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AL OTH 102/2025 - Response KfW IPEX-Bank GmbH

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We refer to the Joint Communication from Special Procedures (AL OTH 102/2025) to KfW IPEX-Bank dated 19 September 2025 regarding the ammonia plant in the municipality of Ahome, Sinaloa (Mexico) by Gas y Petroquímica de Occidente (“GPO”), a subsidiary of the Swiss company Proman AG (the ammonia plant and adjacent investments hereinafter the “Project”). We appreciate the questions raised in the Joint Communication. We also welcome the opportunity to provide some general clarifications and to submit more specific details, which will offer a more comprehensive view of the evolution of the Project and its current status.

In order to clarify the general background, kindly permit us to briefly characterize our business and corporate position as a whole:

KfW IPEX-Bank is a wholly-owned subsidiary of KfW which in turn is wholly-owned by the Federal Republic of Germany and the federal states. We provide financings for German and European exports, infrastructure investments and to secure the supply of raw materials. Importantly, we also finance environmental and climate protection projects across the world. All these activities are governed by our transparent Sustainability Guideline.

We do not provide equity as an investor (which appears to be suggested in the Joint Communication). Instead, we act as a lender as well as the arranger of a banking consortium that provides the financing for the construction and operation of the Project. Consequently, the scope of our contractual rights and remedies is significantly more limited than those of an equity provider/shareholder. Our relationship with the Project is governed by a detailed loan documentation, typical to this kind of financing. By contrast, the management of the Project is appointed by shareholders – but not by the lenders.

The financing of the Project has been structured, negotiated and agreed by all parties as a long-term project financing. This specific type of financing enables the realization of

large-scale and complex industrial projects through clearly defined contractual structures and transparent risk allocation among all participants. During the various phases of the project realization, lenders typically rely on the expertise of various independent consultants who provide in-depth analysis and reports including environmental and social (“E&S”) aspects. KfW IPEX-Bank’s decisions are based on these detailed due diligence reports - both prior to signing the loan agreement and during construction and operation - complemented by KfW IPEX-Bank’s internal analysis.

Regarding the subject matter of the Joint Communication and the Topolobampo industrial site, we would like to emphasize the Project comprises the development of a state-of-the-art ammonia production facility. Once completed, this facility will strengthen Mexico’s capacity to produce essential fertilizers domestically. Ammonia plays a fundamental role in the global agriculture sector – it is a key ingredient in fertilizer production and thus vital for ensuring food security and sustainable crop yields. To date, Mexico has largely depended on imports to meet its ammonia demand. Establishing a domestic production site will reduce import dependency, enhance supply stability and promote regional value creation, employment and long-term agricultural growth.

With a view of the allegations outlined in the Joint Communication regarding applicable environmental and social standards, it is pivotal noting that those standards have evolved over the years. The Project has continuously adapted to new and more rigid standards once in effect, and therefore, we regard both its construction and operation as ongoing efforts to improve and align with the current requirements at every stage.

On the following pages you will find a general introduction on relevant aspects regarding our E&S governance as we address the questions raised (*I. General remarks and answers to the questions raised*). In addition, you will find further details regarding the Project, which we believe will be helpful and provide further transparency (*II. Additional details of relevance*).

I. General remarks and answers to the questions raised

1. Please provide any additional information or comments that may be relevant.

In order to avoid redundancies, we kindly refer you to the introductory comments and to section *II. Additional details of relevance*.

2. Please indicate the steps that your company takes to determine whether it causes, contributes to or is directly linked to human rights abuse as a result of its business activities or through business relationships.

KfW IPEX-Bank has been a signatory to the Equator Principles (“EPs”) since 2008.

The EPs are a globally recognised risk management framework adopted by financial institutions to assess and manage environmental and social risks. They promote

responsible decision-making and ensure that projects are developed in an environmentally and socially responsible manner. The EPs are based on internationally accepted standards, including the International Finance Corporation (IFC) Performance Standards ("IFC PS") and the World Bank Group Environmental, Health, and Safety Guidelines.

This commitment entails, among other requirements, the engagement of an Independent E&S Consultant ("IESC") and the application of IFC PS which also address human rights aspects. With the Equator Principles revision 4 ("EP4") in 2020, human rights risk assessment has become an integral element of an E&S Due Diligence ("ESDD"), and the monitoring of the required mitigation measures is now included in the overall E&S monitoring of any financing.

As an expert consultant with focus on E&S topics, the IESC works with the lenders based on an agreed scope of work. This scope includes the review of the project documentation as well as the E&S capacity and E&S management systems relevant to a project. It covers inter alia site visits and consultations with potentially affected stakeholders. One of the primary purposes of the IESC's activities is to identify potential gaps with relevant national and international standards, and to work towards an alignment towards those standards, in particular with the EP4. Therefore, findings are used to identify, prevent, and mitigate any actual or potential human rights violations, and to ensure that appropriate management and monitoring measures are in place throughout the entire lifecycle of a project. Potential gaps identified within the ESDD are addressed via an E&S action plan or during project monitoring via an E&S corrective action plan. In cases of higher risk projects, implementation of both instruments is monitored by the IESC through periodic site visits and comprehensive documentation reviews. The IECs reports to KfW IPEX-Bank and further lenders as applicable. Potential findings may be translated into specific corrective actions that the client needs to implement to align the project with the EPs.

For further details, kindly see the most recent version of KfW IPEX-Bank's Sustainability Guideline:

<https://www.kfw-ipex-bank.de/pdf/About-KfW-IPEX-Bank/Social-responsibility/Environmental-and-social-sustainability/2025-06-Sustainability-Guideline-KfW-IPEX-Bank.pdf>

- 3. Please indicate whether your company has a human rights policy commitment, informed by human rights experts, that describes what your company, as an investor, expects of all business relationships in terms of human rights, and whether this takes into account human rights impacts. Please indicate whether any such commitment is public and actively communicated, and whether it is embedded throughout the business, including within other policies and procedures.**

KfW IPEX-Bank is committed to upholding human rights in all its business activities. Our Human Rights Policy, which is based on international standards and applicable throughout KfW Group, sets out clear expectations in our own operations as well as for our clients and business partners. These expectations are an integral part of our due diligence and credit procedures.

Human rights considerations are embedded in our internal governance, ensuring that they are integrated into all relevant policies and procedures across the organization.

For further details, kindly see the publicly available *Policy statement of KfW and its subsidiaries, including KfW IPEX-Bank, on human rights and on its human rights strategy*:

<https://www.kfw.de/nachhaltigkeit/Dokumente/Sonstiges/KfW-Group%27s-Human-Rights-Policy-Statement.pdf>

- 4. Please provide information on the risk assessments that your company carries out prior to engaging in business activities or business relationships, and whether these studies are prepared with a human rights-based approach.**

Kindly refer to points 2 and 3.

All projects supported by KfW IPEX-Bank are subject to our Sustainability Guideline and are comprehensively and systematically assessed for their E&S impacts and risks, taking into account international E&S standards as well as KfW's Human Rights Policy.

- 5. Please indicate measures taken to ensure that your company complies with international environmental laws and human rights standards, including through its business relationships.**

Kindly refer to points 2 and 3.

- 6. Please provide information on the steps taken to ensure that your company respects human rights in line with the UN Guiding Principles on Business and Human Rights, including by conducting human rights due diligence to identify, prevent, mitigate and account for adverse human rights impacts, including environmental impacts, of your activities, in particular investment activities.**

The UN Guiding Principles on Business and Human Rights (“UNGPs”) as well as a Human rights risks assessment are mandatory elements of an ESDD according to the requirements of EP4 and the IFC PS.

Under the EP4, which make reference to the UNGPs, the obligations of both parties to a loan transaction are as follows: The “client” (as defined in the EPs) must conduct a human rights assessment at an early stage of a project, identifying risks and impacts, engage and liaise with affected stakeholders, and develop mitigation and management plans. For projects with low risks, the client should implement

proportionate due diligence and monitoring. For projects with medium to high risks, the client must undertake more detailed assessments, enhanced stakeholder engagement, and robust mitigation measures, with ongoing monitoring and reporting throughout the project lifecycle.

The lender has an obligation to review the client's human rights assessment and management plans to ensure compliance with the EP4. For medium to high risk projects, the lender would expect more comprehensive assessments, active stakeholder engagement, and strong mitigation strategies. The lender shall monitor the implementation of such strategies and to the extent permitted under the loan documentation, request corrective action. EP4 signatory lenders have developed over the years a practice of building certain contractual remedies such as a right to suspend disbursements or even terminate and accelerate a loan in the event of fundamental violations of the UNGPs. However, the scope of potential interventions of a lender is limited not only by the more restricted scope of rights as compared to those of a shareholder (please also see our introductory remarks above), but also by the specifics of a particular project, its history and the general pre-existing circumstances regarding E&S matters. It is also important to note that, as a best practice, the international lending community has developed mechanisms to address potential contractual breaches by the project company or its affiliates. These mechanisms typically provide for cure periods, designed to encourage the borrower to remedy and improve an otherwise critical E&S situation.

As a matter of practical experience, it is a fair statement that projects financed in whole or in part by us do benefit from higher E&S standards – which have often been controversially negotiated prior to start of construction – than under applicable laws, and under local or national financings.

The IESC plays a key role in supporting both the client and the lender in the human rights due diligence process. The IESC is typically engaged to provide an independent expert review of the client's human rights assessment and management plans. Responsibilities of the IESC include verifying the adequacy and quality of the due diligence, ensuring that risks are properly identified and addressed, and that mitigation measures are appropriate and effective. The IESC also assists in monitoring the implementation of these measures throughout the project lifecycle and provides recommendations for corrective actions, if necessary. This independent oversight helps the lender to ensure that human rights risks are managed in line with the EP4 and thus the UNGPs.

- 7. Please clarify how your company has used its leverage to require its investees to conduct human rights due diligence in line with the UN Guiding Principles in order to respect human rights, including those of community leaders, Indigenous Peoples and the environment through meaningful engagements with potentially affected stakeholders.**

KfW IPEX-Bank, in its capacity as lender and EP signatory, requires its clients to conduct human rights due diligence as described under point 6. It is a requirement for our clients to engage meaningfully with all potentially affected stakeholders, including community leaders and Indigenous Peoples, and to address their concerns in project planning and implementation.

In circumstances where the ESDD for a project finds gaps against relevant standards such as the IFC PS, we require clients to close these through the implementation of specific mitigation and corrective measures and embed an E&S action plan in the loan covenants. In cases of high risk projects, the implementation is monitored by an IESC and performance reported to KfW IPEX-Bank.

For details on the application in the specific Project, we kindly refer to section II. *Additional details of relevance* below.

- 8. Please provide information on steps taken by your company to establish and/or participate in operational-level grievance mechanisms, in line with the UN Guiding Principles, to effectively address the adverse human rights impacts caused by and/or contributed to your company throughout your business activities and/or business relationships.**

We require clients to set up a grievance mechanism in line with EP4 and IFC PS1 and monitor periodically the implementation and resolution of high risk grievances. Additionally, KfW IPEX-Bank provides the possibility to individuals or groups which are potentially affected by a project, to address their complaint directly to KfW IPEX-Bank. Complaints are registered and addressed through our sustainability desk. No complaints are currently pending.

II. Additional details of relevance

In addition to the above, we would like to address the key issues raised in your letter in greater detail, providing information on the measures taken by KfW IPEX-Bank and the Project to ensure compliance with the relevant E&S standards as well as to clarify various claims from your letter. Our responses reflect our perspective as a lender, outlining the information we gained during the due diligence processes, from ongoing monitoring activities and through the continuous dialogue with the Project and the IESC.

The Project was classified by the IESC and the lenders as a Category A (high E&S risks) project in accordance with the EPs due to its location within a sensitive environmental area and the scale and complexity of its operations. Category A projects are considered to have significant potential E&S risks and impacts, which may be diverse, irreversible, or unprecedented. As a result, such projects require a comprehensive ESDD, a robust risk management, and an ongoing monitoring to ensure that all risks are identified, mitigated, and managed in accordance with international good practices. The complexity of

Category A projects demands an adaptive management throughout the project lifecycle, which the client has demonstrated with continuous efforts over the last years to enhance its E&S risks and impacts management.

Since the initial Project preparation in 2013, comprehensive Environmental and Social Impact Assessments (“ESIA”) were conducted by the Project in line with national regulations. In our role as the mandated arranger of the financing and as required by the Sustainability Guideline of KfW IPEX-Bank, we requested that

- an IESC was hired by the Project on behalf of lenders, as customary for any such project, and
- such IESC reviewed the Project’s alignment with the relevant Equator Principles 3 (incl. applicable IFC PS) and OECD Common Approaches.

Gaps identified during the ESDD process were closed by the end of 2016 based on the E&S action plan developed by the IESC in 2015. The due diligence process of the lenders included the mandate of a Lenders’ Technical Advisor (“LTA”) that reviewed the design and efficiency of the plant against technical Mexican norms and Best Available Technology (BAT) requirements, including all process safety aspects.

Underlining the robustness of the E&S obligations of the Project, it is noteworthy that the Project’s loan documentation contains a specific provision on E&S matters requiring the client to comply with the applicable E&S standards “*as amended from time to time*”. For the avoidance of doubt, this provision includes not only the EPs but also the IFC PS and OECD Common Approaches. Such a provision is not common practice and was specifically incorporated into the loan documentation, thereby establishing a higher standard.

Following several years of suspended construction due to various amparo procedures resulting in injunctions, an updated ESDD became necessary with the entry of force of the EP4, which introduced new requirements. Gaps regarding these additional requirements were identified by the IESC and subsequently closed, resulting in updated cumulative impact assessment, human rights risk assessment, and climate change risk assessment.

Since then, the IESC has been monitoring E&S performance of the Project on a semi-annual basis and reports to the lenders’ consortium on the Project’s compliance with E&S requirements and the progress of implemented measures. The IESC also works with the Project to further enhance its E&S management. KfW IPEX-Bank maintains ongoing dialogue with the Project regarding the IESC’s recommendations for improvement.

Claims regarding negative environmental and human rights impacts:

- *The construction and operation of the ammonia plant are alleged to have significant negative impacts on the environment, including on protected wetlands (Ramsar site),*

biodiversity, water quality, and the livelihoods of local communities, especially Indigenous Peoples and fishing communities.

- *The Project is said to contribute to climate change, biodiversity loss, and toxic pollution, with additional negative effects on human rights.*

The ESIA's included detailed studies on biodiversity, water quality, air emissions, and the potential impacts on local communities, including Indigenous Peoples and fishing communities.

The Project is located at the edge of the RAMSAR-protected area "Lagunas de Santa Maria – Topolobampo – Ohuira", but outside the UNESCO World Heritage "Islands and Protected Areas of the Gulf of California". Hydrodynamic modeling and cumulative impact assessments were used to evaluate the effects of sea water intake and discharge to the Ohuira Bay and surrounding ecosystems. It included scenarios for wet and dry season with and without freshwater runoff into the bay, and high and low tide situations. The morphological characteristics of the lagoons were also considered, including Topolobampo Bay's connection to the Gulf of California, the navigation channel of Topolobampo Port and the bathymetric profile of Ohuira Bay. The results indicated that, with the implementation of management and mitigation measures, the Project's additional discharges to the ones from existing other (third party) plants in the area would have only minor effects on water temperature and salinity, remaining within legal and ecological thresholds. Cooling water and saline discharge of the Project will be mixed with the plume of the existing power plant. According to the numerical model, the dispersion area for this mixed water plume will not be significantly larger as compared to existing conditions. On average the plume expands from the shore only up to a several hundred meters radius around the outfall of the existing power plant. It does not reach the islands comprising the UNESCO World Heritage Area. Aquatic species which occur naturally in lagoons and other coastal habitats have tolerances to the environmental conditions found in lagoon systems, particularly with respect to salinity and temperature fluctuations.

The project design incorporates state-of-the-art technology to minimize emissions and waste, and to ensure that all discharges comply with national and international environmental standards. Environmental monitoring is in place to detect any deviations and to enable prompt corrective action if needed. With regards to minimizing entrainment of shrimp larvae, special screens will be installed at the sea water intake. The design was developed by researchers from the National Autonomous University of Mexico (UNAM), based on the design parameters which are applied in shrimp farms. The screen system will allow to collect larvae and return them to the natural bay environment. With this technology in place, it is anticipated that losses of shrimp larvae will be reduced to insignificant levels.

The Project has additionally developed and implemented Biodiversity Action Plans and compensation measures, including the conservation of mangrove areas and the

monitoring of key species, in line with recommendations from Mexican environmental authorities (e.g. CONANP).

The livelihoods of local fishing communities were in the particular focus of the assessments, and the Project has implemented support programmes for fishing cooperatives and ongoing engagement with local stakeholders.

Overall, with the adopted safeguards and management plans, the Project's impacts on protected areas, water quality, fisheries, and biodiversity are assessed to be limited and effectively managed.

Claims regarding risks to health and safety:

- *There are concerns about the potential for industrial accidents (e.g., ammonia leaks), which could pose fatal risks to the local population, especially children, and have large-scale environmental consequences.*

As part of the environmental impact assessment, a thorough Environmental Risk Assessment ("ERA") was carried out for the Project in 2013 based on the conceptual plant design, including the analysis of potential worst-case scenarios such as accidental ammonia leaks. It concluded that such risks are adequately mitigated as the plant design incorporates state-of-the-art safety features with an efficient and reliable leak detection system, including advanced containment systems, continuous monitoring, and comprehensive emergency response plans and training programmes.

The ERA concludes also that the preventive measures that will be implemented in the Project will provide sufficient controls to avoid the chain of events or set of conditions that could lead to a loss of containment of the product stored in the refrigerated tanks or of the ammonia transported by pipeline to the jetty dock and the truck loading facility. Similarly, preventive measures are considered for the gas pipeline that delivers high-pressure natural gas to the plant for the production of ammonia.

During detailed design stages, these measures are reviewed and updated in line with international best practices. The Project also maintains a buffer zone between the facility and residential areas, further reducing potential risks. To date, there have been no incidents or external damages associated with the Project development, and the site has been subject to regular inspections by the relevant authorities without any negative findings.

As all other E&S studies of the Project, the ERA was reviewed by the IESC and the LTA.

It is needless to say that any future alteration or expansion of the plant is not part of the current project set-up and would require a new ERA.

Claims regarding violation of Indigenous Peoples' rights and lack of adequate consultation and free, prior, and informed consent (FPIC):

- *The Project was approved and advanced without sufficient consultation with local inhabitants and without obtaining the free, prior, and informed consent of the affected Indigenous Peoples, as required by international standards (e.g., ILO Convention 169).*
- *The Project is alleged to violate the rights of Indigenous Peoples to land, territory, resources, cultural practices, and participation in decision-making processes.*
- *The Project is said to negatively impact sacred sites and the ability of Indigenous Peoples to maintain their traditional ways of life.*
- *The Project is alleged to have caused or exacerbated social divisions and discrimination within and among Indigenous communities.*

Topolobampo is located in the northwest of Sinaloa. This area is part of the traditional land of the Yoreme (Mayo) Indigenous People. According to the National Institute for Indigenous Peoples – INPI (formerly National Commission for the Development of Indigenous Peoples), the Yoreme settlements revolve around a ceremonial center, which is the centerpiece of their social, cultural, and political organization. According to actualized information provided by indigenous Governors and INPI, there are 28 Yoreme ceremonial centers in the state of Sinaloa, eight of which fall in the boundaries of the Ahome, three in the municipality of Juan Jose Rios, two in El Fuerte and one in Guasave. Only three of these ceremonial centers fall within the political influence sphere of Topolobampo: Lázaro Cárdenas (El Muellecito and El Carricito) and Carrizo Grande (El Vadito). Although some indigenous people have migrated to Topolobampo, they are few in number (only 0.9% percent of the population) and they have not formed a Yoreme community with all the organizational conditions this would imply.

Until 2013, large parts of the Project's land were part of Ejido Rosendo G. Castro. Another part was under the Development Fund of the State of Sinaloa. GPO has acquired the plot for the Project via private land purchase, which according to our legal due diligence was rightful and is fully documented.

During the preparation of the Project, GPO conducted comprehensive environmental baseline studies, modelling and assessments as part of the environmental impact assessment and the ERA. The following was concluded:

- According to baseline studies, there was no formal or informal land-use of the site before the plant platform was created by GPO.
- The nearest settlement with some indigenous inhabitants is the Ejido Rosendo G. Castro, located 1.7 kilometers from the plant tanks and 0.7 kilometers from the truck loading area which is an acceptable buffer for an industrial installation. The

nearest residential area of an indigenous community (Lazaro Cardenas) as classified by INPI is located approximately 7.5 km from the site.

- Site visits, stakeholder interviews, and cultural assessments conducted in preparation of the Environmental Impact Assessment study (Spanish: "MIA") and the subsequent ESDD found neither evidence of ceremonial or sacred sites on the Project land nor that there are indigenous communities living on or using the Project site.
- Overall, GPO's studies did not show any indication of significant adverse impacts or potential losses regarding health and safety of the local population, including the Yoreme Indigenous Peoples.

Initially, at the time of the Project's preparation for the regional MIA ("MIA-R"), stakeholder engagement focused on complying with the Mexican MIA-R public consultation process and engagement with indigenous and administrative leaders, and representatives of relevant stakeholder groups. During the elaboration of the ESDD, the IESC requested that the consultation activities should exceed those required under MIA-R and be aligned with the requirements under the IFC PS. An update of the stakeholder engagement plan as well as the requirement of additional public consultations with the surrounding population became necessary. Based on those exceeding requirements, GPO carried out stakeholder consultations, which included traditional and municipal authorities in the surrounding communities, as well as special interest groups such as the local fisher folk and their organizations. Additionally, GPO built internal capacity regarding community liaison and human rights expertise, engaged in various stakeholder participation and community activities, and made commitments to support local communities which were implemented. This included, inter alia, the construction of a new ceremonial center (El Carricito) for the Yoreme indigenous community, and support for local fishermen including indigenous members.

Despite those efforts, the Project remained controversial within certain indigenous communities. Several representatives of Indigenous Peoples filed so called "amparos" against the original Environmental Impact Authorisation ("Original EIA") issued by the competent Mexican authority SEMARNAT and permitting the Project to start construction.

An "amparo" is a legal remedy commonly used in Mexico to protect constitutional rights. It can be filed by individuals or groups against governmental actions that allegedly violate human rights. A certain number of amparos being filed – in the case of Topolobampo seven – is not unusual for projects of this complexity in Mexico. As part of the amparo proceedings, the courts issued injunctions that prevented the Project from beginning construction for several years.

- Those amparo claims were heard in various federal courts in Sinaloa but shared certain relevant elements such as the petitions and the main legal arguments. To avoid contradictory rulings, the Mexican Supreme Court ("Supreme Court")

assumed jurisdiction over several of the amparos concerning the Original EIA in April 2022 and annulled the Original EIA, primarily on the grounds that it had been issued without prior consultation of the indigenous communities to seek their free, prior, and informed consent (case number 498/2021). In this decision, the Supreme Court ordered the Mexican environmental authority SEMARNAT (Secretaría de Medio Ambiente y Recursos Naturales) and other relevant authorities to conduct a consultation process based on the principle of Free, Prior and Informed Consent (FPIC) with the affected indigenous populations and, only thereafter, to re-evaluate the Environmental Impact Authorization. However, the Supreme Court clearly pointed out that the FPIC procedure does not grant a veto right to a single community or individuals within that community, which could otherwise block a majority obtained after detailed consultations with other communities; hence amongst the more than 60 communities involved in the FPIC procedure, the FPIC principle does not require a unanimous outcome. The Supreme Court specifically determined that the consultation should include all communities located within the area of influence of the Project, defined as a 45 kilometers radius from the Project site.

- Subsequently, between May and September 2022, SEMARNAT conducted an FPIC consultation with the indigenous communities located within the area of influence of the Project as defined by the Supreme Court and in compliance with the Supreme Court's requirements which were consistent with the International Tribal and Peoples Convention (ILO 169 Convention), to reach broad community support. The consultation covered 15 indigenous Mayo-Yoreme communities with more than 60 settlements in the actual four municipalities Ahome, Juan Jose Rios, El Fuerte and Guasave and involved the participation of both the National Human Rights Commission and the National Institute of Indigenous Populations to ensure that the consultation was also culturally appropriate and respectful of each group's local rules and customs.
- After completing this consultation process and taking into consideration the arguments, concerns and recommendations raised by the communities during the consultation process, SEMARNAT issued a new Environmental Impact Authorization for the construction and operation of the Project ("New EIA") on September 19, 2022.

Several legal remedies in the form of amparos were again filed against the New EIA before various district courts.

- In total, there were four amparos (case numbers 718/2022; 205/2023; 392/2023; 561/2023), which were consolidated by a decision of the Seventh District Court on May 2, 2023.
- Three of these four amparos were dismissed as unfounded and have now become legally binding. In the fourth case (case number 561/2023), the amparo was

dismissed as unfounded at first instance. The appeal initiated by the representatives of the indigenous plaintiff group is still pending.

Thus, most of the amparos filed against the New EIA have been finally resolved, and the District Court has taken a clear position in these decisions:

- The FPIC procedure requires the involvement of indigenous communities to obtain broad community support. However, in reference to the ruling of the Supreme Court (case number 498/2021) referred to above, this procedure does not grant a veto right to a single community or its individuals over other indigenous communities. The concerns raised by the indigenous populations regarding the FPIC for the New EIA are therefore unfounded.
- After obtaining court expert reports as well as several party expert opinions, the court further determined that the allegations of environmental violations by the Project are unfounded, too.
- The decisions explicitly state that the Project will bring both environmental and socio-economic benefits to the local community. Those clear rulings have been reached following extensive evidence gathering, particularly through the court-appointed experts.

Accordingly, except for one amparo for which the first-instance decision is being appealed, all other amparos against the New EIA have been resolved by final and unappealable rulings. The outcome of these amparos have confirmed the validity of the New EIA. Based on evidence demonstrating that the environmental prevention, mitigation, and compensation measures to be implemented by the Project and mandated by SEMARNAT are sufficient, environmentally appropriate and have obtained broad community support.

It is also noteworthy that the Project has actively engaged with indigenous Yoreme communities to build trust and to foster inclusive participation. In 2021 the Project developed an Indigenous Peoples Management Plan ("IPMP") and has been adapting it in line with international best practices. The IPMP aims to prevent conflict and divisions within and among indigenous communities by ensuring culturally appropriate measures, supporting bicultural (Yoreme-Spanish) education, and preserving traditional practices. The Project maintains an ongoing dialogue with indigenous stakeholders and has implemented initiatives to strengthen community relations, decision-making processes, and access to Project benefits. While some opposition from local groups persists, the Project is committed to fair inclusion and transparent engagement of all affected groups. The IESC monitors the implementation of the IPMP and provides independent advice to ensure that the rights, values, and governance structures of Indigenous Peoples are respected and integrated into Project activities. The Project also supports the preservation of cultural heritage through the construction of ceremonial infrastructure and the promotion of traditional practices.

Claims regarding lack of human rights due diligence:

- *There is no public evidence that the companies and financial institutions involved have conducted adequate human rights due diligence in line with the UN Guiding Principles on Business and Human Rights.*
- *No clear processes are in place to identify, prevent, mitigate, and account for adverse human rights impacts, or to provide remedy for harms caused or contributed to.*

As set out above, KfW IPEX-Bank, as a signatory to the EPs, requires comprehensive ESDD for all projects of Category "A" that, since the effectiveness of the EP4 in 2020, includes a human rights risk assessment. In its role as lender, KfW IPEX-Bank is neither required nor permitted to publish any appraisals itself but contractually requires its clients to communicate relevant information on E&S risks and impacts as well as on their management according to the relevant national and international standards (e.g. IFC PS1).

The Project has prepared a Human Rights Impact Assessment ("HRIA") in accordance with the requirements of EP4, which was also assessed by the IESC. The HRIA was developed with support of an internationally recognised E&S consultancy following best practice and including interviews and workshops with main stakeholders, including officially recognised community leaders within the area of influence. The IESC identified some additional areas for improvement within the HRIA, that the Project has been addressing since then. GPO has further adopted a Human Rights Policy and established a Human Rights Committee. These measures are designed to manage human rights risks of the Project. The measures are subject to ongoing review by the IESC and monitoring by KfW IPEX-Bank.

Claims regarding suppression of civic space and reprisals:

- *Human rights defenders, especially women leaders of the "¡Aquí No!" movement, have reportedly faced harassment, threats, surveillance, defamation, physical attacks, and attempted disappearances as a result of their opposition to the Project.*
- *There are concerns about the effectiveness of protection measures for these defenders.*

Grievance mechanisms are established at the Project level to allow individuals and groups to raise concerns safely and confidentially. GPO has adopted procedures to address and monitor risks of retaliation. Accordingly, any reports of threats or intimidation are taken seriously and will be addressed in accordance with the company's Human Rights Policy. Currently, the Project is reviewing its Community Grievance Mechanisms and complementing the stakeholder engagement plan with vulnerability and risk values. The purpose is to enhance its existing procedures and capacity to inter alia ensure safe communication channels to affected communities in Sinaloa, one of the Mexican states with high insecurity and organised crime.

We would like to add that GPO informed KfW IPEX-Bank that they had only become aware of the alleged conduct by recent communications from third parties, and explicitly confirmed that they do not tolerate any act of harassment, surveillance, defamation, threats, raids, or attempted disappearance against persons or groups that express opposition to the Project.

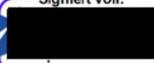
Claims regarding lack of transparency and access to information:

- *The process is alleged to lack transparency, with insufficient access to information for affected communities and stakeholders.*

Transparency and access to information are requirements under KfW IPEX-Bank's Sustainability Guideline for all financed projects. Key documents of the Project, including the ESIA's and GPO's Human Rights Policy, are publicly available. We and the IESC have asked GPO to assess to which extent additional information relevant to affected indigenous communities and interested parties could be shared, provided that this does not compromise project security or infringe banking secrecy rules. Nevertheless, GPO organises recurring information sessions and stakeholder meetings to ensure that affected communities as well as other stakeholders are kept informed and can ask questions and provide feedback in a free and open dialogue. The Project is committed to further enhancing transparency and is currently updating its stakeholder engagement plan and including focus on vulnerable groups and human rights aspects.

Sincerely,

KfW IPEX-Bank GmbH

Signiert von:

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CEO

Signiert von:

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Sustainability Officer