



Tender, juicy and... smelly?

**Social and environmental practices in IDB Invest investments in Guatemala:
Case study of the Los Pensamientos Poultry Farm/
CMI Alimentos**

Taxisco, Santa Rosa, Guatemala

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Overview

This study analyzes the human rights and environmental practices of Corporación Multi-Inversiones Alimentos (CMI Foods), a recipient of loans from IDB Invest and, as such, obliged to comply with IDB Invest's sustainability standards. In the face of initial failures in the application of these standards, the study systematically addresses the process to correct them and the advocacy undertaken by communities, including the Xinka people, to assert their rights, as well as the results achieved to date.

Introduction

Corporación Multi-Inversiones (CMI) is a multi-national corporation, which has more than 40 thousand employees and workers. It has more than 100 years of operations in Guatemala where its owners originate (currently the third generation of the founder Juan Bautista Gutiérrez, the Gutiérrez Mayorga and Bosch Gutiérrez families). It then expanded to Central America, and today it is present in 16 countries, the majority in the American continent (Latin America and the United States).

CMI Foods is just a part of CMI, which owns another capital group called CMI Capital. While CMI Capital is dedicated to the development of renewable energy (mainly hydroelectric), real estate projects, and financial services, CMI Foods is dedicated to the growth and processing of food. It is one of the largest food groups in the region in milling grains (wheat and corn flour), pasta and biscuit production, poultry and pork production, processing and manufacturing of sausages, animal feed, and fast-food restaurants (Pollo Campero and Pollo Granjero). With its brands Pollo Rey and Toledo it dominates a significant percentage of the market for chicken and pork products, respectively, consumed by Guatemalan households.

The poultry and pork business is particularly developed, with vertical integration from the manufacture of animal feed to its industrial breeding of animals, and their use for fast food restaurants (chicken) or sausage processing (pork).

The Inter-American Development Bank (IDB) is the main source of multilateral financing for development projects in Latin America and the Caribbean. Its objective is to reduce poverty, fight social inequalities and promote sustainable economic development in the region.

The IDB was founded in 1959 as a partnership between the United States of America and 19 countries in Latin America and the Caribbean. Currently, the IDB has 26 borrowing countries, all located in Latin America and the

Caribbean. The Bank allocates at least 35% of the loans approved annually to borrowing member countries classified as small and vulnerable, including Guatemala.

The IDB's subscribed capital amounts to US\$ 170.9 billion, which includes both paid-in and callable capital. The IDB Group also includes IDB Invest (previously the Inter-American Investment Corporation, IIC), which supports private initiatives in borrowing countries; and IDB Lab, which promotes new and innovative approaches in small and medium-sized enterprises that can be scaled up throughout the IDB Group.¹

IDB Invest, as the main private sector arm of the Inter-American Development Bank Group (IDBG), has previously granted a series of three loans to CMI Foods: the first in 2018 (USD 350 million; [12167-01](#)), second in 2021 (USD 75 million; [12167-03](#)), and a [third](#) (USD 50 million; 14030-01) in 2022. While the first loans were used to finance fixed investments and working capital needs for the expansion of the CMI Group in Central America's Northern Triangle (Guatemala, Honduras and El Salvador), the more recent operation consists of a revolving loan to ensure CMI Foods' short and medium-term liquidity, financing its working capital needs, and a revolving import line for the purchase of grains, taking into account the growth of CMI Foods operations and the increase in grain prices ([IDB Invest](#), 2022).²

IDB Invest granted a fourth loan to CMI Foods in December 2023, USD 50 million direct, plus up to an additional USD 200 million syndicated. It is called [CMI Foods Expansion](#), project #14509-01. IDB Invest states: "The proposed financing line for CMI Foods consists of a long-term senior syndicated loan to the Borrowers for up to USD 250 million, which will be financed as follows: (i) USD 50 million by IDB Invest and (ii) the remainder by other commercial banks and/or DFIs mobilized by IDB Invest (the 'Financing'). The transaction is expected to contribute to food security in Central America by (i) supporting greater and more efficient food production in the region; (ii) strengthening market relations with the regional supply chain; and (iii) supporting the generation of income for workers and microenterprises in the Company's distribution chain, especially women and areas with higher levels of poverty and malnutrition."³

As has become common in the investment world, IDB Invest carried out an environmental and social due diligence process ("ESDD") to ensure that its operation does not conflict with the performance standards (social and environmental) to which it subscribes – its [Sustainability Policy](#) (2020) as well as the Performance

¹ <https://www.iadb.org/en/who-we-are/about-idb>

² IDB Invest (2022), [Review of environmental and social issues](#) (RRAS or ESRs) CMI Alimentos III – REGIONAL

³ <https://idbinvest.org/es/proyectos/cmi-alimentos-expansion>

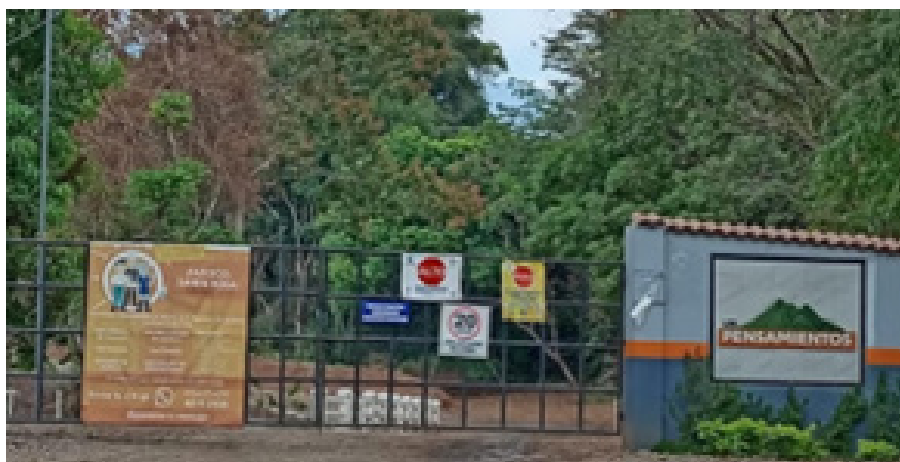
Standards of the International Finance Corporation (IFC), developed in 2012.

However, this due diligence process was carried out mainly virtually and emphasized the review of policies, plans, manuals, and procedures. Although this documentary review has been extensive, including issues of environmental and social management, human resources and working conditions, occupational health and safety (“SSO” in Spanish) programs, monitoring procedures and evaluation of environmental conditions (such as atmospheric emissions, waste solids, noise and effluents), emergency response plans and the evaluation of CMI Foods’ suppliers and their compliance with basic environmental, social and Occupational Health and Safety (“OSH”) requirements, the absence of on-the-ground research is notable. The [sustainability policy](#) (IDB Invest, 2020) envisions contacts with and perspectives from external actors and particularly those most impacted by the client’s (CMI Foods’) operations: local communities and workers.⁴

This field study seeks to identify the impacts on communities neighboring CMI Foods’ operations, and to analyze implementation of the same performance standards from the perspective of community and municipal authorities, as well as social actors within the neighboring communities.

I. METHODOLOGY

To carry out the study, we selected a recently inaugurated project in Taxisco, Santa Rosa province: the poultry farm called “Granja Los Pensamientos,” after the farm on which it was established (“El Pensamiento”). It has a production capacity and “harvest” of six million chickens per year in the first phase, and capacity of 12 million chickens per year when the second phase is completed. “Los Pensamientos” Poultry Farm was inaugurated in May 2023 and, therefore, is one of the operations related to the third loan granted by IDB Invest to CMI Alimentos.⁵



Granja Avícola “Los Pensamientos”, Taxisco, Santa Rosa.

⁴ IDB Invest, [ENVIRONMENTAL AND SOCIAL SUSTAINABILITY POLICY](#), 2020, para. 32 (iii).

⁵ <https://somoscmi.com/es/blog/cmi-y-jurimar-inauguran-granja-sostenible-para-el-fortalecimiento-de-la-produccion-avicola-en-guatemala/>

The communities neighboring Granja Los Pensamientos were identified: Aldea La Libertad, Agrarian and Peasant Community La Florida, and Caserío Don Diego. We made contact with social leaders (President of the Xinka Community in Taxisco, the leadership of the Agrarian and Peasant Community, a teacher at the primary school of La Libertad Village,) and community authorities (President of the Community Development Council– COCODE by its Spanish acronym-- of La Libertad Village, and the President of the COCODE of Caserío Don Diego), as well as municipal authorities: the newly elected Mayor (took office on January 14, 2024), and the person in charge of the Municipal Environment Office. In two three-day visits to the area, we visited the communities and carried out interviews with the identified people. People familiar with the area were also interviewed, such as two Evangelical Pastors (whose religion has great influence in Guatemala) and a Xinka leader from Guazacapán (a neighboring municipality), as well as the President of the COCODE of the La Faja community, in Chiquimulilla, Santa Rosa, another nearby municipality where a CMI poultry farm is beginning operations and another factory farm is under construction.

We interviewed a worker from Los Pensamientos Farm to learn about the working conditions there, which allowed us to have an overview, at least in social and human rights terms, of the farm's operations and its impacts. We were not able to have a direct conversation with those in charge of the Farm; none of the interviewees knew the communication channels at the farm level. Nor have we been able to hear directly the perspective of CMI Foods. We sought an interview with the Chief Sustainability Officer at the corporate level and after following a formal process that was indicated to us to request an appointment (request made on February 20), and several follow-up calls, it has not been possible to make progress in securing a meeting.

II. RESULTS

Next, we reviewed the findings of the field investigation in light of the requirements that accompany an IDB Invest loan: the IDB Invest Environmental and Social Sustainability Policy; the Environmental and Social Review Summary (RRAS or ESRS) for CMI Foods III; and, of course, the eight performance standards of the International Finance Corporation (IFC).

We have analyzed each of the eight standards, as applicable, and highlight relevant topics with requirements or observations from the other two documents, and thus identify both compliance and the most significant gaps in compliance.

A. Evaluation and management of environmental and social risks and impacts (PS 1)

Performance Standard 1 highlights the importance of managing environmental and social performance (including labor and health and safety aspects) throughout the investment life cycle. It places special emphasis on the relationship with external actors in the area of influence (affected communities, social actors, local authorities) for the implementation of environmental and social management plans; highlights the need for a fluid and permanent dissemination of information (from the beginning of the project to the end), as well as an effective communication channels (ethics hotline, Complaints and Claims Mechanism, etc.). That is, Performance Standard 1 addresses all the issues related to the appropriate entry of a company into an environment, guaranteeing that the negative impact on communities is as minor as possible, and that agreements can be established on how to mitigate them.

“Stakeholder engagement is the basis for building strong, constructive, and responsive relationships that are essential for the successful management of a project’s environmental and social impacts. Stakeholder engagement is an ongoing process that may involve, in varying degrees, the following elements: stakeholder analysis and planning, disclosure and dissemination of information, consultation and participation, grievance mechanism, and ongoing reporting to Affected Communities. The nature, frequency, and level of effort of stakeholder engagement may vary considerably and will be commensurate with the project’s risks and adverse impacts, and the project’s phase of development.” (IFC PS1, para. 25).

Likewise, IDB Invest’s Sustainability Policy, in para. 18, highlights “Participation of Affected Communities” and states:

“IDB Invest promotes open, transparent, inclusive engagement between the client and stakeholders, particularly Affected Communities, as a key element to enhance the environmental and social sustainability of investments. As a result, IDB Invest requires clients to undertake the following:

- (i) Stakeholder identification and analysis;*
- (ii) Stakeholder engagement planning;*
- (iii) Disclosure of information highlighting potential risks and impacts that might disproportionately affect vulnerable and disadvantaged groups and describing the differentiated measures taken to avoid and minimize these;*
- (iv) Meaningful stakeholder engagement, disclosure,*

outreach and communication to affected communities that is ongoing and iterative throughout the project cycle, starting as early as possible, including different stakeholder categories, which is equitable and non-discriminatory, and free of intimidation or coercion. Such disclosure and engagement will be commensurate with the nature of the social risks and impacts and the environmental and social risk category of the project in accordance with PS 1 (Assessment and Management of Environmental and Social Risks and Impacts);

(v) Stakeholder engagement that is inclusive and culturally appropriate and that takes into consideration the feedback provided through such engagement; and

(vi) Responsive approach to addressing grievances.”

According to the Environmental and Social Assessment carried out by IDB Invest to grant the third loan, CMI Foods “is governed by relationship guides that regulate its actions and procedures to identify, prevent, mitigate, and control the social impacts that its operations could generate. The guidelines allow you to strengthen your relationships and contribute to the development of communities, anticipating conflicts through dialogue, coordination, and direct communication with interest groups in the area of influence.”

However, **field interviews showed that Performance Standard 1 is the most violated by CMI Foods/Granja Los Pensamientos**. Let’s see in detail.

1. Carrying out the EIA

As contemplated by Guatemalan legislation, CMI Foods carried out an Environmental Impact Assessment (EIA) for Granja Los Pensamientos, Taxisco, Santa Rosa, a 365-page document to which we had access through the Access to Public Information Law. We also requested the EIA for the “Chiquimulilla Farm” about which, according to the response sent by the Ministry of Environment and Natural Resources (MARN), **“no information was found within the system.”**⁶

None of the people interviewed, including the current Mayor of Taxisco, who in the previous period served as Councilor of the Municipality, knew about the execution of this EIA nor were they consulted for the installation of the Farm.

“I was not aware of any procedure for the installation of that farm. As I was an opposition Councilor, in many cases they did not even call me to the Council sessions. It is possible that they just negotiated it with the previous

Mayor and his associates.” -- Vidal Montepeque, Mayor of Taxisco, Santa Rosa.

According to officials from the Municipality of Taxisco, **once the EIA is authorized by MARN, there is no longer any room for maneuver**, even if the study has serious defects.

“We all know how these studies are carried out and how they are approved. They have no value, they are bought. The only thing we have left is to approve the construction license. **Those responsible for the content of the EIA are the same institutions that approve it.**” Engineer William Rodríguez, Head of the Office of Environment and Natural Resources, Municipality of Taxisco, Santa Rosa.

When analyzing the EIA, we find that:

1. By using data from the 11th Population Census of 2002, **CMI has committed fraud by minimizing the existence of the Xinka people, given that four years before Granja Los Pensamiento prepared the EIA, the 12th Population Census of 2018 was published. It shows high growth and greater presence of that people in Guatemala** and, in particular, in that region [Taxisco]. With this action it is evident that **CMI intended to evade the Community Consultation required by ILO Convention 169.**⁷
2. **The EIA does not mention all the surrounding communities** that are affected by the operation of Granja Los Pensamientos. It only identifies La Libertad Village, arguing that its borders are “private properties where no residential uses are observed.”
3. Regarding the “consultation” CMI carried out, the company maintains that it “derived from the nature of the activity. The people interviewed were workers in the area and residents of the immediate populated areas. Twenty-five people were interviewed freely, of which 20 responded and of “those, only five agreed to provide their personal data, the rest only responded to the questions orally.” **Clearly, consultation with the COCODEs and social organizations of the surrounding communities was completely ignored.**
4. CMI needs to establish a **Social Action Plan** with the objective of ensuring the operation of the project while avoiding conflicts with local

⁷ Taxisco is a municipality with a high proportion of the population identifying as non-indigenous (99%) and only 1% (288 people) identifying themselves as indigenous, of the Mayan and Xinka ethnic groups (INE 2002), according to the EIA of the Los Pensamientos Poultry Farm.

⁶ MARN, Providencia No. VA-UAIP-0070-2024/DAGA/JGSS/jgss del 8 de marzo de 2024.

communities. This includes, among others, “creating a permanent communication plan with interest groups, through which dialogues, relationships and business can have continuity. In the event of a conflict occurring in any of the phases of the project, dialogue mechanisms must be promoted to resolve problems.” **None of this has occurred in practice.**

5. The data presented for the production of chickens is misleading since the EIA mentions that the chicks take between five and seven weeks to grow, when in practice they only allow four weeks (28 days) in this process. [Accelerated growth can be harmful to the chicks.] (Los Pensamientos Poultry Farm, July 22, 2022.)

2. Dissemination of information

The dissemination of relevant information about the project helps Affected Communities and other social actors understand the risks, impacts, and opportunities that it entails. CMI as IDB Invest’s client is required to provide the Affected Communities with access to relevant information on:

- i) the purpose, nature and scale of the project;
- ii) the duration of the proposed project activities;
- iii) the possible risks and impacts on those communities and the relevant mitigation measures;
- iv) the planned participation process of social actors, and
- v) the complaints mechanism (IFC Performance Standard 1, para. 29).

“The information must [...] be accessible and understandable for the different segments of the Affected Communities. For example, information can be made available to the public door-to-door, in municipalities, public libraries, local print media, by radio, or at public meetings. The disclosure and distribution of information must be the basis of the client’s consultation process.” (PS 1, Guidance Note 99)

None of the people interviewed knew of any form of dissemination of the Granja Los Pensamientos project. People were asked about flyers, radio spots, posters, community meetings or other forms of dissemination, but no one knew of any action of that type.

“There was no information before the construction of the Farm, we found out because people started saying that the previous owners had sold the farm. Then we saw that they began to deforest it, because that farm was previously a citrus producer.” Óscar Fredy Estrada,

President of the Xinka Taxisteca Indigenous Community.

“Here we did not have any prior information about the construction of the Farm. We only found out about it when it was being built.” Alma Leticia López, President of COCODE Caserío Don Diego, Taxisco.

“While I was at COCODE, until almost a year ago, there was no contact from the company to publicize the installation of the Farm.” Francisco Corado, former member of the COCODE of La Libertad Village.

3. Consultation with affected communities to develop a mitigation/compensation plan

Consultation with affected communities is not only important from the perspective of transparency and fluid relationships, but in cases “where the identified risks and impacts cannot be avoided, the client will determine mitigation and performance measures and define the pertinent actions [...] the priority of the measures and actions identified will be proportional to the risks and impacts of the project and will take into account the results of the participation process of the Affected Communities, as appropriate.” (PS1, para. 15)

Mitigation measures include prevention (changes in project design to avoid adverse risks and impacts), minimization (when prevention is not possible, adverse risks and impacts can be minimized through environmental and social measures, treatments, or designs, such as restoration) and compensation. Where prevention or minimization measures are not adequate, it may be appropriate to design and implement measures that offset residual risks and impacts with (at least) a comparable/equivalent positive impact.

None of the actors interviewed were present at any consultation. Some people suspected that from La Granja, CMI would have had talks only with the formal community authorities (COCODES) and with the Mayor’s Office, but neither the two Presidents of the COCODES consulted (President of Aldea La Libertad and President of the Caserío Don Diego) nor the Association of the Comunidad Agraria y Campesina la Florida) said they never had had any conversation about it. The same was stated by members of the Municipality of Taxisco.

As a result, there is no known mitigation plan for the impacts of the project.

“We believe that since the company is already there and they are not going to leave, they should execute mitigation or compensation projects for bad odors, and the chicken manure they produce would be very useful to fertilize our crops.” Antonio García, President of the La

Florida Agrarian and Peasant Community, Taxisco.

“The company has never spoken to us, here we have many needs which they could help solve...At school, we could use blackboards and other furniture.” Luisa Herrarte, teacher at the Official Rural Mixed School, Aldea La Libertad, Taxisco.

4. Consultation with Indigenous Peoples

In its sustainability policy, IDB Invest in its section 22 affirms the commitment to promote full respect for the human rights, dignity, aspirations, culture and livelihoods of indigenous peoples, Afro-descendants and other vulnerable groups. Therefore, IDB Invest requires its clients in section (i) to apply the participation and inclusion of indigenous peoples.

Santa Rosa is a department inhabited by the Xinka people and, therefore, community consultation with Indigenous Peoples is pertinent when establishing a project. This is recognized in Guatemalan legislation, given that on June 5, 1996, the Guatemalan State ratified Convention 169 of the International Labor Organization (ILO) on Indigenous and Tribal Peoples in Independent Countries. This establishes the need to consult with Indigenous Peoples, which implies obtaining their prior, free and informed consent (FPIC) regarding the implementation of programs, projects, legislative reforms or modifications, actions and status changes regarding lands and territories, which impact social, cultural, religious and cultural values and practices. spirituality of the people.

The Xinkas are a pre-Hispanic people who live in the departments of Jutiapa, Jalapa and Santa Rosa in Guatemala. They are characterized by speaking the Xinka language (in the process of recovery). Their people are not related to the Mayan or Aztec peoples. According to the XI Population Census and VI Housing Census of 2002, there were only 16,214 Xinkas in Guatemala. However, according to the XII Population Census and VII Housing Census of 2018, the Xinka population grew by 1,600% and 268,223 people identified themselves as such. This has been helped by a strong awareness and mobilization campaign by the Xinka Parliament on the need to value and rescue the culture of this people. This identification has also been strengthened due to the fight against mining companies that seek to establish themselves in this territory.

Despite this, the members of the Xinka People (Xinka Indigenous Community of La Libertad Village and Xinka Indigenous Community of Guazacapán) have not known of any consultation process.

“The rich do not consult at all with the people, they just arrive, buy the land, negotiate with the Mayor, build their companies, and do not talk to anyone about it.” Óscar Fredy Estrada, President of the Xinka Taxisteca Indigenous Community.

“There was no consultation, we never heard anything about that. The companies do not comply with consulting with indigenous peoples and communities.” Ever Benito, President of the Xinka Indigenous Community of Guazacapán.

“They didn’t consult us at all. We found out when they were already building the Farm, before that they hadn’t even come to talk to us.” Alma Leticia López, President COCODE Caserío Don Diego.



Meeting of community representatives to define actions.

5. Communications channels (Complaint Mechanism/GRM)

Business entities must have publicly available and easily accessible channels (e.g., telephone number, website, email address, etc.) to receive communications and external requests for information regarding their environmental and social performance (IFC PS 1, Guidance Note 108).

The IDB Invest Sustainability Policy, in its section 19, Grievance Mechanisms, states:

“In cases where there are Affected Communities, IDB Invest requires that the client establish a grievance mechanism to receive the concerns and complaints of those communities

about the client's environmental and social performance and to facilitate its resolution, in accordance with Performance Standard 1. Interested parties may raise complaints about an IDB Invest investment to the project grievance mechanism or through IDB Invest's Management-led grievance mechanism."

Although CMI Foods as such has a communication channel called "CMI listens to you," which is positively mentioned in section 4.1.i. of the environmental and social evaluation of IDB Invest for CMI Foods' "External Communication and Complaint Mechanism,"⁸ it is clear that (1) the affected communities are not the main target audience (IDB Invest itself speaks of complaints "by clients, suppliers and contractors"), and (2) **the mechanism is not known in the communities.**

In fact, they were asked about it-- **if there was a communication channel, if they knew of a complaints and grievance redress mechanism (GRM)-- and the answers were entirely negative.** Therefore, **even though the CMI grievance mechanism exists, one of its most prominent criteria** - mentioned in the United Nations Guiding Principles for Business and Human Rights - **is not met: accessibility. If the interested actors do not know that the mechanism exists, its existence is of no value.**

The fact that it was not possible to speak with any member of the Corporate Affairs and Sustainability team at CMI Foods limited our knowledge of whether the company has a general policy that defines the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance, as required by IFC PS1, para. 6.

However, considering the findings of the interviews in the surrounding communities, no indications could be found that such a policy actually exists. In fact, within the framework of this study, it took us two days for someone to assist us at the telephone number that officially appears as a contact mechanism.

In conclusion, **the field investigation was not able to establish compliance with IFC Performance Standard 1**, highlighted in Guidance Note 94: "In particular, clients must use the appropriate stakeholder engagement practices with the community and other social actors described in this Performance Standard to disseminate information and receive feedback on the effectiveness of the implementation of mitigation measures in accordance with the client's management system, as

⁸ It states that it is open to claims or complaints from customers, suppliers and contractors, which is made up of a set of communication channels (email, dedicated website, telephone support, voicemail and WhatsApp) operated by an independent professional company ("the Operator") that serves the Corporation [CMI Foods]'s stakeholders to communicate any sensitive irregularities for the Corporation.

well as the Affected Communities' on-going interests and concerns about the project."

B. Labor and working conditions

In terms of labor and working conditions, according to a worker's testimony, Granja Los Pensamiento appears to respect labor laws,⁹ pays the minimum wage, pays overtime, and does not engage in practices related to forced labor.

However, it is important to highlight that the description of the working conditions of the person interviewed, while not complaining about them, caught our attention: he works 24x24, that is, 24 hours in a row and then rests for 24 hours. This adds up to (on average) **84 hours of work per week, when what is established by Law is a maximum of 48.** For the additional 36 hours, the person, a security guard, is not paid overtime.

CMI Foods evades its labor responsibilities in two ways. First, it hires the security service on a third-party basis, that is, it hires a security company that takes charge of all the training, permits to carry weapons, and hiring of agents. Concerning any disrespect for labor law or worker rights, then, it could be argued that the entity responsible is the contracted company, not CMI Foods. Second, Article 124 of the Labor Code (Congress of the Republic of Guatemala, 1961) makes an exception to **the work day limitations in section (c) for those who occupy surveillance positions or those positions which require solely their presence.**

Considering the first issue, it must be noted that **the contracting company does have responsibility if the contracted company (its supplier) does not comply with the legislation.** IFC's PS2, Guidance Note 87 says: The client must evaluate the employment relationship between the contractor and the workers and ensure that all contractors comply with the legal requirements included, as a merely illustrative, those related to the minimum wage, work day, payment of overtime, health and safety conditions, contributions to retirement and health insurance plans, and other labor terms provided in the legislation in relation to all workers hired by third parties.

As for the second issue, CMI appears to be taking advantage of an alleged loophole in labor legislation. However, Percy Méndez, a labor lawyer with expertise in the field, advises that "private security agents are generally more than just guards, if you are thinking that the guard only warns of a problem, he does not act. In

⁹ Security agent at the Los Pensamientos Poultry Farm.

practice, they must take care and protect.”¹⁰ In the case of the security agent, that is definitely his job. He also reviews and records who enters, who leaves, checks bags and backpacks of workers who leave, takes notes, communicates with the administrative staff of Granja Los Pensamientos, etc.¹¹

Furthermore, the Labor Code in the same Article 124 establishes that all these people [to whom the limitation of the working day does not apply] cannot be forced to work more than twelve hours, except in very limited exceptional cases that are determined by the relevant regulation, in this case relating to the payment of overtime hours worked in excess of the limit of twelve hours per day. That is, if the work exceeds 12 hours per day (72 per week, as the seventh day is assumed for rest), overtime must be paid. Yet this does not happen in the case of the worker hired by the security company, in turn subcontracted by Granja Los Pensamientos.

It is particularly worrying that the case occurs in the field of security, since this work involves carrying a weapon, and in a condition of excessive fatigue – which this schedule generates – security officers can make mistakes that put human lives at risk. There is no shortage of precedents for this in Guatemala.

C. Efficiency in the use of resources and pollution prevention

The objectives of this standard (PS 3) establish, among others, “Avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution generated by project activities.” PS3 specifies that the term “pollution” refers to hazardous and non-hazardous chemical pollutants, in solid, liquid or gaseous state, and includes other components such as pests, pathogens, thermal discharges to water, greenhouse gas emissions, nuisance odors, noise, vibrations, radiation, electromagnetic energy, and the diffusion of possible visual impacts, including light.¹²

Paragraph 3 of PS3 says that the applicability of this Performance Standard is established during the process of identifying environmental and social risks and impacts,

¹⁰ This is the analysis of the labor lawyer consulted by the authors, not a binding court decision.

¹¹ Workers exempt from the limit on working hours are described in Article 124. “The following are not subject to the limitations on the working day: a) The employer’s representatives. b) Those who work without immediate superior supervision. c) Those who occupy positions of surveillance or who require their mere presence. d) Those who carry out their duties outside the premises where the company is established, such as commission agents who are workers; and e) Other workers who perform tasks that by their unquestionable nature are not subject to working hours. However, all these persons cannot be forced to work more than twelve hours, except in very qualified exceptional cases that are determined in the respective regulations, in which case they are entitled to payment for overtime hours worked in excess of the twelve-hour daily limit.”

¹² IFC [Performance Standard 3](#), para. 1, fn. 1.

while the execution of the actions necessary to comply with its requirements is managed through the client’s environmental and social management system (ESMS), the elements of which are explained in Performance Standard 1.

Apart from not having been consulted and informed, without exception all the people interviewed referred to the greatest negative impact of Granja Los Pensamientos: a noxious smell that varies during the day. While some community members mentioned that the problem occurred most in the morning, others felt the effects more in the afternoon/ night, depending on the speed and direction of the wind.

“The bad smell affects us in the community, especially in the afternoon and at night, it is an ugly and very strong stench, this has been happening since the Farm began operating.” Óscar Fredy Estrada, President of the Xinka Taxisteca Indigenous Community

“The bad smell is noticed every day. At school we notice it at around 10 in the morning and it affects us because the children are distracted, they complain, and it is more difficult to work with them.” Luisa Herrarte, Teacher at the Official Rural Mixed School, Aldea La Libertad, Taxisco. Former member of COCODE.

“This community is five or six kilometers from the Farm, but we notice the bad smell here in the afternoons, when the wind blows towards the sea.” Alma Leticia López, President COCODE Aldea Don Diego, Taxisco.

There are three causes for this bad smell: 1) the air extraction system to keep the farm and the chickens raised at certain temperatures and thus in an optimal state to achieve the maximum possible growth in the 28 days planned for this; 2) the washing of the chickens before being transferred to the slaughterhouse; and 3) accumulation of chicken manure (excrement from chickens, dead chickens, and materials used as bedding in the galleys).

While some of the people interviewed believe that environmental management could be improved to avoid this smell, there are others who consider that a mitigation project is the most appropriate way to resolve this issue. However, this requires some level of communication with the company, which does not exist.

D. Community Health and Safety

This section deals with topics that for the most part are not of major relevance to Granja Los Pensamientos, such as emergencies and infrastructure security, or they have not generated a problem, such as the behavior

of the security agents. However, the company's **lack of communication generates attitudes and suspicions** towards it and, in some interviews, it is linked to repressive practices that inhibit contact with it.

On the other hand, **an aggressive attitude was mentioned on the part of company workers who would have poisoned the river of the neighboring community La Florida (near the border with the Farm) to prevent people outside the community from approaching it looking for fish and crustaceans.**

Possible health risks due to contamination or competition for the availability of water are mentioned, an issue that we could not verify was relevant in that area. However, **issues related to the bad odors of chicken manure are raising fears** in the surrounding communities.

What was repeatedly mentioned is a fear that chicken manure, which causes bad odor, attracts flies in quantities harmful to the population during the rainy season; something that can not only result in another uncomfortable and annoying effect, but even in gastrointestinal diseases, which particularly affect vulnerable groups such as children and older adults. Because the rainy season has not yet set in, it cannot be verified at the moment whether this fear is justified or not – what is evident is that with fluid and transparent communication these fears could be addressed in a more effective way.

On the other hand, the environmental and social study of IDB Invest regarding the loan to CMI Capital, highlights in this aspect “Community health and safety” that although there will be no new impacts on the health and safety of the community, CMI Foods contributes to its corporate social responsibility (“CSR”) objectives through its Juan Bautista Gutiérrez Foundation (the social arm of the CMI Group) and that, in part, contribute to community health and safety. However, **we could not verify the existence of any CSR project in the area of influence of the “Los Pensamientos” farm nor was there any knowledge of any such project by the municipal and community authorities.**

E. Land acquisition and involuntary resettlement

Not applicable, there have been no known problems related to land tenure and ownership.

F. Conservation of biodiversity and sustainable management of living natural resources

No evidence could be found of active contamination of the water of the rivers (nor that it was not contaminated) that flow into the mangrove wetlands of the Monterrico Natural Reserve. River pollution was not a complaint that arose in the interviews, so the impact on the mangrove ecosystem is considered unlikely.

However, during the construction of the CMI facilities, a river water poisoning event resulted in the loss of fish and crustaceans, which had complemented the diets of nearby communities. Fish and crustaceans still have not returned to their prior levels.

G. Indigenous Peoples

As mentioned above (PS 1), Free, Prior and Informed Consent (FPIC) comprises a process and an outcome. Performance Standard 7 (Indigenous Peoples) states that: The process is supported by the requirements for prior and informed consultation (which encompasses the requirements of a prior and free process of consultation and informed participation) and, in addition, requires negotiations of good faith (Good Faith Negotiation, GFN) between the client and the Affected Communities of Indigenous Peoples.

As we mentioned, the Xinka People have at no time been consulted, and although the Granja Lospensas project may be of a magnitude that justifies a complex FPIC process, it is necessary for the company to establish communication and dialogue with the Indigenous Peoples in its area of influence. Something that definitely has not happened, neither in the case of Granja Los Pensamientos nor in the case of Granja Chiquimulilla.

H. Cultural heritage

Not applicable, there is no cultural heritage that is affected by the construction and operation of Granja Los Pensamientos.

III. CONCLUSIONS

- **There was no consultation with either the community or the Xinka Indigenous People, nor, as far as we know, with the Municipality, both in the case of the “Los Pensamientos Farm” and in the case of the more recently established farm “Chiquimulilla”.** There has also been no form of dissemination of information about either project.

Therefore, it seems to be a recurring practice to build factory farms adjacent to populations without seeking good communication and coexistence with neighboring communities.

- Although **Corporate Social Responsibility actions** often fall short of the negative impacts that agroindustries generate for neighboring communities, **not even these have been initiated by Granja Los Pensamientos**. There is no CMI initiative in neighboring communities.
- **Bad smell is a topic that arose spontaneously in all interviews, as an annoying impact** of CMI operations. It is feared that in the rainy season, the proliferation of flies will add to the bad smell, which could cause health problems, mainly for girls and boys.
- **No person interviewed is aware of a channel of communication or complaints**; which shows that the Complaints and Claims Mechanism exists more on paper than in an accessible way for workers and communities.
- **The “open-door” policy is non-functional**, which is shown by the refusal of the CMI sustainability manager to meet with the research team. This refusal is surprising, given that in other agro-industrial companies in Guatemala it is already the norm to listen and talk with different stakeholders, to learn from their perspectives and observations and thus make “continuous improvement” a reality.
- There **is interest among municipal and community authorities in addressing the issue**. All of the interviewees have expressed interest in following up and reaching a dialogue with CMI Foods/ Granja Los Pensamientos to reach a minimum level of communication and agreements around their operations and impacts.
- A fundamental conclusion is that CMI/Granja Avícola Los Pensamientos failed to maintain required social

and environmental standards, both in its installation and in its operation. It committed to these when receiving financing from IDB Invest, which in turn has failed to undertake the on-site verification of said commitments, revealing the lax performance of IDB Invest in this matter.

IV. FOLLOW-UP ORGANIZATION AND ADVOCACY FROM THE COMMUNITIES

Following the presentation of the results set out above in the spring of 2024, the community authorities, the Xinka people's organization and other community actors decided to take action to ensure that their rights were observed.

The first step towards this was a meeting between the community authorities and other interested actors to draft a letter of request to the Mayor of Taxisco, so that the latter would call a meeting between the company (CMI Foods/ Los Pensamientos Poultry Farm), municipal authorities (Mayor, Environmental Office, Municipal Affairs Judge), social and community organizations and leaders, and public officials (Ministry of Environment and Natural Resources, Ministry of Public Health and Social Assistance, and Ministry of Agriculture, Livestock and Food).

At the same time as requesting the meeting and the formation of a dialogue/ roundtable, the aim was to advance the demands of the communities, that is, the compensation they would ask for in exchange for putting up with the bad smells and the proliferation of flies (if these were not resolved).

In parallel, researchers and community representatives requested a meeting with the Director of Corporate Affairs and Sustainability of CMI Foods to learn about its social relations policies and to address the negative effects of its operations.



Meeting called by the Municipal Affairs Judge of Taxisco.

The request letter prepared by the communities for the Municipality of Taxisco through the Municipal Affairs Judge to address the effects of the Los Pensamientos Poultry Farm was delivered. As a result, on May 6, 2024, a meeting was held, called by the Municipal Affairs Judge of Taxisco, in which the Municipal Mayor, the Coordinator of the Municipal Environmental Management Unit (UGAM), representatives of the Ministry of Public Health and Social Assistance (MSPAS), Ministry of Agriculture, Livestock and Food (MAGA), Ministry of Environment and Natural Resources (MARN); representatives of six neighboring communities (La Florida, Don Diego, La Campesina, La Libertad, San Pedrito and Río León); representatives of the Xinka people; and representatives of the Los Pensamientos Poultry Farm and CMI Foods participated.

The community members expressed their concerns about the following aspects: there was no prior, free and informed consultation with the neighboring communities or with the indigenous people present in the territory; the lack of adequate demarcation of the boundaries of the Farm; a poisoning of a river that caused the death of fish and crustaceans; the destruction and theft of crops during the Farm's construction; and the bad smell and flies generated by the Farm. In addition, they stated that there was never a response from the Farm to the community members in response to the multiple attempts to communicate with them.

The Municipal Affairs Judge drew up a Record in which the Los Pensamientos Poultry Farm and CMI committed to address, resolve or mitigate the negative effects of their operation and to maintain good relations and communication with the communities. Two dates were set for community members and representatives of public institutions to visit the Farm and learn about its operation on site, in addition to touring the boundaries and marking them appropriately; as well as for CMI to visit the communities, learn about their needs and define possibilities for cooperation.

The two agreed visits took place on May 16 and June 10, 2024. On both occasions, a group of community members, representatives of the Municipality of Taxisco, MAGA, MARN and MSPAS were able to enter the Farm and observe its operation and receive information on where the bad odors and flies originate and the measures they will take to mitigate them. During the first visit, the boundaries were visited and the Farm promised to mark and fence them appropriately. CMI offered to collaborate in improving the 1.5 km access road to the neighboring community of La Florida, which despite the efforts of its inhabitants is in a deplorable state. CMI also expressed its willingness to collaborate in solving problems that affect the communities to the

extent feasible. As a first result of the meetings and visits, CMI opened a WhatsApp group so that communities can communicate in real time any problem due to bad odors or other types of inconveniences generated by the Farm.

On June 19, 2024, the Community Development Councils (COCODEs) presented a document in which they requested the following:

- Aldea La Libertad and San Pedrito: roofing of the school, front wall and construction of a classroom;
- Hamlet La Campesina, roofing of the school, construction of a school kitchen, improvement of bathrooms and galley, and entrance gate to the cemetery;
- Hamlet Don Diego: improvement of the school--roofs, windows and construction of a kitchen.

They also requested support to manage with the corresponding institutions programs for women, health days, especially dentistry and ophthalmology for children, school kits for the prevention of cavities, school supplies and a high school and university scholarship program. This process is still underway.

"For CMI, it is important to have dialogue and reach agreements to solve problems, we should have done it before, but we have already started. We are committed to meeting high social, labor and environmental standards."
-- CMI Representative.

"It is a pity that we did not have this communication before, because with the machinery, when we built the farm we would have fixed the road a long time ago, but it is never too late, and we will bring machinery again to fix it." -- Representative of the Los Pensamientos Poultry Farm.

"We are very happy and satisfied with this process, as well as with the other communities that were willing to fight together. For us, setting and marking the boundaries is very important. They also offered to collaborate with 10 hours of machinery to fix our road. People understand each other by talking." -- Representative of the La Florida Agrarian and Peasant Community.

The communities are clear that the State (including the Municipality) is obliged to attend to the community needs and that it is essential to clean up and strengthen its operations for this purpose, but that the action of companies that are installed in their territory must also leave local benefits and, above all, maintain harmonious relations with their neighbors.

It is important to highlight that multi-sector alliances, both in the sphere of social, community, and indigenous

peoples' organizations, as well as in the municipal sphere -- together with research, organization, and advocacy processes -- with the good will of the different sectors involved, have a high viability of achieving positive results for all those involved.

Finally, it is clear that IDB Invest must actively take on the supervision of its clients' implementation of its sustainability policy and the performance standards in their operations more seriously and on the ground.

LIST OF INTERVIEWS

Óscar Fredy Estrada, President of the Xinka Taxitech Indigenous Community.

Antonio García, President of the La Florida Agrarian and Peasant Community, Taxisco.

Esaú López, Secretary of the Agrarian and Peasant Community of La Florida, Taxisco.

Juan Andrés Méndez, President COCODE Aldea La Libertad, Taxisco.

Luisa Herrarte, Teacher at the Official Rural Mixed School, Aldea La Libertad, Taxisco. Former member of COCODE.

Alma Leticia López, COCODE Don Diego Village, Taxisco.

Marisol Gaitán, President COCODE La Faja, Chiquimulilla.

Francisco Corado, Former member of the COCODE of La Libertad Village.

Ever Benito, President of the Xinka Indigenous Community of Guazacapán.

Vidal Montepeque, Mayor of Taxisco.

William Rodríguez, Head of the Municipal Office of Environment and Natural Resources, Taxisco.

Cesáreo Fonseca, President of the Evangelical Pastors, Guazacapán, Santa Rosa.

Elí Sazo, Evangelical Pastor, Guazacapán, Santa Rosa.

Percy Méndez, Labor lawyer.

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FIELD VISIT PHOTOGRAPHS



Oficina Municipal de Medio Ambiente y RRNN Aldea la Libertad



Con el Presidente del COCODE Taxisco



Comunidad Agraria y Campesina La Florida



Con el Alcalde Municipal de Taxisco



Comunidad Indígena Xinka Taxisteca



Aldea La Libertad