



GLENCORE IN PERU

THE ANTAPACCAY CASE AND AN
ANALYSIS OF COMPLIANCE WITH
INTERNATIONAL HUMAN RIGHTS DUE
DILIGENCE STANDARDS

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ACRONYMS

CENSOPAS	National Centre for Occupational Health and Environmental Protection for Health (<i>Centro Nacional de Salud Ocupacional y Protección del Ambiente para la Salud</i>)
DIRESA	Regional Directorate of Environmental Health (<i>Dirección Regional de Salud Ambiental</i>)
EQSs	Environmental quality standards
EIA	Environmental impact assessment
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation
ILO	International Labour Organization
IPEN	Peruvian Institute of Nuclear Energy (<i>Instituto Peruano de Energía Nuclear</i>)
MEIA	Modified environmental impact assessment
MINAM	Ministry of the Environment (<i>Ministerio del Ambiente</i>)
MINCUL	Ministry of Culture (<i>Ministerio de Cultura</i>)
MINEM	Ministry of Energy and Mines (<i>Ministerio de Energía y Minas</i>)
OECD	Organisation for Economic Co-operation and Development
OEFA	Agency for Environmental Assessment and Enforcement (<i>Organismo de Evaluación y Fiscalización Ambiental</i>)
PCM	Presidency of the Council of Ministers (<i>Presidencia del Consejo de Ministros</i>)
SENACE	National Environmental Certification Service for Sustainable Investments (<i>Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles</i>)

1. EXECUTIVE SUMMARY

This report looks at Glencore's operations in Peru, focusing on the environmental and social impacts of Antapaccay's mining activities in Espinar Province, in the southern Andean region of Cusco, which is an ancestral territory of the Quechua and K'ana Indigenous peoples.

It finds that Glencore is not fully complying with international environmental, social or Indigenous rights standards. On the contrary, Glencore consistently does the minimum required by national legislation, which in Peru has large gaps in these areas.

The report reveals serious omissions by the company and includes recent information about the environmental impacts of the mining activities and the land negotiation processes in the company's expansion plans. It also offers recommendations on how Glencore could bring its performance in line with its international commitments.

Key findings

- **Recent official reports¹ offer new information that shows a causal link between Glencore's operations and pollution in Espinar.** A due diligence approach should lead the company to take the initiative in determining this causality and taking measures to resolve it.
- The expansion of the mining project into a new area called Coroccohuayco would involve a significant enlargement of more than 20,000 hectares, an area larger than a country such as Liechtenstein.² However, **in the negotiation process for the acquisition of land from Indigenous communities, Glencore does not appear to adhere to the principles of due diligence and best practices to guarantee the collective rights of Indigenous peoples.** The process is being carried out with contradictory information and without providing communities with the objective studies necessary to value the land.³ In addition, the company has not been clear in acknowledging that the proposed enlargement⁴ would almost obliterate at least one community (Pacopata) and would therefore require a resettlement plan, in accordance with the recommendations of ILO Convention 169⁵ and IFC Performance Standard 5.⁶
- Consultation and free, prior and informed consent are fundamental rights of Indigenous peoples, recognized by international instruments. For the Coroccohuayco project, the Peruvian state is conducting an irregular consultation process, which ignores Peruvian regulations and does not take into account the recommendations of the Ombudsman's Office.⁷ **Glencore claims to respect this consultation. However, in order to comply with the principles of human rights due diligence, it should not shirk its responsibilities based on the decisions of the Peruvian government; rather, it should demand proper prior consultation to ensure the meaningful involvement of the affected communities,** and substantive agreements on how this should be carried out.
- Since they began in the 1980s, mining activities in Espinar have given rise to a series of environmental and social violations that have caused constant conflict. We hope that this report will be a useful tool for Glencore to avoid repeating the mistakes that owners of the Tintaya-Antapaccay project have made in the past. We also hope that it will enable the company and its investors to thoroughly evaluate its current performance and bring it in line with the best international standards and practices.



2. GLENCORE IN PERU AND THE ANTAPACCAY CASE

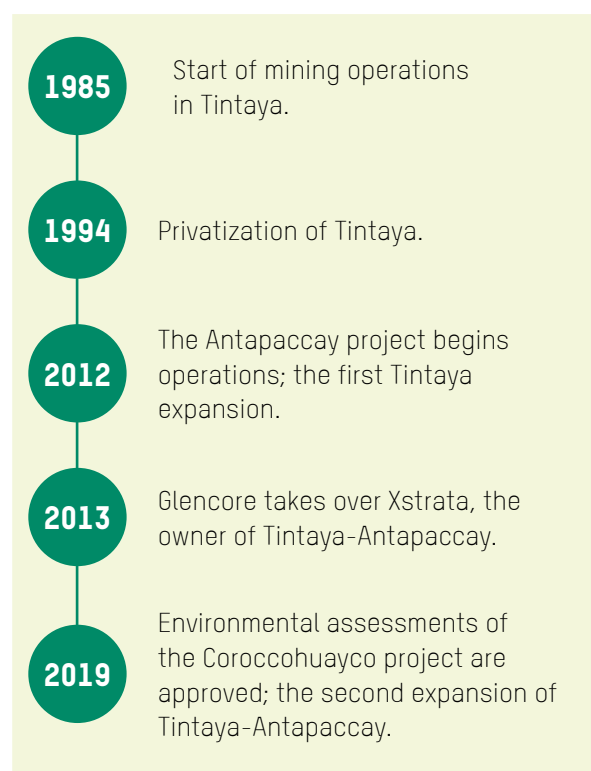
In Peru, Glencore has significant investments in several mining companies: Antamina, Antapaccay S.A., Los Quenuales and Volcan.⁸ This report focuses on Antapaccay S.A., which operates a major copper mining unit in the district and province of Espinar, Cusco Region, which is an ancestral territory of the Quechua and K'ana Indigenous peoples.

The mining unit is an open pit operation. Box 1 provides a timeline of the history of the mine. Initially it covered an area called Tintaya which, from 1985, was operated by a state-owned company. In 1994, it was purchased by Magma Copper Company and in 1996 it was taken over by Broken Hill Proprietary Company (BHP). In 2001, this group merged with Billiton and in 2006 Xstrata purchased the mining unit.

In 2012, the mine expanded into the Antapaccay area, and a new expansion process into the Coroccohuayco area is currently underway.

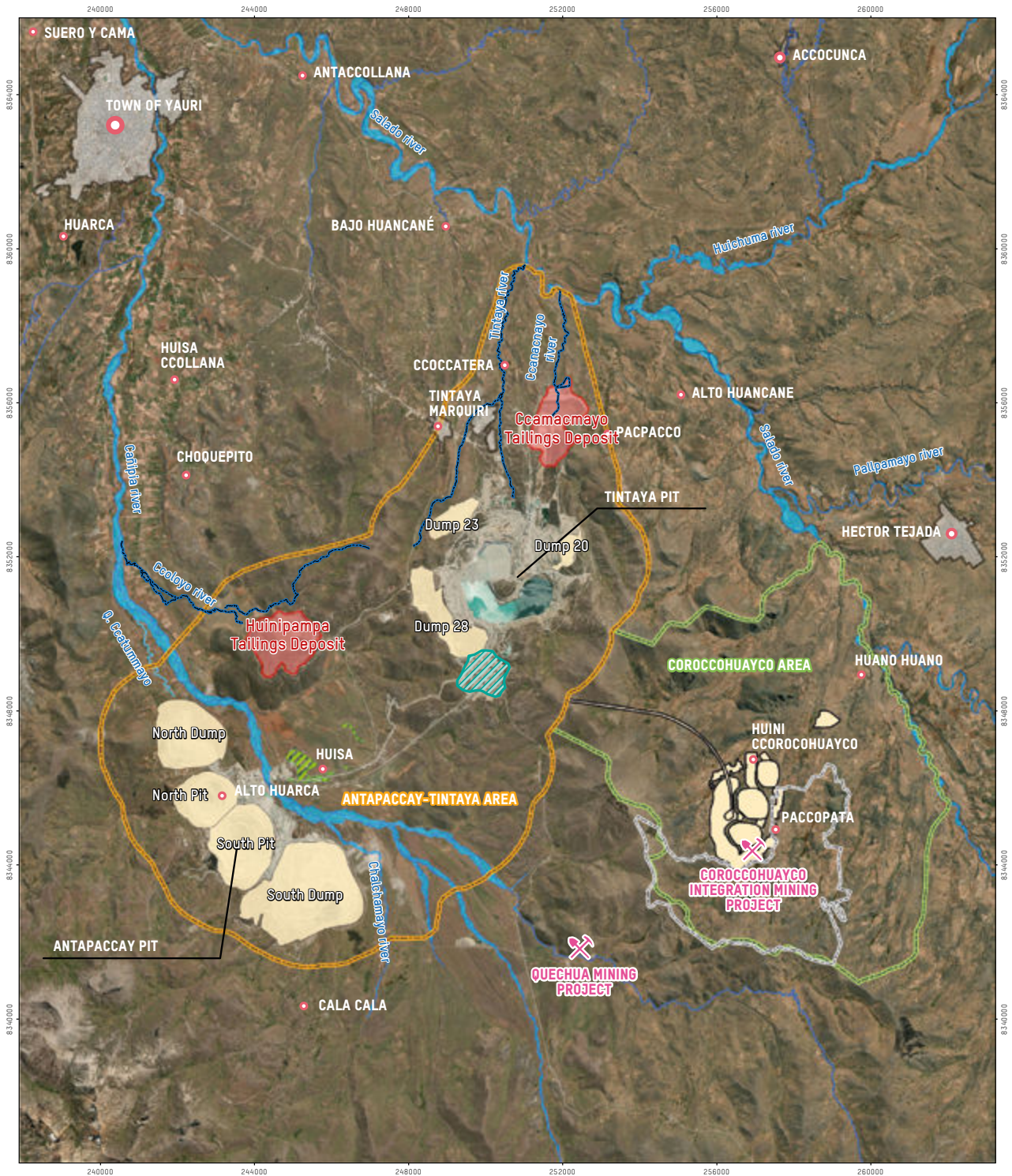
In 2013, Xstrata was taken over by Glencore, which became the new owner of the mining unit.

Box 1. Timeline: Glencore and mining in Espinar



Source: Prepared by CooperAcción.

Map 1. Area of influence of the Antapaccay-Tintaya mine, Espinar Province, Cusco



LEGEND

- Provincial capital
- District capital
- Population center
- River
- Ravine
- ⚡ Mining project
- Urban limit
- Mining project components
- Wetland
- Mine tailings
- Processing plant
- Antapaccay-Tintaya area
- Coroccohuayco-Exp area

Universal Transverse Mercator (UTM)
 Vertical Datum: Mean Sea Level
 Horizontal Datum: WGS 84
 Zone 19 South

CooperAcción

Map: **Area of influence of the Antapaccay-Tintaya mine, Espinar Province, Cusco**

Prepared by: CooperAcción Team	Date of preparation: August 2023	Map N°: M-01
Location: Espinar Espinar - Cusco	Scale: 1:90,000	

Sources:
 Community Information - National Map 1:100 000 - IGN, DEM Alos Pizarra and Aster (2008).
 INEI (2017) - MTC (2016) - MINAGRI (2014) - Folio LB-06 Figure:3.1.3-3
 MEIA ANTAPACCAI TINTAYA EXPANSION - COROCCOHUAYCO INTEGRATION

Source: Prepared by CooperAcción.

By 2022, the mine was projected to expand by more than 20,000 hectares: 13,568.6 hectares in the Antapaccay-Tintaya area and 6,810.98 hectares in the Coroccohuayco area (Map 1).⁹ This is an area larger than Liechtenstein or the Marshall Islands.

However, these figures are currently being revised. The project was in the feasibility stage and its modified environmental impact assessment (MEIA) was approved in 2019, but in 2021 it reverted to the pre-feasibility phase.¹⁰ In a letter on 8 September 2023,¹¹ Glencore stated that the data from the 2019 MEIA should be ignored, and that the company will prepare a new EIA.

Over three decades, the mining unit has grown larger and larger and there have been constant changes to its environmental permits.¹² This makes it difficult for communities to have a full picture of the project and its impacts.

2.1 GLENCORE AND HUMAN RIGHTS DUE DILIGENCE STANDARDS

In Peru, national legislation on the environment and the rights of Indigenous peoples has been found by various studies to contain gaps, contradictions and weaknesses. **Peruvian legislation therefore offers a very weak standard for considering that due diligence has been fully complied with in the areas of human rights, environmental protection and Indigenous rights.**

Glencore has signed up to numerous statements of commitment and initiatives concerning respect for human rights, due diligence and the free, prior and informed consent and participation of communities. Glencore claims¹³ to be committed to the UN Guiding Principles on Business and Human Rights and the Universal Declaration of Human Rights. It supports the 10 principles of the UN Global Compact and the Sustainable Development Goals, as well as the Due Diligence Guidance for Responsible Business Conduct of the Organisation for Economic Co-operation and Development (OECD). It states that it operates in accordance with the Voluntary Principles on Security and Human Rights, Performance Standard 5 of the International Finance Corporation (IFC) on land acquisition and involuntary resettlement, and the Position Statement on Indigenous Peoples and Mining, which forms part of the Declaration of Mining Principles of the International Council on Mining and Metals (ICMM). In addition, Glencore has developed its own standards on free, prior and informed consent,¹⁴ together with other instruments such as a code of conduct and a human rights policy.¹⁵



3. CRITICAL POINTS IN THE RELATIONSHIP BETWEEN GLENCORE AND ITS ENVIRONMENT

3.1 POLLUTION

Pollution in Espinar is an established fact that has been proven in numerous independent and official studies (see Box 3). The discussion is not about whether there is pollution, but rather its origin. While people living in the vicinity of Antapaccay mainly associate the pollution with the mining operations, the company maintains that the origin of this problem is natural, due to the geological characteristics of the area (see Box 2).

In this report we present new official studies indicating that there is pollution that has a causal link to the mining activity.

Box 2. What does the company say?

Glencore rejects any responsibility for pollution in Espinar. It states that 'the 13 rural communities living around Antapaccay draw water from springs, separate from the Salado and Cañipía rivers. Due to natural causes, these springs contain naturally occurring heavy metals', and that 'the water used by the Antapaccay mine is not connected to the province's source of drinking water'.¹⁶ It also says that Antapaccay 'does not draw or discharge water from the same catchment area used for the Espinar urban area and treats the small amount of water that is discharged into the Salado and Cañipía rivers'.¹⁷ The company claims that in the Participatory Health and Environment Monitoring Report¹⁸ 'no causal link was made to Antapaccay's operations'.¹⁹

Box 3. Documented pollution in Espinar

In Espinar, the presence of toxic metals in the environment and in people has been documented for more than 10 years.

2010

A study²⁰ by the National Centre for Occupational Health and Environmental Protection for Health (CENSOPAS) showed that the residents of Espinar were exposed to mercury and arsenic through the water they consumed.

2013

A Participatory Health and Environment Monitoring Report²¹ confirmed the presence of contamination in the areas of the mining operations.

2013

A CENSOPAS study showed that residents of Alto Huanané and Huisa were exposed to dangerous levels of arsenic, cadmium, manganese, mercury, lead and thallium (100 %).²²

2018

The Regional Directorate of Environmental Health of Cusco (DIRESA) analysed samples from the drinking water treatment plant in the town of Yauri, Espinar.²³ It found that the levels of aluminium, arsenic, iron and manganese exceeded the maximum permissible limits and warned of an imminent risk to public health.

2021

The monitoring of water for human consumption for 13 communities in Espinar presented by General Directorate of Health and Food Safety for the Multisectoral Commission²⁴ found that 82 % of the 157 samples analysed exceed the maximum permissible limits for arsenic, aluminium, iron, mercury, lead and other contaminants.

3.1.1 Cause of the pollution

Six environmental assessment studies produced by the Agency for Environmental Assessment and Enforcement (OEFA) between 2022 and 2023²⁵ link the pollution to the Antapaccay operations. The main findings of these studies are presented below.²⁶

■ Air quality

Two OEFA reports on air quality²⁷ show that pollution levels exceeded the environmental quality standards (EQSs) on numerous occasions, due 'to emissions of PM10 particulate matter from the activities carried out by the Antapaccay auditable unit, confirmed by the analysis of back trajectories, mineralogy and receptor modelling'.²⁸

■ Water quality and quantity

Three OEFA reports address the causality of surface water and groundwater contamination.

The first and second²⁹ concludes that mining effluents did not comply with the water quality standard for irrigation and livestock use at six of the locations studied,³⁰ and that 'these results differ from CMA's³¹ commitments to supply good quality water for irrigation and livestock drinking purposes as indicated in the EIAs'.³² It also finds that in at least two locations (Chalchamayo River and Ccatunmayo ravine) leachates from the north and south dumping sites are affecting water quality, including the presence of metals.³³ This is due to the fact that these leachates flow through ravines or infiltrate into the ground because there is no impermeable barrier between the filtration and the soil.³⁴

The third report³⁵ establishes that the physicochemical composition of various groundwater and surface water courses are being influenced by the mining installations. This report also mentions lowering of the water table and drying up of springs as being related to the drainage of the pits. **Its findings reveal that:**

Source: Prepared by CooperAcción.

the project has had a greater impact than anticipated in the initial studies. The decrease in groundwater levels in peripheral areas and the occurrence of subsidence underline the need to pay special attention to the effects on the hydrogeological system and the stability of the land.³⁶

■ Impact on flora and fauna

Three reports³⁷ assess the contamination of flora and fauna, finding heavy metals in wild species of Andean grass³⁸ and other plant tissues in areas around the mine,³⁹ as well as in reptiles and birds.⁴⁰ Regarding domestic animals, one report notes that:

it has been proven that there are concentrations in excess of the maximum tolerable levels in the food for livestock (pastureland and plants associated with pastureland) due to the presence of PM10 particulate matter from the mining components, pits and dumps north and south of the Antapaccay auditable unit. That is believed to be causing the various impacts on domestic (ruminants) and wild fauna.⁴¹

Moreover, it is proposed that some areas should be considered 'unsuitable for grazing',⁴² which was not one of the expected environmental impacts.

3.1.2 Proven causality?

The recent OEFA studies are a new milestone, but indications of causality have been documented in previous studies.⁴³ This is important because there were already sufficient reasons for Glencore to take measures.

How many studies are needed for it to be accepted that the contamination comes from the mine?

For the residents of the area, this has been clear for many years, but their perceptions have been minimized and denied (Box 4).

The new evidence seems to confirm the opinion of the local population that there is contamination that has its origins in the mining activities and not in the local geology.

Glencore confirmed in a letter from September 2023 that it is aware of these studies and notes that 'the reports were shared with Antapaccay for review. This review process is ongoing and Antapaccay will continue to collaborate with the Peruvian authorities to provide feedback.'⁴⁴

In accordance with OEFA's Evaluation Regulations, these reports have been sent to the Directorate of Environmental Supervision in Productive Activities; if applicable, that agency will issue a supervision report recommending that an administrative sanctioning procedure be opened. To date, no supervision report has been issued.

We hope that the results of this evaluation do not reaffirm the belief that civil society organizations have held for many years: that the evidence is there, but officials in state institutions avoid clearly attributing responsibility.

Box 4. Testimonials

'WE ARE SICK'



Photo credit: Jacob Balzani-Lööv.

Cristina Choque Castillo, 64, and her 21-year-old son, Fran, on their land near the Ccoccareta ravine, three kilometres downstream of the Tintaya-Antapaccay tailings deposit. Cristina associates Fran's disability with the fact that she continued to drink water from the Ccoccareta River when she was pregnant.

'WE LIVE OFF OUR SMALLHOLDING. WE GROW POTATOES, CAÑIHUA AND QUINOA, BUT IT'S NOT LIKE IT USED TO BE; THE LAND NO LONGER GIVES A GOOD HARVEST. I DON'T KNOW WHERE WE'RE GOING TO GO, WHO'S GOING TO SOLVE THIS PROBLEM. WE'RE SICK AND WORRIED.'⁴⁵

'LOOK AT MY LITTLE SON; THIS BOY IS 21 YEARS OLD. HE COULD BE OKAY, BUT HE'S LIKE A WAWA [BABY]. HE CAN'T DO ANYTHING; I HAVE TO WASH HIM, COOK FOR HIM, FEED HIM, WASH HIS CLOTHES, SORT HIM OUT. HE'S ALWAYS WITH ME; HE DOESN'T LEAVE MY SIDE. IT'S SO SAD. IT WORRIES ME; I DON'T KNOW WHEN I'M GOING TO DIE, I DON'T KNOW WHO'LL LOOK AFTER MY SON. I KNOW I'M GOING TO DIE BECAUSE I HAVE A DISEASE. I DON'T KNOW WHERE I'LL BE ABLE TO TAKE HIM. I CAN'T DO ANYTHING.'

'ALL THE WOMEN ARE SICK. THIS MORNING MY NEIGHBOUR CAME, TOO, AND TOLD ME THAT SHE'S UNWELL. I USED TO HAVE LOTS OF FAMILY. MY MOTHER-IN-LAW DIED OF CANCER OF THE STOMACH AND KIDNEY ... I HAD AN AUNT WHO DIED OF KIDNEY CANCER. NOW THERE ARE ONLY A FEW OF US LEFT.'

'THIS RIVER USED TO BE CLEAN ... NOW WE'VE ALL BEEN AFFECTED BY HEAVY METALS. THERE ARE LOADS OF CHILDREN LIKE HIM [FRAN]. IN ALTO HUANCANÉ AND BAJO HUANCANÉ THERE ARE FIVE OR SIX CHILDREN WHO'VE BEEN AFFECTED LIKE HIM. THEY'RE SPECIAL; THEY CAN'T READ OR COUNT. I'M TEACHING HIM, BUT HE DOESN'T GET IT.'

Cristina Choque's land is located on the lower terraces of the Tintaya (Cocccareta) River, which is frequently mentioned in OEFA reports as an area affected by the Tintaya tailings deposit: 'It is established that the leachates from said tailings deposit are affecting the chemical composition of the groundwater and that those underground flows go towards the waters of the Tintaya and Salado rivers'.⁴⁶ In addition, Dump 23 presents the 'potential for leaching by meteoric water to surface water, groundwater, sediments and soils adjacent to the dump,' and 'it is established that leachates from Dump 23 are affecting the chemical composition of the groundwater, infiltrating into those subterranean environments (groundwater), with underground flows towards the Tintaya and Salado rivers'.⁴⁷

3.2 LAND

Glencore states that for the Coroccohuayco project, 'the land acquisition will be performed in accordance with Peruvian law and IFC Performance Standard 5'.⁴⁸

However, the land negotiation process is repeating the mistakes of the past and we believe that it does not meet the international standards recommended for Indigenous peoples. The population of the area is mainly made up of Indigenous communities⁴⁹ and their collective existence is closely linked to the territory and their ownership of the land. In such cases, there are special protection standards that are recognized by ILO Convention 169 (Article 16, paragraph 2), the UN Declaration on the Rights of Indigenous Peoples (Article 10) and the IFC Performance Standards.

From the beginning and through its successive expansions, the mining operation has caused the fragmentation of communities and loss of territory, affecting communal ownership of their lands and their very existence as Indigenous peoples. The Coroccohuayco expansion is repeating that story.

3.2.1 Background: the long history of fragmentation of Indigenous territory

This section presents background information on how communities' territories have been fragmented over several decades since the start of mining activities in the area, which is relevant to understanding the current situation of Indigenous communities and their territory. We believe these are mistakes that Glencore (which acquired the project in 2013) should not repeat.

The mining operation has, at several stages, involved the expropriation or purchase of land from peasant communities, adopting a private negotiation approach that would be suitable for standard property but not for lands that can be considered communal territory, as indicated in ILO Convention 169.

The reduction of communal territory by expropriation and purchase generated social unrest and, in 2001, a dialogue table was formed to address this issue. As a result, affected families

were compensated with land in different locations, far from their community's territory.

In 2010, a new expansion process began into Antapaccay, on land that mainly belonged to the Alto Huarca and Huisa communities.

For the third expansion zone (Coroccohuayco), the first lands (400.85 ha) were purchased from the Huano Huano community in 1997,⁵⁰ 26 years ago, in the area corresponding to its Pacopata and Huini Coroccohuayco annexes.

With the sale of the land, the annexes became disconnected from each other and lost access to the Huano Huano River and collective goods such as pastureland, animal bathing areas, ancestral trails and areas of significant cultural and religious value.⁵¹

3.2.2 Coroccohuayco: repeating the same story

In the Coroccohuayco project, these past mistakes are being repeated, leading to greater fragmentation of communities, loss of territory and the risk of their disappearance.

We have identified a lack of transparency and contradictions regarding the amount of land the company needs to acquire for the project. This has made it impossible for the community to negotiate in an informed manner.

In the Coroccohuayco MEIA, Antapaccay stated that it needed to acquire land from four communities (Huano Huano, Huini Coroccohuayco, Pacopata and Alto Huarca). However, there has been a significant difference between what it officially informed the Peruvian government via the MEIA⁵² and what has been said to communities in bilateral dialogue on the acquisition of the land, which we have been able to verify directly for the case of the Pacopata community.

■ Bilateral dialogue on land acquisition

Since 2020, at the height of the COVID-19 pandemic, people from the company began visiting the communities to discuss the land acquisition process.⁵³

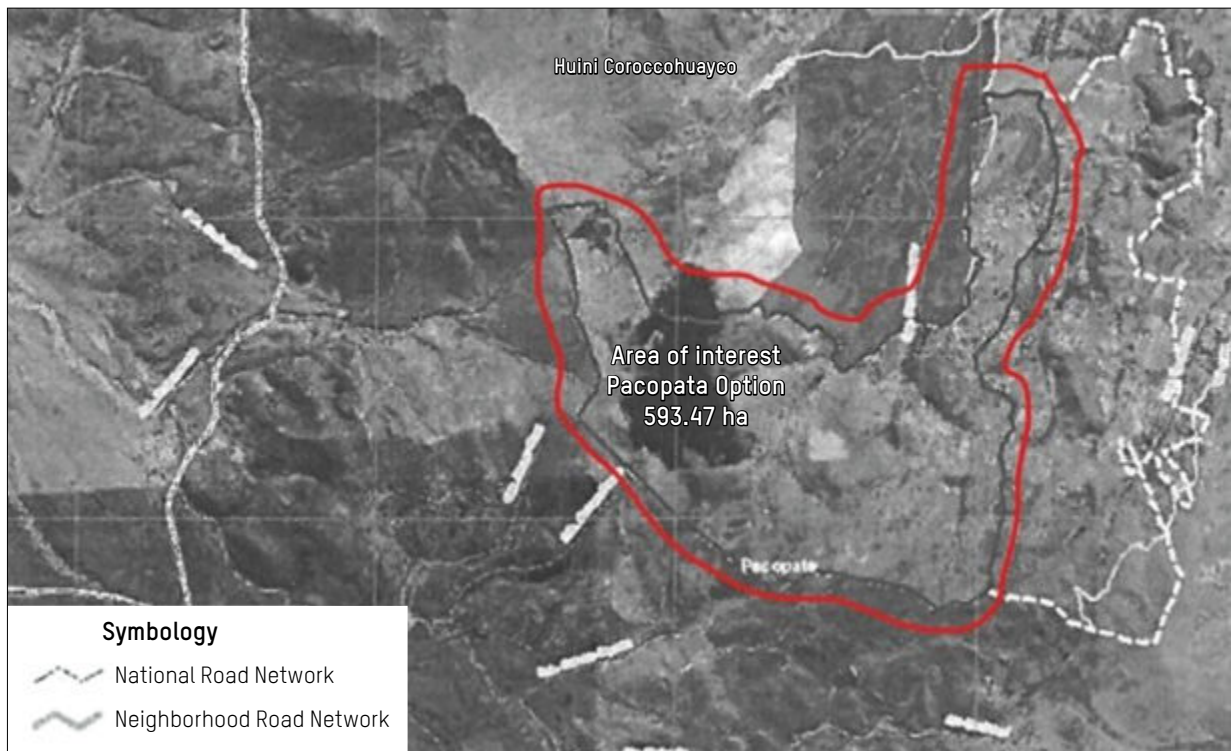
In the case of Pacopata, a community that CooperAcción has advised directly, in April 2022 the company and the community signed an agreement to carry out baseline, census, land registry and inventory studies. As a result of that agreement, Glencore had access to the communal territory and the possibility of engaging in dialogue with every community member.

The company began its studies and set up the dialogue committee. At that time, it sent a purchase offer to the community of Pacopata. This is noteworthy because **the studies should have provided information for the land negotiation**

process and should not have been conducted in parallel to it.

According to the accounts of community representatives and a copied document that was given to them, Glencore proposed to acquire 593.47 hectares (Map 2), an area much larger than that stated in the MEIA (70 hectares, 6 % of its territory). The proposal was accompanied by a printed PPT. This is not an appropriate way to present a land negotiation proposal, which should have been delivered as a formal document, signed by the company representative, with accurate and clear information about what was being requested.

Map 2. Map provided as a PPT by Glencore to the community representative of Pacopata in 2022



Source: Personal communication with community representative.

The community, with the help of CooperAcción, georeferenced the image, which revealed a larger area than indicated (810.25 hectares). The community representative told us that following a complaint made by the community, in June 2022 they received a map from the company that had an image indicating an area of interest of 960 hectares.

The community also georeferenced this second image, which again calculated the area as

higher than that stated in the proposal (at 1208.62 hectares). **This meant that only 211 hectares would remain in the communal territory, a significant reduction that would jeopardize the community's very existence.**

The lack of transparency in the information provided is remarkable. Table 1 summarizes the contradictions in the Pacopata negotiation.

Table 1. Differences between the area stated in the company’s purchase offers and the area calculated using georeferencing

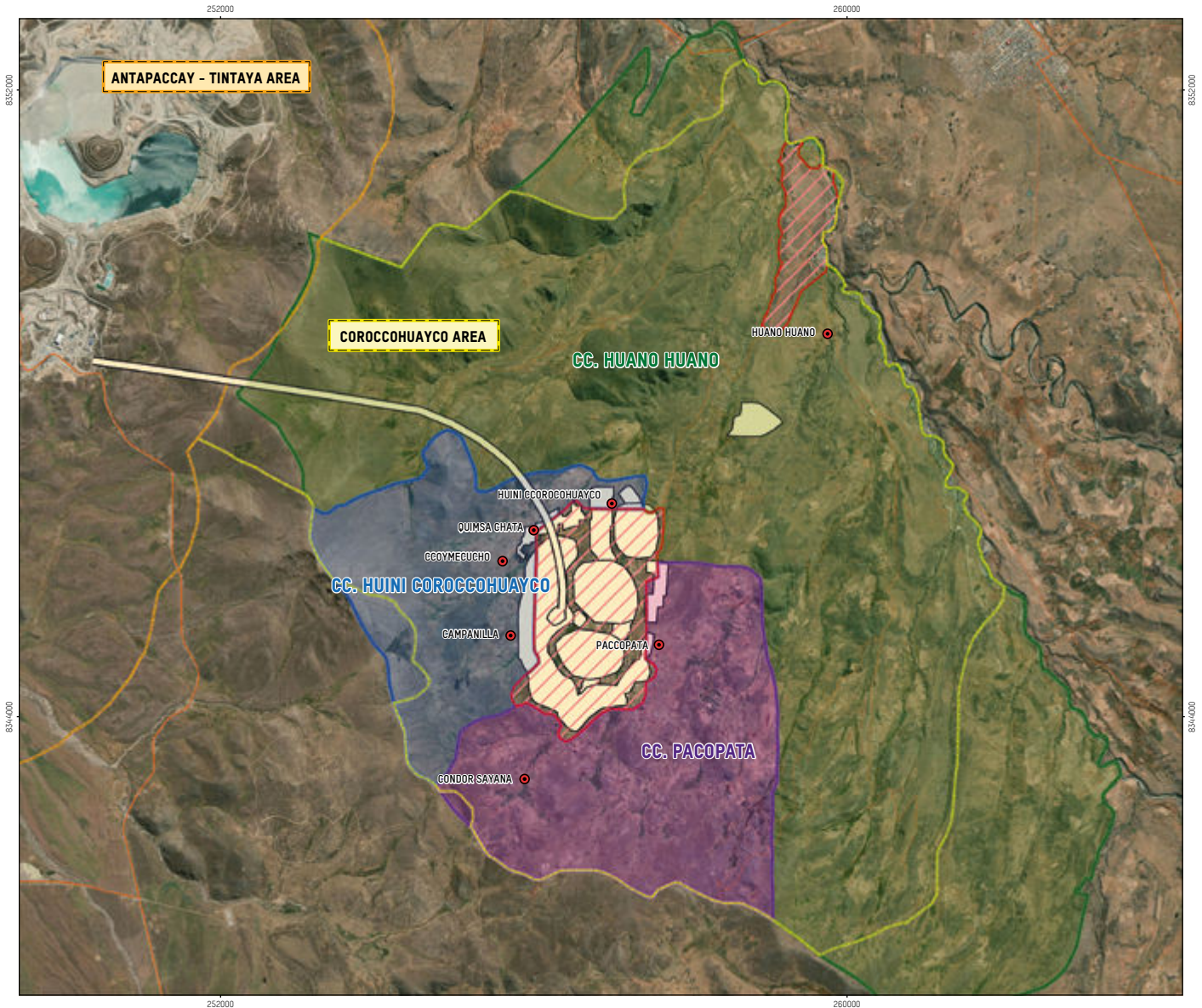
	Amount of area occupied by Pacopata
Report No. 1017-2019-SENACE-PE/ DEAR approving Corocchohuayco MEIA (p. 221)	70 ha (6 % of the community’s territory)
First purchase option proposal*	593.47 ha (42.02 % of the community’s territory)
Georeferencing on image included in the purchase option proposal sent by the company (Map 3)	810.25 ha (57.37 % of the community’s territory)
Second map provided by the company**	960 ha (67.99 % of the community’s territory)
Georeferencing of the second map provided by the company in June 2022 (Map 4)	1208.62 ha (85 % of the community’s territory)

Notes: *This appears on the map provided by the company to the then-president of the community of Pacopata; ** Provided by the company to the then-president in June 2022.

Source: Prepared by CooperAcción.



Map 3. First map georeferenced by CooperAcción for the community of Pacopata



LEGEND

● Population centers	Peasant communities
— National Road Network	CC. Huano Huano
— Departmental Road Network	CC. Huini Coroccohuayco
— Neighborhood Road Network	CC. Pacopata
⊕ Mining project components	
⊗ Private property	
Project areas	
Antapaccay-Tintaya area	
Coroccohuayco area	

CooperAcción

Map: **Intervention Map**
Mining Project Components - Peasant Communities

Prepared by: CooperAcción Team	Date of preparation: May 2021	Map N°: P-01
Location: Espinar Espinar - Cusco	Scale: 1:45,000	

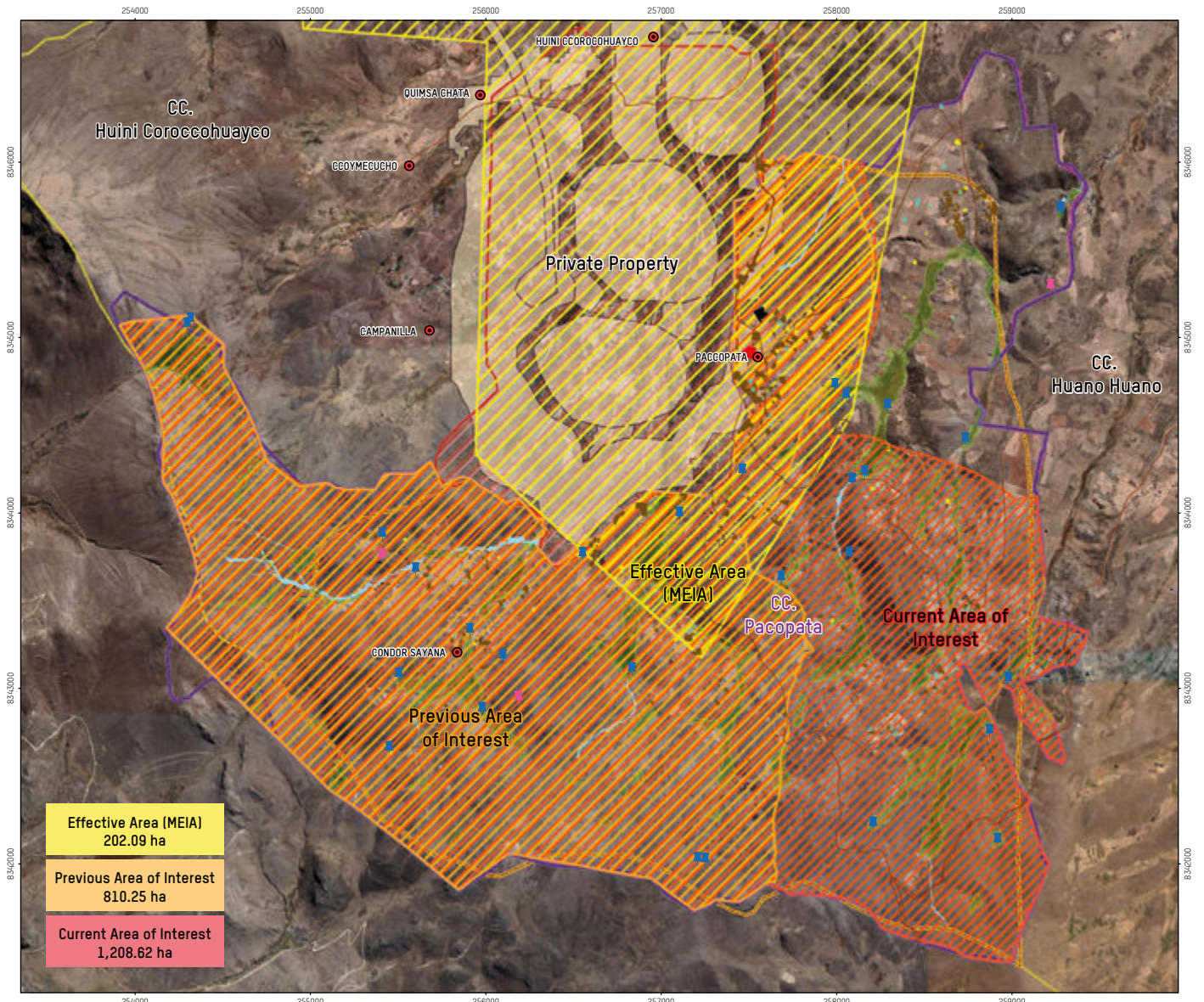
Source: National Map 1:100 000 - IGN, DEM Alps Palsar and Aster (2008), INEI (2008) - MTC (2016) - MINAGRI (2014) - Folio L8-06 Figure 3.1.3-1 MEIA ANTAPACCAY TINTAYA EXPANSION - COROCCOHUAYCO INTEGRATION

N
Universal Transverse Mercator (UTM)
Vertical Datum Mean Sea Level
Horizontal Datum WGS 84
Zone 19 South

1 0.5 0 1 Km

Source: CooperAcción.

Map 4. Second map georeferenced by CooperAcción for the community of Pacopata



LEGEND	
	Archaeological Sites
	Springs
	Population Centers
	Neighborhood Road Network
	Effective Area
	Previous Area of Interest
	Current Area of Interest
	Private Property (MEIA)
	Mining project components
	Referential Limit CC. Pacopata (CooperAcción)
	Limit CC. Pacopata (Company)
	Limit CC. Pacopata (MEIA)
	CC. Huini Coroccohuayco (MEIA)
	Current Land Use
	School
	Housing
	Micro-reservoir
	Mini Stable
	Ravines
	Bofedales

CooperAcción

Map: Map of the Areas of Interest Development of the mining company's areas of interest in the indigenous peasant community of Pacopata.		
Prepared by: CooperAcción Team	Date of preparation: October 2022	Map N°: M-02
Location: Espinar Espinar - Cusco	Scale: 1:20,000	
Source: Prepared by CooperAcción - National Map 1:100 000 - IGN, DEM Alos Palsar and Aster (2008). MEI (2008) - MTC (2016) - MINAGRI (2014) - Foto L9-08 Figure.3.1.3-1 MEIA ANTAPACCAI TINTAYA EXPANSION - COROCCOHUAYCO INTEGRATION		

Universal Transverse Mercator (UTM)
 Vertical Datum Mean Sea Level
 Horizontal Datum WGS 84
 Zone 19 South

0.4 0.2 0 0.4 Km

Source: CooperAcción.

■ Displacement and resettlement

Although the proposed purchase by Glencore would encompass 85 % of the community's territory, according to our georeferencing, **the proposal did not consider collective resettlement. The company was asking to purchase such a large area that the community's territory would practically disappear, but it was not transparent in explaining this** and did not raise on its own initiative the need for resettlement or relocation, thus failing to fulfil its commitment on due diligence and best practices regarding human rights and Indigenous peoples.

The community realized that the reduction of the territory could cause its disappearance, which is why it raised the need for resettlement under equal or better conditions, a development fund, compensation and other benefits. In response, the company made a counterproposal setting out three options: financial compensation, individual resettlement, or collective resettlement.⁵⁴ Thus, it was not until the community, by its own means and based on independent advice, understood the consequences of the project, that the company was forced to raise the possibility of resettlement. In its handling of the situation, the company violated the principle of due diligence that requires it to make all necessary efforts to respect human rights.

To mitigate the impacts of the reduction of the communal territory, during the Coroccohuayco MEIA evaluation process, Glencore proposed a land acquisition plan in response to the demand for a resettlement plan. However, that plan does not meet the requirements of IFC Performance Standard 5, which states that: 'The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan or a Livelihood Restoration Plan.'⁵⁵

A resettlement or livelihood restoration plan cannot be replaced by a mere land acquisition plan. The former involve guaranteeing the right to collective existence of Indigenous peoples, while the latter amounts to fragmenting the communal territory, leaving each family to resolve its situation individually, which ultimately leads to the disappearance of Indigenous communities.

The National Environmental Certification Service for Sustainable Investments (SENACE) considered that as population displacement was involved, Glencore should submit a resettlement proposal in accordance with ILO Convention 169 and other national and international standards. However, this request was dismissed by the company using a legal argument in a Resolution of Observations drafted by the consultancy Golder Associates, dated March 2019 (p. 544): 'a Relocation Plan is not appropriate either. This is because in Peru there is no legal or regulatory standard that establishes the assumptions or the requirement of carrying out a Population Relocation Plan in relation to mining investment projects'.⁵⁶

Instead, the company proposed a land acquisition plan. Accepting this reasoning, SENACE approved the MEIA in December 2019, disregarding the need to protect collective rights.

The company therefore exploits weak Peruvian legislation, ignoring the requirements of the IFC Performance Standards, ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples. Similarly, it ignores the UN Human Rights Due Diligence Policy.

It should be noted that the need for resettlement is one of the scenarios in which not only consultation but also the consent of Indigenous peoples is required, according to ILO Convention 169 and international jurisprudence on human rights, as well as Article 8 of the Law on Internal Displacement, Law 28223.

3.3 CONSULTATION AND FREE, PRIOR AND INFORMED CONSENT

Glencore has stated that:

in accordance with Peruvian environmental and social regulations for mining activities and the UN Guiding Principles for Business and Human Rights, Antapaccay has carried out public consultations in communities surrounding the Coroccohuayco project as part of its environmental impact assessment. As part of the permitting process, the Ministry of Energy and Mines, with support from Antapaccay, is carrying out targeted consultations of the local communities in accordance with Peruvian legislation.⁵⁷

What is certain is that prior consultation of Indigenous peoples is being carried out in an irregular manner,⁵⁸ in breach of the requirements of Peruvian law and disregarding the substantive rights protection measures sought by international law. This section outlines how this is the case.

3.3.1 Coroccohuayco and prior consultation

In 2018, Antapaccay submitted the MEIA for the Coroccohuayco project to SENACE, the state agency responsible for evaluating detailed EIAs and their modifications. At that time, the communities of Tintaya Marquiri and Huini Coroccohuayco requested a prior consultation process.

Peru's Ombudsman's Office⁵⁹ considered that this request was in accordance with the law, as the best time to conduct a consultation is during the EIA, since it provides concrete and specific information on the various components of a project, and measures can be incorporated to prevent, minimize or correct such impacts. The Inter-American Court of Human Rights has also issued similar decisions in several judgments, including the case of the Saramaka People versus Surinam in 2007.⁶⁰

SENACE stated that it was not appropriate to carry out prior consultation because Peruvian legislation includes it in a later decision (the authorization

to commence operations) issued by the Ministry of Energy and Mines (MINEM). In response, the communities of Pacopata and Huini Coroccohuayco made a judicial demand for prior consultation and free, prior and informed consent.

In its letter from September 2023, Glencore states that according to Peruvian legislation prior consultation 'does not apply for the approval of environmental impact assessments or their amendments'.⁶¹ This is a strictly legal interpretation. We wonder what proactive steps Glencore takes to ensure that this process complies not only with Peruvian legislation but also with the international due diligence guidelines and IFC standards, among other instruments that the company has signed. How has it ensured that communities' opinions can influence the substantive aspects of the project?

In addition to these substantive aspects, there are formal aspects that mean that the process currently being carried out by the state is irregular.

In order to calm the communities' protests, in February 2020 MINEM approved a plan for the authorization to commence mining operations, an administrative decision whose approval procedure includes prior consultation. At that time (and to date) the company had not requested the authorization to commence operations. Despite this, MINEM began the prior consultation 'ex officio'.⁶² We believe that, given the manner in which these events took place, the consultation became an irregular process.

Glencore then decided to revert the project to its pre-feasibility stage and stated that it will prepare a new EIA. This would void the environmental certification that has been granted, since the project no longer exists as it was initially formulated. Nonetheless, a consultation is currently ongoing based on a project that formally no longer exists. We wonder whether, in a consultation, it is possible to discuss the impacts of a project whose new design is not yet known.

To date, the process has taken more than three years and MINEM has repeatedly extended the timeframe for its completion, exceeding the maximum duration established by law (120 calendar days).

In saying that it 'supports these consultations', Antapaccay is giving its backing to a clearly irregular process.

4. RECOMMENDATIONS TO GLENCORE AND INVESTORS

In relation to pollution

- Given the new evidence presented by the official studies, and the indications provided by previous studies, we believe there is worrying information about the existence of a causal link between the Antapaccay operations and impacts on the surface water, groundwater, air and biosphere. Therefore, the company should adopt a response that is in keeping with the principles of human rights due diligence, which would involve:
 - urgent actions to address the immediate causes of pollution and their consequences;
 - a comprehensive review of its policies and practices in order to correct this serious situation; and
 - complying with the relevant authorities concerning liability for this pollution and any reparations and compensation resulting from it.

In relation to the land negotiation process

- All land negotiations must be paused until the new EIA has been completed, together with objective and independent studies that provide adequate information for communities to reach a decision.
- The company must be transparent and provide accurate information about its land acquisition needs and the consequences for communities.
- If the project requires the acquisition of such a large proportion of land that it threatens the very existence and livelihoods of communities—as we have found would occur in at least one case—the company must comply with the IFC standards and international law (ILO Convention 169 and the UN Declaration on

the Rights of Indigenous Peoples) to ensure the continued existence of Indigenous communities, avoiding fragmenting their territory through a resettlement plan that includes replacement of their livelihoods and the infrastructure for their continued existence (schools, health centres, etc.).

In relation to consultation and consent

- Glencore should not support a ‘consultation’ process led by the state that is irregular and disregards the procedures and deadlines established by Peruvian regulations.
- In line with the recommendations of the Ombudsman’s Office and the jurisprudence of the Inter-American Court of Human Rights, the company should demand that the state ensure that the prior consultation is carried out based on the decisions of the governmental authority, where the opinions of Indigenous communities actually have the potential to influence the substantive aspects of the project, in particular the environmental assessments.
- Where the project involves the resettlement of Indigenous people, the company must ensure that communities can express their free, prior and informed consent, in accordance with international standards and ILO Convention 169.

NOTES

- 1 A series of reports on causality prepared by the Agency for Environmental Assessment and Enforcement (OEFA) between 2022 and 2023, which are cited throughout this report.
- 2 This data comes from the modified environmental impact assessment (MEIA) approved in 2019. However, this data could change since Glencore has decided to revert the project to the pre-feasibility stage and said in a letter dated 8 September 2023 that it will prepare a new EIA. See Glencore. (2023). *Letter to Scott Sellwood, 8 September 2023: Response to Oxfam/CooperAcción Antapaccay Reports*. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/230908-Response-Oxfam-Cooperaccion_Final.pdf.
See CooperAcción’s response to said letter at: CooperAcción (2023).
https://cooperaccion.org.pe/wp-content/uploads/2023/10/response-CooperAccion-to-Glencore-word_EN.pdf
- 3 In its letter from September 2023, Glencore stated that it has not yet signed any land acquisition agreements but is only undertaking ‘a dialogue process to discuss the framework for land acquisition with communities’. See Glencore. (2023). *Letter to Scott Sellwood*, op. cit. In reality, land acquisition proposals, including maps, have been presented to communities; see Section 3.2.
- 4 As per the purchase proposals given to community leaders; see Section 3.2.
- 5 International Labour Organization (ILO). (1989). *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Accessed 9 October 2023.
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169
- 6 International Finance Corporation. (2012). *IFC Performance Standards on Environmental and Social Sustainability*. Accessed 9 October 2023.
<https://www.ifc.org/content/dam/ifc/doc/mgrt/ifc-performance-standards.pdf>
- 7 Ombudsman’s Office. (2019). *Report No. 001-2019-DP-AMASPPI-PPI* [Spanish]. Accessed 9 October 2023.
<https://cooperaccion.org.pe/wp-content/uploads/2023/09/2019-Defensoria-del-Pueblo-Informe-No-001-2019-DP-AMASPPI-PPI.pdf>
- 8 MIMEN. (2023a). *Mining Statistics Bulletin April 2023*, pp. 4–5 [Spanish]. Accessed 9 October 2023.
<https://cdn.www.gob.pe/uploads/document/file/4645710/BEM%2004-2023.pdf?v=1685903626>.
In addition, it has capital in Perubar, a storage and logistics company, and through Volcan has a stake in Terminales Portuarios Chancay, which is building a mega port in north Lima.
- 9 Golder Associates. (2018). *Executive Summary of the MEIA for the Antapaccay-Tintaya Expansion Project, Corocochuayco Integration*, p. 25 [Spanish]. Accessed 9 October 2023.
https://www.senace.gob.pe/wp-content/uploads/filebase/comunicaciones/eia-meia/antapaccay/Resumen-Ejecutivo_Antapaccay.pdf.
- 10 MINEM. (2021). *Portfolio of Mine Constructions Projects 2021*, p. 7 [Spanish]. Accessed 9 October 2023.
[https://www.minem.gob.pe/minem/archivos/file/Mineria/INVERSION/2021/CPM2021\(1\).pdf](https://www.minem.gob.pe/minem/archivos/file/Mineria/INVERSION/2021/CPM2021(1).pdf)
- 11 Glencore. (2023). *Letter to Scott Sellwood*, op. cit.
- 12 According to Report No. 1017-2019-SENACE-PE/DEAR, there have been 30 environmental management instruments linked to the Tintaya and Corocochuayco expansion projects, as well as the Corocochuayco MEIA of 2019 and its modification based on the supporting technical report in 2022. National Environmental Certification Service for Sustainable Investments (SENACE). (2019). *Final Technical Report on the Modification of the Detailed Environmental Impact Study of the Antapaccay-Tintaya Expansion Project: Corocochuayco Integration*. Report No. 1017-2019-SENACE-PE/DEAR [Spanish]. Accessed 9 October 2023.
<https://cooperaccion.org.pe/wp-content/uploads/2023/09/2019-SENACE-INFORME-Nº-1017-SENACE-PE.DEAR-Informe-Tecnico-Final-MEIA.pdf>
- 13 See summary of commitments at Glencore. (n.d.) *Human Rights – Our Approach*. Accessed 9 October 2023.
<https://www.glencore.com/sustainability/esg-a-z/human-rights>
- 14 Oxfam International. (2015). *Community Consent Index 2015: Oil, Gas and Mining Company Public Positions on Free, Prior and Informed Consent*. Oxfam. Accessed 9 October 2023.
https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/bp207-community-consent-index-230715-en.pdf
- 15 Glencore. (2021). *Human Rights Policy* [Spanish]. Accessed 9 October 2023.
https://www.glencore.com/.rest/api/v1/documents/3cb1c0857261355855817159c1229ba6/Human+Rights+Policy_Spanish.pdf
- 16 Glencore. (2022). *Responses to MSCI*. Accessed 9 October 2023.
<https://www.glencore.com/sustainability/esg-a-z/esg-rating-agencies>
- 17 Ibid.
- 18 Ministry of the Environment (MINAM) and the Espinar Dialogue Table. (2013). *Integrated Final Participatory Health and Environment Monitoring Report for Espinar Province* [Spanish]. Accessed 9 October 2023.
https://www.minam.gob.pe/espinar/wp-content/uploads/sites/14/2013/10/Informe_aprobado.pdf
- 19 Glencore. (2022). *Responses to MSCI*, op. cit.

- 20 National Centre for Occupational Health and Environmental Protection for Health (CENSOPAS). (2010). *Recognition of Risks and Environmental Assessment of Metals in Locations Near the Quechua-Cusco Mining Project. Districts of Espinar and Pallpata, Espinar Province, Cusco Region* [Spanish]. Lima: CENSOPAS.
- 21 MINAM and the Espinar Dialogue Table. (2013). *Integrated Final Participatory Health and Environment Monitoring Report*, op. cit.
- 22 Ombudsman’s Office. (2015). Official Communication 0330-2015-DP/OD-CUSCO/ap, p. 16 [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2015_Defensoria-del-Pueblo_0330-2015-DPOD-CUSCOap.pdf
- 23 Ombudsman’s Office, Official Communication 01256-2018-GR-CUSCO/DRSC/RSCCE/DE. Cited in Espinar Municipality. (2019). *Agreement of the Council of the Municipality of Espinar, 10 January 2019*, p. 1.
<http://www.muniespinar.gob.pe/documents/Acuerdos%20de%20Concejo/002%20ACUERDO%20DE%20CONCEJO%20N%202-2019-CM-MPE-C.pdf>
- 24 Presidency of the Council of Ministers (PCM). (2021). *Multisectoral Commission in Charge of Evaluating Possible Damages Affecting the Indigenous Communities of Huano Huano, Huini Corocchohuayco, Pacopata, Alto Huanané, Bajo Huanané, Tintaya Marquiri, Alto Huarca, Cala Cala, Huarca, Suero y Cama, Huisa Ccollana, Huisa y Anta Ccollana in Espinar Province, Department of Cusco: Commission Report June 2021* [Spanish]. Accessed 9 October 2023.
<https://cooperaccion.org.pe/wp-content/uploads/2023/09/COMISION-MULTISECTORIAL-ESINAR-JUNIO-2021.pdf>
- 25 Obtained by CooperAcción in August 2023, following a request to access public information.
- 26 For a full summary, see CooperAcción. (2023). Anexos, Anexos 1 to 3 [Spanish]. Accessed 9 October 2023.
<https://cooperaccion.org.pe/wp-content/uploads/2023/09/Anexos-Oefa-Antapaccay.pdf>
- 27 OEFA. (2022). *Environmental Assessment of Air Quality Causality in the Tintaya and Antapaccay Areas of the Auditable Unit of the Antapaccay-Tintaya Expansion-Corocchohuayco Integration-2022. Report No. 0438-2022-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2022-OEFA-N_00438-2022-OEFA-DEAM-STEAC-aire.pdf;
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<https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-00064-2023-OEFA-DEAM-STEAC-aire-informe-complementario.pdf>
See summaries in CooperAcción. (2023). Anexos, op. cit., Annex 1.
- 28 OEFA. (2023a). *Report No. 00064-2023-OEFA/DEAM-STEAC*, op. cit., p. 8.
- 29 OEFA. (2023b). *Environmental Assessment of Causality of the Environmental Components Surface Water, Sediment and Hydrobiological Communities Within the Scope of the Auditable Unit of the Antapaccay-Tintaya Expansion-Corocchohuayco Integration of Compañía Minera Antapaccay. Report No. 00095-2023-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-N_00095-2023-OEFA-DEAM-STEAC-agua.pdf;
OEFA. (2023c). *Environmental Assessment of Causality of the Environmental Components Surface Water, Sediment and Hydrobiological Communities Within the Scope of the Auditable Unit of the Antapaccay-Tintaya Expansion-Corocchohuayco Integration of Compañía Minera Antapaccay. Clarifications 00184-2023-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
<https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-00184-2023-OEFA-DEAM-STEAC-precisiones-al-00095-agua.pdf>
See summary in CooperAcción. (2023). Anexos, op. cit., Annex 2.
- 30 OEFA. (2023b). *Report No. 00095-2023-OEFA/DEAM-STEAC*, op. cit., pp. 16-24.
- 31 Compañía Minera Antapaccay.
- 32 OEFA. (2023b). *Report No. 00095-2023-OEFA/DEAM-STEAC*, op. cit., p. 18.
- 33 *Ibid.*, pp. 16-24.
- 34 *Ibid.*, pp. 20-22.
- 35 OEFA. (2023d). *Environmental Assessment of Causality to Determine the Possible Effect of Mining Activity and Other Risk Factors on Wetlands, Groundwater and Soil, Within the Scope of the Auditable Unit of the Antapaccay-Tintaya Expansion. Report No. 00144-2023-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-N_00144-2023-OEFA-DEAM-STEAC-agua.pdf.
See summary in CooperAcción. (2023). Anexos, op. cit., Annex 2.
- 36 OEFA. (2023d). *Report No. 00144-2023-OEFA/DEAM-STEAC*, op. cit., p. 23.
- 37 OEFA. (2023f). *Environmental Assessment of Flora and Fauna in the Areas of the Huinipampa tailings Deposit, North Dump, South Dump, Wetlands, Ccamacmayo Tailings Deposit, Dump 23, Dump 20 and Surrounding Areas at the Antapaccay Expansion Auditable Unit. Report No. 00146-2023-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-N_00146-2023-OEFA-DEAM-STEAC-flora-y-fauna.pdf;
OEFA. (2023g). *Environmental Assessment of Causality to Determine the Effect of Mining Activity on Water, Soil, Flora, and its Impact on the Health of Domestic Animals, Within the Scope of the Auditable Unit of the Antapaccay-Tintaya Expansion-Corocchohuayco Integration. Report No. 00167-2023-OEFA/DEAM-STEAC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-N_00167-2023-OEFA-DEAM-STEAC-animales-domesticos.pdf;

- OEFA. (2023e). *Environmental Assessment of Flora and Fauna in the Tintaya and Antapaccay Areas. Report No. 00067-2023-OEFA/DEAM-STEC* [Spanish]. Accessed 9 October 2023.
https://cooperaccion.org.pe/wp-content/uploads/2023/09/2023-OEFA-N_00067-2023-OEFA-DEAM-STEC-flora-y-fauna.pdf.
See summary of the three documents in CooperAcción. (2023). Anexos, op. cit., Annex 3.
- 38 OEFA. (2023e). *Report No. 00067-2023-OEFA/DEAM-STEC*, op. cit., pp. 2-3.
- 39 OEFA. (2023f). *Report No. 00146-2023-OEFA/DEAM-STEC*, op. cit., pp. 3-7.
- 40 OEFA. (2023e). *Report No. 00067-2023-OEFA/DEAM-STEC*, op. cit., pp. 2-3.
- 41 [OEFA. (2023g). *Report No. 00167-2023-OEFA/DEAM-STEC*, op. cit., p. 14.
- 42 OEFA. (2023f). *Report No. 00146-2023-OEFA/DEAM-STEC*, op. cit., p. 3.
- 43 In two unpublished reports commissioned by CooperAcción, based on comprehensive reviews of several studies. H. Nuñez del Prado Simons. (2021). *Summary Report on the Information Reviewed Regarding the Causality of Heavy Metal Pollution in the Espinar Mining Area*. Lima: CooperAcción (unpublished); E. Zamalloa-Skoddow. (2022). *Evidence of the Causality of Environmental Pollution Related to Mining in Espinar*. Lima: CooperAcción (unpublished). See summary in CooperAcción. (2023). Anexos, op. cit., Annex 4. Also see Peruvian Institute of Nuclear Energy (IPEN). (2013). *Determination of the Relationship Between the Water from the Ccamacmayo and Huinipampa Tailings Ponds and Their Surrounding Hydrogeological Environment Through the Use of Isotopic Tracers. Technological Service Report No. 003-2013* [Spanish]. Lima: IPEN; IPEN. 2017a. *Service to Assess Possible Leaks from the Ccamacmayo and Huinipampa Tailings Dams of the Mining Unit of Compañía Minera Antapaccay SA in Espinar Province, Department of Cusco, Through the Injection of Tracers and the Use of Isotopic Techniques. Contract 50-2015-OEFA. Volume I* [Spanish]. Accessed 9 October 2023.
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[https://cooperaccion.org.pe/wp-content/uploads/2023/09/2017%20IPEN_Quinto%20Entregable%20\(Tomo%20II\)%20\(17.04.17\).pdf](https://cooperaccion.org.pe/wp-content/uploads/2023/09/2017%20IPEN_Quinto%20Entregable%20(Tomo%20II)%20(17.04.17).pdf);
OEFA and Advance Engineering & Research SAC. (2015a). *Geophysical Study Using Geoelectric Tomography at Huinipampa Tailings Dam, Espinar 2015* [Spanish]. Accessed 9 October 2023.
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- OEFA. (2016). *Specialized Studies in Areas of Mining Activity in Peru. Presentation by Giuliana Becerra Celis, Director of Oversight and Evaluation, 9 August 2016* [Spanish]. Accessed 9 October 2023.
<https://docplayer.es/45407032-Estudios-especializados-en-areas-de-actividad-minera-en-el-peru.html>
- 44 Glencore. (2023). *Letter to Scott Sellwood*, op. cit.
- 45 All quotes from Cristina Choque Castillo here are taken from an interview conducted by Thomas Niederberger on 16 September 2022.
- 46 OEFA. (2023d). *Report No. 00144-2023-OEFA/DEAM-STEC*, op. cit., p. 24.
- 47 *Ibid.*, p. 25.
- 48 Response sent to the rating agency MSCI and published on its website. Glencore. (2022). Responses to MSCI, op. cit.
- 49 This is how they self-identify and have been recognized by the state, which has officially incorporated them in the Database of Indigenous Peoples of the Ministry of Culture. See Ministry of Culture. (n.d.). *Database of Indigenous or Native Peoples* [Spanish]. Accessed 9 October 2023.
<https://bdpi.cultura.gob.pe/index.php/buscador-de-localidades-de-pueblos-indigenas>.
Furthermore, according to the national census of 2017, 88 % of the population of Espinar Province self-identify as Indigenous Quechua, rising to 92 % in rural areas, which is where the peasant communities in question live.
- 50 When BHP owned the mining operation.
- 51 See *Contribution for Compliance with RM 174-2020-PCM. Proposal for the Reparations Plan* (presented by the community of Pacopata, June 2021) and *Proposed Reparations Plan* (presented by the community of Huini Corocohuayco, June 2021), documents submitted to the Presidency of the Council of Ministers (PCM) within the framework of the Working Group on Reparations to the 13 Communities of the Espinar Mining Area, created by Ministerial Resolution 174-2020-PCM. El Peruano Official Gazette. (2020). *Ministerial Resolution No. 174-2020-PCM, Creating the Working Group called Multisectoral Commission in Charge of Evaluating Possible Damages Affecting 13 Indigenous Communities in Espinar Province, Department of Cusco, and the Corresponding Reparations Plan* [Spanish]. Accessed 9 October 2023.
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- 52 As mentioned in Section 2, Glencore stated that the data in the MEIA should no longer be taken into account, as the project has reverted to the pre-feasibility phase and a new EIA will be prepared. However, this section shows how bilateral dialogue between the company and communities was carried out following approval of that MEIA and throughout the period that Glencore considered it to be valid.
- 53 In its September letter, Glencore states that ‘Antapaccay is undertaking a dialogue process to discuss the framework for land acquisition for the Coroccohuayco project with communities. To date, Antapaccay has not signed land acquisition agreements with communities.’ Glencore. (2023). Letter to Scott Sellwood, op. cit.
- 54 Information provided in an interview with community members (name withheld at the request of the person concerned).
- 55 International Finance Corporation. (2012). *IFC Performance Standards on Environmental and Social Sustainability*, op. cit., IFC Performance Standard 5: 14.
- 56 Golder Associates. (2019). *Levantamiento de observaciones, 18 de marzo 2019*. (unpublished).
- 57 Response sent to the rating agency MSCI. See Glencore. (2022). Responses to MSCI, op. cit.
- 58 In its September 2023 letter, Glencore indicates that ‘as established in Peruvian legislation, the prior consultation process is carried out by the competent government entity’. Glencore. (2023). *Letter to Scott Sellwood*, op. cit. Indeed, it is not the company but MINEM that carries out consultations in the case of mining projects.
- 59 Ombudsman’s Office. (2019). *Report No. 001-2019-DP-AMASPP-PP*, op. cit.
- 60 Inter-American Court of Human Rights. (2007). *Judgment in the Case of the Saramaka People v. Suriname 2007* [Spanish]. Accessed 9 October 2023. https://www.corteidh.or.cr/CF/jurisprudencia2/ficha_tecnica.cfm?nld_Ficha=288
- 61 Glencore. (2023). *Letter to Scott Sellwood*, op. cit.
- 62 Confirmed by Glencore in its September letter: ‘The prior consultation that is currently underway at Antapaccay was started ex officio by government.’ Glencore. (2023). Letter to Scott Sellwood, op. cit.





Supported by:

