



Food and Agriculture  
Organization of the  
United Nations

# Indigenous Peoples and the private sector

Case studies in Latin America

**OBSERVATORIO  
REGIONAL DE DERECHOS DE LOS  
PUEBLOS INDÍGENAS**



**FILAC** 

FONDO PARA EL DESARROLLO  
DE LOS PUEBLOS INDÍGENAS DE  
AMÉRICA LATINA Y EL CARIBE



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# Foreword

Historically, relations between Indigenous Peoples and private organizations have been characterized by asymmetry, in which Indigenous Peoples have seen their rights diminished and, as recognized by international organizations, they "... have suffered historical injustices as a result, inter alia, of colonization and of being dispossessed of their lands, territories and resources, which has prevented them from exercising, in particular, their right to development in accordance with their own needs and interests" (United Nations, 2008, p.2). Added to this, during recent decades we have witnessed the enormous expansion of – both, in territorial terms and in the production of goods and services – private companies in Latin America and the Caribbean, which has led to increasingly complex and unequal relationships.

In this regard, The Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean (FILAC) and the Food and Agriculture Organization of the United Nations (FAO) agreed to carry out a study that addresses these relationships and, despite the generally negative results observed in the region when the private sector and Indigenous Peoples get involved, it highlights some successful cases of cooperation, with positive elements that serve to broaden the reflection in various spaces for dialogue or analysis and to inspire the private sector that, until now, has been mostly oblivious or indifferent to the problem.

The study constitutes an important milestone in the area of knowledge and analysis of the relationships between both key actors of sustainable development in the region, and is considered ground-breaking innovative research, at the regional level, which sheds new light on respect for the rights of Indigenous Peoples and their contribution to sustainable development.





# Preface

Currently, Latin America and the Caribbean is home to more than 54 million indigenous men and women, equivalent to approximately 8.5 percent of the region's population (ILO, 2019). According to the International Labour Organization (ILO) (2019), around 30 percent of the indigenous population in Latin America and the Caribbean is living in poverty, and Indigenous Peoples are twice as likely to be poor as non-indigenous people. In addition, Indigenous Peoples are at increased risk of malnutrition and undernutrition, as well as being particularly exposed to the negative effects of food price variations (FAO, IFAD, WHO, WFP and UNICEF, 2023).

In addition, a considerable proportion of Indigenous People face a constant struggle between the preservation of their ways of life and customs, and the ways of life of modern societies linked to industrialization, globalization, and development. In 2013, more than 100 conflicts were globally taking place between extractive industries and Indigenous Peoples living in territories affected by these activities (ECLAC, 2014).

Despite the explicit recognition of this conflict by the governments of the region, Indigenous Peoples continue to hold a disadvantaged position that threatens their very existence.

Therefore, it is imperative to advance in the recognition and protection of the rights of Indigenous Peoples, which is a task not only of states, but also of all sectors in our modern societies that are involved in one way or another with these peoples.

An important one is the private sector, whose activities have impacted the traditional ways of life of our region for decades and, although there has been progress with respect to their influence on indigenous ways of life and territories, companies still have much to improve in terms of their relationship with Indigenous Peoples.

This study shows that in the areas where private companies operate, there are varied and very diverse ways to avoid negatively impacting Indigenous Peoples, as well as to collaborate in having a positive impact on their lives. The latter predominantly occurs either through the expansion of the economic possibilities of indigenous communities, or through an increase in their participation in decisions regarding the company's activities in the territory.

Achieving the Sustainable Development Goals (SDGs) means leaving no one behind, but unfortunately our Indigenous Peoples have been continuously left behind. We hope that this study can contribute to promote greater progress in this area, which is currently of the utmost urgency.

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## COORDINADOR GENERAL

Freddy Mamani – Presidente del Consejo Directivo del FILAC

## GENERAL COORDINATOR

Freddy Mamani – President of the Board of Directors of FILAC

## GENERAL SUPERVISION

Alberto Pizarro – FILAC Technical Secretary

Amparo Morales – FILAC Chief of Staff

Dulclair Sternadt, FAORLC

Vicente Gonzalez, FAORLC

## TECHNICAL TEAM

Ricardo Changala – FILAC/ORDPI consultant

Libertad Pinto – FILAC/ORDPI consultant

Pablo Frederick – Thematic consultant

Pía Pacheco – Consultant

Tania Carrasco – Consultant

## TECHNICAL SUPPORT

FILAC Multilateral Area

Luis Maldonado – FILAC consultant

## COMMUNICATIONS

Paula Rosales – FILAC Communication Area Coordinator

Wendy Medina – Communications

Design: Julio Huanca and Carlos G. Nina

## DISTRIBUTION

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## FILAC

Address: 20 de octubre 2287 esq. Rosendo Gutiérrez  
La Paz, Bolivia

Telephone: +591-2-2423233

Email: [filac@filac.org](mailto:filac@filac.org)

Website: [www.filac.org](http://www.filac.org)

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# 1. Introduction

The mission of the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean (FILAC) is to promote, guide, facilitate and coordinate development processes with the identity of the Indigenous Peoples of Latin America and the Caribbean. It is also part of its mission to assist them in creating the conditions for their long-term sustainable development, consistent with their values and priorities. Based on this purpose, together with the Food and Agriculture Organization of the United Nations (FAO), FILAC set out to prepare a study on one of the crucial aspects for the development of Indigenous Peoples: their relationship with private companies.

The main objective of this study is to investigate and highlight outstanding experiences of relations between companies and Indigenous Peoples in the region, in a scenario traditionally characterized by a great asymmetry between the two and in which conflicts regularly occur. The study is also carried out in an international context of growing recognition of the rights of Indigenous Peoples and their indispensable contribution to sustainable development. For these reasons, the study aims to incorporate new dimensions that strengthen the impact of Indigenous Peoples on the transformation of these relationships, making them more symmetrical and transparent, for the benefit of society as a whole.

The topic of this study is linked to the notion of development and, in particular, the concept of sustainable development. Both at the United Nations Earth Summit in Rio de Janeiro, in 1992, and later at the United Nations Conference on Sustainable Development (Rio +20), in 2012, it was clearly stated that the main task continues to be to shift from the current development model towards one that allows simultaneous and synergistic progress in social, economic and environmental dimensions, while highlighting that “the need to move towards a new development model, which has the value of equality at the centre of its actions and that is capable of moving forward simultaneously in the areas of social development, economic growth and environmental sustainability puts the region and the world before an imperative for change” (ECLAC, 2012, p.11). Based on this perspective, and considering the advances and recognition that have occurred since the approval of the Declaration on the Right to Development (United Nations, 1986), today it is almost impossible to separate development from the concept of “sustainability”. According to the Inter-American Commission on Human Rights, “the particular value of the right to development is that it must be sustainable; to achieve this, the focus must necessarily be placed on the well-being and rights of people and communities rather than on economic statistics and goods, taking into account that the definition of the right to development includes the right to a particular process in which all human rights and fundamental freedoms can be fully realized” (CIDH-REDESCA, 2019, p.34).

To meet this objective, the study is based on a review of international instruments such as ILO Convention No. 169 (1989), the United Nations Declaration on the Rights of Indigenous Peoples (2007), the American Declaration on the Rights of Indigenous Peoples (OAS, 2016) and, in particular, the United Nations Guiding Principles on Human Rights and Business (UNGPs) (United Nations, 2011). These instruments, as well as other related international standards, aim to reaffirm the rights of Indigenous Peoples in their relationship with the other groups or sectors that make up society, especially those that have a significant impact on their development, including their collective rights, such as private companies.

In addition to reviewing international instruments, the study used non-binding regulatory instruments, although not for that reason less enforceable, between the entities that adopt them and the indigenous communities affected. In several countries, such non-binding instruments are part of the evaluation of the environmental and social performance of companies, in addition to their relationship with interest groups. As will be seen later, these instruments, which are implemented through certifications, principles and indicators, help to shape the current relationships of companies with Indigenous Peoples.

Twelve experiences were selected from eight Latin American countries, belonging to various productive sectors, such as metallic and non-metallic mining, food, tourism, gastronomy, energy and hydrocarbons. In these experiences, Indigenous Peoples are predominantly negotiators of agreements, but there are also cases in which they participate as trading partners.

Furthermore, this report includes cases in which the State, as an irreplaceable actor in the application of the norms that protect the rights of Indigenous Peoples, has various levels of participation and influence in the achievement of agreements or conventions.

The following paragraphs describe the method used to select the experiences and subsequently highlights their main aspects within the conceptual and analytical framework of the study – marked by the application of the standards mentioned above – to finally arrive at some conclusions and recommendations for the actors involved.

## 2. Methodology

The objective of this study involved, in terms of its methodology and results, collecting information, opinions, experiences and documentation on how it is possible to build new social scenarios in which dialogue, agreements, interculturality and respect for differences can be part of relations between Indigenous Peoples and companies.

To select the experiences, more than 60 semi-structured interviews were carried out with experts on these topics and with primary sources related to specific cases. In addition, more than 70 secondary sources were reviewed with input collected during a forum of experts on the exchange of experiences related to relationships between companies and Indigenous Peoples of Mesamerica. The detail of the methodology is shown

**Table 1: Methodological summary**

Study methodology – Stages
Development of the conceptual framework.
Establishment of criteria and indicators for selection and evaluation of relevant cases.
Interviews with people linked to national and international organizations: experts, members of international organizations, NGOs and indigenous associations, among others.
Compilation of secondary information related to mandatory and voluntary international regulations.
Interviews with people directly linked to the selected experiences: business associations, government agencies, unions, academics, organizations and Indigenous Peoples.
Systematization of the information collected.
Pre-selection and selection of surveyed experiences.
Preparation of a report with the systematization of findings, conclusions and recommendations.

## 2.1. Conceptual framework

The starting point was to define a conceptual framework to determine initial scenarios on which the research would be based, as well as to establish criteria and indicators to analyse the experiences of the relationships based on the applicable international norms on Indigenous Peoples (Table 2).

Furthermore, as an added value of this study, the internal guidelines increasingly used by companies were analysed, which include all or some of the rights of Indigenous Peoples. This allowed for a more complete evaluation of the interaction experiences between these actors, as well as their incorporation into the common work framework<sup>1</sup>.

**Table 2: Applicable international norms on Indigenous Peoples**

United Nations Guiding Principles on Business and Human Rights (2011)
United Nations Declaration on the Rights of Indigenous Peoples (2007)
ILO Convention No. 169 on indigenous and tribal peoples in independent countries (1989)
American Declaration of Rights of Indigenous Peoples (2016)

### 2.1.1 United Nations Guiding Principles on Business and Human Rights

One of the international instruments that guides this study and that could play a leading role in generating a new type of relationship between companies and Indigenous Peoples are the aforementioned United Nations Guiding Principles on Business and Human Rights (UNGPs) (United Nations, 2011). Due to their relevance, implications and the way in which they are applied, these principles were widely considered in the documentary analysis and in consultations with experts.

The inclusion of companies in the area of human rights opened the door to some aspects that, in light of this work, should be highlighted:

- a) Firstly, as part of any analysis of sustainable development it is unavoidable to include economic, social and cultural rights (ESCR), which emanate from the international convention of the same name (United Nations, 1976). To incorporate companies into the dynamics and mechanisms to promote respect for human rights, the establishment of international instruments is key, despite the fact that some of them are voluntary (United Nations, 2012).
- b) Secondly, although the UNGPs do not explicitly incorporate Indigenous Peoples in their content, the due diligence procedures and central axes of respect for their compliance require clear identification and differentiation of interest groups. Since Indigenous Peoples represent a very important interest group, they are considered by the UNGPs indirectly, thereby creating opportunities for Indigenous Peoples to demand respect for their rights.
- c) A third point is related to the international scenario, especially in the European Union, and the increasing enforceability of the application of due diligence in human rights. This occurs in some cases

<sup>1</sup> These are performance measurement instruments that in no way replace the minimum requirements in terms of the protection and respect of the internationally recognized rights of Indigenous Peoples, but rather aim to strengthen them and sometimes exceed their levels of application.

due to regulatory requirements of the countries of origin of transnational companies that operate in the region, either directly or through their value chains, which includes the protection of Indigenous Peoples through certifications of specific industries or recommendations calling for the explicit inclusion of the application of the UNGPs. .

## 2.2. Selection criteria and analysis of experiences

The primary objective of the selection criteria and evaluation indicators was to establish a clear methodology to choose the companies that would be part of the sample, but also to guide the process of collecting information, both from secondary sources – interviews with experts and documentation consulted – as well as primary sources that were directly related to the selected cases.

In this regard, the experience preselection criteria indicated below were established:

- a)** Geographic area, considering the country and territory in which the experience takes place, while maintaining a balance between countries and geographical areas. For this study, experiences in South America and Mesoamerica were considered.
- b)** Productive sector to which the company belongs. Sectors were chosen that, due to their nature and development, had a closer relationship with Indigenous Peoples as suppliers of labour, neighbourhood cooperation and territorial relations, cohabitation in common spaces, suppliers of inputs, products, services or others.
- c)** Participation of Indigenous Peoples, making special reference to gender aspects, diversity of peoples involved, languages and ethnicities.

**d)** Exclusion criteria:

- i)** No projects were selected in which the companies have fallen into notable non-compliance with the application of international regulations.
- ii)** For the selection of cases, the FAO exclusion criteria were considered <sup>2</sup>.

In addition, the following indicators were used to analyse each case:

**a)** Indicators based on the use of the UNGPs applied in the relationship with Indigenous Peoples. The indicators were reviewed separately, considering that there are companies that have partially complied with these principles or have a human rights policy without being strictly guided by the UNGPs.

- a.1** The company has a formal statement from its senior management about its commitment to respecting human rights.
- a.2** The scope of the declaration within the company (areas and functionalities that it covers).
- a.3** The declaration is public.
- a.4** The company has carried out a due diligence process, in accordance with the UNGPs.
- a.5** The company has identified or mapped real and potential risks of negative impacts on human rights with respect to the Indigenous Peoples involved.
- a.6** The company has established prevention and mitigation measures for real and potential risks.
- a.7** The company has personnel assigned to functions related to the application of the UNGPs.
- a.8** The company has established free, accessible and relevant complaint mechanisms for Indigenous Peoples (language, independence, physical or virtual access).
- a.9** The company has established response mechanisms in case of negative impacts.

<sup>2</sup> See Connect portal: <https://www.fao.org/connect-private-sector/en/>

**b)** Relationship between the company and Indigenous Peoples that participate directly or indirectly in the initiatives. These, as in the previous indicators, were reviewed individually, given that the type of relationship is highly variable and is based on different sources.

**b.1** Labour relationship. The indigenous communities provide labour to carry out the project.

**b.1.1** They have a formal written contract.

**b.1.2** There are specific clauses and/or practices regarding indigenous workers and/or the community.

**b.1.3** Proportion of the community working on the project.

**b.1.4** Type of work performed or level of qualification required.

**b.1.5** Training required for jobs offered by the company is stipulated.

**b.2** Business relationship. Communities are part of the company's value chain as:

**b.2.1** Suppliers of raw materials.

**b.2.2** Suppliers of finished products.

**b.2.3** Suppliers or contractors of services associated with the project.

**b.2.4** In any of the above cases, training required to be a supplier of products or services required by the company is stipulated.

**b.2.5** Land tenants.

**b.3** Origin of the relationship. Beyond labour or commercial relations, the company relates to Indigenous Peoples because it has:

**b.3.1** Specific corporate policies for relations with Indigenous Peoples.

**b.3.2** Environmental and/or social corporate policies with specific consideration of the impacts on the territories and Indigenous Peoples<sup>3</sup>.

**b.3.3** Relations with Indigenous Peoples are part of the company's risk matrix, considering the real and potential impacts of activities on the rights of the former, which are identified as active subjects of rights.

**b.4** Type of relationship between the company and Indigenous Peoples.

**b.4.1** Systematic relationship policies through regulatory or voluntary instruments.

**b.4.2** Periodic information about the project and decisions related to it.

**b.4.3** Form of communication (written, oral, virtual, other).

**b.4.4** Language management of relationships (use of translators, multilingualism).

**b.4.5** Adaptation of company activities to anniversaries, traditions and the spirituality of Indigenous Peoples.

**b.4.6** Use of appropriate and relevant communication channels.

**b.4.7** Monitoring of conclusions and agreements.

**b.4.8** Mechanisms for prevention and resolution of conflicts with indigenous communities.

**c)** Creation of value for stakeholders:

**c.1** Activities for the economic, social and cultural development of communities and organizations, and for the improvement of the quality of life of indigenous populations.

**c.2** Estimation of the level and type of impact on environmental aspects and climate change that affect indigenous populations.

**c.3** Estimation of the impact of the application of UNGPs on the relationship between companies and Indigenous Peoples.

**c.4** Application of signed and declared protocols by the State and companies.

**c.5** Impact of the relationship with Indigenous Peoples on the economic value of companies.

<sup>3</sup> Generally, these corporate policies or practices are included in Sustainability Reports (integrated annual reports or other reporting instruments), which are used by interest groups, including Indigenous Peoples, to evaluate the economic, social and environmental performance of the companies.



## 2.3. Systematization of the main characteristics<sup>4</sup>

Once the interviews with specialists and the review of primary sources directly linked to the chosen projects were carried out, as well as the analysis of documents, the experiences were selected that would serve to exemplify situations in which companies from various sectors and Indigenous Peoples established a relationship that resulted in the strengthening of traditions, respect for the collective rights of Indigenous Peoples, greater self-management of the communities or that highlighted some type of ancestral activity.

The selection concluded with 12 cases. These reflected, in addition to the initial selection criteria, the variety of experiences necessary to draw some conclusions and recommendations, in accordance with the objectives of the study. This is not an exhaustive list, nor is it intended to cover all the cases of notable practices, but rather to offer information and evidence for reflection and analysis by professionals and institutions interested in the matter. Indeed, there are likely many more cases in the region that will be part of future studies to be carried out in this emerging field of research.

The following table (3) shows the details of the experiences, which were selected from eight Latin American countries and five productive sectors and represent various types of relationships, ranging from the negotiation of agreements based on international legislation, especially ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007), to indigenous companies that participate in national and international markets, either through the sale of final products or as part of the value chain of other companies, thus generating an important interaction between ancestral modes of production and modern production processes.

<sup>4</sup> The experiences gathered for this study are essentially based on information obtained in personal interviews with protagonists of the companies and Indigenous Peoples involved, in interviews with advisors and organizations participating in these cases and through the analysis of official documents provided by the companies, states and selected texts.

**Table 3:** Selected experiences

Company name	Country	Industry	Indigenous Peoples	Type of relationship
1. Cerro Matoso	Colombia	Metallic mining	Zenú community	Workers and agreement
2. BHP Billiton	Peru	Metallic mining	Quechua Tintaya Marquiri community	Surrounding community and agreement
3. Albemarle	Chile	Non-metallic mining	Lickanantay	Workers and agreement
4. Lot 192/Petroperú	Peru	Non-metallic mining	Comunidades Quechuas, Kichwas y Achuar	Consulta Previa y Convenio
5. CENCOIC/DRWakefield /Cafeology	Colombia	Agriculture/coffee	CRIC indigenous communities, Cauca	Suppliers
6. ICAFE	Costa Rica	Agriculture/coffee	Ngäbe Buglé Region, Panama	Temporary workers
7. De Mendes	Brazil	Agriculture/cocoa	Yanomami, Paité Surui	Suppliers
8. Grupo Aje	Peru	Beverages	Shipibo-konibo and Kukama Kukamiriaa communities	Suppliers
9. Cervecería Boliviana Nacional	Bolivia (Plurinational State of)	Beverages	Aymara women of Huari	CSR
10. Fuerza y Energía Limpia Tizimín	Mexico	Energy	Mayans of San Francisco Yohactún communities	Prior consultation and agreement
11. Enel Green Power	Panama	Energy	Ngäbe Buglé community	Workers
12. Ak'Tenamit/Grupo Trefra/Hotel Villa Caribe	Guatemala	Tourism	Maya q'eqchi' and Garífuna	Workers



## 3. Experiences

### 3.1 Mining sector

In extractive business sectors, the relationship between companies and Indigenous Peoples is usually determined by territorial negotiations or linked to the economic and social development of the communities where business activities are carried out. These cases generally constitute the field of action, although not exclusively, of instruments such as the Free, Prior and Informed Consultation (FPIC) and the UNGPs, to the extent that the State participates or that the companies and Indigenous Peoples involved have called for the application of these processes.

#### Cerro Matoso and Zenú communities, Colombia

Cerro Matoso Sociedad Anónima (CMSA) is the largest open pit nickel producing mine in Colombia that also operates a processing plant, and is located 22 km from Montelíbano city, in the department of Córdoba. It is currently operated by the Australian company South 32. During the first 30 years, the company's relations with the surrounding Indigenous Peoples were focused on social assistance and were not very respectful of the protection of the rights and historical claims of the communities, such as their land claims. The poverty of the indigenous and Afro-descendant communities in the area, and the growing environmental impacts of the mining activities, generated more claims and demands by the Indigenous Peoples.



The Political Constitution of Colombia approved in 1991 (PC) (Constitutional Court of Colombia, 1991) establishes explicit recognition of Indigenous Peoples as subjects of specific rights, their right to participation and consultation and their cultural identity, incorporating the principles of the treaties on human rights into domestic laws, including ILO Convention No. 169, ratified by the country that same year (Law 21 of 1991), and the International Convention on the Elimination of All Forms of Racial Discrimination. The Constitution not only enshrined the material rights of Indigenous Peoples, but also created procedural legal instruments for their protection and realization, in particular the petition for guardianship (article 86 of the Constitution) and the corresponding institutions, including the Constitutional Court (articles 239 et seq.), (Semper, 2006).

In addition, the Constitutional Court (CC) in ruling T-376 of 2012 concluded that the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007) is directly applicable, considering that it does not contradict constitutional norms and that it reflects the current will of the states that make up the United Nations system on the content and scope of the rights of Indigenous Peoples.

This context strengthened the demands of indigenous groups and communities against companies, in this case Cerro Matoso. In 2012 and 2013, the first judicial appeals were presented, which were rejected by the Superior Court of Córdoba.

Thus, a new scenario emerged for companies, especially in their relationships with communities. In 2013, there was a 39-day strike at the mine, in which former Cerro Matoso workers and community members participated. After this, a Memorandum of Understanding was signed that contained commitments of the company to provide productive support and housing improvement, as well as to establish a Permanent Intercultural Dialogue Roundtable with the communities and government representatives. That same year, the Zenú leader, Israel Aguilar, supported by a law firm, presented a guardianship petition against

the company and the Colombian government, which resulted in a favourable ruling (decision T-733) from the CC (Constitutional Court, 2017). This constituted a turning point in these type of lawsuits, since it established that the affected communities – 3,000 families from 18 communities – were collective subjects of law, and should be compensated for environmental and health damages. Subsequently, at the request of Cerro Matoso and the Colombian Mining Association, the CC issued a ruling of partial annulment for the violation of the fundamental right to due process (Constitutional Court, 2018b) through which the company reduced the compensation amounts and environmental and health damages for which it was liable.

The final ruling determined that Cerro Matoso had to provide permanent health care to the community and undergo a new environmental licensing process. To this end, a post-consultation process was carried out between the company and eight indigenous communities and one Afro-descendant community, which gave the communities involved the opportunity to express their opinions about the impacts and damages generated by the company's operation. According to the leader of the Zenú community, after debates between the communities, it was decided to accept the court's ruling.

From 2018 to late 2019, a negotiation process was carried out that included 185 meetings between the communities, the company and State institutions to: i) determine a methodology, with advisors from both parties; ii) establish the environmental issues to be resolved, and iii) generate development agreements in investment lines, with annual investment amounts for each community through 2044, which included the donation of company-owned lands or resources to purchase them (47.5 ha per community), the self-construction of homes under a mixed construction model, scholarships for school and higher education, and a project to promote traditional production methods for Zenú products and recover the indigenous language, as well as the strengthening of self-governance institutions, knowledge and the application of indigenous legislation and the Constitution of Colombia.

In summary, after the final ruling of the CC, a consul-

tation process was carried out based on the decisions and needs of the communities represented by their authorities, which resulted in the agreement mentioned above and which, in a framework of permanent dialogue, included important aspects related to the historical claims of the communities.

Currently, as a result of the prior consultation arising from an adverse judicial ruling, the process is in the implementation stage of the agreements. This has generated a permanent relationship between the company and the communities. According to those involved, ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) were key to developing this relationship. These instruments served as a background framework to organize community participation based on solutions that would allow a real-life change and that would substantially improve the company's relationship with the surrounding communities.

According to community representatives, the main advantages of the prior consultation process include their recognition by the company as valid spokespeople, the fact that they were permanently consulted during the process, the recognition and broad participation of indigenous leaders, as well as increased dialogue and the exchange of knowledge between the company and the communities.

Before this process, the company authorities were unknown to the communities and the relationship was based on decisions imposed by the company. Today, the president and other company executives are in permanent dialogue with the community leaders and are respectful in their interaction with them. According to the company, although the dialogue process began as the result of a court ruling, it was a good opportunity to develop harmonious relationships in the shared use of the territory, to become a more sustainable company and implement these types of processes in all its community relations.

Finally, in November 2020, the Administrative Court of Cundinamarca concluded that the court orders had been fully complied with and indicated that those

requiring permanent compliance would continue to be monitored (Cerro Matoso, 2020). Considering this finding, and the prior consultations carried out, the National Environmental License Authority (ANLA) granted the company a new environmental license.

## Key indicators

**a) UNGPs:** The company has issued a corporate statement on respect for human rights at all levels, including contractors and those acting on behalf of the company. Additionally, in 2018, Cerro Matoso carried out human rights due diligence processes for all its operations and value chains. As a result of these processes, the company developed a human rights matrix, which determines the priority issues that require immediate attention, those that must be monitored and those that appear to be controlled, including any necessary mapping and mitigation measures. Finally, the company also has a complaints response mechanism based on human rights and cultural relevance.

**b) Company's relationship with Indigenous Peoples:** According to the agreements signed with the communities in the consultation process, the company must have a minimum of 15 percent of workers from the communities, to whom it must also provide training. In addition, the agreements establish mechanisms for conflict resolution and annual negotiation with community authorities. Although the company already had policies on relations with Indigenous Peoples in place, both in terms of its corporate guidelines and in its field operations, it was after the ruling and the prior consultation to renew its environmental license that the relationship mechanisms and direct negotiations with the communities were strengthened.

**c) Creation of value for stakeholders:** For the Indigenous Peoples involved in the consultation process, the interactions with Cerro Matoso mainly resulted in land allocations, scholarships, housing self-construction processes, strengthening of

community institutions, autonomy and recognition of rights, and consultation on investments and environmental protection, including measures decided autonomously by communities on conservation and the environment.

For the company, the prior consultation process meant obtaining its environmental license, complying with the ruling of the Constitutional Court and strengthening its levels of sustainability in relationship processes, considering ILO Convention No. 169 and the Declaration of the United Nations on the Rights of Indigenous Peoples, under the supervision of state agencies. This allowed the company to create value based on stronger coexistence and relationships and increase its sustainable relationship practices with communities, increasingly valued in this productive sector.

## Analysis and lessons learned

**a)** It is important to highlight the Constitution of Colombia (1991) and its articles that protect and promote the rights of Indigenous Peoples, their recognition as the original inhabitants of the national territory and the validation of their ancestral claims, while also incorporating international treaties with specific recognitions for the rights of Indigenous Peoples. The Constitution has served as an incentive to promote respect for the rights of Indigenous Peoples and as a basis for political and legal actions, such as ruling T-133 of 2017 of the Constitutional Court.

**b)** In addition, although international treaties, such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) were not directly implemented by the State, their explicit recognition in both the Constitution as in later rulings of the Constitutional Court served as the basis for consultations by the company. Therefore, to some extent, the treaties have fulfilled the regulatory function of these processes

and have guided the actions of the company and the communities, strengthening the relationships between them. However, the notable absence of the State as guarantor or organizer continues to be a shortcoming in the consolidation of this type of process.

**c)** Regarding the application of the United Nations Guiding Principles for Human Rights and Business (UNGPs), another ruling of the CC must be highlighted in the framework of this case. The CC Ruling U-123 of 2018 (Constitutional Court of Colombia, 2018) indicates the responsibility of companies to conduct due diligence regarding human rights, based on the UNGPs that include respect for human rights as an essential part of the principles, and considering rulings by international courts on the need to apply due diligence in relation to indigenous consultation in various countries. Such rulings can contribute to greater application of this principle in the region.<sup>5</sup>

**d)** Although the company had already established relationships with the communities, it was only after the court ruling that it decided to carry out prior consultation and develop relationship plans in accordance with international regulations. Unfortunately, this took place following a lawsuit and not before. Even so, the consultation represented an opportunity for the company to learn about and respect indigenous ways of life, including their production systems, religious and cultural beliefs, institutions and concept of nature and territory, among other things. For the company it has not been an easy process and required skills and knowledge that it did not have in place. The company's compliance with the ruling represented an opportunity to develop its relationship process with indigenous communities, improve its practices and become more sustainable.

## BHP Billiton Tintaya and Quechua communities in Espinar, Peru



Starting in 1981, the Peruvian State expropriated 2,368 ha from the Anta Cama communities in the Tintaya Marquiri sector, Espinar Province, at a price considered by the community members to be very low, which led to a protest being held. After a few years, part of this land was purchased by Anglo-Australian company BHP Billiton to build a copper oxide treatment plant. In 1996, BHP acquired Glencore, which in turn had purchased Xstrata Tintaya, an Anglo-Swiss multinational mining company dedicated mainly to the extraction and production of minerals. BHP has operations in 19 countries on all continents, with annual revenues exceeding USD 4 476 billion and nearly 3 500 workers.

At the time of the land acquisition, the inhabitants of Espinar had minimal access to basic services such as water, sewage and electricity. Also, the company was the only beneficiary of the area's natural resources (copper and iron), which generated serious conflicts between both parties for decades. The new land purchases in 1996, both from communities and individuals, added to the environmental and social impacts of the mining activities, which caused great unrest in the neighbouring communities of Tintaya Marquiri, especially regarding the questioning of the legal validity of the land acquisition processes. The communities organized themselves and demanded that the company share the wealth that they claim belongs to them given their ancestral connection to the land.

In 1999, the National Coordinating Committee of Communities Affected by Mining was created, which took on the Espinar case as a priority. In addition, independent reports such as the Cooperación report, in 2001, established that human rights violations were be-

<sup>5</sup> In 2018, Cerro Matoso developed a human rights due diligence process, in line with the UNGPs, identifying 18 possible actions to benefit affected groups, which, as of 2020 and according to its own information, were 83 percent completed and the remainder are recurring actions (South 32. Cerro Matoso, 2020).

ing committed, notably land expulsions. Some reports even mentioned undue pressure from the Ministry of Energy and Mines (Cooperación, 2001). Other reports analysed the environmental impacts, in terms of the water, air and soil, especially due to tailings spilled into the Tintaya River.

In 2001, Espinar established a committee to oppose mining activities affecting the communities. Communities and non-governmental organizations denounced BHP Billiton in Australia, where the company's headquarters is located, prompting the visit to Peru of an official mediator on mining issues from the NGO Oxfam International (Oxfam Community Aid Abroad Mining Ombudsman). After verifying the complaints made by the communities and their advisors, the mediator decided in 2001 to conduct an investigation.

The decision to investigate was the most significant outcome that led to the beginning of dialogue between the company and the communities. In 2003, both parties signed the first Framework Agreement for the Development of Espinar Province and BHP Billiton Tintaya, resulting in the creation of the Consultation Committee of Espinar Province. The company, the municipality, as a representative of the province of Espinar, and more than 20 peasant organizations, professionals and associations of producers affected by mining activity, among others, participated in this committee. The purpose of the agreement was to establish the execution of public infrastructure projects, and the development of programmes established in the province's Development Plan that would contribute to the integral sustainable development of the province and BHP Billiton Tintaya.

Within the framework of the agreement, the company committed to deliver, for the duration of its operations, up to a maximum of 3 percent of its profits before taxes, with a minimum of USD 1.5 million in the first 5 years for the development of the province of Espinar, including the surrounding communities, and to comply with all agreements issued by the land, environment, human rights and sustainable development commissions, with operating procedures under the observance of Oxfam.

For the infrastructure projects, a management committee was established made up of the municipality, the company and the signatory organizations. In addition, a participatory environmental monitoring committee was formed.

In 2004, a second agreement, known as the Dialogue Roundtable, was signed with members of six communities affected by pollution and expropriations. Since then, new dialogue roundtables have been established, expanding the number of actors involved in the process, including public entities, the company and the communities, as well as Peruvian and international NGOs. Thanks to the Espinar dialogue roundtables, the communities have been able to positively address the social, economic, cultural and environmental needs of their population, reaching agreements that included significant contributions from companies to the area.

## Key indicators

**a) UNGPs:** The negotiation process described occurred before the UNGPs were approved. However, BHP Billiton, which participated in the dialogue roundtables and signed the agreements, had already developed the application of principles for the respect of human rights in its community relations as part of its Corporate Social Responsibility and in some of its mining facilities. The agreements established complaint and conflict resolution mechanisms that were used during the negotiations.

**b) Company's relationship with Indigenous Peoples:** The company assumed environmental and social commitments, especially through the intervention of the mediator, even though these are essentially voluntary since no regulatory instruments were included. The agreement reached through the action of the dialogue roundtables formalized communication channels and monitoring mechanisms through the Management Committee that included community leaders.



**c) Creation of value for stakeholders:** The fact that both agreements involved monetary contributions, managed by a committee of which the communities are part, is a key component of this experience. A joint and participatory surveillance committee was also formed to monitor the work and agreements of the Environmental Commission formed during the negotiations, which are of great importance for living conditions in the communities.

Based on these negotiations, BHP Billiton developed community relations policies. In addition, the agreements constituted an asset for the company regarding community coexistence when it came to scheduling budgets and anticipating conflicts.

## Analysis and lessons learned

**a)** This is an important and symbolic case in the history of Peru and in general of negotiations between companies and communities affected by their operations. Not in vain is it studied in universities, such as Harvard, as a case of conflict negotiation, and its agreements are still references in other similar processes. According to sources consulted, the 3 percent agreed economic contribution was later the basis of the law on mining royalties in Peru, Law No. 29 788.

**b)** For the company, it meant changing its conventional transactional form based on uncollaborative relationships and denial of impacts. Progress was made towards a negotiation in which, beyond giving up a part of its profits, the importance of a new type of territorial linkage was recognized. In this way, relationships with communities were strengthened based on shared interests, after the communities had taken the unprecedented step of presenting their case at the company's headquarters in Australia.

**c)** According to sources consulted, the company's willingness to review claims against its executives, accept the need to train people and participate in negotiations in a proactive and respectful manner has been important. For the company, this new situation meant changes at the corporate level in its community relations, which is currently a highly valued asset for mining companies.

**d)** The communities and their representatives also faced new challenges. The transition from denunciation to building agreements can be frustrating without allies in civil society, organizational capabilities, and a strong will to achieve agreements. The communities initially appealed to international entities, such as the Oxfam ombudsman, which allowed them to "level the playing field" in their favour and create a space for this unprecedented negotiation. However, building a process of this type is a long-term task, with various obstacles that were faced during the negotiations.

**e)** The effective presence of the Peruvian State in the negotiations was very low even though it had the legal instruments to participate, since, despite the Prior Consultation Law having not yet been approved, the ILO Convention No. 169 had been ratified. In the end, however, public participation only occurred at the municipal level.

## Petroperú's Lot 192/ Quechua, Shuar and Kichwas Communities, Peru



Lot 192 is the largest oil reserve in Peru, which at one time represented 25 percent of the country's total reserves, with an area of 290 000 hectares and a production of 12 000 barrels per day (Petroperú, n.d.). It is also one of the most polluting, which has resulted in environmental problems and conflicts with the residents and indigenous communities of the area. Thus, Lot 192 has a long history of tensions in its more than 40 years of oil production activity in the basins of the Tigre, Pastaza, Marañón and Corrientes rivers, where the Kichwa, Quechua, Achuar and Urarinas Indigenous Peoples live.

In July 2015, the concession contract for Lot 1 AB, later renamed Lot 192, between the Peruvian State and the Argentine-Dutch company Pluspetrol ended, which led to a new bidding process. Previously, in July 2011, the Prior Consultation law had been enacted in Congress and the following year it was implemented as a tool designed to put into practice ILO Convention No. 169, which was signed by Peru in 1994. In August 2012, the Peruvian State called for the first prior consultation process on the new tender for Lot 192. This aroused the interest of the authorities of the Indigenous Peoples of the region. They argued that, before beginning the process, an agreement should be reached on issues that had not been addressed and that were very important for the communities. These were mainly related to environmental remediation, such as the consequences of waste dumped in rivers, and around 2 000 impacted sites according to community authorities, as well as land titling and solutions to economic and social deficiencies in the communities. Some of these issues, such as the environmental problems, had already been highlighted by a protest in the Corrientes River area in 2006, which led to a dialogue process in which the Ombudsman's Office participated.

High-level commissions were created, and a state of emergency was declared in the three basins involved after confirmation that it was an area of high contamination. In March 2015, an agreement was reached that, although not signed by the most representative organizations, was considered valid by the State. An act was signed that included four major themes: i) comprehensive and intercultural development; ii) environmental remediation; iii) land titling, and iv) bidding for Lot 192 with a process of prior consultation and citizen participation (ONDS, Peru 2015). However, the tender called had no bidders and was declared void. In this scenario, the Peruvian State carried out a direct negotiation with the company Pacific Stratus Energy (today Frontera), to which it awarded Lot 192 under a two-year temporary services contract. The agreement was set to expire in August 2017 (Lévano, 2017), but ultimately it remained valid for six years.

According to the apus, leaders of the native communities, and the leaders of the Federation of Native Communities of Corrientes (FECONACO), the Federation of Quechua Indigenous People of Pastaza (FEDIQUEP), the Federation of Native Communities of Alto Tigre (FECONAT) and the Cocama Association for Development and Conservation of San Pablo de Tipishca (ACODECOSPAT), "...this was an opportunity to make visible and draw attention to the demands for compensation for the social and environmental damages caused, reparations for the use of their lands, remediation of environmental liabilities and titling of lands that include oil installations" (Lévano, 2022). In this way, the consultation process began between the Ministry of Energy and Mines and the representatives of the 13 indigenous communities.

According to sources consulted, the most important aspect was to develop a prior consultation plan that would describe the process and its timetable, and, above all, define which issues would be included in the consultation. The indigenous organizations determined the conditions of the new contract, which ensured that priority would be given to addressing essential needs and impacts and improving the social conditions in the communities.

Another important aspect was that the communities had 40 years of experience fighting for their rights, and they also lived in Lot 192, which gave them negotiating power to include the contract clauses. Of 52 agreements, 16 were related to the contract. In general, the indigenous view of the consultation is positive, unlike what has happened in other cases in the mining sector, in which the consultations carried out have not generated good results. In this regard, the experience differs from what happened with other hydrocarbons projects. The indigenous federations achieved benefits as a result of the first consultation, with significant differences compared to other processes, due to the strength of the leadership, which was key to carrying out the agreements.

According to the Ministry of Energy and Mines, the measure to be opened to consultation was the draft Supreme Decree that: i) approves the formation, extension, delimitation and nomenclature of Lot 192; ii) approves the license contract for the exploration and production of hydrocarbons in Lot 192, and iii) authorizes the company Perupetro to sign this contract that would affect 26 locations (Ministry of Culture Peru, 2019).

The last bidding process took place amid a proposal by congressmen to return to the Peruvian State its function of oil exploration and production, under the assumption that in this way less pollution would occur. In this context, Congress approved that the contract be awarded to the State-owned company Petroperú. However, the indigenous federations demanded a new consultation process, which was accepted by the government after a campaign by indigenous organizations and civil society. This consultation process began in 2019 and ended in 2021, after a pause due to the COVID-19 pandemic, with nearly 40 agreements and a review of the new contract. It is the first case of consultation in which the condition of the contractual relationship was changed, including environmental funds and participation mechanisms in the surveillance activities on the Lot, among others.

In this way, the Social Fund of Lot 192 was created, which would allocate a percentage of the company's profit (1.77 percent) under the responsibility of the

communities. A general assembly was created with the participation and representation of community members, which organized and distributed resources, according to the needs of each community.

## Key indicators

**a) UNDRIP:** In this case, the indicators have been applied to the company Petroperú, which currently manages Lot 169. It has a formal corporate statement on its commitment to respect human rights, which is public and includes all levels of the company. In addition, the company carried out a due diligence process for the Norperuano pipeline in 2018-2019. In that case, it had policies in place to mitigate its impacts on the human rights of potentially affected populations. It also has complaint and response mechanisms, especially for environmental, labour and safety issues.

**b) Company's relationship with Indigenous Peoples:** Petroperú has specific policies related to its relationship with Indigenous Peoples, as well as guidelines for its environmental and social performance in indigenous territories. These guidelines include translators, communication channels and complaint mechanisms with cultural relevance. In the case of Lot 192, this also includes a commission to monitor the agreements in line with the company's risk analysis and respect for the rights of Indigenous Peoples. In addition to these voluntary processes, the company seeks to apply, in accordance with Peruvian legislation, the principles of international regulations such as ILO Convention No. 169.

**c) Creation of value for stakeholders (qualitative indicators):** Indigenous Peoples, represented by federations and groups, achieved an important economic contribution to their projects through the Social Fund. They also managed to include specific clauses related to environmental protection, which was one of the key aspects that motivated protests for decades. In addition, the process has led to a significant boost for organizations in relation to their negotiation capacity, due

to the importance of the agreements reached and the unity demonstrated in the process. In this way, the company that is awarded the contract will have to assume and continue the existing relationships under the terms of the agreements.

For its part, Petroperú, through the application of ILO Convention No. 169, established terms of reference for new contracts. These will be key to reducing conflicts and achieving better coexistence in an area inhabited by indigenous communities that have been demanding a more equitable relationship for many years.

## Analysis and lessons learned

**a)** The implementation of a process of prior consultation complied with the requirements and spirit of ILO Convention No. 169 and other international instruments, which establish this process as an essential part of respect for the rights of Indigenous Peoples. In addition, the advisors of the indigenous federations involved indicated that this is an exceptional case, since this is one of the few consultation processes in which the terms of the tender contract have been negotiated in accordance with the demands and acceptance of Indigenous Peoples. Having a prior consultation law, and its respective regulations, in place allowed the State to carry out this process before the bidding for Lot 192. In this way, the leaders of indigenous organizations were able to work together and strengthen their historical demands and environmental claims resulting from 40 years of oil exploration and production in the territory.

**b)** The approach described above showed significant differences with the ways in which consultations have been carried out in most countries in the region, including Peru. In fact, it is common to carry out the consultation once the environmental permit has been approved, according to the regulations of the Ministry of Energy and Mines. In these cases, the company already has an environmental permit, and it is likely

that it has made prior agreements with the communities for access to the lands and a negotiation has been carried out between private parties in which the State does not participate. This is a process established in the Peruvian legal framework and is normally carried out in an asymmetrical and disadvantageous manner for the communities. However, in this case, the implementation of the 2011 Prior Consultation Law before the bidding made it possible to overcome this situation and achieve a satisfactory agreement for the affected communities.

**c)** In this case, the Peruvian State requested and implemented a process of prior consultation, which was not without difficulties, caused in part by the urgency of the State to approve the first dialogue. This marks a difference with other cases that are normally marked by conflicts between Indigenous Peoples and the State when it comes to investments in hydrocarbons<sup>6</sup>.

**d)** Another notable aspect is the use of other historical cases of negotiations with local communities, such as those of Las Bambas and Tintaya Espinar (in this report), which resulted in the first Framework Agreement that established a contribution of 3 percent of the company's profits for the communities (De Echave J. et al, 2004). That agreement provided support for the creation of the Social Fund. Thus, the process carried out represented continuity in the development of this type of negotiation and progress in the improvement of consultation processes. For example, following the Lot 129 tender, Petroperú then began the consultation process for Lot 8 in Marañón.

<sup>6</sup> For example, see Case Kichwa Indigenous People of Sarayaku vs. Ecuador. Fund and Reparations. Decision of 27 June 2012. Series C N°245 (IACHR. 2012).

## Albemarle/ Lickanantay communities (Atacameñas), Chile



The Albemarle Corporation is a multinational company based in Charlotte, North Carolina, which specializes in the manufacture of specialized chemical products and mineral extraction. Its operations are distributed in more than 75 countries around the world, under three divisions: bromine, catalysts and lithium. The latter, with a presence in the Salar de Atacama salt flat, in northern Chile, is operated under a joint venture with the Australian mining services company Mineral Resources.

The Salar de Atacama, which concentrates 52 percent of lithium reserves worldwide (COCHILCO, 2017) is located in Chile's Antofagasta Region, in the Atacama Desert, on land that has been inhabited for more 11 000 years by the Lickanantay indigenous community.

Mining extraction activity in the Salar de Atacama increased in 1975 when the US-based company Foote Mineral signed the first contract with the Chilean Production Development Corporation (CORFO) to exploit its lithium assets. Then, in 1980, Foote Mineral and CORFO founded the Sociedad Chilena de Litio (SCL), a mixed company between the Chilean State (45 percent) and private capital (55 percent), authorized to produce 200 000 tonnes of lithium (Azócar, 2021). Thus, in 1984, the production of lithium carbonate began at the La Negra chemical plant, while concentrated brines were produced at the Salar plant. In 1989, CORFO sold its stake to Foote Mineral, later acquired by the Rockwood Lithium Ltda holding company, which then controlled the company's contracts and mining facilities in Chile (Gundermann et al., 2018). In 2015, Albemarle purchased Rockwood and in 2017 opened a second plant, La Negra II, and in 2021 it added a third plant, La Negra III. Albemarle has the mining concession in the Salar until 2043.

The first decade of large-scale mining exploration significantly changed the economic, social and cultural scenario of the Lickanantay people, which were historically dedicated to agricultural, livestock and pastoral farming. With the arrival of the mining company, many indigenous people began to work in mining activities, representing more than 70 percent of the mine workers, almost all of them from the indigenous community of Peine. The economic stability achieved by the community changed abruptly when CORFO ended its activities in the salt flat in 1989, and those families dependent on non-traditional salaried labour activities suffered forced migration to nearby cities, mainly Calama and Antofagasta (Núñez, 2000). However, in 1994 a new mining megaproject was developed in the salt flat by the company SOQUIMICH, again requiring a significant amount of local labour.

That same year, the Council of Atacameño Peoples (CPA, by its acronym in Spanish) was founded with the objective of preserving the integrity of the territory and the well-being of the Atacameño communities. The council included a traditional authority from each of the 18 indigenous communities of the Salar de Atacama basin. The association currently represents all the territorial communities of Atacama La Grande: Río Grande, Machuca, Catarpe, Quitor, San Pedro de Atacama, Solcor, Larache, Yaye, Séquitor, Cúcuter, Coyo, Toconao, Talabre, Camar, Socaire, Peine, Solor and Huatín.

The association was formalized within the framework of the promulgation of the Indigenous Law No. 19253 in 1993, which established norms for the protection, promotion and development of Indigenous Peoples and created the National Corporation for Indigenous Development (CONADI). In 1997, this law established the creation of Indigenous Development Areas (ADI) in the Salar de Atacama and represented the initial impetus for the ratification and entry into force of ILO Convention No. 169 in Chile in 2008.

In the southern area of the salt flat is the Atacama indigenous community of Peine, the community that is closest to the mine and the most affected by mining activity. It was here where the SCL established its ad-

ministration centre and mining camps in an area that covers the company's area of influence.

As noted, from the beginning of the mining activities, indigenous labour was hired, as well as farmers and workers from nearby cities. This was the first point of conflict, since indigenous workers considered that they did not enjoy the same rights or opportunities as non-indigenous workers. This translated into demands that gained strength after the enactment of the Indigenous Law. Based on these demands for equal labour rights, the inhabitants of Peine began to pressure the mining company. In 2000, demands increased, mainly due to concern about problems in local development. After a series of meetings, the conflict was finally resolved with the signing, in 2012, of the Cooperation, Sustainability and Mutual Benefit Agreement between the Peine and Rockwood Lito Ltda.

For the company, this agreement marked a significant milestone and a different form of relationship with the communities began to be put into practice. This was shown by the company's openness to understanding the claims regarding the history of poor treatment of the indigenous communities and their legitimate concern regarding environmental and economic interests. The agreement was the first of this type between an indigenous community and a mining company in the region.

The communities used as a reference the agreement signed by the community of Peine. Based on this example, the rest of the Lickanantay began a dialogue process to sign a new agreement. Thus, in 2016, an agreement was finalized between Albemarle, the 18 indigenous communities and the CPA. The main argument of the communities to reach this agreement was the use of the territory and the consideration of the entire Atacama community affected, understanding the salt flat as a territorial unit.

This new agreement was similar to the previous one, reaffirming the rights of the communities, cooperation mechanisms, sharing of benefits and reparations that the communities would receive from the company. From the beginning of the conversations, the communities demanded that the company pay for consultancies to explain to them the environmental impact of the

company's activities in the salt flat. Since then, the communities have had access to consultants on all matters related to the project. The agreement also established that, starting in 2018, the company had to transfer 3.5 percent of its annual sales of lithium carbonate and potassium chloride from the Salar plant, directly and in equal parts to the 18 Atacama communities. The new agreement recognized the rights of Indigenous Peoples, the United Nations Guiding Principles on Human Rights and Business, and ILO Convention No. 169. In this way, the heart of the agreement was the participatory environmental protection of the salt flat, with 75 percent of its clauses referring to this aspect.

Until now, not all of the clauses of the agreement have been applied. However, Albemarle and community representatives hold periodic meetings at the Standing Working Group, which include monitoring of the agreement, accountability, clarification of doubts, regularization of labour aspects, and workshops and training. The training is carried out based on company requirements and on topics of interest to the communities. In addition, the company develops R&D research with the participation of communities. It is worth noting that a significant number of the company's workers (37 percent and rising) are Lickanantay.

In summary, the agreement includes three main aspects: i) the environmental protection of the salt flat, with measures and actions such as participatory monitoring and transparency of information, among others; ii) permanent dialogue mechanisms, and iii) economic benefit through 3.5 percent of total sales for the communities.

A very important point on which the representatives of the company and the communities agreed was that direct dialogue between the parties should prevail in the negotiation processes, with the total absence of the State. The company even made changes to the Environmental Impact Study, derived from the workshops and recommendations issued by the communities and their advisors. In addition, the company was recommended to include an independent third party in the negotiations, which led to the selection of the Inter-American Development Bank (IDB).

In its sustainability statement, Albemarle noted that it developed a Community Relations and Indigenous Peoples Policy more than 10 years ago, in accordance with international agreements, including the United Nations Declaration on the Rights of Indigenous Peoples, the Position Statement of the International Council on Mining and Metals on Indigenous Peoples and Mining, and respect for the United Nations Guiding Principles on Business and Human Rights.

## Key indicators

**a) UNGPs:** In its corporate sustainability report, the company made public a statement expressing its commitment to respecting human rights. Even though it has not carried out a due diligence process according to the UNGPs, it has a detailed policy on human rights in various areas, including its relationship with Indigenous Peoples. In addition, the agreement signed with the Lickanantay communities includes prevention and mitigation measures that involve material and human resources, as well as complaint and response mechanisms for negative impacts.

**b) Company-Indigenous Peoples relationship:** Since its inception, the company's workforce has included around 37 percent indigenous workers in positions of varying responsibility and with employment contracts. The agreement contains labour clauses regarding non-discrimination against members of Indigenous Peoples, who regularly receive training from the company. In addition, Albemarle has specific policies for relations with Indigenous Peoples, which have been strengthened by the agreement and its implementation, especially in terms of environmental aspects. However, the relationship is essentially based on voluntary policies or business guidelines, without directly appealing to international agreements. In this regard, the agreement has facilitated the development of a permanent dialogue and monthly meetings during which investments and specific measures are reviewed.

### **c) Creation of value for stakeholders (qualitative indicators):**

With the agreement, indigenous communities have improved their economic conditions and autonomous processes to promote their own development through various projects. In addition, in relation to the environmental monitoring situation, which was one of the communities' main concerns, shared monitoring mechanisms were established, including technological contributions by the company and community management. Among the main benefits for the company is having obtained the Environmental Qualification Resolution, the strengthening of its processes and capacities for managing community conflicts and a more favourable climate for its operations. Furthermore, with the achievement of this agreement and its improved relationship with the communities, Albemarle has facilitated its certification process for the IRMA Standard for Responsible Mining (IRMA, 2018), which is currently underway.

## Analysis and lessons learned

**a)** The agreement signed by the company, the CPA and the 18 Lickanantay communities recognizes the ratification of ILO Convention No. 169 by Chile (2008), the UNGPs and the United Nations Declaration on the Rights of Indigenous Peoples. At the express request of the communities, the State did not participate, although the Inter-American Development Bank (IDB) did participate as guarantor of the agreements. According to those interviewed, this last fact is positive regarding the autonomy and self-determination of the communities in their relationship with the company. Also, the role of the State in these type of negotiations has been questioned and shows the historical distrust of Indigenous Peoples of the authorities.

**b)** For the success of agreements of this type, something unprecedented in Chile, the willingness of the parties to generate trust and undertake a process of building shared value has been very important. For the communities, their organization

and the agreements between the communities involved were key, which had as a precedent the agreement with the community of Peine. For the company, it was very important to have corporate policies in place regarding Indigenous Peoples and human rights. However, it was even more important to assume that establishing good relationships required a long process of knowledge and effective understanding of the logic and functioning of indigenous institutions and organizations. Beyond the expected existence of different visions regarding the agreement, it has allowed for a continuous process within the framework of which the Standing Working Group has already held 53 meetings.

c) The agreement includes various aspects, including the protection of the salt flat, which was its original purpose and to which around 75 percent of the clauses refer, as well as economic negotiation, investments, training and technical advice, among others. All of this has had positive effects for Indigenous Peoples that have strengthened their autonomy in decision-making on projects that safeguard their cultural and traditional practices. Traditional agriculture and livestock practices have allowed many people, especially young people, to return to the area.

### 3.2. Agricultural/food/ beverage sector

For Indigenous Peoples, agriculture is part of their ancestral activity and livelihood. They have developed traditional practices that reflect, among other things, their close contact with nature. This is an essential part of their worldview that includes great respect for the earth, its fruits and the life that arises from it in the territories that their ancestors have inhabited since time immemorial. In this regard, various experiences have been identified linked to agriculture and the participation of Indigenous Peoples as workers in production chains or as service providers. In all cases, respect for Indigenous Peoples has been prioritized, in a context of strengthening the human rights in the communities. It is also essential to highlight that the worldview and relationship of Indigenous Peoples with the land and their agriculture can effectively contribute to finding alternative solutions to the climate crisis that affects the planet.

#### ICAFÉ Ngäbe Buglé Region, Costa Rica



In Costa Rica, coffee is an export product par excellence. The favourable conditions of the land and the climate, as well as the country's political stability, facilitated the development of the cultivation of coffee. The State maintains supervision and control of the activity through the Costa Rica Coffee Institute (ICAFE), founded in 1933. ICAFE represents all the sectors involved in the activity: producers, beneficiaries, exporters and roasters. The relationships between these four sectors are regulated by law, with the purpose of guaranteeing a fair price for each participant in the coffee activity. According to ICAFE, 92 percent of coffee producers have a planted area of less than 5 ha, representing 44 percent of the total area, while 6 percent of producers have between 5 and 20 ha (representing



21 percent of the cultivated area) and 2 percent have plantations of 20 ha or more (covering 35 percent of the total area) (Costa Rica Coffee Institute. n.d.). In economic terms, coffee exports in the 2018-2019 harvest represented 2.5 percent of the country's total exports, which fell slightly to 2.3 percent in the 2020-2021 season (Álvarez, 2021). Coffee growing activity is carried out in eight regions, covering a total of 93 697 ha, which represents 1.8 percent of the territory.

Costa Rica has opted for manual harvesting of coffee beans, which requires experienced pickers to avoid mistreating the plant and allowing the coffee tree to bloom again. This implies seasonal migration, with 40 and 20 percent of migrant workers coming from Nicaragua and Panama, respectively. The migrants from Panama come from the indigenous population of the Ngäbe Buglé Region, which ranges between 7,000 and 12,000 people, mainly from the regions of Bruna and Los Santos.

The members of the Ngäbe-Buglé population who enter Costa Rica to work in the coffee harvest, both individually and in family groups, must have a Costa Rican ID card. They start to arrive in August and stay in basic accommodations provided by the farmers until the end of the harvest. The vast majority return home in March, although some stay all year taking jobs in other local industries. The COVID-19 pandemic forced the government to close the borders, creating a critical situation in the coffee sector since the producers risked losing their harvest if the seasonal migrant workers were not allowed to enter.

The producers do not offer contracts to the migrants, which are considered independent workers, but rather pay them for each kilo of beans collected. In 2018, the Costa Rican Social Security Fund (CCSS) and ICAFE signed agreements to guarantee social security insurance for workers, and thus give them access to social services. In 2020, the insurance process was flexible and collaborative, and represented an important step in recognizing the employment relationship between seasonal workers and the owners of coffee-producing farms. In addition, it benefited one of the weakest links in the chain, particularly the binational Ngäbe Buglé

migrants. Health insurance was created as a targeted product for migrants in a vulnerable situation, which replaced tripartite contributions with a bipartite mechanism funded by the Costa Rican State and ICAFE.

In the case of coffee activity, the COVID-19 emergency led to coordination at both the national and binational levels, including indigenous authorities in the case of the protocol for the Ngäbe-Buglé population. At the national level, the protocol was designed between different institutions, such as the ministries of health, labour, migration and agriculture. The International Organization for Migration (IOM) also participated in the process. This team coordinated the process and coordinated with ICAFE, local governments and the productive sector.

As a result of an agreement with the Panamanian authorities and the Ngäbe Buglé representatives, the requirements for entry into Costa Rica began at the regional level. If the workers did not present symptoms of COVID-19 at the border and their documentation was approved, they then moved towards another medical checkpoint in the Panamanian district of Bugaba, in the province of Chiriquí. Once the health controls were passed, the contracting farm had to ensure 14 days of isolation, clean housing with spaces for the preparation and storage of food, and a dining area. Also, they had to comply with strict control of hygienic measures in common areas and health services. During this period, the workers were subjected to daily testing in order to rule out possible contagion.

In addition, as part of the improvements incorporated in the 2021–2022 season, a safe return protocol was implemented, which included: i) health insurance; ii) testing and recording of physiological symptoms at the border; iii) the transfer to the farm under the concept of a health bubble, with the cost borne by the producer; iv) mandatory quarantine on each farm in bubbles and daily reporting of physiological symptoms in the Early Traceability System (SITLAM); v) early detection of suspicious cases, and vi) monitoring and reporting of the transfer of workers from one farm to another, with controlled transfers at the expense of the new employer. In addition, workers from the Ngäbe Buglé Region had

to carry a binational health certificate issued by the Panamanian authorities and a safe-conduct pass. Another important aspect was the implementation of inspection protocols as part of the collaborative work, which provided for the inspection of health and working conditions by immigration, health and labour authorities. The inspectors verified the conditions defined by law, such as occupational health conditions, basic requirements in the accommodation provided by the producer, salary and working hours aspects, among others.

For ICAFE, migratory health and labour traceability has been one of the most successful mechanisms to guarantee the rights of temporary migrant workers. The relationship between private companies and seasonal migrants from Nicaragua and the Panamanian Ngäbe-Buglé region marked a new beginning by establishing a specific ID card for them at a lower cost than the traditional card. According to some interviewees, the pandemic revealed the mistreatment of migrant workers from lower strata in Costa Rica, which led to the creation of a multidisciplinary group by the Presidential Office to address the issue, highlighting the importance of the migrant workforce for the agricultural sector.

Among other notable activities of this joint effort of companies and government institutions was the creation of 20 Casas de la Alegría, which provide childcare services for children of coffee pickers between 0 and 12 years of age while their parents are working in coffee harvesting. These centres are managed through the Childcare and Development Subsidy and the contributions of farm owners, coffee grower cooperatives and municipalities. They were created in several coffee-growing areas in 2014 as part of the United Nations Human Security Programme, within the framework of the joint programme to improve the human security of temporary Ngäbe-Buglé migrants from Costa Rica and Panama.

Each centre has caregivers hired by the government who carry out early stimulation, dignified care and healthy eating activities. The School of Medicine, Nursing, Nutrition and the Faculty of Education of the University of Costa Rica collaborate jointly in the project,

carrying out work that includes respect for the cultural values of the communities and support for training in the educational field.

## Key indicators

**a) UNGPs:** ICAFE is a group of producers that declares that it adheres to international agreements, but it does not apply the UNGPs as a voluntary instrument. It applies human rights principles in its strategies and identifies risks through inspection protocols, as well as in the procedures described in this experience.

**b) Company's relationship with Indigenous Peoples:** Coffee farms hire migrant pickers through independent worker agreements using special protocols. The work they do is unskilled, although coffee harvesting requires experience to be efficient and not to cause damage during the cuts. ICAFE has a long-standing relationship with the Ngäbe-Buglé communities, which has been strengthened during the COVID-19 pandemic and with the improvement of working conditions, including social security. The policies for relations with the indigenous population are framed within the ICAFE Ethics Programme. In this case, a partnership was also established between the communities, through messengers and negotiating leaders from the region, with the participation of the State, academics and multilateral organizations. In addition, ICAFE has a procedure for handling complaints related to indigenous communities at all its levels of operation.

**c) Creation of value for stakeholders (qualitative indicators):** The improvement of working and living conditions acquired greater value by including childcare, health clinics and the transfer of families to the workplace, among others, while respecting the cultural and social conditions of the community. The implementation of labour migration agreements, guaranteed by the State and the IOM, was also an added value for the regions.

ICAFÉ managed to recruit pickers for the harvest, which was difficult during the pandemic, and strengthened its relationship with the indigenous regions of Panama and their leaders on its associated farms. This public-private alliance allowed the development of a model that is applicable in other sectors with migrant workers.

d) According to sources consulted, the formalization of the work carried out by seasonal migrant workers is still pending, beyond their special insurance coverage, which represents a gap that must be closed to strengthen relations between the workers of the region and the coffee companies.

## Analysis and lessons learned

a) A notable aspect of this experience is the interaction between the private, public and multi-lateral sectors, with the participation of the IOM, and its binational character due to the cooperation of the Governments of Costa Rica and Panama. The participation of a variety of actors, through ICAFÉ, positively affected the relationship between companies and Indigenous Peoples. This probably occurred due to situations specific to the countries involved, and to the political will demonstrated to obtain a process that benefited the parties.

b) In this regard, the experience shows that migration management must combine the human rights approach and the application of the national and international regulatory framework to guarantee safe migration for people, in this case the Ngäbe-Buglé populations. ICAFÉ's respect for the rights of migrant populations, which had previously been mostly ignored, allowed for higher levels of participation in the regions, along with improving the living standards of migrant workers during their stay on the farms.

c) The participants highlighted the increased visibility of the importance of pickers, in this case the Ngäbe-Buglé population, in the coffee value chain, which led to considering a better way of working and valuing their work. It was also important that the employment situation of migrants was formalized through multisectoral and binational coordination. In this regard, the experience is aimed at developing a permanent mechanism, beyond the pandemic, to be included in binational agreements.

Central Cauca  
Indigenous  
Cooperative,  
CENCOIC/  
DRWakefield-Cafeology,  
Colombia



The Central Cauca Indigenous Cooperative (CENCOIC) was formed in 1980 under a mandate from indigenous authorities to comply with the eighth point of the development programme of the Regional Indigenous Council of Cauca (CRIC, 1971). This point aims to strengthen the local economy and community businesses in the territories, operating as a mechanism of social and political resistance of the Indigenous Peoples in the department of Cauca, grouped in the CRIC, which was not recognized by the State at that time. The objective was to seek a social alternative that would strengthen the processes developed within the framework of land recovery. This alternative should allow indigenous people to move through the country's districts without being persecuted or stigmatized in the context of the internal conflict taking place in Colombia. Furthermore, the CRIC would represent the Indigenous Peoples at the national and international levels, highlighting the economic and social problems facing the Indigenous Peoples of the region.

CENCOIC forms an interesting value chain. It sells the "green" coffee (unroasted coffee beans) to the British company DRWakefield, which in turn sells the product to Cafeology. The latter is a coffee distribution company based in Sheffield, in the United Kingdom of Great Britain and Northern Ireland, which has been buying

“green coffee” from producers in Colombia and Central America for 14 years.

Through the intermediation of DRWakefield, the cooperative joined the Cafeology value chain as a supplier in 2011. The unique thing about this value chain is that there is close contact between the parties, including the suppliers, intermediaries and end customers (Cafeology and the University of Sheffield). CENCOIC communicates directly with end customers to determine the type of product required, through a buyer and distributor. It is common for buyers and end customers to visit and learn about the methods of production and the projects they support, in alliances with large and medium-sized companies that have a social responsibility programme.

According to Cafeology executives, they buy the coffee from DRWakefield, which in turn buys the coffee from CENCOIC, and then finishes the roasting process and sells it to their end customers, such as the University of Sheffield. In this case, both Cafeology and the people responsible for purchasing at the university are very familiar with the production process of the coffee they buy, making visits to Colombia or receiving the producers in their country. According to executives, this fact adds value to their business both due to the high quality of the product and its origin. They have also established links with university professionals who make technical contributions to coffee production.

DRWakefield, for its part, declares in its sustainability policies the value added by “supporting the creation of a more economically, socially and environmentally sustainable coffee industry. We pay fair prices for the coffee we buy and we source from the same producers each year, thus ensuring them a regular income. We also work with them to improve their quality and standards, so that they can increase their coffee production and at the same time improve the conditions of their families and communities” (DRWakefield, n.d. ).

The cooperative, for its part, has developed a two-front strategy: politically, with the organization of communities in the fight for their rights, and economically, through the coffee commercialization process, the

distribution of medicines and the commercialization of goods produced in the communities.

In this regard, CENCOIC continues to work with CRIC and has developed three commercial initiatives. The first is the Coffee Department, which is based in 18 indigenous territories of Cauca with 20 groups of producers that include 3,100 coffee-producing families. In each indigenous territory there is an organized group that has a board in charge of the economic, political and marketing aspects of coffee production. The members of the group are trained in financial matters and receive technical support for the agronomic management of the territory. Each town has its own way of working, based on the philosophy of each culture and supported with the necessary technology to improve their quality of life. The coordinator has a work team that includes an export specialist (with their own permit). Given the lack of their own resources, they have created relationships with international and national banks, such as Rabobank and the Rabobank Foundation, often considering support for indigenous identity and development projects based on fair trade initiatives. For the CEO of Cafeology, the company’s ethics are strengthened by having a supply chain with traceability that is linked to the promotion of the protection of traditional livelihoods, with local and global impacts, given its direct relationship to adaptation to climate change and conservation. In this regard, the company’s business model goes beyond having a good chain of suppliers, highlighting the need to support such initiatives and raise awareness in British society about the importance of fair trade to face the social and climatic challenges of the planet.

In summary, the added value during the coffee process helps to meet the needs of the coffee producers and support an indigenous community with an excellent quality product in the international market, while highlighting the organizational process of the communities of the department of Cauca. In addition, through the strategic marketing of their products, the communities can highlight social aspects that they consider key, such as women’s coffee – production with a gender approach – and youth coffee. In this way, it is possible to generate opportunities so that young people do not leave the

territory and, in the process, strengthen their knowledge of the community's culture and traditions. The coffee is not labeled as CENCOIC coffee, but rather the labeling depends on the municipality, the communities where it comes from and the customer's requirements. This allows the products to be sold in Germany, Australia, the United Kingdom of Great Britain and Northern Ireland, Canada and New Zealand.

The second marketing initiative is carried out through the direct distribution of medicines to people, indigenous hospitals and dispensers, with the aim of reducing intermediaries in the pharmaceutical supply chain in Colombia. The cooperative buys from laboratories and distributes and delivers the medicine to users throughout the department of Cauca. At the same time, it also supports an indigenous health process of de-medicalization.

The third initiative is the Economy of Our Own (Economía Propia) programme, which is based in the town of Santander de Quilichao. This has involved the creation of community supermarkets that support the marketing of indigenous products such as jams and fruit juices. In this way, the programme helps producers to join forces to strengthen the various livelihoods in the communities.

Finally, CENCOIC is part of Colombia's fair-trade certification process. The cooperative includes representatives of indigenous, Afro-descendant and other ethnic groups, supporting all its member organizations to promote their products.

## Key indicators

**a) UNGPs:** The companies involved in this case do not apply the UNGPs, either due to lack of awareness or because their operations are not linked to international agreements. However, their activities supporting sustainability are in line with these principles.

### **b) Company's relationship with Indigenous Peoples:**

As a supplier of "green" coffee, CENCOIC is part of the value chain of the companies DRWakefield and Cafeology, as well as end clients such as the University of Sheffield. Its relationships include technological contributions from clients, especially the university, which contribute to the improvement of the product. Key to these relationships are: i) the concept of fair trade, which implicitly supports indigenous development projects and raising awareness of socioeconomic realities, and ii) the integration of ancestral knowledge into Western coffee production. These points are an essential part of the policies and ethical codes of the client or purchasing companies and facilitate relationships between all links in the chain. This includes the sharing of information, including field visits to learn about coffee production processes.

### **c) Creation of value for stakeholders**

**(qualitative indicators):** Communities add economic value through the production and sale of "green coffee", which promotes their development and economic autonomy in line with the eighth point of the CRIC programme. At the same time, they have made progress towards other objectives, through their participation in the value chains of companies that support fair trade and the implementation of their environmental policies, including living in harmony and balance with Mother Earth. In addition, they have implemented programmes to preserve their cultural identity aimed at encouraging people to remain in the territories, as well as specific programmes such as women's coffee and youth coffee.

Both Cafeology and DRWakefield have stated that this experience adds value to their businesses through increasing customer awareness and allowing them to participate in fair trade market niches. In addition, the alliance system improves the internal relationship in the value chain, through close contacts and the implementation of technological advances for a better product.

## Analysis and lessons learned

- a)** This experience represents one of the growing forms of association between private companies and Indigenous Peoples. In particular, the indigenous communities form part of the supply chain of companies that are linked both by the production of the communities and by their contribution to the values and ethics of the companies involved. In short, it is a clear win-win process and helps companies to reach consumers that are increasingly sensitive to the traceability of the products they consume. In addition, these consumers value the contribution of the producers to global issues such as adaptation to climate change and environmental protection. For Indigenous Peoples, the relationship with the companies, which sometimes includes civil society organizations, provides significant support to achieve their objectives of social organization and economic development, while respecting their traditions and livelihoods.
- b)** Beyond the connection of this experience to fair trade trends, it is worth highlighting its ability to create and manage a cooperative that manages the production of agricultural products and provides services to the community autonomously. A valuable contribution of the experience has been its development of a collectively sustainable market, in which commerce and market participation do not contradict the modes of production and the agricultural traditions of the communities. In this way, the experience has strengthened the collective rights of the Indigenous Peoples of Cauca.
- c)** Cafeology and DRWakefield have carried out activities that promote the development of the Indigenous Peoples that supply their coffee, based on ethics and corporate principles of action. However, these companies do not explicitly ascribe to the UNGPs, either due to lack of knowledge or lack of understanding regarding the relationship between these principles and the improvement of their businesses. This type of experience shows that there is room to expand the scope of the UNGPs, but at

the same time it highlights the gap represented by the lack of promotion of this tool in the business environment.

### De Mendes/ Yanomami Peoples and Paite Suruí chocolate project, Brazil



The indigenous Yanomami land in the Brazilian Amazon is rich in gold, which has attracted some 20 000 miners to the area, known as garimpeiros. This situation represents a significant danger to its inhabitants. As part of this illegal activity, the miners have entered Yanomami Park, cutting down thousands of hectares of jungle to build three landing strips and three open-air mines. In addition, they have contaminated the reserve's rivers with mercury and silt, deteriorating water quality, eroding its banks, destroying fisheries and scaring away the animals that Indigenous Peoples hunt. Also, by obtaining income illegally, they have incited local women into prostitution, spreading diseases to which indigenous people have no resistance and altering consumption patterns and behaviours.

In this harmful context, as a way to counteract the situation and provide an economic alternative for local inhabitants, a chocolate production initiative was developed by César De Mendes, a chocolate entrepreneur, chemical engineer and food technology researcher from Belem de Pará. Pará is one of the regions with the highest cocoa production in Brazil. De Mendes thought it would be interesting to develop a chocolate product that reflected the characteristics of the Brazilian Amazon, specifically using native cocoa. His idea was to create value chains that promoted sustainability and highlighted the contributions of Indigenous Peoples to caring for the environment, with a final product that reflected their traditions and worldview.

The De Mendes company is located in the traditional community of Colonia Chicano in the Santa Bárbara municipality of the Belém Metropolitan Region. It manufactures artisanal chocolates, with raw materials generated from partnerships with traditional populations of the Amazon (Amazonian terroir). De Mendes worked with university researchers in search of native cocoa to learn and teach cocoa planting and harvesting methodologies in the communities. This led him to venture into the Amazon, where he established contacts and partnerships, held workshops and developed the native cocoa trade with the Yanomami Indigenous Peoples, in the states of Amazonas and Roraima, the Ashaninkas people in the state of Acre, and the Paite Suruí people in southern Rondônia State.

The coffee process consists of the stages of harvesting, fruit selection, pod breaking, fermentation and drying. The communities collect and pre-prepare the raw materials, for which they receive direct training from César De Mendes (chocolatier) and technical support from the company. With the support of the Brazilian Socio-Environmental Institute (ISA), De Mendes and other chocolate makers conduct workshops with indigenous leaders and communities to advise them on the best ways to collect and process the seeds, and finally to make chocolate. This drive to produce high-end chocolate has meant significant additional economic income for the communities, which has allowed members to remain in the region and to partially counteract the illegal invasion of gold miners.

ISA sources consider this to be an original and valuable experience, given that the company initially established a technical advisory relationship that later transformed into a relationship of commercial support for projects with the communities. Indicators in the area showed that there was a lot of cocoa and that income generation activity, integration of young people and creation of sustainable value chains was possible. The arrival of De Mendes, a connoisseur of Amazonian cocoa and an expert in working with indigenous communities and negotiating agreements with indigenous associations, meant income security for the local population and having the technical training essential for the development of the business.

The experience, which began in 2010, began to appear in some local media, causing people from other communities to approach the company in search of work. At that time, the company also began to form relationships with community social projects, although not always related to cocoa. In 2020, the company ran its first online campaign for the Yanomami chocolate bar (300–400 bars), which today is part of the company's chocolate offering.

In addition, through contacts with people and groups interested in the protection of the Amazon, a fair-trade market for Yanomami chocolate was opened in the Kingdom of the Netherlands and France, where the price of the bar is higher than that of a normal bar. This has strengthened the connection of the initiative with the sustainable development of the Amazon and its inhabitants, as it generates greater resources for social projects. A percentage of the value is allocated to community projects, which reached 100 percent during the most critical stages of the pandemic. This had an important positive impact in an area that has been invaded in recent years by gold miners, which increased the contagion risk and made the management of COVID-19 more difficult (ISA, 2020). At that time, one of the measures considered, at least by the group that worked with the company, was to move to another location.

Currently, the company is also developing projects in the south of the State of Rondonia, north of Mato Grosso, where it works with the Paite Suruí indigenous communities. These are towns with an important urban influence and a very interesting cultural tradition, preserving the local language (Tupí Mondé) and identity. Chocolate bars were also made with cocoa from these territories, although they kept the Yanomami name.

At this moment, there is also another product waiting to hit the market, a chocolate bar made with cocoa from the territory of the Ashaninkas peoples (Acre State), which contacted the company before the pandemic. In 2021, once it was possible to carry out field visits, the company began working with a fruit called cupuaçu, a native fruit from which cupulate is made, with properties and flavour similar to chocolate.

Although to date the participation of the communities has been essential in the preparation and sale of seeds, a process has begun that allows them to produce chocolate for their own consumption. In the case of the Paite Suruí community, progress has been made in building a small factory and workshops are being held for community members to develop a product that is integrated into the local food culture, and not just for sale, as a way to increase their identification with the product. The Yanomami communities have also increased their cocoa plantations, using traditional techniques typical of their agroforestry system, and planting and harvesting according to their ancestral knowledge.

Payment for cocoa is made directly to the communities, either through their associations, such as the Yanomami association, or small cooperatives such as Paite Suruí. According to company sources, the company pays four to five times more than the market price. Therefore, the final products are more expensive and enter the fair-trade system aimed at customers who understand that by purchasing these products they are helping to promote the sustainability of the Amazon. De Mendes is a growing company that aims to reduce the environmental impact through this type of trade.

Finally, De Mendes uses a production model aligned with socio-environmental sustainability, purchasing carbon credits from REDD+ projects, thereby directly impacting the preservation of hundreds of thousands of hectares of the Amazon rainforest. Nowadays, De Mendes has purchased 300T carbon credits.

## Key indicators

**a) UNGPs:** The De Mendes company does not subscribe to the UNGPs, mainly due to lack of knowledge. The company's social responsibility practices in Amazonian indigenous communities strengthen human rights and are considered by the company as a guide for their work.

**b) Company-indigenous people relationship:** In principle, the relationship is based on commercial aspects through the purchase of unprocessed

cocoa. To be part of the De Mendes value chain, the communities needed technical training, which was provided by the company once the decision was made to commercialize Amazonian cocoa and convert this type of business into part of the company's corporate policy. This decision was based not only on the economic impacts but also to support projects that would improve the situation of the inhabitants of the Brazilian Amazon. To achieve this, the company has implemented environmental and greenhouse gas reduction policies in alliance with specialized companies (ZCO2). The protection of the Amazon, and the indigenous populations that inhabit it, is an essential part of the company's strategic vision and defines the type of relationship with the communities. The company is part of Ekosfera, an organization aimed at strengthening and promoting sustainable value chains in indigenous populations. In addition, all training and communication activities, as well as agreements, are periodically reviewed and have cultural relevance.

### **c) Creation of value for stakeholders:**

The Amazon indigenous populations involved in the project generate value through community economic development provided by the income from cocoa. In addition, the training provided has allowed them to improve and expand their production, even creating new products such as cupulate. Moreover, the sustainable management of the project has improved the environmental protection of the region and strengthened efforts to combat illegal mining.

De Mendes, for his part, has positioned himself as an Amazon chocolate producer par excellence and has entered into fair trade marketing circuits through products with original and identifiable brands that are linked to the environmental sustainability of the region.



## Analysis and lessons learned

**a)** It is important to highlight the personal decision of the company's owner to incorporate the Indigenous Peoples of a region threatened by illegal mining and even by institutions of the Brazilian state, which in some cases have implemented policies that benefit extractive productive activities (WWF, 2016). In this regard, the company has adopted this strategy based on a dual perspective: to improve and differentiate its products by incorporating native cocoa, and to contribute to improving the marketing of cocoa products from indigenous communities, which previously had very low prices, through the development of a product with its own special label.

**b)** In addition, the company's relationship with the value chain is important, incorporating technical cooperation and contributing to community development projects that preserve cultural values and traditions, as a way of protecting communities and ensuring the continuity of their ancestral traditions. In this process, it has been essential to identify a niche segment of the fair-trade market, in which higher prices could be charged for a quality product. In this regard, another of the keys to success has been communicating to the non-indigenous world the ability of Indigenous Peoples to make a quality product.

**c)** For Indigenous Peoples, this type of agreement has opened up possibilities for building less asymmetrical relationships, transforming their historical connection with the market and changing the traditional relationships in the Amazon based on violence and subordination. They have been able to access the goods they require through collective processes, applying traditional knowledge, strengthening their identity as Yanomami or Paite Suruí and establishing production standards with positive impacts.

**d)** Finally, it is important to highlight the role that this company-indigenous people relationship can play in the protection of a world heritage site, such as the Amazon, in the face of climate change, and in developing alliances between various actors in civil society. In this particular case, the contribution of civil society organizations and companies has been even more important considering the attitude of the Brazilian State during a period with policies promoting deforestation<sup>7</sup>.

### Aje Group/ Amazon indigenous communities, Peru



The Aje Group is a multinational company that was created more than 30 years ago in Ayacucho, Peru. It is a family company of Spanish origin dedicated to the production of juices, water and carbonated drinks, with a presence in more than 30 countries in Asia, Africa, Latin America and Europe. During the company's history, it has developed a variety of important brands, such as: Bio Amayu, CIELO, Pulp, Free Tea, Cifrut, Sporade, BIG Cola and Volt.

Aje has developed a sustainable production model, with the participation of indigenous communities, mainly from the Peruvian Amazon. The Amazon has an incomparable diversity of flora and fauna, but it is in imminent danger. The Pacaya Samiria National Reserve in the Peruvian Amazon has suffered the consequences of deforestation and remains under constant threat. For this main reason, Aje has established its headquarters there and developed a project to protect 6.5 million hectares of land. In this context, the Amaramayu Movement was developed.

<sup>7</sup> According to data released by Brazil's INPE, there was a 52.9 percent increase in the deforested area in the three years of Bolsonaro's government (average of 11,405 km<sup>2</sup> between 2019 and 2021) compared to the previous three years (average of 7,458 km<sup>2</sup> between 2016 and 2018). "The current government, with its anti-environmental policy, has drastically increased the level of deforestation in the largest tropical forest on the planet. These are unacceptable levels in the face of the climate emergency that we are experiencing in Brazil and in the world, with climatic extremes and their increasingly devastating and frequent impacts," said Cristiane Mazzetti, spokesperson for Greenpeace Brazil. See more in: *Under the Bolsonaro government, the Amazon has suffered the highest rate of deforestation since 2006*, Greenpeace, 2021. <https://ocortar.link/aDHMJ9>.

The Aje model operates by generating economic and marketing alliances for a product. It all starts in the heart of the Peruvian Amazon, where indigenous communities, maintaining their tradition, are dedicated to the cultivation and collection of wild fruits, using sustainable agriculture techniques that help mitigate climate change. They then sell these fruits to Aje, to later be transformed and marketed as “superfruit” juices, named for being high in vitamins, without preservatives or added sugars. For example, Aje purchases the *aguaje* and *camu camu* superfruits from the Shipibo-Konibo and Kukama Kukamiriaa indigenous communities, located in the department of Loreto, in the Peruvian Amazon.

The Aje product line is called Bio Amayu and is made up of five superfruit juices, including the two mentioned above. These are: Bio Amayu, Bio Camu Camu, Bio Acaí, Bio Blueberry and Bio Aguaymanto. With this new business model and valorization of sustainable ancestral agriculture practices, the company helps prevent deforestation of the Amazon rainforest, since, among other things, the fruits must be harvested from uncut palm trees to ensure the sustainability of the ecosystem. In addition, the model provides a more stable income for nearly 500 indigenous families, which negotiate a single average price for the purchase and sale of fruits for the entire year. Previously, the value depended on the season, so there were months when their income was very low and irregular. As Amazonian indigenous communities have historically not had good marketing experiences, the company set out to build trust with the communities by establishing trade with fair prices and conditions.

To reaffirm its commitment to sustainable development, Aje has stated its commitment to the UN Sustainable Development Goals (SDGs), and is directly impacting four of them in a positive manner:

SDG 3: Health and wellbeing, through its portfolio of healthy products.

SDG 11: Sustainable cities and communities, with the creation of the Sustainable Cities Project ‘Sustainable Machu Picchu’.

SDG 13: Life of terrestrial ecosystems, with its commitment to conservation and restoration of the biodiversity of protected areas “Pacaya – Samiria”.

SDG 15: Climate action with the reduction of plastic material for containers and packaging.

Aje’s relationship with indigenous communities, and the development of the Bio Amayu product, began within the framework of a 2014 alliance between the company and the Chamber of Commerce of the Indigenous Peoples of Peru (CCPIP)<sup>8</sup>, after the Chamber invited the company to work directly with the Amazon communities, with a focus on sustainable development and in accordance with the specific characteristics of the communities. In this case, this has been done by rediscovering and promoting fruits typical of the Amazon, such as the *camu camu*, collected by families along the Putumayu River, and the *aguaje*, which is collected mainly by associations of families of the Cucama ethnic group.

The CCPIP is an organization that was created in 2012, with the participation of companies, indigenous productive associations, youth, regional leaders and political organizations, such as the Interethnic Association for the Development of the Peruvian Jungle (AIDSESP) and the Confederation of Amazonian Nationalities of Peru (CONAP). The CCPIP has set itself the aim of empowering the Indigenous Peoples of the Amazon in commercial aspects related to their production in order to face the future in better conditions, while ensuring sustainability and respect for their culture.

It is important to note that for the Chamber to establish these types of commercial relationships with indigenous communities, companies must respect and promote the “4Rs” of the global sustainable development model: reciprocity, redistribution, relationship and respect.

<sup>8</sup> This is a national organization focused on promoting economic opportunities for the Indigenous Peoples of Peru based on their ancestral values of relationship, redistribution, reciprocity and responsibility, while preserving their cultural identity. The Chamber brings together indigenous productive enterprises and associations and provides them with technical and academic support, protects their economic rights and generates alliances with strategic sectors for the development of sustainable businesses. See: [www.conservacion.org](http://www.conservacion.org)

In addition, the Chamber has established three specific criteria for commercial dealings between companies and communities: i) that the company must promote the productive conservation of biodiversity and any productive activity must promote the conservation of forests, while ensuring equitable treatment in commercial terms between the producer and the company or buyer (equity and fair access); ii) respect for the indigenous culture, which translates into different forms of respect for the traditions of the communities, and iii) the possibility that the company may participate in those traditions.

Aje is now part of the CCPIP, given its commitment to working with communities based on the criteria mentioned above. This relationship between the company and Indigenous Peoples is one of the emblematic cases of cooperation and reconciliation with indigenous communities in Peru.

The Chamber considers that the relationship with the company has been beneficial for all parties involved, which is why it is interested in continuing to promote investments for the communities, as long as the aforementioned criteria are met. The company aims to support the communities themselves to develop business enterprises, and in this regard it is essential for them to generate international alliances between Indigenous Peoples, with a view to creating a South American network of indigenous companies and organizations. The communities have already organized the First South American Indigenous Business Forum, formed alliances with the Mapuche Chamber of Chile and made the first approaches to organizations based in Ecuador, Colombia and Paraguay.

## Key indicators

**a) UNGPs:** The company does not subscribe to the UNGPs due to lack of knowledge, nor does it have a human rights declaration or explicit human rights policy. However, it does address these principles through its commitment to the SDGs.

### **b) Company-indigenous people relations:**

The relationship was initially established through the purchase of raw materials from indigenous communities, forming part of the supply chain for the production of fruit juices. Around 500 families participate in the business and are suppliers of wild fruits for the company. In addition, the process includes training and work with the communities to comply with the required standards, which today are taught through a partnership with the CCPIP. This helps to strengthen the relationship with the communities, since recognition by the Chamber supports Aje's strategic model, which is based on sustainable development and community relations in line with the SDGs. Direct communication in the field is the main characteristic of the initial relationship, which is supported through institutional relations with the CCPIP. In summary, Aje's relationship with the Amazonian Indigenous Peoples is defined by the company's commitment to the protection of the Amazon and its inhabitants and is strengthened by its link with the CCPIP. The work is carried out in the communities according to their traditional practices, while respecting their diversity and highlighting their contributions to a natural and healthy product.

### **c) Creation of value for stakeholders:**

On the one hand, communities participate in the value chain of a company that allows them to maintain income at average market prices, generated according to their ancestral practices and protecting the environment of their territory. Furthermore, being an international company with sales in many parts of the world, Aje ensures a market for the products and promotes awareness about the reality of the indigenous communities in the Amazon. The association with the CCPIP has increased the possibility of adding value to the production of the communities, technological contributions have been strengthened through workshops and their culture and traditions are respected.

The company operates through a value chain that allows it to offer unique products and that, in addition to maintaining coherence between its principles

and practice, has enabled it to create the Amaru-mayu Movement, thereby increasing its sales.

## Analysis and lessons learned

- a) The alliance between the Indigenous Chamber of Commerce and Aje shows that there is no contradiction in companies and Indigenous Peoples developing business relations, as long as each culture is respected or, as in this case, strengthened.
- b) Although international regulations are relevant, it is of equal value that communities develop their own prior association criteria, based on their specific contextual and cultural characteristics, which should be known and respected by companies and States. In this case, the company does not subscribe to the UNGPs due to its lack of knowledge; however, it recognizes that since there is a favourable environment for the promotion of these principles by the authorities, it would not be difficult for it to formally adopt them.
- c) Any type of relationship, agreement or alliance between companies and Indigenous Peoples must consider, from the beginning, development indicators of the populations involved. In this case, both parties have formed a relationship based on the value they obtain according to their own objectives.

### National Bolivian Brewery/Community of **Huari** Weaver Women



In 1870, the first breweries opened in La Paz and, in 1877, the iconic Paceaña beer was created. In 1886, after the merger of Cervecería Nacional and Cervecería Americana, Cervecería Boliviana Nacional (CBN) was created, which was owned by four German immigrants.

With 134 years of history in the country, CBN now has eight production plants in the cities of La Paz, El Alto, Santa Cruz, Cochabamba, Oruro and Tarija, supplying beer under four brands to the national market: Paceaña, Huari, Beck's and Bock, as well as some regionally produced brands. Since 2009, CBN has incorporated two carbonated beverage production and packaging plants into its assets and, in 2021, the company launched SOMOS bottled water on the market, which is the first product developed with a solidarity purpose: bringing water to vulnerable communities in the country.

In addition, for the last six years, the brewery has implemented the Causa Huari campaign, with the aim of rediscovering the tradition of the Aymara weavers of Huari, founded in the municipality of Santiago de Huari. With the purpose of preserving the culture of the region, the company wanted to highlight the work of the traditional Aguayo weavers of Huari, since there were only two elderly weavers left before the campaign and the company's intervention.

The campaign aimed to promote this traditional craft based on three main pillars: i) the implementation of a training and production workshop for young Aymara women who wanted to learn the weaving process; ii) the making of the documentary *Tejedoras Huari* (Huari Weavers) intended to promote Andean textiles and raise awareness of their value, which consists of four episodes that emphasise the importance of preserving

the heritage of the weavers, and iii) the recognition of Andean textiles as National Cultural Heritage, with the aim of strengthening the community of weavers. To this end, a space was created on the brewery's website to collect signatures supporting the Causa Huari.

According to sources close to the Causa Huari, if something had not been done to preserve this traditional form of weaving, it would have been lost once the last two weavers stopped working, along with their looms, knowledge and culture. Currently, there are 46 weavers, many of them very young, and the campaign has, among other things, helped to strengthen the community's pride in their products.

Thanks to the campaign, economic and commercial changes have occurred in the activity of the weavers. Normally, their products were sold at low prices in the market, not valuing, for example, the long time it took to knit a large blanket. They used to exchange their textiles for used clothing or sell them very cheaply, given the competition from imitation textiles, which are produced more cheaply. However, as a result of this campaign and the relationship with the company, the aguayos produced by the weavers began to be valued, with the weavers exchanging knowledge and generating a business concept based on their ancestral production. Today, well-known designers have become clients, commissioning textiles from the Huari weavers to sell to their customers, and some have even visited the community and the factory as a way to better understand the production process.

In addition, according to the project advisors, from the beginning of the project there was a change in the way of thinking of the young women, who usually dressed in imported clothes to be fashionable. Today, the women dress in clothes made by themselves with fabrics woven using techniques based on their ancestral tradition. This has also brought changes in their individual and collective self-esteem, making them proud to be part of the Huari community, not only because they now sell their products and can generate income for the home but also because they have revalued their culture. They have benefitted from a process of empowerment that, although it is not specifically part of the meetings

or workshops, is transmitted through joint work and support from the company and society.

Today, there is the Huari Weavers Association, which is registered as a business and is organized autonomously to sell its products, trains new weavers and hire or subcontract specialists when orders require it.

## Key indicators

**a) UNGPs:** The company does not formally subscribe to the UNGPs nor does it have an explicit human rights policy.

**b) Company-indigenous people relationship:** The relationship is mainly through the Causa Huari project, so the weavers do not establish direct relationships with the company's businesses or as workers as part of its value chain, although the company is a customer of their products as part of the development of markets. The essence of the relationship is support for the conservation of the artisanal tradition of weaving and the development of entrepreneurship among the women of Huari. CBN's corporate policies for the company's relations with Indigenous Peoples are based on its Corporate Social Responsibility Policy. However, the Causa Huari is not included in this framework of action, but is rather a national corporate campaign, aimed at recognizing the activity of weavers as cultural heritage. Through this campaign, training is provided to weavers, both in design and business administration aspects.

**c) Creation of value for stakeholders:** For the community of Aymara women of Huari, the relationship with the company has led to substantial changes in their quality of life, both in terms of the preservation of their traditions and in the strengthening of their identity as indigenous weavers, especially for young women. They have also improved their capacity for organization and commercial relations, granting them greater autonomy in their decisions.

The company has strengthened its reputation, being chosen for six consecutive years as the company with the best reputation in the Plurinational State of Bolivia in terms of environmental sustainability and relations with communities. In addition, its brand is associated with a national cause that calls for protecting and highlighting ancestral practices of Indigenous Peoples, which are very important for the cultural identity of the Bolivian people.

## Analysis and lessons learned

- a) The relationship between one of CBN's plants and the community has promoted the rediscovery and recovery of an ancestral form of production, based on the Huari weavers' use of looms, with diverse positive impacts for the participants. For the company, betting part of its reputation on promoting a brand and a campaign of this type is part of its good neighbour policy, and serves as a way to obtain a social license to operate.
- b) For the weavers of Huari, the relationship with the company has promoted social development beyond the economic benefits, impacting the collective right to survival of the Aymara people of Huari.
- c) As part of this experience, it is also notable that a large company like CBN, despite not including explicit adherence to the UNGPs in its policies, has been able, in a multicultural country with a great diversity of Indigenous Peoples such as the Plurinational State of Bolivia, to generate an interaction with positive impacts on respect for the rights of an indigenous community.

## 3.3. Energy sector

This productive sector is one of those that presents the most conflicts between companies and Indigenous Peoples, especially in generation and transmission. The main reason is that this is a sector in which progress is closely linked to the use of new territories for the construction of infrastructure and facilities that allow the development of these projects. From the current perspective of economic development, electrification has been one of the indicators of progress towards a better quality of life for the population and a measure of the growth of countries. Today, energy conversion towards non-conventional renewable energies that reduce emissions of greenhouse gases is an essential component of national energy policies around the planet in countries' efforts to adapt to climate change.

The above has often meant the occupation of territories that ancestrally belonged to indigenous populations and that are often part of their land claims. On other occasions there have been involuntary displacements or resettlements that have generated long-standing conflicts. Some of these conflicts result from the flooding of lands considered part of indigenous ritual sanctuaries according to their worldview, the occupation of sectors surrounding indigenous communities that hinder their traditional economic activities, or direct land expropriations. For this reason, two cases have been included in this study that contain aspects that can be understood within the framework of a better relationship between both actors, or at least where Indigenous Peoples were consulted and participated in projects that directly affected them.<sup>9</sup>

<sup>9</sup> Panorama Solutions, 2021.

## Fuerza y Energía Limpia Wind Farm of the Tizimín/Mayan Communities of Yucatán, Mexico



In March 2016, permission was granted for the construction of the Tizimín Wind Farm (Ministry of Energy, 2016), which would be built by the company Fuerza y Energía Limpia de Tizimín, a subsidiary of the company Avan Energy, with local capital. The park is located in the municipality of Tizimín, the second most important city in the state of Yucatán, in four small Mayan communities: San Francisco Yohactún, Santa Clara Dzibalkú, Xkalax Dzibalkú and Yohactún de Hidalgo.

This region is inhabited by the Zapotec peoples, who are dedicated to small-scale agriculture in the form of *ejidos* and communal property. The companies accredited by the government began the construction of the first wind farms under an operating scheme in which their business strategies took precedence over the demands and proposals of the communities, without establishing bridges of information and dialogue with them.

According to sources linked to the indigenous communities involved in these conflicts, the problem was not the projects, or that the communities were against them per se, but rather the lack of information, which hindered the trust necessary for the development of economic activity. However, they recognize that there are currently some positive changes in progress, including ending closed-door negotiations and developing consultation processes, such as the one carried out in this case by Mexico's Ministry of Energy based on the law approved by the Congress of the State of Oaxaca in February 2020.<sup>10</sup>

The Tizimín wind farm began operations in 2018 and has an operating permit until 2033. It has 40 wind turbines of 2.1 MW each, two substations and a transmission line to connect it to the grid. The energy produced there, which is equivalent to the energy needed to power 115 000 homes in Yucatán, is carried by a 47 km high voltage line to the interconnection point in the substation of the city of Tizimín. The project is located 50 km from the Gulf of Mexico and is built on land where other activities also take place, such as small-scale livestock farming and agriculture. During its construction, this wind farm created 300 direct jobs and its operation has generated another 30 jobs. The construction stage lasted 16 months and it is currently connected to the national electrical system.

With the reform of the Political Constitution of the United Mexican States (CPEUM) on energy matters in 2013, two key changes were established in the way in which the energy sector is developed in Mexico. First, sustainability was incorporated as a criterion (Art. 25 of the CPEUM) and, secondly, as part of an exercise of regulatory harmonization with the constitutional reform of 2011 in matters of human rights, secondary legislation (Law of Hydrocarbons and the Electrical Industry Law) established a human rights approach. With the objective of operationalizing the principles of sustainability and the human rights approach, three innovative elements were included within the energy reform: i) social impact evaluation; ii) free, prior and informed consent (FPIC), and iii) a land use model.

In 2016, Fuerza y Energía Limpia Tizimín presented the Social Impact Assessment (SIA) and the Environmental Impact Assessment (EIA), which were approved by the Ministry of the Environment and the Ministry of Energy, with the latter in charge of carrying out consultations in 2017, within the framework of ILO Convention No. 169 approved by Mexico in 1989, in the four locations considered the core area of the wind farm. The four consultations were carried out by the Ministry

<sup>10</sup> At the national level, the Chamber of Deputies approved, in general, the same law (the General Law of Consultation of Indigenous and Afro-Mexican Peoples and Communities) in 2021.

of Energy with the support of company personnel and government institutions, such as the National Institute of Indigenous Peoples, the Institute for the Development of Mayan Culture of the State of Yucatán and the State Electrification Board.

The official minutes of each of the consultation meetings showed that the Ministry of Energy, the Yucatán Electrification Board and Fuerza y Energía Limpia de Yucatán all committed to carrying out the activities agreed upon with each community. With these assemblies, the process of free, prior and informed consent was carried out in the four communities.

The communities expressed their consent for the development of the project and accepted the proposals, which consisted of economic resources for social benefits during a period of 30 years, the strengthening and construction of equipment in each community, the channelling of resources to build high school classrooms during a period of four years, the improvement of roads and water wells, and the implementation of productive projects. For their part, the communities committed to creating committees to follow up on the commitments, which would meet every two months. Yucatán is one of the Mexican states where the Mayan culture has an important presence. For this reason, during the construction of the wind farm, the company, together with the National Institute of Anthropology and History (INAH), carried out the recovery and salvage of archaeological material that is part of the cultural heritage of the State.

This project followed three steps to obtain authorization for electricity generation: i) definition of the technical-economic criteria; ii) the Environmental Impact Assessment, and iii) the Social Impact Assessment. During the development of the consultations, the Institute for the Development of Mayan Culture of the State of Yucatán provided translators with knowledge of the Mayan language. In the case of the Environmental Impact Assessment, the company had to comply with the recommendations indicated by the Ministry of the Environment before the start of construction.

However, residents and local groups expressed their dissatisfaction with the consultation, pointing out that the company and the government had not fully complied with the agreed terms, and that the communities located in the buffer area were not taken into account. However, despite this, the project moved forward with its construction and the wind farm is now in operation.

## Key indicators

- a) **UNGPs:** Neither Fuerza y Energía Limpia Tizimin, nor its parent company, publicly subscribe to the UNGPs. In the process of evaluating and granting authorizations, human rights concepts linked to the consultation were applied, without express mention of the UNGPs. In addition, reference was made to risk mitigation measures in the environmental and social impact studies.
- b) **Company-indigenous people relationship:** The prior consultation process determined the type of relationship between the company and the communities. Being a new company, created for the construction of the wind farm, Fuerza y Energía Limpia Tizimin has no history of previous relationships, although the parent company (Avant Energy) does have extensive experience working with Indigenous Peoples in the United States of America. The consultation process, however, establishes the types of employment relationship for the construction and operation of the wind farm, including training for the required positions. The environmental and economic evaluations, for their part, included risk analyses of the impacts of the wind farm on the surrounding indigenous populations and the respective mitigation measures, including measures related to respect for human rights. The final agreement includes monitoring committees, in which indigenous organizations participate.
- c) **Creation of value for stakeholders:** The agreement establishes the allocation of resources for the improvement and construction of health infrastructure, roads, schools and productive



projects. The agreement also stipulates the provision of wind energy, which constitutes a contribution to caring for the environment. The consultation was carried out within the framework of ILO Convention No. 169, which means that for Indigenous Peoples it constitutes a precedent for new projects that require prior consultation. Similarly, the social impact studies required under Mexican legislation were important. In this sense, beyond economic resources, there are benefits inherent to the negotiation and application of international agreements and secondary legislation.

The company obtained the permits established in the applicable laws for the construction of the wind farm, and the social license by generating spaces for dialogue in the face of possible future conflicts typical of these types of projects. Also, the experience of this process generated capacities within the company that are not normally common in companies in the energy sector.

## Analysis and lessons learned

**a)** In this case, it is observed that the preparation of the social impact assessment and the FPIC consultations carried out before the construction of the wind farm allowed the company and the communities to reach agreements that hold both parties accountable. Compliance with social, environmental and economic protocols indicates that their inclusion in secondary legislation, and their application during these processes, is the path to ensure the inclusion of human rights and the rights of Indigenous Peoples, which are recognized by national legislation and international agreements. They also have a positive impact on the relationship between the company and the indigenous communities.

**b)** The participation of the national and local governments in FPIC consultations carried out opportunely, with interdisciplinary technical staff and with the necessary resources to cover the cost of the consultation, facilitate the development of projects

in rural and urban contexts, especially in indigenous territories. Additionally, a path of dialogue and the execution of agreements benefits social actors and addresses conflicts that may arise during the life of the project, such as community claims.

**c)** When planning future consultation processes, so that they are effective and inclusive, authorities and companies should consider those communities that are not part of the immediate area, which were not considered in this process.

### Enel Green Power/ Ngäbe Buglé Region, Panama



Enel Green Power (EGP), an Italy-based renewable energy company, is present in 21 countries, where it generates energy through wind, hydroelectric, solar and geothermal power plants. As of 2021, it is part of Enel, through a merger approved in 2020 (Enel, 2020).

In Panama, EGP is the main renewable energy operator. In terms of installed capacity, the company has operated the 300 MW Fortuna hydroelectric plant since 1984, which was expanded in 1994, and the 12 MW Chiriquí solar PV plant, both in the province of Chiriquí. In addition, it operates the 42 MW Sol Real PV solar complex, made up of five plants distributed between the provinces of Chiriquí and Coclé and the 8 MW Estrella solar plant in Coclé.

In 2013, EGP developed a rural electrification project in the same area where the company operates the Fortuna hydroelectric plant, which bears the name of the town, building a 12 km transmission line, in coordination with the Office of Rural Electrification (OER) of the Ministry of the Presidency, to supply electricity to 35 homes in the Fortuna community.

Three years later, Enel carried out another photovoltaic electrification project, for 2 000 inhabitants of the Cerro Iglesias community, located in the Panamanian district of Nole Duima, which is also home to Ngäbe Buglé communities. Cerro Iglesias was chosen within the framework of the Creating Shared Value (CSV) policy adopted by the company in its relations with stakeholders, in this case the indigenous communities. It represents an example of a company-State agreement to provide clean energy to an indigenous community. As of 2016, the community of Cerro Iglesias has sustainable and renewable energy, making it possible for all the inhabitants of the village to have illuminated streets and the electricity necessary to supply homes, local businesses, schools and health centres.

The project built a 14 km transmission line, divided into sections of medium, low and combined voltage, which allowed the installation of 263 streetlights for public lighting and the electrification of 423 homes, with an approximate investment of USD 1.6 million. The initiative was coordinated by the OER, as the authority responsible for promoting rural electrification in Panama, with the participation of the SIMEL Group for construction, Naturgy as the entity responsible for the signing of individual contracts for the supply of electricity, and local firefighters, who inspected the electrical systems of each of the homes.

The company manages the CSV initiative, under its commitment to the UNGPs, assumed as a policy by Enel at the regional and global level since 2011.

The Ngäbe Buglé Region was created in 1997 from the territory of Bocas del Toro, Chiriquí and Veraguas. Its capital is Llano Tugrí (or Buabiti). The region is inhabited by indigenous ethnic groups and peasants, closely related and collectively referred to as the Ngäbe and Buglé, of which the most numerous people are the Ngäbe. Together, these two groups constitute the largest indigenous population in Panama. Cerro Iglesias is the capital of the Nole Duima district, which is located within the territory of the region, where the largest hydrographic basins in the country are located.

This case shows the interaction between the authorities, the private company and the community leaders of Cerro Iglesias in the implementation of a social

investment project that includes indigenous sectors and that has been developed within the framework of a long-term relationship process between the company and the community. For indigenous communities, the project is the result of the effort of several generations and has meant a significant improvement in their lives, considering their opinions and needs.

In April 2022, Enel began the installation of solar panels for the 30.86 MW Madre Vieja project in the town of Progreso, in the district of Barú, Chiriquí province. The project, made up of a total of 66 528 panels, was carried out by 83 people during 24 days of work with the strictest safety measures to culminate with zero accidents. In accordance with the sustainable projects model, all the workers who installed the solar panels came from the area where the plant is located and received training from both Enel and the contractor. During construction, female labour was also used. Furthermore, to promote the development of the community, the company has proposed improving the infrastructure of the Community Board, with an interactive classroom that benefits more than 500 young people. Another objective is to support local entrepreneurship, thanks to materials from the construction site. With this project, the company has reaffirmed its commitment to SDGs 7 and 8.

## Key indicators

**a) UNGPs:** Enel has a human rights policy based on the UNGPs, which is implemented at all its organizational levels. It has carried out due diligence processes at the corporate level and in several of its branches in countries of the region, although not in Panama, and its corporate guidelines apply to all its companies, including Enel Green Power.

**b) Company-indigenous people relationship:** The relationship is highly influenced by global corporate policies and by the alliance with the Panamanian State in the projects analysed. The relationship is characterized by the concept of creating shared value, to which is added the environmental imprint of a renewable energy company,

and the projects included, especially during their construction, the hiring of local labour, with Madre Vieja being 100 percent built by workers from the community who received special technical training. An important part of this community relationship is respect for the rights of Indigenous Peoples as affected populations, from the point of view of the UNGPs, with specially trained personnel responsible for this aspect.

**c) Creation of value for stakeholders (qualitative indicators):** In the cases of Cerro Iglesias and Madre Vieja, the electrification of the village has undoubtedly been the main benefit for the Ngäbe Buglé communities. Added to this are jobs, training and the development of a relationship of respect and participation, which is an important asset today for any relationship process. Also, the use of non-conventional renewable energies means an advantage for reducing greenhouse gas emissions.

For the company, reputational value has been added through compliance with its sustainable development and human rights policies and, above all, its relationship with the communities, a key interest group for all energy companies, has significantly improved. In addition, the company has strengthened its cooperation with the local authorities and the State.

## Analysis and lessons learned

**a)** It is significant that the most important characteristic of this project has been the collaboration of three actors: Indigenous Peoples, the company and the government. Also, it is important that it is an initiative of the company, which has put into practice voluntary guidelines and directives as part of its corporate social responsibility policy, and that its implementation and financing is based on an alliance with the Panamanian State, with the active participation of the community.

**b)** It is highlighted that public-private alliances are important instruments to establish relationships with benefits for communities, such as the electri-

fication of Cerro Iglesias and Madre Vieja, which was financed through a partnership between the company and the State.

**c)** For the establishment of a public-private alliance, it has been important that Enel is a company with a high level of voluntary commitment to the relationship with its interest groups established in international instruments, including the UNGPs. Also, it is relevant that the company's motivations go beyond complying with the country's laws, and that it understood that initiatives of this type added value to its business in a win-win dynamic with the communities. Also, from the perspective of compliance with the UNGPs, it is key that indigenous populations have been considered part of the affected interest groups (rightholders), and that they, who should be present in any risk assessment, are essential actors in a due diligence process.

**d)** In addition, electrification by solar panels has constituted a contribution to the sustainability of the affected areas, contributing to the country's adaptation to climate change.

## 3.4 Tourism/gastronomy sector

Tourism is one of the most important activities for many indigenous communities, especially when there are national or local policies to promote the sector through ventures or initiatives for groups and communities that can generate tourist attractions based on their territorial and gastronomic knowledge, cultural and, especially, nature. In this area, indigenous sustainable tourism companies have emerged that are an important part of communities with natural beauty, where activities related to adventure tourism can be developed or through experiences of living with Indigenous Peoples in their places of origin. In this framework, a training experience for indigenous professionals belonging to an organization that defends indigenous rights is included, which establishes relationships with companies in the hotel and/or gastronomic sector to carry out internships and to promote the hiring of their students.

Ak'Tenamit/  
Tefragroup/  
Hotel Villa Caribe, ,  
**Guatemala**



*Ak'Tenamit* - or “new town” – is a Kekchí Mayan organization with 30 years of experience in providing free educational services to indigenous youth, in two centres that operate with a subsidy from the Ministry of Education. The organization’s mission is the defence and promotion of the rights of Indigenous Peoples in Guatemala. It provides free education in boarding schools to young people who come from the rural municipalities of Alta Verapaz and Petén. The young people study for three years, pursuing a career as an expert in sustainable tourism. The training covers customer service, food handling, tourism business administration, tourism biosecurity, exchanges and promotion through the creation of a Facebook page.

What is notable about this case is the strategic alliance that *Ak'Tenamit* has developed with hotels and restaurants in the capital so that young people can complete three-year internships, providing them with uniforms, food and health care. When they are hired, the organization follows up by ensuring that companies pay them a fair salary and the corresponding benefits in accordance with the law. Sources from the organization indicated that part of its objectives are to prevent the migration of young people to the United States of America, as well as to combat the severe rates of malnutrition of the Mayan population in these municipalities. To ensure food and health services for students, a subsidy is provided by the Ministry of Education of Guatemala.

For the purposes of this case, two companies have been selected as experiences: a restaurant chain and a hotel.

Tre Fratelli is a restaurant chain that is part of the Tefragroup group, which has its origins in San Francisco,

USA, and includes 13 restaurants serving Asian, Mexican and Italian food. It was founded by three Guatemalan partners and, since 1995, it has opened four restaurants in Guatemala, with Californian influences. Since 2011, like other companies in the sector, it has maintained a working relationship with *Ak'Tenamit*, consisting of internships for students of the organization and facilitating their future job placement.

According to restaurant sources, the interns, who come from fifth and sixth grade, mostly work in the kitchen area and 20 percent work in services, such as waiters, baristas, and cleaners. Those in fifth grade can apply for three-month internships in two seasons a year and those in sixth grade can apply for one-month placements. In total, approximately 250 young people are trained per year, half of whom are women. The interns work in the restaurants from 6 a.m. to 4 p.m. and are provided with breakfast and lunch. After completing the internship, those in the fifth year who are still minors return to *Ak'Tenamit*, while those in the sixth year who have reached legal age continue to work in the restaurants in the kitchen and services area, under formal contracts with the corresponding benefits in accordance with the labour law of Guatemala.

Staffing needs at Tefragroup restaurants depend on size. The three largest each have 11 *Ak'Tenamit* students, and the smallest have five to seven, so approximately 60 percent of their staff comes from the organization. For the company, building responsibility and trust in their future employees is the main gain, given that the young interns are trained for a short time in the specialties of each restaurant. For the young people of *Ak'Tenamit*, the main benefit lies in the possibility of being hired later.

The Hotel Villa Caribe, which has 47 rooms, is located in the town of Livingston, in Izabal Department, and is part of a chain of four hotels with the others located in the departments of Petén, Sololá and Ciudad Antigua. In 2012, the hotel established an alliance with *Ak'Tenamit* to contribute to the job training of young students. This initiative was proposed by the chain’s manager to

the board of directors of the Guatemala-based holding company and was implemented only in Hotel Villa Caribe, in part because many of the students were minors, which meant a lot of responsibility for the hotel chain.

The hotel receives groups of five students who are provided with room and board during their internships. Of the 30 students it receives each year, the majority are women, although in 2022 the hotel began to choose men to give them an opportunity to perform tasks generally assigned to women. During their internship, which lasts a month and a half, the students have the opportunity to visit all areas of the hotel: kitchen, cleaning, laundry, customer service, etc. In the high season, which runs from October to March, many of the best students are hired, along with those who have found their calling in one of the areas where they completed their internships.

The contract complies with all the formalities of labour law, including base salary, benefits and health insurance. Since the hotel started this policy, around 50 people have been hired. For the hotel administration and owners, this policy is part of their commitment to supporting young people from indigenous Mayan communities. It also means providing support for coexistence and inclusion, since Afro-Caribbean Garifuna people and other nationalities also work at the hotel. For Mayan workers there is support for translation and adaptation to work.

Since 2000, as part of Ak'Tenamit's effort to diversify its activities, it has operated a community tourism network in Izabal, with entrepreneurial projects involving different local partners. These are made up of mixed groups of Kekchí Mayan and Garifuna people, and are located within the Río Dulce National Park, including Café Tajín, Asociación Cayo Quemado, Plan Grande Quehueche, Laru Beya and Seacacar. This project, which has an office in Livingston, was financially and technically strengthened in 2012, with the support of seed capital from the World Wide Fund for Nature (WWF) and the Inter-American Development Bank (IDB). Ak'Tenamit signed an agreement with each venture to join the network under the "Caribe Maya" brand. It has also developed alliances with tour opera-

tors in the capital to promote ventures that are aimed at nature tourism and promoting the gastronomic culture of the Mayans and Garifunas.

Ak'Tenamit also operates a health clinic to care for students who stay overnight during their internships. This clinic also serves the inhabitants of nearby communities, who do not have access to health care given that the closest health centre is located in the urban area of Livingston or in Río Dulce, and the closest hospital is in the municipality of Puerto Barrios, while many community members do not have access to water transport.

It should be noted that the Green Fund and the Latin American Landscape Initiative (LALI) recognized the Caribe Maya initiative for its promotion of sustainable tourism ventures on the Atlantic coast of Guatemala and Honduras. Within the framework of the second call for nominations for the LALI Good Practices 2017 awards, Caribe Maya obtained a special mention in the category of landscape and rural community tourism projects.

## Key indicators

**a) UNGPs:** None of the companies chosen for this experience are affiliated with the UNGPs, due to lack of knowledge and probably because, at the local and regional scales, the gastronomic sector is one of the least associated with these principles.

**b) Company-indigenous people relationship:** The most important aspect of this relationship is the alliance of Ak'Tenamit, as an organization that promotes indigenous rights through training and job placement, with the participating companies. In the cases reviewed, many of the internships later resulted in formal job placements. Students acquire practical experience by participating in internships in different areas. The participating companies claim to support the organization's objectives and, although they do not have explicit policies for relations with Indigenous Peoples, the activity has been developed permanently for several years. For its part, Caribe Maya is a company

formed by Ak'Tenamit to promote the culture and customs of the areas and it has developed a network of partners and alliances with national and international tourism companies. The support of international organizations, such as the IDB and WWF, has highlighted the importance of this work, which is crucial for obtaining resources and serves as a guarantee in the organization's relationship with companies.

**c) Creation of value for stakeholders**

**(qualitative indicators):** For indigenous populations, the main benefits of their relationship with companies have been educational and job training for young people, considering their interests and objectives as Indigenous Peoples. Added to this are Ak'Tenamit's efforts to provide food and healthcare to the population through its agreements with the Ministry of Education. In the case of the Caribe Maya enterprises, these are located within a protected natural area.

Companies, at the corporate level, provide support for the training of students from indigenous populations as a way of obtaining interns with a level of education and origin that is certified by Ak'Tenamit, which also serves to strengthen their reputational value.

**b)** As in other experiences surveyed in this study, the interesting thing about this case is that indigenous companies have integrated into the market through the promotion and safeguarding of their cultures, and the rights of Indigenous Peoples. This occurs both in terms of the incorporation of students into the labour market, as well as in Caribe Maya, in the Livingston area.

**c)** Finally, the partnerships that Ak'Tenamit has generated with state and multilateral organizations, such as the IDB and WWF, show the possibilities of creating public-private partnerships that promote activities with common objectives and purposes, as well as the creation of economic and social opportunities within the framework of the defense of the rights and cultures of Indigenous Peoples.

## Analysis and lessons learned

**a)** The most important aspect of this case is the strengthening of associations led by indigenous professionals, whose purpose is the promotion and protection of the rights of Indigenous Peoples, through alliances with private companies and with the global market. This improves the profitability of the projects and benefits the communities involved by providing health, education and work services. Companies also obtain advantages for their business, beyond the declaration of their willingness to collaborate with communities.



# 4. Main findings

This study has highlighted some outstanding experiences involving relationships between companies and Indigenous Peoples in Latin America. This analysis is summarized in the following sections.

## 4.1 Type of relationship between companies and Indigenous Peoples

The cases presented in this study are varied in terms of the nature of the relationships of indigenous communities with companies (Table 4). In five of these cases, the communities have established labour relations with the companies (Cerro Matoso, Albemarle, ICAFE, Enel Green Power and Ak'Tenamit). In four cases, the communities act as suppliers of goods and services (Icafé, CENCOIC, Chocolatería De Mendes and Aje). In another three cases, the communities are located in

territories near the company's operations (BHP Billiton, Lot 192 of Petroperú and Fuerza y Energía Cleana of Tizimín). And, in one case, the communities are beneficiaries of a Corporate Social Responsibility programme (Cerveza Boliviana Nacional).

In all these scenarios, positive relationships were observed, so achieving success when engaging with Indigenous Peoples does not seem to depend exclusively on establishing commercial or contractual relationships. There may be many other forms of relationships not yet explored between these two actors.

## 4.2 Origin of the relationship

Relations with indigenous communities have originated as a consequence of different factors, or in some cases a combination of factors (Table 5).

Especially in the cases of mining companies, cooperative relations with Indigenous Peoples have been the result of previous conflicts over land, water and pollution. This has made it essential to reach agreements with the communities and obtain a social license to make new operations viable.

**Table 4:** Type of relationship between companies and Indigenous Peoples

	Labour relationship. The indigenous communities provide labour to carry out the project.	Business relationship. Communities are part of the company's value chain.	Relationship with the inhabitants of territories near the company's operations or involving CSR programmes.	Agreements
Nº of cases and companies	Five: Cerro Matoso, Albemarle, ICAFE, Enel Green Power, Ak'Tenamit/Grupo Trefra/Hotel Villa Caribe.	Four: Icafé, CENCOIC, Chocolatería De Mendes, Aje.	Four: BHP Billiton, Petroperú, Fuerza y Energía Limpia Tizimín, Cerveza Boliviana Nacional.	Five: Cerro Matoso, BHP Billiton, Albemarle, Lot 192/Petroperú, Fuerza y Energía Limpia Tizimín.



Another factor has been the need to have sufficient workers to harvest the coffee. This prompted joint action in Costa Rica between companies, the government and international organizations to create favourable conditions for migrant workers. This happened during the COVID-19 pandemic in Costa Rica, a time when unprecedented conditions were created for migrant workers to enter and remain in the country.

Furthermore, the existence of corporate social responsibility policies in companies has been another important factor in promoting the establishment of relationships between companies and indigenous communities and respect for their rights.

In addition, the existence of national policies that establish the rights of Indigenous Peoples, whether in the Constitution or in specific laws, has contributed significantly to cooperative relations. For example, the principles of the Constitution in Colombia and the Indigenous Law in Chile were of great importance for the terms in which relations between companies and indigenous communities were established.

The willingness of people or companies to contribute to caring for the environment and respecting the rights of Indigenous Peoples has also played a special role, especially in the case of Chocolatería De Mendes. Finally, it is important to mention that these factors have added to an international context of growing recognition of the rights of Indigenous Peoples, through different international instruments, as indicated in the following section.

### 4.3 Adherence of companies to the principles of the UNGPs

In general, companies have not applied the UNGPs as such, especially due to lack of knowledge (Table 6). This is reflected in the fact that only the Cerro Matoso case has explicitly used the instrument. However, many of these principles are implicitly applied by companies when considering other international instruments, such as ILO Convention No. 169 or the SDGs of the 2030 Agenda for Sustainable Development.

**Table 5:** Origin of the relationship between companies and Indigenous Peoples

The existence of a long-standing conflict in the territories.	Companies' need for workers.	The existence of social responsibility policies in the headquarters of companies.	The existence of national policies establishing the rights of Indigenous Peoples.	Willingness of individuals or companies to contribute to the care of the environment and respect the rights of Indigenous Peoples.
Cerro Matoso, Albemarle, Lot 192/Petroperú, BHP Billiton	ICAPE	Cerro Matoso, Enel Green, Power, Fuerza y Energía Limpia Tizimín	Cerro Matoso, BHP Billiton, Albemarle, Lote 192/Petroperú, ICAFÉ, Parque Eólico Fuerza y Energía Limpia de Tizimín, Ak'Tenamin, Cerveza Boliviana Nacional.	De Mendes, CENCOIC, Grupo Aje.

Source: Own elaboration

In addition, half (six) of the companies analysed have issued a formal declaration on their commitment to respect the human rights of Indigenous Peoples: Cerro Matoso, BHP Billiton, Albemarle, Petroperú's Lot 192, ICAFE and Enel Green Power. Further, two other entities have carried out the due diligence process: Cerro Matoso and Petroperú's Lot 192.

Additionally, five companies have identified risks of negatively impacting the human rights of the Indigenous Peoples involved. These are: Cerro Matoso, Albemarle, Petroperú's Lot 192, ICAFE and Tizimín Fuerza y Energía Limpia. The identification of risks has been carried out mainly as a result of their environmental impact statements. Three companies (Cerro Matoso, Albemarle and Petroperú's Lot 192) have established measures to prevent and mitigate actual and potential risks. Also, two companies (Cerro Matoso and Enel Green Power) have specialized staff focused on community relations. Moreover, four companies have set up grievance mechanisms: Cerro Matoso, BHP Billiton, Albemarle and Petroperú's Lot 192. However, there is no information to show that these mechanisms are free, accessible and relevant to Indigenous Peoples in terms of their language, independence and physical or virtual access.

This shows that the challenge remains to make companies better informed about the UNGPs, as well as promoting their adherence to the principles contained in this instrument. The latter could become a reality to the extent that companies increase their knowledge about these principles.

## 4.4 Labour relations

According to the information available, reflected in Table 7, in three of the five cases in which indigenous communities provide labour, the workers have a written contract: Albemarle, ICAFE and Ak'Tenamit. In two of the companies, Albemarle and ICAFE, there are specific clauses and/or practices regarding indigenous workers and/or the community. In Albemarle, the agreement established with the communities contains labour clauses regarding non-discrimination against

workers who are members of Indigenous Peoples.

The proportion of workers who belong to the communities that work on the projects varies between 15 percent, the minimum established in the agreement between Cerro Matoso and the communities, and 100 percent, which is the case of the construction of the Enel Green Power plant.

In two of the five companies where indigenous communities provide workers, the majority of them are unskilled: ICAFE and Enel Green Power. In one case, Ak'Tenamit, these are students from the community who have been trained in the business field.

Furthermore, in four of the five cases in which there is an employment relationship, workers are provided with training required for the jobs demanded by the company. The only case in which they are not trained is in ICAFE, where workers are hired who, although defined as unskilled, correspond to very experienced migrants due to the frequency with which they carry out the work of harvesting coffee.

## 4.5 Commercial relationship with communities as part of the company's value chain

In three of the four cases in which commercial relations are established between companies (ICAFE, Chocolatería De Mendes and Aje) and communities, the latter provide raw materials (Table 8). However, Chocolatería De Mendes has also begun to manufacture finished products, starting a process that allows them to produce chocolate for their own consumption, such as the establishment of a factory in the Paite Suruí community. Also, in the case of the CENCOIC/DRWakefield/Cafeology project, the communities organized in CENCOIC sell the "green" coffee to DRWakefield, which in turn sells the product to Cafeology.

In three of the four cases in which communities are part of the companies' value chain, they receive training

**Table 6:** United Nations Guiding Principles on Business and Human Rights (UNGPs) absorption

Company name	Use of UNGPs	Formal declaration on respect for Human Rights	Commitment to the declaration	Declaration is public	Due diligence carried out	Identification of risks of negative impacts on human rights of Indigenous Peoples	Prevention and mitigation measures	Personnel specialized in the application of the UNGPs	Complaints mechanism
1. Cerro Matoso, Colombia	x	x	x	x	x	x	x	x	x
2. BHP Billiton, Peru		x							x
3. Albemarle, Chile		x		x		x	x		x
4. Lot 192/ Petroperú, Peru		x	x	x	x	x	x		x
5. CENCOIC/ DRWakefield/ Cafeology, Colombia									
6. ICAFE, Costa Rica		x		x		x			
7. De Mendes Brazil									
8. Grupo Aje, Peru									
9. Cervecería Boliviana Nacional, Bolivia (Plurinational State of)									
10. Fuerza y Energía Limpia de Tizimín, Mexico						x			
11. Enel Green Power, Panama		x	x	x				x	
12. Ak'Tenamit/ Grupo Trefra/ Hotel Villa Caribe, Guatemala									

**Table 7:** labour relations

Company name	Workers have a formal written contract	Specific clauses and/or practices regarding indigenous workers and/or the community	Proportion of the community that works in the entity	Required skill level	Development of capabilities for jobs demanded by the company
Cerro Matoso, Colombia			15 %		x
Albemarle, Chile	x	x	37 %		x
ICAFE, Costa Rica	x	x		Unskilled	
Enel Green, Power Panama			100 %	Unskilled	x
Ak' Tenamit/Grupo Trefra/Hotel Villa, Caribe Guatemala	x		60 %	Unskilled	x

that allows them to be suppliers or contractors of the products demanded by the company. Finally, in the cases analysed there is no land lease.

#### 4.6 Beyond the commercial relations of companies with Indigenous Peoples

Companies, in addition to establishing commercial relationships with Indigenous Peoples, relate to communities in multiple ways and on different bases (Table 9). Along with the existence of legal frameworks on respect for Indigenous Peoples, companies relate to communities in line with their own corporate guidelines. Thus, for example, five of the companies (Cerro Matoso, Albemarle, Petroperú, CENCOIC and Aje), which are mainly in the mining sector, do so on the basis of their own

guidelines and voluntary regulatory instruments. Also, companies relate to communities considering principles established in their own corporate social responsibility programmes (BHP Billiton, Enel Green Power, Cervecería Boliviana Nacional and De Mendes).

However, an agreement has no value if there is no follow-up after it has been signed. In this regard, it is mainly the mining companies that have established mechanisms to monitor the agreements (Cerro Matoso, BHP Billiton, Petroperú, Albemarle, De Mendes and Fuerza y Energía Médica de Tizimín).

In addition, in terms of the sharing of information with the communities, only three of the companies (Cerro Matoso, Albemarle and ICAFÉ) provide periodic information to the indigenous communities about the projects they are developing, and the main decisions related to them. The information is provided mainly

**Table 8:** commercial relations

Company name	Suppliers of raw materials	Suppliers of finished products	Suppliers or contractors of services associated with the project	Training is required to be a supplier or contractor of products or services to the company	Land leases
ICAFFE, Costa Rica	x				No
CENCOIC/DRWakefield / Cafeology, Colombia		x		x	No
Chocolatería De Mendes, Brazil	x	x		x	No
Aje, Peru	x			x	No

orally or in writing in working groups established in the agreements. However, this relationship is strengthened through cultural relevance in only a few cases (Petroperú, ICAFFE and De Mendes). To achieve this, the companies use translators, and their activities are adapted to the anniversaries, traditions and spirituality of the Indigenous Peoples. In all mining companies (Cerro Matoso, BHP Billiton, Petroperú and Albermale), and in ICAFFE, there are mechanisms for the prevention and resolution of conflicts with indigenous communities, which have cultural relevance.

## 4.7 Creating value for communities

As shown in Table 7, in most cases the relationships established between companies and communities translated into the economic, social and cultural development of communities and their organizations, as well as improvement in the quality of life of indigenous populations. These advances have been recognized by the representatives of Indigenous Peoples, according

to their own criteria, valuing those aspects that they consider important according to their worldview and that may not always correspond to those identified by the prevailing non-indigenous culture.

Economic development has occurred through the allocation of land (Cerro Matoso), monetary contributions (BHP Billiton), support for the development of productive projects identified and managed autonomously by Indigenous Peoples (Albermale and Fuerza y Energía Limpia de Tizimín), and the increase in income (De Mendes).

The social development of the communities has been reflected in the improvement of their health infrastructure, roads (Fuerza y Energía Limpia de Tizimín), the construction of housing (Cerro Matoso) and the electrification of the town (Fuerza y Energía Limpia de Tizimín). In one case (BHP Billiton), the creation of a Social Fund has also been important.

In addition, the education of community members has been strengthened. This has been expressed through the training provided by most companies, the cons-

**Table 9:** other ways of involvement

Company name	Voluntary regulatory instruments	Monitoring of agreements	Provide periodic project information	Relationship with cultural relevance	Conflict resolution mechanisms
1.Cerro Matoso				x	
2.BHP Billiton	x	x	x		x
3. Albemarle	x	x			x
4. Lot 192/Petroperú	x	x	x	x	x
5. CENCOIC /DRWakefield /Cafeology	x	x			x
6. ICAFE	x			x	
7. De Mendes	x		x	x	x
8. Grupo Aje		x			
9. Cervecería Boliviana Nacional	x				
10. Parque Eólico Fuerza y Energía Limpia de Tizimín	x				
11. Enel Green Power		x			
12. Ak'Tenamit	x				

**Source:** Own elaboration

truction of schools (Fuerza y Energía Limpia de Tizimín, Cerro Matoso) and the provision of scholarships for students from indigenous communities (Cerro Matoso). Job training for youth (Ak'Tenamit) has also been provided, considering their interests and objectives as Indigenous Peoples.

Also, in one case (ICAFE), relations between companies and the government significantly improved working conditions, and the establishment of unprecedented conditions for migrant workers was achieved.

## 4.8 Impact on the economic value of companies

For companies, the relationships established with communities have represented an increase in their reputational value. This represents a highly valued asset today, which has resulted in an increase in the economic value of the companies. This was confirmed in the cases of Cervecería Boliviana Nacional, Enel Green Power, Ak'Tenamit, BHP Billiton and Petroperú.

The existence in the agreements of specific clauses for environmental care and protection in Lot 192 of Petroperú and in Albemarle, as well as the establishment of shared monitoring mechanisms, allowed the companies to obtain their environmental permits. Also, Fuerza and Energía Limpia de Tizimín was able to obtain a social license, in line with the current legislation in the country.

ICAFÉ, for its part, managed to secure pickers for the coffee harvest, which it would not have been able to count on if agreements with the communities and the government had not been adopted, especially in times of the COVID-19 pandemic.

In the cases of CENCOIC, Chocolatería De Mendes and Grupo Aje, the companies added value to their businesses and increased sales by entering trade circuits identified with environmental protection, and in the case of De Mendes, with fair trade.

## 4.9 Environmental impacts that affect indigenous populations

In the cases of Cerro Matoso and Albemarle, special importance was given to environmental aspects, which were one of the communities' main concerns. As a result, shared mechanisms were established to monitor the environmental situation of the affected salt flat. BHP Billiton committed to comply with all agreements emanating from the environmental commission established in the agreement with the communities. In the case of Petroperú's Lot 192, complaint and reparations mechanisms were established, especially in terms of environmental issues.

CENCOIC set out to face the planet's climate challenges, taking care to produce "green coffee" with traceability, which is one of the values especially appreciated by buyers.

The aim of the De Mendes company was to create value chains that ensured sustainability and highlighted the contributions of Indigenous Peoples to the care of the environment, thereby creating a final product that reflected their traditions and worldview.

Fuerza y Energía Limpia Tizimín was obliged to comply with the provisions of the Environmental Impact Assessment approved by the Ministry of the Environment. For its part, Aje developed products based on the cultivation and collection of wild fruits using traditional agricultural techniques that promote climate change adaptation. The condition was established that the fruits must be from uncut palm trees, in order to ensure the sustainability of the ecosystem.

The communities' agreement with Enel Green Power meant that the company contributed to the sustainability of the affected areas through electrification by solar panels, which effectively promoted adaptation to climate change.





## 5. Conclusions

- It is possible to establish mutually beneficial relationships between companies and communities. These have been established as the result of diverse circumstances, including the need to address previous conflicts, to comply with environmental and social standards, both in the country where the operation is carried out and in that of the parent company, the need to hire sufficient workers, and as a result of the initiative of individuals committed to the environment and the social development of indigenous communities. However, beyond the cases studied, mutually beneficial relationships between companies and indigenous communities are not yet the norm, and there is still a long way to go for private companies to meet the challenges of mitigating their socio-environmental impacts.
- Regardless of their historical origin, positive relationships have been developed through a long process, in which relationships of trust have been established through dialogue between both actors. Through this dialogue it has been possible to reach a common denominator between the predominantly economic vision of companies and the worldview of Indigenous Peoples, which has been the basis for the generation of agreements.
- Currently, favourable conditions exist for positive relations between companies and Indigenous Peoples. This is due to the existence of an international context of growing recognition of the rights of Indigenous Peoples and their contribution to sustainable development. The value of international instruments that reflect this recognition is highlighted, such as ILO Convention No. 169 (1989), the United Nations Declaration on the Rights of Indigenous Peoples (2007) and the American Declaration on the Rights of Indigenous Peoples (OAS, 2016). All of these create a wide range of possibilities for the application of the United Nations Guiding Principles on Human Rights and Business (United Nations, 2011), knowledge of which is so far very limited.
- Using these instruments, and based on their long history of struggle, Indigenous Peoples have negotiated mutually beneficial agreements with companies. These agreements are focused on the defence of their territories, environmental protection, the preservation of their traditions and the improvement of the economic and social conditions of the members of their communities.
- From the point of view of companies, collaborative relationships with Indigenous Peoples increasingly constitute an asset and source of business value. Currently, scenarios are increasingly common in which large companies govern their operations through voluntary initiatives and stricter internal regulations in line with respect for the human rights of Indigenous Peoples. However, the dissemination and application of international instruments, such as the UNGPs (2011), ILO Convention No. 169 (1989) and the American Declaration on the Rights of Indigenous Peoples (2016), among others, is still pending. Only in this way will companies be able to ensure respect for the human rights of Indigenous Peoples.



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# 6. Recommendations

Considering the previous sections, it is possible to offer some recommendations:

## 6.1. Companies

- Companies should see themselves as key actors in sustainable development, assuming the commitments that this implies for the environment, as well as for the future of their businesses and societies.
- Consider indigenous communities as partners rather than beneficiaries, overcoming the historical welfare vision, thus contributing to balancing the asymmetry of power between the two.
- Know the historical contexts of Indigenous Peoples, understand their worldviews and respect different concepts of territory.
- Strengthen capabilities and strategies within companies to expand their business vision, moving from a predominantly economic perspective to an intercultural one, which prioritises dialogue and respectful negotiation between the parties.
- Develop effective due diligence processes. These would allow companies to improve their knowledge and understanding of the benefits of a good long-term relationship with Indigenous Peoples, especially considering their autonomy and the right to participate in projects from the beginning.
- Align business objectives and missions with international initiatives that make tangible their decision to be part of a sustainable future.
- Consider adherence to the UNGPs and other international instruments. Their implementation

would constitute a strategic element for companies by forcing them to establish direct relationships with Indigenous Peoples as affected interest groups, moving from risk management towards rights management.

## 6.2. States

- Exercise their roles as leading agents and guarantors of compliance with international regulations subscribed by governments, creating mechanisms in accordance with the spirit and letter of these, and with the participation of Indigenous Peoples.
- Facilitate the early development of the consultation process and obtain free, prior and informed consent for any bidding process or investment, providing timely and complete information to all actors, while safeguarding the decisions and contributions of Indigenous Peoples. Also, States should facilitate the participation of advisors that allow a full understanding of the impacts of any investment project. Consider the six-step procedure to facilitate the FPIC process contained in the FAO Manual “Free, prior and informed consent: A right of Indigenous Peoples and a good practice for local communities”, although it does not replace the role of the State as the main duty-bearer (FAO, 2016).
- Monitor the agreements established in the consultation processes, which are generally long-term agreements, to guarantee the sustainability of relations between companies and Indigenous Peoples.
- Accept the multidimensional and intercultural nature of public policies linked to development. Although the protection or return of territories and lands to Indigenous Peoples is important, so are policies aimed at supporting communities to operate in an economic system that respects their collective

rights to self-determination of forms of production and coexistence in the territory.

- Promote the development of studies to determine the impacts of company activities on Indigenous Peoples' lives.
- Strengthen state support for existing indigenous business experiences, as a way to expand their field of action.
- Create public policies that facilitate the participation of indigenous companies in established markets, promoting the creation of markets and the expansion of demand for their products and services.
- Develop more inclusive public policies to facilitate a cultural change that requires a new relationship between different actors in society and Indigenous Peoples. As a result of these regulatory changes (which include constitutional reforms and the incorporation of international instruments), better conditions are generated to move towards more equitable intercultural relations.
- Promote the participation of indigenous organizations and leaders in the preparation of the National Action Plans (NAPs), incorporating the United Nations principles related to business, human rights and Indigenous Peoples, as well as ensuring that these plans consider the relationship with companies from the perspective of respect for the human rights of individuals and Indigenous Peoples.

### 6.3. Indigenous Peoples

- The construction of intercultural societies that promote more symmetrical relationships based on the acceptance of diverse worldviews requires the effort of all the actors involved.

- Indigenous Peoples, organizations, authorities and leaders also need to include among their tools for advocacy and interaction with the non-indigenous world the voluntary standards and requirements that are today part of the business world.

### 6.4. International organizations

- Move towards the mandatory application of the UNGPs, making them binding, as occurs with other human rights regulations. Consider them as a basis for greater regulation in relations between companies and Indigenous Peoples, as well as an instrument that links the obligations of States and companies.
- Expand the scope of relations between companies and Indigenous Peoples to include the business experiences of these peoples. Indigenous companies tend to strengthen ancestral identities, cultures, forms of production and organization, participating in the market in a way that not only includes them but other companies that consider work as a contribution to the generation of spaces for more sustainable interactions.
- Hold forums for the exchange of experiences between members of indigenous communities that interact with companies, including Indigenous Chambers of Commerce, for which the database of this project would be very useful.
- Expand the number of public and private partners to support indigenous companies.
- Develop indicators that allow better analysis of the relationships between companies and Indigenous Peoples. In this way, broader contributions could be made than those developed in this first

approach to this important topic, which could complement others used by both the State (development and human rights indicators<sup>11</sup>) and companies (GRI, SASB, among others) and that facilitate the relationships between these actors in the measurement of impacts on sustainable development.<sup>12</sup>

- Continue, on the part of FAO, with efforts to support the application of the FPIC process, the UNGPs and other international instruments related to agri-food systems, in which Indigenous Peoples have much to contribute. In addition, FAO should seek to redefine the concept of the territory, strengthening indigenous companies, the autonomy of communities and ancestral agricultural management practices, which are aspects that are highlighted in this study.

<sup>11</sup> As in the case of the international treaties included in this study – UNGPs, ILO 169, UNDRIP, DADPI – and others related to Climate Change or environmental protection (e.g. *Escazú Agreement*).

<sup>12</sup> This becomes more relevant if we consider that in the United Nations SDGs there is very little reference, and only indirectly, to Indigenous Peoples as subjects of sustainable development, beyond being included as a vulnerable population.

# References

- Agencia de Cooperación Española y Centro Regional del Sector Privado. 2015. *Experiencias de procesos de consulta previa en países de Centro y Sur América*. Ministerio de Asuntos Exteriores de España. [https://centroregionalsp.org/wpcontent/uploads/2021/07/Experiencias\\_de\\_procesos\\_de\\_consulta\\_previa\\_en\\_paises\\_de\\_Centro\\_y\\_Sur\\_America\\_del\\_Sur.pdf](https://centroregionalsp.org/wpcontent/uploads/2021/07/Experiencias_de_procesos_de_consulta_previa_en_paises_de_Centro_y_Sur_America_del_Sur.pdf)
- Alzari, M.J. 2016. *Human rights risk analysis*. Buenos Aires, Argentine Business Council for Sustainable Development and Deloitte & Co.
- Aylwin, J. & Rohr, J. 2021. *The UN Guiding Principles on Business and Human Rights and Indigenous Peoples: Progress achieved, the implementation gap and challenges for the next decade*. Copenhagen, IWGIA.
- Azócar, R. 2021. *The lithium industry in the Salar de Atacama: economic, socioethnic and environmental trajectories. Multi-disciplinary research and doctoral training project*. International Research Project (IRP) CNRS. 2020-2024. [Cited 2 October 2023]. <https://atacama.hypotheses.org/1213>
- COCHILCO. 2017. *International lithium market and its potential in Chile*. Santiago de Chile, Directorate of Studies and Public Policies in collaboration with the Non-Metallic Mining Committee
- Collins von Hausen, E. 2017. *The indigenous consultation of ILO Convention 169 and the problems associated with its implementation in Chile within the framework of the Environmental Impact Assessment System*. Santiago, Chile. Universidad de Chile – Facultad de Derecho. [Cited 2 October 2023]. <https://repositorio.uchile.cl/handle/2250/146473>
- Constitutional Court of Colombia. 1991. *Political Constitution of Colombia*. Bogotá, Constitutional Court.
- Constitutional Court of Colombia. 2017. *Ruling T-733/17*. Bogotá, Constitutional Court.
- Constitutional Court of Colombia. 2018. *Ruling U 123 Due diligence of individuals and especially companies regarding the right to prior consultation*. Bogotá, Constitutional Court.
- Constitutional Court of Colombia. 2018b. *Comunicado No. 36*. Bogotá, Constitutional Court.
- CooperAccion. 2001. *Land Conflicts in the province of Espinar, the case of BHP and the communities of Tintaya Marquiri and Alto Huacané*. <https://cooperaccion.org.pe/>
- Costa Rica Coffee Institute (ICAFFE). n.d. *Structure of the sector*. <https://www.icafe.cr/nuestro-cafe/estructura-del-sector/>
- De Echave, J., Keenan, K. Romero, M. & Tapia A. 2004. *Dialogue and management of conflicts on community lands. The case of the Tintaya mine in Peru*. CooperAccion. <https://app.ingemmet.gob.pe/biblioteca/pdf/Geral-64.pdf>
- DRWakefield. n.d. About DRWakefield. [Cited 5 January 2023]. <https://drwakefield.com/about/>
- Duárez, J. 2020. *Political identifications and socio-environmental conflicts in the Andes, the cases of Abra Pampa (Jujuy, Argentin*

*tina*) and Espinar (Cusco, Peru) 2004-2012. Document N°11. Buenos Aires, IDAES-UNSAM.

ECLAC. 2012. *The sustainability of development 20 years after the Earth Summit: progress, gaps and strategic guidelines for Latin America and the Caribbean*. Santiago de Chile, United Nations.

ECLAC. 2018. *Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean*. Santiago de Chile, United Nations.

Elkington, J. 1998. *Cannibals with Forks: The Triple Bottom Line of 21st Century Business*. Michigan, New Society Publishers.

Enel. 2020. *Terms and conditions of the merger of Egp Américas SPA into Enel Américas SA*. [https://www.enelamericas.com/content/dam/enel-americas/investor/egp\\_merger/documentos-de-interes/T%C3%A9rminos%20y%20Condiciones%20de%20la%20Fusi%C3%B3n%20\(versi%C3%B3n%2026.11.2020\).pdf](https://www.enelamericas.com/content/dam/enel-americas/investor/egp_merger/documentos-de-interes/T%C3%A9rminos%20y%20Condiciones%20de%20la%20Fusi%C3%B3n%20(versi%C3%B3n%2026.11.2020).pdf)

Equator Principles. 2020. *The principles of Ecuador*. [Cited 2 October 2023]. [https://equator-principles.com/app/uploads/EP4\\_Spanish.pdf](https://equator-principles.com/app/uploads/EP4_Spanish.pdf)

FAO. 2016. *Free, prior and informed consent. A right of Indigenous Peoples and a good practice for local communities. Manual aimed at professionals in the field*. [Cited 2 October 2023]. <https://www.fao.org/3/i6190s/i6190s.pdf>

FAO. 2021. *White Paper/Whipala on food systems of Indigenous Peoples*. Rome, FAO.

FAO. 2021b. *Indigenous People's food system*. Rome, FAO.

FILAC. 2022. *High Level Political Dialogue. Concertation for Good Living: Impacts of COVID-19 on Indigenous Peoples. Perspectives and challenges in the face of the uncertainties and crisis generated by the expansion of this pandemic*. La Paz, FILAC.

Freeman, R.E. 1984. *Strategic Management: a stakeholder approach*. Cambridge, Cambridge University Press.

Global Future Council on Human Rights. 2022. *Guidance Note, Board Duties in ensuring Company Engagement with Affected stakeholders. World Economic Forum (WEF)*. [https://www3.weforum.org/docs/WEF\\_Guidance\\_Note\\_2022.pdf](https://www3.weforum.org/docs/WEF_Guidance_Note_2022.pdf)

Global Reporting Initiative (GRI). 2022. *GRI Standards*. Amsterdam, GRI.

Gundermann, H. & Göbel, B. 2018. *Indigenous communities, lithium companies and their relationships in the Salar de Atacama*. Chungará (Arica), vol.50, n.3, pp.471-486. <http://dx.doi.org/10.4067/S0717-73562018005001602>.

IACHR. 2012. *Case of the Kichwa Indigenous People of Sarayaku vs. Ecuador. (Fund and Compensation)*. Judgment of 27 June 2012. Series C N°245. Washington, D.C. CIDH.

IACHR-REDESCA. 2019. *Business and Human Rights: Inter-American standards*. Washington, D.C. IACHR.

ILO. *ILO Convention No. 169 on indigenous and tribal peoples in independent countries*. Geneva, ILO.

IRMA. 2018. *IRMA Standard for Responsible Mining. IRMA-STD-001*. <https://responsiblemining.net/wp-content/uploads/2021/06/IRMA-STANDARD-v.1.0-Final-ES.pdf>

IWGIA. 2021. *The Indigenous World*. Copenhagen, IWGIA.

Lévano, M. 2017. *Committed consultation: communities of Lot 192 sign agreement with the Government*. <https://peru.oxfam.org/lo-%C3%BAltimo/blogs/consulta-comprometida-comunidades-del-lote-192-firman-acuerdo-con-gobierno>

Lévano, M. 2022. *Changing the rules: dialogue and prior consultation in lot 192*. [Cited 3 October 2023]. <https://peru.oxfam.org/qu%C3%A9-hacemos-industrias-extractivas/cambiando-las-reglas-di%C3%A1logo-y-consulta-previa-en-el-lote-192>

Leyva, A. 2018. *Real consultation: Approach to a balance on prior consultation in Peru in the mining and hydrocarbon sectors* Lima, Oxfam America Inc.

Library of the National Congress of Chile. 2014. *Productive investments in indigenous territories: the case of Canada*. p.12. [https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/20445/5/FINAL%20\\_%20Informe%20\\_%20Inversiones%20productivas%20en%20territorios%20indigenas%20\\_%20Canada\\_v3.pdf](https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/20445/5/FINAL%20_%20Informe%20_%20Inversiones%20productivas%20en%20territorios%20indigenas%20_%20Canada_v3.pdf)

Méndez, M. 2017. *Factors that have been relevant in the implementation of indigenous consultation procedures for the development of large infrastructure projects in Mexico*. Master in Comparative Public Policies 2015-2017. Mexico City, FLACSO.

Ministry of Culture of Peru. 2019. *Prior Consultation, Lot 192*. [Cited 3 October 2023] <https://consultaprevia.cultura.gob.pe/proceso/lote-192-2019>

Ministry of Indigenous and Northern Affairs Canada. 2003. *Resolving aboriginal claims: A practical guide to Canadian experiences*. Ottawa, Public Works and Government Services Canada.

Monterrubio, A. 2014. *Rights of Indigenous Peoples in Mexico in matters of consultation. participation and dialogue. Advances and challenges from the legislative field. Working Document no. 167*. April. Mexico City, Centre for Social Studies and Public Opinion.

Nahmad, S., Langue, R. & Nahón, A. 2014. *The vision of social actors regarding wind projects in the Isthmus of Tehuantepec*. CIESAS. CONACYT. FOMIX. <https://consultaindigenajuchitan.files.wordpress.com/2015/01/l-eolico.pdf>

National Migration Council. 2013. *A Comprehensive Migration Policy for Costa Rica 2013-2023*. [Cited 2 October 2023]. <http://www.migracion.go.cr/institucion/politica.html>

Núñez, M. 2000. *Peine's movements and voices*. Thesis. Universidad Academia de Humanismo Cristiano. [Cited 3 October 2023]. <http://bibliotecadigital.academia.cl/xmlui/handle/123456789/955>

Petroleum Observatory. 2019. *Dorissa Act*. <https://observatoriopetrolero.org/wp-content/uploads/2019/02/Acta-Dorissa-22-10-06.pdf>

OECD. 2013. *OECD Guidelines for multinational companies*. OECD Publishing. [Cited 3 October 2023]. <https://www.oecd.org/daf/inv/mne/MNEguidelinesESPAÑOL.pdf>



OECD. 2018. *OECD Due Diligence Guide for Responsible Business Conduct*. OECD. [Cited 3 October 2023]. <https://mneguidelines.oecd.org/Guia-de-la-OCDE-de-debida-diligencia-para-una-conducta-empresarial-responsable.pdf>

OAS. 2016. *American Declaration on the Rights of Indigenous Peoples*. Resolution AG/RES. 2888 (XLVI-O/16) approved in the second plenary session on 14 June 2016. <https://www.oas.org/es/sadye/documentos/res-2888-16-es.pdf>

Parliament of Chile. 1993. *Law No. 19,253*. Santiago de Chile, Official Gazette of the Republic of Chile.

Petroperú. n.d. *Lot 192: three decades of production*. <https://www.petroperu.com.pe/proyectos-y-unidades-operativas/unidades-operativas/lote-192/>

Rockwood Litio Ltda., *Council of Atacameños Peoples, Indigenous Community of Rio Grande and others*. 2016. Cooperation, sustainability and mutual benefit agreement between Council of Atacameños Peoples, Community of Atacameños Indigenous Peoples of Rio Grande and others and Rockwood Litio Ltda. signed on 21 February 2016. [https://www.mesamultiactor.cl/repositorio/2016\\_aso\\_con/](https://www.mesamultiactor.cl/repositorio/2016_aso_con/)

Rubik Consultores. 2016. *Study on the design of promotional instruments for the strengthening and development of associative generation projects with renewable sources*. Ministry of Energy of Chile. <https://biblioteca.digital.gob.cl/handle/20.500.13082/613>

Secretariat of Energy, Mexico. 2016. *Resolution on Fuerza y Energía Limpia de Tizmín*. [https://transparencia.energia.gob.mx/transparencia\\_focalizada/archivos/EV\\_IMP\\_SOCIAL/Parque\\_E%C3%B3lico\\_Tizimin\\_Resolutivo\\_Testado.pdf](https://transparencia.energia.gob.mx/transparencia_focalizada/archivos/EV_IMP_SOCIAL/Parque_E%C3%B3lico_Tizimin_Resolutivo_Testado.pdf)

Secretariat of Energy, Mexico. 2018. *Action Protocol on Shared Social Benefits of ProBeSCo Energy Projects*.

Suhayla Bazbaz Kuri, 2016. <https://docplayer.es/54079011-Protocolo-de-actuacion-sobre-beneficios-sociales-compartidos-de-proyectos-energeticos-probesco.html>

Semper, F. 2006. *The rights of the Indigenous Peoples of Colombia in the jurisprudence of the Constitutional Court*. *Yearbook of Latin American Constitutional Law*. <https://www.corteidh.or.cr/tablas/R21731.pdf>

Socio-environmental Institute (ISA). 2020. *The Impact of the Pandemic on the Yanomami Indigenous Land: #ForaGarimpo-ForaCovid*. São Paulo, Socio-Environmental Institute of Brazil.

Supreme Court of Justice of the Nation of Mexico (SCJN). 2014. *Action Protocol for those who administer justice in cases involving the rights of individuals, communities and Indigenous Peoples*. General Directorate of Communication and Social Linkage of the Supreme Court of Justice of the Nation Lic. Aramxa Guillén Sánchez. <https://www.sitios.scjn.gob.mx/codhap/ProtocoloIndigena/inicio.html>

United Nations. 1976. *International Covenant on Economic Social and Cultural Rights*. Adopted by the General Assembly in its Resolution 2200 A (XXI), of 16 December 1966. UN. [https://www.ohchr.org/sites/default/files/cescr\\_SP.pdf](https://www.ohchr.org/sites/default/files/cescr_SP.pdf)

United Nations. 1986. *Declaration on the Right to Development*. Adopted by the General Assembly in its Resolution 41/128 of 4 December 1986. New York, UN.

United Nations. 2007. *United Nations Declaration on the Rights of Indigenous Peoples*. New York, UN. Resolution 61/295

approved by the General Assembly at the 107th. Plenary session 13 September 2007. New York, UN.

United Nations, *Economic and Social Council (ECOSOC)*. 2010. Permanent Forum for Indigenous Issues. Ninth session. April 19-30, 2010. New York, ECOSOC.

United Nations and Human Rights Council. 2011. *Guiding Principles on Business and Human Rights*. New York and Geneva, 2011.

United Nations. 2012. *The United Nations Human Rights Treaty System*. Geneva, OHCHR.

United Nations. 2015. *Annual report of the United Nations High Commissioner for Human Rights-Addition, Report of the United Nations High Commissioner for Human Rights on the activities of his office in the Plurinational State of Bolivia*. Document A/HRC/28/3/Add.2 of the 28th session of the Human Rights Council, United Nations General Assembly. New York, UN. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/050/80/PDF/G1505080.pdf?OpenElement>

United Nations Working Group on Business and Human Rights. 2019. *Final Statement on visit to Honduras*.

UN General Assembly. 1987. *Report of the World Commission on Environment and Development*. Resolution 43/196 of 20 December 1988.

Vargas, K. 2019. *Dialogue and generation of constructive agreements for new relations between states and Indigenous Peoples: a comparative study based on the experiences of Canada, Colombia, New Zealand and Peru*. Citizen Observatory. [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_sp.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_sp.pdf)

World Economic Forum (WEF). 2022. *The Global Risk Report 2022*. 17th edition. WEF. [https://www3.weforum.org/docs/WEF\\_The\\_Global\\_Risks\\_Report\\_2022.pdf](https://www3.weforum.org/docs/WEF_The_Global_Risks_Report_2022.pdf)

WWF. 2016. *Living Amazon Report. A Regional Approach to Conservation in the Amazon*. [https://files.worldwildlife.org/wwfcmssprod/files/Publication/file/sf95n96gw\\_LIVING\\_AMAZON\\_REPORT\\_2016\\_MID\\_RES\\_SPREADS.pdf](https://files.worldwildlife.org/wwfcmssprod/files/Publication/file/sf95n96gw_LIVING_AMAZON_REPORT_2016_MID_RES_SPREADS.pdf)

Zúñiga, M. & Okamoto, T. 2019. *Without rights there is no consultation or consideration of indigenous perspectives on the prior consultation process in Lot 192 of the Peruvian Amazon*. Lima, CooperAcción. [https://cng-cdn.oxfam.org/peruoxfam.org/s3fs-public/file\\_attachments/Sin\\_derechos\\_no\\_hay\\_consulta.pdf](https://cng-cdn.oxfam.org/peruoxfam.org/s3fs-public/file_attachments/Sin_derechos_no_hay_consulta.pdf)

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