



ENVIRONMENTAL AND SOCIAL IMPACTS

OF IDB Invest and IFC
Investments in
PRONACA's SANTO
DOMINGO DE LOS
TSÁCHILAS Operations
in ECUADOR:

*Policy Failures
and Recommendations*

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Introduction

01

Overview

This report was created by the Ecuadorian Coordinator of Organizations for the Defense of Nature and the Environment, (“CEDENMA”), to document the significant historical and ongoing environmental and social harms of the Ecuadorian poultry and pork producer—and long-time Inter-American Development Bank (IDB) and the International Finance Corporation (IFC) client—Procesadora Nacional de Alimentos, C.A. (“PRONACA” or the “Company”). The report examines the impacts of PRONACA’s factory farms and slaughterhouses on the natural resources and local and Indigenous communities of the province of Santo Domingo de los Tsáchilas, west of Ecuador’s capitol, Quito.

Since 2004, IFC has provided PRONACA with \$170 million in loans, including a \$50 million loan made in December 2021. Meanwhile, in 2020, IDB Invest made a \$50 million loan to the company. This report analyzes IDB’s and IFC’s failure to apply relevant Environmental and Social Performance Standards to the banks’ respective 2020 and 2021 loans to PRONACA. This report also recommends actions the banks can take to address problems highlighted in the report.

PRONACA

02

PRONACA—Procesadora Nacional de Alimentos, C.A—is Ecuador’s fourth largest corporation and an economic powerhouse, accounting for more than 17% of the country’s GDP in 2018.¹ While the company is involved in several industrial sectors, animal products account for 87% of its sales of consumer food products. (PRONACA, Memoria de Sostenibilidad 2021.) PRONACA is the country’s largest pork and poultry producer, generating over \$818 million in revenue in 2020. (Información Financiera PRONACA 2021.) According to the company’s 2021 Memoria de Sostenibilidad, PRONACA operates 63 pig and poultry factory farming operations and 18 processing plants across Ecuador. According to IFC loan documents (2021), the company also contracts with 62 pig and poultry factory farms. Roughly half of PRONACA’s pork and poultry operations are located in the province of Santo Domingo de Tsáchilas, within close proximity to several impoverished Indigenous communities.

¹Central Bank of Ecuador, 2022.

PRONACA has a controversial history in Ecuador. For more than two decades, the Tsáchilas Indigenous communities in the Province of Santo Domingo de los Tsáchilas have been denouncing the harmful environmental, economic and community health impacts of PRONACA’s industrial animal operations and the firm’s constant violations of these communities’ Constitutional rights. The primary concerns surround contamination of the Pove, Peripa and Chigüilpe Rivers and air from animal waste, loss of territory and impacts on human health. (Institute of Environmental Science and Technology (ICTA) of the University of Barcelona, 2016.)

IDB Invest and International Finance Corporation’s Role in PRONACA’s Expansion

03

Since 2004, PRONACA has received \$170 million from the International Finance Corporation, the private-sector lending arm of the World Bank. In March 2021, PRONACA received its most recent \$50 million IFC loan for a 2020-2022 investment program geared toward “improving the efficiency and expanding the capacity of its feed mills, pig farms and pork and poultry processing facilities.” Additionally, in August 2021, PRONACA received a loan from IDB Invest for USD\$50 million to “partially finance: (i) the 2019-2020 investment plan for organic growth in Ecuador; (ii) refinance the existing IDB Invest loan; and support (iii) La Estancia’s inorganic growth in the region through the acquisition of an equity interest in Panavícola I, S.A. (“Toledano”) in Panama.”² Among other things, the IDB loan will allow PRONACA to “increase chicken and swine production, given its increased installed capacity.”



² This is PRONACA’s second loan from the IDB Invest. In 2013, IDB Invest provided \$10 million and mobilized an additional \$32 million for PRONACA. In addition, IDB Invest financed CMI Alimentos, a Central American industrial-scale meat producer, to buy up to \$140 million in shares of PRONACA.

CEDENMA and the Purpose of this Report

04

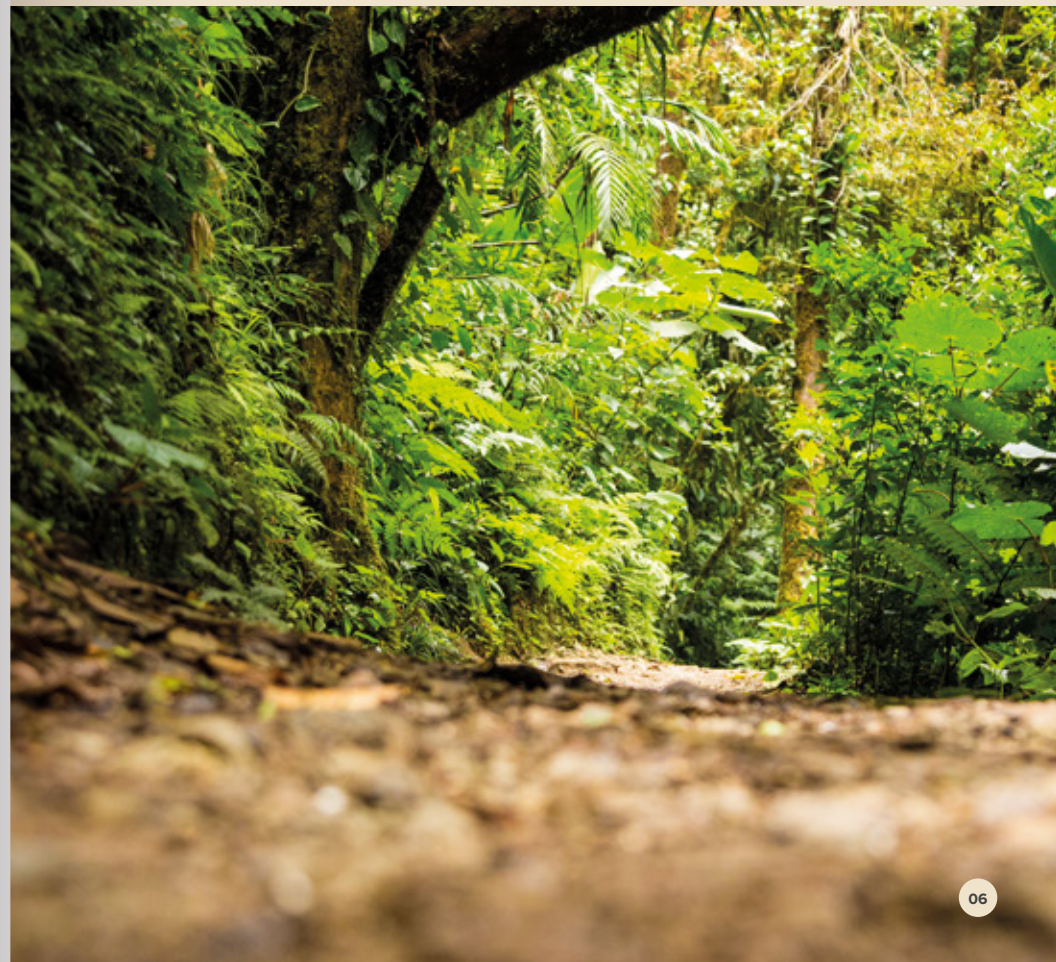
CEDENMA, a non-governmental organization that brings together 52 environmental organizations in Ecuador, is deeply concerned that the IFC and IDB Invest's most recent loans will enable PRONACA to expand its polluting operations, generating new threats to nature, animal welfare, and downstream communities, especially the Indigenous peoples of the province of Santo Domingo. PRONACA has still not provided evidence that it has sufficiently addressed problems documented in a 2009 lawsuit and judgement against the company. Based on interviews and surveys with impacted communities, CEDENMA is also concerned that the banks have not performed due diligence to ensure that PRONACA has addressed the documented harms of its operations, including air and water pollution and related human illness; nor have they conducted required stakeholder consultations, particularly among Indigenous communities. As documented in this report, the rivers into which PRONACA operations empty their effluents and wastewater remain highly contaminated and of little or no use to the Indigenous communities that have relied on them for their livelihoods.

The banks' failure to ensure any consultation process and information dissemination with affected Indigenous communities is in clear violation of the banks' performance standards³ and the Constitution of Ecuador, which confers specific rights for Indigenous communities to be fully consulted and compensated for any damage inflicted on their communities. (See Appendix 1 for a description of the relevant rights conferred by the Ecuadorian Constitution.)

CEDENMA submits this documentation of the negative environmental and social impacts of PRONACA's operations—which IDB's and IFC's recent investments in the company's expansion will assuredly exacerbate—in light of the following: (a) the inefficient application of environmental standards by the Ecuadorian environmental authority and PRONACA's failure to comply with the law to get new permits for new or expanded operations; (b) the fact that damages identified in 2009 have not been remedied; and (c) that the IFC and IDB Invest have not adequately enforced their standards or mandates with respect to either (i) PRONACA's negative environmental and social impacts, including contamination of water sources, soil and air, and serious human illnesses; or (ii) the broader impacts of industrial livestock production.

³ Especially PS1 since it seeks "To promote and provide means for adequate engagement with Affected Communities throughout the project cycle on issues that could potentially affect them and to ensure that relevant environmental and social information is disclosed and disseminated."

As major financiers of PRONACA's operations, we hope that IFC and IDB Invest will use this report to deepen their knowledge of the impacts of their investments, accept responsibility for these impacts, and take appropriate measures to address them. We also urge IFC, IDB Invest, and Ecuadorian authorities to ensure that more detailed information is shared with the community about PRONACA's expansion plans. Finally, we urge state institutions, local government, PRONACA, the banks, and organized civil society to work together to fully address the documented environmental and social harms, which threaten the lives, livelihoods and future of the Tsáchilas population.





SECTION I

PRONACA: A History of Negative Impacts
in Santo Domingo de los Tsáchilas:

Litigation and CAO Complaint

Among Ecuador's 24 provinces, Santo Domingo de los Tsáchilas is one of the most heavily populated with intensive factory farms. Since 1998, inhabitants of the region, including members of Indigenous communities, have issued a series of complaints to the local governments (Provincial Council and Municipality) and central government (Ministry of Environment) regarding water pollution, loss of territory, and negative impacts on human health. (Institute of Environmental Science and Technology (ICTA) of the University of Barcelona, 2016.)

By 2008, PRONACA's operations had contaminated soil, air and water resources in Santo Domingo de los Tsáchilas, creating harmful effects on the region's health and well-being, and on aquatic life, the surrounding natural vegetation and the area's flora and fauna—all in violation of Ecuador's 2008 Constitution (Art. 12, 57, 71) and other regulations (Main and Secondary Environmental Legislation such as Environmental Management Law and TULAS-Unified Secondary Environmental Legislation Text). Given local authorities' lack of response to community concerns, in 2008, members of local communities took their case to the Constitutional Court.⁴ The lawsuit sought Protective Action through stoppage of six new biodigesters PRONACA was installing to process methane from its intensive pig farming operations. The lawsuit noted the negative impacts on flora and fauna, as well as aquatic systems above and below ground, and claimants argued that PRONACA's actions violated their constitutional rights (articles cited before and in Annex 1) to health and a safe and clean environment. While the judge denied the claimants' request to stop the installation of the biodigesters, he invoked Ecuador's Rights of Nature, acknowledging the serious social problems and environmental contamination caused by this company, mainly in the province of Santo Domingo de los Tsáchilas. The judge also ordered the establishment of a commission (via resolution No. 0567-08-RA of July 16, 2009) to monitor PRONACA's activities with particular focus on waste disposal and water consumption.⁵

⁴ There is currently a Constitutional Court order to conduct a comprehensive assessment of the contamination of areas surrounding PRONACA's owned and contracted operations and the environmental effects of intensive animal farming. This evaluation is the responsibility of the Ombudsman's Office, together with the Ministry of Health, the Ministry of Environment, Water and Ecological Transition, the Provincial Council of Santo Domingo de los Tsáchilas, among other state institutions. Unfortunately, this comprehensive assessment is at a standstill or inactive due to the State's claim of lack of funds to carry it out, despite the fact that this assessment has been one of the main demands of the affected communities.

⁵ <https://static1.squarespace.com/static/55914fd1e4b01fb0b851a814/t/5748568c8259b5e5a34ae6bf/1464358541319/Kauffman++Marti+n+16+Testing+Ecuador+RoN+Laws.pdf>

“It is provided that the entities: Ministry of Environment, Ministry of Agriculture and Livestock through the National Water Resources Council (CNRH), National Water Secretariat (SENAGUA); Ministry of Health; Office of the Ombudsman, Provincial Government and the Municipality of Santo Domingo de los Tsáchilas; and, the Water Management Boards; each in full exercise of their respective competencies, together with a representative of each of the communities surrounding the facilities of all PRONACA's production centers, to form a commission to strictly monitor the productive activity that this company carries out, with regard to the operation of the biodigesters, water consumption, and the management of organic and inorganic waste that is discharged into bodies of water, in order to safeguard the diffuse and collective rights expressed. For this purpose, the Ombudsman's Office will be the convening entity in its offices in Santo Domingo de los Tsáchilas and will be installed 15 days after being notified with this document.”

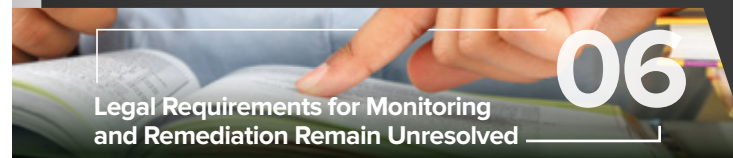
However, this court-mandated action has still not been implemented. The judge's orders detailed above should be one of the key actions undertaken by Ecuadorian authorities and reviewed as part of the banks' monitoring of PRONACA's compliance with its legal responsibilities. The resolution ordered that an inter-institutional commission led by the local Ombudsman's Office (with SENAGUA, Ministry of Environment, Ministry of Health, Provincial Council and community leaders) be formed to monitor the company's actions. Unfortunately, as described below, this commission failed to act on its mandate, including by neglecting to routinely test water in affected areas. (Acción Ecológica, 2021.)



Below are some notable impacts highlighted in a court case filed by the Corporación de Gestión y Derecho Ambiental - ECOLEX (a member of CEDENMA) on behalf of the surrounding communities more in 2008. As we learned through recent community interviews documented in Section 2, many similar impacts persist today.

- Community members noted very strong odors coming from methane, and sulfur in the biodigesters' water outlet system; a white foam that emitted unpleasant odors in the oxidation pool; the facility's chambers are built with cement, and the main cause of mortality in pigs is pneumonia. Community members also noted that PRONACA's facility is adjacent to an educational institution, primary school, where students are exposed to the odors; and that on the bank of the Blanco River there is an irrigation ditch where there are fish exposed to the waste from the operation. (Page 250 of the execution process of the DPE on 03/09/2010 in the Technical Report of the Zaracay pig farm.)
- In the area of the sheds there are slight unpleasant odors that reach approximately three meters around. A pool with a geomembrane was found containing water with algae, black pipes, putrefied water, and microorganisms that produced air bubbles with strong hydrogen sulfide and ammonia emissions. The closest community is Valle Hermoso, located at the rear of the Chanchos Socorro farm. The emission of gases found in the pool and the depression at the side of the pool emanate strong odors; if the wind changes from south to north, the odor reached the community located further north of the farm. (Page 262 of 09/09/2010 Socorro pig farm technical report (SITIO TRES CRIANZA).)
- Community members stated that the smells from the farms are stronger in the afternoon, affecting locals and visitors. There are old oxidation ponds, which should be remediated because they are not adequately treated and emanate odors. The high impermeability of the soil in the watersheds and the surface phreatic levels require monitoring and verification because the hydrogeological characteristics could be generating sub-surface contamination of the aquifers in the area. (Page 533, October 2010, "Informe 1 Comité de Monitoreo de los biodigestores de las actividades productivas de PRONACA, Delegado del Gobierno Provincial de Santo Domingo de los TsáchilaTsáchilas".) This highlights the need for groundwater/well water monitoring that has never occurred.

- It is probable that the local biotic resources have been altered and groundwater and air contaminated due to sewage infiltration and processing. Therefore, water analysis of the most representative sites is suggested. (Page 535, October 2010, "Informe 1 Comité de Monitoreo de los biodigestores de las actividades productivas de PRONACA, Delegado del Gobierno Provincial de Santo Domingo de los TsáchilaTsáchilas".)



In response to the environmental, health and safety concerns about PRONACA's pig and poultry operations, ECOLEX, took legal action in 2008 against PRONACA on behalf of local stakeholders from the communities of Puerto Limón, Valle Hermoso, San Gabriel del Baba, Peripa, and others, in the province of Santo Domingo de los Tsáchilas.⁶ Although the court rejected the community's request to halt construction of the biogas digesters, the court found significant merit in the environmental complaints and ordered the establishment of a commission (via resolution, No. 0567-08-RA) to monitor the activities of the corporation, with particular focus on water consumption and waste disposal.

This ruling was an important step in ensuring accountability. However, according to the community, no real actions were taken, and from preliminary review of the file on implementation of the court order, it is not clear whether the judge's resolutions have been complied with, nor which actions have been carried out successfully. CEDENMA plans to officially request that the Ombudsman reactivate the process of meeting the judge's orders.

According to representatives of the affected communities, when the court-ordered commission met for the first time, no community member was present. PRONACA apparently took advantage of the absence of leaders from affected communities to argue that the court resolution referred only to a monitoring commission for the biodigesters, meaning that in PRONACA's opinion, the commission was only supposed to monitor the 9 production centers where the 6 biodigesters were being built (or would be built), excluding most of PRONACA's production centers and their broader impacts. The official verdict focuses on the action to monitor the construction of the six biodigesters as a precautionary measure.

⁶ For details on the legal case, please see:

<https://www.derechosdelanaturaleza.org.ec/wp-content/uploads/casos/Ecuador/Biodigestor-Case/Demanda%20por%20contaminacion.Amparo%20Biodigestores%20PRONACA.pdf>.

While PRONACA's capricious and arbitrary interpretation was rejected at the time by the Ombudsman's Office, it was curiously accepted by the Provincial Delegate of the Ombudsman's Office. In summary, it appears that PRONACA has not complied with the Constitutional Court's Resolution No. 0567-08-RA; and it is unclear if any monitoring of the facilities with biodigesters ever took place.

More than a decade has gone by since the 2009 Constitutional Court order that responded to the demand of 2008, and implementation of the judge's ruling is still pending.⁷ Because of this, the process of Constitutional Protection, which is active at the Second Civil Judge of Santo Domingo, has not been archived and finalized. Hence, although part of the sentence was completed, it wasn't fully executed because the pollution was fully not remediated, and therefore the Ombudsman, with a request from the communities could reopen the Constitutional process (2008-2009).

Despite the court's order requiring several environmental remediations, as well as laboratory tests to assess pollution levels of the water and air and other impacts on biota, neither these tests or the remediations were carried out. A new process is needed to verify that the Court's recommendations were not fully carried out, hence the need of the Ombudsman to follow up the completion of the Court's recommendation. The communities can request the Ombudsman to follow up the sentence's execution. The Ombudsman of Santo Domingo did not determine a process for environmental testing, nor did the Ombudsman propose any necessary remediation measures and the full compliance of the verdict. Thus, more than ten years after the ruling, we find polluted rivers, foul-smelling air, and harmful impacts on families and communities in the areas surrounding PRONACA's operations.

Excerpts from the Court's Judgement: Significant Impacts Recognized

"15. That we must also consider the rights of nature contemplated in Art. 71 of the current constitution, since in a public way the clamor of the inhabitants of the surrounding areas to the facilities of the farms and of personages of the sectional government of the current province of the Tsáchilas has been manifested, especially by the nauseating odors and by the dumping of organic and inorganic waste from the pig and poultry agro-industrial activity that PRONACA develops, towards different bodies of water that are the basis of human subsistence and that enclose ecosystems of animal life."

16. That, being the natural resource water, the most affected, either by the discharges it suffers, as well as by the consumption itself, even for the activity of the biodigesters; even more so when it has been determined that the aforementioned company does not have the authorization or concession.

17. "That for this reason, we cannot leave aside the content of the protection of nature's own rights, which are set forth in Articles 71 and 72 of the supreme law of the State, which establish that nature has the right to full respect for its existence and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes, as well as to restoration when its natural systems are affected."

⁷ The protection action in its first instance has the number No. 160-2008-E. Upon appeal of that resolution, the protection action was heard by the Constitutional Court under process No. 0567-08-RA, from which it also issued a resolution to be executed and enforced.

2009 CAO Complaint

07

Shortly after the 2009 ruling, residents in impacted communities filed complaints with the IFC's Office of the Compliance Advisor/Ombudsman (CAO), alleging "foul odor emanating from the pig farms;" "pollution of water sources, soil and air;" lack of proper environmental licensing;" "health issues among neighboring communities;" and ecological harm to area forests.⁸

The CAO found merit in the community's accusations and evidence of "a variety of non-compliances with IFC/World Bank Group guidelines." The CAO acknowledged that PRONACA failed to obtain environmental licenses for all its factory farms and processing plants and failed to comply with IFC/World Bank Group guidelines. Despite these persistent problems and lack of proper licensing, in 2013 the IFC and IDB gave PRONACA loans of \$70 million and \$42 million respectively. Again in 2020 and 2021, the IDB and IFC each provided PRONACA with \$50 million loans, demonstrating a disregard for community concerns and bank policies, and the Indigenous People's policy that requires "consultation and informed prior consent."



⁸ Office of the Compliance Advisor / Ombudsman International Finance Corporation, OMBUDSMAN ASSESSMENT REPORT TO STAKEHOLDERS, junio de 2011.

http://www.cao-ombudsman.org/cases/document-links/documents/FinalAssessmentReportPRONACA_June2011.pdf

SECTION II

CEDENMA Research (2022):

*Social and Environmental Impacts of
PRONACA's Operations in the Territories of
the Tsáchila Population in the Province of
Santo Domingo de los Tsáchilas*



Methodology

To establish social indicators and capture local residents' perceptions of PRONACA's impacts, during the first half of 2022, CEDENMA conducted on-the-ground environmental and social assessments in the areas surrounding the company's operations. CEDENMA's team collected statistical data through a survey of the Tsáchilas community members of the commune Peripa. We also conducted in-depth interviews, focus groups and discussion groups with community members in both Peripa and Chugüilpe communes regarding PRONACA's impacts on their lives and livelihoods. To supplement these, we reviewed various secondary sources and video interviews with Tsáchila community members.

Summary

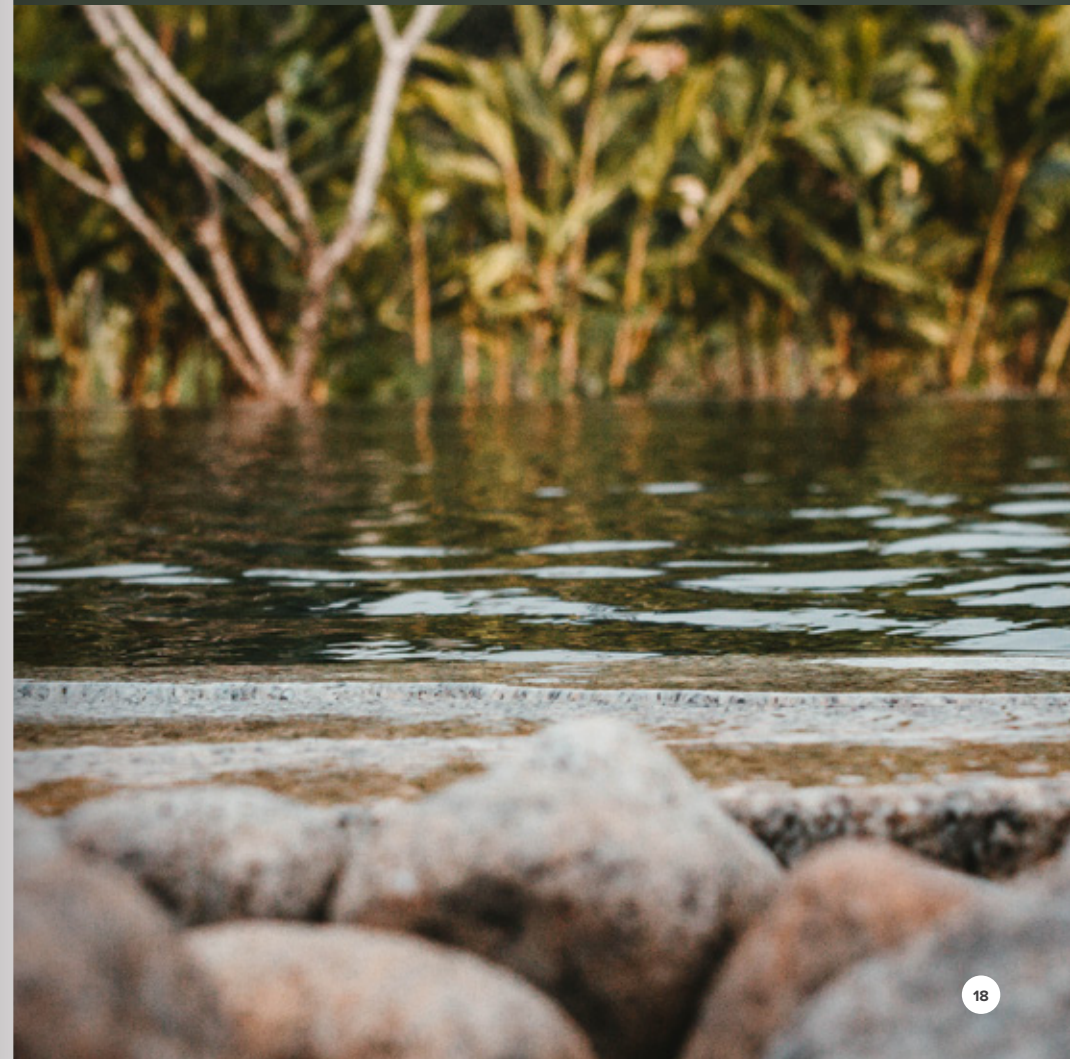
Our extensive research confirmed PRONACA's harmful impacts and the company's lack of commitment to sustainability and community stakeholder engagement.¹⁰ The Indigenous communities of Tsáchilas have been particularly impacted because their way of life has, since their ancestors, been based on the river—not only as a source of water for personal hygiene but also as a source of food through fishing and cultural practices such as irrigation for food production, ceremonies, and more. Since PRONACA's arrival in the area two decades ago, community members can no longer engage in these life-sustaining practices. While the communities acknowledge that PRONACA is not the only source of river pollution, they assert that the company's vast operations in the area, which generate millions of pounds of animal waste daily, have severely degraded the community's air and water resources upon which their health, well-being and livelihoods depend.

As noted above, the Tsáchila Indigenous community has maintained active complaints and pressure through legal actions against PRONACA, urging the company to comprehensively address the damages its operations have caused; and to relocate some pig farms to another area.

Based on the community's testimonies, the local leaders have also expressed concerns about—and urged PRONACA to stop—the intromission in the community life by giving gifts in exchange for their support and so they avoid complaining about PRONACA's damaging environmental and social impacts. The testimonies CEDENMA has collected provide a record of PRONACA's intimidation against Indigenous and peasant communities. The documentaries "Pig Business," "Caso Ecuador" (2009), and "Detrás de la Carne" (2020) feature community leaders denouncing the ongoing impacts caused by PRONACA and illustrate the company's lack of commitment to sustainability and stakeholder engagement.

¹⁰ El agronegocio en Ecuador: El caso de PRONACA and Impactos de la agroindustria intensiva de crianza de animales en Santo Domingo de los Tsáchilas. Also see: the documentaries "Pig Business," "Caso Ecuador" (2009), and "Detrás de la Carne" (2020).

One of the main findings of this report, detailed further below, is that the local communities are not aware of any consultation or participation activities regarding PRONACA operations in the last ten years. This confirms that any planned expansion of PRONACA's facilities, which would increase the company's reach and impacts, is being carried out without the participation of the stakeholders and Indigenous communities who are affected by PRONACA's operations.



Location of Facilities

08

PRONACA maintains roughly half of its pork and chicken production in the Province of Santo Domingo de los Tsáchilas alone. Animals are raised in 35 intensive pig and poultry factory farms, located near local water sources and within close proximity of Indigenous communities. (PRONACA, Memoria de Sostenibilidad, 2021; Gallardo and Zurita, 2015.)

It is estimated that these PRONACA animal operations raise approximately 7 million birds and 700,000 pigs at a time (La Hora, 2022; 3tres3, 2019).¹¹ These farms are located mostly near Indigenous and peasant communities, especially around where the Tsáchila Indigenous communities live. These communities have consistently protested the effects of these farms on their health and natural resources.

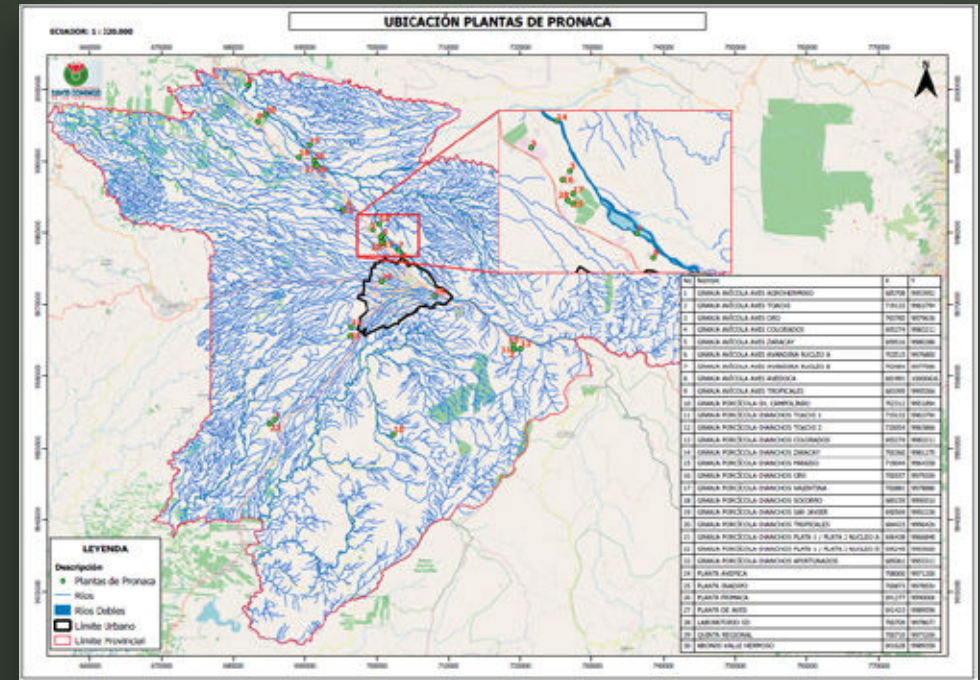
Many of these were initially opened as poultry farms that were supposed to have less environmental impact. But once these factory farms were sufficiently operational and PRONACA gained the acceptance of the surrounding population, the company transformed these operations into pig farms housing thousands of animals. (Worcester, 2012). Each hog generates an estimated 11 pounds of manure per day, which amounts to roughly 4.4 million pounds of pig waste a day across the province.

In Peripa alone, there are at least two sites with over 40,000 pigs and 15 poultry sites with more than 200,000 chickens. Two pig farms belonging to PRONACA, Granja Chanchos Plata I and Chanchos Plata II, are located just 290 meters from the Peripa community and 2.5 km from the Nueva Aurora neighborhood (Gallardo and Zurita, 2015). This is in violation of regulations that establish a minimum distance of 3 to 5 km from populated centers to locate a pig farm, according to the Manual de Procedimientos para Registro de Granjas de Ganado Porcino de AGROCALIDAD.

PRONACA's intensive breeding farms are located around the Toachi and Blanco river basins, intensifying the direct impacts on the communities. The map below shows the location of PRONACA's farms and complexes in the province of Santo Domingo de los Tsáchilas.

¹¹ La Hora (2022). Available in: <https://www.lahora.com.ec/santo-domingo/pollo-producto-de-alto-consumo-en-la-provincia-tsachila/>. Also see: 3tres3 (2019). Pork Production in Ecuador. Available in: https://www.3tres3.com/articulos/produccion-porcina-en-ecuador_40926/#img-2.

Figure 1. Location of PRONACA Farms



Source: Provincial Government of Santo Domingo de los Tsáchilas, 2022.

Note: An interactive version of the map can be consulted at: <https://www.google.com/maps/d/edit?mid=1u90JrRBA4e15qsSUKwFgeeBYzbTymNA&usp=sharing>

See Appendix 1 for a table with names and locations of PRONACA's farms and complexes.

Impacts on Water and Natural Resources

The Tsáchilas Indigenous people, with a population of between 3,000 and 4,000 according to the last Ecuadorian census in 2010, are the main Indigenous group affected by PRONACA's contamination. They live in seven communes and depend mainly on the rivers for fish, using the water for their crops, cooking and bathing, PRONACA's operations discharge their waste directly into the Pove, Peripa and Chigüilpe rivers, causing contamination of water sources. Solid waste (excrement) is deposited in areas very close to where the communities live; there have even been reports of waste discharges onto the soccer fields where children play.

Water pollution is of paramount concern, generating multiple harmful impacts. For communities settled along the Pove, Peripa and Chigüilpe rivers, water represents a vital relationship. This relationship is linked to the care of life and subsistence itself (bathing, washing, cooking, etc.), and to agricultural production and work in the fields. The community members speak of the main river or rivers as true living beings.

The Tsáchila Peripa community is most affected by contamination from pig farming because PRONACA's Chanchos Plata I and II industrial pig operations are close by, near the Peripa River, (Gallardo and Zurita). One-fourth of those living in Peripa who were surveyed by CEDENMA believe that PRONACA's operations have impaired their daily use of the river. According to the community's testimonials, all the big fish in the rivers disappeared and some of the earlier health impacts such as women started presenting symptoms such as vaginal infections and the general population had skin and hair rashes of polluted water have declined because people no longer use the water.

Neighboring communities have denounced the company due to the contamination of rivers from animal waste, which has caused serious damage to human health and nature (Cannon, 2020). Villagers living near the pig farms complain because the waste from all these animals eventually ends up in the rivers, contaminating the water with fecal coliform bacteria. Several studies of river water quality show contamination that in some cases exceeds hundreds of times the authorized maximums (León, 2012).

CEDENMA conducted a round of water testing in April 2022. This included water samples from the Peripa River close to PRONACA farms and nearby Indigenous communities as well as samples from areas slightly further away for comparison. The results show high contamination by total coliform bacteria in the Peripa River in six of the eight samples from the areas closest to the PRONACA plants and nearby Indigenous communities. A relatively lower concentration of fecal coliforms was observed in two samples taken in the areas farthest from the PRONACA plants. The proximity to the city and the rainy season make it difficult to produce definitive conclusions about the source of contamination. But the pattern found in the tests was notable and should be examined and studied further.

It should be noted that PRONACA's animal production is not the only source of contamination; urban sprawl and other industrial expansion upstream are important sources of contamination due to poor land use planning and environmental mismanagement. In addition, in many areas there is no sewage system, or sewage and gray water are disposed in the river directly. These are pollution factors that should be taken into account. Still, it is clear from the testimony of community members that the worst impacts began to occur right after the company established operations in the region; and that the massive numbers of animals being raised in close proximity to the rivers are likely a contributing factor to widespread water contamination issues. The Pove, Peripa and Chigüilpe are the rivers in the area with the highest levels of contamination. (Ayala, 2019).

"Since PRONACA arrived, not much time passed and it was no longer possible to fish, PRONACA killed the Peripa River 20 years ago and so it has been advancing to the others."

*(Jacinto Espinoza,
Local Farmer from Santo Domingo)*



PRONACA farms in Santo Domingo de los Tsáchilas as seen from the air. Image by Tex Montes De Oca.

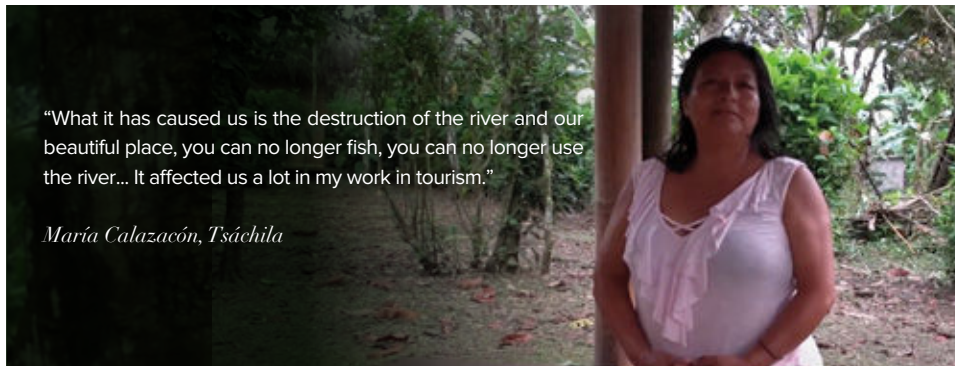
Livelihood/Economic Impacts

Culturally, the Tsáchilas define themselves as a fishing community. While the Peripa community has traditionally derived its food and economic security from fishing and agriculture, the quality of the Peripa River has degraded to the point that the community can no longer rely on it as a source of food. In focus groups, members of the local Peripa and Chigüilpe communities reported that they have abandoned fishing in the Peripa and Chigüilpe rivers near PRONACA, both because they perceive the water as very polluted and because they cannot find the volume of fish they found in the past.

"The company has directly contaminated the River Peripa, killed hundreds of fishes.

Tsáchilla we live off fish, there is no fish, there is no food."

Ricardo Calazacon¹², Tsáchila, has been protesting Pronaca's operations for more than 12 years.



"What it has caused us is the destruction of the river and our beautiful place, you can no longer fish, you can no longer use the river... It affected us a lot in my work in tourism."

María Calazacón, Tsáchila

In addition to losing basic sustenance, community members near PRONACA operations also report economic harm. In interviews with community members, 13% stated that they have experienced negative economic impacts related to the establishment of PRONACA in their territories.

"I used to be able to help my husband financially with my food venture, but people won't come anymore."

Raquel Calazacon, Tsáchila villager, lives 200, from Pronaca's operation.

¹² The testimonies from the Tsáchilas of last name Calazacon, do not all belong to the same family. All the Tsáchilas Indigenous People share 3 or 4 last names.

Other vital local economic activities affected by PRONACA's factory farms and intensive production farms include trout farming, milk production, and traditional poultry, pig and cattle raising. 13% of the villagers said in the survey that these activities can no longer be carried out because PRONACA has banned them because the activities put the animals on PRONACA farms at risk.¹³

According to an interview with the Tsáchila resident Jacinto Espinoza, PRONACA has had a very negative impact on small and medium sized producers through its monopolistic practices (see more testimonials in Appendix 7):



"PRONACA has taken over the market, PRONACA is a monopoly that sets the prices for everything, this affects small and medium producers...my sister's produce pigs and the price is so low now in the market.... PRONACA is involved in determining the prices and generating profits from all aspects of production.... They are a monopoly."

Jacinto Espinoza, farmer.

Broader Economic Concerns

Given PRONACA's enormous control over Ecuador's entire corn production for balanced feed and chicken and pork meat chain. Hence, it can impose the prices of both the inputs that the industry uses and the products that reach the consumer's plate. PRONACA has displaced many small poultry and pig producers, and expanded Ecuador's corn frontier in extensive agricultural areas that were previously dedicated to food production, to produce animal feed. PRONACA also controls much of the consumer sector. Since it positioned itself as the leading company in animal production, Ecuador's consumption of meat products has skyrocketed, dangerously concentrating the country's food supply in the hands of this one company. (León and Yumbra, 2010.)

¹³ "Pig Business in Ecuador," documentary, <https://www.youtube.com/watch?v=Dt-xltWDAyY>

Health Impacts

In a survey, 33% of people responded that they had experienced health impacts related to the activities of PRONACA or its suppliers in their territory in the last year. There have been several cases of skin and gastrointestinal illnesses in the community, all of which, according to residents, are related to the use of water from the Peripa River. (Gallardo and Zurita, 2015.) According to inhabitants, the health impacts are related to the use of river water for daily activities that have long been part of their customs, such as bathing with river water, cooking, washing clothes and utensils, etc. These uses have declined as more residents are concerned about the impacts of skin, gastric and respiratory diseases, which they say did not exist or were very rare before PRONACA installed its farms and processing plants throughout the province; now, these illnesses are part of the life of these communities, especially those along the banks of the rivers.

"We can't even wash our clothes in the river. It's not so safe for our skin. We have pollution in the air, pollution in the river."

Raquel Calazacón, local Tsáchila resident

These health effects have disrupted the customs of the Tsáchilas communities that once used water from the surrounding rivers and wells. They now report having to purchase bottled water to avoid illnesses that they claim are directly related to the use of river water for their activities and consumption.

In July 2014, 400 people from the Tsáchilas ethnic group were treated free of charge by doctors from Salud y Desarrollo Andino. Of these more than one in four suffered serious health conditions:

"120 Tsáchilas have chronic degenerative diseases among which are rheumatism, Parkinson's disease, heart problems, diabetes, hypertension, cancer. These types of ailments 25 and 20 years ago were not common in the ethnic group. So says Alfonso Aguavil, one of the most experienced healers of the Chigüilpe community."

(El Comercio, 2014).

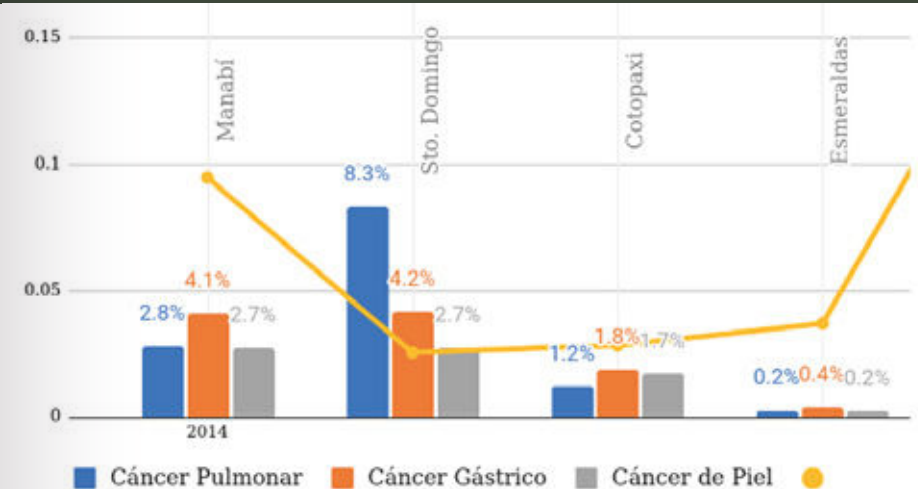
Skin Cancer Rates on the Rise

In 2014, there were higher rates of stomach, lung and skin cancer in this region than in other provinces with similar characteristics that do not have factory farms. (See figure 2 below.) While more studies are needed to determine how much PRONACA's operations have contaminated the area's rivers, the testimonies of Tsáchila villagers and residents suggests a strong correlation between these documented health declines and PRONACA's operations. Community members emphasized an increase in skin ailments after bathing in the river water.

"When I was 11 years old, I bathed the last time in the Peripa River and I had already suffered from stains and welts."

Jacinto Espinoza.

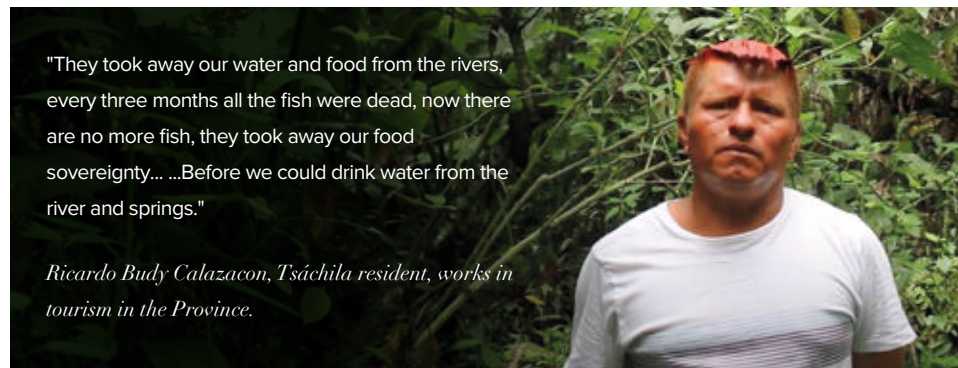
Figure 2: Lung, Gastric and Skin Cancer Rates for Four Similar Provinces of the Country.



Fuente: INEC/ENSANUT 2014

According to the community members surveyed, only 10% now connect their health problems to river water because many people no longer use river water; their ancestral relationship with the Peripa River has been broken, and they consider the river to be dead.

When asked about the appearance, color, odor and taste of the river water, 27% responded that they continue to notice changes in the river water every day.



"They took away our water and food from the rivers, every three months all the fish were dead, now there are no more fish, they took away our food sovereignty... ...Before we could drink water from the river and springs."

Ricardo Budy Calazacon, Tsáchila resident, works in tourism in the Province.

The communities of Peripa and Chigüilpe obtain most of their water from wells and do not have municipal drinking water systems. (GAD [environmental management office] Municipal de Santo Domingo, 2015.) But now even well water may be at risk with the possibility of contaminated water seeping into the wells. Since many pollutants are hard to see or smell, tests are needed to determine whether any toxic pollutants from PRONACA's farms that have entered the aquifers are contaminating community wells. Another way of meeting people's water needs is the purchase of bottled water, now the second source of drinking water, according to the survey.

Air Pollution Impacts

Foul smells and air contamination are one of the main problems for the Tsáchilas living near the Peripa River. Nearly one-fourth (23%) of inhabitants of the Peripa and Chigüilpe communities located near the Peripa River responded that they suffer from air pollution, both in the outside air and in their homes, on a daily basis.

Air pollution generated by the pig and poultry farms often spreads with the wind to population centers and can have serious health impacts. Typical concerns from the large number of air pollutants (hydrogen sulfide, ammonia, particulate pollution and VOCs) include extreme odors for downwind residents, respiratory problems, eye irritations, nausea, asthma, headaches, increased risk of heart attacks, and cancer). Some residents have had to move in recent years for this reason.

"With the pollution we had to move, some people have gone to settle more in Chigüilpe which is a little far from the farms, others are looking for another tourist river for visitors to bathe."

Ricardo Budy Calazacon

Water Usage

As PRONACA's own documents submitted to IFC reveal, the company's factory farms consume huge amounts of water—three metric tons per animal ton—mostly obtained from the area's groundwater sources. In 2022, the company reported that it now saves roughly 300 to 800 cubic meters of water a day by implementing deep bedding systems in its Plata pig farms. (America Retail, October 2022.) This amounts to a savings of up to 211,337 gallons a day, an extraordinary amount of water formerly extracted from underground aquifers. This raises serious concerns about the sheer quantity of water resources used at the 71% of PRONACA pig farms that do not use this more efficient system of waste management, located in other areas on the Province of Santo Domingo. While it is unclear whether this region suffers from chronic water shortage issues, as is the case in other regions in Ecuador, more research is needed to understand how the company's current and potentially expanded use of water would impact local community water access.

Prior Consultation and Informed Consent

Prior consultation is a right recognized by the Ecuadorian Constitution for the peoples and nationalities living in Ecuadorian territory, as well as in the Performance Standards of IFC and IDB Invest.

The right to an adequate standard of living is a fundamental right and part of the DESCAs (Second Generation of Human Rights) Constitutional rights¹⁴ on which we base our research. In its years of settlement and expansion in the Province of Santo Domingo de los Tsáchilas, PRONACA has violated residents' collective and individual rights such as prior consultation and informed consent; PRONACA's undisclosed expansion plans imply that the company now intends to violate these rights again with total impunity.



Photo from *Detrás de la Carne, ¿Qué hay detrás de esta industria?*

<https://www.youtube.com/watch?v=YZVB-Lqndfo>

Prior consultation is a central concern when examining the experience of the Tsáchila populations in the face of the environmental impacts of PRONACA. For this reason, we thoroughly investigated the extent to which the Tsáchila inhabitants of two communities located along the Peripa River had prior information and knowledge about the activities related to the IFC and IDB Invest loans or other plans that PRONACA might have in the region. We explained in more traditional language, and translated into their mother tongue, key questions about the ongoing environmental and social management and expansion of PRONACA's operations.

100% of informants both in the survey and in-depth interviews and focus groups responded that they have no information, that they do not know at all about any of PRONACA's plans and new projects. Furthermore, they do not have any information about the delivery of the IFC or IDB Invest credit, the amount, or what these loans would be used for.

¹⁴ DESCAs is the Spanish acronym for economic, social, cultural, and environmental rights (Derechos Económicos, Sociales, Culturales y Ambientales), supported by the Organization of American States through the Inter-American Commission on Human Rights, whose mission is to promote and protect human rights in the American hemisphere.

The community members of Peripa and Chigüilpe and surrounding areas have not been informed or consulted by PRONACA or by any state institution in the province about the company's plans to expand the number of animals raised in the area or to install new projects or farms, despite this being a fundamental requirement under Ecuadorian law and the banks' policies. This failure to inform and consult local Indigenous communities violates the collective and individual rights of the Tsáchilas as a nationality, which are guaranteed under the law by provincial entities such as the GAD, as well as the national authorities, SENAGUA, MAGAP (Ministry of Agriculture, Livestock, Aquaculture and Fishing), and the Ombudsman's Office. This violation of Indigenous rights reproduces common racist practices in Ecuador that ignore the opinions, self-determination, and decision-making capacity of ethnic groups, recognized in the Constitution as a result of these people's resistance and pressure exerted on Ecuadorian governments throughout history.

Rupture of Community Fabric and Culture

Faced the many documented complaints made by the Tsáchila people, the Ecuadorian state has failed to make any effort to protect their lives, dignity, self-determination, guarantee of a healthy environment, water and health; and has contributed to Tsáchila communities' loss of customs, practices and images of this indigenous People's.

PRONACA's expansions and the government's failure to act have greatly exacerbated these Tsáchilas communities' lack of confidence in justice and in the responsibility of the state and provincial government authorities. This comes after years of struggles to have their rights recognized in the face of urban expansions conducted with poor management and planning.

The community also reports how PRONACA has generated disputes between families and among Tsáchilas community members by providing gifts and economic rewards to community members, including offering jobs to the sons of some leaders of the communities. This effectively diminishes local resistance. But these jobs are short in duration.

"When I was governor 10 boys were taken to give them jobs at PRONACA."

"Besides giving work, the voices of the Tsáchilas were appeased."

Nicanor Calacazon, former governor.

PRONACA also uses charitable giving to soften opposition and gain support. The company donates food (chickens, pigs and compost produced by the company itself), street lighting, school desks, roads, and other gifts. Through these gifts, the firm ingratiate itself with some leaders of the Tsáchilas communities. (Gallardo and Zurita, 2015.) The silence of some leaders who have preferred to accept these "gifts" from PRONACA representatives has further broken community practices and trust between communes and has divided and weakened the possibility of unified community resistance and demands.

"Family fraction and bribes to leaders."

"There is no contribution to good living, nor to education. There are divisions between families and bribes to Tsáchilas leaders."

"In return for the damage, PRONACA gave them chickens and pigs for the holidays."

Raquel Calacazon, affected Tsáchila resident.

This situation has generated conflicts within the Tsáchila families, breaking community practices that previously allowed a more cordial coexistence. There is currently a constant tension between the Tsáchilas who support the corporation because they need to keep their jobs at PRONACA and those who refuse to give in to PRONACA's arm twisting and continue to denounce its polluting operations.

"My father has fought for 25 years against PRONACA. Yes, PRONACA has divided the community. The people think differently than the local authorities. PRONACA buys the local authorities, pays bribes. Many people who fought with him have lost faith, they want to stay quiet now, PRONACA is a very powerful company economically and also politically with respect to the authorities."

Ricardo Budy Calazacon (see Appendix 7, testimonial MVI_0003.mov.)

"While there were many formal complaints and denouncements, not one of them ever generated a formal sanction. PRONACA has the best lawyers that cost \$100,000 a mes [month], and we can't afford a cup of coffee."

Ilario Signori, a local business owner.

Animal Mistreatment

Civil society organizations have been asking for years to verify what is happening inside PRONACA's farms, where living beings are raised. The COVID-19 pandemic was a turning point for humanity that called into question animal exploitation and wildlife trade. However, animal epidemics like avian flu and swine flu also pose significant threats to communities by killing or requiring the mass culling of millions of animals. Zoonotic and animal pandemics are directly related to mass-scale industrial animal "production" and breeding, and meat trade for consumption. PRONACA's expansion of these activities increases the probability of infectious diseases in these contexts, which, combined with globalization, accelerate the spread of these diseases on a worldwide scale, as we are experiencing.

PRONACA's intensive production of meat and by-products such as milk and eggs on an industrial scale also involves accelerating animals' natural growth processes and altering their vital and reproductive systems to artificially increase productivity. Genetically modifying animals and their feed to increase productivity has significant negative health impacts on human consumers of animal products and poses severe threats to local and interregional biodiversity, particularly in biodiversity "hotspots" like Ecuador.

Intensive pig and poultry operations like PRONACA's also involve extreme animal cruelty, causing immense suffering of the animals and the humans who work among them.

"What we have is the application of industrial systems designed to manufacture cars and machines applied to animal husbandry. It is something incredibly cruel that no civilized society should tolerate. The sows are locked in cages so narrow that they cannot turn around during gestation. Workers in these facilities stop seeing animals as living beings, become accustomed to cruelty and end up mistreating them in a brutal manner."

(Worcester, 2012.)

While PRONACA claims to adhere to "Best Practices," including following the internationally recognized "five freedoms" for animals, the reality of its confinement operations contrasts starkly with its public relations assertions. In fact, PRONACA's own 2021 Sustainability Report found that only 29% of its pig operations enjoy deep bedding systems, which are more comfortable, sanitary, and often provide for more space. The vast majority of the corporation's pig operations, 71%, are still in traditional systems involving extreme confinement, routine mutilations, and barren environments like cement floors, leading to animal sickness and death.

As one worker described, "Working with pigs is ugly, all their shit, I had nausea, headaches... They are always stressed, aggressive, they fight, they are all tight together, it not a peaceful existence, lots of pigs were sick." Santo Domingo do los Tsáchilas-based PRONACA factory farm worker, speaking on condition of anonymity for fear of reprisal.

SECTION III

IDB Invest and IFC's Failure to Adequately Apply Environmental and Social Performance Standards



In this section we examine IDB Invest and IFC's failure to properly meet some of their environmental and social performance standards. Because we lack specific information about the company's expansion plans and the kinds of mitigation measures that PRONACA is taking in response to the banks' policies, it is difficult to know how PRONACA and the banks are managing social and environmental risks during the expansions anticipated as a result of IFC and IDB financing.

Given these uncertainties, it is highly likely that assigning these loans Category B status is a misclassification, and that Category A— "significant adverse environmental or social risks"—is a more appropriate classification for these loans.

What we do know with certainty is that:

a) Local communities close to PRONACA's pig and poultry operations in the Peripa and Chigüilpe that are planned for expansion have no knowledge of the company's plans despite bank policies that require disclosure and dissemination "of relevant environmental and social information to stakeholders."

b) Local Indigenous communities in very close proximity to PRONACA operations were not informed or consulted about these new operations as required by Ecuadorian law and bank policies, even though it seems clear from the limited information provided in bank documents that their investments will increase impacts on the community and natural resource base due to increased numbers of animals raised and slaughtered by the company.

c) There was no due diligence by the banks or the company to review the 2008 and 2009 court rulings, nor any effort to assess PRONACA's significant residual impacts on the environment and health of surrounding communities. As a result, there has been no compensation provided for the health, economic and cultural impacts suffered by Indigenous communities from PRONACA's harmful impacts on tourism, cultural activities, and local water and air resources.

d) Based on information requests to Ecuadorian authorities, it appears that no new environmental licenses have been sought for expansion activities in the Province of Santo Domingo, even though IDB documents mention that expansion activities will likely need new licenses.

These and other concerns about PRONACA's inadequate application of its own standards are discussed further below.

Below are the relevant performance standards applied by the Banks during the loan preparation phase. According to IDB Invest's 2020 Sustainability Policy, the IFC's Performance Standards (2012) apply to IDB Invest's direct investment clients.¹⁵ However, IDB Invest and IFC applied these standards differently to their recent respective investments in PRONACA.

	RELEVANT PERFORMANCE STANDARDS	CATEGORIZATION
IDB Invest	PS 1: Assessment and Management of Environmental and Social Risks and Impacts PS 2: Labor and Working Conditions PS 3: Resource Efficiency and Pollution Prevention PS 4: Community Health, Safety and Security PS 5: Land Acquisition and Involuntary Resettlement PS 6: Biodiversity Conservation and Sustainable Management of Natural Resources PS 7: Indigenous Peoples PS 8: Cultural Heritage	B
IFC	While all Performance Standards are applicable to this investment, IFC's environmental and social due diligence indicates that the investment will have impacts that must be managed in a manner consistent with the following Performance Standards: PS 1: Assessment and Management of Environmental and Social Risks and Impacts PS 2: Labor and Working Conditions PS 3: Resource Efficiency and Pollution Prevention PS 4: Community Health, Safety and Security PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	B

El hecho de que la CFI no haya identificado ningún impacto que deba ser gestionado de manera coherente con las ND5, ND7 y ND8 -mientras que éstas son identificadas por BID Invest- además de los impactos ya documentados en este documento, apunta a un claro fallo en la diligencia debida de la CFI.

¹⁵https://idbinvest.org/sites/default/files/2020-05/idb_invest_sustainability_policy_2020_EN.pdf?_ga=2.17170041.17781032.36.1607960731-55442420.1606248622

Banks failed to provide meaningful information on their investments

Performance Standard 1 requires disclosure and dissemination “of relevant environmental and social information to stakeholders.” Concerned about the limited information available on the loans from both IFC and IDB Invest, CEDENMA requested information via correspondence and during direct meetings. Despite repeated requests, neither IFC nor IDB Invest (nor PRONACA) shared critical information about the scope or location of the proposed expansion of PRONACA’s feed mills, pig farms or pork and poultry processing facilities. This makes it impossible for affected communities and civil society to fully understand how this IFC-supported expansion is likely to affect the local environment (including land, air and water) and/or public health. (See APPENDIX 5 and 6.)

A detailed review of IFC’s and IDB Invest’s online disclosures reveals that information regarding the banks’ 2020 and 2021 investments is still restricted. Information such as specific details on the expansion, including the location(s), the increase in the absolute number of animals to be raised and/or processed, the increase in poultry and pork production volumes, the sourcing of increased feed, plans for the management of the massive animal waste and effluents, and the increase in freshwater consumption and GHG emissions, among other negative environmental and social impacts, remains unavailable.

CEDENMA held two separate in-person meetings with IDB Invest and IFC which yielded no additional information about the company’s expansion activities or ongoing mitigation measures to address pollution concerns. Following the meeting with IFC and IDB Invest, CEDENMA submitted a detailed communication on June 19, 2022, outlining concerns regarding PRONACA’s lack of compliance with key performance standards and sustainability policies. IFC responded on November 7, 2022, but provided no information regarding PRONACA’s funded expansion or relevant impacts. Official correspondence to both institutions can be found in Appendix 5 and 6.

Banks failed to address residual impacts

PS1 says that the project should “Adopt a hierarchy of mitigation measures to anticipate and avoid or, failing that, minimize and, where residual impacts exist, restore/compensate for risks and impacts on workers, affected communities and the environment.”

It is evident from our discussion in Section 2 that there are significant residual impacts on the environment and on the surrounding communities, since the rivers that could previously be used for different purposes by the community are no longer usable today. These considerations were not analyzed within the framework of the IFC or IDB loans.

Banks failed to engage external stakeholders

PS1 establishes the importance of “effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them.” The standard also states that the project must “Ensure that complaints from affected communities and external communications from other stakeholders are responded to and handled appropriately.”

The failure to inform, consult, and consider community concerns is a clear violation of PS1. IFC documents indicate that the bank believed that stakeholder engagement was not necessary. On the bank’s disclosure page, IFC states that “Broad Community Support is not applicable for this project;” under “Stakeholder Engagement” there is no mention of any engagement efforts with stakeholders. IDB Invest project documents specify that stakeholder engagement occurs through “corporate communication that allows open and ongoing dialogue with its stakeholders.”

Offering corporate “communication channels” such as “website, social media, conferences, lectures,” as described in the IDB Invest ESAP, falls far short of ensuring meaningful stakeholder engagement. While IDB Invest did require a more comprehensive stakeholder complaint mechanism as part of its loan agreement, our research with the communities revealed a lack of trust in these channels. The communities surrounding the company do not believe that they have access to a valid mechanism for voicing complaints, given that in the past when they did present concerns, these concerns were not attended to, much less resolved. On the contrary, community members felt that the leaders who voiced concerns about PRONACA’s operations were discriminated against, affecting future job opportunities or “gifts”. Also, PRONACA made offers of gifts and support for local parties and celebrations in exchange for quieting complaints.

If there had been an engagement process, IFC, IDB Invest, and PRONACA would have recognized that there had been no action by the court-ordered commission established more than a decade ago. The banks would also have had to address the fact that decades-old concerns about the harmful impacts of air and water pollution on local tourism, culture and public health had not been mitigated.

Failure to ensure that PRONACA met all national legal environmental requirements

Ensuring that the company has all required environmental licenses in compliance with Ecuadorian law is a key requirement for meeting PS1.¹⁶ In IFC's ESRS for the PRONACA Covid project, the bank states that PRONACA "confirmed during IFC appraisal that there is no EIA requirement for the proposed expansion of the processing operations." The IDB Invest loan documents, however, do anticipate the potential need for new licenses: "for each modification or new Project operating facility, it will identify the E&S risks and impacts of its activities as part of the environmental impact assessment processes required to obtain the environmental permit, or based on environmental records within the Unified Environmental Information System (SUJA, by its acronym in Spanish) required by Ecuador's environmental legislation."

Ecuadorian legislation establishes a system of environmental quality, in which all operators of projects that may generate environmental risk must be legally authorized.: "The purpose of environmental regularization is to authorize the execution of public, private and mixed projects, works and activities, based on their particular characteristics and the magnitude of their environmental impacts or risks. For such purposes, the environmental impact will be classified as not significant, low, medium or high. The Unified Environmental Information System will automatically determine the type of environmental permit to be granted." (Article 172 of the Organic Environmental Code (CODA)). Article 174 of this code states, "The National Environmental Authority will prepare and update the catalog of activities, projects, works or activities existing in the country that must be regularized, based on the magnitude of the environmental impact or risk they may generate. The periodicity of the updates of the catalog of activities will be subject to technical criteria..."

¹⁶PS 1, para. 6: "The client will establish an overarching policy defining the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance. The policy provides a framework for the environmental and social assessment and management process, and specifies that the project (or business activities, as appropriate) will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including those laws implementing host country obligations under international law." [emphasis added] See https://www.ifc.org/wps/wcm/connect/6df1de8f-2a00-4d11-a07c-c09b038f947b/GN1_English_06142021_FINAL.pdf?MOD=AJPERES&CVID=nXqn5Ts, p. 5.

It is clear from reviewing government regulations and codes that the types of operations run by PRONACA require environmental licensing. In Ecuador, there is an Activity Catalog that assures that any operation with over 600 pigs need to regularize their operation; and even though PRONACA should have a license for each of their plants, it does not comply with the SUJA Activity Catalog.¹⁷ In other words, both require an environmental license.

The same applies to chicken farming. SUJA Activity Catalog Section 11.2.3, on Construction and/or operation of poultry, laying, fattening and related farms, covers two activities: 11.2.3.1.— Construction and/or operation of poultry, laying, fattening and related farms larger than 30,000 birds; and activity 11.2.3.2.—Construction and/or operation of poultry, laying, fattening and related farms larger than 5,000 birds and smaller than 30,000 birds. The former is classified as category IV (high environmental risk) and the latter as category III (medium environmental risk). In other words, both require an environmental license. Both of these requirements apply to PRONACA's chicken operations.

In addition to the above-mentioned legal basis, Article 426 of the Regulations to the Environmental Code complements this legal framework, under "Types of environmental administrative authorizations." The article states: "By virtue of the categorization of the environmental impact or risk, the corresponding environmental administrative authorizations for each project, work or activity will be determined through the Unified Environmental Information System, which are classified as follows: a) Low impact, through an environmental registration; and, b) Medium and high impact, through an environmental license."

Article 431 of the same law states: "Environmental license - The Competent Environmental Authority, through the Unified Environmental Information System, shall grant the environmental administrative authorization for works, projects or activities of medium or high environmental impact, called environmental license." Article 432 states: "Environmental license requirements. - For the issuance of the environmental license, at least the following documents shall be required: a) Certificate of intersection; b) Environmental impact study; c) Report of systematization of the Citizen Participation Process; d) Payment for administrative services; and e) Policy or guarantee for environmental liabilities."

¹⁷Construction and/or operation of infrastructure for pig breeding, the following activities of MAATE (Ministerio del Agua, Ambiente y Transición Ecológica)'s SUJA Activity Catalog, 11.2.2.1.- Construction and/or operation of infrastructure for pig breeding greater than 600 Adult Swine Units (UPOA), and activity 11.2.2.2. Regarding construction and/or operation of infrastructure for raising pigs larger than 100 Adult Swine Units (UPOA) and less than or equal to 600 Adult Swine Units (UPOA), the former is classified as category IV (high environmental risk) and the latter as category III (medium environmental risk).

In this context, PRONACA's expansion activities require environmental licenses because they are included in the list of activities expressly detailed in Ecuadorian legislation.

Based on our analysis of Ecuadorian law, PRONACA's expansion activities require additional licensing and citizen participation. To the extent that IFC's funding supports an expansion of PRONACA's production, the company is not complying with Ecuadorian national policy, according to the Environmental Organic Code. As Article 176—"Modification of the project, work or activity"—states: "any project, work or activity that has an administrative permit and is going to modify or expand its activity must again comply with the environmental regularization process... In the event that an operator of a project, work or activity needs to generate additional activities of medium or high impact to those previously authorized, and that do not imply a change in the main purpose of the environmental permit granted, a complementary study of such activities must be submitted."

According to Ecuador's environmental governance, the Provincial Council (not the Ministry of Environment) is the accredited authority with which PRONACA needs to comply. After our consultation with the Decentralized Autonomous Government of Santo Domingo de los Tsáchilas—a provincial authority accredited by the Minister of Water, Environment and Ecological Transition (MAATE) to issue environmental licenses—we learned that there is no new licensing in process nor any new environmental impact study presented by PRONACA. This appears to be in violation of Article 176.

This environmental regularization process, in accordance with Articles 176 of CODA and 431 of the CODA Regulations, should have included a new environmental impact study or at least an update of the previous one; and a new environmental management plan or at least an update of the previous one. Article 182 of CODA, covering "Modifications or updates to the environmental management plan," states: "If there are sufficient and motivated technical reasons, in accordance with the provisions contained in this Code and regulations issued for the purpose, the Competent Environmental Authority may require the operator, at any time, to make modifications and updates to the approved environmental management plan. These modifications shall be subject to its approval."

Above all, the regularization process should have involved citizen participation, in the following terms, as provided by Ecuadorian law.

Regarding citizen participation, Article 184 of the Environmental Code states: "The Competent Environmental Authority shall inform the population that could be directly affected about the possible implementation of projects, works or activities, as well as the possible expected socio-environmental impacts and the relevance of the actions to be taken. The purpose of the participation of the population will be to gather their opinions and observations in order to incorporate them into the Environmental Studies, as long as they are technically and economically feasible. If the aforementioned consultation process results in majority opposition from the respective population, the decision to execute or not the project will be adopted by duly motivated resolution of the Competent Environmental Authority. In the social participation mechanisms there will be environmental facilitators, who will be evaluated, qualified and registered in the Unified Environmental Information System."

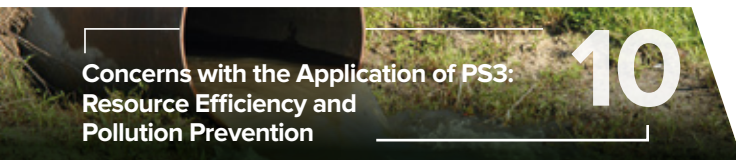
However, in line with Ruling 22-18-IN-/21 (R.O. E.C. 252, 13-XII-2021), the Constitutional Court declared that the Environmental Consultation does not apply or replace the right to prior, free and informed consultation of the communes, communities, Indigenous peoples and nationalities; and such consultation will be constitutional provided that its purpose and content is interpreted and complemented with the constitutional norm that establishes the right to environmental consultation, the jurisprudence of the Court on applicable prior consultation, the norms of the Escazú Agreement, and with what is established in this judgment, which determine the necessary elements to guarantee this right.

In the case of the Tsáchila Indigenous communities that are settled around the areas impacted by PRONACA, a prior, free and informed consultation must be carried out in the terms of Art. 57 of the Constitution (p. 18). This has not occurred.

In the annexes of an official letter (Oficio No. GADPSDT-GA-2022-0099-0 of February 9, 2022) from Eng. Verónica Narváez, Environmental Director of the Provincial GAD of Santo Domingo de los Tsáchilas, it is evident that there are 31 PRONACA projects that as of 2018 have submitted updates to the Environmental Management Plan. Of these, 16 are still pending review and approval. There have also been seven facility adaptations for which environmental licenses have not been obtained; nor has presentation of complementary studies been completed, as required by Article 176 of the Organic Environmental Code. In none of these cases did the Responsible Environmental Enforcement Authority (the GAD Provincial de Santo Domingo de los Tsáchilas) present management plans or complementary studies that have authorized expansions in PRONACA projects in the province.

This merits an environmental audit by MAATE, since the Provincial Government of Pichincha has not issued a warning about a new license and the activities financed by IFC and IDB Invest likely involve modifications to the regularized activities, therefore requiring them to update the environmental license plan to comply with Article 176 of the CODA. CEDENMA will proceed with requests for information to understand what PRONACA's new investments imply in terms of production expansion. To reiterate, this information has been requested from both the IFC and IDB Invest and has not been provided to CEDENMA on the grounds that it is confidential company information. (See APPENDIX 5 and 6.) However, it is key to know what the company's expansion plans are in order to understand the scale of potential environmental and social impacts for the Tsáchila communities of Santo Domingo, and potentially populations since all affected communities have a right to consultation and to a healthy environment.

PRONACA has a history of not securing proper licensing. According to IDB loan documents, at the time of the 2013 loan approval, PRONACA had only "secured 76 of the 82 required licenses and permits." As of 2015, only six farms, including pig breeding and slaughtering operations in Santo Domingo de los Tsáchilas, had an environmental license. (Gallardo and Zurita, 2015.)



PS3 objectives include "avoid[ing] or minimizing adverse impacts on human health and the environment by avoiding or minimizing pollution generated by project activities;" "promot[ing] more sustainable use of resources, including energy and water;" and "reduc[ing] project-related GHG emissions."

Air, Land, and Water Pollution Tied to Waste Management

PRONACA's breeding, raising, and slaughtering of millions of animals each year involves serious negative impacts on air, land and water. Given the significant air, land, and water pollution generated by the massive amount of waste from the production and processing of 700,000 pigs, as well as hundreds of thousands of chickens in Santo Domingo, it is critical to implement effective mitigation measures in strict adherence to this PS and IFC's Environmental, Health, and Safety Guidelines (EHSs).

According to the IFC's 2007 Environmental, Health and Safety Guidelines for Mammalian Livestock Production, client firms (i.e., loan recipients) should track their manure generation: "Monitoring activities associated with the management of hazardous and non-hazardous waste should include: Tracking of waste generation trends by type and amount of waste generated." The IFC document continues, "Clients should also do an assessment of their land to ensure it can adequately contain the amount of manure that will be generated," and "observe internationally recognized guidance, such as that published by FAO, on land requirements for livestock production for livestock units (LU) per hectare (ha)..." Additionally, the document states: "It is essential to conduct a mass balance of nutrients when considering the location of a livestock facility." And: "The mass nutrient balance should provide information on the land area requirement for the agricultural hinterland and the manure application rates to ensure that the nutrient load resulting from land spreading does not become an environmental problem."

In the project documents there is no evidence that PRONACA performed the assessment of the land's ability to absorb the impact of the expected number of animals, as is referenced in the EHSs.

Based on available information it is unclear how the company effectively manages its massive volumes of manure and effluents, which are at the root of the air, land, and water pollution documented in Section II of this report. According to the 2021 IFC loan documents, PRONACA "has 11 anaerobic digestors for treatment of manure (some locations serve more than one farm), and in some cases may receive effluents from poultry and pork farms combined." PRONACA currently sources from ~115 intensive pig and poultry operations, which raises the question of whether or how the company is managing the remainder of its factory-farm-based waste and effluents. Adding to this, treating manure in anaerobic digestors and fertigating with effluents causes air, water, and land pollution, including by emitting GHGs and polluting and degrading soil, groundwater, and waterways (via runoff). Both the 2020 IDB Invest and 2021 IFC loan documents indicate that PRONACA had to implement improvements to its fertigation processes to bring these in line with GIIP.

According to the 2021 IFC loan documents, PRONACA also has 19 wastewater treatment plants (WWTPs), almost exactly the number of the company's slaughterhouses or "processing facilities." While the 2020 IDB Invest loan documents seem to conflate biodigesters and WWTPs, the 2021 IFC loan documents reference only slaughterhouse-based effluents with respect to the WWTPs. More important, the 2021 IFC loan documents concede that effluent monitoring results revealed "deviations" from applicable effluent discharge requirements in the form of high levels of nitrogen and phosphorus as well as coliform bacteria. [suggest one sentence here on what this means, why it's important.]

Given the documented impacts of untreated waste and effluents on land, air, and water, all treatment mechanisms should be monitored for efficacy and the results shared with stakeholders whose lived experience is the death of the river on which they have relied for centuries—a death that coincides with the proliferation of PRONACA's ~140 factory farms and slaughterhouses. Equally important, given that any expansion of PRONACA's production will inevitably involve an increase in waste and effluents, IDB Invest and IFC are obliged to account for any and all currently untreated waste/effluent discharges from the company's owned or contracted facilities; they must also require that PRONACA implement an effective action plan at existing facilities/current production capacity in advance of expanding its production.

To the extent that IDB Invest, IFC, and/or CSOs are able to document the damage that PRONACA's operations have caused to the rivers, estuaries, and tributaries of Santo Domingo de los Tsáchilas and other Ecuadorian provinces, IDB Invest and IFC should apply PS3, PS4 and any related loan conditions to require that PRONACA address such damage and make appropriate reparations to the affected communities.

Finally, to the extent that PRONACA has made, makes, or plans to make improvements in relevant management systems in its existing or proposed operations, the company has an ethical and legal obligation to share these with the local communities.

Greenhouse gas (GHG) emissions

Reducing GHG emissions is a key PS3 objective. Both the 2021 IDB Invest and 2020 IFC loan documents indicate that PRONACA has implemented measures to reduce energy consumption in its owned facilities. However, consistent with the industry, the majority (>90%) of PRONACA's GHG emissions are likely Scope 3, and thus do not fall under this energy reduction.

IFC has indicated in its loan documents and correspondence with CEDENMA that PRONACA reports on its Scope 1-3 emissions. However, the company reports only its emissions intensity (CO₂eq per ton of production). From this, it is not clear whether the company reports on all scopes or all categories.

Accurate emissions reporting is required for sufficient mitigation under PS3. Accurate reporting involves accounting for all scopes and categories, including all animal and feed production. It also involves disaggregating emissions by gas type. Only then can there be an accurate accounting of potential mitigation measures such as the installation of anaerobic digestors that the 2020 IDB Invest loan documents refer to as "eliminating biogas...mainly methane."

Odorous emissions. As documented in Section II, odorous emissions from PRONACA's operations have long been and continue to be among the negative impacts of the company's intensive pig and chicken farming and slaughter operations. In addition to the waste generated on PRONACA's ~115 intensive pig and poultry farms, the 2021 IFC loan documents acknowledge that biodigesters and wastewater treatment plants generate significant odorous emissions.

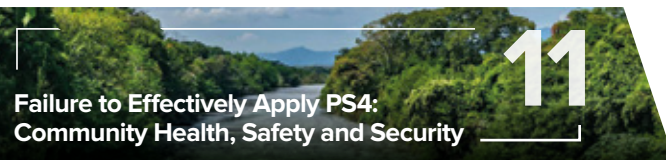
Deep bedding systems in pork facilities could significantly reduce odor and diminish the amount of water needed to clean feedlots. However, as noted in PRONACA's 2021 sustainability report, only 29% of its pig facilities have deep bedding systems installed. The other 71% of its facilities have cement floors that exacerbate odor issues and create unsanitary conditions. Poultry farms generate significant ammonia emissions, which neither IDB Invest nor IFC has indicated PRONACA has any plans to address.

Water consumption

According to the 2021 IFC loan documents and PRONACA's sustainability report, PRONACA obtains water from groundwater (85%), surface sources (12%), and municipal sewage systems (3%). The ratio of 3 m3 of water use per ton of production was maintained. PRONACA works to increase the reuse of water that has been previously treated in auxiliary processes that are not related to food production, achieving the reuse of 241,328 m3 of water. Nevertheless, since PRONACA relies on so much groundwater for its animal production facilities, it should disclose information to the affected communities showing how much water is regularly extracted from underground aquifers.

However, the use of water in PRONACA's factory farms or slaughterhouses represents a tiny fraction of the water needed to produce its finished products. Most of the water use in industrial livestock supply chains occurs during feed production.

Mitigation of PRONACA's water consumption would need to take feed production into account. Therefore, at present, this element of PS3 has been improperly applied to IDB Invest's and IFC's expansion projects.



PS4 requires that the client:

"...evaluate the risks and impacts to the health and safety of the Affected Communities during the project life-cycle [and] establish preventive and control measures consistent with good international industry practice (GIIP),¹ such as in the World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines)... The client will identify risks and impacts and propose mitigation measures that are commensurate with their nature and magnitude. These measures will favor the avoidance of risks and impacts over minimization."

As documented in Section II above, the testimony of many residents of Santo Domingo de los Tsáchilas shows that negative community health impacts from PRONACA's operations are affecting potentially thousands of people and have done so for at least 15 years. While IFC's ESRS acknowledges that key E&S risks and impacts from this project include implementation effectiveness of EHS management across all of PRONACA's operations, the Environmental & Social Action Plan contains nothing to address downstream, downwind, and other water, air and soil contamination and impacts on affected communities. This is a prima facie failure to apply PS4 and deserves immediate follow-up with PRONACA by IFC and IDB Invest, as well as corrective measures added to the ESAP.



In industrialized livestock production systems like PRONACA's, roughly half of all GHG emissions stem from feed production. Feed production also accounts for much of intensive livestock's water footprint. These industrial animal operations also create significant threats to biodiversity through land conversion, including deforestation, and their intensive use of fertilizers (including nitrogen and phosphorus-dense manure), and toxic pesticides.

PS6 states: "As a matter of priority, the client should seek to avoid impacts on biodiversity and ecosystem services. When avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services should be implemented. This PS also aims "To protect and conserve terrestrial, coastal, marine and freshwater biodiversity and freshwater courses and reserves."

PS6 addresses supply chain impacts: "Where a client is purchasing primary production (especially but not exclusively food and fiber commodities) that is known to be produced in regions where there is a risk of significant conversion of natural and/or critical habitats, systems and verification practices will be adopted as part of the client's ESMS to evaluate its primary suppliers." These include identifying where the supply is coming from. The EHS Guidelines for Dairy Processing and Poultry Processing both state: "As far as possible, ensuring full traceability of all materials and products throughout the supply chain" is a recommended practice.,

According to IFC and IDB Invest loan documents, PRONACA will incorporate the following into its internal Supplier Qualification program: a socio-environmental assessment survey of its suppliers; and implementation of a Responsible Sourcing Code that describes the requirements and standards to be applied throughout the supply chain, and that considers regulatory and industry standards, based on PRONACA's principles.

To feed intensively reared animals in its owned and contracted operations, PRONACA purchases nearly one-third (29%) of Ecuador's yellow corn supply. While the company is proud of the \$104 million it spends on this, the corn production generates huge deleterious climate and biodiversity impacts and diverts valuable water and land resources away from food production directly for people.

The main driver of deforestation in Ecuador (a major source of climate change) is agricultural expansion, including for crop cultivation. For its size, Ecuador has the highest rate of deforestation of any country in the Western Hemisphere. IDB Invest's and IFC's support of PRONACA's expansion is likely to increase deforestation even as the World Bank itself is investing in preventing "unsustainable agricultural expansion" from causing deforestation and land degradation in the country.¹⁸ Thus, these investments in PRONACA directly undermine the World Bank's efforts to reduce deforestation and its climate-harming effects.

While PRONACA's "Sustainable Supply Chain Policy" may incorporate a "responsible sourcing code" including language relating to "minimizing the [supply chain's] impact on climate change," there is no monitoring or verification process. Nor are there any requirements that the company or its feed suppliers disclose or reduce their GHG emissions or address biodiversity or ecosystem impacts. Based on PRONACA's lax approach of passively requesting that suppliers reduce their environmental impacts, there is no way for the company to verify that it is fully complying with the IFC's policy to minimize impacts on high biodiverse areas or to reduce conversion of natural or critical habitats.

Failure to Apply Performance Standard 7: Impacts on Indigenous Peoples



The objectives of PS7, "Indigenous People," include the following: "Ensure that the development process promotes full respect for the human rights of Indigenous peoples, as well as their collective rights, dignity, aspirations, culture and natural resource-dependent livelihoods." The standard states: "The client will undertake an engagement process with the Affected Communities of Indigenous Peoples as required in Performance Standard 1. This engagement process includes stakeholder analysis and engagement planning, disclosure of information, consultation, and participation, in a culturally appropriate manner." It further states that the project should "foresee and prevent projects from having adverse impacts on Indigenous peoples' communities or, when it is not possible to avoid them, to minimize them or compensate for such impacts," and "Promote benefits and opportunities for sustainable development for Indigenous peoples in a manner consistent with their culture."

¹⁸ <https://euredd.efi.int/countries/ecuador/>;

<https://documents1.worldbank.org/curated/en/375471538672422843/pdf/Concept-Project-Information-Documents-Integrated-Safe-guards-Data-Sheet-Ecuador-Forest-Investment-Program-P167752.pdf>.

As documented in Section 2, IFC and IDB Invest have utterly failed to ensure that there was an engagement process with affected Indigenous communities, even contradicting national law, which requires free, prior and informed consultation. This is the crucial issue surrounding the credit granted to PRONACA, because there has not been even one participatory event to inform, let alone consult the surrounding communities about the company's expansions.

While IDB Invest acknowledged the relevance of this policy in establishing new PRONACA facilities, it did not acknowledge that expansion activities of existing farms should also require the application of PS7. Instead, the bank specified that "the selection of land for the new project operating will seek to not negatively impact Indigenous peoples," and that "if this is not possible, PRONACA will address the issue with a Procedure for the Treatment of Indigenous Peoples that will be part of the Corporate Land Selection and Acquisition Manual to avoid such impacts or to manage them in accordance with the provisions of PS-7."

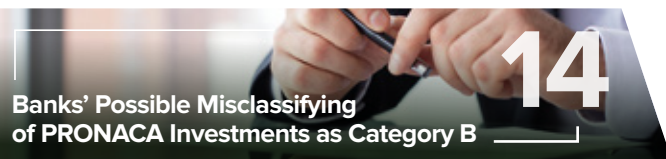
PRONACA appears to be taking advantage of these vagueries and loopholes. In PRONACA's report on compliance with IDB's Indigenous Peoples Policy, the company provided a proforma document to IDB Invest that states, "Cuando, habiendo explorado alternativas, no sea posible evitar la cercanía a Pueblos Indígenas u otros asentamientos humanos, PRONACA realizará los respectivos procesos de participación social comunitaria con actores representativos de los Pueblos Indígenas." (PRONACA, 2021.) "Si existe algún problema con las comunidades de Pueblos indígenas en la participación social, PRONACA buscará otras alternativas social y ambientalmente viables." This translates to: "If there is a problem with Indigenous communities, we will look for social and environmental alternatives." This document is clearly a PR smokescreen for PRONACA. The company's public relations materials (see below) cannot make up for its failure to properly engage and address the harms caused to the Tsáchila Indigenous communities.



PRONACA busca construir relaciones positivas con todos los pueblos indígenas con los que interactúa.

Contrary to PRONACA's PR, this company is clearly not providing "benefits of sustainable development," or "positive relations with Indigenous People" as PRONACA proclaims in other promotional materials. To the contrary, it is evident that there has been no respect for the collective rights of the Indigenous people that border PRONACA's plants, since the river, which is the primary means of subsistence for the Tsáchila nationality, has been contaminated and damaged to the point that the Indigenous communities cannot use it. The traditional uses of bathing, drinking, cooking and ritual water are no longer possible since PRONACA arrived in the area.

Furthermore, there has been no compensation for the health, economic and cultural impacts suffered by Indigenous communities from PRONACA's harmful impacts on tourism, cultural activities and local water and air resources. These impacts from PRONACA's environmental damages include lack of access to water for human consumption, ammonia emissions, and foul smells, all harming tourism, public health, and Indigenous livelihoods.



Banks' Possible Misclassifying of PRONACA Investments as Category B

The IFC defines Category A projects as: "Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented." The bank defines Category B projects as: "Business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures."¹⁹ Category A projects require a much more robust and detailed stakeholder consultation and environmental management plans.

Both IDB and IFC classified their PRONACA projects as Category B. According to IDB Invest documents, the potential environmental and social risks and impacts of its 2020 investment in PRONACA were generally limited, mostly reversible, and can be mitigated with current technologies.²⁰ IFC claimed that its 2021 investment was considered to have only local, temporary and reversible impacts.²¹

¹⁹IDB Invest describes Category A and B projects as follows: Category A: Operations that can potentially cause significant negative environmental or social impacts or have profound implications affecting natural resources. Category B: Operations that have the potential to cause mostly local and short-term negative environmental or social impacts and for which effective mitigation measures are known and readily available.

See: <https://drive.google.com/file/d/1UYHCSNrLnMEuckSXjhvszxd3KbWE1-w/view>.

²⁰<https://www.idbinvest.org/en/projects/pronaca-ii>

²¹<https://drive.google.com/file/d/1I7OTImNvOD1fCVs6h9shfNsWITXNNm0G/view?usp=sharing>

Yet, as we have documented, this project clearly meets the criteria for a Category A investment given the cumulative, irreversible and persistent environmental, economic and public health impacts related to tourism decline, water depletion, air and water pollution, and GHG emissions associated with current intensive hog and poultry breeding, growing, and processing facilities in Ecuador, as well as any expansion of any related operations and facilities.

According to the OECD's Recommendations for Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, a Category A classification should be declared in projects that "may result in significant adverse social impacts to local communities or other project affected parties, including those involved in the construction and/or operation of the project." Category A should also be declared in projects involving "installations for the intensive rearing of pigs with more than... (ii) 3000 places for production pigs (over 30 kg); or (iii) 900 places for sows." In Peripa alone, there are at least two pig facilities with over 40,000 pigs, situated within 100 meters of the community and right next to the local river. PRONACA is raising an additional estimated 400,000 pigs are being raised in this region. Intensive poultry operations with 85,000 places for broilers and 60,000 places for hens also qualify for Category A classification.

A number of Category A-level impacts from PRONACA's industrial pig and poultry operations are tied to the liquid and solid waste generated by the millions of animals the company slaughters each year. Even if PRONACA were to adopt the best industry practices for waste management (which there is no documentation of the company having done), disposing daily of approximately five million pounds of pig manure alone in a sustainable manner in such a small area is virtually impossible without significant and potentially irreversible damage to air, land and water quality. Treatment and/or disposal of waste generated by PRONACA's dozens of intensive poultry operations presents a separate challenge. Ammonia emitted from these factory farms pollutes land, air and water; chicken waste emits foul odors and greenhouse gases, and the "litter" contains arsenic, a known carcinogen. Due to its high ammonia content, chicken litter is unsuitable for biogas conversion.

In addition to PRONACA and its contractors' animal rearing and slaughter, the company's reliance on massive quantities of corn for animal feed also produces diverse and potentially permanent impacts. Much of the corn PRONACA purchases comes from monoculture production systems that rely heavily on synthetic fertilizers, herbicides and pesticides that individually and collectively cause soil acidification, exhaustion and erosion as well as eutrophication and biodiversity loss; any of these effects can be irreversible.

While the issue of loan categorization is in part a matter of interpretation, the barriers we faced to definitively document the serious and potentially irreversible impacts of PRONACA's expansion activities reflects the absolute lack of transparency regarding the use of these loans and the scope and expansion of PRONACA's operations. This lack of transparency underscores the banks' failure to ensure informed consultation and participation of affected communities, to say nothing of the lack of FPIC²² for Indigenous Peoples whose access to resources and livelihoods has been severely compromised, if not lost altogether.



15 Conclusions and Recommendations for Future Actions

As demonstrated by our detailed review, PRONACA must dedicate significant attention and resources to addressing community concerns about the negative environmental and social impacts of the company's operations, and must fulfill the requirements of various Bank Performance Standards. It is troubling that IFC and IDB Invest have recently invested another \$100 million collectively in the expansion of PRONACA's polluting operations when the company has still not provided evidence that it has sufficiently addressed the issues at the center of the 2009 litigation; this disregards the residual impacts and harms from PRONACA's operations on local Indigenous Peripa and Chigüilpe communities.

At a minimum, given the widely documented issues and community opposition dating back to 1993, the banks should have both done greater due diligence to evaluate PRONACA's compliance or failure to comply with Ecuadorian legislation and the 2009 ruling; and the company's involvement and/or lack of involvement with the communities surrounding its operations. The banks also should have insisted on a meaningful consultation process with local Indigenous communities, as IFC's and IDB Invest's Performance Standards require. Such a consultation would have uncovered persistent concerns and could have initiated a critical and comprehensive effort to better understand, track, and mitigate harmful impacts on local communities.

The banks aren't the only institutions that have failed the Indigenous communities in Santo Domingo. Clearly the government authorities have equally failed to protect the rights and promote sustainable development of Indigenous Tsáchila communities in the province—particularly by failing to enforce the 2009 ruling against PRONACA and failing to conduct a thorough analysis of PRONACA's expansion plans and the company's compliance or failure to comply with relevant permitting requirements.

²² FPIC – Free, Prior and Informed Consent

With respect to the Indigenous communities profiled in this report, the Ecuadorian Constitution and national laws as well as the IFC and IDB Performance Standards all require the same goals: to respect the rights and promote the health and development of Indigenous peoples through prior and informed consent of economic activities that affect their livelihoods. However, as this report documents, the local Ombudsman Office has not fulfilled the court's resolution around a joint monitoring commission, nor has it ensured that PRONACA has met its legal responsibility to consult with local communities about the economic activities it carries out despite the company's many documented social and environmental impacts.

Participation and consultation are rights that are neither respected by nor integrated into PRONACA's management. To the contrary, there is evidence of PRONACA influencing Indigenous community members by either intimidating them or providing short-term employment or charitable favors, none of which constitutes a meaningful contribution to local development, nor genuine community participation in or consent to decisions about activities that affect these communities directly. Furthermore, in our analysis, Ecuadorian legislation requires that an expansion of PRONACA's activities in the area requires new environmental licensing and management plans that have yet to be submitted or granted.

In a host of ways detailed in this report, PRONACA, the banks, and government authorities have neglected their own policies and procedures that call for genuine stakeholder participation, informed consent, transparency and accountability.





Recommendations to the Banks

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We strongly urge the IFC and IDB Invest to take responsibility for their role in facilitating the expansion of PRONACA's operations in Ecuador over the past decade; and to use their power to address many of the issues highlighted in this report by implementing the following actions:

Conduct an independent investigation to determine the residual impacts of PRONACA's operations and whether compensation is warranted for the health, economic and cultural impacts suffered by Indigenous communities because of PRONACA's harmful impacts on tourism, cultural activities and local water and air resources.

Encourage PRONACA and the local authorities to fully implement the Resolution (No. 0567-08-RA of July 16, 2009) **establishing a commission to monitor, assess and mitigate damage.** It is vital to resume the process of compliance with the 2009 ruling establishing a commission made up of government, company and community representatives to "strictly monitor the operation of the biodigesters, water consumption, and the management of organic and inorganic waste that is discharged into bodies of water."

Greater disclosure of information. In order to "ensure that relevant environmental and social information is disclosed and disseminated" as required by PS1, IFC and IDB Invest must require PRONACA to disclose specific details regarding the current numbers of animals, precise locations, evidence of permits for operating those installations, and specific plans for expansion. This must include location/s, the expected increase in the absolute number of animals to be reared, and the expected increase in total poultry and pork production volumes. The banks should also require PRONACA to make available cumulative impact assessments and specific environmental management plans that have been (or will be) submitted to the banks by PRONACA for all its new and existing farms and processing plants; as well as environmental compliance reports relating to wastewater treatment discharges in each of its plants. Finally, the banks should require PRONACA to disclose the amount of water that is being or will be extracted from underground aquifers for its current production and future expansion plans.

Establish independent monitoring of wastewater, river water and well water, and disclose results of independent audits. We recommend independent monthly (both unscheduled and regular) water analyses to be reviewed by IFC and IDB Invest. These should measure wastewater discharges and pollution levels of rivers and community wells to ensure PRONACA's compliance with both relevant regulations and the banks' stated requirements. Given these industrial operations' widely documented water impacts, PRONACA should have a water quality program and its results should be available to the public, or at least to the affected areas and communities. With the rise in serious health issues in the community, it is especially important that well water tests are carried out; particularly since there has been no well testing to date, even though it is well known that pig and poultry factory farms generate groundwater pollution.

Establish meaningful consultation with Affected Indigenous Communities. Ensure that PRONACA establishes a mechanism for ongoing and genuine dialogue and consultation (not merely websites and promotional statements) with local communities such that community members do not fear reprisals for speaking out.

Require PRONACA to install deep bedding materials in all its owned and contracted swine farms to improve animal welfare and sanitary conditions and to minimize air quality impacts on local communities.

Establish more rigorous requirements to reduce PRONACA's supply chain impacts. Given that PRONACA sources animal feed from roughly 800 suppliers, it is critical that the company install a much more rigorous monitoring, evaluation, and verification system to understand feed producers' impacts on biodiversity, GHG emissions and deforestation. This information should be carried out by an independent public auditing firm and made available to stakeholders.

Disclosure and accounting of how much waste PRONACA's animal farms generate and detailed accounting of how it is being disposed.

Recommendations for Government

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Activate the Joint Commission

The Ombudsman of Santo Domingo must fulfill its responsibility as outlined in Resolution No. 0567-08-RA to bring together relevant agencies, PRONACA, and the community members into a commission “to strictly monitor the productive activity that this company carries out, with regard to the operation of the biodigesters, water consumption, and the management of organic and inorganic waste that is discharged into bodies of water, in order to safeguard the diffuse and collective rights expressed.” First and foremost, these bodies must work together to assess: a) the quality of wastewater discharges; b) the quantity and impact of water drawn from local aquifers for use on PRONACA’s farms and processing plants in Santo Domingo; and c) the water quality of various community wells and rivers, with a goal toward identifying different sources of pollution and actions needed to recover and repair the polluted rivers that are fundamental to Indigenous people’s way of life, their health, culture and sustainable development.

Ensure that all necessary licenses are granted and environmental plans submitted and executed. The Ombudsman of Santo Domingo must ensure that all proper environmental management plans and licenses are up to date.

The Minister of Environment (MAATE) must implement an environmental audit to evaluate whether the Provincial Government of Pichincha is failing in its duty to require updated environmental licenses and plans to comply with Article 176 of the CODA, given that the activities financed by the \$100 million in loans to PRONACA likely imply a modification to their approved activities.

Acknowledge the constitutional rights of local communities. The banks and all relevant government agencies should acknowledge the constitutional rights of affected communities and require that both PRONACA and its financial backers eliminate or mitigate and compensate for – as necessary – the negative impacts of the company’s operations that are foreclosing any possibility that Ecuadorian citizens may exercise or enjoy the rights the government has granted them.

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APPENDIX 1. Names and locations of PRONACA's farms and complexes

The table below details the names of the farms or complexes and their geographic coordinates:

Table 1. Names and locations of PRONACA's farms and complexes

Number	Farms	Latitude	Longitude
1	GRANJA AVÍCOLA AVES AGROHERMOSO	-0,416267	-79,331283
2	GRANJA AVÍCOLA AVES TOACHI	-0,327242	-79,031065
3	GRANJA AVÍCOLA AVES ORO	-0,184074	-79,195887
4	GRANJA AVÍCOLA AVES COLORADAS	-0,151754	-79,245392
5	GRANJA AVÍCOLA AVES ZARACAY	-0,177296	-79,207286
6	GRANJA AVÍCOLA AVES AVANDINA (Núcleo A)	-0,202656	-79,171363
7	GRANJA AVÍCOLA AVES AVANDINA (Núcleo B)	-0,209707	-79,176132
8	GRANJA AVÍCOLA AVES AVEDOCA	-0,0917226	-79,279611
9	GRANJA AVÍCOLA AVES TROPICALES	-0,040084	-79,352104
10	GRANJA PORCÍCOLA CH. CAMPOLINDO	-0,434836	-79,182128
11	GRANJA PORCÍCOLA CHANCHOS TOACHI 1	-0,327242	-79,031065
12	GRANJA PORCÍCOLA CHANCHOS TOACHI 2	-0,326589	-79,022794
13	GRANJA PORCÍCOLA CHANCHOS COLORADOS	-0,151754	-79,245392
14	GRANJA PORCÍCOLA CHANCHOS ZARACAY	-0,169305	-79,199706
15	GRANJA PORCÍCOLA CHANCHOS PARAISO	-0,322144	-79,031866
16	GRANJA PORCÍCOLA CHANCHOS ORO	-0,186606	-79,197935
17	GRANJA PORCÍCOLA CHANCHOS VALENTINA	-0,190908	-79,195024
18	GRANJA PORCÍCOLA CHANCHOS SOCORRO	-0,085787	-79,300325
19	GRANJA PORCÍCOLA CHANCHOS SAN JAVIER	-0,070238	-79,28766
20	GRANJA PORCÍCOLA CHANCHOS TROPICALES	-0,032309	-79,342869
21	GRANJA PORCÍCOLA CHANCHOS PLATA 1	-0,299674	-79,234918
22	GRANJA PORCÍCOLA CHANCHOS PLATA 2	-0,310955	-79,236614
23	GRANJA PORCÍCOLA CHANCHOS AFORTUNADOS	-0,422053	-79,337094
24	AVEPICA	-0,260319	-79,131071
25	INAEXPO	-0,193855	-79,195095
26	FRIMACA	-0,090342	-79,281299
27	PLANTA DE ABONOS	-0,719536	-79,262823
28	PLANTA DE AVES	-0,094048	-79,279988
29	N.A.P. QUEVEDO PLANTA QUEVEDO	-0,766988	-79,460709
30	LABORATORIO SD	-0,192779	-79,196569
31	Quinta Regional	-0,242196	-79,196554
32	Abonos Valle Hermoso	-0,0962	-79,278146

Source: Provincial Government of Santo Domingo de los Tsáchilas, 2022

APPENDIX 2. Legal Framework

In view of all the above-mentioned concerns, it is critical to take into account the legal framework, applicable and in force in Ecuador.

The supreme norm, Ecuador's Constitution (CRE), recognizes Nature as a subject of rights in its Article 10: "Nature shall be the subject of those rights recognized by the Constitution."

Article 14 of the Constitution also recognizes "the right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and good living, *sumak kawsay*. The preservation of the environment, the conservation of ecosystems, biodiversity and the integrity of the country's genetic heritage, the prevention of environmental damage and the recovery of degraded natural spaces are declared of public interest."

Regarding environmental rights, Article 66 (para. 27) of the CRE also recognizes and guarantees people "the right to live in a healthy, ecologically balanced environment, free of pollution and in harmony with nature." It is also important to understand the specific recognition of the National Constitutional Article CRE Article 74, which provides that individuals, communities, peoples, and nationalities "shall have the right to benefit from the environment and natural resources that allow them to live well."

Considering all the historical and ongoing negative impacts on Indigenous communities of PRONACA's operations, as well as the specific existing safeguard for IFC and IDB, the CRE recognizes in Article 57 (paragraph 7) that "The following collective rights shall be recognized and guaranteed to the Indigenous communities, communities, peoples and nationalities, in accordance with the Constitution and the covenants, conventions, declarations and other international human rights instruments. Free, prior and informed consultation, within a reasonable period of time, on plans and programs for prospecting, exploitation and commercialization of non-renewable resources found on their lands that may affect them environmentally or culturally; to participate in the benefits of such projects and to receive compensation for the social, cultural and environmental damage caused to them. The consultation to be carried out by the competent authorities shall be mandatory and timely. If the consent of the consulted community is not obtained, they shall proceed in accordance with the Constitution and the law."

The Constitution also mentions that "In case of environmental damage, the State shall act immediately and subsidiarily to guarantee the health and restoration of ecosystems. In addition to the corresponding sanction, the State will repeat against the operator of the activity that produced the damage the obligations that entail the integral reparation, under the conditions and with the procedures established by law. The responsibility will also fall on the civil servants responsible for environmental control."

Article 1 of the CODA establishes that "it will regulate the environmental rights, duties and guarantees contained in the Constitution, as well as the instruments that strengthen their exercise, which must ensure the sustainability, conservation, protection and restoration of the environment, without prejudice to the provisions of other laws on the matter that guarantee the same purposes."

With this context and legal framework that recognizes all these rights, it is important to define that Ecuadorian legislation protects all these legal situations from the Constitution itself as the supreme norm.

APPENDIX 2: Legal Background: Details related to the Legal Case against PRONACA

The contamination by PRONACA's operations of the community's soil, air, and water resources has had a negative impact not only on the health and well-being of the population, but also on aquatic life, the surrounding natural vegetation and, in general, the flora and fauna of the area, in violation of the provisions of the Political Constitution of the Republic of Ecuador and other regulations in force.

In response to the pollution and safety concerns related to the construction of biodigesters, several legal actions supported by the ECOLEX Corporation, a member of CEDENMA, were taken on behalf of local stakeholders belonging to the communities of Puerto Limón, Valle Hermoso, San Gabriel del Baba, Peripa, among others, in the province of Santo Domingo de los Tsáchilas, against Compañía Procesadora de Alimentos C.A., "PRONACA".

On February 27, 2008, a complaint was filed against PRONACA for contamination of the area's water sources before the National Water Resources Council, Quito Agency (today SENAGUA).

A complaint was also filed with the Mayor of the Canton of Santo Domingo de los Tsáchilas on February 27, 2008, to publicize the effects of PRONACA's operations on human health and the environment and call for the government's enforcement of environmental regulations and requirements. A Civic Complaint was filed with the Ministry of the Environment regarding the environmental damage caused by PRONACA on April 25, 2008, requesting an Environmental Compliance Audit.

Despite all these actions, the affected communities did not feel that justice was achieved. Several members of the Tsáchila nationality, together with other residents of various communities of the Province of Santo Domingo de los Tsáchilas, were alarmed by the construction of biodigesters by PRONACA. Due to relevant risks of the same, including the possible effects of methane gas, which is highly volatile when in contact with oxygen, residents proposed a Constitutional Protection Action on February 27, 2008 before the Civil Judge of Santo Domingo de los Tsáchilas to suspend the construction of the biodigesters in order to protect the lives of the inhabitants affected by the facilities being built near these towns.

It should be noted that, although the action was aimed at stopping the construction of the biodigesters, the other environmental impacts caused by the industrial activities of this company in the area could not be ignored, so the arguments of this legal action included and proved the other arguments and impacts.

RIGHTS AND GUARANTEES VIOLATED ON WHICH THE ACTION IS BASED

Art. 23 of the Political Constitution of Ecuador of 1998: No. 6. With reference to international treaties, Art. 163, which deals with the norms contained in international treaties and conventions, such as the United Nations Covenant. International Covenant on Economic, Social and Cultural Rights:

Rio Declaration of 1992.

Art. 86 of the Political Constitution of Ecuador. The preservation of the environment is declared of public interest.

Art. 91 Preventive and precautionary principle. Art. 23 of the Political Constitution of Ecuador No. 20. On the right to a quality of life that ensures health, food and nutrition, drinking water, environmental sanitation and education.

Art. 42 On the right to health. In accordance with: The Organic Law of Health.

The Environmental Management Law and other relevant environmental regulations.

Article 437 of the Penal Code, as applicable.

The Unified Text of Secondary Legislation of the Ministry of the Environment TULAS, has violated the precautionary principle contained in Art. 46 of the Regulations to the Law of the Environment.

Environmental Management for the Prevention and Control of Environmental Contamination, among others.

The Law for the Prevention and Control of Environmental Contamination.

The Regulations to the Law on Slaughterhouses, Inspection, Marketing and Industrialization of Meat.

Organic Law of the Municipal Regime.

PRONACA ARGUMENTS

In response to the action filed, PRONACA expressed in the lawsuit:

1. That the sole purpose of the proposed injunction is to order the immediate suspension of all activities and construction works of the biodigesters being carried out by PRONACA in Santo Domingo de los Tsáchilas.
2. Therefore, the amparo can only refer to this and not to other matters contained in the complaint.
3. The "...assertions that are not only inaccurate and unproven, but also lack grounds. Constitutional judges can only rule on what has been requested.
4. The plaintiffs intend to mislead the court, since each production unit of PRONACA has a technically elaborated waste management system that provides specific treatment for each type of waste, without affecting the environment or the rights of third parties.
5. That the proposed amparo lacks the elements established in the Constitution and in the Constitutional Control Law.
6. That the alleged challenged act has not occurred up to the present date.

In view of these statements, and because in the lawsuit, in addition to the thesis that the construction of the biodigesters should be suspended, it was necessary to include other concomitant socio-environmental problems:

- Contamination of air, water, soil, etc.
- General environmental damage
- Health and quality of life of the inhabitants of the area,

For this purpose, it was necessary to carry out and generate supporting evidence, such as water and soil analyses, photographs of the environmental damage, records of press publications, technical and scientific criteria and reports, which served as the basis for the Judges' considerations.

THE JUDICIAL RULING, (taken from the ECOLEX ruling and publications):

After the proceedings, the Judge made his decision:

1. That the Amparo against private individuals is appropriate, and therefore an amparo against a private individual is admissible.
2. That, the plaintiffs invoke affectation of a diffuse right, that is, basically those recognized in Arts. 23, paragraphs 6 and 20; 42, 86 and 91 of the Constitution of 1998 regarding the right to live in a healthy and ecologically balanced environment.
3. That, when issuing its decision, the Court should not necessarily submit itself to the allegations made by both the plaintiff in his complaint and the defendant in his answer, it being incumbent upon this Magistracy and, in general, upon constitutional judges, to analyze the constitutionality of the challenged act, in application of the principles *iura novit curia* (the judge knows the law), "and therefore may base its decision on constitutional provisions not indicated by the parties or on estimates not grounded in law by them."
4. In the present proceeding, the plaintiff has made several allegations against PRONACA.
5. That, since this is an action for protection against a private individual, it is not necessary to analyze the illegitimacy of the act by means of or the verification of competence, but rather whether an act of a private individual violates rights.
6. That, in this sense, it was up to the plaintiffs to demonstrate that the challenged construction of the biodigesters causes or threatens to cause serious and imminent damage, as provided in the third paragraph of Article 95 of the Constitution of 1998, which has occurred and it has been mentioned of the risk that this technology entails in case there is no adequate installation and monitoring.
7. PRONACA has provided sufficient evidence regarding the theoretical harmlessness of the procedure and its environmental purpose.
8. The plaintiff explains that the large amount of methane gas will come from the "anaerobic decomposition of pig excrement", a fact acknowledged by the defendant and that although the plaintiffs and PRONACA acknowledge that fuel gas will be manufactured, produced or generated, the defendant adds an additional consideration: the biogas or methane gas produced will not be stored indefinitely, but will be combusted to generate electricity for PRONACA's own consumption.

9. That, on the other hand, the plaintiffs, when invoking an imminent damage due to the installation of biodigesters or biogas furnaces, have also mentioned facts related to PRONACA's activity, since they constitute an affection of community, collective or diffuse interest.

10. The Court, with respect to the biodigesters, wants to emphasize the fact that they are innocuous in itself, but, at the same time emphasize that as long as their installation is carried out within an integral plan of execution and monitoring, otherwise this apparent advantage could become lethal, especially for the human environment, since it generates methane gas and could produce asphyxia in case of leakage (by displacement of oxygen), it can also easily generate explosive mixtures with the air and logically fires.

That, based on the principle of integrality or completeness dictates that "to exercise true justice...it is necessary to look at all the elements of the case and the parties involved, one of them being nature, the individuals directly and indirectly affected, otherwise one would be guilty of partiality due to a procedural error and the substance would be sacrificed for the form".

That the respect and protection of the rights of nature is fundamental, since not only the life of human beings but also that of the rest of the species on the planet depends on them.

That, the integral and effective respect of its existence must be fulfilled by safeguarding each and every one of its systems, processes and natural elements, considering them as part of a whole, being an imperative, safeguarding the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes.

14. That, this Court cannot fail to consider under the principle *iura movit curiae*, the various aspects of violation mentioned by the plaintiffs in relation to the injury of both fundamental rights and the right to live in a healthy environment contained in Art. 86 of the Constitution of 1998.

15. "That we must also consider the rights of nature contemplated in Art. 71 of the current constitution, since in a public way the clamor of the inhabitants of the surrounding areas to the facilities of the farms and of personages of the sectional government of the current province of the Tsáchilas has been manifested, especially by the nauseating odors and by the dumping of organic and inorganic waste from the pig and poultry agro-industrial activity that PRONACA develops, towards different bodies of water that are the basis of human subsistence and that enclose ecosystems of animal life."

16. That, being the natural resource water, the most affected, either by the discharges it suffers, as well as by the consumption itself, even for the activity of the biodigesters; even more so when it has been determined that the aforementioned company does not have the authorization or concession.

17. "That for this reason, we cannot leave aside the content of the protection of nature's own rights, which are set forth in Articles 71 and 72 of the supreme law of the State, which establish that nature has the right to full respect for its existence and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes, as well as to restoration when its natural systems are affected".

18. That the State must protect the natural heritage and guarantee the rights of individuals, communities and nature.

That the Ecuadorian State is a party:

- From the United Nations Convention on Biological Diversity.
- The Convention for the Protection of the World Cultural and Natural Heritage.
- From the Convention on the Protection of the Flora, Fauna and Natural and Scenic Beauty of the Countries of the Americas.
- From the World Charter for Nature.

20. That, we must bear in mind that "this guarantee of protection to nature enjoys the principle of autonomy, that is to say, it must be considered in its integrality in a holistic manner as an end (active) and not as a means or thing (passive), to which its own behavior is irremediably respected, otherwise the validity of its rights and its effective protection would be omitted; for this purpose, we also invoke the principle in *in dubio pro natura* that entails both prevention and precaution and integral recovery with respect to the effects caused by a human activity. it is the obligation of this court as guardian of the fulfillment of the constitutional mandates, to materialize the will of the constituent in that our fundamental charter grants rights to nature as part of a legal-philosophy that guarantees rights, biocentric and not anthropocentric, because in case of doubt about the scope of the principles and legal provisions in environmental matters, these must be applied in the sense most favorable to the protection of nature".

That PRONACA's successful or unsuccessful environmental management would positively or negatively affect the exercise of the guarantees for the realization of good living, *sumak kawsay*, of the populations surrounding PRONACA's facilities, since the state guarantees a sustainable model of environmentally balanced development that respects biological and cultural diversity, conserves biodiversity and the capacity for natural regeneration of ecosystems and ensures the satisfaction of the needs of present and future generations".

22. That, considering that worldwide the alert of a possible pandemic related to the swine virus is public knowledge, it is incumbent upon the Ecuadorian State to implement the measures it deems appropriate to protect the constitutional right of the population to live in a healthy environment, to have access to good quality water and to dictate measures that tend to protect nature, especially "... for the populations that are close to the pig farms, having been the proponents of this action for protection".

That "nature has the right to restoration. This restoration must be of an integral nature, as a set of measures aimed at recovering in a systemic manner the original conditions, composition and structure (vegetation, flora, fauna, climate, water, soil and microorganisms) of an ecosystem or natural process affected or degraded by an anthropoid activity. It is unquestionable that in the present case there is an alteration of the natural environment with respect to the water element of the rivers surrounding the swine stations, since a human-industrial activity is involved which, together with the activities inherent to the life of human civilization, have generated changes and degradation, for which reason the corresponding imputable levels of said alteration must be assumed and induce its consequent integral reparation".

THE FIRST CHAMBER OF THE CONSTITUTIONAL COURT RESOLVED

With the result of the first instance, PRONACA appeals and the Constitutional Tribunal decides:

1. "To confirm the decision of the court; and consequently, to deny the amparo action proposed by the appellants with respect to the installation of the biodigesters".

The resolution was dismissed and the Constitutional Court in the second and final instance decided to confirm said Resolution:

However, this case is a successful and emblematic case because the constitutional judges made a comprehensive analysis of the content of the claim and the evidence provided, therefore, although the claim was dismissed exclusively in relation to the biodigesters, the claim was accepted in order to prevent the violation of other constitutional rights and guarantees that appear in the initial libel. For this reason, in the second paragraph, it provides for the creation of a Commission, as indicated in the following transcription:

2. "It is provided that the entities: Ministry of Environment, Ministry of Agriculture and Livestock through the National Water Resources Council (CNRH), National Water Secretariat (SENAGUA); Ministry of Health; Office of the Ombudsman, Provincial Government and the Municipality of Santo Domingo de los Tsáchilas; and, the Water Management Boards; each in full exercise of their respective competencies, together with a representative of each of the communities surrounding the facilities of all PRONACA's production centers, to form a commission to strictly monitor the productive activity that this company carries out, with regard to the operation of the biodigesters, water consumption, and the management of organic and inorganic waste that is discharged into bodies of water, in order to safeguard the diffuse and collective rights expressed. For this purpose, the Ombudsman's Office will be the convening entity in its offices in Santo Domingo de los Tsáchilas and will be installed 15 days after being notified with this document".

1.2. Fulfillment of the sentence

The company Procesadora Nacional de Alimentos PRONACA C.A., submitted a brief in which it requested a clarification of the Resolution, a request to which the Constitutional Court responded by stating in pertinent part: "2.- related to the formation of a monitoring commission for the correct operation of the biodigesters, it is necessary to clarify that in accordance with the principle of equality, the Commission should also include a representative of PRONACA..."

After several writings both before the Constitutional Court and also addressed to the Nineteenth Judge of Santo Domingo de los Tsáchilas, today the Second Civil Judge of Santo Domingo de los Tsáchilas, due to the lack of execution of the Resolution, and finally due to the pressure of the plaintiffs approximately THIRTEEN MONTHS after the Resolution was executed, the Ombudsman of Santo Domingo de los Tsáchilas proceeded to summon the plaintiffs, arguing that he could not do so until the clarification of the Resolution officially arrived, the Ombudsman of Santo Domingo de los Tsáchilas proceeds to make the summons, arguing that he could not make the summons until the clarification of the Resolution issued by the Court officially arrives, this clarification is dated November 25, 2009.

In the formation of the Committee, a representative of the Municipality, the provincial delegate of the Ministry of the Environment and no leader or legal representative of the more than 40 communities surrounding the facilities of all PRONACA production centers were present, as required by the aforementioned Resolution, which nullifies the right of defense of those not summoned, violates the Resolution of the Constitutional Court and violates several constitutional principles, including the principle of citizen participation.

PRONACA, taking advantage of the absence of the leaders of the neighboring communities, gave a twist of interpretation in violation of the right to legitimate defense, arguing that the clarification of the Resolution requested by them refers to a monitoring commission for the biodigesters, meaning that the Commission is, in PRONACA's opinion, only to monitor the 9 production centers where the biodigesters are being built or will be built, leaving out the majority of the production centers of this company.

This capricious and arbitrary interpretation, which was rejected at the time, was curiously accepted by the Ombudsman's Office, so that the Resolution has not been complied with in the terms ordered by the Constitutional Court.

APPENDIX 3

Results of water analysis:

<https://drive.google.com/file/d/1bZZEde-mnKTMen-txgls7hyBVLXJxJaC/view>

APPENDIX 4

Field Report - Surveys:

<https://docs.google.com/document/d/1c0SGLTaM0kF1fFcixXfuU-YsGCbhFZ2sf0xF7P2SeVA/edit>

APPENDIX 5

Communication with IDB Invest:

<https://drive.google.com/file/d/1CDJgIp0mzbMAy78xJ9gYQKZJYvrDS9cx/view>

APPENDIX 6

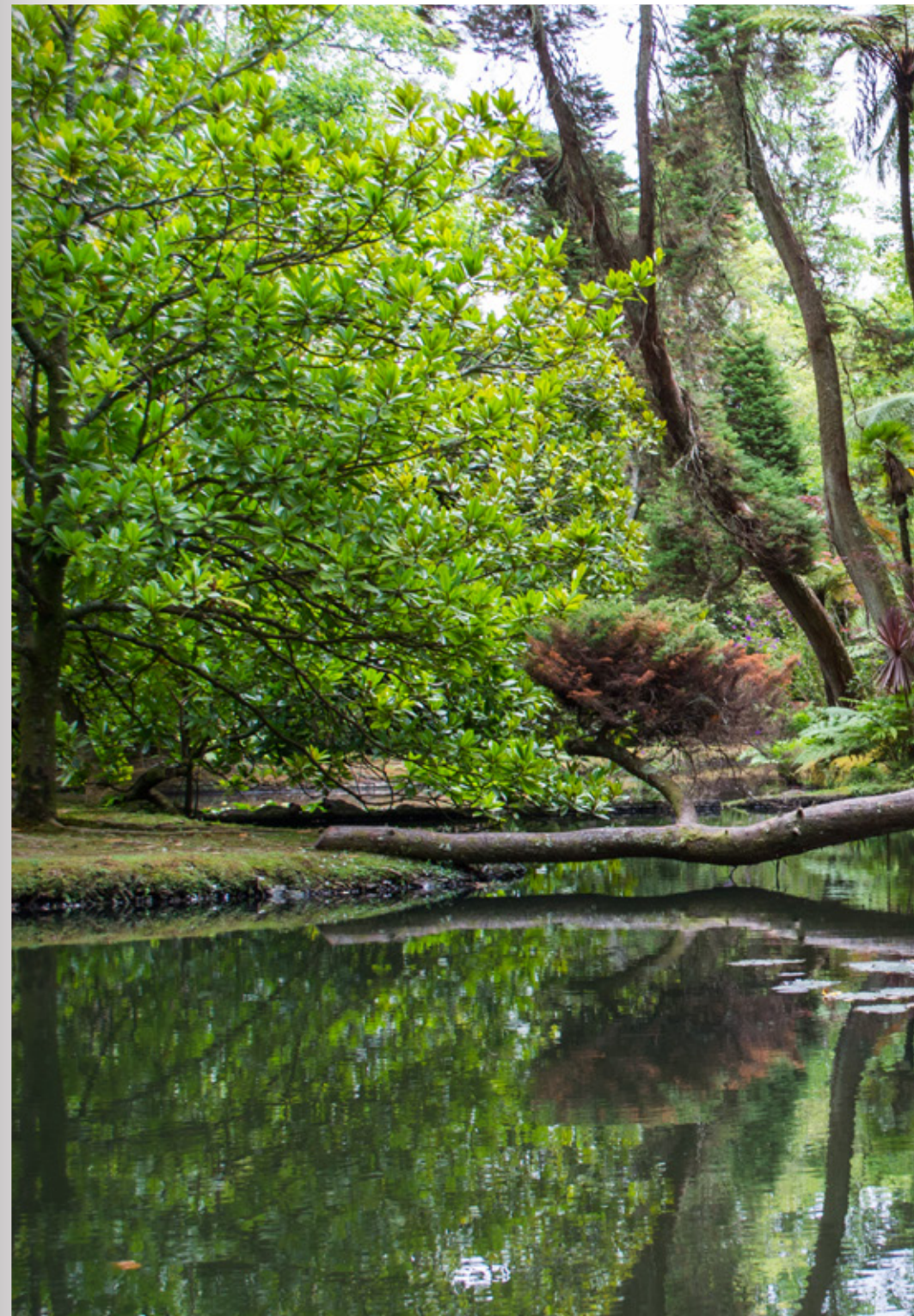
Communication with IFC :

<https://drive.google.com/file/d/1ku5IEB2NdEt1k6R6OviDa4OZ6a4hVxIJ/view>

APPENDIX 7

Videos of testimonies of Indigenous Communities still affected by PRONACA 2022 and Pictures of Indigenous Communities affected by PRONACA :

<https://drive.google.com/drive/folders/1WfhLySih2wO5xzHibi75M5c99bDd-bkR>



ENVIRONMENTAL AND SOCIAL IMPACTS
OF IDB INVEST AND IFC INVESTMENTS IN PRONACA'S SANTO DOMINGO DE
LOS TSÁCHILAS OPERATIONS IN ECUADOR:
POLICY FAILURES AND RECOMMENDATIONS

