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Public Statement on Tahoe Resources' Escobal Project

In advance of the Annual General Meeting of Tahoe Resources to be held on 9 May, 2013 in Vancouver, Amnesty International urges the company to acknowledge mounting human rights concerns associated with its Escobal Silver Mine project in Guatemala. Amnesty International further calls on the company's investors to recognize the impact on human rights of the Escobal project and, in turn, insist that the company take immediate corrective action consistent with international human rights standards.

Research conducted by Amnesty International, including corresponding with the company, reveals significant gaps between what the company is reporting to investors and the reality on the ground. Recent tension and violence around the site of the Escobal Project highlight failures of the Guatemalan state obligation to protect the human rights of local communities, and Tahoe Resources' failure to respect those rights. Amnesty International is confident that investors – and the Canadian public which owns shares in Tahoe Resources through the Canada Pension Plan – will agree that it is crucial that this project addresses environmental risks, ensures affected communities are consulted and respects the rights of people to peacefully protest such projects.

Rights to Freedom of Expression, Liberty, Assembly and Security at Risk in San Rafael Las Flores

Amnesty International knows from its experience of researching the impact of human rights of large scale extractive projects, that where there is disagreement, the inability to obtain reliable information fuels discontent. In the case of the Escobal project, residents have complained of being unable to obtain reliable and objective information on the project. This has contributed to discontent. (For Tahoe Resources' response, see appendix.)

Extractives industries have a large impact on local communities and Tahoe's silver project is no exception. Escobal is located in an agricultural region, reliant on coffee and vegetable production and cattle ranching. Residents have expressed concern about the impacts of the silver mine on the environment, the risk to their water sources, as well as their concerns about the inadequacy of State measures to protect their human rights should violations occur. Protests against the State granting Tahoe an exploitation license for Escobal go back to 2011.

Amnesty International Canada's Business and Human Rights campaigner, Tara Scurr, says, "Investors should note that rather than respond to community concerns head-on, Tahoe Resources has instead blamed social unrest over the last six months on 'paid', 'outside', and 'criminal' influences. Such discourse only serves to inflame an already tense situation. By painting the protest movement as the product of criminal activity, Tahoe Resources shows it either fails to understand or does not take seriously the many real concerns that its mining project raises." (For Tahoe Resources' response, see appendix.)

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The UN Special Rapporteur on the Situation of Human Rights Defenders has expressed serious concerns about the growing characterization of human rights defenders as terrorists and trouble-makers by State and non-State actors. She reports that such accusations are regularly used to delegitimize and impede the work of defenders and increase their vulnerability. Accusations like these easily lead to highly insecure environments where further attacks are more likely to occur.

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Amnesty International is concerned that throughout 2011 and 2012 many individuals opposed to the company's operations have faced numerous unfounded legal complaints, resulting in great stress and financial cost to those accused. These complaints, many of which were dropped without charges being laid, have had the effect of discouraging others from freely expressing their views.

Amnesty International is deeply troubled about reports of increasing levels of violence in San Rafael Las Flores and surrounding areas, after the company was granted an exploitation license in early April. Since the beginning of January 2013 five people have been killed, including two company security guards, a police officer, a protestor and one other individual, and 6 local residents have been shot and wounded. Amnesty International condemns such acts of violence and has called for a full investigation into these events.

Environmental concerns

Two independent reviews of Tahoe's Environmental Impact Assessment have raised concerns about the mine's impact on the environment. Amnesty International welcomes the fact that the company provided more information related to the design of its tailings facility – which served to address some documented concerns. However, the company has not addressed concerns regarding its closure and post-closure plans nor has it posted a sufficient reclamation bond to cover closure, remediation and post-closure costs. (For Tahoe Resources' response, see appendix.)

Tara Scurr says, "Our research indicates that most negative impacts come after a mine is decommissioned. Under its mining agreement with the Ministry of Energy and Mines Tahoe Resources currently must only demonstrate successful closure and monitoring for a three-year period. Its US\$1 million reclamation bond is unlikely to cover remediation, monitoring and mitigation costs of the post-closure period, especially should problems arise. Amnesty International recommends that Tahoe conduct a realistic assessment of these costs and present it to the Ministry of the Environment & Natural Resources and the public."

Failure to meet international standards for business

While meeting Guatemala's minimum legal requirements, Tahoe's human rights record falls far short of international standards for businesses. However, Tahoe Resources has endorsed the UN Guiding Principles on Business and Human Rights. According to the Guiding Principles "The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights."

"The laws, policies and actions of the government and the operations and activities of foreign companies in Guatemala's extractives sector have been widely and roundly criticized over the last

decade by a variety of international and national experts and bodies,” says Tara Scurr. “Critics include the Compliance Officer of the World Bank, the UN Special Rapporteur on the rights of indigenous peoples, the UN Committee on the Elimination of Racial Discrimination, investment analysts, academics, mining experts, and a variety of international and domestic non-governmental organisations. Tahoe needs to acknowledge to investors that discontent with the Escobal Mine is not just simply originating with paid trouble-makers intent on posing problems for the company. There is the potential for human rights harm at Escobal if the company does not seriously and immediately address legitimate concerns raised by residents. Investors would be wise to take notice and demand action”.

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Amnesty International calls on Tahoe Resources to:

- Post a closure bond that conforms to an adequate and realistic budget assessment of post-closure costs and remediation plans for Escobal.
- Stop delegitimizing the concerns of area residents and instead establish credible grievance mechanisms to receive and respond to complaints and concerns about the Escobal project.
- Publicly affirm its responsibility to engage constructively with community members, listen to their concerns and provide them with full, publicly available information about the steps it plans to undertake to mitigate possible risks from its mining operations.

Background Information

Guatemala’s metals mining sector has grown rapidly in recent years. In 2011, total mining production was valued at nearly US\$1 billion and Canadian companies accounted for nearly 88 per cent of mining activity. In 2011, there were 352 active mining licenses in the country and another 657 were pending. In July 2009, former President Álvaro Colom imposed a *de facto* moratorium on issuing new mining licences. This moratorium came to an end with the election of President Otto Perez Molina, who took office in January 2012.

Over the last decade, Amnesty International has documented a number of disturbing cases of human rights violations against Guatemalans opposed to major mining development in the country. In cases unrelated to Tahoe Resources, a number of anti-mining activists, including Diodora Hernandez, Yuri Melini and Yolanda Oqueli, have survived targeted shootings that left them seriously wounded. Amnesty International has documented cases of other Guatemalans who have been kidnapped, beaten, threatened or intimidated for their activism or who have endured unfounded legal harassment related to their opposition to mining operations. The United Nations Special Representative on the situation of human rights defenders has said, “Defenders working on land and environmental issues are (...) highly exposed to attacks. The Americas seems to be the region where these defenders are most at risk”.

The scale and seriousness of the potential impact of mining operations make it essential that adequate risk assessments are carried out and efforts made to mitigate harmful effects. Guatemala’s regulatory systems and laws governing the extractives sector are minimal and do not meet international human rights standards.

For instance, Amnesty has documented serious deficiencies in the State’s consultation requirements for corporate Environmental Impact Assessments (EIA). International bodies have consistently raised

concerns about Guatemala's failure to ensure full and meaningful consultation around extractives development projects. EIAs have a role to play in a mine license approval process, however they should enable communities that might be affected by a company's mining operations to make informed decisions about the project. Instead, Guatemala's EIA process fails on both counts.

Expert bodies of the United Nations and international human rights institutions have been clear that people should have access to information and be able to participate meaningfully in decisions which affect their rights. The Guatemalan government has in effect devolved its responsibility to consult potentially affected communities to mining companies, like Tahoe Resources. It has then failed to provide a framework for consultation or effectively monitor consultation processes within the EIA process. Full and meaningful consultation is a necessary component of respect for human rights. This has not taken place in the case of Escobal.

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For example, potentially affected residents faced barriers in accessing and evaluating the content of the Escobal EIA once it was submitted: they did not know when the EIA was submitted, the document was over 2000 pages long and very technical, and they could only access full copies of the document in Guatemala City.

Furthermore, regulations stipulate that the public is entitled to a 20 day comment period, which Amnesty International believes is inadequate for communities to access, review, seek advice, and comment on the document in any meaningful way. Local residents were not able, in practice, to access, review and provide comment on the Escobal EIA within the 20 day period.

Amnesty International calls on the Government of Guatemala to:

- Fully investigate the violent events recently documented in Santa Rosa and Jalapa and bring those responsible to justice.
- Ensure adequate consultation prior to the awarding of mining licenses.
- Establish a moratorium on the awarding of reconnaissance, exploration or exploitation mining licences until mechanisms for effective participation and consultation which meet international human rights requirements have been approved. Amnesty International recommends that any proposals for new consultation mechanisms are themselves the subject of consultation, especially with Indigenous peoples and their representative organisations.

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APPENDIX

Excerpts of Tahoe Resources' letter of 6 May 2013 responding to Amnesty International's concerns regarding their mine site in San Rafael Las Flores, Guatemala

1. In response to Amnesty International's concern that some residents complain that reliable and objective information has not been made available to members of affected communities:

“We have had hundreds of meetings at this point in which we have shared information about the project. We provided some of that information to you but given the sheer number of stakeholders, meetings and the various MSR departments involved, it is not possible to provide you with the all the information we have provided about the project. The content of that information depends on the audience at hand. For example, we met multiple times with MARN (Ministry of Environment) officials to discuss the EIA with that document in hand in advance of approval. Because it would not be sensible to explain the contents of a highly technical document in our local communities, we have provided summaries of the EIA in the local SRLF offices. We went far beyond legal requirements in providing information to our locals and consulting with them both in advance of and subsequent to EIA approval. We endeavor to strengthen that consultation process as positive community engagement and development is an essential part of our corporate culture.

“We have met with all 26 municipal COCODEs in our community on multiple occasions. We continue to engage with all 26 COCODEs and even had Xinca leaders at our site recently. We appreciate the information you gathered from the 3 COCODEs with whom you met and take that feedback seriously. We will take those comments into consideration in our future communications and endeavor to address those concerns. We strive to provide our communities and all our stakeholders with useful information and will continue to do so in the future as our project advances.

. . . .

“The Company is always interested in engaging in meaningful dialogue with any individual or organization. As you have seen from the Carta de Interaccion, we have reached out to dozens of different groups and individuals, both supporters and pponents. Some individuals and organizations refuse to meet with us or have been implicated in crimes against our employees or property. Under those circumstances, engagement has proven more challenging. But we are always looking for effective means of engagement, especially with our opponents.”

2. In response to Amnesty International's concern that Tahoe Resources has blamed social unrest on outside influences:

“[T]he violent criminal acts that we have experienced in the vicinity of the Escobal project are largely perpetrated by a few bad local actors and outside groups who financially and politically benefit from causing chaos in and around the San Rafael community. . . .

“[I]nnocent villagers, workers, attorneys and even a local judge were subjected to threats, verbal abuse and rock throwing for 9 hour[s] . . . culminat[ing] in a riot and a run on the mine and destruction of millions of dollars of property (but fortunately no physical injuries). . . . [H]igh-level government

officials, including Interior Minister, Mauricio Lopez Bonilla, and Vice President Roxana Baldetti, have expressed concern about unaccounted for funds from well-meaning foreign governments and international NGOs that appear to be fuelling these illegal activities. While normally we would welcome the opportunity to share with you video and other evidence that clearly demonstrates the role of environmental groups . . . in fomenting violence in the area, we are not at liberty to do since these videos are under review by the Guatemalan authorities.

“Both Mayor Leonel Morales and President Otto Perez Molina recently made public statements demonstrating their belief that outside forces are responsible for the violence in our community. The Mayor recently spoke to *Prensa Libre*, explaining that for months the municipality has experienced anxiety, due to the constant protests and blockades from people who oppose the mine. ‘Make no mistake -- the local population is not involved in these protests – these are people coming from other municipalities,’ he said. *Prensa Libre*, May 3, 2013.

“Similarly, President Perez and Minister Bonilla, cited an investigation by the Public Prosecution (MP) which provided ‘sufficient evidence’ that *a criminal structure used the pretext of the mine in Santa Rosa to commit various crimes*. Both claimed that the (prosecutor’s office) MP developed the research over six months. According to the President at a news conference last week, ‘The result of this research can prove that this has not necessarily been all related to the San Rafael mine, as some groups want to say, but here there has been a series of criminal acts that are mixed with organized crime and other interests, which have led to anarchy in that region.’ *Counterrisk*, May 3, 2013 (emphasis added).”

3. In response to Amnesty International’s concerns regarding Tahoe Resources’ post-closure plans for the Escobal Project:

“There is no suggestion from the substantial body of study and analyses completed to date that groundwater migrating through the mined-out deposit will be of poor water quality. The areas of greatest sulfide mineral concentrations will be removed, i.e., the vein, and the use of cemented paste backfill further supplements the naturally occurring buffering capacity of the wall rock.

“Minera San Rafael is committed to responsible reclamation and closure, and postclosure monitoring, of the Escobal project. In accordance with Guatemalan statute, we will provide a comprehensive reclamation and post-closure monitoring plan, with contingencies to mitigate any long-term detrimental effects that may result from our operations. All test work completed to date and on-going monitoring and study suggests no negative environmental effects post-closure.”

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