



Baarerstrasse 8
6300 Zug
Switzerland

To: Beatriz Balbin
Chef
Special Procedures Department
OHCHR

CC: Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

CC: Damilola S. Olawuyi
Chairperson-Rapporteur of the Working Group on the question of human rights and transnational corporations and other business enterprises

CC: David R. Boyd
Special Rapporteur on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

CC: Mary Lawlor
Special Rapporteur on the situation of human rights defenders

CC: Jose Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

CC: Marcos A. Orellana
Special Rapporteur on the human rights implications of the environmentally sound management and disposal of hazardous products and wastes

United Nations Human Rights
Office of the High Commissioner
Palais des Nations, 8-14 avenue de la Paix
CH - 1211 Geneva 10, Switzerland
Your references: AL OTH 128/2023, AL OTH 127/2023, AL OTH 126/2023, AL OTH 125/2003. (07.11.2023)

January 19, 2024
By email: ohchr-registry@un.org

Solway Investment Group's consolidated reply to Joint Communication from Special Procedures dated 07 November 2023

Dear Ms. Balbin,

Solway Investment Group (SIG) respectfully acknowledges the receipt of the Joint Communication AL OTH 128/2023 (07.11.2023).

We are taking the concerns raised in the Joint Communication very seriously, and our response comprises our key messages, background information on SIG's operations in Guatemala and the CGN and PRONICO projects, and more detailed responses to the questions in the Joint Communication.

SIG is fully committed to respecting and protecting human rights in all its operations globally, including in Guatemala. Our approach is guided by the commitment of our Management that formalises our understanding and principles in our Code of Conduct and the associated Policies and procedures. Our Environment, Social, and Governance (ESG) management system is based on Performance Standards of the International Financial Corporation (IFC) and United Nations Guiding Principles (UNGP) on Business and Human Rights, among other international standards, principles, and guidelines for good practices relevant to our operations.

Although we have accomplished a great deal in this area since acquiring CGN-PRONICO in 2011, we acknowledge we still have work to do. We have a comprehensive plan related to a range of ESG initiatives which is in the process of being implemented and a road map to implement remaining initiatives. We have provided our two public sustainability reports which contain much more details than can be provided in a response letter such as this and provides further data and information which support our responses to the Joint Communication.

We take this opportunity to convey our support for the inhabitants of the Lake Izabal region and El Estor, many of whom are our employees, business partners, and suppliers. At the same time, we would like to correct misinformation concerning our activities and their impacts in Guatemala. Some of the questions you raise in the Joint Communication fall outside of the scope of Solway Investment Group or our Guatemalan subsidiaries and cannot be addressed by us.

Additionally, we cannot comment yet on some of the allegations at this time in relation to the case of Mr. Carlos Ernesto Choc. Some of these allegations had been brought to our attention previously and, indeed, occurred before Solway Investment Group acquired the Guatemalan entities in question. However, we understand that this does not absolve us from taking any actions in relation to these allegations.

In order to fully address the allegations around Mr. Choc and to determine their veracity we had earlier launched a full and independent investigation which is being conducted by a leading US law firm with experience investigating human rights issues. Importantly, the investigation includes evidence-gathering on the ground in Guatemala and reviewing the alleged actions of Solway Investment Group, CGN-PRONICO employees, or any other persons who may have been acting on behalf of these entities or any personnel.

Due to its complexity and because of the passage of time since the alleged incidents occurred, this investigation has not yet been fully completed. The findings and reporting are expected in the nearest future. Upon receipt of the findings Solway Investment Group will review the investigation findings and take any and all actions deemed appropriate considering our Code of Conduct, the UN Guiding Principles on Business and Human Rights, and relevant legislation.

We recently communicated to you on 6 January 2024 our commitment to provide a detailed response by January 22, 2024 including the response on the specific allegations concerning Mr. Choc referred to in questions nine and ten in your Special Communication once the investigation has been concluded and the final report is available. We have now learned from the law firm conducting the investigation that the final report may be further delayed for up to 15 days. Therefore, we would like to present now our detailed answers to the questions 1-8 and 11 of the Joint Communication and hereby commit to answer the questions nine and ten by February 9, 2024.

Please note that this response also should be considered as responses from Solway Investment Group (AL OTH 128/2023) as well Solway Holding Ltd. (AL OTH 127/2023), Compañía Guatemalteca de Níquel SA (CGN) (AL OTH 125/2023) and Compañía Procesadora de Níquel de Izabal SA (PRONICO) (AL OTH 126/2023).

I trust this letter and the following background information and answers to questions 1-8 and 11 of the Joint Communication will address the concerns raised. I remain available to answer any further questions or provide clarifications, if necessary.



Denis Gerasev
Management Board Member
Solway Investment Group

1. Please provide any additional information and/or comments you may have on the above allegations

Solway Investment Group places a high priority on all matters of human rights, environmental management, and social responsibility, which can collectively be referred to as Environment, Social, and Governance (“ESG”). Since the acquisition of Compañía Guatemalateca de Níquel SA (CGN) and Compañía Procesadora de Níquel de Izabal SA (PRONICO) in 2011 we have invested significant resources into designing and implementing a wide range of ESG Policies and Procedures, engagement with local communities, including the indigenous community, and strengthening our overall approach to managing our social and environmental impacts to be a responsible investor and member of the community. We strive to not only effectively managing our environmental impacts, but also providing meaningful employment for the local community and much-needed socio-economic development together with our local partners in the community.

Apart from investment in our ESG management and oversight processes we have also invested almost USD260 million since acquisition of these entities to modernise equipment and expand production. The modernisation program brought improvements to production efficiencies and has also resulted in cleaner and more efficient operations which reduces our overall environmental impact and potential impact on human health.

Our approach specifically around Human Rights follows the principles contained in the UN *Guiding Principles on Business and Human Rights* and the *Protect, Respect, Remedy* Framework.

However, global events and geopolitics, including the war in Ukraine where we have additional operating units, have significantly impacted Solway’s overall business. Production has been halted at our operations in Guatemala since January 2023 as a result. This suspension of operations has unfortunately led to layoffs of personnel and meant that implementation of some of the ESG related initiatives and development programs have been paused at CGN-PRONICO for the moment. None of the functions relating to safety or environmental monitoring and management have been affected by the suspension of operations and are operating normally.

The Fenix mine, CGN, and PRONICO are the largest local employers in one of the most economically challenged regions of Guatemala. Before the suspension of work the projects provided jobs for 1,633 employees, 61% of whom come from the local communities in El Estor themselves and 31% from other regions in Guatemala. We are most proud of the fact that over half of our workforce are from indigenous communities. Foreign nationals are only employed when there are specific skills or experience which is not available locally. In addition, we have hundreds of local contractors and suppliers, which in turn provide indirect employment and economic benefits to the local community.

We include links to our two latest public Sustainability Reports which covers our Guatemalan operations for 2020 and 2021. They were developed based on the Global Reporting Initiative (GRI) and covers a full range of environmental, social, and sustainability governance and oversight in line with the GRI Guidelines. Independent assurance was performed by an external assurance provider on selected indicators and data for the 2020 report, but external assurance was not completed on the 2021 report due to external factors.

[2020 Sustainability Report](#)

[2021 Sustainability Report](#)

Our sustainability reports contain full and frank discussions over many of the topics covered in your request letter and provide more details on our engagement with stakeholders and approach to managing a range of ESG topics, including human rights. We trust that these will also provide you with additional comfort that Solway Investment Group and its Guatemalan subsidiaries are both complying with legal requirements and international good practices in relation to environmental management, social performance, and attention to human rights.

In order to strengthen governance and improve oversight and accountability around ESG topics, including Environmental Management, Human Rights, and stakeholder engagement a Group level ESG Steering committee was formed over the course of 2022 and 2023. The mandate of the Steering Committee is to coordinate and direct all efforts related to ESG and plan the implementation of further elements of the planned ESG and compliance framework. The composition of this steering committee will include both executive and independent directors which will provide an additional layer of oversight on this important work.

Other achievements over the past two years around governance, oversight, and management of ESG topics include:

On Group level:

- Further formalization of the Solway Group Mission, Vision, and Value statements.
- Adoption of a Human Rights Policy which will be implemented globally at all our operations.
- Implementation of a Grievance Mechanism to support engagement with stakeholders and hear their concerns or issues and take appropriate remediation action.

A range of Policies and procedures on Group level covering our ESG management system were developed and already partially implemented:

- Group wide ESG Strategy
- Group Code of Conduct
- Allegation Management process (whistleblowing process)
- Compliance training for the SIG management
- New Corporate Governance structures including the SIG Board, and ESG oversight and governance (including non-executive directors and executive directors)

Specifically around human rights the following initiatives have been implemented at the Guatemalan assets (as a pilot project, and partly implemented at the other SIG assets):

- Human Rights Impact Assessment
- Introduction of a Human Rights Due Diligence process as per UNGP guidance
- Development of Human Rights Policies and implementation plan for CGN and PRONICO in Guatemala
- Training sessions with SIG and asset management representatives, and clients and business partners (e.g., suppliers)

2. [Please provide information on the human rights and environmental due diligence Policies and processes your company has in place to prevent, mitigate, and remediate adverse human rights impacts that are directly related to your operations, products or services, including those related to the Fénix mine, in accordance with the United Nations Guiding Principles on Business and Human Rights.](#)

Solway and its Guatemalan Subsidiaries are committed to working in a sustainable manner and in a way which brings shared benefits to communities where we operate. Inherent in this commitment is a commitment to upholding human rights and minimising our impact on the environment. As an existing operation we do not conduct “due diligence” in the traditional

usage of the word but instead we have designed and are in the process of implementing a comprehensive ESG Management Framework which allows us to identify potential human rights and environmental risks and impacts, and subsequently prevent, mitigate, or remediate these impacts.

Since 2016 CGN-PRONICO has implemented Policies, systems, and processes to align with the eight social and environmental performance standards promulgated by the International Finance Corporation (IFC). The eight performance standards cover a wide range of performance requirements, including human rights, cultural heritage, indigenous peoples, community health, safety, and security, as well as relevant environmental subjects. CGN-PRONICO undergoes an independent external audit every two years to ensure compliance with the performance standards and to identify any areas for improvement.

On an operational level at CGN-PRONICO we have implemented our ISO9001:2005 Quality Management System, ISO14001:2015 Environmental Management System, and ISO 45001:2018 Industrial Health and Safety Management System, all of which are risk-based management systems and work on the principle of continuous improvement. In 2021 we received a renewal certification from an external and independent certification body which is valid for three years.

Following the guidelines of the United Nations Guiding Principles on Business and Human Rights we recognise the role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights, a principle which has been woven into the fabric of our ESG framework. We also recognise the State's role and obligations with regards to human rights and in turn Solway Investment Group complies with all legislation in this regard which has been enacted by Guatemala and do not encroach, interfere with, or attempt to influence the responsibilities or obligations of the State with regard to their obligations to protecting human rights.

At the core of this process is stakeholder identification and engagement, as this dialog is key to ensuring the local communities, including indigenous groups, are fully informed of these potential impacts and have a voice when planning mitigation measures which take into consideration the local communities.

Our engagement with communities and subsequent investment into local socioeconomic development centres on engagement with the 53 Community Development Councils located around our concession area (both indigenous and non-indigenous Councils). The Community Development Councils are representative bodies for citizen participation and oversight through which community members promote coordination between public and private entities where they can propose, implement, and evaluate inclusion and development Policies and inform the community about the management of resources among other functions. The Councils are composed of a community assembly and a coordinating body (chaired by a Community Mayor and a maximum of twelve representatives from the General Assembly). They are part of the Development Council System (SISCODE). Through our engagement with these Councils, we ensure we hear all voices in the community, including indigenous groups, traditionally disadvantaged groups, and women.

In 2022 an independent human rights impact assessment was conducted which included extensive stakeholder engagement. The results of this impact assessment led to the identification and prioritisation of 18 key stakeholder issues related to human rights, including freedom of movement, right to consultation, right to a safe environment, and others. Together with the local communities CGN-PRONICO has developed a human rights action plan to

continue the engagement on human rights issues with the community and developed appropriate mitigation plans where appropriate and where the issue is able to be influenced by CGN-PRONICO.

Also in 2022, CGN-PRONICO updated its Human Rights Policy in line with the UNGP, OECD Guidelines for Responsible Business Conduct, and Voluntary Principles on Security and Human Rights and on the basis of the human rights impact assessment. These Policies have been translated into four languages, including Q'eqchi and have been made available publicly. In addition, the Policies have been sent to all employees and suppliers so they are aware of these Policies and understand company expectations in relation to human rights. Extensive training programs on the human rights Policies were held for all CGN-PRONICO employees, managers at Solway Investment Group, and also included key suppliers.

This responses to the remaining questions to your special communication as well as the information contained in our sustainability reports also provide more details on our Policies and Procedures, as well as how these are implemented in practice.

3. Solway Investment Group having committed to “contribute to the correction of the negative effects [on human rights] generated and to cooperate in the judicial and non-judicial processes which result therefrom”, please provide information on how Solway Investment Group complies with it in practice, particularly in the context mining operations that are harmful to the environment and have an impact on indigenous communities.
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As noted in question two, CGN-PRONICO conducted an extensive and independent human rights impact assessment in 2022 and subsequently developed a human rights action plan. Outside of this initiative, CGN-PRONICO regularly conducts stakeholder engagement which includes the identification of issues which are important to stakeholders, including environmental and human rights issues.

Since 2018 we have voluntarily invested over USD 5 million into community development projects to support local development in conjunction with local indigenous communities. During the Pandemic we also donated almost USD 2 million on food assistance, water, and medical supplies.

In addition to the UN Guiding Principles and IFC Performance Standards, our ESG Framework also incorporates the Principles of International Labor Organization (ILO) Convention 169 which promotes respect for the worldview and cultural heritage of indigenous peoples and the importance of their participation when defining their own development priorities. Two main rights are recognized in this agreement, which include the right of indigenous peoples to maintain and strengthen their own cultures, ways of life and institutions, as well as their right to participate effectively in decisions that affect them.

Our social impact programs, designed on the basis of extensive stakeholder consultations, focus on benefiting and contributing to the well-being and socioeconomic development of the indigenous peoples of the area. Two flagship programs which were developed in conjunction with the local indigenous communities include a nursery program which allows elderly people to generate incomes from the sale of plants, and a safe water project, which enabled 225 families (1,100 inhabitants) access to safe drinking water.

In addition to specific socioeconomic development projects with the local communities, CGN-PRONICO also voluntarily provide in-kind investments into maintaining or improving public infrastructure such as roads and bridges. These improvements contribute to improved quality

of life and also help support economic development for the 73,000 residents of EL Estor through the improved movement of people and goods in the region.

In order to increase transparency and dialog with the local community, including indigenous groups, we launched an innovative community participatory program in 2021 for environmental monitoring. This program allows the local community to be fully involved in environmental monitoring which improves transparency and builds trust. It also provides an additional avenue for engagement with the local communities and indigenous groups on matters related to the environment. In 2021 a total of 18 monitoring and sampling programs were conducted in this format involving 105 participants from the local community. Due to COVID-19 these activities were suspended because of restrictions on movement and public gatherings. The program, which we see as a best practice example of collaborative environmental stewardship and transparency, will be restarted once our operations resume normally.

CGN-PRONICO has designed and implemented one of the most comprehensive environmental monitoring programs in Guatemala to ensure we are compliant with all relevant environmental requirements and legislation and to monitor our impact on the environment. In total we regularly monitor and report the following:

Water:

- Lake Water: 19 stations
- River Water: 25 stations
- Surface water is analysed for:
 - Physicochemical parameters: 16 parameters
 - Metals: 35 parameters

Air:

- 19 stations are monitored:
 - 3 air quality parameters are analysed
 - 2 noise parameters are analysed

Soil:

- Lake area: 19 stations
- River Water: 25 stations
 - Metals: 35 parameters are analysed in soil tests

4. [Please indicate the steps taken to ensure that your company complies with Guatemalan and international environmental laws and international human rights standards.](#)
-

Our overall governance framework is designed and implemented to monitor relevant legislation and legal requirements, which includes environmental and human rights laws. Additionally, our ESG framework and environmental management system specifically tracks environmental legal and other requirements, both in Guatemala and relevant internationally, which are directly tied to our businesses and which we must comply with or good practice guidelines which are voluntary. We must apply for and receive a valid environmental license on a regular basis for each of the projects (process plant and mine), compliance with all relevant legislation and conditions is a prerequisite for renewal of licenses.

At all times the Company ensures full compliance with applicable environmental legislation in Guatemala. Monitoring and overseeing the implementation of environmental management plans, which includes strict compliance with all relevant legislation, is conducted by the

Environmental Management Department, which verifies that all the workers and the working areas comply with the environmental commitments established in the environmental licenses.

Documentation of legal requirements is subject to government oversight and regular government inspections. MARN (Ministry of Environment and Natural Resources of Guatemala) last confirmed compliance with legal requirements at CGN-PRONICO on 14 March 2023. We attach current copies of our operating licenses issued by the Government of Guatemala which are issued on the basis of maintaining compliance with all applicable laws and regulations.

The figure displays four identical copies of environmental licenses issued by the Ministry of Environment and Natural Resources (MARN) of Guatemala. Each license is for 'LICENCIA AMBIENTAL' (Environmental License) issued to 'COMPAÑIA GUATEMALTECA DE NIQUEL, SOCIEDAD ANONIMA'. The licenses are for 'OPERACIÓN DE LA PLANTA DE PROCESO DE NIQUEL' (Nickel processing plant operation) and 'EXTRACCIÓN MINERA FENIX' (Fenix mining extraction). The licenses are numbered 3393-2021/DIGARN and 2966-2021/DIGARN, both with category 'A'. They are valid from May 31, 2021, to May 31, 2024. The licenses are signed by the Director of the Environmental Management and Natural Resources Department, MARN, and include the official seal of the Ministry of Environment and Natural Resources.

Figure 1: Current valid licenses for Fenix - CGN-PRONICO

5. Please provide up-to-date and comprehensive information on the health and environmental impacts and damages of mining operations. Please indicate the measures that have been taken to guarantee health care services to affected communities, including indigenous populations.

Solway's responsibilities to health care extend to its employees and managing our operations in line with good practices in order to minimise emissions and harmful discharges to air and water which could result in hazards to human health. As a company, we cannot guarantee or provide routine health care services to communities as this is not the responsibility of our business.

Our ESG framework includes consideration of community health impacts both during routine operations and in potential emergency situations. Many CGN-PRONICO employees come from surrounding communities (approx. 61%) and these have access to the employee programs including regular medical checks (fitness for work) and well as certain other preventative health care programs.

During COVID-19 CGN-PRONICO voluntarily provided extraordinary assistance to community including protective measures (Personal Protective Equipment including masks, disposable gloves, disinfectant, etc.), food, water, and medication.

In 2021 we completed an important improvement for disposal of ash waste through an investment of nearly one million USD. The improved structure includes a geomembrane lining and sprinkler system which prevents dust blowing into the air in windy conditions and also prevents rainwater overflow in times of heavy rains. These improvements go beyond what is legally required and will prevent ash waste from entering the environment and will have a great preventative impact on human health.

As a routine practice and to remain compliant with our licenses and permits, CGN-PRONICO has designed and implemented a comprehensive system of environmental monitoring as noted in our response to question three of the special correspondence.

Our sustainability reports provide greater detail on environmental and health impacts of CGN-PRONICO's operations and our programs, initiatives, and actions to identify, reduce or mitigate these risks.

6. Please indicate the measures your company has taken, or intends to take, to ensure environmentally sound management and disposal of hazardous substances and waste.

To ensure that disposal of waste does not contaminate the environment, CGN-PRONICO constructed the first sanitary landfill in the Lake Izabal basin. This landfill has an environmental license approved by the Ministry of Environment and Natural Resources of Guatemala.

Two types of waste are generated in our Company: industrial waste that, due to its characteristics, represents potential risks to health and the environment which is generated by the Company's industrial activities. Ordinary waste generated does not represent specific risks to human health or the environment and is generated as a result of domestic activities and human consumption (i.e., food waste, office waste, etc.).

All industrial waste as defined by Guatemalan law is disposed of in accordance with local laws and regulations. CGN and PRONICO have contracts with licensed industrial waste

companies, who are responsible for the removal and disposal of industrial waste in accordance with their license conditions. Overall management of waste collection, storage and disposal is conducted in accordance with our Waste Management Policy.

All waste at the site is immediately separated, and all waste which is designated as “industrial” is stored in special storage areas located within the processing plant until it is removed and disposed of according to applicable legislation. Ordinary waste is removed from site and disposed of in landfills in accordance with all local laws.

In addition, we have established several mechanisms for optimizing the use of resources and avoiding the generation of waste, and increasing the amount which can be recycled or reused. In 2021, out of the 246 tons of domestic waste we were able to compost 76 tons, thus reducing the overall amount which would be sent to landfills. Of the hazardous waste generated, 528 tons were reutilised, and 50 tons were recycled. We continue to invest to reduce the amount of waste sent to landfills and incineration.

7. Please provide information on how your company addresses potential land conflicts with indigenous populations living in concession areas, as well as other concerns of relevant stakeholders. As part of your response, please indicate whether your company carries out public consultations, including the free, prior and informed consent of indigenous populations.
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CGN and PRONICO regularly conduct stakeholder engagement with its stakeholders to exchange information and hear from communities any concerns. This process has been ongoing since the acquisition of CGN and PRONICO by Solway investment Group in 2011 and is conducted in accordance with our ESG Management System and the relevant IFC Standards.

In 2021 community consultation were held with the Maya Q'eqchi' people. These consultations were led by the Guatemalan Ministry of Energy and Mines by judicial order from the Constitutional Court of Guatemala. The company has participated for the third time in the consultation exercise with this stakeholder group.

The pre-consultation process began in September 2021, and in November, the consultations took place, concluding positively for CGN on December 10 of the same year. This process involved the participation of ancestral authorities of the Q'eqchi' Maya people and 53 communities identified within the Fenix concession area of influence, with 44 in the municipality of El Estor, Izabal, and 9 in the municipality of Panzós, Alta Verapaz.

Full details of the engagement process can be found on the Ministry website (<https://mem.gob.gt/proyecto-extraccion-minera-fenix/>).

A special department has been formed at CGN-PRONICO which deals specifically with land issues and indigenous communities which is responsible for ensuring compliance with the requirements of our concession licenses as well as overseeing the engagement with these stakeholders.

In order to provide local stakeholders with relevant information, Both PRONICO and CGN work with an external consultant who reports directly to the SIG public relations office and develops a periodic plan of communication and public relations. The plan consists of publishing monthly informative notes on the web pages on ESG topics, success stories or relevant events for the sector or the company, actions or projects implemented in the company including information or data from the Sustainability Reports.

It is important to note that there are no plans and no requirement to expand or change the existing concession area in the future, and therefore there will be no need to acquire additional land or conduct any resettlement activities.

Please also see our response to question nine relating to the specific case of indigenous peoples living on a portion of the Fenix Concession area since 2008, prior to the acquisition of CGN-PRONICO by Solway Investment Group.

Our latest sustainability reports contain further details on our stakeholder engagement approach more broadly and the results of engagements with local communities.

8. Please explain what measures have been taken to respect the right of human rights defenders and journalists to carry out their peaceful and legitimate activities without fear of legal harassment, strategic prosecution against public participation, suffer violence or be subjected to other restrictions. In particular, please indicate how your company has incorporated the recommendations made by the Working Group on Business and Human Rights to Business in its 2021 Guidance on Ensuring Respect for Human Rights Defenders (A/HRC/ 47/39/Add.2).
-

Solway does not specifically identify or categorise any individuals or groups as “*human rights defenders*” as we see respecting and defending human rights as a shared responsibility of all people. Respecting and protecting human rights means that everyone must be vigilant and shall be accorded the same rights whether or not they have been categorised as a “defender”.

Many of the recommendations of A/HRC/ 47/39/Add.2 have already been adopted by SIG and its global subsidiaries through adherence to the UN Guiding Principles, including:

- Acknowledging and respecting human rights and demonstrating our commitment through our ESG management framework which specifically acknowledges the importance of respecting human rights.
- A regular and structured program of stakeholder engagement which includes engagement with all stakeholder groups, including those which may be not supportive of, or who are critical of, our operations.
- A grievance mechanism has been implemented and promoted in the community giving anyone in the community an opportunity to raise concerns.
- Cultural sensitivity and human rights training provided for all our employees, including our suppliers and business partners.

Specific activities related to this important element of protecting human rights include:

- Human rights impact assessment carried out by a specialised human rights legal firm.
- Adoption and Implementation of the Solway Human Rights Policy.
- Development of a human rights action plan which defines specific actions for the protection of human rights.
- Revision and implementation of the Policy of Social Responsibility.
- Updating of the Regulation on Protocols for Dealing with the events related to General Security and dealing with authorities where it is now specifically stated:
 - The Legal Department shall confine itself to bringing the facts to the attention of the authorities and shall refrain from bringing any direct or indirect complaints against any local leader, except where it is determined by the Technical Desk to be absolutely necessary, for those cases where all mechanisms have been exhausted and it is essential to identify the alleged offenders in order to protect

the life, liberty or avoid other serious impairments to the human rights of our workers and staff.

9. Please provide information on interim measures your group can take to suspend CGN and PRONICO activities in the Fénix mine, until the rights and survival of the Maya Q'eqchi indigenous community living on the Fénix concessions are resolved. the company are safeguarded, and until safeguards are put in place to prevent any form of legal action against Mr. Carlos Ernesto Choc, who appears to have been directly targeted for his peaceful and legitimate work as a journalist and indigenous human rights defender.
-

Cessation of mining and related activities is not in the best interests of promoting human rights or contributing to the socioeconomic development of indigenous or non-indigenous communities. Currently, due to the suspension of operations 49% of our workforce comes from the local communities and the recent shut down of operations has been especially hard on these communities as this proportion is down from 60% in 2022. However, as noted our current operations have already been suspended since January 2023 due to unrelated reasons, and Solway Investment Group is working to restart operations in the nearest future once conditions permit.

Our operations are located in the municipality of El Estor and neighbouring communities where the majority of the inhabitants are indigenous. We maintain constant communication with the leaders of the indigenous communities, both through planned engagements and *ad-hoc* or informal engagement. As leaders and representatives of their community they can best represent the needs of their community and their opinion is always taken into account when designing our community development initiatives or other decisions which may directly or indirectly impact their communities.

In 2008, prior to SIG's acquisition of CGN-PRONICO, a group of Q'eqchi Maya community members occupied a portion of the company's concession area as well as an adjacent part of a third-party property. The occupation was named the "Las Nubes" or "The Clouds" community. The area is designated as exploration zones and no mining or other industrial activities takes place in these areas.

After numerous attempts at dialogue spanning many years, the community occupied additional areas that are part of the CGN-PRONICO's concession area.

Currently this community located within the concession area comprises approximately 125 families (around 500 people), and the nearest structure considered part of the Nubes community to any operational activity of Fenix is 0.97km, but the remaining community begins 1.26km away from the nearest exploration block.

Although Guatemalan law does not permit living on concession areas, as part of the consultation agreements in 2021, CGN-PRONICO committed to respecting the Nubes community boundaries (despite being an illegal occupation) within the mine exploitation plan, and there will be no relocation of the community.

It is important to note that the road leading to this community, built by the State, is not only inaccessible due to lack of maintenance but is also located on the other side of the property. The community residents prefer using roads constructed by the company for exploration work and mineral extraction from other blocks because these roads receive regular maintenance as part of the mining operation. CGN-PRONICO does not restrict the members of the Nubes community from using these roads as it is understood that this access is essential to allow

food, medicine, and other goods into the community. The company also takes extra measures to ensure that safety is maintained despite additional risks of having people in this area and sharing industrial roads.

In relation to allegations concerning Mr. Choc, Solway Investment Group takes these allegations very seriously. Solway Investment Group has therefore launched an independent investigation into all of the facts which is being conducted by a leading US specialized law firm. As the investigation has not yet been concluded we are unable to provide further details on the specific case of Mr. Choc at this time.

We recently communicated to you on 6 January 2024 our commitment to provide a detailed response by January 22, 2024 including the response on the specific allegations concerning Mr. Choc referred to in questions nine and ten in your Special Communication once the investigation has been concluded and the final report is available. We have now learned from the law firm conducting the investigation that the final report may be further delayed for up to 15 days. We hereby commit to provide the detailed response regarding the specific allegations concerning Mr. Choc referred to in questions nine and ten in your Special Communication once the investigation has been concluded and the final report is available.

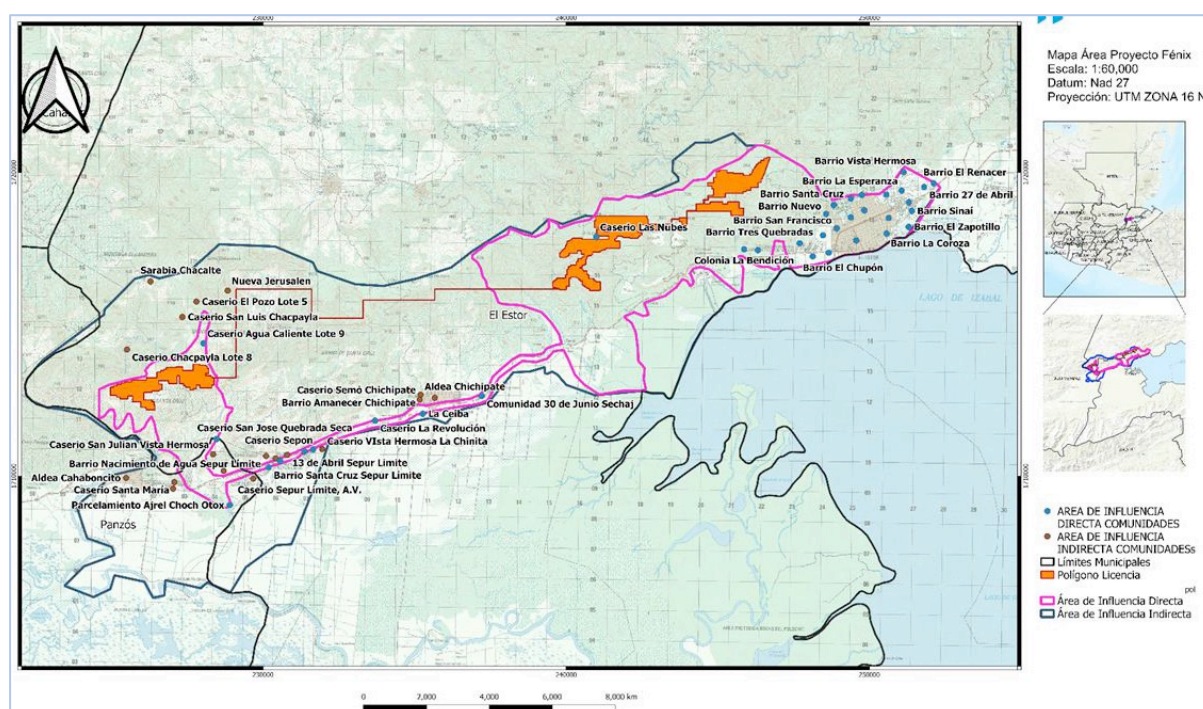


Figure 2: Map of the Fenix concession area and location of neighbouring indigenous communities¹

10. Please indicate whether stakeholders affected by the above allegations have had access to legal remedies and detail what steps your company has taken to identify perpetrators of human rights violations and hold them accountable.

As noted, Solway Investment Group takes these allegations very seriously. Solway Investment Group has therefore launched an independent investigation into all of the facts which is being

¹ Presentation and report of consultations can be found at: <https://mem.gob.gt/wp-content/uploads/2021/12/MEM-Consulta-15NOV2021.pdf>

conducted by a leading US specialized law firm. As the investigation has not yet been concluded we are unable to provide further details on the specific case of Mr. Choc at this time.

We recently communicated to you on 6 January 2024 our commitment to provide a detailed response by January 22, 2024 including the response on the specific allegations concerning Mr. Choc referred to in questions nine and ten in your Special Communication once the investigation has been concluded and the final report is available. We have now learned from the law firm conducting the investigation that the final report may be further delayed for up to 15 days. We hereby commit to provide the detailed response regarding the specific allegations concerning Mr. Choc referred to in questions nine and ten in your Special Communication once the investigation has been concluded and the final report is available.

11. Please provide information on the steps your company has taken to establish or participate in operational-level grievance mechanisms, in accordance with the UN Guiding Principles, to effectively address adverse human rights impacts caused by your company (or to which it has contributed) in all of its activities.

Solway Investment Group has designed and implemented a grievance mechanism at our Guatemalan assets which is also being rolled out across all of Solway's global assets. The Grievance mechanism has a process in place behind it to receive grievances from the community (anonymously if desired). Community members may submit grievances via telephone, email, or using our drop boxes which are located throughout our neighbouring communities. Grievances may be raised in any local language in relation to human rights, the environment, or any other complaint in relation to our operations or those of our contractors or suppliers.

Our grievance mechanism and management procedures in place has been designed and implemented in line with international good practices and has strict time limits to acknowledge and respond to any grievances submitted. When a grievance is received there is an initial assessment, which may include follow up inquiries with the complainant. If the grievance is assessed as relevant (i.e., not related to internal HR or administrative matters for example) an internal investigation is conducted to determine the veracity of the facts and recommended actions in case the facts of grievance are upheld. All results, including recommendations for corrective actions or any other appropriate follow-ups are delivered to management (all within a strict time limit) for a final decision on closing the grievance appropriately and to ensure similar incidents are not repeated. Depending on the severity of the grievance it may be escalated to the level of Solway Investment Group for action.

Outcomes may include disciplinary action if CGN-PRONICO employees did not follow the Principles of the Code of Conduct or other Policies and Procedures and relevant authorities may be notified in cases where laws may have been broken. In cases where a grievance is associated with the actions of a supplier or contractor, we will work with the third party to ensure mitigation and remediation measures are implemented.

An appeals process is also available in case the affected party is not satisfied with the outcome of the initial investigation and findings.