

# BRIEFING NOTE

# EXTRACTIVES

# GUATEMALA



## FIVE FEATURES

### PRODUCTION PROFILE

Guatemala is the most populous country in Central America (14.7m people) and the region's **biggest oil** producer at **14,000 barrels per day (bpd)**, down from a peak of 25,000 bpd **in 2003**. The government wants to push production to **80,000 bpd** by 2022, from proven reserves of 80m barrels. The mining sector produces mainly gold and silver but has deposits of nickel, coal, cobalt, copper, iron ore, limestone, sand and gravel and uranium. Government mining revenues **jumped from** \$9m in 2004 to \$522m in 2010. The extractive industries as a whole contribute **2%** of Guatemala's \$47b GDP.

### FISCAL SCHEME - GOOD FOR NO ONE?

Guatemala's fiscal regime, outlined in the 1997 mining law, provides an inadequate share of revenue for the government (extremely low 1% royalties) and a corporate income tax scheme that fails to address the needs of large scale mining investors, according to [the UN](#). In January 2012 President Otto Perez Molina signed an agreement with the extractive industries business association, Gremiex, through which companies would voluntarily pay a 5% royalty on gold, 4% on silver and 3% on nickel. That summer the government **introduced a bill** to amend the mining law to raise royalties across the mining sector to 5%, but the bill **had not passed** as of November 2013.

### INDIGENOUS COMMUNITIES SILENCED

More than half the 118 metallic mining licenses granted since the 1990s are located in indigenous areas; **none** has involved official consultation **with locals**. The 1997 mining law makes no reference to the rights of indigenous peoples to be consulted. Indigenous groups have organized **74 referenda** to gauge whether communities want extractives activity on their land. In all of them, according to Americas Quarterly, a majority has voted 'No'. A 2011 **referendum** in a community near the Escobal silver mine showed 99% voting against its development, but the government later **approved** the exploitation license for Canadian miner Tahoe anyway.

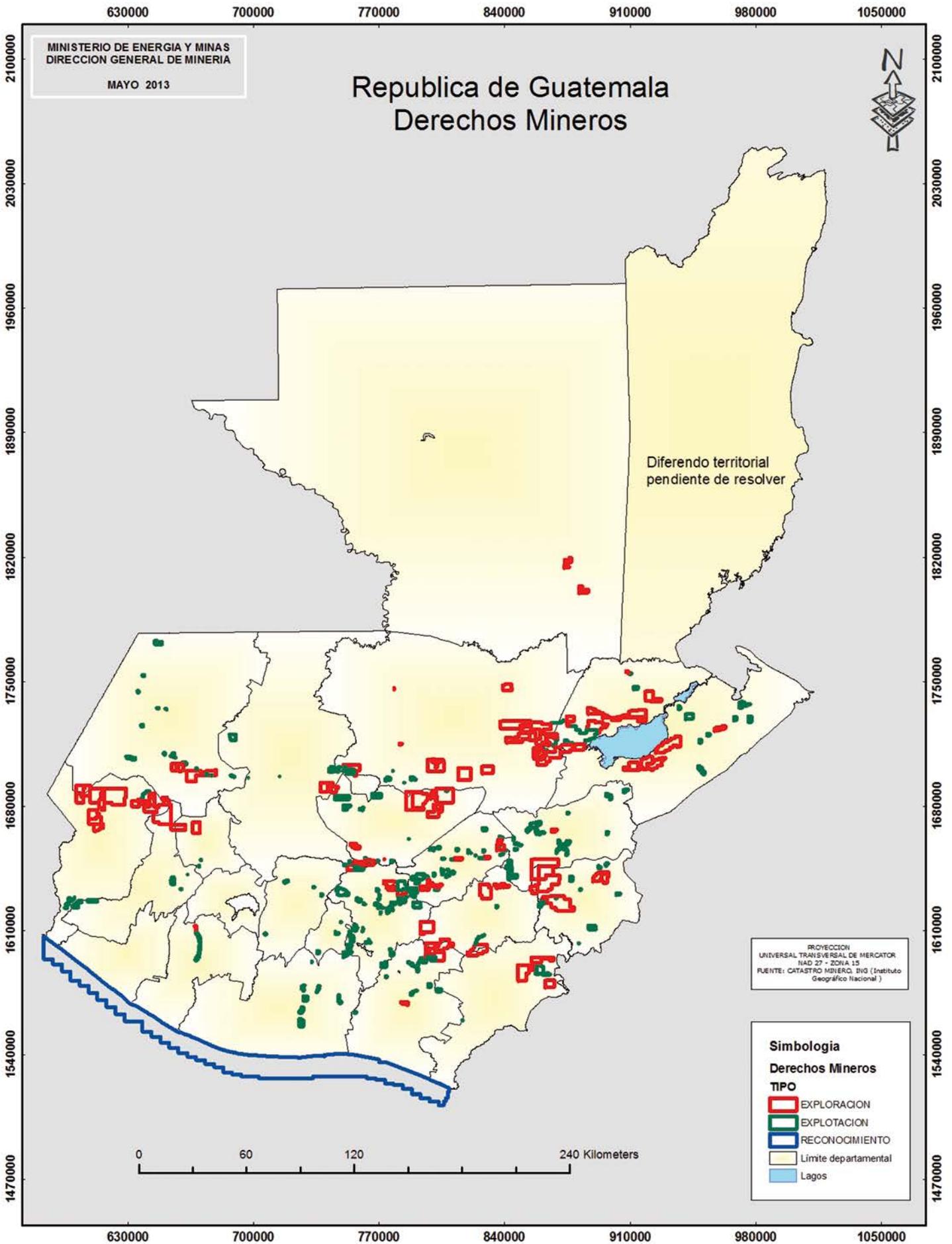


### CORRUPTION

**Pervasive corruption** hinders the effective implementation of policy in Guatemala, according to the Heritage Foundation, and the ostensibly democratic governments of the 2000s have been dominated by the same faces of the dictatorship of previous decades. International mining companies often acquire licenses through corrupt means and have near **immunity** from legal or political accountability. Guatemala ranks 113th out of 176 countries on Transparency International's 2012 **corruption perceptions index**.

### ENVIRONMENTAL OVERSIGHT LACKING

Environmental regulations in the 1997 mining law **are vague** and contradictory and government oversight over the environmental impact of mining **is lacking**. The ground and surface water around the Marlin gold mine are potentially **contaminated** by arsenic and other toxic metals. Gold mining requires the use of



[cyanide](#) and communities around the mine complain of its use of water, but a 2010 report by consultancy E-Tech found that inadequate government [baseline data](#) made it difficult to know how much mining operations have contaminated or depleted community water sources.

## FIVE MAJOR PLAYERS

### OTTO PEREZ MOLINA

Guatemala's president, a former military commander in office since 2012, has pushed constitutional reform that would allow the government to acquire [up to 40%](#) of [new concessions](#) in Guatemala, increasing the government's overall take of revenues.

### CANADIAN MINERS

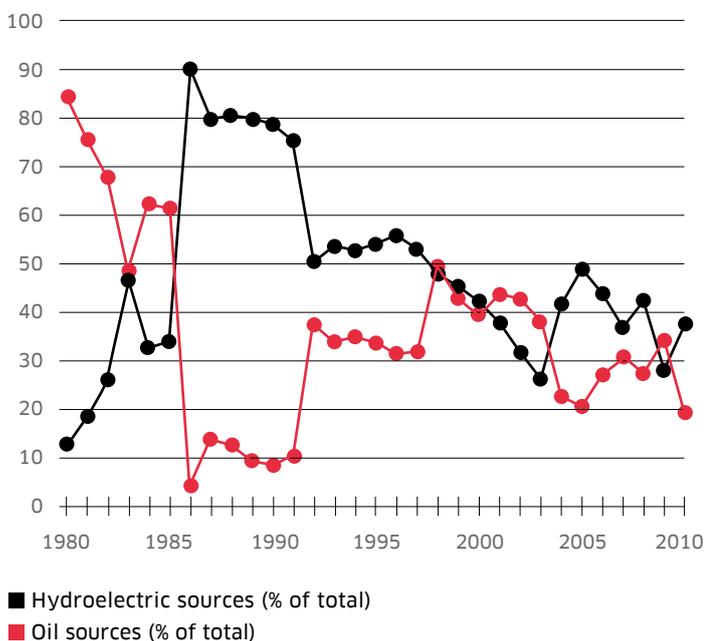
Canadian companies own the biggest mines in Guatemala: Goldcorp owns the [Marlin gold mine](#) as well as 40% of [Tahoe Resources](#), which controls the Escobal [silver mine](#). HudBay owned the [Fenix nickel deposit](#) but sold it in 2011 after being named in three lawsuits filed by a Mayan Q'eqchi' group, which [claim](#) that the company's security personnel [had attacked](#), shot and raped local [anti-mining activists](#) who resisted resettlement. The Canadian companies' presence has been controversial: a Mayan community spokeswoman [called](#) it an "invasion that only brings death and destruction".

### PERENCO

The Anglo-French company owns the Xan oil field in northern Guatemala, which accounts for more than 90% of national production. Between 2001 and 2010 Perenco put [\\$731.75 million](#) into government coffers and consequently wields large political influence. Perenco had its Xan contract extended another [15 years](#) in 2010.

## ELECTRICITY PRODUCTION IN GUATEMALA

Source: World Bank



### UNITED STATES

The United States' involvement in Guatemala traces back to at least 1954, when the CIA [engineered a coup](#) to overthrow the democratically elected Jacobo Arbenz, whose land reforms had damaged relations with the [United Fruit Company](#). The US aided the Guatemalan military in the 36-year civil war that followed. Now, the US is Guatemala's largest [trading partner](#), contributing 39% of its imports and receiving 42% of its exports. Remittances, of which around 90% come from the US, contribute [about 11%](#) of GDP.

### THE HITMEN

Kidnapping and violence against anti-mining activists is common in Guatemala. Between January and October 2011, there were [175 violent attacks](#) on activists in San Marcos department, home to the Marlin mine. In the first four months of 2013 two indigenous anti-mining activists, one [Xinca](#) and one [Qanjob'al](#), were found beaten to death. In some cases perpetrators wear [security uniforms](#), in other cases hitmen wear masks. But most attacks go [unpunished](#).

## FIVE UNANSWERED QUESTIONS

### WHAT HAPPENED TO EITI?

Guatemala has been a candidate for the Extractive Industries Transparency Initiative (EITI) since March 2011. EITI implementation would show the government's commitment to transparent and accountable revenue management, publishing impact assessments, allowing independent audits and consulting with communities affected by the extractive industries. But its first report, for the fiscal years 2010-2011, has been delayed, and government agencies [still need](#) to submit reporting templates. Is the government serious in its commitment to transparency? What is civil society's role?

### IS THE GOVERNMENT'S PLAN 'DEVELOPMENT AT ALL COSTS'?

Former president Alvaro Colom in 2010 renewed Perenco's concession of the Xan oil field, located in the Laguna del Tigre national park, despite attempts by German lawmakers to persuade him not to exploit oil there. Five German MPs had proposed setting up a ['compensation fund'](#) to pay the Guatemalan state for not drilling for oil in the environmentally sensitive area, much like the [Yasuni-ITT initiative](#) pioneered in Ecuador, which has raised \$300 million to keep oil under the Yasuni national park locked in. The government rejected the idea. Meanwhile, one of Otto Perez Molina's first acts as president was to lift the moratorium on new mining licenses, set in 2008 after the Constitutional Court ruled that seven articles in the mining law were unconstitutional. Molina proceeded to grant 68 [new mining licenses](#) in his first six months in office, bringing the total to 387 by July 2012, with another 734 pending. Does the government value mining and economic development over all else?

### WHAT EXACTLY IS THE GOVERNMENT'S POLICY ON LAND RIGHTS?

Guatemala has a long history of land disputes: the United Fruit Company used to claim title to land that indigenous communities believed they had bought or had historical rights over, and now it is companies looking to mine gold, silver and nickel, prospect for oil, develop hydroelectric power or grow

sugarcane and other biofuel crops. Land tenure claims are complicated by the fact that many indigenous ancestral lands were seized during the military dictatorship in the 1960s and 70s and sold to foreign entities which have since sold them off again. For instance Montana, the subsidiary of Goldcorp running the Marlin gold mine, appeared not to understand the [complex tenure situation](#) when it purchased the land, and has violated the collective land rights of indigenous communities around the mine, transforming the landscape and making traditional farming livelihoods impossible. There is also the case of five indigenous Mayan Q'eqchi' communities who in 2007 were [violently evicted](#) from their ancestral lands near El Estor by a subsidiary of Canadian miner HudBay, which paid workers to burn homes with the help of the army and police. What is the government's policy around claims of ancestral land rights? How is it implemented?

### ARE NEW HYDROPOWER AND COAL PLANS WORTH THE TROUBLE?

Historically Guatemala has relied on hydropower for most of its energy needs, and hydro still [contributes 33%](#) of installed power capacity. Yet Guatemala has increasingly imported expensive [fuel oil](#) to run many of its power stations – it spent \$1.6 billion in the first half of 2011 on imported oil, which contributes around 31% of power capacity. Alvaro Colom announced plans in 2008 to increase the power generation share of hydropower and coal, which accounts for 7% of capacity, and lower petroleum's share. But the plans rely on new hydro and coal plants with high potential for social conflict and environmental degradation. Hydroelectric dams have a stark legacy in Guatemala: Chixoy Dam, the country's biggest, went online in 1983 following a massacre of Mayan villagers who refused to relocate. Now, five new hydroelectric and three new coal plants are under construction. Will the social impacts offset the fiscal gains?

### CAN GUATEMALA BECOME A REGIONAL MODEL?

Guatemala ranks 133<sup>rd</sup> out of 187 countries on the UNDP [Human Development Index](#), and the top 1% of the population owns [65%](#) of the country's wealth. Can the government put its oil and mining revenues to work narrowing the wealth gap? Can Guatemala serve as a development model for its Central American neighbors?

### KEY LINKS

- ▶ [US Geological Survey: the mineral Industry of Guatemala](#)
- ▶ [Al Jazeera: time to monitor Guatemala's mining sector?](#)
- ▶ [Upside Down World: activism and politics in Guatemala](#)
- ▶ [Tufts: economic and environmental impact of Marlin mine](#)
- ▶ [Cordaid: mining and indigenous peoples in Guatemala](#)
- ▶ [PBI: metal mining and human rights in Guatemala](#)
- ▶ [UNCTAD: Guatemala investment policy review](#)

### ABOUT OPENOIL

OpenOil produces reference guides to the oil, gas and mining industries of countries around the world, in both print form and online at [wiki.openoil.net](#). The book Oil Contracts: How to Read and Understand Them, is available at [contracts.openoil.net](#); and the handbook Exploring Oil Data at [data.openoil.net](#). We provide technical expertise to clients including UNDP, Revenue Watch, the Center for Global Development and the EITI secretariat.

### ABOUT CORDAID

Cordaid's extractives program supports local communities and civil society to become informed, legitimate and capacitated partners in negotiations with international oil, gas and mining companies and governments. We support the national debate on the extractive industry between civil society, community based organizations, governmental institutions and representatives of oil, gas and mining companies. We are working on a national database on mining and social conflicts, a program for women participation in decision making on mining issues, the formulation of community development agreements and the development of protocols for the process of resettlement of communities affected by oil, gas and mining projects.

Experiences and results of community involvement in a structured dialogue, negotiations and monitoring are documented and shared at national and international level; We contribute to international multi-stakeholder panels on international standards for community engagement, transparency and accountability, with the aim to impact on companies, governments, and other relevant stakeholders to become more receptive for the input and feedback from communities. We participate in global evidence-based advocacy.

**Extractives in Guatemala is part of a series of briefing notes on extractives in Cordaid's focus countries. The series is a co-production of OpenOil and Cordaid. Briefing notes on Colombia, DR Congo, Nigeria and South Sudan can be downloaded at [www.cordaid.org](#).**

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