

PRELIMINARY HUMAN RIGHTS ASSESSMENT FOR THE PROJECT: "MAGNETOTELLURIC (MT) PROSPECTION BY TOTAL E&P BOLIVIE, AZERO BLOCK"

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Executive Summary

INTRODUCTION

Multinational company TOTAL E&P has been operating in the Chaco region since 2003, where some of the poorest municipalities in Bolivia are located and whose situation of poverty has not changed much after a decade of natural gas exploitation. The population in Bloque Azero case is particularly vulnerable, especially since there are many Guaraní communities living there that just recently have been released by the Bolivian State from their captivity/slavery living condition inside estates.

Oxfam supported a first COBHRA report on the human rights impacts of the Guaraní communities affected by TOTAL in 2010. We now present this new "preliminary assessment" which alerts ex-ante about risks to human rights, at a time when the company is ready for a new expansion of its operations. Contrary to the first report, at this time TOTAL has been open to dialogue with Oxfam, so we hope that our influence will serve to guide the company's policies and practices towards achieving greater justice and equality for the poorest communities affected by the investment projects.

This review comes in the context of the dialogue on business and human rights, and the implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy Framework". Oxfam engaged with Total France and the team at its subsidiary in Bolivia, TOTAL E&P Bolivie (TEPBO) to undertake a *preliminary assessment* on human rights in the context of the project for "Magnetotelluric (MT) Prospecting, Azero Block".

The preliminary assessment was undertaken in the second half of 2015, and expanded by Oxfam in 2016 through a specific study on the Monitoring System for Socio-Environmental and Indigenous issues, including updated information provided by Total in 2016.

Total will implement the "Project for Magnetotelluric (MT) Prospection, Azero Block" with a total investment of 9 million dollars and duration of 4 months; the precise start date has yet to be determined. The MT project uses a technique of

Stages of the MT Project

Stage	Activities
Execution	Permit requests
	Personnel mobilization
	Transport of materials and equipment
	Establishment and operation of two temporary camps
	Establishment of 10 helicopter pads (900 m ² of cleared area) and 17 unloading zones (5 m ² of cleared area)
	Equipment testing
Operations	Gathering magnetotelluric data from 310 magnetotelluric measuring stations. These stations will be spaced at a distance of 1 km to the East and West, and 2 km North and South.
	Processing
	Interpretation
Maintenance	Vehicle and helicopter maintenance
Withdrawal	Demobilization (general cleaning)
	Restoration

geophysical exploration with natural sources of electromagnetism, measuring resistance in the soil, and with it the possible presence of hydrocarbons. The technique consists of measuring subsoil response to variations in the earth's magnetic field induced by solar radiation. This intervention is performed by groups of 3 to 5 individuals using light surface equipment (30cm). Data collection can take from 14 to 48 hours at each measurement point. The MT project has been approved by the Ministry of the Environment and Water (MMAyA) as a Category III project, including proposed mitigation measures and the formulation and execution of an environmental monitoring plan. Nonetheless, the project does not

require a consultation and participation process, nor compensation payments.

The Azero Block covers 785,625 hectares (7,856 km²), spread across 8 provinces and 11 municipalities in the departments of Santa Cruz and Chuquisaca.

The area of influence for the MT project covers three municipalities: Lagunillas and Gutiérrez in the Department of Santa Cruz, and Villa Vaca Guzmán in the Department of Chuquisaca, affecting a total of 27,424 inhabitants. The project also affects two Native Community Lands of the Guaraní indigenous people: Iupaguasu and Alto Parapeti, with 4,869 inhabitants. 33% of the Azero Block overlaps with natural protected areas under the Serranías del Ñao National Park and the Río Grande Integrated Management Area. At the community of Overa Ñancahuazú, the block borders the zone of strictly protected areas and the historic cultural region of Che Guevara's guerrilla activity.

METHODOLOGY

The preliminary independent assessment performed by Oxfam focuses on an analysis of the responsibilities of the French company, Total, and its subsidiary in Bolivia, TEPBO, to respect human rights in the context of its voluntary adherence to the "Guiding Principles on Business and Human Rights, implementing the United Nations Protect, Respect, and Remedy Framework".

The Guiding Principles are structured around three pillars:

- The State duty to **protect** human rights from abuses committed within their territory by third parties, including business enterprises, through the adoption of appropriate steps to prevent, investigate, punish, and redress such abuse committed by private agents.
- Corporate responsibility to **respect** human rights, acting with due diligence to comply with applicable laws, avoid infringing human rights, and addressing the adverse consequences of their activities and operations.
- It is the obligation of the State and business to provide **remedies** for the negative human rights consequences that they have caused or helped to cause.

The main methodological references for this study include the "Community-Based Human Rights Impact Assessment (COBHRA) Guide" (Oxfam, 2009), and the Guide for Use of the UN Guiding Principles on Business and Human Rights" (SOMO, CEDHA, and CIVIDEP, 2012).

The activities included in the study included document and bibliography review, a total of 18

meetings and interviews held with affected communities and local authorities, and a focus group conducted with the TEPBO Sustainable Development Management Team.

FINDINGS

The assessment identifies four human rights that require special attention:

a) The right to water and a healthy environment

All people have the right to live in a healthy environment and receive the basic public services needed for their health and wellbeing.

The human right to water and sanitation is essential to the realization of all human rights. Access must be guaranteed for sufficient clean water that is culturally acceptable, physically accessible, available, and affordable to all.

Some stakeholders in Lagunillas link TEPBO with existing environmental and social impacts from operations in the Ipati-Aquío block and lateral lines. TEPBO asserts that these impacts will be clarified by the disclosure of the environmental baseline and hydrological study for MT prospecting in the area. Field verification in the Municipality of Lagunillas confirms high environmental vulnerability in this block (contamination, sedimentation) by virtue of its structure as a closed watershed and an important wetland area; thus far there are clear signs of contamination, sedimentation (due to water-driven erosion), and deforestation

The concern expressed by all of the stakeholders interviewed is that water resources may suffer the greatest negative impacts (even more probable if the MT proceeds to new phases with wells drilled in the exploitation stage), putting at risk the human right to water as enshrined in national norms (Art. 313 of the Constitution) as well as international norms (ICESCR, CERD).

Water is an essential resource for the lives of local communities. This is also a sensitive resource, especially for the Chaco region which is prone to prolonged droughts that can be exacerbated in a context of climate change. Given this scenario, there is an urgent need for the company to adopt the necessary measures to evaluate, monitor, and disclose the volume of water that it uses, and communicate its activities that seek to prevent and mitigate possible impacts, in order to demonstrate its respect for this key right.

It is important for TEPBO to undertake an assessment of the real and potential human rights impacts that the company has caused or contributed to through its activities, as established by Guiding

Principle 17, which refers to Due Diligence on Human Rights.

Additionally, the Political Constitution of the Plurinational State of Bolivia recognizes water as a fundamental human right for people's lives, making it important to take into account protection and respect for this right.

TEPBO reports that in 2016 it requested a hydrological study on the Laguna La Peña watershed, in response to the concerns expressed by local stakeholders, with the goal of verifying the company's responsibility for the negative effects identified. TEPBO also reported that this study was shared with local stakeholders in Lagunillas (municipal government, territorial grassroots organizations (OTBs), *Capitanías*) in March, 2016, and that the main causes of the current sedimentation in Lagunillas were due to pre-existing issues, particularly poor agricultural practices by local farmers and poor management of solid waste. The company also reports that it commissioned a diagnostic of ecosystem services in the area from the Friends of Nature Foundation (Fundación Amigos de la *Naturaleza*); the results of the study were shared with local stakeholders.

b) The right to information

All people have the right to have access to information and to interpret, analyze and communicate it freely, individually or collectively (CPEP Art. 21.6). This implies ensuring transparency and accountability to allow community voices to be heard and community participation in the decisions that affect their lives.

TEPBO reports that in 2015, informational public consultation meetings were held on the MT project. These meetings brought together 296 people and shared information on technological aspects, legal issues (Category III classification), possible negative impacts from the project on the air, soil, water, and ecology, socio-economic and cultural aspects, and the corresponding prevention and mitigation measures. The meetings also described the procedures for hiring local labor, grievance management, and elements of the TEPBO code of conduct. Nonetheless, during field work, local authorities requested greater depth and scope of project information.

The communities also report having contributed information for the production of the socio-economic and environmental baseline studies; they are not aware of the results of the studies, however. Local community organizations (indigenous groups, rural farmers, inter-cultural groups) and private property owners indicated that they had received very little information on the MT project, and also requested,

across the board, community-level outreach and disclosure meetings.

These findings suggest that there may be risks for the right to communication and information as established in the Political Constitution of the State, as well as a gap in the application of Guiding Principle 21 on Due Diligence for Human Rights, which sets out that companies should be prepared to explain and communicate the steps that they are taking to address the consequences of their activities on human rights, contributing appropriate and sufficient information for each context.

It is necessary for TEPBO to share information with greater frequency before and during project implementation, giving greater information on its policies, procedures, and the steps it will take to ensure respect for human rights, thus addressing the questions and concerns from local stakeholders.

In terms of communication, there is a perceived need to expand the use of other media and multimedia tools (radio, television, audiovisual instruments and bilingual text) to reach the grassroots communities directly or through local leaders (materials and training in methodologies to improve leader communication skills). The indigenous communities have expressed the need to use more bilingual communication (Guarani/Spanish) in outreach, communication, and training processes for the Guarani communities.

In terms of transparency and access to information, Total maintains a confidentiality policy that prohibits the disclosure of important internally-produced documents (social impact study, local development support plan); the publication of these studies could benefit the participation of all stakeholders impacted by the project.

To that respect, TEPBO has reported that in 2016 it undertook actions to transparently disclose its activities with local stakeholders (indigenous and rural communities), including measures to explain the Azero Block exploration plan, from the MT stage through the drilling of exploratory wells.

The company also reported on the implementation of the phases outlined in its outreach plan. TEPBO indicated that from March to July, 2016, it held 39 meetings in 19 communities in the area of operations, with a total of 655 participants (43% men and 57% women), including all of the communities of *Capitania* lupaguasu and Alto Parapetí.

c) Right to development

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. This implies the equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. (United Nations Declaration on the Right to Development)

TEPBO has channels for dialogue and engagement with each of the local actors separately, although informative meetings and public consultations have been held on a municipal level, and the diverse public and social stakeholders in the Azero Block have been convened collectively for their participation. These stakeholders include indigenous peoples, rural organizations, inter-cultural groups and sub-national authorities. TEPBO does not see the need to maintain a multi-stakeholder structure (on a municipal or supra-municipal level) for dialogue, coordination, strategic visioning, monitoring and evaluation of effects and impacts, and the sustainability of development linked to its hydrocarbon-related activities in its area of action. This decision is due to the company's assessment that by law, impact monitoring and assessment is the responsibility of national and sub-national authorities (MMAyA and the Ministry of the Interior), and that the role of engaging with local stakeholders for strategic development management should be taken on by the municipal government. Nonetheless, this should not impede its participation in existing local development platforms led by other actors, where TEPBO can articulate its vision and coordinate with the local development strategy, enhancing the possible benefits for all.

Guiding Principle 18 refers to Due Diligence, and proposes paying greater attention to managing possible human rights risks from company activities related to local development, considering the "actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships."

In this sense, there is an identified need for the company to assess its impacts on human rights, paying special attention to issues of possible involuntary resettlement of the communities from the two Native Community Land areas in the case that the exploration process yields positive results. It is important for the company to consider and dialogue with stakeholders early on in the process how to implement concerted development plans to offset possible impacts, land use restrictions, or displacement.

With respect to TEPBO's concerns regarding the appropriateness of taking a leadership role in local

development, Guiding Principle 23b lays out that in any context, business should "seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements."

It is also clear that through its Contractor Management Plan, TEPBO is providing incentives to build the capacity of local hospitality and gastronomy service providers for the oil sector, which also benefits the tourism sector. This type of strategy could be further enhanced to promote local development.

TEPBO considers that Principle 23b does not determine company involvement in social development. Nonetheless, TEPBO has undertaken actions to help create and build capacity for development management and planning with local stakeholders and authorities. These initiatives include building a medium-term vision, a management and investment capacity-building project with three municipalities with support from the IFC, and support for building the Alto Parapetí Native Community Land life plan with SNV.

d) The right to consultation and participation

Indigenous peoples must be consulted on any issues that would affect them, to enable free, prior and informed participation in development processes and on the policies that may affect them. Consultation must be made in good faith with the objective of reaching agreements or consent to ensure the realization of the rights of indigenous peoples. (ILO)

The category III classification of the MT project does not require compliance with consultation requirements; despite this classification, TEPBO has made an effort to share project information. Nonetheless, given that the project area of influence covers significant surface area from two indigenous territories, appropriate consultation with indigenous organizations is required in the framework of compliance with ILO Convention 169 (1989) and the United Nations Declaration on Indigenous Peoples (2007) that establish that good faith prior consultation is needed to obtain free, prior, and informed consent from indigenous peoples affected by exploitation activities of natural resources in their territories.

There is also a perception that women's participation in participatory outreach processes with authorities and community leaders in project execution is still limited.

To that respect, TEPBO reports that in 2016 they implemented a Human Rights and Equity Plan in the framework of their Local Development Support Plan, which includes gender equity as one of its lines of action. In that context, a project has been implemented to build the response capacity of the

Children and Adolescent Defense Office (*Defensoría de Niñez y Adolescencia*) in the municipality of Lagunillas, with support from the NGO *Casa de la Mujer*.

Indigenous organizations believe that the work of the indigenous socio-environmental monitors (MSAI by their Spanish acronym) has been pertinent and positive in the TEPBO areas of operation (plans are to hire two MSAs for the MT project), although they also suggest considering other ways of financing their work in order to ensure greater independence from the company and greater cohesion with the organizations; there is a certain weakness identified in the fact the TEPBO pays the consulting company that hires the monitors. The MSAs can play an important role in promoting indigenous consultation and participation in all phases of the project.

It is also appropriate to refer to the grievance mechanism, which TEPBO designates as the Complaints Management Plan. This plan has not been evaluated in this assessment, as the MT project in the Azero Block was not in operations in 2015. Nonetheless, it would be important to evaluate the participatory implementation process. As much as possible, this grievance mechanism should be integrated into the monitoring system (MSAI) in order to ensure that possible damages caused can be addressed quickly and effectively, with the due diligence established by the Guiding Principle (GP 29).

A consultation process is the starting point to assess the risks for human rights, involving all sectors and paying special attention to the population most vulnerable to negative consequences. TEPBO must apply Guiding Principle 18 for the prevention of potential negative effects as an important component of the enforcement of any policy for respect for human rights. It is important for TEPBO to undertake significant stakeholder consultation, considering the concerns, opinions, and decisions of the affected communities, ensuring respect for their human rights, and implementing Guiding Principle 18, which establishes that businesses should include substantial consultation with potentially affected groups and other stakeholders.

The indigenous communities question the new Supreme Decrees on hydrocarbons, and feel that these decrees violate their rights. The modification of the Regulations for Consultation and Participation by Indigenous Peoples, First Peoples and Rural Communities for Hydrocarbon Activities, through Supreme Decree DS 2298, limits the timeframe to 45 days for consultation processes. This time restriction runs contrary to the decision-making dynamics of indigenous peoples, which prioritize consensus regardless of the time needed to reach it. This modification has a negative effect on the rights of

indigenous peoples recognized by the Political Constitution of the State, sector-specific laws, and international norms on indigenous rights, as it subjects indigenous groups to time constraints that limit their capacity to make use of their customary decision-making processes.

Indigenous groups also expressed concerns regarding Supreme Decree DS 2195 on the Compensation Percentage (2014), which sets up a mechanism for financial compensation for socio-environmental impacts from hydrocarbon Activities, Works, or Projects (AWPs) when these are conducted in indigenous, peasant or rural community lands or territories. This decree arbitrarily sets the percentage for compensation between 0.3% and 1.5%. DS 2195 also defines in advance the possible uses for compensation resources (social and/or production projects). It restricts negotiation time with beneficiary populations to define the distribution of the compensation, leaving the final say in the hands of the Jurisdictional Authority once the negotiation period has expired. Access to compensation resources is conditional and subject to submitting project proposals, and in some cases the implementation of these proposals is delegated to public authorities.

Lastly, Supreme Decree 2366, for Use of Hydrocarbon Resources in Protected Areas (2015), allows for hydrocarbon exploration activities in different zones and categories of protected areas, casting the rights enshrined in the Political Constitution of the Plurinational State into doubt. This decree runs contrary Article 132 of Hydrocarbon Law No. 3058, which prohibits AWP in protected areas including RAMSAR sites, archaeological or paleontological sites, sacred areas with spiritual or historic value, or important biodiversity zones for communities and peoples.

TEPBO refrains from emitting an opinion on these concerns raised by the indigenous communities. Here it is important to note Guiding Principle 23a that indicates that businesses should comply with all applicable laws and respect internationally-established human rights; this is coherent with Article 256 of the Political Constitution of the State of Bolivia that sets out that international human rights treaties and instruments will be enforced with preference over national norms, and that the human rights recognized in the constitution must be interpreted in accordance with international human rights treaties when these instruments provide for more favorable norms.

On this topic, TEPBO (2016) asserted that its actions are subject to compliance with applicable national norms, nonetheless it implements actions that go beyond this legal standard in order to provide all of the project information in advance, so that once the

legal consultation takes place the stakeholder may make an informed and reasoned decision.

The Policy Commitment of Total as described in Guiding Principle 16 is laid out in several official documents that the company affirms will be applied in the MT project in the Azero Block. Nonetheless, in the course of its field work, Oxfam has not been able to verify that the local actors have sufficient knowledge or information on company policy and application procedures.

These official documents include:

- a) Company Code of Conduct, based on internationally-recognized human rights standards
- b) Company Practical Guidelines on human rights, which are taken complementary to the Code of Conduct
- c) Constitutional agreement on indigenous and tribal peoples, signed by the President and Director General of Total, based on International Labor Organization (ILO) principles, World Bank norms on indigenous peoples, and the criteria from the United Nations Development Program (UNDP)
- d) Social Strategy of the subsidiary company TEPBO, which establishes social principles and clauses in contracts to ensure that the Management for Sustainable Development and its contractors respect human rights, with a focus on the rights of indigenous peoples
- e) TEPBO Social Management Plan, including a Consultation Plan, Contractor Management Plan, Local Development Support Plan, Offsets and Compensation Plan, and Grievance Management Plan
- f) TEPBO internal control mechanisms including the Ethics Committee, Human Rights Coordination Committee, and Social Responsibility Department
- g) These human rights agreements and policies within Total have been approved by the Executive Committee, President, and Director General.

CONCLUSIONS

Total has voluntarily signed on to the Guiding Principles on Business and Human Rights. In this sense, the company has developed a series of policies, strategies and procedures at its headquarters and its subsidiary, TEPBO. Nonetheless, in its field work Oxfam has not been able to verify the application of these tools in the MT project, and in general the local actors have no knowledge of these company policies.

The preliminary assessment has identified the need for TEPBO to define with greater precision the concept and mechanisms it will use to ensure the

effective application of and compliance with Guiding Principles 17 to 22, on **Due Diligence** for Human Rights, which establish, without regard to any existing state authorities, that companies must also identify, prevent, and mitigate negative consequences in their operations, undertake periodic assessment and monitoring processes to measure the effectiveness of their activities, and be prepared to communicate and report externally about the measures adopted.

The magnetotelluric exploration technology used by TEPBO in the Azero Block is designed to provoke fewer environmental impacts (compared to seismic exploration), and it represents a good practice in terms of technological innovation and initiatives to promote greater environmental responsibility. Nonetheless, local stakeholders have requested that the company consider the mitigation of possible impacts, particularly in sensitive areas with vulnerable resources. While the Bolivian State has classified the MT project as Category III, this does not release Total from its responsibility to respect human rights in accordance with the standards of international law.

The communities feel that their right to water is at risk, due to the existing problems in the closed watershed in Lagunillas and the presence of oil operations that could impact their water sources. In the current context of climate change, this region is highly vulnerable to issues of severe drought.

The MT project is located near sensitive areas and a region with historic and cultural value as the "Che Guevara Trail", which requires the company to take special care for the preservation and management of area.

The company operates in a context of weak state institutions, manifest in the fact that Bolivia has not signed on to the Guiding Principles, and the recent modifications to the legal framework of the sector may mean a regression in terms of the right to prior consultation, consent, compensation, and protected areas.

The company has not made substantial progress toward compliance with Guiding Principle 16 to actively and broadly disclose its human rights policies among the entities with whom it maintains contractual relationships, including state institutions. At the time of publication of this report, TEPBO had not provided information to the communities on the environmental and social baseline, despite the fact that the study had been generated with their participation.

In general, the communities and municipal representatives feel that the information disclosed by the company has been partial and must be expanded in terms of its content and scope, particularly in the

meetings planned with indigenous, rural, and intercultural communities.

The MT project interacts with two legally-recognized Guaraní indigenous territories; although the Category III classification does not require compliance with the right to consultation, international standards do. The company's disclosure efforts do not replace free, prior, and informed consent; this right must be implemented in a culturally-appropriate format prior to beginning the project.

Women's participation is still limited and must be improved to allow for full participation by women in disclosure, prior consultation, prioritization, and implementation processes in social projects. It is important for the company to continue to hold consultations with rights-holders or affected stakeholders, to design concrete and acceptable actions to address possible impacts, demonstrating an understanding of the concerns of the affected parties, as outlined in Guiding Principles 17 and 18 on Due Diligence.

TEPBO's social project initiatives in support of local populations and municipal governments have a time and sector specific approach, in which the main focus is on the satisfaction of the communities' urgent needs. With DS No. 2195 from 2014, TEPBO is responsible for investing compensation resources into projects identified by the beneficiary groups. This situation could create a conflict with local stakeholders if an appropriate framework for transparency and social participation is not in place.

The company does not see the need to maintain a multi-stakeholder group (municipal or supra-municipal) to sustain dialogue and coordination toward a strategic projection for local development. This point of view fails to consider the importance of making use of the company's privileged position in the local scenario, with leadership and resources that must be seen as an opportunity to enhance a strategic and concerted vision for local development, in the midst of a context of weak local government and institutions, where power relations favor the company and thus increase its responsibility. In this case it is important to consider the implementation of Guiding Principle 23b, which establishes that in any context, business should "seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements."

Progress can be seen in the fight against corruption (extortion and bribery), with increasingly participatory and transparent processes for contracting local labor and grievance management (treatment and resolution). But it is important for the company to establish appropriate mechanisms to monitor the proper implementation of its policies and principles down the value chain.

TEPBO has built a rapport with municipal governments and Guaraní indigenous organizations over the course of its previous and ongoing projects. The company is also beginning relationships with rural farmers, inter-cultural groups and private landowners. The company must also recognize that rural communities feel discriminated compared to indigenous communities.

One positive step from the Guaraní People with regard to Indigenous Socio-Environmental Monitoring (MSAI) is the experience and knowledge gained over the course of the last decade; since 2007 the Assembly of the Guaraní People has led the production of the "Regulations for Socio-Environmental Monitoring of Hydrocarbon Activities in Indigenous, First Peoples, and Rural Community Territories", leading to the promulgation of Supreme Decree No. 29103 in April of that year.

Currently, the *Capitanías* present in the Azero Block have a team of indigenous monitors that undertake socio-environmental monitoring of the activities, works, and projects in hydrocarbon interventions in their territories. The MSAI team is set to participate in the MT project as well.

The close relationship between the monitors and the leadership structures in their *Capitanías*, with whom they share their field work for verification, observation, and inspection of the works undertaken in their territories, is one of the greatest strengths that can be put to use in the MT exploration project.

The indigenous socio-environmental monitoring system is a tool that could potentially be tied into a broader territorial management system that would also address monitoring of extractive activities, research, and m&e for comprehensive and strategic development processes in indigenous territories (life plans or indigenous territory management plans).

The local indigenous organizations assert that the indigenous socio-environmental monitoring system for any project should evolve into an independent management and administration system that can operate with autonomy from the company in order to prevent any conflict of interests. According to the monitors and the organizations, institutional structure and support is needed for the system, requiring research into the appropriate legal and institutional arrangements that can ensure the independence and sustainability of system operations.

The monitoring system has the potential to become a technical instrument that can disclose, support, and document evidence that could serve as input for multi-stakeholder platforms to draft proposals and communications content for advocacy. This system could also be a tool for monitoring and verification of

compliance with the agreements reached as a product of advocacy actions.

The greatest limitation is the non-implementation of Supreme Decree No. 29103 on Monitoring. Given this gap, the state is almost entirely absent from the monitoring that should be performed by the local jurisdictional authority, the Ministry of the Environment and Water (MMAyA). Respondents interviewed mentioned that grievances are not addressed in a timely and appropriate way. In recent visits from ministry technicians, the monitors noted that these technicians lacked the necessary knowledge and experience to perform adequate socio-environmental monitoring in the hydrocarbon sector.

It has been observed that indigenous monitoring has an environmentalist bias, with limited monitoring of social components and respect for human and indigenous rights. Many interview subjects remarked on the lack of a comprehensive monitoring vision. To this end, the monitoring system does not have indicators that can help to verify compliance with the principles on business and human rights developed within the UN system.

There are limits for effective disclosure and publication of monitoring reports for communities and other civil society actors (municipalities, civic committees, and other organizations); informational communications were not considered in monitoring planning, and there are no resources allocated for these actions (possible due to the company's confidentiality policy).

RECOMMENDATIONS

Recommendations for Total and its subsidiary in Bolivia, TEPBO:

Undertake a human rights impact assessment (HRIA), including a baseline study, indicators, and a monitoring and accountability model in the context of the new project and related operations. This report should be public and shared with the communities. Operations should proceed with due diligence on human rights (in accordance with international norms) in function of the size, nature, context of the activities and severity of the risk of negative impacts on these rights, ensuring that the company does not participate in human rights violations, as outlined in Guiding Principle 17.

Share the company policy on respect and remedies for human rights with territorial actors at length, in the framework of adherence with the Guiding Principles on Business and Human Rights, and other international norms. This should be done in consideration of the context of weak institutions

within a state that has not signed on to the Guiding Principles. Total and TEPBO should assemble an expert team for advice on the best strategies to promote the guiding principles and its own policies on human rights in complex and challenging contexts, particularly considering its partners and other corporate actors (GASPROM, PETROBRAS, and British Gas, recently acquired by Shell) as well as state counterparts (YPFB and the Ministry of Hydrocarbons). Make transparent the different processes for control and human rights monitoring, in order to disclose the results of these processes.

Develop specific and long-term gender strategies (specialist competencies, affirmative action, etc.), given that this is a structural issue and TEPBO adheres to the United Nations Global Compact and Principles on Women's Empowerment. Mainstreaming is acceptable in conceptual terms, but tends to get lost in practice.

These strategies should be specifically oriented to each type of social sector, for full inclusion and empowerment of women in all areas of life. Gender does not appear explicitly in Total global policies, and thus should be a priority when these policies are updated.

To ensure respect for the rights discussed in this preliminary assessment, Total should strive for, at minimum, compliance with the following recommendations:

1. On the right to consultation and participation:

Incorporate the principle of free, prior, and informed consent into internal policies and publicly support this norm. This means gaining a more comprehensive understanding and application of ILO Convention 169, which establishes the right to consultation along with the right to participate in decision-making and in benefits through the application of differential policies that lead to concrete actions (education, health, communicating, decent employment, etc.).

Implement a process of free, prior, and informed consent with indigenous and rural communities, applying culturally-appropriate methodologies that ensure timely access to information and can produce broad agreements in order to help obtain a social license from the communities, based on full community participation in the possible benefits of the investment project.

Conduct a participatory evaluation of the TEPBO Grievance Management Plan, and the effectiveness and willingness of the company in using this instrument to hear grievances from communities that may suffer negative consequences from activities and operations in their territories.

2. *On the right to water and a healthy environment:*

Undertake efforts to minimize or mitigate impacts on water, deforestation, and fauna (including dust and noise contamination) in a context of climate change in the region, which is already highly vulnerable to drought. It is thus necessary for the company to contribute to preventing and resolving possible impacts on local food security. These efforts should be focused on sensitive and vulnerable areas such as water sources or waterways, the lupaguasu forest reserve, the Lagunillas closed watershed, the buffer zones around the Iñao National Park, and the Río Grande management area.

Coordinate with actors in the Municipality of Lagunillas to produce an environmental baseline study based on data from the hydrological study underway, and the study on deforestation and changing land use in the Lagunillas closed watershed. Beyond TEPBO's clarification of its liability in the low environmental quality in this watershed, in any case it would be important for the company to promote training on topics of soil management and conservation, agro-silviculture and pasture lands, and water management (harvesting) with a watershed approach, in the Municipality of Lagunillas and other municipalities within its area of operation. Additionally, TEPBO must clarify its liability within the seismic exploration activities performed previously in the area, or if these actions were conducted by another company.

3. *On the right to information (and transparency):*

Share information with the communities on the possible stages and projects that would follow exploration (cycle of exploration and hydrocarbon production) if the MT yields positive findings. In this context, the socio-environmental monitors in the contiguous block in the production phase can transmit their knowledge and experience. Clarify adhesion to the Extractive Industries Transparency Initiative (EITI) and adequately explain to the corresponding action plan to the communities.

It is also important for TEPBO to explain the norms it applies to ensure positive discrimination in favor of indigenous communities, which have generated some resentment among other local actors.

Deepen research and participatory planning on social issues (societal, human rights, gender, and culture baselines) as well as environmental topics (environmental baseline, hydrology, desertification, deforestation, etc.) to be shared and verified in terms of their findings and the subsequent lines of action for socio-environmental monitoring and development. This should serve to improve respect for human rights and participation in socio-environmental

monitoring for hydrocarbon activities, and decide development priorities.

Optimize company communications and training tools in function of different audiences, with effective and efficient media and support materials. In the case of the Guaraní indigenous communities, the production of bilingual (Guaraní-Spanish) materials should be undertaken more systematically, especially when these materials serve as input for training processes, information, or outreach with communities (audiovisuals).

Communicate the important details of the subsidiary company in Bolivia (benefits, number of employees) to respect the Country-by-Country Reporting (CBCR) requirements: Total should also be a leader in terms of the application of international principles, even if Bolivia is not a member of the EITI.

4. *On the right to development:*

Participate in enhancing initiatives for dialogue and multi-stakeholder engagement (as well as spaces for grievance management) led by local actors, public and private institutions (with TEPBO as a stakeholder and promoter), and indigenous and rural organizations. The results of these initiatives should help to provide strategic, programmatic, effective, and sustainable orientation for the investments that TEPBO must make as compensation and social projects for the benefit of the local population and municipal administration.

Add flexibility to the lines of action and priorities of the TEPBO Local Development Support Plan, to ensure that the plan is not excessively rigid or predetermined, rather for it to be flexible enough to adapt to the development priorities defined by the communities and municipalities.

Contribute to promoting and building local capacities and generating employment and business for local actors. This may mean supporting the tourism development strategies for the municipalities, and Destination Chaco, which links the corporate images with important tourist attractions: the Che Guevara Trail, Guaraní World, and Eco-tourism in protected areas such as Iñao National Park and the Río Grande Natural Management Area, which are present in the vision and demands from communities, municipalities, and departmental governments involved in the Azero Block. In this sense, it is important to include lines to support tourism development as part of the company's social projects and aid for municipal administrations, which should also complement the contributions that TEPBO has made to expand and improve the quality of hospitality and gastronomy services.

Work with the indigenous organizations to build a more comprehensive structure to support the Indigenous Socio-Environmental Monitoring system, expanding its scope to include aspects such as human rights and indigenous territorial management (drafting and updating the life plans underway) with a view toward deepening research, monitoring, and evaluation of integral and strategic development processes in indigenous territories. There is a pressing need to undertake training on human rights and extractive industries in order to build a more comprehensive vision for monitoring, using indicators to verify compliance with the nine Guiding Principles on Business and Human Rights developed within the UN system.

Support the proposal from indigenous organizations to generate an indigenous socio-environmental monitoring system that can operate with independent management and administration in order to avoid any conflicts of interest. According to the proposals from indigenous organizations, institutional structure and support is needed for the system, requiring research into the appropriate legal and institutional arrangements that can ensure the independence and sustainability of the MSAI system.

Strengthen the MSAI system as a technical instrument that can disclose, support, and document evidence that could serve as input for multi-stakeholder platforms to draft proposals and communications content for advocacy. This system could also be a tool for verification of compliance with the agreements reached as a product of advocacy actions.

Strengthen effective communications actions to uphold the principle of sharing and disclosure of monitoring reports for the communities and other actors (municipalities, civic committees, and other organizations), allocating specialized human and technical resources for these communications purposes and aspects. It is important to prepare bilingual materials (Guarani/Spanish) to ensure the effectiveness of communications and educational actions.

Recommendations for the State of Bolivia

"States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises" (GP. 1).

Expand dialogue with the communities, particularly with indigenous peoples and rural communities, to discuss the scopes of decrees 2298, 2195, and 2366 in order to reach agreements to drive local development and contribute to respect and protection for human rights for all.

Guarantee the right of the indigenous and rural communities to prior consultation and free, prior, and informed consent, upholding the standards recognized under international law and recommended by specialized international organizations.

Strengthen mechanisms for dialogue and multi-stakeholder engagement through the authorities on different levels and sectors, ensuring the coherent use of public funds in joint local development initiatives in the project area of influence.

Consider adherence to the EITI, and make use of spaces for international cooperation and private sector support to promote transparency, access to information, and accountability, facilitating participatory monitoring and evaluation to maximize the benefits of public and private investments in the fight against poverty in local communities.

Consider reclassification of the MT project. Although the environmental authority has designated the project as "Category III" by virtue of its supposed low environmental impact, from the standpoint of international environmental and human rights standards, the MT project is located next to sensitive protected areas and zones of cultural and historic significance (Che Guevara Trail) that merit special attention and require an EIA.

Reconsider the recommendation from the 2014 Universal Periodic Review: "N - 115.3 Advance in the commitment to incorporate into the national human rights law the United Nations Guiding Principles on Business and Human Rights, with special attention to labour rights, rights of indigenous communities and environmental rights (Spain)"; the application of new regulatory tools will facilitate a framework for action by the companies to fulfill their responsibilities to respect human rights.

Recommendations for the State of France

Facilitate the study and support the proposed legislation on the duty for oversight (vote held on the first reading by the National Assembly on March 30, 2015, rejected by the Senate on November 18, 2015) for French companies active in sectors that pose human rights risks (including extractive industries) to monitor their subsidiaries and subcontractors to ensure their respect for human rights.

Implement an extended Country-by-Country Reporting process for extractive industries to obtain financial information on each subsidiary within large groups (in line with existing obligations for French banks, in place since 2013).

Implement EITI en France in accordance with the commitment made by the President in May, 2013,

and ensure progressive EITI norms to provide for the publication of contracts for exploration, exploitation, and investment.

Promote transparency in social and environmental areas through the obligatory publication of detailed studies on the environmental impacts of extractive projects.

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