes adequate nourishment. The flow of state money assigned by governments to the promotion of gold mining projects must be stopped and, where necessary, the persons affected should be entitled to compensation.

From the information in that study, as well as from different information obtained, as members of society we cannot overlook the licenses granted for the extraction of gold and silver through open pit mining in Guatemalan Territory, because we are at risk that each one of the situations enumerated in such report will happen to us, as we have all the characteristics of those countries where said activity is developed.

12. The 2002 report of Dr. Robert Moran, on the occasion of a proposal for a copper mine in Peru, asserts: *“It is evident that mining activities often bring short term economic benefit to communities and workers (employment, business in general) and that they partly improve the local infrastructure, as roads, electricity and water distribution systems, etc. However, these same activities also produce environmental and health impacts in the long run, which mining companies often avoid paying for. Mining has always been a “globalized” industry, where international companies operate in developing countries, usually as subsidiaries separated from parent companies. If a company has economic problems, possibly as a result of slump in metal prices or business mistakes, and even because of fraud, the subsidiary may be forced to close down unexpectedly or be declared bankrupt. These companies may have caused environmental problems, but so far in many countries the associated entities learn about many of those impacts post- operationally. Thus the contamination is not remedied, serving as a “hidden cost” for the public affected and taxpayers have to pay to clean up the contamination”.*

From no point of view does open pit mining for metals bring about any positive aspect to our country. We must learn from other people’s mistakes so as not to repeat them and avoid any risk for our population, our territory, water and

environmental resources; we have the responsibility to watch over the present and the future of Guatemala.

13. It must be pointed out that one of the worst damaging effects of mining is on the water, since according to the Environmental Impact study itself, it will employ 250,000 liters of water per hour, i.e. 6 million liters a day. The area of the mine has scarcely any rain and that endangers people's survival. The mining company has concealed the fact that 50 women from the small village of Tzalem, Sipacapa, have protested against it because the works of the mine have cut off the drinkable water supply of said community. Moreover, given the use of cyanide, water pollution will be permanent and will forever affect the life of those communities, since water is vital for our survival and our agricultural production system. The right to have water is a fundamental right of the people and the mining exploitation of the MARLIN project goes against that right and our indigenous people's right to survive.
14. For the execution of the project violence has been used; given that this month, before a municipal decision in Sololá, another indigenous town that will be affected by the transport of lethal chemical substances like cyanide, the government sent 1500 soldiers and policemen to shoot and throw tear gas, which resulted in hundreds of injured and the loss of one life. This is not the first time that a project financed by the World Bank is supported by the use of state violence; you may remember the case of the construction of Chixoy Hydroelectric, when the Guatemalan Government committed the slaughter of indigenous people to allow for the execution of the project. That same indigenous group protested again in September last year to obtain compensation for the damage caused by the project, 25 years later. This past violence and the violence

originated by the MARLIN project is a great concern for all of us as Guatemalans and should be a concern for the World Bank. 15. Also, the Catholic Church of Guatemala has stood against said project, owing to the very grave effects it will have on the neighboring indigenous villages.

Messrs. President of the World Bank and Ombudsman of IFC: it is indispensable to revise the financing to be granted to the MARLIN project because open pit mining for metals (gold and silver) is very risky and damaging for Guatemala, because the license to operate in San Miguel Ixtahuacán and Sipacapa was granted without consideration for the relevant procedures for areas where indigenous people are established, without measuring the damage that said activity will cause to water resources, the environment and health and because of the risk that open pit mining represents for health and life.

Guatemala, January 28, 2005

Magali Rey Rosa

Colectivo MadreSelva

Guatemala

P.S. Next week we will send you:

1. Copies of the documents signed by the local people, expressing their opposition to the project. 2. The position of the Catholic Church on metal mining and the opinion of Monsignor Ramazzini on the MARLIN project. 3. Copies of the newspaper clippings on the present issue. 4. Copies of previous communications that we have sent to you.
