

TEXACO: PUSH COMES TO SHOVE

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Quito. April 14, 1997. In the next few days, the Government is set to take a stand on the environmental damage lawsuit brought against Texaco before a US court by Amazon residents.

The judge hearing the case specified a definite term for the Government to decide whether it will join the suit and side with the plaintiffs. If it does, it will be responsible for moving the case forward. If it does not, the case will be virtually lost for those affected.

Against that backdrop, the plaintiffs are determined to do something about their case, aware that the stance among government officers is far from unanimous. Milton Alava, the State's Attorney General, has voiced opposition to the country's intervention in the lawsuit, saying that the move would require the country to waive the sovereign immunity that applies between nations to prevent a country from suing another within the territory of the defendant country.

The plaintiffs and their lawyers argue, however, that immunity would only be waived in connection with their case, allaying concerns that the country could be exposed to future lawsuits.

The plaintiffs have also signed a document under which they agreed to refrain from accusing the Ecuadorian government of allegedly sharing responsibility with Texaco.

Luis Yanza, the public face of the plaintiffs, and Paulina Garzón, from organization *Acción Ecológica*, said they want to be heard at the meeting scheduled for Thursday between the President of the Republic, the Minister of Foreign Affairs and the Attorney General to settle the Government's position.

No risk, says Bonifaz

Cristóbal Bonifaz, a lawyer for the plaintiffs, said to HOY that the arguments

given by Ecuador's Attorney General for Ecuador not to step in the dispute with Texaco are groundless.

First, he explained, the country's waiver to sovereign immunity would be confined to the pollution caused by Texaco in the Amazon Region. "No lawsuit could be brought against the Government for any other reasons," he said.

Second, he added, there is no reason for the Government to worry because the plaintiffs and their lawyers have undertaken in legal documents to refrain from suing the Government if it is ultimately held to be jointly liable with Texaco for the environmental damage caused.

Indigenous communities in Peru, which also sued Texaco, will be barred from bringing the Ecuadorian Government to court, as the Attorney General fears, given that they have also made a similar commitment, ruling out the possibility of a conflict between them and Ecuador. (DIARIO HOY) (P. 2-A)

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Indigenous peoples rule out suit against the Government

Petroecuador will not be hurt

The case of the indigenous people against Texaco enters a new phase following the Ecuadorian's government announcement that it will lend its voice to the plaintiffs, a decision that will help push the case forward before a US court.

Four years have gone by since the lawsuit was brought. Lawyer for the plaintiffs Cristobal Bonifaz visited the country on a tight schedule. He was responsible for giving assurance to the Government that its sovereignty and international image would not be tarnished if it were to support the first large-scale environmental suit in the country's history.

On which grounds are you moving the New York Court?

The Amazon defense group and several international environmental experts surveyed the area and found that the worst damage caused by the company resulted from the spill of oil-polluted water over the entire exploited area, which covers around 400,000 kilometers. Mainly affected were River Napo and its affluents, as were nearby communities which are now 50% more prone to develop cancer and other diseases because of the lack of drinking water. Upon the review of several environmental reports, the damage caused was estimated at 1.5 billion.

If the Court finds for the indigenous people, how will be damages allocated?

It should be recalled that the damage was caused in Ecuadorian territory and that it is high time that something was done about it. If judgment is rendered for the plaintiffs, money will not be distributed dollar by dollar among those affected. If the Government shows willing, an all-out environmental project will be set in motion in the area. Of course the needs of the indigenous people will be put first.

I believe the first step will be a major project to supply drinking water to the communities, that is the only way to stop spreading diseases.

Where does Texaco's case stand in the global scenario? Has there been any instance of an oil company being sued for environmental damage?

Right now there is another suit pending against Arco. Indigenous people from Polynesia sued the company for an amount much higher than that claimed from Texaco. The underlying facts are similar. The case is being heard by a US Court. The only difference is that the judge did not consider it necessary that the Government of the indigenous people take a stand.

Did you give assurance to the Government that its international reputation would not be put at stake if it sided with the plaintiffs?

I absolutely did. That was the point of my visit to the country. I delivered notarized documents to the Attorney General confirming the indigenous people's commitment to refrain from suing the Government. Even the five Peruvian communities undertook that commitment. But then again, if the US court holds Petroecuador liable together with Texaco, we will not accept the share of the damages imposed on the company.

But Petroecuador, previously called CEPE, is also liable. Wouldn't that let a wrong act go unpunished?

Don't you think that greater harm would follow if the Government did not intervene and just sit and watched how the damage caused in its territory goes unpunished? I believe this case will set a significant precedent in the country's oil history.

The people I represent have no intention to hurt Ecuador. They just want to be afforded the possibility of improving their living conditions at a time when the spread of infectious and degenerative diseases is haunting more than 30,000 people.

[Picture caption:] CRISTOBAL BONIFAZ visited the country to garner support for the environmental lawsuit.