



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



Case 6-22-CP/23

Puyo, August 29, 2024

**JUDGES OF THE CONSTITUTIONAL COURT OF
ECUADOR JUDGE ALÍ LOZADA - PRESIDENT AND
REPORTING JUDGE**

***Monito Waorani Ome/Yasuní imonipa
We the Waorani are the Yasuní***

We, the Waorani Nationality of Ecuador -NAWE-, by collective mandate, through the authority and legal representative, Juan Bay with ID Card No.: 1600665945, under our collective and reinforced protection to participate and be consulted in any and all matters that affect us or may affect us, recognized in various international instruments such as Article 6 of ILO Convention 169 and Article 57.7 of the Constitution; **we appear before the Constitutional Court**, in acknowledgement of our duty to follow up on the execution of Ruling 6-CP-22/EP:

1. The Constitutional Court in its ruling 6-22-CP/23, noted "a progressive and orderly withdrawal of all activity related to oil extraction in a term not exceeding one year from the notification of the official results." Additionally, the Court noted that "...the time of no more than one year refers to the suspension of oil exploitation of Block 43, in which the goal is total suspension. As well as the beginning of "the reparation of nature, the protection of the territory of indigenous peoples (...)"
2. The decision to close oil operations in Block 43 was resolved by popular election on August 20, 2023.
3. When we learned about the results, the actions to be taken and the reactions generated in our territory, we decided to convene. On January 26, 2024, the NAWE declared a State of Emergency throughout its territory: 50 years after the beginning of oil exploitation in the Ecuadorian Amazon, the levels of risk, both of natural origin, climate change and other anthropogenic causes, related to extractive economic activities, have not decreased, but has increased significantly the degradation and precariousness of our socio-ecological conditions for the nationalities and indigenous peoples. This increase in risk is explained, above all, by the increase in their vulnerability in practically all areas.
4. On May 10 of this year, NAWE requested the Committee for the Execution of the Popular Will of Yasuní, formed by President Daniel Noboa through Executive Decree 257 dated May 8, to be part of said Committee. This in order to be part of the decision making process of closure, abandonment, restoration and repair of the 43 finger block that affect their territory, communities, organizations and ways of life.



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



5. What is happening with Block 43 and its oil wells is not an issue that affects us now. The oil activities of this and the rest of the wells have affected the Waorani people for decades. We have been forced to live with oil exploitation in Yasuní and with all the social consequences, such as community divisions, and environmental consequences, such as the contamination of our rivers and jungles. The Yasuní issue is a Waorani issue. Waorani issues are Yasuní issues. We are Yasuní.
6. One year after the elections on August 20, 2023, NAWE demanded that measures be adopted with their participation and consultation in view of the non-compliance with the Popular Consultation. Indigenous peoples have the right to participate and be consulted in all decisions affecting them.

Therefore, knowing that this Court must follow up on Opinion 6-CP-22/24 and in view of its imminent non-compliance, we REQUEST the Court to:

- a) Receive, include and consider the WAORANI MANDATE FOR CLOSURE, DISMANTLING, ECOLOGICAL RESTORATION AND SOCIAL REPARATION IN THE YASUNI.
- b) Summon NAWE to appear and be heard directly and respecting its organizational structure in any and all follow-up hearings that the Court may order in the present case.
- c) Coordinate, in the event that the government request is granted, any on-site visit that the company may request.
H. Court plan to carry out to block 43 and our territory, respecting the organizational structure of the NAWE, as ancestral and legitimate owners.
- d) To initiate the process of declaration of responsibility for non-compliance because there has not been an orderly and progressive withdrawal of the oil infrastructure and because, one year after the popular mandate, oil exploitation has not yet been totally suspended, as a goal.

Any notification that us correspond should be made to the following e-mail:
nawe.comunicacion@gmail.com

Juan Bay

PRESIDENT OF THE NAWE



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



WAORANI MANDATE FOR CLOSURE, DECOMMISSIONING, ECOLOGICAL RESTORATION AND SOCIAL REPARATION IN THE YASUNI

Monito Waorani Ome/Yasuní imonipa (The Waorani are the Yasuní)

Considering that despite the citizen mandate of the people of Ecuador to leave the oil underground in Block 43, adopted in the popular consultation of August 20, 2023, the immediate and progressive closure has not been carried out within one year, as ordered by the ruling of the Constitutional Court.

Considering that the government's proposal to only now initiate a progressive shutdown that would last 5 and a half years, while maintaining oil production, contradicts the constitutional mandate.

Considering that the fulfillment of the popular will expressed in the plebiscite has also been assumed and ratified by the Waorani Nationality in its representative assembly on January 26 of this year, in which we declared ourselves in a State of Emergency.

The will of the people should have been carried out within the deadlines already established by the Court in its Opinion 6-CP-22/23 and they are not being complied with. The authorities that did not or do not comply with this mandate incur in liability that must be legally sanctioned.

Therefore, **the Waorani Nationality presents its Mandate for the Closure, Dismantling, Ecological Restoration and Social Reparation of Yasuní**, as established by the will of the people:

Background:

1. The decision to close oil operations in Block 43 was resolved by popular consultation on August 20, 2023. The Constitutional Court in its ruling 6-22-CP/23, advanced the terms of interpretation to apply this popular mandate in case of an affirmative pronouncement of the electorate. The Court stated that there must be "a progressive and orderly withdrawal of all activities related to oil extraction within a term of no more than one year from the notification of the official results. Additionally, the State will not be able to exercise actions tending to initiate new contractual relations to continue with the exploitation of block 43".^[1] The Constitutional Court further stated that "...the term of no more than one year" refers to the suspension of oil exploitation of block 43, in which the goal is the total suspension. As well as the beginning of "the reparation of nature, the protection of the territory of indigenous peoples...".



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.

2009 NAWE Governing Council - Term 2023 - 2027

PASTAZA-NAPO-ORELLANA



2. Faced with this decision, the Waorani Nationality of Ecuador has initiated a process to ensure that the closure process is truly restorative for the communities and indigenous peoples affected and for nature.
3. On January 26, 2024, NAWE declared a state of emergency throughout its territory. This occurs 50 years after the beginning of oil exploitation in the Ecuadorian Amazon, a period in which the levels of risk, both of natural origin and those caused by climate change and other anthropic causes related to extractive economic activities, have not reduced, but have also increased significantly for nationalities and indigenous peoples. This increase in risk is explained, above all, by the increase in their vulnerability in practically all areas.^[2]
4. According to the 2022 national census, the Amazon is the region with the second highest prevalence of chronic malnutrition (19.6%), the first in overall malnutrition (6.9%) and acute malnutrition (1.6%). It has the highest percentages of the presence of the bacterium E. coli in water, both at the source (58.8%) and at the point of consumption (67.6%). While 37% of the deaths were caused by non-specific diagnoses, classified as "symptoms, signs and abnormal clinical and laboratory findings not classified elsewhere".
5. The region has the lowest average years of schooling (9.76%) and the lowest high school attendance rate (63.6%). Regardless of how it is measured, according to the official INEC census of 2022, the Amazon region has the worst poverty indicators: extreme income poverty is 38.5%, multidimensional poverty is 75.6%, and poverty due to unsatisfied basic needs is 59.8%.
6. Oil activity, far from improving the quality of life of the Amazonian nationalities and peoples, has been the cause of their impoverishment, vulnerability and risk. This is particularly serious for the Waorani Nationality and the peoples that inhabit the Yasuní, with numerous impacts in perpetuity and others with the potential for comprehensive repair.
7. The closure of Block 43 has profound socioeconomic challenges, not only because of the poverty indicators, but also because of the dependence and loss of autonomy caused by oil activities for decades, which have determined a precarious link between the peoples of the area and the oil industry.
8. The closure of Block 43 has great environmental and natural challenges, as it involves restoring the intervened areas in an indigenous territory that should have the highest regime of care, conservation and repair, as it is the most biodiverse area of the planet and of special relevance to face the current context of climate crisis.



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



9. Postponement or delay of closure may lead to a situation that increases vulnerability, risk and social conflict and even increases the costs of remediation actions.
10. The Committee for the Execution of Popular Will The CEVP Yasuní ITT - CEVP Yasuní ITT was constituted on May 8, 2024 by the Executive (Executive Decree No. 257) to "coordinate and establish mechanisms, guidelines and actions that will be executed to fulfill the popular will with respect to Block 43"; furthermore that this Committee must present an Action Plan, issue compliance reports to the Constitutional Court and the National Assembly, and in general with the various State entities. This committee does not include the communities and indigenous peoples that are affected.
11. It is argued that the lack of resources would be a problem to carry out what was established by the Court. However, this is proven false as between January and July 2024 the sale of the 10'606,644 barrels of extracted oil generated revenues of \$718,192,655 dollars, enough to carry out the closure process and repair in a block that should never have been opened.

Ögue terete - tomamo ññiguima (Speaking is understood)

PRINCIPLES FOR THE CLOSURE AND RESPONSIBLE EXIT OF HYDROCARBON OPERATIONS IN BLOCK 43 ITT

Participatory processes:

The Action Plan must have the direct participation of the Yasuní communities.

- All activities related to the closure and responsible exit of oil activities in Block 43 must have the direct participation of the communities and indigenous peoples, in accordance with their own forms of representation and social organization.
- There is no repair without participation. Repair requires experience in the territory and trust from the communities. WITHOUT US THERE IS NO REPAIR.
- Ecological repair and restoration. The actions of ecological repair and restoration have to be carried out on new relationship bases that promote respect for the territory, the self-determination of the communities, peoples and nationalities, and that do not continue to generate relations of dependence, in a horizontal and respectful dialogue, with cultural sensitivity and acceptability, and with the communities' capacity to decide on the process of closure, dismantling, restoration and repair.
- The dismantling of the oil infrastructure, the repair of nature and the protection of peoples in isolation must guarantee the exercise of the economic, social and cultural



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



rights of the affected communities, in order for them to overcome their conditions of social marginalization in health, education and services in general.

Transparency and accountability

- The information must be reliable, complete and timely. The information on what needs to be restored and repaired should come from independent analyses and from different experts; carried out by technical and trustworthy personnel, both with the participation of the Ministry of Environment MAATE but also from those affected in the Waorani territory and in part of the Kichwa territories, with trusted technical teams from universities, indigenous organizations, civil society organizations, international organizations and others who know the territory, the region and who have documented numerous cases.
- Social follow-up mechanism. It is essential to have a periodic review of the actions taken and their progress; public hearings for accountability; and reports from the different responsible parties on the degree of compliance. This should be a mechanism to help limit the diversion of power and decision making, to strengthen the implementation and fulfillment of closing and dismantling Block 43 and repairing Yasuní. The monitoring system should incorporate international actors, such as experts, rapporteurs, working groups, specialized agencies of the human rights protection systems, among others.
- Action without Harm. Maintain permanent coordination with the organizational structures of the communities, peoples and Waorani Nationality and others affected, without provoking conflicts or contacts that distort communication, generate divisions, make responsibilities invisible or fragment actions.

Full environmental, social and nature remediation

- Apply the highest standards of environmental, human rights and nature management to prevent, mitigate, correct and compensate the environmental impacts generated by the oil operation and closure.
- Ecological restoration of environmental liabilities and impacts generated during oil operations.
- Ensure compliance with the commitments acquired with the communities, autonomous governments and other stakeholders.
- An opportunity to transform. The determined process of infrastructure dismantling, socio-environmental restoration and repair, the protection of the territory and of Nature constitutes a historic opportunity for the indigenous peoples and Ecuadorian society; as well as a milestone example with a strong international impact.



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



State due diligence

- The process of closure and responsible exit of the oil operation in the ITT is a historic opportunity to exercise social and environmental justice for indigenous peoples, Nature and Ecuadorian society.
- The closure and responsible exit require the timely, coordinated and diligent action of several State institutions. In addition to the Ministry of Environment, Water and Ecological Transition, PetroEcuador EP, Ministry of Energy and Mines, Ministry of Women and Human Rights, the different ministries in charge of guaranteeing and satisfying economic, social and cultural rights such as the Ministry of Health, Education, among others.
- Technical and financial support to the communities and peoples involved and affected, to guarantee their effective participation in the project closure and/or company exit processes, as well as in the post-exit stage, including the restoration of local economies.
- Take corrective and punitive actions in case of non-compliance with environmental and social responsibility or failure to protect the territories of peoples in voluntary isolation. Impunity, which only serves to prolong the crisis we are experiencing, should not be tolerated.
- Review, correct or update the current environmental regulatory frameworks in order to guarantee human rights and the rights of nature in the closure and responsible exit processes.

ACTIONS FOR THE CLOSURE AND RESPONSIBLE EXIT OF THE HYDROCARBON OPERATION IN BLOCK 43 ITT

Immediate actions

- Shut down, deactivate and plug all ITT wells, in accordance with the mandate of the popular consultation, with the verification of at least the Waorani Nationality, the media and the Constitutional Court of Ecuador.
- To initiate verification and sanction processes for those responsible for non-compliance with the will of the people.
- To summon and immediately incorporate the Waorani Nationality in the instances, actions and processes determined for the fulfillment of the popular will.

Actions proposed for the first 100 days

- Establish the effective compliance mechanism, with the participation of the State and representatives of the Waorani Nationality in equal conditions for decision making, according to its organizational structure; which shall carry out the supervision of the effective compliance of the popular will.
- Update the Closure Plan in accordance with the full exercise of human, collective and nature rights. This Plan must be done in a manner



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.

2009 NAWE Governing Council - Term 2023 - 2027

PASTAZA-NAPO-ORELLANA



with the Waorani Nationality, respecting their own forms of organization and social representation.

- A closure, decommissioning, ecological restoration and social remediation plan (Closure Plan) must contain at least: details of activities and sequence, execution schedule, responsible parties and stakeholders involved, post-closure monitoring, evaluation and follow-up mechanisms, and a detailed budget.
- The scope of this Plan must include all oil wells in Block 43, including producing wells (186), shut-in wells (52), reinjection wells (20), roads, flow lines and platforms.
- Identification and characterization of environmental liabilities, impacted sites and intervened areas through independent, participatory and interdisciplinary surveys.
- In order to have a reliable estimate of the processes, real costs and times of the closure and repair process, carry out a pilot plugging plan in no less than 10% of the 52 wells that are currently inactive. This process should be participatory with the communities and with relevant international monitoring.
- Begin socio-ecological restoration tasks -with dignified work- in agreement with the communities and indigenous peoples of Yasuní and the intervened areas.
- Activate risk management mechanisms, including fires, spills or soil, air or surface and subway water contamination events, damage to flora and fauna, with the participation of NAWE and legitimate representatives of other communities and their experts, universities, international experts, technical teams with expertise in environmental management and specialized laboratories.
- Audit of the funds that the oil company declares to have delivered to the communities as compensation and identify outstanding commitments with them.
- Transfer all resources and health services provided by EP PetroEcuador in Block 43 to the Ministry of Health. In addition, adopt immediate State responses to the health crisis in the Waorani Territory. Implement services with the provision of ambulances, intercultural health care, immediate care programs in the communities and a system for monitoring health issues.
- Compliance audit with economic, social and cultural rights, including actions delegated to oil companies as forms of enforcement of oil projects.
- Presentation of a schedule and timeline for the closure of the entire oil operation in the ITT, closure roadmap (activities and sequence) and detailed budget.
- Presentation of the results of compliance with the 100-day proposals, with national and international oversight and with the establishment of responsibilities for non-compliance, whether total, partial or defective.



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA



Proposed closure, decommissioning, ecological restoration and social reparation actions

- Closure and responsible exit activities will be carried out according to the schedule established in the Closure, Decommissioning, Ecological Restoration and Social Remediation Plan (Closure Plan).
- Accountability mechanisms for the Closure Plan will be activated with oversight from national universities, national and international experts and Yasuní communities.
- In the context of closure, training programs for young people in the communities should be promoted in order to professionalize them in actions related to the closure, dismantling and socio-ecological restoration/repair process, which will provide new job options and decent employment.
- The removal of oil infrastructure must take into account compliance with human, collective and environmental rights, in accordance with high national and international standards.
- Perform dismantling, restoration and socio-ecological remediation tasks under safe and dignified working conditions.
- The reparation of nature and protection of the territory of peoples in voluntary isolation must be carried out in an integral and complementary manner to the fulfillment of the economic, social and cultural rights of the recently contacted affected communities.

Post-closing actions

- The control agencies must carry out periodic monitoring of closed wells in order to evaluate their condition, seek early detection of possible liquid or gas leaks, and confirm that closed wells do not constitute a danger to nature and the communities.
- Monitoring of biotic and abiotic factors should be carried out on a regular basis to ensure that the site has been restored.
- Socio-environmental monitoring and evaluation of progress in the fulfillment of economic, social and cultural rights of communities and peoples affected by oil intervention and dependence.

For the Waorani people, fireflies (YAGAI) are guides. In areas intervened by oil activities, fireflies burn in lighters or drown in waste pools. The restoration of the jungle, the route we are on today, will allow them to shine again in the jungle and will have the role of guide for other territories that must be restored.



WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA

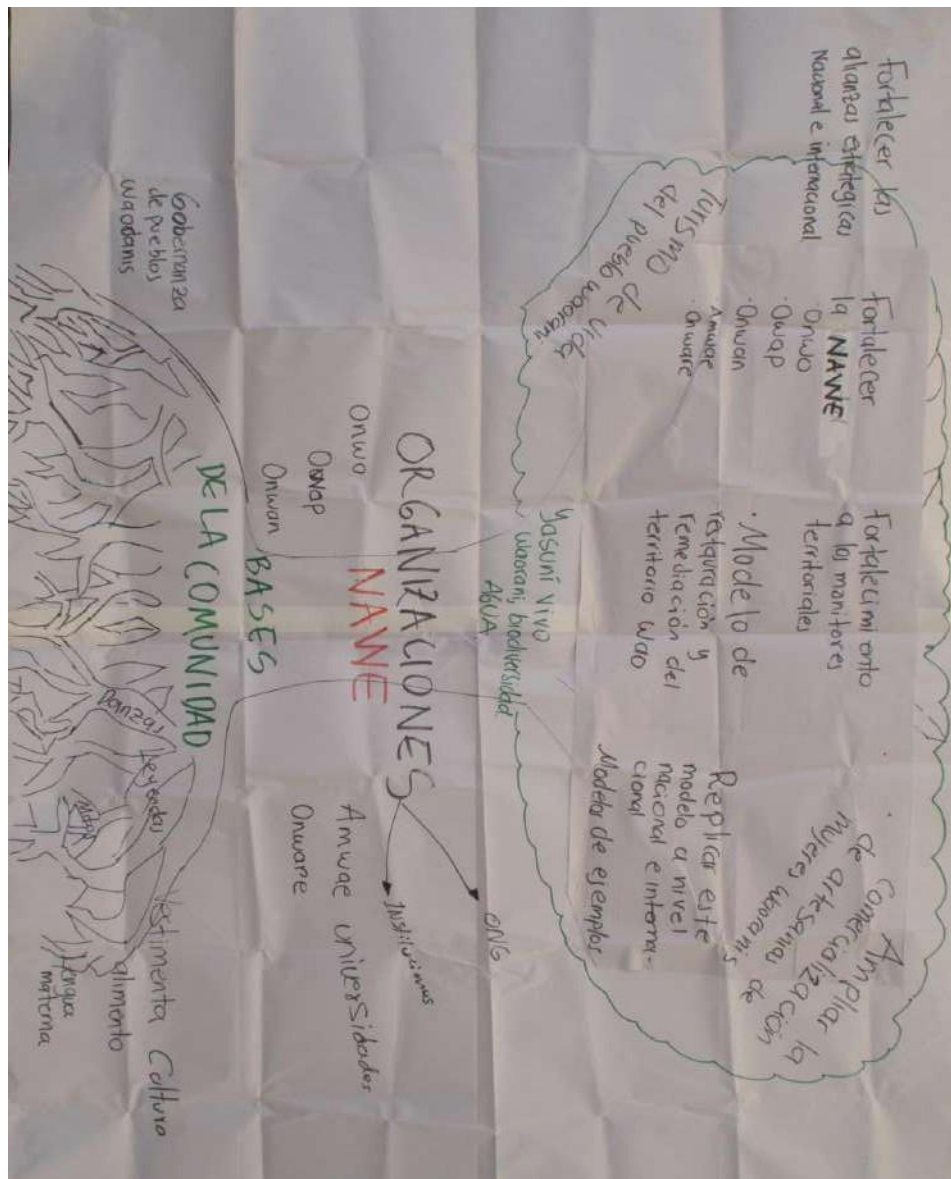


[1] Opinion No. 6-22-CP/23

[2]

<https://www.secretariapueblosynacionalidades.gob.ec/wp-content/uploads/2023/12/Indicadores-Amazonia-2023-Pueblos-y-Nacionalidades.pdf>

ANNEXES





WAORANI NATIONALITY OF ECUADOR

Ministerial Agreement CODENPE No. 407 - February 8, 2007, P.R.O. E.E. No. 7, 1 Sep.
2009 NAWE Governing Council - Term 2023 - 2027
PASTAZA-NAPO-ORELLANA

