

Clarification Questions and Answers

1. *What is entailed in the procedure prescribed by law 555-76 on indigenous peoples in relation to compliance with the prior consultation requirement?*

Law 555-76 establishes a series of steps aimed at ensuring that the consultation meets the standards established in ILO Convention 169, and its interpretation by the Committee of Experts. (See <www.ilo.org/ilolex/english/iloquery.htm>).

Basically, the law requires that (a) the consultation and its activities be publicly announced with sufficient lead time to the interested peoples through their recognized authorities; (b) the information needed (on plans, options, expected impacts, systems for participation, techniques to be used, compensation or reparation systems, etc.) be accessible to those peoples or their representatives so that they may study them with sufficient lead time; (c) the consultations be in languages that they understand and in places they can access without difficulty; (d) they have enough time during the meetings and afterwards to make their comments, objections, or demands; (e) they be able to have the public or private advisory services needed for their effective participation; (f) their proposals be taken into account in the decisions, setting forth the pertinent analysis and considerations.

2. *Is the process of recognition of the Numa people currently pending?*

As indicated in paragraph 12, that administrative procedure began in 1995 and there has yet to be any decision on their recognition. At present, the procedure is “up for decision on recognition” by the respective administrative agency, the National Secretariat for Indigenous Peoples, which is under the Ministry of Interior. The administrative decision can be appealed to the judiciary.

3. *What is the current status of the works involving the exploration and exploitation of the Santa Ana oil field?*

As of March 2004, the exploration camps have been set up and the seismic prospecting has been completed. Accordingly, the drilling areas have been determined and the plans for the right-of-way for the pipelines have been completed. It is expected that the preparatory work for drilling and opening the right-of-way will be completed in May, including transportation of the necessary materials. Once that is done, work will begin on the oil drilling rigs, the assembly of the processing plants, the opening of the right-of-way, and the laying of the pipelines will proceed. At each stage, the measures for environmental conservation and security are taken, and the system for information and consultation with the indigenous peoples on the respective details is maintained.

4. *At what specific stage is the administrative procedure for recognizing the Numa people, which was begun in 1995?*

See the answer to question 2.

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5. *According to the environmental and social impact assessments (ESIA) approved by the State in August 2001, what was the term set for carrying out the Santa Ana Project for exploration and production of the oil and gas resources?*

In an agreement with the Government, the companies undertook to complete the work in 36 months from the date the seismic prospecting began (March 2002).

6. *What specific stages of the Santa Ana Project have been developed from the time the seismic prospecting was first authorized (August 2001) until the injunction was decreed by the Court of Appeals (October 2002)?*

See answer to question 3. The work was begun anew in the wake of the Supreme Court decision.

7. *When their lands were titled, did the Lanta know of the possible existence of oil and natural gas in the subsoil of their lands?*

Like the rest of the population of Esmeralda, the Lanta knew that in general there might be fossil fuels in these lands, but there was no specific information that there was any in the lands they occupied ancestrally.

8. *What are the temporary damages or definitive changes to the habitat resulting from the Project?*

According to the ESIA approved, no substantial definitive change is expected in the habitat that would substantially alter its nature or characteristics.

Nonetheless, there will be a temporary reduction in the animal wildlife, due to migration provoked by the works and a diminution in the catch of fish due to the transit along the river of barges that will cause the fish to go elsewhere. There will also be muddying of some waterways due to the movements of land and erosion of the banks may occur. These changes are reversible and it is thought that they will return to their levels prior to the works.

The definitive changes will be: (a) the existence in the middle of the forest of the operations and refining camp (300 hectares) as well as the pumping and security stations (1 hectare) every 10 kilometers; and (b) the disappearance of deep-rooted trees in the 30-meter wide right-of-way for the pipelines along the entire route to the capital city of Esmeralda. The pipelines will be buried and the right-of-way will be replanted all along the route, though not with deep-rooted plants, to prevent harm to the pipelines.

9. *Will the Project make it necessary to move the persons who live on the lands affected?*

It is thought that this will not be necessary.

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10. *Taking into consideration the magnitude of the Santa Ana Project, how does the population feel about the project? Was there any popular consultation to gauge this?*

See paragraphs 23 to 27 of the hypothetical case.

11. *According to the provisions of the Law for Development of Hydrocarbon Resources, a period of at least four months is allowed for commenting on the Environmental and Social Impact Studies. Paragraph 17(d) of the hypothetical provides, "... keeping in mind the positions of the various institutions and organizations...." To what extent is the state bound to take into consideration the observations and comments issued by the institutions prior to the approval of the ESIA's?*

The decision-making institution technically takes into account the comments by all the public institutions, as well as the private ones, including those of the indigenous groups. In its analysis, it must consider that the project has been declared to be in the "public interest" by a law of Congress. At the same time it must consider that the State has constitutional and statutory commitments to respect the rights of the indigenous peoples, and to maintain the sustainability of the habitat, in particular of the tropical forests.

12. *What grounds does the State allege for pursuing a special remedy before the Supreme Court of Justice, and what type of remedy was lodged?*

The State filed a special remedy based on the fact that the Court of Appeals' decision violates the separation of powers by deciding a technical and economic policy matter that should properly be addressed by the Executive. It also alleges that the Court of Appeals did not indicate any violation of the procedures provided for in the legislation of Esmeralda, as they were strictly complied with both in the decisions regarding the Santa Ana Project and in the pending matter regarding recognition of the Numa.

13. *What are the requirements and existing legal procedure in the state of Esmeralda to ensure the right to recognition as a people of an indigenous grouping that has become separate from its original people?*

The requirements and procedures are the same as those that govern the process of recognition of any indigenous people. It must be established that the petitioners meet the conditions established in the legal definition of "indigenous people," i.e. that they have their own culture, an ancestral occupation of a given territory, that they possess distinctive institutions and authorities, and a will to maintain their identity as an indigenous people in the future. The evidence is analyzed with a broad standard considering historical, anthropological, sociological, biological, and legal factors. It is left to the discretion of the petitioners and of the respective administrative agency to present or request studies and evidence that make it possible to establish these parameters.

14. *What provisions or regulations has the state of Esmeralda adopted to implement the law on natural reserves and thereby to guarantee the presence of human beings in those protected*

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reserves, as well as their individual and collective social processes, respect for the traditional uses of those environments by the communities, and their scope?

The laws and regulations of Esmeralda establish that in the natural reserves the indigenous peoples who ancestrally occupy them can maintain their social processes, ceremonies, and practices, both individual and collective. The regulations and laws also provide that when they or their future development may cause substantial impacts that alter the biological and natural conditions of the protected areas and their ecological sustainability, the State must implement measures agreed upon with the indigenous peoples so as to preserve both their right to survival as peoples, and the ecological sustainability and characteristics of the protected reserves.

15. *What laws or regulations does the state of Esmeralda have to protect natural reserves and their ecosystems in whose subsoil are found oil deposits that may be exploited?*

Esmeralda has an extensive legal system that protects natural areas and resources, in particular those declared to be “protected.” This system follows international standards so that in cases of exploitation of subsoil resources, the approval of projects and their activities is governed by procedures that ensure the sustainability of the environment and the ecosystems that may be affected by such projects.

16. *What mechanisms exist in the state of Esmeralda to protect human rights?*

Legally, Esmeralda has ratified and elevated to constitutional status the international and inter-American human rights treaties. The Chief Prosecutor’s Office has delegates throughout the country, and there is also an Office of the Human Rights Ombudsman, with commissioners in each province. The network of non-governmental human rights organizations also covers the entire country, and is recognized by the Government and public opinion.

17. *Are there remedies for review within the administrative procedure for recognizing the indigenous peoples?*

The administrative procedure for recognizing indigenous peoples is a public procedure, to which the Office of the Human Rights Ombudsman can have access if it considers it necessary. The petitioners can have recourse to the judicial system at any time in the procedure in the event that the administrative agency does not abide by those provisions, acts arbitrarily, or if the petitioners consider that the agency is violating their rights.

18. *Paragraph 6 of the background names international instruments ratified by the State. When did those instruments enter into force?*

The universal covenants and inter-American treaties were ratified prior to the 1972 Constitution, including the acceptance of the compulsory jurisdiction of the Inter-American Court of Human Rights. The ILO Convention 169 was ratified in 1990.

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19. *What, specifically, are the temporary damages and definitive changes to be caused to the habitat of the indigenous peoples, and what information is being given to them in this respect? In addition, what safeguards and compensation is the State considering?*

With respect to the temporary or definitive impact on the habitat, see answer 8. The indigenous groups received information in the consultation process on the project and the ESIA's, and they participate in the project monitoring system with specially trained members of each community who have standing to file complaints. Information and consultation meetings are held periodically, to discuss the details of progress, and to consult on issues or new circumstances that arise as the activities unfold.

With respect to the safeguards, there is a multiple monitoring system: one by teams contracted by the companies themselves; another by the government for its inspections; and another by trained representatives of the communities. All the information is received by an inter-institutional council with official and private representatives, located in the Ministry of Development.

20. *What have the studies and expert studies that have delayed the recognition of the Numa people entailed, and what has been their purpose? Do the laws establish any time period for recognition of indigenous peoples in the state of Esmeralda?*

With respect to the studies, see the answer to question 13. There is no time period established for the decision on recognition, since the type of evidence and studies vary from case to case.

21. *Is there a prompt and effective remedy established in Esmeraldan legislation in the event of a violation of the indigenous peoples' rights? Was it used in paragraphs 33, 34, and 35 of the facts of the case?*

Following the example of its neighbor Brazil, Esmeralda's Constitution has, in addition to the *amparo* remedy, four other remedies that can be used by the indigenous peoples in such situations. The first and most important is the *acción popular*, or "people's action," which gives standing to any citizen to file an *acción popular* that proposes to annul an (administrative) act that is harmful to: 1) public property or the property of an entity in which the State is a shareholder; 2) administrative morality; 3) the environment; 4) or historical-cultural property. This measure is extremely important, for now that any act harmful to administrative morality may be voided, judicial review of the merit of administrative acts has been introduced.

There is also the *mandato de seguridad* ("order of security") which is designed to protect an uncontested and liquidated right (not protected by *habeas corpus* or *habeas data*), when the person responsible for the illegality or abuse of power is a public authority or a juridical person in the exercise of government powers. It is an effective instrument that triggers immediate judicial review of an administrative act that potentially or actually has a

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detrimental effect on an uncontested and liquidated right.

Another remedy that can be used is the *mandato de seguridad colectiva* (“order of collective security”) which can be invoked by a trade union organization, class-based organization, or legally constituted association that has been operating for at least one year, defending the interests of its members or associates. This *mandato* is designed to defend the diffuse rights of the members of an association or collectivity. The entities with standing to invoke the *mandato* do not need the consent of their members to do so, although they must do so within their mandate and regulatory procedures.

A fourth remedy available is the *mandato de interdicto* (“injunction order”), which may be invoked “so long as the absence of a regulatory provision makes it impossible to exercise the constitutional rights and liberties, and the prerogatives inherent to our nationality, sovereignty, and the citizenry.”

22. *At paragraphs 13 and 14 it says that law 555 of 1976 establishes procedures for the recognition of indigenous peoples and that they have the right to have their lands and territories demarcated and titled where they are established. What specifically does this procedure entail, including the specific agency of the Executive branch before which it is processed, and its powers?*

The specific administrative agency for carrying out the recognition process is the Ministry of Interior, through its National Secretariat for Indigenous Peoples. With respect to the procedure, see the answer to question 13.

23. *The remedy presented by CINE and FELANUMA before the Federal Court was rejected, according to the facts. Please indicate the reasons why the court rejected the remedy.*

The court found there were no reasons for the *mandato de interdicto* since the rights of the different peoples affected had been respected in the project-approval procedures of the ESIA's, and the Government had followed the legal procedures prescribed. It also noted that the petitioners had not shown that there was either the actuality or the foreseeability of irreparable harm as a result of these administrative actions or from the activities of the Santa Ana Project.

24. *Taking into account the division of the communities, based on the degree to which they are affected by the project: Lantas –10 communities in the area designated for the project directly affected, six along the banks of the Santa Ana river with intermediate impact, and the remaining communities settled along the river's tributaries less affected (paragraph 9); Numa – nine communities in the area designated for the Santa Ana Project directly affected, six communities settled in the area alongside that controlled by the Project (paragraph 11). How did each of these vote on the Santa Ana Project in the Lanta General Assembly and the Numa Council during the consultations conducted by the authorities and the company's representatives?*

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Various Lanta communities made objections, comments, and suggestions during the consultations. At the Lanta General Assembly, several communities stated their dissatisfaction with the Project, but the majority, which was in favor of continuing to negotiate and obtaining the best possible conditions in terms of execution, participation, prevention, and reparation, prevailed. At the Numa Council the majority expressed their opposition to the Project and their support for judicial actions to keep it from going forward.

25. *When did the state of Esmeralda ratify the American Convention on Human Rights, the Protocol of San Salvador, the ILO Convention 169, and all the other treaties referred to in the case? And when did it recognize the compulsory jurisdiction of the Court?*

See answer to question 8.

26. *What is the specific procedure established by law 555/76 to accord official recognition as a “people” to an indigenous group? (paragraph 13)*

See answer to question 13.

27. *What were the dates of the proceedings before the IACHR during the processing of the petitioner’s, and what was the State’s position, as per paragraphs 39, 40, 41, 42, and 43 of the case?*

The case was submitted to the Commission on January 2, 2003, and the State answered on February 10, asking that the case be declared inadmissible. The State alleged there had been no violation of the Convention, the rights of the indigenous had been scrupulously respected, and domestic remedies had not been exhausted with respect to recognition.

It also indicated that the delay of the works would cause major harm to the national economy, and would lead the State to have liabilities to third parties.

It also alleged that all the other treaties were respected, in particular Convention 169, and that the inter-American system was not the appropriate forum for lodging complaints with respect to universal treaties such as the ILO conventions.

In March 2003, the Commission declared the case admissible and granted the request for precautionary measures, which it has transmitted to the Government. (See paras. 43 ff.)

28. *What is the administrative procedure for recognizing juridical personality and for the demarcation or titling of indigenous lands in Esmeralda? (Time periods, requirements, remedies, etc.)*

See previous answers, in particular to questions 13 and 21.

29. *Is there a “recurso de amparo”, or “amparo” remedy, in Esmeralda? If so, what are its*

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requirements and procedure, and was it invoked by the petitioners?

Esmeralda does have an *amparo* remedy with the usual characteristics, as well as other remedies as spelled out in the answer to question 21. The submission to the Federal Court was done using the *recurso de amparo* in conjunction with the remedies of *acción popular* and *seguridad colectiva*.

30. *Why did the Inter-American Commission not argue that Articles 5 and 16 of the American Convention were violated?*

The Commission considered that there was no evidence of harm to personal integrity as a result of the Project, nor that the petitioners had shown any violation of the indigenous communities' right to association.

31. *If Esmeralda has domestic remedies, have any of them been used?*

See answers to questions 21 and 23.

32. *What are the standards for recognition of indigenous groups in Esmeralda?*

See answer to question 8.

33. *What are the legal procedures that indigenous groups use?*

See answers to questions 21 and 23.

34. *What types of cultural property (i.e. traditions, folklore, native artifacts, dance, sacred landmarks, and religious practices) do the Numa and Lanta peoples possess?*

They have their own language, spiritual ceremonies for naming children, oral traditions on the creation of the world, nature and its relationship with humans, and songs and dances based on them. They consider a hill located east of the river to which they make annual pilgrimages to be sacred.

35. *What is the precise text of Law 555-76, particularly the governmental procedures for recognition of indigenous peoples, protection of their rights, and consultation with them regarding programs and projects affecting their rights?*

See answers to questions 1, 11, 13, 16, 17, and 21.

36. *Can you please describe in greater detail the internal division that led to the split of the Numa and Lanta peoples in the 1970s?*

There is no definitive history of the reasons for the division that led to the separation of the Numa from the Lanta. Some authors argue that the separation resulted from fights

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over land-used for hunting, fishing, and crops, because of the demographic pressure caused by the growth of the Lanta population when modern medicine was introduced. Others argue that the separation came about as the result of ancient rivalries among families, while others claim it was over the personal ambitions of leaders.

37. *Paragraph 6 of the hypothetical case states that Esmeralda has ratified all major universal treaties. Is it a party to the UN and has it ratified CERD, the CCPR, and ICESCR?*

With respect to the ratifications, it has ratified CERD, ICCPR, and ICESCR

38. *Paragraph 9 of the hypothetical case states that the Lanta have 30 villages with 2500 members. Is that the total population or the population for each village? The hypothetical specifies this as the total for the Numa but not for the Lanta.*

The total Lanta population is 2500, organized in 30 communities. The total Numa population (see paragraph 11) is 800, organized in 15 communities.

39. *Does the state of Esmeralda have the procedure for administrative recourse known as “vía gubernativo” or other remedies (e.g. “amparo”) to protect the rights of citizens?*

See the answer to question 21.

40. *Did the state of Esmeralda invoke preliminary objections during the procedure before the Inter-American Commission?*

See the answer to question 27.

41. *Are the stages of prospecting and production of the Santa Ana Project under way, and if so, as of what date, and are these being done at the place where the hill sacred to the Lanta and Numa peoples is located?*

With respect to progress in the works, see the answer to question 3. The sacred site will not be directly impacted by the works. The traditional access road to the sacred site will be impacted and a by-pass approximately 500 meters in length will have to be built.

42. *There is a discrepancy between the English and Spanish version as to when the Numa split from the Lanta. The English version states the 1970s, whereas the Spanish version states the 1960s. Which date should control?*

The Numa split from the Lanta at the end of the sixties.

43. *Are the individual populations of village communities of the Lanta and the Numa people equal (meaning since there are 15 Numa communities totaling 800 people, would this mean that the six communities affected by the project have 320 people - $(800/15 * 6)$)?*

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Community membership varies, but the six communities affected have among them approximately between 300-400 members.

44. *The question states that the Lanta people comprise 30 villages of approximately 2,500 members. Is there 2500 total or 2500 in each village community?*

See the answer to question 37.

45. *At what stage of implementation is the Santa Ana Project at this time?*

See the answer to question 3.

46. *What were the reasons for the State to declare the Protected Natural Reserve, how is it classified, and when was it so classified?*

The protected natural reserve to the east of the river in the Santa Ana Project Zone was declared in 1957, due to the wealth of the forest and biodiversity in that area. The classification of that area allows for its regulated use and for tapping the resources, so long as the traditional uses of the indigenous communities are guaranteed, and are in harmony with the objectives and purposes for which the Protected Natural Reserve was created.

47. *What are the other numerous treaties that Esmeralda has ratified in addition to the ILO Convention 169?*

Among the most important, in addition to the human rights treaties of the Inter-American system are the universal covenants and the Convention on the Elimination of Racial Discrimination.

48. *Paragraph 6 of the case states that the international human rights instruments that have been ratified by the state of Esmeralda are self-executing.*

This would mean that all human rights treaties referring to the case could be invoked before the authority without any need to issue a legislative or other measure for their enforcement. As we know, not all the provisions are self-executing. Hence it is important to clarify whether, in the competition, the basis of this presumption will be addressed, independent of the genuineness of the provisions in question.

International human rights instruments have constitutional rank in Esmeralda and can be applied directly by the domestic courts without any need for special regulation.

49. *On what date did the exploration and production activities that are particular to the Santa Ana Project on the Lanta reserve and/or the territories claimed by the Numa begin?*

In early 2002.

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50. *What did the environmental and social impact assessments (ESIAs) reveal in terms of the manner and mechanisms that will be used to compensate for the execution of the Santa Ana Project?*

There are domestic laws in Esmeralda that establish the mechanisms and criteria for identifying damages caused by projects of this type. The ESIAs analyzed the certain and estimated damage that would be caused by clearing the right-of-way; installing the camps and rigs; laying pipelines; movement of transportation and land; muddying of waters; and temporary reduction of the terrestrial and fish wildlife.

51. *What mechanisms has the state of Esmeralda undertaken to recur to safeguard the rights of the Lanta and Numa communities?*

In addition to the statutory safeguards in terms of respect for indigenous lands and resources, and the obligation to consult, the State has established a monitoring system with the companies to evaluate use and harm, as well as to determine measures to minimize impact, and to determine compensation and reparation (whether in terms of services or money).

52. *How much will the oil fields add to growth of GDP? In other words, to what extent will the oil fields contribute to the overall improvement of the national economy?*

Official studies agree that once the oil field is fully operational, it will contribute an additional 1.5% of GDP the first year, and that this improvement will be sustained for the 20 years the oil field is expected to be productive. The project will facilitate residential and industrial supply, and a percentage will be exported.

53. *Even though it is not possible, under the rules, to argue by analogy to similar cases before international organs that have not been published by the Commission or the Court, is it possible to cite similar cases that have been decided in the domestic legal systems of each country?*

Comparative case-law can be a source of international law. It is up to the judgment of each team whether to draw on it.

54. *What percentage of the country's total population is accounted for by the indigenous groups presumed to be negatively impacted?*

The calculation can be made based on the information in the hypothetical.

55. *What short, medium, and long-term benefits will the indigenous communities derive from the Santa Ana Project?*

According to the ESIAs, the indigenous communities will receive various types of

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benefits. The financial benefits include compensation for rights of use (lands, internal waterways, forest resources, etc.), damages (for clearing the right-of-way, muddying of the water, movements of land), nuisances (noise, alteration in living conditions, etc.).

The companies have also undertaken to offer employment on a preferential basis to the members of the communities, selected by their own authorities, and to train them.

The communities will also have direct access, provided by the companies, to the national telephone network, and the company's special radio network.

A health and medical plan has been established for the communities and their members, subsidized by the companies and maintained by the Esmeralda Health Service. A similar plan has been established with the Ministry of Education to reinforce secondary and technical education in indigenous areas.

56. *Esmeralda has a special remedy. We understand that it is cassation. So does Esmeralda have an amparo remedy or another remedy that has similar effects?*

See the answer to question 21.

57. *The Numa people are living on government lands with the status of "protected natural reserve." Does this mean that those terms ("government lands" and "protected natural reserve") are synonyms? If they are different, what is understood in Esmeralda's legislation by "tierras fiscales" (government lands)?*

They are not synonyms. There are government lands that are not "protected natural areas." See answer to question 45.

58. *What was the position of the Lanta people in relation to the separation of the Numa people in the 1960s?*

The authorities of the Lanta people did not support or impede the separation of the Numa. The Lanta who remained in the territory to the west of the river maintained their traditional activities.

59. *Do the Lanta people at present recognize the Numa people as an indigenous people independent of the Lanta?*

The Lanta people consider the Numa to be a people related to them by historical, cultural, spiritual, and biological ties, but that they have a separate organization and authorities which they recognize as such. They maintain social and barter relations. The formation of mixed families among Numa and Lanta youth is not common, but it happens and does not meet with social objections.

60. *During the period in which the Numa people were part of the Lanta people, did they*

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recognize the General Assembly as their traditional authority?

They recognized it until they decided to separate.

61. *What were the reasons (factual and legal) why the petitions of CINE, FELANUMA, and the forest activists were rejected when the ESIA's were approved? (Paragraph 31) Why were the alternative projects rejected during the process of consultation with the indigenous communities? (Paragraph 27)*

There were numerous points that led to comments, objections, and alternative proposals. In all cases, those having to do with the comments or suggestions made by public agencies, indigenous communities, the organizations CINE and FELANUMA, and forest activists, the proposals and alternative projects were analyzed by the specific national administrative agency in charge of approving the ESIA's in keeping with technical and socio-environmental criteria. The approved ESIA's contain numerous requirements and measures different from those contained in the ESIA's originally proposed by the enterprises.

As appears from the hypothetical, those criteria or analyses were not always accepted or shared by the organizations.

62. *What are the temporary damages or permanent changes to the habitat that the company anticipates as discussed during the consultation procedure? (Paragraph 26)*

See answer to question 8.

63. *We seek clarification with respect to the dates of the hypothetical case used this year. In its Spanish-language version, certain dates are established at paragraphs 28, 33, and elsewhere. Nonetheless, in the English and Portuguese-language versions, different dates appear, which shows that there may have been some mistakes in the translation of the case to Spanish or to English and Portuguese. We cordially request clarification as to the correct dates in the hypothetical case.*

The correct dates are those that appear in the Spanish-language version.

64. *Taking into consideration the following facts of the case: description of the legally-established process for this type of project (The 1995 Law for Development of Hydrocarbon Resources), especially Para. 17 B and D, where phases two and four are described; the fact that the second phase was completed in March 2001 (Para. 28); and that the fourth phase was completed in August 2001 (Para. 31), please inform us on the detailed content of the ESIA that were approved by the State, keeping in mind the requirements described in the Law (Para. 17 B.)*

The environmental and social impact assessments that the Government approved set forth the outline that the Project must follow in terms of a) the physical configuration of its operations (including equipment, pipeline, the right of way, physical and electronic communication networks, temporary and permanent installations, reinforcements and

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operations for environmental preservations, sewers, removal of liquid, solid and gaseous material, housing and personnel services, airports, etc.); b) the methods, mechanisms and techniques for doing this; c) the environmental and social impact that the operations indicated in (a) and the methods, mechanisms and techniques indicated in (b) are estimated to have. They also include d) the measures that must be taken to minimize, prevent or avoid the negative impact on the environment, as well as on the daily lives of the affected population (including lifestyle, means of production, social relationships, and access to public services) and e) the measures that will be put in place, either by companies or public or private organisms, to compensate, repair and indemnify the affected populations for such impacts or for the use of their land, territory or resources, and to improve their conditions of life in general.

65. *How long did the process of achieving recognition and collective land rights, which ended in 1985, take?*

Two and a half years.

66. *In paragraphs 24 and 25, it says that the consultations with the indigenous people were done first with the three principal indigenous organizations and then with the various village communities on an individual basis through assemblies called by the authorities of different communities that compose the Lanta and Numa people, and that are attended by representatives of the Lanta General Assembly. Please explain precisely the methodology through which these consultations with the Numa and Lanta are carried out, including specifying the language used and the length of the consultations.*

The direct consultations with the Lanta and Numa communities were carried out in two rounds: first, through previously-called meetings with the Lanta and Numa authorities (including community representatives) during which national authorities explained the rules of the consultation and its objective. Later, the company representatives provided information about the proposed characteristics of the project. The presentations included diagrams, photographs and projections. These first-round meetings with authorities and representatives were during for three consecutive days.

The second round consisted of meetings of the same type, called by the authorities in the communities, and to which all community members had access. These meetings were held for one day in each of the communities. Since most Lanta and Numa are fluent in Spanish, the presentations were done in this language. In communities where some members were not fluent in Spanish, interpreters were used.

The meetings included analysis of specific counter-proposals made by indigenous authorities or community members regarding alternative ways of approaching different operations or techniques in order or avoid, reduce or modify impacts.

The public authorities (including the representatives of the Ministries and the Human Rights Ombudsman who were present) participated in the discussions.