

COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

To the Ministry of Finance

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Recommendation to exclude Repsol YPF and Reliance Industries Ltd. from the investment universe of the Government Pension Fund Global

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1 Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (the Fund) has assessed whether the Fund's ownership in the Spanish company Repsol YPF and in the Indian company Reliance Industries Limited entails a risk of contributing to serious or systematic human rights violations in breach of the Fund's Ethical Guidelines. Repsol and Reliance Industries are partners in a joint venture that carries out oil-exploration activities in Block 39 in the Peruvian Amazon. Repsol is the operator of the joint venture.

As of 30 September 2010, the Fund owned shares in Repsol with a market value of NOK 2.962 billion. The Fund's shares in Reliance Industries had a market value of NOK 775.7 million.

Block 39 is located in an area which is thought to overlap the territories of indigenous peoples living in voluntary isolation. These peoples, also called uncontacted indigenous peoples, are extremely vulnerable to any form of contact with outsiders because they have not developed immunity to common infections or viruses such as influenza, diarrhea or chickenpox. Contact with outsiders will inevitably lead to the introduction of such diseases. There is no scientific disagreement about the fatal consequences that this would have. Past experience from other cases where indigenous people in voluntary isolation have been contacted shows that one third to one half of a tribe will probably perish during the first five years following initial contact. In the worst case, the whole tribe may become extinct.

The question of whether there are uncontacted indigenous peoples living in Block 39 is controversial, but signs of their existence have been known for some time. Indigenous peoples' organisations have carried out anthropological studies accounting for around 70 observations of uncontacted indigenous people in the area throughout a period of 50-60 years. Various court decisions have stated that the evidence of their existence is not reliable enough to stop the oil exploration activities in the block. Peru's Ministry of Energy and Mines relies on the court decisions but nevertheless requires that the companies have contingency plans in case isolated indigenous peoples exist in the block. Repsol and Reliance do not consider it likely that isolated uncontacted indigenous peoples live in the block. The Peruvian ombudsman has requested that investigations be carried out with the aim of verifying whether or not uncontacted indigenous peoples are present in the block, but this has not been done. The Council notes that none of the parties involved dismiss the possibility that there may be uncontacted indigenous peoples in block 39. The uncertainty of their existence follows from the absence of independent, thorough and scientific studies. The Council finds it noteworthy that neither the government nor the companies in question have taken the initiative to carry out studies of this kind.

The Council considers the proximity of Block 39 to the Ecuadorian border important. Ecuador has established an intangible zone for uncontacted indigenous peoples in an area stretching to the Peruvian border and block 39. Uncontacted indigenous peoples have been observed not far from the Peruvian border as recently as in August this year. There is no doubt that isolated indigenous peoples cross the borders of the intangible zone in Ecuador. Since the border with Peru is not a physical barrier and these indigenous peoples are nomads, it is likely that they also cross the Peruvian border.

Based on an overall assessment of the information available, the Council concludes that there is a probability that indigenous peoples live in voluntary isolation in block 39.

The core principle in the protection of peoples living in voluntary isolation is the principle of no-contact, which implies that these groups should be protected from outside intrusion into their territories. This principle is applied by both the Ecuadorian and Brazilian governments, and is stressed in the Peruvian Ministry of Health's guidelines on the protection of

uncontacted peoples. In light of the fatal and long-term consequences any contact with the outside world may cause, provoking it may, in the Council's view, be tantamount to serious violations of human rights.

There can be no doubt, in the Council's opinion, that the exploration activity undertaken by Repsol and Reliance Industries in Block 39 increases the risk that any indigenous peoples who may be living in voluntary isolation within the block will come into contact with outsiders. The Council emphasizes that exploration activities in particular seem to involve an exceptionally high risk to these indigenous peoples because large numbers of workers relocate within large areas in the block.

Repsol's own impact assessments show that the company is aware that uncontacted indigenous peoples may be present in the area. Nevertheless, both companies consider this probability to be very small. Among other things, the companies make reference to a decision by the Supreme Court of Peru evaluating whether oil-exploration activities in block 39 and 67 may constitute an immediate threat to the basic rights of the indigenous peoples. The Court concluded that there was insufficient evidence of their existence and therefore no immediate threat, which would be a prerequisite in order to prohibit further activity in the area.

The companies also claim that their contingency plan, which has been approved by the authorities, will prevent human rights violations. The Council nevertheless considers it unlikely that the contingency plans adopted by the joint venture will be sufficient to avoid contact, since the biggest threat to the uncontacted peoples is the very presence of the work crews. The contingency plan primarily covers what to do if contact occurs. In the Council's view, it therefore seems virtually impossible to combine the concern for the uncontacted indigenous peoples' right to life and health with exploration activities insofar as these take place within the indigenous peoples' territories.

Exploration activities are ongoing in Block 39. Based on the material that the Council has had access to, it has not been possible to establish with certainty whether there has been any contact between the company workers and uncontacted indigenous peoples. If such contact does take place, the consequences will not be apparent until several years later. Since the damage by then may be considerable, the Council considers that continued ownership in Repsol and Reliance Industries constitutes an unacceptable risk of complicity in serious human rights violations. The Council therefore recommends that these companies be excluded from the Government Pension Fund Global.

2 Sources

The Council's report is based on numerous sources. These include studies and surveys of indigenous peoples living in voluntary isolation in the Napo-Tigre area, information from the companies, including their environmental impact assessments, court documents and documents from various Peruvian authorities, as well as the Peruvian Ombudsman's assessments and reports. The Council has also profited from its communication with international organisations, including the Inter-American Commission on Human Rights, the Brazilian National Indian Foundation (FUNAI), the Office of the United Nations High Commissioner for Human Rights and the ILO, as well as social anthropologists and NGOs who have dedicated many years of investigation to this subject.

The Council has also held meetings and communicated with Repsol on this matter throughout the course of the assessment. Individual sources are cited in the footnotes below except for individuals who have asked the Council not to disclose their identity.

3 What the Council has assessed

At a meeting held on 14 April 2008, the Council on Ethics decided to assess whether oil companies operating in areas overlapping with territories in the Amazon where indigenous peoples live in voluntary isolation may be in conflict with the ethical guidelines. Several organisations, including the Norwegian Rainforest Foundation, have raised this issue and requested that the Council exclude companies that operate in areas inhabited by indigenous peoples in voluntary isolation.

Repsol YPF and Reliance Industries Ltd. are partners in a joint venture carrying out oil-exploration activities in Peru's Block 39. The block is located in the northwestern part of the Peruvian Amazon, close to the border with Ecuador. Block 39 is said to overlap the habitat of uncontacted indigenous peoples living in voluntary isolation. Conoco Phillips Company was a member of the consortium until 31.12.2010. In October 2010, the company informed the Council that it had sold its share in the block, and Conoco Philips is therefore not included in this recommendation. The Council is not aware what company has bought into the consortium.

The Council has assessed the risk of the companies contributing to ongoing or future human rights violations. In previous assessments of whether companies contribute to serious or systematic human rights violations,¹ the Council has emphasized that there should be a direct link between the company's operations and the relevant violations. Furthermore, the company must have actively contributed to – or been aware of – the violations but omitted to take steps to prevent them. Due to the forward-looking nature of the guidelines, the violations must be currently taking place or there must be an unacceptable risk that they will take place in the future. Companies' previous actions may give an indication as to how they will behave in the future.

The Council has not considered the environmental impacts of the companies' activities in the rainforest

The Council is aware that exploration activities in the Peruvian Amazon have increased significantly in recent years. More than 60 exploration concessions currently cover more than 490,000 km², or over 70 per cent of this region.² Several of these concessions overlap with natural reserves that originally were established in order to preserve biological diversity. In this part of Peru, there are still vast areas of inaccessible, intact tropical rainforest which is home to a unique diversity of animal and plant species. The western part of the Amazon is regarded as one of the most biologically-rich areas in the world. It is also likely to be able to withstand future climate changes.³ Experience shows that increased resource exploitation inevitably will lead to more fragmentation of the rainforest and damage to its ecosystem. The Council has not assessed what effects the companies' exploration or future oil production may have for the preservation of the rainforest, however, nor for the environment more broadly.

¹ See for example the Council on Ethics' recommendation regarding Total, available at www.etikkradet.no.

² Finer, Matt, Clinton N. Jenkins, Stuart L.Pimm, Brian Keane and Carl Ross 2008: Oil and gas projects in the Western Amazon: Threats to Wilderness, Biodiversity, and Indigenous Peoples. In *PLOS one August 2008, volume 3, Issue 8, e2932*, available at <http://www.plosone.org/article/info:doi/10.1371/journal.pone.0002932>.

³ See footnote 2.

4 Concerning Repsol YPF and Reliance Industries and Block 39

4.1 About the joint venture

As previously mentioned, the Spanish company Repsol YPF⁴ and the Indian company Reliance Industries Ltd.⁵ are partners in a joint venture which holds the concession for oil and gas exploration in Block 39. Repsol, the operator, has been exploring the block since the mid-1990s and was awarded 55 per cent of the exploration license in 2001.⁶ Reliance Exploration and Production DMCC, a subsidiary of the India-based Reliance Industries Limited, holds a 10 per cent stake.⁷ Conoco Phillips sold its 35 per cent stake in the block during the autumn of 2010 and left the joint venture on 1 January 2011.

The joint venture has entered into a contract with Peru's state owned oil company PeruPetro S.A lasting 30 years for oil and 40 years for gas. The exploration phase stretches over 13 years, up to 2013. The companies are contractually committed to a work program which among other things determines the scope of seismic activity and the drilling of test wells. The joint venture is governed by a joint operation agreement, as is common in joint ventures. Joint operations are supervised and authorized by an Operating Committee where each of the partners has three representatives. Decisions require the affirmative vote of two parties and 65 per cent of the shares, except in the case of activities that are required in order to fulfill the obligations of the work program.⁸

4.2 Block 39

Block 39 covers 8,868 km² and is located in what is considered to be one of the most bio-diverse regions in the world. A number of endangered species have been found within the concession area.⁹ A part of the Pocacuro Nature Reserve, which was created in 2005, is included in Block 39 and represents 40 per cent of the total area.¹⁰ Access to the block is challenging and is only possible by riverboat or helicopter.

⁴ Repsol YPF is an international, integrated oil and gas company with operations in more than 30 countries. Originally Repsol was a Spanish state-owned company. It was privatized in 1993 and in 1999 it acquired the Argentine oil company YPF, www.repsolypf.com.

⁵ Reliance Industries Limited (RIL) is India's largest private sector company with businesses in the energy and materials value chain. The company has oil and gas exploration assets in India, as well as in 12 other countries, including Peru. As mentioned, the company purchased a 10 per cent interest in block 39, see <http://www.ril.com>.

⁶ Smithsonian Institute and Repsol YPF PowerPoint Presentation *Conservation Partnership In Peru: A Biodiversity Action Plan for Sensitive Environment*, available at: http://intranet.iucn.org/webfiles/ftp/public/ForumEvents/E0834/Final%20Document/834_Guinae_P_Energy%20or%20Biodiversity%20-%20Both,%20please!.pdf.

⁷ Repsol YPF S.A *Form 6 K Report of Foreign Issuer* to the US Securities and Exchange Commission for month of September 2010, available at http://google.brand.edgar-online.com/EFX_dll/EDGARpro.dll?FetchFilingHTML1?ID=7453762&SessionID=HwUbHCgZHm9trP7.

⁸ Information provided by the companies.

⁹ See footnote 6.

¹⁰ See footnote 6.

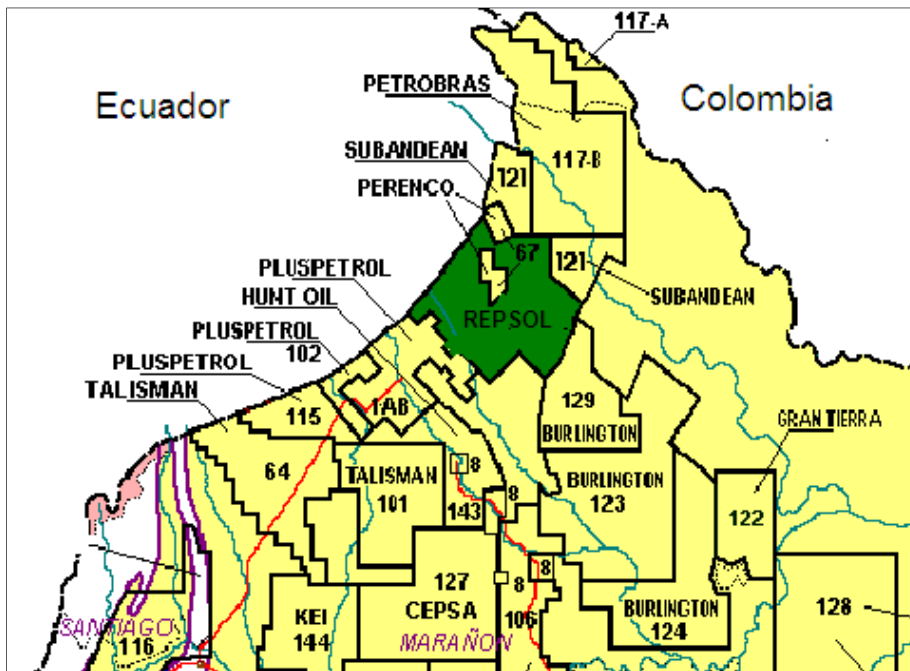


Figure 1: Location of Block 39¹¹

An isolated portion of Block 67 lies within Block 39. Perenco is a British-French joint-venture exploration and production company (see figure 2 below)¹² which took over the operation of Block 67 through its acquisition of Barrett Resources in 2008. Due to the block's location within Block 39, the Council finds it pertinent to include information about Block 67 in this recommendation.

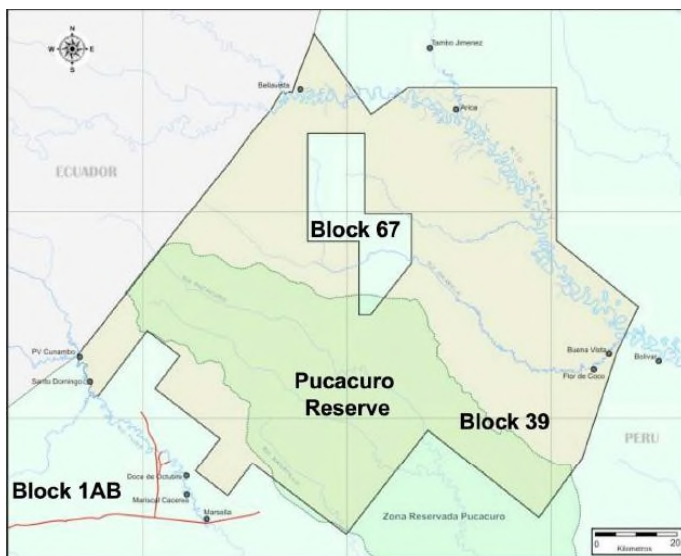


Figure 2: Block 39 with the Pucacuro Reserve and Block 67¹³

¹¹ http://www.perupetro.com.pe/wps/wcm/connect/perupetro/site-en/importantinformation/block+maps/cont_blockmaps.

¹² Perenco is a private company in which the Fund has no shares.

¹³ Smithsonian Institution and Repsol YPF PowerPoint Presentation *Conservation Partnerships In Peru: A Biodiversity Action Plan for a Sensitive Environment*.

Activities in Block 39

The consortium carries out seismic surveys and test drilling in Block 39.

Repsol's Environmental Impact Assessments for seismic surveys and the drilling of exploratory wells were both approved in November 2007. According to these reports, 45 lines had to be cleared for seismic surveying amounting to 1,000 km (see figure 3). The lines have a width of approximately 1.5 m.¹⁴ In addition to this, 250 heliports, 1,250 drop zones, 250 camps for workers and other related infrastructure were to be built. The project would employ 475 people, and was stipulated to last for 10 months. Furthermore, 12 test drillings would be carried out. Repsol has reported that the actual extent of the activities has been reduced and that 590 km of seismic lines and two test wells have been registered, of which only one has been drilled.¹⁵ According to Repsol, the seismic lines have been reforested.

On 27 May 2010, Repsol's application for the clearing of another 454 km of seismic lines and 152 heliports was approved.¹⁶

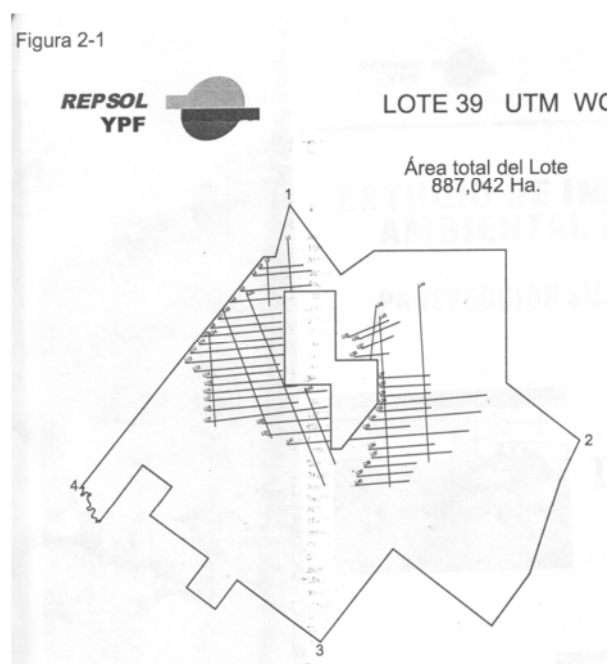


Figure 3: Seismic lines in Block 39. Block 67 is visible inside Block 3917

In October 2008, Repsol's management announced that it intended to start production in Block 39 in late 2012 or early 2013. In 2008, the company was expecting to invest USD 80 million in the block on top of previous investments in 2005 and 2007 totalling USD 90 million. By 2012 the long-term development investments are forecast to total USD 467 million.¹⁸ The Council assumes that these amounts reflect Repsol's share of the joint venture's investments.

¹⁴ Repsol YPF/ GEMA 2007: *EIA SISMICA 2D (1 000 Km) LOTE 39, Cap. 2.0 - Descripción del Proyecto.*

¹⁵ Repsol's letter to the Council 13 October 2009.

¹⁶ Ministerio de Energía y Minas: *Resolucion Directoral No 193 – 2010 MEM/AE, 27 Mayo 2010.*

¹⁷ Repsol YPF/ GEMA 2007: *EIA SISMICA 2D (1 000 Km) LOTE 39, Cap. 2.0 - Descripción del Proyecto.*

¹⁸ "Repsol YPF Describes Peru Block 39 Plans" *Business News Americas*, October 20, 2008.

5 Indigenous peoples in voluntary isolation in Block 39

According to Peruvian legislation, indigenous peoples living in isolation are defined as ‘indigenous people who have not developed social relations with other members of the national community’ and who have decided to live isolated from the rest of society.¹⁹ Indigenous peoples who live in voluntary isolation²⁰ have made a voluntary and conscious decision to live without any contact with the outside world. This decision is based on earlier encounters with society, often dating many years back, which proved catastrophic for the group because of violent conflict and/or high mortality resulting from disease introduced from the outside. A report on indigenous peoples living in isolation in Peru states among other things that ‘Isolation should not be seen, then, as a situation of having had “no contact” with society but a decision on the part of peoples to refuse to establish permanent relations with other social players as a way of ensuring their physical and cultural survival.’²¹ The decision to remain isolated can thus be the group’s survival strategy. For indigenous peoples living in isolation, the right to self-determination means showing absolute respect for their decision to remain in isolation.²² This principle is the foundation for the government’s policy in, for example, Brazil and Ecuador.

Some 100 groups of uncontacted indigenous peoples are thought to exist in South America, of which some 69 are found in Brazil, around 15 in Peru and 2 in Ecuador.²³ They are nomads who sustain themselves through hunting, fishing and by using the forest’s resources as well as growing food for their own consumption. Their relationship to – and intimate knowledge of – their environment enables them to be self-sufficient and maintain a sustainable way of life through generations. They are also extremely vulnerable however, and in many cases on the verge of extinction.²⁴

As the exploitation of resources in the Amazon has increased in scale, these indigenous peoples’ habitats have shrunk as has their access to food. When strangers such as oil workers or loggers enter their territories they flee deeper into the forest to avoid contact. According to an expert, this is increasingly a problem: ‘Indigenous groups avoiding contact are under greater pressure, with their “safe” territories becoming smaller and smaller. For decades voluntary isolated peoples have retreated further and further into headwater regions, where hunting and fishing resources and good agricultural land are scarcer, because these were the places free of outsiders, now even these are being made available for exploitation.’²⁵ It can

¹⁹ LEY N° 28736: *Ley para la protección de pueblos indígenas u originarios en situación de aislamiento y en situación de contacto inicial*, artículo 2, available at <http://www.spda.org.pe/portal/cd-ambiental/documentos/LEY%20NO%2028736.htm>.

²⁰ The term ‘uncontacted’ is used synonymously with the terms ‘in voluntary isolation’ or ‘isolated’ throughout this document.

²¹ Huertas Castillo, Beatriz 2004: *Indigenous people living in voluntary isolation in Peru*, p 21. IWGIA Document No 100- Copenhagen, and La Defensoría del Pueblo: *El Informe Defensorial N° 101 Pueblos indígenas en situación de aislamiento voluntario y contacto inicial*. Resolución Defensorial N° 032-2005-DP; 15 November 2005.

²² Human Rights Council 2007: *Draft Guidelines on the Protection of Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazon and El Chaco*. A/HRC/EMRIP/2009/6.

²³ Brackelaire, Vincent 2006: *Situación de los últimos pueblos indígenas aislados en América Latina. (Bolivia, Brasil, Colombia, Ecuador, Paraguay, Perú, Venezuela)*, available at http://www.trabajoindigenista.org.br/Docs/Diagn%C3%B3stico%20Pueblos%20Aislados_Vicent_jan06.pdf and communication with Beatriz Huertas Castillo 11.October 2010.

²⁴ See footnote 22.

²⁵ Napolitano, Dora A. 2007: Towards understanding the health vulnerability of the indigenous peoples living in voluntary isolation in the Amazon Rainforest: Experiences from the Kugapakori Nahua Reserve, Peru; in *EcoHealth* Volume 4, Number 4, 515-531, p 520.

also lead to their intruding upon other indigenous peoples' territories, which in turn may cause conflict and the outbreak of diseases.

5.1 Consequences of contact

All stages of the oil-extraction process, from seismic surveys to production, will affect the habitat and lifestyle of indigenous peoples, especially those in voluntary isolation. Operations take place across large areas deep in the Amazon jungle and include the construction of roads and helicopter platforms, the drilling of test wells, and the clearing of long strips of forest for seismic surveys requiring the use of explosives. The phase of seismic surveys is understood to be particularly damaging to uncontacted indigenous peoples as it involves the large-scale displacement of many people along seismic lines that cross substantial parts of their likely habitat.²⁶

The introduction of diseases and violent confrontations with outsiders are the main threats to the survival of isolated indigenous peoples. Uncontacted indigenous peoples have not developed immunity to viruses or bacteria that cause common diseases such as influenza, chickenpox, the common cold, pneumonia or diarrhoea. Contact with outsiders will inevitably lead to the introduction of these illnesses, with fatal consequences for the tribe. It is estimated that between one third and one half of a tribe will die within the first five years following initial contact as a result of the introduction of common 'Western' diseases. In many cases the death rate is even higher, up to 80 per cent, and in certain cases whole tribes have been wiped out. It is estimated that 38 per cent of indigenous peoples in Brazil died as a result of introduced diseases between 1900 and 1957.²⁷ The possibly fatal consequences of contact with isolated indigenous peoples are well documented in scientific research showing similar consequences irrespective of country or tribe.²⁸ Health concerns were also raised by the Peruvian Ministry of Health²⁹ and the Peruvian Ombudsman in their assessment of the impact of the so-called Camisea project, where precisely the consequences for indigenous peoples living in voluntary isolation were under evaluation.³⁰

The negative consequences of a first contact are long-lasting. It takes generations for a recently-contacted population to develop a collective immune system against introduced diseases. This means that people continue to fall ill and die many years after the first contact is established. Another prevalent consequence seems to be that those who survive are traumatized. The tribe's social structure disintegrates, and the decimation of the group means that the tribe no longer is able to carry out traditional rituals and tasks. This may lead to

²⁶ Huertas Castillo, Beatriz 2004: *Indigenous people living in voluntary isolation in Peru*, p 78. IWGIA Document No 100- Copenhagen, and La Defensoría del Pueblo: El Informe Defensorial N° 101 *Pueblos indígenas en situación de aislamiento voluntario y contacto inicial*. Resolución Defensorial N° 032-2005-DP; 15 November 2005.

²⁷ See for instance Ribeiro, Darcy 1996: *Os Índios e a Civilização- A integração dos indígenas no Brasil moderno* Cia. das Letras.

²⁸ See for instance footnote 25, including the bibliography, and footnote 26. John Hemming 2003: *Die If You Must*, provides an extensive account of impacts on Brazilian Indians. In 2003 the Peruvian Ministry of Health investigated the outbreak of deaths and diseases in the Nanti communities and concluded that the Camisea project's activities and presence were linked to the outbreak of diseases. Repsol is a partner in the Camisea project. Ministerio de Salud 2003: *Pueblos en situación de extrema vulnerabilidad: El caso de los Nanti de la reserva territorial Kugapakori Nahua, Rio Camisea, Cusco*.

²⁹ Ministerio de Salud; Oficina General de Epidemiología 2003: *Pueblos en situación de extrema vulnerabilidad: El caso de los Nanti de la reserva territorial Kugapakori Nahua; Rio Camisea, Cusco*. Peru/MINSA/OGE-04/009& Serie Análisis de Situación de Salud y Tendencias.

³⁰ Defensoría del Pueblo: Informe Defensorial No 2003; *El Proyecto Camisea y sus efectos en los Derechos de las Personas*, available at <http://www.defensoria.gob.pe/>.

hunger and malnutrition in the rest of the tribe, further weakening its resilience. Children are especially vulnerable when adults become too sick to go hunting, fishing or harvesting.

There is also a risk that violent conflict may erupt between intruders and uncontacted indigenous people. The causes of conflict may be numerous, for example if the presence of strangers threatens the indigenous peoples' ability to hunt, fish or harvest, or if settlements are threatened. Indigenous people may also enter work-camps to get knives and tools that are useful to them. Throughout history there have been reports of numerous violent conflicts, several of which have been fatal (see section 5.2.8).³¹ A concern that this may happen in Block 67 was also expressed in Perenco's environmental impact assessment (see section 5.2.3).

Consequences of contact

Some typical examples of the consequences of contact with indigenous peoples in voluntary isolation in Peru are shown below:

Indigenous group *Consequences*

The Nanti	First contact by missionaries at the end of the 1960s. During the next 10 years there were repeated outbreaks of respiratory diseases and diarrhoea. The Peruvian Ministry of Health estimates that 30-60 per cent of the population died in those years. The death rate, caused by introduced pathogens, is still high – especially among children. Between 1997 and 2003, 55 children under 5 years of age died in a population of 255 in two villages. This is far higher than the tribe's normal infant mortality rate. ³²
The Nahua	First contact with outsiders occurred in 1984, initially as a result of Shell's oil exploration in the area (which led to the discovery of the Camisea field). Repeated contact through illegal logging thereafter. Anthropologists have since estimated a mortality rate of 40-60 per cent during the first years of contact. The population was reduced from 300-400 to 180 two years after contact had been established. ³³
The Cashinahua	Contact with the outside world was first established at the end of the 1940s. In 1951, two researchers contacted the tribe. They held meetings in eight villages with an estimated total population of 450-500. 'Within weeks of the Schultz and Chiara visit, an epidemic swept the tribe wiping out 75-80 percent of the adult population.' ³⁴

5.2 The question of whether uncontacted peoples are present in block 39

Indications of the existence of uncontacted indigenous people in Block 39, between the Napo and Tigre Rivers, have been known for more than ten years. There are nevertheless differing views as to whether indigenous peoples actually live in voluntary isolation in Block 39 today. As discussed below, the Council has examined a considerable amount of material in order to gain an understanding of these views.

³¹ Huertas Castillo, Beatriz 2004: *Indigenous people living in voluntary isolation in Peru*, pp 82-83. IWGIA Document No 100- Copenhagen.

³² Ministerio de Salud 2003: *Pueblos en situación de extrema vulnerabilidad: El caso de los Nanti de la Reserva territorial Kugapakori Nahua, Rio Camisea*, Cusco. Lima; and Stephens, Carolyn et al 2006: Disappearing, displaced, and undervalued: a Call to action for Indigenous health worldwide, in *The Lancet* vol. 367 2019-2028.

³³ See footnote 25, including bibliography.

³⁴ Dwyer, Jane Powell (ed.) 1975: *The Cashinua of Eastern Peru*, Rhode Island: Haffenreffer Museum of Anthropology and Schultz, Harald and Wilma Chiara 1955: *Informações sobre índios do Elto Rio Purus*, *Revista de Museu Paulista* vol. 9. Both referred to in Survival International 2008: *First Contact and Disaster*. Memo to the Council.

5.2.1 Anthropological studies

Anthropological investigations and AIDSESEP's request for the creation of a territorial reserve

Two anthropological field studies carried out in 2003 and 2004 in the Napo Basin (*la Cuenca del Napo*) and the neighbouring Tigre river-system provide detailed testimonies of encounters with – and sightings of – uncontacted indigenous peoples in Block 39 as well as their traces, including footprints, trails and abandoned dwellings.³⁵

According to these reports there are several groups of isolated peoples living in this area. It is thought that these groups are related to the Arabela-, Iquito-, Taushiro-, Zápara and Waorani-peoples. There is also the possibility that a group of descendants of the Abijira- people, which until recently were considered to be extinct, may exist within the block.³⁶ The report concludes that these peoples move around an area covering the drainage basin of the middle and upper regions of the Curaray River, the rivers Arabela, Aushiri, Pucacuro, Tangarena, and the upper part of the Napo and Tigre rivers.³⁷

The results from both surveys were assembled in the document *Estudio Técnico. Delimitación territorial a favor de los pueblos indígenas en situación de aislamiento voluntario. Napo, Tigre, Curaray, Arabela, Nashiño, Pucacuro* for the Peruvian indigenous organization *Asociación Interétnica de Desarrollo de la Selva Peruana* (AIDSESEP) This report formed the basis for AIDSESEP's application to the regional office of the Ministry of Agriculture in Loreto in July 2005, requesting the creation of a special reserve for uncontacted indigenous peoples. This proposed *Reserva Territorial Aislados Napo Tigre* would have overlapped Block 39.

The Peruvian indigenous organizations AIDSESEP and ORPIO conducted new surveys in the area from October to December 2008 in order to strengthen the factual basis for creating the reserve. The report cites 21 testimonies that describe sightings and traces of indigenous peoples living in voluntary isolation in the area. Eleven of these had previously been referred to in AIDSESEP'S *Estudio Técnico*, but others were new. The sightings span a period of 30-40

³⁵ Rogalski, Filip and Marek Wolodzko 2003: *Informe sobre la presencia de grupos indígenas en situación de aislamiento voluntario en la cuenca de los ríos: Medio y alto Curarau, Arabela, Nashiño y alto Napo. Estudio antropológico basado en el trabajo de campo (octubre –diciembre 2003)*. A cooperation between the *Asociación Interétnica de Desarrollo de la Selva Peruana* and the *Equipo Para el Estudio de las Culturas de América Latina de la Escuela de Etnología y Antropología de Cultura de la Universidad Adam Mickiewicz de Poznan, Polonia*. Iquitos 2003. The second study was undertaken by Filip Rogalski between March 2003 and May 2004. The findings of both studies were presented in the AIDSESEP 2003 document: *Estudio Técnico. Delimitación territorial a favor de los pueblos indígenas en situación de aislamiento voluntario. Napo, Tigre, Curaray, Arabela, Nashiño, Pucacuro*.

³⁶ AIDSESEP 2003: *Estudio Técnico*, p.1 paragraph 7. According to the *Estudio Técnico* and other information obtained by the Council, these peoples belong to two different linguistic families the Záparos and the Waoranis. Both families include different ethno-linguistic groups. The Arabela, the Iquito, the Taushiro, and the Zapara are believed to belong to the Zápara-family while the Abijiras belong to the Waorani-family. The Ombudsman's report (see section 5.2.5) refers to Arabela (Zápara family) and Auca groups (Waorani-family). Because the isolated indigenous peoples in the Napo-Tigre area have not identified themselves, (the names of these groups are ethnonyms given by other groups), the names of the groups may vary. This is not unusual. For example, the Matsigenkas living in isolation at Urubamba River in Southern Peru had two different names: Kirineri and Kugapakori. Communications with Beatriz Huertas Castillo, 26 August 2010.

³⁷ AIDSESEP 2003: *Estudio Técnico*, pp 1-2, point 8: '*Los pueblos indígenas en aislamiento se desplazan por toda la zona superior del río medio Arabela, el medio Curaray [] y el medio y alto Yanayacu y Aushiri; por el medio y alto Baratillo (Grande), Tangarana y el divortium aquarum entre el río Pucacuro y las cabeceras del río Nanay, donde aprovechan los recursos del bosque a través de prácticas de subsistencia como la caza, pesca, recolección y manejo de cultivos.*'

years. Six of the sightings are from 2005-2008.³⁸ The most recent observation is from a named worker from the company Global Geophysical Services (Repsol's contractor). He testifies to having sighted what is thought to be uncontacted Indians and their traces during the course of his work in the Curaray-Arabela area in Block 39.³⁹

Sightings and traces of indigenous peoples living in voluntary isolation in Block 39

Drawing on testimonies for the period 1995-2008, the two aforementioned reports include the following references (from about 70 observations):

- Village residents in Buena Vista have made two separate sightings of naked indigenous people close to the so-called Pirana oil field. These were not recognised as locals and were therefore thought to be uncontacted people by the witnesses.
- Footprints identified by Buena Vista villagers as not belonging to any of the villagers.
- A logger observed a barefooted naked man with long hair in the vicinity of the Buena Vista village.
- Loggers in block 67 discovered two crossed spears driven into the ground. This was interpreted as a warning sign left by uncontacted people. There were also reports of items having gone missing – apparently stolen – from the logging camp.
- Loggers and fishermen living between the Dorada and Pirana oil fields have reported footprints and trails that cannot be attributed to local inhabitants.
- Sightings of naked people bathing in a stream near the village of Buena Vista.
- Evidence of habitation – including cooking utensils and equipment used for hunting – discovered by anthropologists in connection with a demographic study to be used in environmental impact assessments for Block 39.

Sightings in the two anthropological reports from 2003 and 2005 have been mapped in relation to the oil blocks in figure 4 below.

³⁸ ORPIO-AIDSESEP 2008: *Proyecto de Fortalecimiento de la Propuesta de Creación de la Reserva Territorial Napo-Tigre*. Iquitos, December 2008.

³⁹ See footnote 38.



Figure 4: Observations and sightings of uncontacted peoples in the Napo Tigre area. Blocks 39 and 67 are shown.⁴⁰

The studies referred to above are controversial. One of the main critics of these studies, the anthropologist Carlos Mora Bernasconi, has particularly criticised the anthropologists' competence and methods, though he does not seem to reject that there may be indigenous peoples in voluntary isolation in Block 39.⁴¹ In 2009, another group of anthropologists evaluated the same study (*Estudio Técnico*) and concluded that the conclusions and methods in the study were scientifically valid.⁴²

The study carried out by the consultancy Daimi in block 67

In September 2008, the Peruvian consulting firm Daimi published a study concerning the possible existence of indigenous peoples in voluntary isolation in block 67. The study was commissioned by Perenco, the operator at block 67, and was carried out by a multidisciplinary team of experts including specialists from the government agency in charge of indigenous groups in Peru INDEPA (*Instituto Nacional de Desarrollo de Pueblos Andinos, Amazónicos y Afroperuanos*), the National University of the Peruvian Amazon in Iquitos, the

⁴⁰ Google Earth Image prepared by Lukasz Krokoszyński, anthropologist.

⁴¹ Mora Bernasconi, Carlos 2007: *Opinión Antropológica sobre el Estudio Técnico*. PeruPetro tasked Bernasconi with carrying out a critical evaluation of AIDSESP's *Estudio Técnico*, and his assessment was intended to provide Peru Petro with a basis on which to make a decision. PeruPetro is the state-owned oil company in charge of negotiation and participating in contracts for finding and extracting petroleum. Available at http://www.perenco.com/front/file/Opini%C3%B3n_Antropol%C3%B3gica_sobre_estudio_de_AIDSESP_or_C._Mora.pdf.

⁴² Krokoszyński, Lukasz, Mariusz Kairski, Paweł Chyc and Iwona Stońska Kairska 2009: *Algunas observaciones referentes a los estudios sobre la presencia de las poblaciones aisladas en la zona fronteriza peruano-ecuatoriana*, available at <http://reducajali.blogspot.com/2009/06/napo-tigre-estudios-sobre-la-presencia.html>.

National University of San Marcos in Lima, as well as Daimi's own consultants.⁴³ The report, which is partly based on field studies, concludes that there is no conclusive evidence of the existence of uncontacted indigenous peoples in the area under investigation and that no traces or occurrences similar to those found in Ecuador during the last 60 years have been registered.⁴⁴ The field study, however, appears to have been limited to the headwaters of the Arabela River.⁴⁵

There are reports that not all of the specialists who participated in the study agree with its conclusion. According to an article in the British newspaper *The Guardian* in July 2009, the field investigations found physical evidence of the existence of uncontacted indigenous peoples, but this was allegedly not reflected in the report's conclusion.⁴⁶ Despite numerous attempts, the Council has not been able to contact the experts who spoke to the newspaper.

The Council has received information from another Peruvian anthropologist who was engaged by Daimi to write a summary of the study at an early stage. In his summary, he emphasized two aspects which should be studied further: the existence of signs that a group of uncontacted indigenous people belonging to the Tagaeri or Taromenane tribes had moved from Ecuador to Peru around 2002 following a conflict between indigenous tribes that had killed 30 members of their group; and testimonies by hunters who had found traditional poison containers (used for hunting wild animals) in the Pucacuro area, possibly indicating the presence of uncontacted peoples. These aspects were not included in the final summary of the report.⁴⁷

The Council has commissioned an evaluation of Daimi's report based on its methodology and findings. Daimi's study is related to AIDSESEP's report, and its aim is to confront the theories in AIDSESEP's report with the findings in Daimi's research. The study claims to encompass the same geographical area as the technical study, but field-studies are limited to a smaller area around the Arabela River, itself a minor part of the area suggested as a reserve.

Daimi's consultants used archaeological methodology, including excavations, to find cultural indications that uncontacted indigenous people live in this area (such as trails, settlements, agricultural areas and pottery remnants).⁴⁸ According to the study, the findings indicate that the area under assessment has previously been used by indigenous people but has been uninhabited for many years. The study therefore concludes that there are no longer uncontacted indigenous people in the area. Experts contacted by the Council who have evaluated the study question the use of archaeological methodology to evaluate the existence of uncontacted indigenous people, as this methodology is of little relevance considering their lifestyle. As with other uncontacted groups in Peru where information is available, any uncontacted groups living in this area will have experienced important changes to their living areas, their settlement patterns and their lifestyles as a result of external influences. The need for a high level of mobility and rapid displacement in order to avoid situations where contact with outsiders may take place implies that indigenous people can be expected to remain only a relatively short period of time in any given place. This implies that houses and huts will be erected in such a way as to be dismantled quickly and without a trace, while pottery may not

⁴³ Daimi 2008: *Investigación Interdisciplinaria Antropológica en torno a Pueblos Indígenas Aislamiento Voluntario y Contacto Inicial. Propuesta de la Reserva Napo-Tigre-Curaray*, available at <http://www.perenco.com/front/file/INFORMEFINALPIAV.pdf>. The study was commissioned by Perenco.

⁴⁴ See footnote 43, pp 122-124.

⁴⁵ Daimi July 2008: *Mapa 01 Rutas de Investigación*.

⁴⁶ *The Guardian* 4th July 2009: *Rumble in the Jungle* by Rory Carroll, available at <http://www.guardian.co.uk/environment/2009/jul/04/peru-amazon-rainforest-conservation>.

⁴⁷ Communication with anthropologist Adolfo Lopez by email and telephone 17 and 24 September 2010.

⁴⁸ See footnote 43 p. 8.

necessarily be used. They will avoid making clearings in the forest and make a point of hiding their presence. Lifestyle changes of this kind are known from other isolated indigenous peoples in South America.⁴⁹ This may also imply that there probably will not be much for archaeological methodology to uncover, especially given the warm and humid climate in which organic material decomposes quickly.

In general, it would seem as though the consultants who carried out this study did not have the necessary knowledge and understanding of the particular challenges affecting uncontacted indigenous people, which have changed their way of life. This is particularly the case as concerns the fact that indigenous people are almost always fleeing from outsiders.⁵⁰ The methods used to sustain the report's conclusions do not seem adequate to elucidate whether there really are uncontacted indigenous people in the area. Together with information suggesting that the report does not reflect a possible presence of uncontacted indigenous people, the conclusion that there are no uncontacted indigenous people in the area is not, in the Council's opinion, convincing.

5.2.2 Other observations of peoples living in voluntary isolation

Already in 2003, Repsol was made aware of the very likely existence of uncontacted groups in Block 39. In August that year, Repsol participated in a community workshop together with PeruPetro and representatives from the government and local authorities in the village of Santa Clotilde to promote the oil activities. Of the four working groups discussing different subjects, one was dedicated to uncontacted indigenous peoples (*Los No contactados*). In the conclusions of the group, in which local people participated, reference is made to two groups of uncontacted peoples – *Los Pananujuri* and *Los Patas Rojas*. Signs of a group of about 40 people, believed to be uncontacted, had been observed 2-3 weeks before the workshop. The working group recommended that Repsol make a plan in case of encounters with uncontacted indigenous peoples, and that forced contacts or searches be avoided. The group also recommended that the government initiate investigations carried out by anthropologists with experience on uncontacted peoples.⁵¹

The Council is aware that workers contracted by Repsol (through the company Global Geophysical Services) are said to have reported sightings of locals thought to be uncontacted indigenous peoples in Block 39, as well as their traces, as recently as July 2008. These sightings are said to have taken place between 15 and 20 km from the border with Ecuador as they crossed the seismic lines.⁵² Whether this refers to the same person as mentioned in Orpios' report (see 5.2.1), is unclear.

The Ministry of Energy followed up on this observation and conducted hearings and interviews with field workers, local residents and researchers from the American Smithsonian Institute who were working in the area. The report concludes that there are no indications that indigenous people in voluntary isolation live in the area. The report also appears to put more emphasis on assessing Repsol's anthropological contingency plan than on identifying the

⁴⁹ Beatriz Huertas Castillo, Memo to the Council, 8 November 2010. For example, the isolated Pano groups on the border with Brasil stopped building large houses and buildings in forest clearings. Instead they build smaller huts which can be hidden under vegetation and which are difficult to find. The Mascho Piros and other groups stopped cultivating large areas and went over to smaller "kitchen gardens" because of how often they had to move, while the Mayoruna groups stopped using clay products.

⁵⁰ Beatriz Huertas Castillo, Memo to the Council, 8 November 2010.

⁵¹ *Resumen del Seminario taller: Promoción de la actividad de hidrocarburos en comunidades indígenas* (Santa Clotilde, 11-13 August 2003).

⁵² Survival International: *Reports of uncontacted Indians seen by oil workers* 24. juli 2008 <http://www.survival-international.org/news/3540>.

individuals who claimed to have sighted the uncontacted indigenous people in order to verify whether the observations actually had taken place.⁵³

Different sources have informed the Council that employees from the oil companies and their subcontractors have observed traces of uncontacted indigenous peoples, but that these have not been reported.⁵⁴ Because the extractive activities provide local jobs and wages, neither the workers nor the local populations have an incentive for reporting observations as these would entail the stopping of operations.

Repsol confirms that any observations of uncontacted indigenous peoples are to be reported, and that employees and subcontractors are instructed to do so. The company's contingency plan requires three witnesses to verify an observation before it is reported, which may lead to not all observations being registered.

5.2.3 Environmental impact assessments for Block 39 and Block 67

Before companies can engage in exploration activities and drill test wells, they need to prepare an environmental impact assessment. This must include an assessment of the effects on indigenous peoples living in the area. Such studies have been conducted for both Block 39 and 67.

Two environmental impact assessments (EIAs) were submitted by Repsol to Peru's Ministry of Energy and Mines in 2007. Both were rejected on the grounds that they did not sufficiently take into account the possible effect of the company's operations on the health of uncontacted peoples living within Block 39.⁵⁵

The initial EIA for Repsol's seismic surveys was completed in April 2006.⁵⁶ In its evaluation of this EIA, Peru's *Instituto Nacional de Recursos Naturales* (INRENA)⁵⁷ states the following: 'The southern section of Block 39 overlaps the Pucacuro Reserved Zone as well as the proposed Tigre Napo Territorial Reserve for the native communities who live in the upper valleys of the Napo, Tigre and Pucacuro rivers.' INRENA goes on to state that there is a need to 'precisely quantify the impact of the environmental control measures which will be implemented, since the seismic project will affect the area where indigenous peoples in voluntary isolation are present (the upper valleys of the Napo, Tigre and Pucacuro Rivers).' Section 30 of the INRENA report goes on to recommend that the Ministry of Energy and Mines should consider taking into account the opinion of several leading environmental protection organizations 'because peoples in voluntary isolation are present in the area of the project, both inside and outside the Pucacuro Reserved Zone.'⁵⁸

In Repsol's second EIA, which was submitted in February 2007, the company makes reference to the existence of references indicating that uncontacted indigenous people live in the area: 'There are references pointing to the existence of uncontacted indigenous peoples

⁵³ Ministerio de Energía y Minas: Informe No 043-2008-MEM-OGGS/SL *Supuesto incidente en el Lote 39*.
OGGS Report No 043-2008-MEM-OGGS/SL,

⁵⁴ References on file with the Council.

⁵⁵ This is described in detail in: Ministerio de Energía y Minas INFORME No 045-2007-MEM-AAE/GR. *Asunto: Evaluación del Estudio de Impacto Ambiental Programa de 12 Pozos Exploratorios Raya 2X, 3X, 4X, 5X, 6X, 7X; Buena Vista 2X; Abalón 1; Cuvina 1X; Caballa 1X y Arabela 2X y 3 X-Lote 39*, 22 June 2007.

⁵⁶ Ministerio de Energía y Minas INFORME No 0080-2007-MEM-AAE/CIM. *Asunto: Evaluación del Levantamiento de Observaciones del Estudio de Impacto Ambiental (EIA) Prospección 2D-Lote 39*, 14 August 2007.

⁵⁷ INRENA is part of the Ministry of Agriculture in Peru.

⁵⁸ Ministerio de Agricultura/ Instituto Nacional de Recursos Naturales (INRENA): *Observación Técnica No 363-06-INRENA- OGATEIRN-UGAT; EIA Prospección Sísmica 2D (1000 km) LOTE 39*. 22 December 2006.

(indigenous peoples living in voluntary isolation, as they are currently referred to). Reports from local residents and professionals allude to the presence of various groups of isolated indigenous peoples near the headwaters of the Curaray, Tigre and other rivers on the Ecuadorean side of the border. On the Peruvian side, the presence of two groups has been determined: the Feromenami and the Tagaeri.⁵⁹ Any risk of contact with these groups requires following the procedures established in the Environmental Management Chapter of this EIA'.⁶⁰

During the consultations process, both national and international NGOs asked the Ministry of Energy and Mines to reject the impact assessment and stop the activities in Block 39. The Ministry did not do so, but ordered Repsol to prepare a contingency plan to protect the indigenous peoples who may be living in voluntary isolation.⁶¹ In compliance with the order, Repsol submitted its contingency plan, '*Plan de Contingencia para pueblos indígenas en aislamiento voluntario y/o no contactados*' on 10 July 2007.⁶² The Ministry approved the environmental impact assessments for the seismic surveys and test drillings within a week of each other in November and December 2007.⁶³

In its reply to the Council, Repsol points out that there have always been indications of the existence of isolated indigenous groups in the area. The fact that these are referred to in the EIA is not, according to Repsol, a confirmation of the existence of uncontacted people in the block, nor should their statements be interpreted in this manner.⁶⁴

In June 2010, the Ministry of Energy approved the environmental impact assessment for a new round of seismic surveys in the block.

It is relevant to include Block 67 in an assessment of the presence of uncontacted indigenous populations in block Block 39, within which Block 67 is located. The question of uncontacted indigenous people was also treated in the environmental impact assessment for Block 67, for which Barret was responsible at the time. Among other questions treated was the possibility of violent conflict arising with outsiders. The EIA warns of the risk that the company's workers may encounter people living in voluntary isolation, and of the consequent need to employ and educate indigenous workers who can act as translators.⁶⁵

⁵⁹ Feromenami is another name for the Taromenane. The Tagaeri group belong to the Waorani family, which is the same linguistic family to which uncontacted indigenous groups in Ecuador belong, see footnote 36.

⁶⁰ Repsol YPF/ GEMA 2007: EIA SISMICA 2D (1 000 Km) LOTE 39, Cap. 2.0 - *Descripción del Proyecto.. 'Se tiene referencia de la existencia de grupos de indígenas no contactados(indígenas en aislamiento voluntario como se denomina actualmente). A este respecto, existen informes de moradores y profesionales que señalan la presencia de varios grupos de indígenas no contactados en las cabeceras de los ríos Curaray, Tigre y otros cursos fluviales, del lado de la frontera con Ecuador. Para el caso del Perú, se establece la presencia de dos grupos denominados: Feromenami y Tagaeri. En el caso de la posibilidad de establecer contactos al respecto se explica según las situaciones en el Capítulo 5.0 (Manejo Ambiental) del EIA.'*

⁶¹ See footnote 56, p. 30 point 56.

⁶² Repsol Exploración Perú, Sucursal del Perú: *Plan de Contingencia para pueblos indígenas en aislamiento voluntario y/o no contactados*, version 02, EP.MASC.0491.

⁶³ Ministerio de Energía y Minas: Resolución Directoral No 958-2007-MEM/AAE 28 de noviembre de 2007 (seismic surveys) and Ministerio de Energía y Minas: Resolución Directoral No 976-2007-MEM/AAE 3. Diciembre 2007 (exploration wells).

⁶⁴ Repsol' letter to the Council 13 October 2009.

⁶⁵ Barrett Resources (Perú) LLC/ GEMA 2007: EIA SISMICA 3D - LOTE 67 5-1 CAP. 5.0 *Plan de Manejo Ambiental*, section 5.11.15 *Medidas de Contingencias Antropológicas para contactos con poblaciones en aislamiento voluntario* (p. 98): '*En el transcurso de las actividades de la sismica en las áreas del Lote 67, probablemente los trabajadores tengan un encuentro con estas poblaciones no contactadas, debido a la continua movilidad de estos últimos. Por ello, es necesario que para la campaña sísmica y posteriormente para la etapa de perforación, se deba contar con varios trabajadores indígenas, que puedan officiar de traductores; los que serán entrenados por el personal de Relaciones Comunitarias de BARRETT.'*

5.2.4 Peruvian authorities' approach to uncontacted indigenous peoples

Peruvian authorities recognize that uncontacted indigenous peoples exist. During the last 17 years, the authorities have established five reserves in the Amazon to protect indigenous peoples living in voluntary isolation. In 2007 Peru passed a specific law to protect uncontacted indigenous peoples.⁶⁶ Said law prohibits any activity within the reserves, with the exception of the exploitation of resources of national interest (including petroleum). In April 2009, the government adopted a regulation defining the development of Block 67 as being of national necessity and interest.⁶⁷ All existing territorial reserves overlap areas where oil and gas exploration or production are on-going.

Ministerio de Energía y Minas

In a position paper from the Ministry of Energy and Mines about uncontacted indigenous peoples in Blocks 39 and 67, the Ministry bases itself on a court ruling (described in further detail below) stating that there is no proof of indigenous peoples living in voluntary isolation in this area.⁶⁸ At the same time, the Ministry requires that companies prepare anthropological contingency plans in areas where there are indications that uncontacted peoples exist, including block 39. Thus the Ministry does not reject the possibility that there may be uncontacted indigenous peoples within the block.

Ministerio de Salud

The Peruvian Ministry of Health has established guidelines and instructions to prevent or reduce negative health impacts in the event that contact with isolated indigenous peoples occurs.⁶⁹ The Ministry states that a fundamental premise of the guidelines is the avoidance of all contact, adding that the general principle for any action which will affect these indigenous peoples must be to respect their right to a life in isolation, their way of life, and their right to freely decide how much contact they wish to have with the rest of society. The recognition of their existence commits the government to developing strategies designed to protect them.⁷⁰ According to the Ministry, the guidelines shall apply both in the established reserves for uncontacted indigenous peoples and in the areas that have been proposed as reserves, including the Napo-Tigre reserve in Blocks 39 and 67. The Ministry therefore indicates that there may be indigenous peoples in voluntary isolation in these blocks and that they should be protected.⁷¹

5.2.5 The Ombudsman – *Defensoría del Pueblo*

The Ombudsman in Peru is an independent institution established in 1993 to safeguard the population's constitutional and fundamental human rights.⁷² Against the backdrop of

⁶⁶ *Ley para la Protección de Pueblos Indígenas u Originarios en Situación de Aislamiento y en Situación de Contacto Inicial*, LEY N° 28736, available at <http://www.acnur.org/biblioteca/pdf/6757.pdf>.

⁶⁷ Decreto Supremo No 044-2009: *Declaran de necesidad e interés nacional el desarrollo del Proyecto del Lote 67*, available at http://www.perenco-peru.com/fileadmin/user_upload/Project_of_national_necessity_and_interest.pdf.

⁶⁸ Ministerio de Energía y Minas, Oficina General de Gestión Social: *Actividades petroleras y reservas indígenas: Intereses y Posiciones*, available at http://www.minem.gob.pe/archivos/dgss/notas/Comentarios_Lotes3967.pdf The Ministry states: '...que ya exigía la presentación de un Plan de Contingencia Antropológico para aquellas áreas donde existen inicios de la presencia de estos pueblos humanos.'

⁶⁹ Ministerio de Salud 2008: *Norma y Guías Técnicas en Salud. Indígenas en aislamiento o contacto inicial*. Lima. Available at http://www.ins.gob.pe/insvirtual/images/otrpubs/pdf/Normas_Guias_Indigenas_final.pdf.

⁷⁰ See footnote 69, p. 23, pp 52-53.

⁷¹ See footnote 69, p. 13: '*Reserva Territorial del Estado en favor de los pueblos Arabela, Pananujuri, Taushiro, Huaorani, Taromenane, Iquito-Cahua, en los ríos Curaray, Napo, Arabela, Nashiño, Tigre y Afluentes, en el departamento de Loreto, Frontera con Ecuador.*'

⁷² <http://www.defensoria.gob.pe>.

numerous requests from indigenous organizations in Peru for the protection of the rights of indigenous peoples in voluntary isolation, the Ombudsman conducted a survey of their situation at the beginning of the 2000s. The Ombudsman presented her investigation and assessment of the situation of indigenous peoples living in voluntary isolation in Peru in a report from 2005, including recommended measures to improve their protection.⁷³

As part of her research, the ombudsman conducted interviews in December 2002 with the inhabitants of two villages in block 39, Buena Vista and Flor de Coco. Local residents spoke of two isolated indigenous groups being present in the area – *Los Pananujuri* and *Los Aucas*. The former they believed to be related to the Arabelas, while the latter were referred to as Ecuadorians. The locals mentioned finding traces of these indigenous peoples, as well as abandoned settlements and visual contact.⁷⁴

The Ombudsman states that contact with isolated indigenous peoples is a cause of grave concern and that the presence of strangers poses a significant risk to the health and survival of these peoples. She points out that of all the stages of oil activities, the exploration phase is considered to carry the greatest risk for the uncontacted peoples because seismic surveys imply large work crews moving across wide areas, which can easily put them in contact with these groups.

According to the Ombudsman, awarding concessions to exploit natural resources in territories of isolated indigenous peoples is a violation of the right to life, health and property.⁷⁵ Moreover, she highlights the fact that uncontacted indigenous peoples' right to self-determination and their choice to live in isolation must be respected, and that mechanisms to avoid contact must be implemented. In her recommendations, the Ombudsman writes that uncontacted indigenous peoples should not only be given reserves and land rights but their possibilities of survival and isolation must also be ensured. On the basis of her own assessments, AIDSESP's study and information in the companies' EIAs, the ombudsman recommends specifically that studies should be carried out to delimit and create a reserve for the isolated peoples who have their habitat between the rivers Arabela, Napo and Curaray,⁷⁶ which is the area covered by Blocks 39 and 67. These recommendations have not been carried out.⁷⁷

5.2.6 Court decisions

In 2007, the indigenous organisation AIDSESP filed a lawsuit against Repsol, Conoco Phillips, Perenco and the Ministry of Energy and Mines in a local Peruvian court in Iquitos in order to stop the activities in blocks 39 and 67.⁷⁸ The case has since been through a further

⁷³ Defensoría del Pueblo: El Informe Defensorial No 101 *Pueblos Indígenas en situación de aislamiento voluntario y contacto inicial*. Resolución Defensorial No 032-2005-DP. Lima 15 November 2005, available at <http://www.defensoria.gob.pe>.

⁷⁴ Defensoría del Pueblo: Programa de Comunidades Nativas. *Informe de Viaje No 001-2003/DP-PCN. Informe del viaje realizado al distrito del Napo*. 14 de enero de 2003.

⁷⁵ See footnote 73. '*Estos derechos de aprovechamiento otorgados a terceros constituyen una violación a los derechos a la vida, salud y territorio de estos pueblos indígenas, por lo que es necesario garantizar al máximo la integridad de estas áreas, ya que no se trata de pueblos que puedan ser reubicados para la explotación de tales recursos.*'

⁷⁶ See footnote 73, p. 67, paragraph 3.3.

⁷⁷ Communication with the Ombudsman, 8 November 2010.

⁷⁸ AIDSESP vs Ministerio de Energía y Minas, Perenco Peru Limited del Peru, Perupetro S.S., Repsol Exploración Peru Sucursal del Peru: *Acción de Amparo. Sentencia. Resolución Número 46*, Corte de Iquitos 1. Julio 2008. Expediente 2007-00919-0-1903-JR-CI-2, available at <http://www.reports-and-materials.org/Perenco-enclosure-Iquitos-court-1-Jul-2008.pdf>.

two courts, *La Sala civil de la Corte Superior de Justicia de Loreto* in Iquitos,⁷⁹ and the Supreme Court, which ruled in June 2010.⁸⁰

All of the courts have rejected AIDSESEP's demands. The central question the courts have considered is whether the extractive activities in the block constitute an immediate threat against the constitutional rights of uncontacted people: the right to life, health, cultural integrity and property (living areas/territories).⁸¹ This is deemed a precondition in order to stop the exploration and establish a permanent reserve in the area. All of the rulings state that there is not sufficient or decisive proof of the existence of uncontacted indigenous people in Blocks 39 and 67, and that there consequently cannot be said to exist an immediate threat to the rights of indigenous peoples. Nevertheless, the first verdict states that: **'This does not in any way imply that the oil companies and the State should not take preventive measures to avoid any kind of damage to the rights of un-contacted indigenous peoples in the event that these should exist and in case any contact with these should actually take place,** but it does mean that in the current circumstances it is not possible to prohibit or suspend the hydrocarbon-related operations in plots 39 and 67, as the plaintiff requests'.⁸²

The Appellate Court decided that hydrocarbon-related operations do not in themselves breach the fundamental rights of uncontacted people. The Court meant that the companies' contingency plans for possible contact with isolated indigenous people cannot be taken to imply that there are isolated indigenous people in the area, but rather should be viewed as a fulfilment of legal requirements. The Court also pointed out that this decision was in accordance with the recommendations in the Ombudsman's report, which according to the Court had not recommended ceasing activities in areas with isolated indigenous peoples but rather that robust procedures be developed in order to stop the activity from harming indigenous peoples.⁸³

The Supreme Court explains that it has gone through an important number of studies, documents and explanations, including the Ombudsman's report, in order to determine whether there exists an immediate threat to the indigenous people. In this regard, the Court states that it has had to work with 'documents, decisions and/or investigations which present conflicting conclusions'.⁸⁴ The Court also explains that procedures in constitutional processes do not allow for a comprehensive gathering of new evidence.⁸⁵ These processes, the aim of which is to provide protection against impending damage, would be delayed by

⁷⁹ AIDSESEP vs Ministerio de Energía y Minas, Perenco Peru Limited del Peru, Perupetro S.S., Repsol Exploración Peru Sucursal del Peru: *Proceso de Amparo. Sentencia. Resolución Número 53*, Segundo Juzgado Civil de Maynas. Expediente 2008-0918-SC/2007-00919-0-1903-JR-CI-2; p 11, available at http://www.perenco-peru.com/fileadmin/user_upload/Second_instance_sentence.pdf.

⁸⁰ Sentencia del Tribunal Constitucional Expediente No 06316-2008-PA/TC, available at <http://www.tc.gob.pe/jurisprudencia/2010/06316-2008-AA.html>.

⁸¹ See footnote 80, paragraph 3 point 5.

⁸² See footnote 78, paragraph 7: *'Ello no quiere decir en modo alguno que las empresas petroleras emplazadas y el Estado no deban tomar medidas preventivas para evitar cualquier tipo de afectación de derechos de pueblos indígenas no contactados en caso de que existan y se produzcan efectivamente contactos con ellos, pero esto no habilita en las actuales circunstancias a prohibir o suspender las operaciones de hidrocarburos en los lotes 39 y 67, como pretende la demandante.'*

⁸³ See footnote 80.

⁸⁴ Sentencia del Tribunal Constitucional Expediente No 06316-2008-PA/TC, paragraph 3 point 7: *'al tratarse de documentos, dictámenes y/o investigaciones que plantean conclusiones contradictorias'*.

⁸⁵ This is further developed by the minority judge, Landa Arroyo in paragraph 3 point 10: ... on this note, the tribunal has previously decided that 'the exceptional, urgent and swift nature of constitutional processes mean that one cannot allow for a number of evidentiary processes to take place. This because of the context in which a constitutional judge must immediately dictate an order with an aim to stop or suspend the execution of an act which violates a constitutional right, and this cannot be delayed. Consequently immediate protection cannot in principle allow procedural acts of the evidentiary kind.'

comprehensive evidence-gathering and would thereby be rendered ineffective in regards to their intention. The Court concludes that the investigations which have been carried out in the block the last few years do not give sufficient grounds to infer the existence or inexistence of indigenous people in the area. ‘This leads the Court to decide that [...] a *habeas corpus* process is not the adequate venue for controversial matters such as those being treated here because it lacks an evidentiary stage [...]’.⁸⁶

The Supreme Court also elaborates on the concept of immediate threat. In order for there to be a threat against a fundamental human right, the threat must be real and impending, ‘that is, the damage must be real, effective, tangible, concrete and inescapable, thereby excluding damages which cannot be objectively evaluated.’⁸⁷ Consequently, a real threat must be based on real events, and there must be an immediate threat of damage taking place in the immediate – rather than distant – future. The future damage must indisputably imply the breach of protected rights, it must be possible to perceive the damage precisely, and it must inevitably imply a concrete violation. The Court decided that the documentation presented in the case to a greater degree concentrated on proving the existence of indigenous people and to a lesser degree discussed the dangers they are facing.⁸⁸

The court’s minority, Judge Lando Arroyo, arrives at the same conclusion as the court’s majority but elaborates on a number of points in his reasoning. Among other things he points out the state’s responsibility to carry out studies of indigenous peoples in voluntary isolation: ‘This does not, however, preclude the responsibility of the State through the institutions dedicated to the investigation of native forest communities, the INDEPA in particular, such that they allocate resources aimed at promoting scientific studies of those in voluntary isolation, their location, their living conditions, the territories which they occupy, their languages, culture and ways of life. It is the duty of the State within the framework of the effective protection of these peoples’ rights... to carry out and promote investigations through private or public institutions in order to determine their real existence. This is part of the right that these peoples have to access the other rights they are recognised as having. In the absence of investigations making it possible to gain knowledge of their real existence and needs, any discourse concerning their rights will inevitably be moot and will lack a real intention from the part of the public authorities to attend to their needs’.⁸⁹

⁸⁶ See footnote 84, paragraph 3.8: *Todo ello permite sostener a este Colegiado, con relación a este extremo de la pretensión, que el proceso de amparo no es la vía adecuada por carecer de estación probatoria respecto de cuestiones tan controvertidas como las expuestas, resultando de aplicación el artículo 9° del Código Procesal Constitucional.* This follows from article 9 in the *Code of Constitutional Proceedings*.

⁸⁷ See footnote 84, paragraph 4. 12. ‘...es decir, el perjuicio debe ser real, efectivo, tangible, concreto e ineludible, excluyendo del amparo aquellos perjuicios que escapan a una captación objetiva.’

⁸⁸ The court has also considered whether the indigenous peoples’ right to be consulted was violated in connection with the allocation of the blocks. The court concluded that the State had not consulted indigenous groups when the concessions were awarded in 1995 and 1999 and that consequently the state had acted against the constitution. The court states that indigenous peoples have an indisputable right to be consulted in accordance with ILO’s convention 169, which obliges the state to ensure that the companies in question carry out consultations even if concessions have already been granted. Paragraph 6, points 26, 27 and 30.

⁸⁹ See footnote 84, the court’s minority (Judge Landa Arroyo), paragraph 3.11, ‘*Ello no es óbice, sin embargo, para dejar establecida la responsabilidad del Estado a través de las instituciones dedicadas a la investigación de las comunidades nativas de la selva, en especial el INDEPA, a efectos de que destine recursos orientados a promover la investigación científica sobre los pueblos en aislamiento voluntario, su ubicación, condiciones de vida, territorios que ocupan, lenguas, cultura y formas de vida. Es deber del Estado, en el marco de la efectiva protección de los derechos de estos pueblos, reconocidos tanto a nivel interno como a través de documentos internacionales suscritos por el Perú, desarrollar investigaciones o promoverlas a través de instituciones privadas o públicas sobre su real existencia, como parte del derecho que tienen estos pueblos de acceder a los demás derechos que se les reconoce. Sin investigaciones que*

5.2.7 The Inter-American Human Rights Commission (IAHRC)

In 2007 AIDSESEP contacted the Inter-American Human Rights Commission requesting that they instruct Peru to implement so-called ‘precautionary measures’ and stop all planned petroleum activities in the proposed Napo-Tigre reserve in order to protect the indigenous peoples in voluntary isolation. ‘Precautionary measures’ are an instrument the Commission can use ‘to avoid serious and irreparable harm to human rights in urgent cases.’ The year before, in May 2006, the Commission ordered Ecuador to introduce such measures to protect indigenous peoples in voluntary isolation in areas adjacent to Peru (see 5.2.8).⁹⁰

The Human Rights Commission asked Peru’s authorities for more information, including ‘the current status of the exploration and exploitation projects located in Blocks 39 and 67, and further, the impact that such activities could have on the life, personal integrity, territory, health, environment, and culture of indigenous people in voluntarily isolation. Likewise, the government must inform the OAS regarding measures adopted by the state or that would have to be adopted to guarantee protection of indigenous people.’⁹¹ The Commission also held various hearings in the case. It is not known if or when the Commission will make a decision on the case.

5.2.8 The proximity to the Intangible Zone in Ecuador

Close to the border with Peru, the Ecuadorian government has established the so-called Intangible Zone, a territorial reserve for indigenous peoples living in voluntary isolation. The reserve overlaps the southern part of the Yasuni National Park. It is thought that at least two isolated indigenous group live in this area - the Tagaeri and the Taromenane, belonging to the Waorani-linguistic family. All resource extraction is prohibited in the reserve.

IAHRCs request for precautionary measures followed a series of killings in April 2006 where members of the uncontacted Taromenani group were reportedly shot by illegal loggers in the Yasuni National Park. The numbers have not been confirmed, and reports vary from 2 to 30 people. The attack was thought to be in retaliation for the killing of two loggers a few days before. These had been attacked with spears by Taromenanis following the constant invasion of illegal loggers into their territories.⁹²

In 2007 the Ecuadorian government demarcated the reserve in response to the IAHRC’s requests, adding a 10 kilometer buffer zone surrounding the reserve. Road building is prohibited in the buffer zone, but oil operations are permitted.⁹³

It is the Council’s understanding that Ecuadorian authorities appear to be extremely careful about carrying out activities in areas where uncontacted indigenous peoples live. In an evaluation of whether old oil wellheads should be dismantled, the Ministry of the

permitan conocer su real existencia y necesidades, el discurso sobre sus derechos resultará siempre vacío de contenido y carecerá de una real intención de atenderlos por parte de los poderes públicos.’

⁹⁰ Peru received a similar request in 2007 ‘to adopt the necessary measures to guarantee the lives and personal integrity of members of the Mashco-Piro, Yora and Amahuaca tribes living in voluntary isolation in the Madre de Dios department. In particular, to adopt the intended measures to safeguard against the immediate or irreparable dangers resulting from the activities of outsiders in their territories.’ In this case illegal logging was the most serious threat, see <http://www.cidh.org/medidas/2007.eng.htm>.

⁹¹ IAHRC Resolución MC-129-07. The IAHRC requested the Peruvian government to provide information about “*el estado actual de los proyectos de exploración y explotación petrolera ubicados en los lotes 67 y 39*” and the impacts of the activities on “*podrían generar en la vida, la integridad personal, el territorio, la salud, el medio ambiente y la cultura de los pueblos indígenas en situación de aislamiento voluntario*”. The letter is referred to at <http://servindi.org/actualidad/2470>

⁹² *Petición de Medidas Cautelares a favor de los Pueblos indígenas Tagaeri y Taromenani*, 1 May 2006, available at <http://www.ciudadanosporlademocracia.org/cpd/frontEnd/main.php?idSeccion=159>.

⁹³ http://iopscience.iop.org/1748-9326/4/3/034005/pdf/1748-9326_4_3_034005.pdf.

Environment concluded that it would not recommend doing so in the area because of the risk of contributing to ‘ethnocide’ (*el riesgo de incurrir en el delito de etnocidio*).⁹⁴ The principle of avoiding contact is enshrined in the Ecuadorian constitution of 2008, which states that the territories of uncontacted indigenous people are impregnable, inherited properties where all extractive industry is forbidden. The state is supposed to implement measures that guarantee their lives, their right to self-determination and their desire to remain isolated, as well as implement preventive measures. ‘The violation of these rights will constitute the crime of ethnocide’.⁹⁵

Government authorities also formulated an action plan to protect uncontacted indigenous peoples. This plan was adopted in 2008. The responsibility for executing the plan was given to the Ecuadorian Ministry of Justice, Human Rights and Faith, and the plan is on its way to becoming implemented. The plan is based on the principle of avoiding all contact and lists seven aims, of which one is the promotion of bilateral agreements with Peruvian authorities. Measures include holding bilateral meetings to discuss the situation of uncontacted peoples in border regions and to evaluate both countries’ experiences protecting them, as well as developing a common action plan to secure the indigenous peoples’ existence.⁹⁶

The need for bilateral cooperation is also emphasized in a letter from the Ecuadorian Ministry of the Environment to the Ministry of Foreign Affairs of Ecuador following the arrest of Peruvian loggers in Ecuador in July 2009. According to the letter, Ecuador is carrying out activities aimed at conserving biodiversity and ensuring the survival of isolated peoples who live in the border area, but the lack of coordination with Peruvian authorities makes controlling human activity in the border area difficult.⁹⁷ The Council is aware that a collaboration between the Ecuadorian Ministry for Cultural Heritage and the Peruvian Ministry of the Environment was initiated in mid-2009. The forest, which was the responsibility of the Ministry of the Environment, was prioritized because Peruvian authorities did not recognize the existence of indigenous people living in isolation in the border regions. The dialogue stopped once President Garcia decided to remove the forest from among the responsibilities of the Ministry of the Environment.⁹⁸

The anthropological studies from 2003 and 2005, as well as other observations presented in this recommendation, indicate that uncontacted indigenous peoples have their living areas on both sides of the border. Clearly, this seems to be a concern also for the Ecuadorian government, which considers cooperation with Peru necessary in order to protect these peoples. Also the UN rapporteur for indigenous peoples has pointed out that only

⁹⁴ Ministerio del Ambiente 2008: *Plan de Reparación Ambiental y Social (PRAS). Plan de Medidas Cautelares para la Protección de los Pueblos Indígenas Aislados. Informe Técnico sobre la Situación de Obe y Nashiño.*

⁹⁵ Constitución del Ecuador, Article 57, available at http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf. The Penal Code was edited in 2009 as a result of this law to include the following: ‘*Quien irrespetare la autodeterminación de un grupo nacional, étnico, racial o religioso, o su voluntad de permanecer en aislamiento voluntario, incurrirá en delito de etnocidio y será sancionado con pena de reclusión menor ordinaria de tres a seis años*’ (whosoever disrespect the self-determination of a national ethnic, racial or religious national group or their wish to remain in voluntary isolation, will incur in the crime of ethnocide and will be sanctioned with the punishment of minor ordinary reclusion amounting to three to six years.) Communication with ecologist Eduardo Pichilingue, former coordinator of the Action plan for the protection of indigenous people in Ecuador, 9 November 2010.

⁹⁶ Ministerio de Coordinación de Patrimonio Natural y Cultural: *Plan de medidas cautelares a favor de los pueblos Taromenani y Tagaeri.* Quito, Ecuador.

⁹⁷ Letter from the *Ministerio del Ambiente* to the *Ministerio de Relaciones Exteriores, Comercio, e Integración*, dated 24 July 2009.

⁹⁸ Communication with Eduardo Pichilingue, ecologist and Ex-Coordinador del Plan de Medidas Cautelares para la Protección de los Pueblos Indígenas Aislados del Ecuador, 9 November 2010.

international cooperation with Peru (and Colombia) can save the Tagaeris-Taromenanes from extinction.⁹⁹

Anthropologists contacted by the Council believe that conflicts with other indigenous groups¹⁰⁰ as well as the intrusion of outsiders into their territories may actually have caused groups of uncontacted people to move southwards (in the opposite direction of where the killings took place), towards Peru.¹⁰¹ As late as in August 2010, the Ecuadorian Ministry of the Environment registered testimonies from witnesses who had seen uncontacted indigenous peoples less than 80 km away from the Peruvian border.¹⁰² The area where the authorities refrained from removing old oil wellheads because they found settlements belonging to uncontacted indigenous peoples are even closer, a mere 50-60 km from the border. As the border in these remote areas is not a physical barrier, there is little to stop indigenous peoples from moving between the two countries.

5.3 The role of the multisectorial commission in Peru

The law for the protection of indigenous peoples in voluntary isolation in Peru and its regulations establish procedures and responsibilities for the identification of indigenous peoples and the establishment of territorial reserves.¹⁰³ The law was adopted in 2007.

In order for indigenous peoples in voluntary isolation to obtain recognition as such, a so-called supreme decree is required. This in turn must be based upon a study conducted by the Multisectorial Commission for the Protection of Indigenous Peoples in Voluntary Isolation and Initial Contact. The study must contain evidence of the existence of indigenous peoples in voluntary isolation, their identity and estimates as to their population's size and territories. It must also include environmental, legal and anthropological assessments and reflect the views of a number of ministries including the ministries of health, energy and mining. The study must be evaluated and approved by INDEPA. The approved study is the basis for a government decree recognising the uncontacted indigenous peoples in question. Once the government decree has been adopted, the work to create a territorial reserve can begin.¹⁰⁴

The Commission is chaired by a representative from INDEPA and includes a representative from each of the ministries of agriculture, health and education, as well as regional and local authorities and two representatives from faculties of anthropology from a private and a public university respectively. The Ombudsman has observer-status. INDEPA acts also as secretary to the commission. Indigenous peoples are not represented on the Commission.

The responsibility to investigate whether indigenous peoples in voluntary isolation exist in Peru thus lies with the Multisectorial Commission. To the Council's knowledge, the Commission so far has not conducted any studies to determine whether isolated indigenous groups exist in any part of Peru.

⁹⁹ Aplicación de la Resolución 60/251 de la Asamblea General, de 15 de Marzo de 2006, titulada 'Consejo de Derechos Humanos.' *Informe del Relator Espacial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas*, Sr Rodolfo Stavenhagen. Adición Misión a Ecuador. A/HRC/4/32/Add.2 28 December 2006, paragraph 40.

¹⁰⁰ The clash in 2006 is not the first time that members of the Taromenane are killed. In 2003, 26 members of the group were killed when they were attacked by a group of indigenous Huaoranis, see section 5.2.8. Killings have also been reported in 2007 and 2008.

¹⁰¹ References on file with the Council.

¹⁰² Ministerio del Ambiente; *Ficha de monitoreo de señales de presencia*, Fecha de Registro: 13 de agosto 2010.

¹⁰³ *Ley para la protección de pueblos indígenas u originarios en situación de aislamiento y en situación de contacto inicial LEY N° 28736*, available at <http://www.acnur.org/biblioteca/pdf/6757.pdf>.

¹⁰⁴ See footnote 103 and *Decreto Supremo* No 008-2007-MIMDES.

The Peruvian government has previously established five territorial reserves for indigenous peoples in voluntary isolation. The first was created in 1990 and the last one in 2002. All the reserves were created upon the initiative of indigenous organizations, including FENAMAD (AIDSESEP's regional organization) and CEDIA (Centre for the Development of the Amazonian Indigenous Peoples). In collaboration with Peruvian authorities, these organizations prepared the studies and the technical basis for the establishment of the reserves (including the identification of the indigenous peoples and the demarcation of their territories). No new reserves have been created after the law on isolated indigenous peoples came into force in 2007.

AIDSESEP submitted its application for the creation of a reserve for uncontacted indigenous peoples in the Napo-Tigre area to the Ministry of Agriculture in Loreto in 2005, apparently following the same procedure as in previous cases. The authorities did not assess the application at that time, nor has it since been considered by the commission.

In June 2009, the secretary for the Multisectorial Commission carried out an evaluation of AIDSESEP's *Estudio Técnico*. The secretary sent the report back to AIDSESEP because the study had not followed the necessary formal and administrative procedures, nor did it satisfy the scientific requirements concerning methodology. The secretary concluded that the study did not provide grounds to determine whether or not uncontacted indigenous people live in the Napo-Tigre area.¹⁰⁵ The Ombudsman has informed the Council that neither the study nor the secretary's evaluation have been considered by the Commission.¹⁰⁶ Both the Ombudsman and AIDSESEP have complained about the administrative procedures followed and have asked that the Commission evaluate the case.¹⁰⁷ The Council has written to the Commission and asked for information about the case. In his response to the Council, INDEPA's director confirms the developments of the case and writes that it currently is not possible to confirm or refute the existence of indigenous people in voluntary isolation in the area Napo-Tigre-Curaray. He also states that 'our institution considers that it is very important to verify the realities on the ground, but limited economic resources hinder us from carrying out these activities.'¹⁰⁸

5.4 Additional information that is relevant for the Council's assessment

The Council finds it pertinent to consider two additional factors of relevance for this case: The way in which the existence of uncontacted indigenous peoples is mapped and evaluated in Brazil (the country with most experience in this field), and the work of the Office of the UN High Commissioner for Human Rights producing guidelines for the protection of indigenous peoples in voluntary isolation and in initial contact in the Amazon and El Chaco.¹⁰⁹

Mapping uncontacted indigenous peoples in Brazil

The majority of uncontacted indigenous groups live in Brazil. The Brazilian Directorate for Indian Affairs, *Fundação Nacional do Índio* (FUNAI), under the Ministry of Justice, has

¹⁰⁵ Comisión Multisectorial: *Caso Napo-Tigre-Curaray*. Informe Técnico No 001-ST-2009. 22 June 2009.

¹⁰⁶ Communication with the Ombudsman, 8 November 2010.

¹⁰⁷ AIDSESEP's letter to Mr Mayta Capac Alatraste Herrera, Executive President, INDEPA, 12 October 2009.

¹⁰⁸ Letter from the Multisectorial Commission to the Council on Ethics 4 October 2010, '*nuestra Institución considera de suma importancia la verificación en campo de dicha realidad, empero, nuestra limitación de recursos financieros nos restringe en el cumplimiento de dicha actividad.*'

¹⁰⁹ Human Rights Council: *Draft Guidelines on the Protection of Indigenous peoples in voluntary isolations and in initial contact of the Amazon Basin and El Chaco*. Prepared by the Secretariat. 30 June 2009. A/HRC/ENRIO/2009/6.

extensive experience on the identification and protection of indigenous peoples in voluntary isolation.

FUNAI's department for isolated indigenous peoples, the so-called *Coordenação Geral de Índios Isolados*, is responsible for the identification of isolated peoples, for monitoring their situation in the jungle, and for implementing measures to protect them. FUNAI's regional units, so-called *Frentes De Proteção Etno-Ambiental*, have their own experts who collect information and carry out field-studies. This is necessary in order to evaluate the existence of uncontacted indigenous peoples in a certain area. The Council has communicated with FUNAI and it is the Council's understanding that its investigations are based on the following course of action:

If there are indications of the existence of uncontacted groups in an area, further information is gathered including stories, testimonies and observations by local people, workers or other indigenous groups. This information is used to establish so-called reference areas (*Referências de Áreas de Presença de Índios Isolados e de Recente Contato*). There are currently 69 such areas in Brazil. In these areas, imminent threats against the isolated indigenous peoples are also identified and the need for protective measures is assessed.

Further investigations in the reference areas are carried out by FUNAI's experts at the regional units.¹¹⁰ They conduct field investigations, including overflights, to find traces of the uncontacted peoples such as settlements, tools, footprints or other signs of their existence. All research is based on the premise of 'no contact'. In addition to identifying the group, population size and the size of their living areas are estimated. Field investigations may last 2-5 years and be very resource-demanding.

If the field investigation confirms the existence of uncontacted indigenous peoples, territorial reserves are established. These reserves are intended to protect the isolated indigenous peoples; other activities are not permitted inside the reserve. There are currently six such reserves in Brazil.

The description above indicates that FUNAI's procedures for proving the existence of isolated indigenous peoples involve three phases: An initial collection of information and the creation of reference areas as well as a threat-assessment; field investigations; and, finally, the establishment of a territorial reserve. It also appears that the studies which have been carried out in Block 39 would most likely correspond to the first phase of this procedure. As such they would only be a starting point for further investigations to determine the existence of uncontacted peoples in the block.

Office of the UN High Commissioner for Human Rights - Draft guidelines on the protection of indigenous peoples in voluntary isolation and in initial contact

In December 2005, the UN General Assembly adopted the Programme of Action for the Second International Decade of the World's Indigenous People. This programme included two specific recommendations concerning indigenous peoples in voluntary isolation and in initial contact: establishing a global mechanism to monitor the situation of indigenous peoples in voluntary isolation and in danger of extinction and, at the national level, 'that a special protection framework for indigenous peoples in voluntary isolation should be adopted and that Governments should establish special policies for ensuring the protection of indigenous peoples with small populations and at risk of extinction'.¹¹¹

¹¹⁰ There are 6 such units, one in each of the following regions: Vale do Javari, Rio Envira, Rio Guaporé, Cuminapanema, Rio Purus and Rio Madeirinha.

¹¹¹ See footnote 109.

In 2007, the Office of the High Commissioner for Human Rights began developing guidelines for the protection of peoples in voluntary isolation and initial contact. The aim of the guidelines is to serve as a framework for the different actors working on this issue in South America. They are meant to be used as an ‘instrument for better contextualizing international law with a view to protecting these peoples, given their extreme vulnerability and high risk of extinction.’ Governments of seven countries in the Amazonas region (but not Peru) have participated in this work together with civil society, including indigenous peoples’ organizations, experts, and bilateral and multilateral agencies. In 2009, the draft guidelines were submitted to the Expert Mechanism on the Rights of Indigenous Peoples, and the guidelines are planned to be finalized in 2010.

The guidelines operate under the premise that contact with isolated indigenous peoples must be avoided. This also applies to investigations aimed at determining their existence and the territory they inhabit. ‘In no case should lack of contact be regarded as proof that such peoples are not present in a given area.’¹¹²

The guidelines also focus on the right to self-determination, which in this case means respect for these peoples’ decision to remain in isolation. This requires the government to implement measures ‘to prevent outsiders or their actions from entering into situations that could affect or influence, either accidentally or intentionally, persons belonging to indigenous groups in isolation.’¹¹³ According to the guidelines, any contact which is not initiated by the indigenous peoples themselves must be regarded as a violation of their human rights, and forced or unwanted contact should be subject to prosecution under national criminal laws. Moreover, ‘In this connection, bearing in mind the knowledge accumulated so far on the effects of forced contact, in certain circumstances such contact could be considered a form of the international crime of genocide.’ The guidelines also state that governments should apply the precautionary principle in their policies to protect isolated indigenous peoples and their human rights: ‘They require that all actions in relation to indigenous people in isolation and in initial contact take a preventive approach, in view of the catastrophic consequences of delaying action until after their human rights have already been violated.’¹¹⁴

Although these draft guidelines do not entail any legal obligations for governments or other actors, the Council still finds the content of the guidelines relevant to its considerations. The guidelines have been developed in a consultation process in collaboration with governments, experts and civil society in the Amazon region who are all well familiar with this complex topic. The guidelines provide a thorough background for why the protection of isolated peoples against unwanted or forced contact is necessary, as well as explaining the need for a preventive approach. In the Council’s view this may be particularly relevant in a situation where the existence of uncontacted peoples is likely but not proven.

6 The Council on Ethics’ contact with the companies

The Council has communicated with the partners of the joint venture on several occasions during the course of the investigation.

On 20 February 2009, the Council sent a letter to Repsol requesting information on the activities taking place in the block and the measures implemented to avoid contact with people living in voluntary isolation within the block. Repsol responded to the Council on 12 March 2009. Following further investigations, another letter was sent to Repsol and its

¹¹² See footnote 109, paragraph 10.

¹¹³ See footnote 109, paragraph 49.

¹¹⁴ See footnote 109, paragraph 54.

partners providing them with an opportunity to comment on the Council's draft recommendation. The Council received Repsol's response on 13 October. ConocoPhillips (at the time still a partner in the joint venture) responded on 12 October and Reliance Industries on 14 October 2009. Upon the companies' request, members of the Council and its Secretariat held meetings with ConocoPhillips on 12 December 2009 and Repsol on 14 January 2010.

Following the meetings with the companies, the Council decided to go through all of the material again. Based on this, and following the introduction of new information, the Council considered that there continued to be reasons to recommend exclusion. A new draft recommendation was sent to all the companies in the joint venture on 14 October 2010. Repsol and Reliance responded on 5 and 4 November 2010 respectively. ConocoPhillips informed the Council on 25 October that it had completed the sale of its portion of the block and that it would leave the joint venture on 31 December 2010. The Council then decided that the recommendation should not include ConocoPhillips.

The Companies' responses

The companies' main argument is that there is no proof that indigenous peoples in voluntary isolation exist in the block. This is highlighted in all the companies' letters. In its first reply to the Council, dated 12 March 2009, Repsol makes reference to the court rulings in 2008 (discussed here in section 5.2.6): 'Allegations of the presence of people living in isolation in this block have been presented by the Interethnic Association for the Development of the Peruvian Forest (AIDSEF) to the Civil Court of Maynas, and later to the Court of Loreto. Both courts have ruled that the alleged evidences do not demonstrate the existence of these communities; however, the court of Loreto demands some special measures to be taken just in case these communities could exist. We have incorporated these measures into an Anthropological Contingency Plan with clear description of functions, expertise and responsibility allocation, needed to put it into practice, and we have established specific measures to prevent any possible contacts and to minimize the risks would eventually any contact take place.'

Repsol also commented the Ombudsman's assumption concerning the existence of isolated indigenous people in Block 39: 'The report includes the Block 39 in a table along with recognized territorial reserves like the Kugapakori Nahua, and the Murunahua. They include the Arabela and Auca (Huaorani) people as if they were uncontacted indigenous groups in Perú. The fact is that Arabela live in Perú in daily contact in the villages of Buena Vista and Flor de Coco, and the Auca (Huaorani) live in Ecuador and we do not know any references on them living in Peruvian territory.'¹¹⁵

The lack of evidence is the main point in the companies' response to the Council of October 2009. The companies refer to the ruling of the courts (*Corte de Iquitos* and *Segundo Juzgado Civil de Maynas*) as well as the Multisectorial Commission's assessments. According to the companies, all of these conclude that there is insufficient evidence proving the existence of isolated peoples in Block 39.¹¹⁶ In addition, Repsol emphasizes that a worker's observation of an uncontacted indigenous person in 2008 could not be verified by the Ministry of Energy's investigation. Repsol also points out that staff from the Smithsonian Institute in Washington carried out biodiversity studies along the seismic lines inside Block 39 on Repsol's behalf without having found any traces of uncontacted peoples.

¹¹⁵ Repsol's letter to the Council on Ethics dated 13 October 2009.

¹¹⁶ Repsol's letter to the Council 13 October 2009, ConocoPhillips letter to the Council 12 October 2009, and Reliance Industries' letter to the Council 14 October 2009.

Repsol believes that the company has done its best to clarify the possible existence of uncontacted indigenous peoples in the block. According to Repsol, recurring references to people who affirm having observed uncontacted peoples can be explained by ‘observations or sightings generations ago, which still remain in the popular imagery.’¹¹⁷

Repsol has communicated to the Council that it does not reject the possibility that isolated indigenous peoples could live in – or transit through – the area. However, the company believes that such a possibility is extremely low and fully compatible with its operations in Block 39 and the full respect of human rights, something its contingency plan would ensure.¹¹⁸

In its response to the Council of 5 November 2010, Repsol criticizes the fact that the Council builds on a precautionary principle in its evaluation (see chapter 7): ‘We respect the right of the Council to recommend exclusion based on that said “precautionary approach” but, in doing so, you will be sending public messages of Repsol to be related with human rights violations, and that will actively inflict Repsol an unfair and unjustified reputation loss.’

In its response of 4 November 2010, Reliance Industries also maintains that as long as there is no evidence of the existence of uncontacted indigenous people in the block, their human rights cannot be violated: ‘Hence, it may be a misapprehension to consider that there exists an unacceptable risk of complicity in human rights violation as the self isolated indigenous communities do not exist in the Block area.’ Reliance also rejects allegations of any kind of human rights violations, ‘and in the event of there being any form of evidence to show the existence of self isolated indigenous people, Reliance shall, *suo moto* immediately take all necessary steps and measures to protect such people, respect their decision to live in isolation and preserve their integrity and culture.’

7 The Council’s assessment

Repsol and Reliance Industries are partners in a joint venture which carries out oil-exploration activities in Block 39 in the Peruvian Amazon. The Council has assessed whether the joint venture’s operations are in conflict with the guidelines for exclusion and observation’s point 2.3 under the criterion for human rights violations.

Although Repsol is the operator, the Council finds that the partners in the joint venture are equally involved in the operations. The partners have the same number of representatives on the operating committee, and consequently exert considerable influence on the operations. Repsol is the majority owner of the block, but needs the support of one of the partners to make decisions. In the Council’s view this entails that all partners in the joint venture are directly involved in the oil-exploration activities in Block 39.

Regarding the presence of peoples living in voluntary isolation in Block 39

The crux of this case is the uncertainty around whether indigenous peoples actually live in voluntary isolation in Block 39. The information available is partially conflicting and its quality varies. Much of the evidence presented is testimonial in nature, something that may be perceived as less credible than first-hand observations. At the same time, it will always be a challenge to prove the existence of people who do not wish to be seen and who conceal their own presence. According to experts on uncontacted indigenous peoples, an initial assessment of the existence of such peoples must often be based on indications. Such indications may be

¹¹⁷ Repsol’s letter to the Council 13 October 2009.

¹¹⁸ Repsol Exploración Perú, Sucursal del Perú: *Plan de Contingencia para pueblos indígenas en aislamiento voluntario y/o no contactados*, version 02, EP.MASC.049.

footprints and other signs, such as abandoned settlements/encampments, chance encounters, accounts of attacks, stories of sightings told by other indigenous peoples in the same region and individuals who have left the isolated group. Collecting this kind of evidence also seems to be the first step taken by Brazilian authorities when they launch an investigation to determine the existence of uncontacted peoples in an area. In the Council's view, the anthropological studies that have been performed seem credible and indicate that uncontacted peoples have been present in the area where Block 39 is located. It also appears that the uncontacted peoples occasionally sighted in Block 39 and adjacent areas are probably nomadic or semi-nomadic, and transit through the area rather than remaining sedentary.

More recent observations have been reported but are controversial. Peru's Ministry of Energy and Mines has investigated one such observation, but in the Council's view the Ministry's investigation seemed to have had a somewhat different focus than verifying the veracity of the observations. The conclusion that there are no indications of uncontacted indigenous peoples in the area is therefore not convincing.

Several anthropologists with good knowledge of the situation in the Napo-Tigre area have informed the Council that there have been observations of traces of uncontacted peoples in recent years, but that not all of these have been reported. This appears to have been the case with the so-called Daimi report (see section 5.2.1), used as evidence of the absence of uncontacted peoples in block 67 *inter alia* in the court cases mentioned above (see section 5.2.6). There are also indications that workers and local people have observed signs of uncontacted indigenous people, but that these have not been reported to the companies. Because exploration activities provide local employment opportunities, there are few incentives for locals or workers to report on traces of uncontacted peoples insofar as this would entail the stopping of operations and the loss of salaries. Moreover, Repsol's contingency plan requires that three witnesses confirm an observation before it is reported.

When it comes to evaluating the existence of uncontacted indigenous people in the area, the Council is of the opinion that it is important to note the location of Block 39 on the north-western border with Ecuador. On the Ecuadorian side of the border, the authorities have established a territorial reserve to protect indigenous peoples living in voluntary isolation. This reserve borders with Peru, and observations of uncontacted indigenous people are found quite close to the border. According to anthropologists contacted by Council, it is likely that indigenous groups have moved south and over the Peruvian border as a result of attacks against uncontacted indigenous peoples in the northern part of the reserve in Ecuador. The Council emphasizes also the fact that Ecuadorian authorities have stated the necessity of cooperating with Peru to protect these indigenous groups because they live in the border regions. There is no doubt that uncontacted indigenous people cross the boundaries of the reserve in Ecuador. For example, there are reports that uncontacted indigenous people have been observed in oil blocks in Ecuador outside the reserve.¹¹⁹ Given that the border with Peru is not a physical barrier and the fact that these indigenous groups are nomads, the Council considers it very probable that indigenous groups also can cross the Peruvian border.

The Council notes that Peru's authorities seem to have differing views on the possible existence of uncontacted indigenous peoples in Block 39. While the Ministry of Health indicates a possibility that there may be indigenous groups in voluntary isolation in these blocks, the Ministry of Energy and Mines maintains that there have been no sightings to confirm their existence during the last ten years. The Ministry of Energy and Mines nevertheless requires that companies operating in Block 39 have contingency plans in place in

¹¹⁹ Proaño, José and Paola Colleoni 2008: *Taromenane Warani Nani, Presencia de Pueblos Tagaeri. Taromenane Fuera de la Zona Intangible en la Amazonia Ecuatoriana.*

areas where there are indications of the existence of uncontacted indigenous groups. The Ministry of Energy and Mines also rejected Repsol's environmental impact assessment twice, among other things because insufficient consideration had been given to the possible presence of uncontacted indigenous peoples in the area. The Ombudsman stated that there were sufficient signs of indigenous peoples living in Block 39 already in 2006 and recommended carrying out more in-depth investigations into their possible existence. This recommendation has not been followed.

When stating that the existence of uncontacted peoples in the block is not proven, the partners of the joint venture refer to the rulings on the lawsuit that AIDSESEP brought against the companies and the Ministry of Energy and Mines. The central question which the courts assessed, however, was whether oil operations in the Blocks 39 and 67 constitute an imminent threat to uncontacted indigenous peoples' human rights. As regards this question, the court concluded that there lacked sufficient proof of these peoples' presence, and there was therefore no imminent threat which could legitimate illegalising activities in the area. Based on the Supreme Court's decision, the Council assumes that only severe and concrete incidents similar to the killings in Ecuador can be considered imminent threats. This has obviously not been the case in blocks 39 or 67. The Council nevertheless notes that the Supreme Court also found that the investigations carried out by the different parties have not been conclusive in either direction. In the Council's view, the Supreme Court's decision is more balanced than what the companies claim.

The companies also note in their responses to the Council the decision by the Multisectorial Commission to send AIDSESEP's *Estudio Técnico* back to the organisation because of methodological weaknesses and the absence of evidence confirming the existence of indigenous peoples in isolation in the Napo-Tigre area. The Council is nevertheless aware that the Commission itself has not assessed the case; the assessment and decision referred to by the companies were carried out by the Commission's secretary without the adherence of the Commission. The Commission has not evaluated AIDSESEP's study or followed up on the situation in the area through new investigations. This must be seen in light of the fact that according to the law, it is the Commission's mandate to carry out studies to determine the existence of uncontacted peoples.

As far as the Council can see, none of the many actors and investigators behind the material to which the Council has had access rejects the possibility that indigenous peoples may live in voluntary isolation in Block 39. There are, however, differing opinions as to the probability of this being the case. Nearly 75 per cent of the Peruvian Amazon has been tendered as oil exploration concessions, of which the great majority overlap indigenous peoples' territories and in some cases also areas inhabited by uncontacted indigenous peoples. Promising oil discoveries have been made in both Block 39 and Block 67, and both the companies and the authorities view the oil activities as valuable. At the same time there is strong opposition against the government's oil policy, not least among indigenous organizations who see that indigenous territories and their ways of life can be threatened by the oil operations. This seems to have been an important element behind the NGOs' efforts to establish the Napo-Tigre reserve to protect the uncontacted indigenous peoples in the area. It is natural that these differing priorities also will affect the actors' understanding of the probability of uncontacted indigenous groups living in the area.

The question of the existence of uncontacted indigenous peoples in Block 39 is clearly controversial. In this regard the Council finds it noteworthy that neither the government nor the companies have initiated systematic scientific studies with the aim of verifying the existence of isolated indigenous peoples in this area. Thorough field studies such as those FUNAI carries out in Brazil are lacking in this case. The question of these peoples' existence

cannot, therefore, be unequivocally answered. To the Council's knowledge, there are no indications that the government or the companies will initiate further investigations.

Allowing oil exploration activities to be carried out in an area where there are indications of uncontacted peoples is not, in the Council's opinion, in line with the recommendations outlined in the draft guidelines of the Office of the Human Rights Commissioner. These clearly recommend a precautionary approach until the situation is clarified because of the serious consequences that contact with uncontacted indigenous peoples would entail.

The Council's task is to assess the risk of future breaches of the Fund's guidelines. As part of this assessment the Council must adopt a position on whether it is probable that uncontacted indigenous peoples live in block 39. Based on an overall assessment of the available information, the Council concludes that there is a probability that uncontacted peoples are present in the block. The existing uncertainty emanates from the lack of necessary and thorough on-the-ground investigations aimed at determining the presence of these peoples. Insofar as necessary investigations have not been carried out, the Council on Ethics will let this count against those who gain from the question remaining unresolved.

The question of human rights violations

There does not seem to be any scientific disagreement about the fact that outsiders' contact with isolated indigenous groups leads to the introduction of new diseases and that this is a serious threat to their existence. History has shown that said contact has long-term and irreversible consequences for whole cultures, in addition to the suffering inflicted on families and individuals. The Council attaches importance to the fact that this seems to be the most important reason why for example the Peruvian Ministry of Health advises against any contact with isolated indigenous people. It seems also to be the reason why the Brazilian Directorate for Indian Affairs, FUNAI, changed its policy in order to protect – and avoid any contact with – indigenous people living in voluntary isolation. In light of the fatal and long-term consequences caused by any contact with the outside world, the Council considers that provoking any such contact, which furthermore is unwanted on the part of the indigenous peoples, is tantamount to serious violations of human rights. This is in accordance with the assessment of the Office of the High Commissioner for Human Rights, which determined that forced or undesired contact with uncontacted indigenous peoples violates their human rights.

Complicity in serious or systematic human rights violations

According to the Ethical Guidelines, in order to ascertain any risk of complicity in serious or systematic human rights violations there must be a direct link between the company's operations and the relevant violations. The company must also have been aware of the violations but have omitted to take steps to prevent them; there must be an unacceptable risk either that the violations are presently taking place or will take place in the future.

In the Council's view, there can be no doubt that the exploration activity undertaken by Repsol and Reliance Industries in Block 39 contributes to increase the risk that indigenous peoples, who may be living in voluntary isolation within the block, will come into contact with outsiders. The Council notes in particular that the exploration phase seems to be particularly harmful to uncontacted peoples. There can thus be no doubt that there is a connection between the companies' operations and the risk of violations taking place.

Repsol believes that its contingency plans will prevent violations of human rights in the event of contact with uncontacted indigenous groups in the block. The Council is aware that the contingency plan is in accordance with the government's requirements. Even though the plan aims at protecting uncontacted indigenous people, a number of the measures will require establishing actual contact. This would be contrary to the principle that all contact must be avoided. According to the contingency plan, an investigation team should be sent to the area

where signs of uncontacted indigenous people have been observed. In the event of sightings, the community relations supervisor should try to establish oral communication in order to gather information. These measures can be dangerous for the indigenous people and for the company's employees. The indigenous people will be exposed to bacteria and viruses which could have catastrophic results on the tribe, while violent conflict could arise.

The Council considers that the contingency plans adopted by Repsol will be insufficient to avoid contact since it is the presence of the work crews *per se* that poses the biggest threat to the uncontacted peoples. The Council attaches importance to the fact that Peru's health authorities state that all contact with indigenous peoples in voluntary isolation must be avoided and that the extraction of natural resources, including oil operations, is among the activities that can cause such contact to occur. In the Council's view, it seems to be virtually impossible to combine concern for the uncontacted indigenous peoples' life and health with oil exploration in block 39, insofar as this takes place within their territories.

The exploration activities in Block 39 are on-going. The Council has concluded that there is a probability that uncontacted indigenous people live in the block; there is consequently also a risk of contact being established between the company's workers and the indigenous people in voluntary isolation. Given that the ensuing damage could be extremely serious, the Council on Ethics considers that the GPF's continued ownership over Repsol and Reliance Industries would amount to an unacceptable risk of contributing to severe violations of human rights. The Council recommends that these companies be excluded from the Government Pension Fund Global.

8 Recommendation

The Council on Ethics recommends the exclusion of Repsol YPF and Reliance Industries from the investment universe of the Government Pension Fund Global.

Gro Nystuen Chair	Andreas Føllesdal	Anne Lill Gade	Ola Mestad	Ylva Lindberg
(sign.)	(sign.)	(sign.)	(sign.)	(sign.)