

Dr. Adolfo Callejas Ribadeneira, in my capacity as Legal Agent of CHEVRONTEXACO CORPORATION, an Attorney, of legal age, married, domiciled in the city of Quito, as contained in the power of attorney in the record, answer the complaint filed by María Aguinda Salazar et al. vs. CHEVRONTEXACO CORPORATION, under the following terms:

I. PRELIMINARY MATTER

CHEVRONTEXACO CORPORATION believes that no legal justification whatsoever exists so as to be taken to court due to this complaint that you, Mr. President, absolutely do not have jurisdiction and competence over it.

Besides, CHEVRONTEXACO CORPORATION understands that, in accordance with a basic principle of Ecuadorian Civil Procedural legislation, the statutory requirements on which the plaintiffs are basing their action cannot be applied retroactively so as to judge actions that had taken place before the Environmental Management Act had come into effect.

As a preliminary matter which you, Mr. President, must consider and resolve in this very hearing or within the following three days, pursuant to the last part of Article 850 of the Code of Civil Procedure, without considering the merits of the petition, I request that you decide that you lack jurisdiction and competence over CHEVRONTEXACO CORPORATION, for the reasons indicated below:

I.1 Plaintiffs believe that CHEVRONTEXACO CORPORATION is the company that, as successor to TEXACO INC., is liable for the alleged damages as a result of a hydrocarbons exploitation operation the Amazon Region of Ecuador. For this they base themselves on a merger between the companies “TEXACO INC. and CHEVRON”, which is said to be signed on October 9, 2001. It is further claimed that in the aforementioned capacity CHEVRONTEXACO CORPORATION has agreed to subject itself to the jurisdiction of Ecuadorian courts.

However, the corporation I represent, CHEVRONTEXACO CORPORATION, is not the successor of Texaco Inc., and it has never acted in the Republic of Ecuador, nor has it signed contracts with the Ecuadorian Government, nor with sectional or administrative entities, nor has it subjected itself in any manner whatsoever to the jurisdiction of the Judiciary of the Republic of Ecuador. As a result, I state that you, Mr. President of the Superior Court of Justice of Lago Agrio, lack jurisdiction and competency over CHEVRONTEXACO CORPORATION.

I.2 Plaintiffs base their claim against the company I represent, CHEVRONTEXACO CORPORATION, by stating that “On October 9, 2001, a merger occurred between the companies TEXACO INC. and CHEVRON as a result of which a new legal person was established called CHEVRONTEXACO CORPORATION, which succeeded to all their obligations and rights;” and also that the obligations of TEXACO INC. “...passed, in virtue and as an effect of the merger cited in the recital, to CHEVRONTEXACO CORPORATION.”

In this regard I deem it necessary to ascertain for your benefit, Mr. President, exactly what occurred with respect to the legal act known as the “merger between TEXACO INC. and CHEVRON,” to demonstrate that plaintiffs’ reasons which I have cited before are not true and

that, therefore, the claimed automatic transfer to CHEVRONTEXACO CORPORATION of the obligations that TEXACO INC. may have had lacks legal basis.

On October 9, 2001, pursuant to the terms agreed in a document called “Merger Agreement and Plan,” the meetings of shareholders of CHEVRON CORPORATION and TEXACO INC. approved a merger or union of companies, which actually occurred on that date between TEXACO INC. and a company called KEEPEP INC., which was a wholly owned subsidiary of CHEVRON CORPORATION. The result of that legal transaction was that TEXACO INC. survived the merger, inasmuch as it fully absorbed KEEPEP INC. without, therefore, losing its legal personhood and its capacity to acquire rights and contract obligations.

On that same date CHEVRON CORPORATION, which was and continues to be a completely different company from Texaco Inc., amended its corporation bylaws according to which it changed its name to “CHEVRONTEXACO CORPORATION.”

I.3 Therefore, the truth is that TEXACO INC. is a completely independent company from CHEVRONTEXACO CORPORATION, that continues to exist at present and it is a company that operates according to the laws of the State of Delaware, United States of America, with full legal and economic capacity to acquire rights and to contract obligations.

I.4. In light of the above, it is not true that CHEVRONTEXACO CORPORATION replaced TEXACO INC. “in all its obligations and rights”, as stated without any grounds in section I.12 of the petition.

It is also not true that CHEVRONTEXACO CORPORATION accepted in any manner to submit to the jurisdiction and competence of the Ecuadorian courts and tribunals, as mistakenly stated in the petition.

With respect to this subject, it is also mentioned in the recital that in November 1993 some of the plaintiffs filed a complaint for supposed environmental damages in the 1973 concession Area against TEXACO INC. in New York State, United States of America, which resulted in the decision issued by the Court of Appeals of the Second District of New York, on August 16, 2002, which orders, among other things, that TEXACO INC. exclusively, for one year calculated from the date of any final decision handed down by the courts in the United States, subject itself to Ecuadorian jurisdiction and for that same one-year period it agree that the civil suspension of the statute of limitations occurred from the date on which it would have been interrupted civilly, that is, from November 3, 1993, the filing date of the aforementioned complaint. On this matter it must be mentioned that on August 16, 2002, the supposed “merger between TEXACO INC. and CHEVRON,” to which plaintiffs allude in the complaint I am answering, occurred, whose exact legal content was already explained previously, despite which fact the Court of Appeals does not refer to CHEVRONTEXACO CORPORATION as subject to the obligations of subjecting itself to the jurisdiction of Ecuadorian Courts and Tribunals or to accept the suspension of the statute of limitations. Rather, the decision stipulates that TEXACO INC. is the one that has that obligation.

I.5 Furthermore, CHEVRONTEXACO CORPORATION was never the operator nor a party to the Concession Contract, which existed since 1973, nor did it replace nor is it the successor of

TEXACO INC. nor of TEXACO PETROLEUM COMPANY (TEXPET). As shall be described below and as the complaint acknowledges, the operation derived from the 1973 Concession Contract was executed by the PETROECUADOR-TEXPET Consortium. The aforementioned Consortium was an entity or de facto company, comprised of the entities called Corporación Estatal Petrolera Ecuatoriana, CEPE, which later became Empresa Estatal de Petr6leos del Ecuador, PETROECUADOR, and the private company named TEXACO PETROLEUM COMPANY (TEXPET). Therefore, I repeat that CHEVRONTEXACO CORPORATION is not subject to your jurisdiction or competency, Mr. President, and is not a legitimate opponent in this case.

I.6 On this very matter it is necessary to state that the company I represent, CHEVRONTEXACO CORPORATION, understands that the hydrocarbon operation in the concession area of the 1973 Contract was managed under the terms of the contract originally entered into by the Republic of Ecuador with Ecuadorian Gulf Oil Company and TEXACO PETROLEUM COMPANY (TEXPET), in which the public entity of the Ecuadorian Government called Corporaci6n Estatal Petrolera Ecuatoriana, CEPE, subsequently succeeded by Empresa Estatal Petr6leos del Ecuador, PETROECUADOR, acquired rights and obligations in a percentage that reached 62.5% and subrogated itself in all the rights and obligations that Ecuadorian Gulf Oil Company had with respect to its original partner, TEXACO PETROLEUM COMPANY (TEXPET), in virtue of the co-called Napo Joint Operating Agreement (called the "Joint Operating Agreement entered into on January 1, 1965" in the complaint I.1), to which I shall likewise refer later and which was signed by the original concessionaires in 1965. As a result, Corporaci6n Estatal Petrolera Ecuatoriana, CEPE, later replaced by Empresa Estatal

Petróleos del Ecuador, PETROECUADOR, held the majority interest and as such the beneficiary of the 1973 Concession Contract, which was legally operated by TEXACO PETROLEUM COMPANY (TEXPET) until June 30, 1990 and subsequently by PETROECUADOR, through June 6, 1992, the date on which the 1973 Concession Contract ended due to expiration of its effective term. Since that date, PETROECUADOR has been the owner, operator and exclusive beneficiary of the areas that used to belong to the extinct PETROECUADOR-TEXPET Consortium. This is stated and acknowledged in the complaint.

I.7 Plaintiffs have instituted the present action against CHEVRONTEXACO CORPORATION, by basing themselves on the erroneous premises that the defendant is the successor of TEXACO INC., and that this company has lost its legal personhood and that TEXACO PETROLEUM COMPANY (TEXPET) was merely “a subsidiary of TEXACO INC., subject economically, technically and administratively to the policies and directives of its parent,” which is neither true nor in accordance with the law.

I.8 The company that I represent, CHEVRONTEXACO CORPORATION, knows that in November 1993 plaintiffs filed legal actions against TEXACO INC. in the State of New York, United States of America, in which proceedings they could never prove that TEXACO INC. conceived or knew of, or approved the decisions related to the exploration and exploitation methods, procedures and techniques applied by TEXACO PETROLEUM COMPANY (TEXPET) in its capacity as Operator of the Consortia that owned the rights and actions of the 1973 Contract. Contrariwise, Judge Jed. S. Rakoff, who heard and rejected the cases cited above, representing the United States District Court for the Southern District of New York City, stated that, despite the broad right to investigate granted to plaintiffs, called “discovery” in the

procedural system of the United States of America, they could never prove that false subordinate connection that plaintiffs claim existed between TEXACO PETROLEUM COMPANY (TEXPET) and TEXACO INC. Per information that has been provided to us, by order of the Court, TEXACO INC. had to produce and deliver to plaintiffs thousands of documents related to the operations of TEXACO PETROLEUM COMPANY (TEXPET) in Ecuador; CHEVRONTEXACO CORPORATION has also been informed that TEXACO INC. produced more than seventy-one thousand pages of documents and one hundred forty-seven pages of answers to eighty-one requests for documents and one hundred forty-three interrogatories, which sought to prove any participation by TEXACO INC. in the decision-making process of the Consortium, in none of which did there appear even the slightest evidence that in reality the aforementioned operation was “conceived or, at least, known and approved by TEXACO INC.,” as mistakenly held in the complaint I am answering. Indeed, the pertinent part of the Court’s decision states the following:

“Despite the continuous allegations of the plaintiffs, made conclusively, in the sense that Texaco (Inc.) directed the petroleum operations of the Consortium from the United States, they, plaintiffs, have entirely failed, despite years of discovery, to produce any certifiable evidence that supports their position. Rather, the record of the Court, after having been analyzed in terms of admissible evidence, establishes that the only participation of Texaco (Inc.) in such activities was its indirect investment in its fourth-level subsidiary, TEXAS PETROLEUM COMPANY, which is not a party to this case and which conducted its participation in the activities herein mentioned almost exclusively in Ecuador.”

CHEVRONTEXACO CORPORATION also knows that the aforementioned decision states that “the record existing in the Court also clearly establishes that all the principal activities of the Consortium, including the decisions and practices that are being discussed in this case, were managed, directed and executed by the Consortium’s employees in Ecuador. By contrast no person from Texaco (Inc.) or even no person operating in the United States made material decisions regarding the activities of the Consortium and the practices that are being discussed in the case.”

The decision reached by the New York Court to which the plaintiffs allude was issued in August of 2002, that is, subsequent to the date on which the “merger between TEXACO INC. and CHEVRON” took place, which serves as the plaintiffs’ basis to institute this lawsuit against CHEVRONTEXACO CORPORATION. However, in said decision there does not exist one single mention of the company CHEVRONTEXACO CORPORATION, and therefore neither the Court’s decisions nor the agreements that TEXACO INC. may have reached in virtue of said judicial ruling are applicable.

I.9 In addition, in the belief of the company I am representing, CHEVRONTEXACO CORPORATION, the companies TEXACO PETROLEUM COMPANY (TEXPET) and TEXACO INC., as well as their principal successors and predecessors and subsidiaries, were already released by the Government of the Republic of Ecuador and Empresa Estatal Petróleos del Ecuador (PETROECUADOR), from all liability derived from any environmental impact that the operations of the first-named company as Operator of the Consortia holding title to the 1973 Concession might have caused. Likewise, CHEVRONTEXACO CORPORATION understands that the Municipalities of Nueva Loja (Lago Agrio), Shushufindi, La Joya de los Sachas and

Francisco de Orellana also released TEXACO PETROLEUM COMPANY (TEXPET) and TEXACO INC., as well as their successors and predecessors of any liability related to the environmental effects that might have been caused in the corresponding cantonal jurisdictions of such Municipalities by the actions of the Consortium Operator owner of the 1973 Concession. Such release was signed, as has been reported to CHEVRONTEXACO CORPORATION, by the Provincial Prefecture of Sucumbíos. As a result, plaintiffs have no right to make claims for supposed and denied damages to the environment, from which the Government of the Republic of Ecuador, the Municipalities in which the concession areas were located and the majority partner in the Consortium which we have cited before, have already exempted the operator company, TEXACO PETROLEUM COMPANY (TEXPET), TEXACO INC. and their successors or predecessors, as I shall expand on later in this answer. This allegation takes on even greater strength if it is considered that the plaintiffs have not stated themselves to be neither proprietors nor possessors nor beneficiaries in any way of the facilities and places in which the alleged damages to the environment had taken place, which form the basis for this lawsuit filed by María Aguinda S., et al, against CHEVRONTEXACO CORPORATION.

I.10 Although for the foregoing reasons it is absolutely clear that Ecuadorian Judges do not have jurisdiction over my constituent, CHEVRONTEXACO CORPORATION and, that therefore, my constituent denies your competence, Mr. President, to hear this case, I believe it is necessary to bring an additional argument concerning this aspect, based on the fact that the legal precepts on which the action is based, that is the Environmental Management Act issued by the National Government of the Republic of Ecuador in 1999, which was published in Official Record No. 245 of July 30, 1999 cannot be applicable to this case, due to the general principal of the non-retroactivity of laws in effect in the Ecuadorian legal system. You, Mr. President, are

hearing this case only because of the attempt to illegally apply the Environmental Management Act retroactively, which is an additional reason to accept immediately my request to acknowledge your lack of jurisdiction and competence over CHEVRONTEXACO CORPORATION.

I.11 In addition, Mr. President, inasmuch as my constituent, CHEVRONTEXACO CORPORATION, is not successor to the obligations of TEXACO INC., it is not bound by the decision issued by the Federal Court in New York, nor the commitments acquired in said Court by TEXACO INC. Therefore, in the hypothetical and unaccepted case that the foregoing reasons were not sufficient, I highlight that in virtue of the fact that the resolution issued by said Federal Court in New York is not binding and does not apply to my constituent, the plaintiffs cannot base their suit on the disposition of such Court, with relation to TEXACO INC.'s obligation to accept a temporary suspension clearly limited in time, of the lapsing in the way provided in said decision. Therefore, CHEVRONTEXACO CORPORATION has the full right to allege that, for it, the actions of the plaintiffs are thoroughly extinguished, pursuant to the Civil Code of the Republic of Ecuador.

I.12 CHEVRONTEXACO CORPORATION affirms that since the plaintiffs based their action both on the provisions of the Ecuadorian Civil Code on civil delicts and quasi-delicts, and on the provisions of the 1999 Environmental Management Act, there has been an inept joinder of actions which should be treated with different procedures and heard by different courts, which mean that you, Mr. President, do not have jurisdiction or competence to hear and decide in the summary oral proceedings concerning the liability for illegal acts allegedly committed by a company about which the plaintiffs wrongly affirm that it is the predecessor of CHEVRONTEXACO CORPORATION, since Ecuadorian legal provisions establish that the Civil Judge of the place where the facts occurred is competent and that the petition should be heard in plenary suit.

I.13 The documentary evidence that supports my foregoing statements will be incorporated into the file at the end of this response.

I.14 For the reasons herein stated and the defenses derived from them, and which shall be cited below, I believe that you, Mr. President of the Supreme Court of Justice of Lago Agrio, lack jurisdiction and competency to hear and decide on this matter. As a result, I reiterate my request to so declare in this same proceeding, as authorized by the last part of Article 850 of the Code of Civil Procedure.

If the Judicial Branch of the Republic of Ecuador does not enforce observance of the basic statutes of its positive legislation, such as those regarding competition and non-retroactivity of the law, it will be contributing in a direct way to exacerbate the political uncertainty in the Country. I trust, Mr. President, that you will not let that happen in this case, for which it is essential that you accept our reasoning set forth above, because it is legal and is based on precise statutes of law and order.

II. ANSWER TO THE COMPLAINT

Without implying acceptance, in any way whatsoever, of your jurisdiction or competence, Mr. President, to comply with the stipulations of the Code of Civil Procedure, below I shall refer to the bases of the complaint I am answering and plaintiffs' claims, based on the information provided by TEXACO PETROLEUM COMPANY (TEXPET) and as my constituent believes is based on public documents and on others that are in the files of the aforementioned company, without any liability whatsoever being derived by CHEVRONTEXACO CORPORATION based on such knowledge.

II.A BACKGROUND

II.A.1 THE FACTS AND ACTS OF TEXACO PETROLEUM COMPANY (TEXPET) IN ECUADOR

II.A.1.1 After failed attempts at hydrocarbon exploration in the Amazon Region (at that time called the eastern region) in the 1960's, attempts were made in Ecuador to open the possibilities of exploration, especially after the positive results obtained in Colombia. Because of this, Texas Petroleum Company, in view of the desire of the Government of Ecuador, submitted, pursuant to the Petroleum Act then in effect, a request for the concession of an exploration area in the provinces of Napo and Pastaza.

II.A.1.2 Through Supreme Decree No. 205-A of February 5, 1964, published in Official Record No. 86 of February 21, 1964, the Ecuadorian State in the first place authorized granting Texas Petroleum Company a hydrocarbons concession in the areas of the then-provinces of Napo and Pastaza, for which was taken into account, among other matters, the fact that the applicant Company had sufficient technical and economic means to perform efficient hydrocarbon exploration and, in addition, it authorized it to transfer such concession to the companies Texaco de Petróleos del Ecuador C.A. and Gulf Ecuatoriana de Petróleos S.A. Thus the Texaco-Gulf Consortium was formed. The respective concession contract was entered into by and between the Minister of Development, in behalf of the Ecuadorian State, and Texas Petroleum Company, on March 5, 1964. As indicated by the aforementioned Supreme Decree 205-A, **the concession was governed by the Petroleum Act then in effect, for which reason the Ecuadorian State**

would control the exploration and exploitation process pursuant to the stipulations in the **forementioned Act**, especially as related to the possibility of declaring the termination of the concession pursuant to the stipulations of Article 38 of such Act.

II.A.1.3 The annual exploration and exploitation plans for the concession area had to be authorized by the Ministry of Development, pursuant to section m) of Clause Thirty-Second of the 1964 Contract, for which reason **the Ecuadorian State permitted under its knowledge and authorization the performance of the exploratory works in the area covered by the concession.**

II.A. 1.4 In 1967 the existence of hydrocarbon deposits was discovered in the concession area. The Government of the time widely disseminated the discovery made by the TEXACO-GULF Consortium, which caused the arrival of a large number of oil companies to Ecuador. New concessions were requested and granted to different companies. Therefore, through Supreme Decree No. 1459, promulgated in Official Record No. 322 of October 1, 1971, the Hydrocarbons Act was issued, which introduced new and different forms of contracting. Among the obligations that the Hydrocarbons Act imposed upon contractors or affiliates were those of **“giving over to public use as required by the appropriate Ministry, such roads, airports, maritime and river ports, as are built”**; that of “taking the measures required to protect flora, fauna and other natural resources”; and that of “avoiding pollution of water, the air and ground” (Article 29, paragraphs g, s and t). These obligations were to be documented in future contracts and as a result, would be enforceable by Corporación Estatal Petrolera Ecuatoriana, the entity which, under such Act, was to act from then on as the counterpart in representation of the Ecuadorian Government.

II.A1.5 Supreme Decree No. 430, promulgated in Official Record No. 80 of June 14, 1972, introduced transitional stipulations into the Hydrocarbons Act, in virtue of which the return of the concession areas was ordered as well as the entering into of new contracts. The immediate effect of this law was the return of the exploration areas by dozens of international companies that were working in Ecuador and the international discrediting of the country, for breach of validly entered into contracts

II.A.1.6 TEXPET and GULF agreed to enter into a new contract and with important financial and technological investments they achieved economically profitable production of crude oil in their concession area; the Government of that time, in a public statement, made a spectacular display of publicity to place the “first barrel of oil” in the shrine of national heroes at the Eloy Alfaro Military College in the city of Quito, capital of the Republic.

II.A.1.7 Through Supreme Decree No. 317, promulgated in Official Registry No. 283 of April 10, 1972 (which was subsequently amended through Supreme Decree No. 905, promulgated in Official Record No. 362 of August 3, 1973), the model contract for old concessionaires was issued. Through Supreme Decree No. 516, promulgated in Official Record No. 307 of May 16, 1972, concessionaires were ordered to sign that agreement. Therefore, the Ecuadorian State, represented by the Minister of Natural and Energy Resources and TEXACO PETROLEUM COMPANY and ECUADORIAN GULF OIL COMPANY (TEXPET and GULF), on August 6, 1973, entered into a contract for hydrocarbon exploration and exploitation in virtue of the authorization granted through Supreme Decree No. 925 of the 4th of the same month and year, promulgated in Official Record No. 370 of August 16, 1973. This contract has been called the

1973 Concession Contract. We highlight that it was a requirement of the Government of Ecuador that the contract was entered into by TEXACO PETROLEUM COMPANY (TEXPET), due to being a company incorporated in the state of Delaware, United States of America, which, according to the Republic of Ecuador, was a guarantee of the operation's seriousness and solvency.

II.A.1.8 The above mentioned Supreme Decree No. 925 is a law of the Republic of Ecuador, and in its twelfth recital it expressly states "that the Government (of the Republic of Ecuador) in compliance with what is set forth in Supreme Decree No. 516 of May 11, 1973, published in Official Record No. 307 on the 16th day of the same month and year, has required that the contract that is being authorized through this Supreme Decree be signed with Texaco Petroleum Company (TEXPET) and Ecuadorian Gulf Oil Company ...," for reasons expressed therein. It was, therefore, a free and sovereign decision made by the Government of the Republic of Ecuador on that date, expressed through a law or supreme decree, whereby TEXACO PETROLEUM COMPANY (TEXPET) would be the contractor proprietor of the rights and obligations in the 1973 contract, for which reason the plaintiffs' allegations in the sense that said company was simply an instrument of TEXACO INC. to act without liability, is lacking truth and support in facts and in law.

II.A.1.9 Such hydrocarbon exploration and exploitation contract initially included an area of 491,355 hectares, situated in the then-provinces of Pastaza and Napo, pursuant to the lots defined in Supreme Decree No. 904 promulgated in Official Record No. 362 of August 3, 1973.

II.A.1.10 In Clause 30.1 of the 1973 Concession Contract the Ecuadorian State stipulated the performance of **mandatory compensation works for contractors, which included access**

highways to the East, in the amount of US\$ 20,000,000. Indeed, the text of the pertinent part of that clause reads: “It is clarified that finished projects or those currently being performed, charged to the US\$ 20,000,000, have been selected by the Government and the companies have an obligation only to deliver the funds indicated against an invoice approved by the Ministry of Natural and Energy Resources, **without any liability on the selected projects, the specifications thereof** or the costs derived from their execution.”

II.A.1.11 As indicated in numbers 1 and 2 of Clause 43 of the contract itself, only the Ministry of Natural and Energy Resources was authorized to determine the expropriations or condemnations required to establish general or special easements for the execution of the concession. It must also be brought out that the law determined that the mentioned expropriations would be carried out “in favor of CEPE,” that is, the Corporación Estatal Petrolera Ecuatoriana, predecessor of PETROECUADOR, which means that all land on which facilities for petroleum exploration and exploitation were built within the 1973 contract, which did not belong to the contractors, was public property and not that of the plaintiffs.

II.A.1.12 Pursuant to the stipulation contained in Clause 46.1 of the 1973 contract, concessionaires had to take measures to conserve the environment, **under the control of the bodies belonging to the Ecuadorian State.** Such obligation states: “Contractors shall take appropriate measures to protect the flora, fauna and other natural resources, and they shall also avoid polluting the water, air and land, **under the control of the pertinent bodies of the State.**”

II.A.1.13 Clause 49.1 of the 1973 contract indicates that the Minister of Natural and Energy Resources could declare the contract null and void, pursuant to the stipulations established in the Hydrocarbons Act, this even for a violation of environmental standards.

II.A.1.14 The same contract established the following obligations for contractors, among others:

- a) **To present, for approval of the Ministry of Natural and Energy Resources, the annual program of activities and the annual investment budget** (Clause 21.1).
- b) **To report in detail to the Government at the end of the year all activities and work performed**, with all details (Clause 22.1).
- c) Inform the appropriate Ministry quarterly on the topographical, geological, geophysical, drilling, production, evaluation and reserve estimation works and, in general, on any exploration and exploitation matter, detailing the cost of the operations (Clauses 23.1 and 23.2).
- d) To build, with authorization from the appropriate Ministry, such secondary oil pipelines as are necessary (Clause 18.1).
- e) To transfer ownership of the Trans-Ecuadorian pipeline (Lago Agrio – Balao) to the State upon termination of the amortization period (Clause 18.2 B).

II.A.1.15 For its part, **the Ministry of Natural and Energy Resources (now the Ministry of Energy and Mines)**, according to the contract, was responsible for, among other aspects inherent to supervision of the exploration and exploitation, for approving the semiannual production schedule (Clause 11.1), for approving the production rate (Clause 13.1) and **for inspecting and monitoring production operations on a permanent basis** pursuant to the respective program (Clause 14.2). As can easily be deduced, the operation derived from the 1973 Concession Contract was strictly controlled by the Ecuadorian State, in its capacity as concessionaire of the hydrocarbon exploration and exploitation rights.

II.A.1.16 On July 14, 1974, through a Document of that date but effective June 6, 1974, **Corporación Estatal Petrolera Ecuatoriana, founded on the option established in the fifty-second clause of the 1973 contract, acquired 12.5% of the rights and obligations of each of the TEXPET and GULF companies**, for which reason the composition of the Consortium was as follows: CEPE 25%, TEXACO PETROLEUM COMPANY 37.5% and GULF 37.5% of rights and obligations. According to such Document, **Corporación Estatal Petrolera Ecuatoriana assumed in an identical proportion all the rights and obligations derived from the 1973 contract, including the indivisible liability established in its Clause First.**

II.A.1.17 The PETROECUADOR-TEXPET Consortium was, therefore, a de facto association derived from the rights granted by the Concession Contract of 1973, in which the state entities CEPE and (as will be explained further on) PETROECUADOR had a majority share interest since 1976 and as such they participated in making decisions and granting authorizations as well as receiving benefits from the financing of their operation.

II.A.1.18 Pursuant to an Agreement entered into on May 27, 1977, effective from December 31, 1976, CEPE acquired by transfer the remaining 37.5% of the rights and obligations that GULF had derived from the 1973 Contract, for which reason **Corporación Estatal Petrolera Ecuatoriana came to hold the largest interest in the Consortium, with 62.5% of the rights and obligations**, versus the 37.5% that TEXACO PETROLEUM COMPANY held.

II.A.1.19 Both in virtue of the June 14, 1977 document and the May 27, 1977 Agreement, Corporación Estatal Petrolera Ecuatoriana acquired the rights and obligations of the contractors, in the established proportions including, therefore, the rights and obligations of the Operating Agreement which had existed between GULF and TEXPET since 1965 with the name of the **“Napo Joint Operating Agreement (Ecuador)”**, which establishes the rules for the joint operation through the end of the concession period.

I believe it is necessary to mention to you, Mr. President, that, in managing consortiums, the international practice commonly used in the oil industry is to designate one of the parties as their operators, subject in all cases to the instructions of the co-owners who remain at all times fully responsible for the operations performed in their name.

II.A.1.20 From the NAPO JOINT OPERATING AGREEMENT it can be seen that the Operator was **“...the Parties’ exclusive agent and contractor”** and was charged by its principals **“to implement the work obligations of the Parties....”** As a result the actions of **TEXACO PETROLEUM COMPANY “as technically responsible and executor of the Consortium’s obligations”** and as in charge of the **“design, construction, installation and**

operation of the infrastructure and equipment required for oil exploration and exploitation,” acted as Agent of the co-owners and principals and with the prior consent and approval of Corporación Estatal Petrolera Ecuatoriana (CEPE), later PETROECUADOR, in its capacity as co-participant in the aforementioned Consortium.

II.A.1.21 During the effective term of the 1973 Contract, Ecuadorian tax precepts were changing and eventually established that on the profit corresponding to TEXACO PETROLEUM COMPANY it would pay Income Tax at the rate of eighty-seven point thirty-one percent (87.31%) during a large part of the effective term of the concessions, whereas at the time the contract was entered into the tax rate was only forty-four percent (44%). If we add the state interest through the majority co-owner of the consortium, with the royalty that TEXACO PETROLEUM COMPANY had to pay, equivalent to eighteen point five percent (18.5%) of its total production, plus the aforementioned Income Tax, it can be established that the Ecuadorian State took the benefit of approximately ninety-five percent (95%) of the total earnings the consortium produced while the August 6, 1973 Contract was in effect.

II.A.1.22 It must be mentioned that when the **87.31%** rate was established through Supreme Decree No. 2059, promulgated in Official Record No. 490 of December 23, 1977, also **as a result of state policy**, it was ordered that the PETROECUADOR-TEXPET Consortium would proceed, at the request of the Ministry of Natural and Energy Resources, to present an exploration and exploitation activities program whose purpose was to increase reserves and production. **Nonperformance of that program could lead to the nullification of the contract**, as was expressly established in the Law. With this mention we would like to demonstrate yet

again that the activity of the Consortium holding the rights and obligations of the 1973 Contract was at all times controlled by the Ecuadorian State, which had punitive weapons, such as declaring the contract to be null and void, to penalize any breach of legal or contractual obligations.

II.A.1.23 Through Supreme Decree No. 2092 promulgated in Official Record No. 504 of January 12, 1978, the Ecuadorian Amazon Region Colonization Act was issued, in virtue of which **“the colonization of the Ecuadorian Amazon Region was declared a national work of urgent priority,”** and it obligated **“all authorities and administrative bodies to cooperate with and facilitate the colonization process.”** In view of this Law, **the State assumed management of the colonization of the Provinces of Napo, Pastaza, Morona Santiago and Zamora Chinchipe,** through **incentives and control** over private activities (Articles 1 and 2). The Law also ordered that **“colonization projects be based on acquired experiences and that they give priority to the safety and defense of the country’s integrity** (Article 6). For this work of **“national priority,”** whose basis was not governed, according to the law itself, by **“conservation of the environment,”** but rather by the **territorial safety and defense of the Ecuadorian State,”** the National Amazon Region Colonization Institute (INCRAE) was created.

II.A.1.24 Previously, through Supreme Decree No. 374, promulgated in Official Record No. 97 of May 31, 1976, the Environmental Pollution Prevention and Control Act was issued, which contains the precepts applicable in that subject. This Law created the **Environmental Institutional Committee,** with the composition stipulated in Article 5, with the authorities listed in Article 6, among which were to determine **policies and criteria for the use of resources, air, water, land and for the control of pollution in the country** and to issue by Resolution the

corresponding technical standards and regulations. The Law further defined the environmental pollution violations (Article 26) and it authorized the Criminal Courts to hear certain violations and Boards of Health to hear others.

II.A.1.25 The Environmental Pollution Prevention and Control Act meant the creation in Ecuador of a system of environmental rules and regulations that had a regulatory body and a system of penalties, even through the criminal courts. The defendant has been informed that never during the effective term of the 1973 concession were legal actions filed for alleged environmental damage against the consortium or the operator, for which reason the complaint that I am answering, which has been filed thirteen years after TEXACO PETROLEUM COMPANY concluded its role as operator and mandatary of the co-owners of the aforementioned Consortium, is not acceptable.

II.A.1.26 In 1986 the Ecuadorian State, through CEPE, acquired ownership of the Trans-Ecuadorian Oil Pipeline, in virtue of the 1973 contract and from October 1, 1989 it assumed full control of the operations of the aforementioned pipeline, **basing itself therefore on the 1965 “Napo Agreement.** For this it gave timely notification to TEXACO PETROLEUM COMPANY of its intention in that regard.

II.A.1.27 Pursuant to Law #45, published in Official Record #283 of September 26, 1989, **Empresa Estatal de Petr6leos del Ecuador (Petroecuador) became the successor of Corporaci6n Estatal Petrolera Ecuatoriana CEPE,** and, naturally, it acquired the indivisible obligations derived from the 1973 Contract, in the proportion of 62.5%.

II.A.1.28 Petroecuador, also basing itself on an express clause of the 1965 “Napo Agreement” and on the notification made by CEPE to TEXACO PETROLEUM COMPANY, at the time stipulated in such Agreement, assumed the operation of the Consortium from July 1, 1990, through its affiliate Petroamazonas.

Indeed, the “Napo Agreement” established the possibility that the members of the Consortium alternated every ten years operating it. In this regard, the pertinent clause stated the following:

“6.5.- Every term for which one party shall be named operator shall last ten years, the first of them expiring on December 31, 1974. The party which does not act as operator in each of these terms shall have a right to be named operator for the subsequent term, delivering written notification to the representatives at least two years in advance of the termination of the current term, indicating its desire to act as such.”

II.A.1.29 As CHEVRONTEXACO CORPORATION knows from information provided by TEXACO PETROLEUM COMPANY, prior to the expiration of the contractual term of the 1973 Concession Contract, this company requested the Ecuadorian Government to consider granting an extension of ten further years, as stipulated in the Contract itself, for which it proposed to undertake an costly investment which, on the one hand, would recover crude oil in the deposits and would provide the co-owners greater yields, and on the other hand would have allowed the Consortium to continue applying the best technical practices of the industry, which naturally evolve over time, due to the scientific research and investment of the companies of the sector. Sovereignly, the Ecuadorian Government decided not to accept this petition and, therefore, the

Contract ended as stipulated on June 6, 1992. This resolution of the Ecuadorian Government, which meant that as of the termination date mentioned previously PETROECUADOR would receive 100% of the profits produced by the hydrocarbon deposits which were owned by the PETROECUADOR-TEXPET Consortium, produced as well the unavoidable and obvious result that full liability for operations in the area and their consequences would also fall exclusively to said state company as of June 7, 1992.

II.A.1.30 As is common practice in the hydrocarbon industry, at the end of a concession contract or a petroleum activity in a specific area, at the end of the 1973 Concession Contract several types of evaluations were made, including two environmental audits conducted by internationally renowned companies, to evaluate compliance with environmental laws and regulations and generally-accepted operating practices and to measure the impact of the oil operations on the land, water, and air that surround the concession area.

II.A.1.31 In this sense, in 1992, prior to the concession contract's reaching its end, the National Government required the owners of the Consortium to conduct an environmental audit, selecting the company HBT AGRA LTD. In turn, TEXACO PETROLEUM COMPANY commissioned Fugro-McClelland, an internationally renowned independent consulting company, to also undertake an ecological audit and evaluation of the Consortium's operations. This evaluation was done separately and independently for the purposes of determining the condition of the facilities **at the time the contract expired** and to provide a comparison with the environmental audit that was also being performed by HBT AGRA LTD, selected by the Ecuadorian Government and jointly contracted by the co-owners of the Consortium. The audits herein mentioned covered the period from 1964-1990 and Fugro-McClelland also performed an audit of

the 1990-1992 period, when PETROECUADOR was the operator of the Consortium, through its subsidiary, Empresa Estatal Petroamazonas, created specifically by Law to play this role.

II.A.1.32 According to the knowledge of CHEVRONTEXACO CORPORATION, both audits agreed that the operations of the PETROECUADOR-TEXPET consortium had had a minimum general impact on the environment of the concession area. In addition, the audits left with PETROECUADOR, the new Operator and exclusive owner of the oil fields, an ample environmental management plan that detailed how the operations in the area formerly under the 1973 Contract should be carried out in the future.

II.A.1.33 CHEVRONTEXACO CORPORATION has been informed that auditor Fugro-McClelland conducted a field audit of all production installations and encampments of the Consortium and of fifty percent (50%) of the wealth in April and May 1992, finding that the activity of the Consortium complied with current legal regulations and operating practices internationally accepted to date in the oil industry. In addition, the mentioned audit considered that it was advisable to adopt a remediation action plan, whose cost was preliminarily estimated at six point eight million dollars (US\$ 6.8 million). It also concluded that approximately seventy percent (70%) of the hydrocarbon pollution at the production facilities and fifty percent (50%) of the hydrocarbon pollution on the drilling platforms and ponds “...**was attributable to PETROAMAZONAS’s operations from 1990 through 1992.**”

II.A.1.34 For its part the HBT AGRA LTD. audit firm selected by the Government of Ecuador reached similar conclusions in terms of the recommendations on environmental remediation and estimated the costs for such environmental reparation at a total figure of US\$ 11 million, of

which US\$ 7.9 million it attributed to costs to cure activities occurring prior to 1990 and US\$ 3.1 to cure activities occurring after 1990.

II.A.1.35 Finally, the contractual relationship derived from the August 6, 1973 Contract ended through the delivery of the facilities, equipment and deposits to the Ecuadorian State, through its Government and Empresa Estatal Petroecuador, for which delivery / acceptance and settlement documents were signed that put an end to the Contract, to the full satisfaction of the Ecuadorian Government, which obviously received, beyond the installations, facilities and deposits already cited, full control of the operation, with the pertinent obligations and responsibilities.

II.A.1.36 The plaintiffs, who acknowledge the truth of the facts presented in the previous paragraphs, ignore, without any grounds, the total and exclusive responsibility of PETROECUADOR, which has been operating the facilities of the former Consortium for over 13 years and has been the owner and exclusive beneficiary of said facilities for over 11 years and which, I repeat, was the result of a sovereign and independent decision of the Government of the Republic of Ecuador not to extend the 1973 Contract, as accepted by TEXPET and under which CHEVRONTEXACO CORPORATION did not have and does not have any participation or involvement.

II.A.2 FINAL SETTLEMENTS FOR ENVIRONMENTAL LIABILITY

The lawsuit that I am answering contains a series of “claims” through which the plaintiffs aspire that CHEVRONTEXACO CORPORATION undertake or finance a wide-ranging work of environmental remedying and to monitor the health of the area’s inhabitants. However, they do

not show, as it was their obligation to do so, the source of their right, that is their property or possession rights on the areas that are to be remedied, neither the damages that they say they have suffered as a consequence of PETROECUADOR-TEXPET Consortium activities. They illegally limit themselves to request compliance with the mentioned claims, maliciously ignoring the existence of final settlements which were granted regarding these matters by those who did have the right over said facilities, who are the Government of the Republic of Ecuador, in its capacity as counterpart to TEXPET in the 1973 Contract and the State Company PETROECUADOR, as majority shareholder of the Consortium and as the new exclusive owner of the area included in said Contract.

The final settlements to which I referred to above are the following, as informed by TEXPET to CHEVRONTEXACO CORPORATION:

II.A.2.1 AGREEMENTS WITH THE ECUADORIAN GOVERNMENT TO PERFORM ENVIRONMENTAL REPARATION WORK AND THE FINAL SETTLEMENT DOCUMENT

II.A.2.1.1 CHEVRONTEXACO CORPORATION has been informed that, with knowledge of the aforementioned environmental audits and after arduous negotiations with the authorities of the Ministry of Energy and Mines, including the Assistant Secretary for the Environment, who at the time was the maximum authority in Ecuador for environmental matters in the hydrocarbon industry and Petroecuador, who in turn undertook a broad prior consultation with the communities sited in the area, through its diverse base organizations, on May 4, 1995, TEXPET, through its Legal Representatives, entered into with the Minister of Energy and Mines and the

Chief Executive Office of Petroecuador, a Contract for the Performance of Environmental Reparation Works and Release from Obligations, Liabilities and Lawsuits, as I shall discuss in more depth below. We have been informed that the obligations contained in such Contract were assumed and executed in consideration for the Ecuadorian Government and Empresa Estatal Petróleos del Ecuador, which at the time was the owner of the 1973 concession area and its installations, facilities and deposits, being in agreement with the scope of the work committed, and as a result they granted TEXPET and TEXACO INC. and their predecessors or successors, a broad, full and final release from liabilities, for the possible environmental impacts that the Consortium's operations might have caused.

II.A.2.1.2 The works were performed pursuant to an Environmental Reparation Plan of Action, prepared by Woodward-Clyde International, Inc. and Smith Environmental Technologies Corporation, which as has been told to us contained in detail the manner in which all the works were to be executed at each site or facility described in the May 1995 Contract, to close the ponds at the well sites, to make modifications to the production stations, to repair the soil contaminated by hydrocarbons, to reseed the land, and to build containment dykes, principally. The aforementioned action plan also included an execution and performance schedule for the aforementioned remediation activities, as well as the criteria, guidelines and specific actions that were to be performed at each site. The environmental reparation action plan was approved in its entirety by the Ecuadorian Government, through the Ministry of Energy and Mines' assistant secretary for the environment and by representatives of Petroecuador.

II.A.2.1.3 We have been informed that the Contract also established socioeconomic compensation that included the delivery of funds for projects to be performed by indigenous and

peasant organization, the building of schools and medical dispensaries, the donation of a small aircraft for healthcare and training purposes and teaching material for environmental education programs.

II.A.2.1.4 The agreements and settlement documents that were reported to us were signed by TEXPET, which demonstrate that the aforementioned company indeed proceeded to perform the environmental remediation work, whose validity plaintiffs seek to deny and ignore, contradicting legally valid public documents executed by the authorities of the Government of the Republic of Ecuador competent in the matter and who deemed as concluded and satisfied all possible claims that might have existed on this matter. Thus on May 4, 1995, after the two aforementioned environmental audits performed by independent international audit companies, TEXPET signed the “Contract for the Execution of Environmental Reparation Work and Release from Obligations, Liabilities and Lawsuits,” with authorities from the Ministry of Energy and Mines and from Petroecuador, whose Article V, which deals with the “Release from Lawsuits,” clearly established the following:

5.1 On the date this Contract is signed and in consideration for TEXPET’s agreement to perform the Environmental Reparation Work pursuant to the Scope of Work established in Appendix A and the Environmental Reparation Plan of Action, the Government and PETROECUADOR shall for all time release, absolve and discharge TEXPET, Texas Petroleum Company, Compañía Texaco de Petróleos del Ecuador S.A., TEXACO INC. and all their respective agents, servants, employees, officials, directors, legal representatives, insurers, attorneys, indemnifiers, guarantors, heirs, administrators, executors, beneficiaries, successors,

principal and subsidiary predecessors (which shall be called “The Released”) from any other complaint by the Government and PETROECUADOR against The Released **For Environmental Impact Resulting from the Consortium’s Operations...**”

II.A.2.1.5 The Agreement itself, as we have been informed, defined environmental impact as “any solid, liquid or gaseous substance present or released in the environment in such concentration or conditions, whose presence or release causes or has the ability to cause damage to human health or the environment.” (Article I, number 1.3.)

II.A.2.1.6 Also according to information that we have received, the contract defined in its Article V, number 5.2 the type of complaints for claims from which TEXPET, TEXACO INC. and their successors, principal and subsidiary predecessors were released, as follows:

“The Government and PETROECUADOR construe complaints as any and all complaints, rights to complaints, debts, seizures, actions and fines for common law, civil law or equity cause, based on fraudulent contracts or events, constitutional, statutory regulatory (including, but not limited to the cause of action under Article 19-2) causes of action and penalty, under the Political Constitution of the Republic of Ecuador, decree No. 1459 of 1971, Decree No. 925 of 1973, the Water Act, R.O. 233 of 1973, ORD No. 530 of 1974, Decree No. 374 of 1976, Decree No. 101 of 1982, or Decree No. 2144 of 1989, or any other law or regulation of the Republic of Ecuador that is pertinent), costs, trials, payments and attorneys’ fees (past, present, future, known and unknown) which

the Government or PETROECUADOR have or may have against each release related in any manner to the pollution that exists or might arise, directly or indirectly, from the Consortium's operations, including, but not limited to, the consequences of all types of damage which the Government or PETROECUADOR might allege with respect to the persons, property, business, reputations and all other types of injury that can be measured in monetary terms, but not limited to transgressions, disturbances, negligence, strict liability, breach of warranty or any recovery theory or potential theory.”

II.A.2.1.7 The works which TEXPET was obligated to perform were executed to the satisfaction of the Ecuadorian Government and Petroecuador; each of them received the acceptance of the inspectors and auditors named by the National Office of Hydrocarbons, Petroecuador and Petroproducción, which is Petroecuador's affiliate in charge of operating the fields that belonged to the Consortium, after the termination of the 1973 Contract. The laboratory analyses were performed at the laboratory of the Central University of Ecuador, selected by the National Government. Once each task had been concluded to the satisfaction of all the aforementioned inspectors, the Government received the work and signed and delivered to TEXPET partial settlement documents, the result of which was the Final Document to which I shall refer below.

II.A.2.1.8 Indeed, once all the work indicated above was done and all other obligations met, under the supervision and with the approval of the supervisors and auditors from the Ministry of Energy and Mines (Office of Hydrocarbons and Assistant Secretary for the Environment), Petroecuador and Petroproducción, the parties that signed the Contract to which the preceding

paragraph refers proceeded on September 30, 1998, to sign a “Final Document” in which, beyond expressly recognizing performance of all obligations and certifying the full satisfaction of the supervisors of the different institutions, the Government of Ecuador and PETROECUADOR “proceed to release, absolve and discharge for all time TEXPET, Texas Petroleum Company, Compañía Texaco de Petróleos del Ecuador, S. A., TEXACO INC., and all their respective agents, servants, employees, officials, directors, legal representatives, insurers, attorneys, indemnifiers, guarantors, heirs, administrators, executors, beneficiaries, successors, principal and subsidiary predecessors from any complaint or claim by the Government of the Republic of Ecuador, PETROECUADOR and their Affiliates, for items related to the obligations acquired by TEXPET...” in the May 4, 1995 Contract which the parties stated they performed and concluded. In the aforementioned Document it is certified that TEXPET complied with the Contract for the Execution of Environmental Remediation Work and the Release from Obligations, Liabilities and Lawsuits, signed on May 4, 1995, and from this it can undoubtedly be seen that “the Environmental Reparation and Mitigation Works, Technical Works and Equipment, such as remediated ponds and spills, capping and abandoning of wells, reparation of contaminated soil and abandoned facilities, well platforms and production stations, construction of treatment plants and injection of produced water and the provision of equipment for the agreed stations, reseeded and/or reforestation, etc., was performed. It is worth noting that all the works performed were already approved in 9 Final (Partial) Documents that were signed by the Ecuadorian Government and TEXPET....”

II.A.2.1.9 Therefore, as it has been indicated to us, it is clear from the aforementioned document that TEXPET has complied with the three socioeconomic compensations stipulated in Number VII of the Contract....” In virtue of the aforementioned compensation a fund of one

million dollars was provided for natural resource projects to be performed by indigenous and peasant organizations (FOISE and FCUNAE) under the coordination of the Ministry of Energy and Mines (Office of the Assistant Secretary for the Environment) and Petroecuador (Environmental Protection Unit). Additionally, as Community Infrastructure, TEXPET provided funds (one million dollars) for the construction of four Master Educational Centers and four Adjacent Medical Dispensaries, with logistical support from two river ambulances in total, as well as the delivery of a small aircraft to the Organization of Indigenous Peoples of Pastaza (OPIP). As is known by CHEVRONTEXACO CORPORATION by information provided by TEXPET, the projects that were grouped under the heading of socioeconomic compensation were selected and designed by the organizations of the area and also by public bodies, such as the Ministries of Education and Culture and Public Health.

The environmental remedy work concluded by TEXPET and approved by the Government of Ecuador and PETROECUADOR as well, was granted the “Engineering Excellence” prize by the American Consulting Engineers Council, from the State of Colorado, in the United States of America, which proves the fact that TEXPET has acted with excellence.

II.A.2.1.10 As you can appreciate from the foregoing analysis, it is clear, Mr. President, that the plaintiffs without any foundation whatsoever claim and intend to ignore that which the Government of the Republic of Ecuador, its Ministry of Energy and Mines, PETROECUADOR and its Affiliated Companies construed to be thoroughly completed in the Final Settlement to which I referred previously.

II.A.2.1.11 When the Government of the Republic of Ecuador and the State Company PETROECUADOR accepted in the years 1994 and 1995 the scope of the environmental repair works that TEXPET was to execute, released TEXPET, TEXACO INC., their successors and predecessors from any additional liability for environmental impact arising from the operations of the Consortium, the Government and PETROECUADOR agreed that any environmental claim and remediation work not included in said Scope of Work would be under their exclusive responsibility, since they took over the installations and deposits formerly held by the Consortium, as their sole owners and beneficiaries.

In number 11 of the lawsuit's Recitals, the Plaintiffs state that the "environmental repair works executed by TEXPET were either insufficient or inadequately executed." The Final Settlements to which I referred previously show exactly the opposite, that is, that the Government of the Republic of Ecuador and PETROECUADOR accepted that TEXPET executed in due form all of its obligation and also released TEXPET and TEXACO INC. and their successors or predecessors from any environmental impact in the area of the 1973 Contract. It is surprising, therefore, that CHEVRONTEXACO CORPORATION be sued, in its capacity as supposed successor of TEXACO INC., because of the quality and extent of the work that the competent authorities accepted them completely, in use of their sovereign rights, which are intended to be ignored by María Aguinda S. and remaining plaintiffs. Therefore, any claim on these particulars should be addressed against PETROECUADOR and the Ecuadorian Government which, since 1990 have had full liability for oil operations in the area, as exclusive operators, owners and beneficiaries, including any environmental remediation, after the releases granted by them to TEXPET and TEXACO INC. and their predecessors or successors.

II.A.2.2 FINAL SETTLEMENTS WITH MUNICIPALITIES AND COMMUNITIES OF THE REGION

II.A.2.2.1 CHEVRONTEXACO CORPORATION has been informed that the Agreement signed by the Ecuadorian Government and TEXPET in May 1995 documents a requirement for TEXPET to begin negotiations with the Municipalities of Lago Agrio (Nueva Loja), Shushufindi, La Joya de los Sachas and Francisco de Orellana (Coca) in order to put an end to the litigation existing since 1994.

II.A.2.2.2 Indeed, CHEVRONTEXACO CORPORATION has received information that the Municipalities of Lago Agrio (Nueva Loja), Shushufindi, La Joya de los Sachas and Francisco de Orellana (Coca), in whose territorial jurisdiction the 1973 concession area was found, filed civil litigation against TEXPET whose objectives were to obtain compensation for possible damage caused to the Environment as a result of the work performed by TEXPET in those jurisdictions, as operator and agent of the co-owners of the Consortium. The prosecution of those cases continued for many months, and in the aforementioned May 4, 1995 Contract, as a result of the permanent consultation performed by the governmental authorities with the communities of the area, the previously mentioned additional obligation was included to negotiate with the plaintiff Municipalities the participation of TEXPET in the execution of public and communal works in the respective Cantonal Seats.

II.A.2.2.3 Furthermore, the defendant company, CHEVRONTEXACO CORPORATION, has received information that the negotiations with the Municipalities occurred and as a result thereof Settlement, Release from Obligations, Liabilities and Lawsuits Contracts were signed by

each one of the Representatives of the four Municipalities, as well as the Provincial Prefecture of Sucumbíos, with TEXPET, upon payment of large sums of money which were to be used for the aforementioned public and communal works. The cash payments were made and the Municipalities abandoned the lawsuits, upon approval in a decision by the respective Courts of each of the Settlement Contracts which in virtue thereof acquired the nature of a “*res iudicata*,” in accordance with their texts and with stipulations in Article 2386 of the Civil Code.

II.A.2.2.4 The works that were selected by the Municipalities were basically related to environmental cleanup; thus, for example, in the case of the Municipality of Francisco de Orellana (Coca), based on community interest proposals, the performance of a “potable water system for the cantonal seat” was selected. For the Municipality of La Joya de los Sachas the following were financed: “a) Sanitary sewer in La Joya de los Sachas; b) Sanitary sewer in the Parish of Enokanky; c) Sanitary Sewer in the Parish of San Carlos; d) Sanitary sewer in the Parish of San Sebastián del Coca.” For the Municipality of Shushufindo the “realization of the first phase of the sanitary sewer” was selected. Finally, the Municipality of Nueva Loja decided that the public interest works selected would be the construction of a “potable water or sewer system for the cantonal seat of Nueva Loja (Lago Agrio).” We understand that all of the plaintiffs are residents of or have their domiciles in the territorial districts of these Municipalities.

II.A.2.2.5 The Municipalities are, as stipulated in Articles 262 and further in the Municipal Regime Act, owners of public service goods such as the streets and avenues existing in their jurisdictions and they also have rights over the riverbanks and waterways existing in the respective cantonal seats.

II.A.2.2.6 The settlement contracts signed with the aforementioned Municipalities also contain, per what we have been informed, a settlement, release from obligations, liabilities and lawsuits clause whose text, which is identical in all cases, is as follows:

“...Messrs. and, in their respective capacities as Chairman and State’s Attorney for the Municipality, duly authorized by the City Council and in its name and behalf, as contained in the designations and the Document which in certified copies are attached as authorizing, through the present final settlement proceed to exempt, release, exonerate and relieve for all time TEXPET, Texas Petroleum Company, Compañía Texaco de Petróleos del Ecuador C.A., TEXACO INC., and any other affiliated, subsidiary or related company and all their agents, employees, officials, directors, legal representatives, insurers, attorneys, guarantors, heirs, administrators, contractors, subcontractors, successors or predecessors, from any liability, complaint, demand, request of claim, past, current or future, for any and all items related to actions, works or omissions derived from the activities of the aforementioned companies in the territorial jurisdiction of the canton of ..., Province of ..., which in part formed part of the hydrocarbon concession that was legally granted to TEXPET by the Government of the Republic of Ecuador through a contract signed on August sixth of nineteen hundred seventy-three, especially related to the effects that might have been caused to the environment in the aforementioned cantonal jurisdiction of the Municipality.”

II.A.2.2.7 As is known by CHEVRONTEXACO CORPORATION, TEXPET company also entered into a final settlement contract with the Provincial Prefecture of Sucumbios, to which entity it delivered a substantial amount of money, to be used in public works for the inhabitants of the area. The Prefecture decided that the funds would be used to “Perform provincial eco-production projects.”

II.A.2.2.8 We have also been informed that the aforementioned settlement agreement was entered into after the “Provincial Assembly of the Province of Sucumbios” also granted a final settlements and a release from obligations, liability and lawsuits to TEXPET, TEXACO INC., and its successors or predecessors “from any liability, complaint or claim for all items related to actions, works or omissions derived from the activities of the aforementioned companies in the area of the hydrocarbon concession which was legally granted by the Government of the Republic of Ecuador, **especially as related to the effects or damages that might have been caused to the environment in the jurisdiction of the Province of Sucumbios.**” As you know, Mr. President, the Provincial Assembly is a body established under the Provincial Regime Act, which, among its authorities, it is empowered to issue opinions and resolutions on matters which, given their extraordinary interest to the people, have been submitted for its consideration by the Provincial Council. Its members include elected authorities, leaders of people’s and community organizations, Mayors of the Province’s Municipalities, etc.

II.A.2.2.9 CHEVRONTEXACO CORPORATION has been informed by TEXPET that, beyond the already-specified Municipalities of the Province of Sucumbíos and the People’s Assembly of that Province, the Consortium of Municipalities of Napo (“COMUNA”) also granted similar settlements and release from liabilities to TEXPET, “for any and all items related

to the hydrocarbon concession that was legally granted by the Government of the Republic of Ecuador through the contract signed on August 6, 1973, especially related to the effects or damages that might have been caused to the environment in the jurisdiction of the Province of Napo.” As per what we have been informed, the document I am referring to is signed by the Mayor of Tena and the Presidents of the Municipalities of El Chaco, Aguarico, Loreto, La Joya de los Sachas, Archidona and Orellana. The authority for the Municipalities to join together in organizations such as that cited above is contained in the Municipality Regime Act.

II.A.2.2.10 If it is considered that the 1973 concession area was located in the jurisdiction of what were at that time the Provinces of Napo and Sucumbíos, it is important for you, Mr. President of the Superior Court of Justice of Nueva Loja, to value the importance and transcendence of these documents, which reflect the will of the sectional entities existing in the area, whose territory and jurisdiction were greater than the 1973 Concession Area’s, despite which fact their will is also being questioned without any basis or right whatsoever by the plaintiffs, who seek to be holders of a power which they lack.

II.A.2.2.11 CHEVRONTEXACO CORPORATION considers that the complaint which I am answering is also an illegal and unjustified attempt to invalidate the aforementioned final settlements, violating the basic legal principle of the immutability of decisions that have acquired the nature of *rei judicatae*, which evidently does not belong to the plaintiffs, who lack any right to contradict what the municipal authorities signed and what was subsequently approved by competent courts. The entities which are the owner of the streets, avenues, public areas, riverbanks, etc., settled with TEXPET and its successors and predecessors and released them from any claim for supposed effects that might have been caused to the environment in each of

the cantonal jurisdictions of the aforementioned municipalities, for which reason it is inadmissible that plaintiffs seek to consummate an attack against the legal security guaranteed by the Political Constitution of the Republic of Ecuador and attempt to assume public powers which they are lacking and lacked at the time of termination of relations of TEXPET with its partner PETROECUADOR.

As you know, Mr. President, one of the most important effects of decisions that are handed down among the many lawsuits that are submitted to be resolved by competent judges, is that of “res judicata,” which means that, once they are final, it must be accepted that litigation has been concluded and cannot be argued once again. The complaint I am answering constitutes an attack against the immutability of the judicial decisions that approved the aforementioned settlement contracts, which is unacceptable and must be rejected by you, Mr. President.

II.B THE TECHNIQUES OF THE OPERATION

II.B.1 THE OPERATIONS OF THE CONSORTIUM COMPLIED WITH PREVAILING LAW AND WITH THE STANDARD TECHNICAL PRACTICES OF THE HYDROCARBON INDUSTRY OF THE TIME

Based on information provided by TEXPET, CHEVRONTEXACO CORPORATION has the following clarifications to make regarding the “Backgrounds” mentioned in number I of the lawsuit.

II.B.1.1 I highlight, previously, that plaintiffs indiscriminately use the term “TEXPET,” indistinctly encompassing within it TEXPET, Texaco de Petróleos del Ecuador S.A. and TEXACO INC., which companies are independent and different from each other. Furthermore, CHEVRONTEXACO CORPORATION knows that TEXPET, which was the Operator of the PETROECUADOR-TEXACO Consortium, is a United States company established in the State of Delaware on April 8, 1957, and domiciled in Ecuador, through a decision of December 2, 1963, issued by the judge of the First Provincial Court of Pichincha, Dr. Vicente Pólit, as can be seen from the Recordation made before the Sixth Notary Public of the Canton of Quito, Dr. Cristóbal Guarderas on January 9, 1964.

II.B.1.2 Because Texaco Petroleum Company is a foreign company legally domiciled in Ecuador, it operates and is managed based on its own legally approved corporate bylaws which are contained in the aforementioned recordation.

II.B.1.3 Neither TEXACO INC., as we have been informed, and if so, including, as stated by the Federal Court of New York, and even less so CHEVRONTEXACO CORPORATE ever “conceived or approved” the “decisions related to the methods, procedures., etc., used by TEXPET in Ecuador,” as is baselessly claimed in the complaint.

II.B.1.4 TEXPET, as we have been informed, did not use or implement obsolete exploration and exploitation procedures and techniques, which at that time “had already been abandoned by other countries.” CHEVRONTEXACO CORPORATION knows that this was acknowledged in the aforementioned environmental audits. TEXPET always worked with the leading technology at the time when it performed its operations in Ecuador, using techniques and procedures

generally accepted in the petroleum industry at the time when it acted as Operator of the PETROECUADOR-TEXPET Consortium. As is usual in the hydrocarbon industry, the Consortium Operator, TEXPET, always used for its different activities, contractors duly qualified in technical, economic and operational matters who were among those with the greatest international prestige. Such procedures and methods do not have and did not have “lethal effects on the environment.”

II.B.1.5 Based on information provided by TEXPET, CHEVRONTEXACO CORPORATION knows that techniques and procedures such as those used by Consortium complied with hydrocarbon industry standards. For example, besides Ecuador, other tropical and sub-tropical petroleum-producing countries allowed for discharging formation waters on surface waters during the years in question. Such examples include Angola, Brazil, Colombia, Indonesia, Mexico, Papua New Guinea, Nigeria, Trinidad and Tobago. Spreading crude on highways is also a common practice in this industry. This refers to the use of petroleum products when building highways, in maintenance and dust suppression, to improve and maintain remote roads where raw materials required for highway construction is scarce. During all the time that TEXPET operated the Consortium, such practices complied with legal standards in the United States of America, Ecuador and other countries.

II.B.1.6 TEXPET, as we have been informed, did not disseminate any method or procedure that was harmful or deliberately detrimental to the environment to local technicians, nor could it suggest and much less impose their use on other companies as is baselessly held in the complaint which I am answering. In reality, the techniques used in the diverse phases of the operation to explore for and exploit hydrocarbons were conceived or designed by all the companies providing

specialized services, and they are constantly subject to improvements as technology and scientific development advance. As we understand, to hold that TEXPET deliberately or negligently used inadequate techniques is to ignore how large oil companies operate in any country in the world, and it constitutes a serious accusation that must be the subject of specific proof on the intention that such techniques had, which must be borne by the plaintiffs. Studies made by the audit companies which we have cited previously agree in affirming that the technology that was used in the Consortium was the appropriate technology and that it did not violate either Ecuadorian law or current practices in the industry at the time. The full autonomy with which Ecuador's state oil company, PETROECUADOR, adopted similar technologies in its own operation demonstrates the aforesaid. As we understand, PETROECUADOR continued using the same technology.

II.B.1.7 Based on the information that has been provided by TEXPET, the defendant company below answers some matters contained in chapter II of the complaint, entitled "The polluting methods employed by Texaco."

No basis in fact or law is presented by the plaintiffs in chapter II of the complaint which provides a basis for their statements therein contained. Rather, it is a matter of unproved information on presumed events that may or may not have occurred, but with respect to which plaintiffs do not state specifically the source of their asseverations and limit themselves to providing general data, which contribute nothing to a clarification of the truth. Therefore, the defendant company, CHEVRONTEXACO CORPORATION, has obtained from TEXPET information on the procedures used in the crude oil drilling and production phases in the 1973 Concession area, which makes it available to you, Mr. President, so that it might be established that it was true that

the aforementioned operation was executed technically in a manner that complied with the legal requirements and internal and international practices applicable in the oil industry in its different phases.

“Seismics

In the search for formations that contain oil, geological maps, aerial photographs and geographical surveys are required to identify sedimentary basins. Once the potential areas are identified, additional data on the subsoil must be acquired. This information is obtained by using the principal prospecting methods (magnetic, gravimetric and seismic) - Of these methods, seismic prospecting (vibration and shot points) is the most common to delineate potential geological formations that might contain hydrocarbons.

In remote regions, areas of dense vegetation or topographically raised areas, shot points are the most commonly used technique. The shot point method involves the detonation of small explosive charges placed in holes approximately 30 meters deep. The detonation causes shockwaves that are reflected in differing degrees by the underlying strata. The resulting waves are recorded by geophones and then interpreted as stratigraphic layers on a map. This phase was performed by TEXPET at the start of the Consortium's operations.

Exploratory Drillings

Once a geological structure is identified, the only way to confirm the presence of hydrocarbons, their thickness and their internal pressure, is by drilling an exploratory well. Normally the stripping involves the area required to allow the operation of portable drilling equipment and

related facilities. The related facilities usually include camps for operations personnel and access routes and/or helicopter platforms.

The time required to drill a well depends on the depth of the oil formations and geological conditions. After the drilling and test period, the equipment is dismantled and transported to the next location, to drill a new well. If the exploratory drilling is successful, a wellhead is installed. If oil or gas are not found in commercial quantities, the well is capped and the location is abandoned.

Drilling of Development and Production Wells

If profitable oil or gas field is discovered, additional product wells may be drilled. When two or more wells are in production, a central collection and processing system is built.

The expansion or modification of the facility might occur as the camp is developed. Periodically drilling and well reconditioning operations, as well as maintenance activities on oil pipelines, are required to maintain production.

The planning for drilling oil wells included the following phases or technical considerations:

a) Drilling Equipment

The equipment used for drilling oil wells was the rotational type, where the drilling is made by the rotation of the perforation tubing and the bit. The solid material resulting from the drilling from the strata of the earth's crust, called rubble, are brought to the surface using drilling slurry. The drilling slurry, due to its high viscosity, keeps the rubble suspended and in that manner it is

transported to the surface and then deposited in drilling ponds, which are built in advance to collect both the drilling slurry and the rubble resulting from the drilling.

b) Drilling Ponds

Two ponds were generally built, prior to beginning drilling an oil well. One pond 43 meters long by 33 meters wide and 2.5 meters deep, with a net capacity of 3547 cubic meters, was built to collect the rubble, and the drilling fluids. Also, from the height of the pond's siphon through the wall level, there is a safety height of 50 centimeters, which gives an additional capacity of 709 cubic meters.

The drilling rubble was never used to build roads or well platforms.

The second pond was built for the temporary storage of the deposit fluids (oil and water) obtained during the evaluation tests of the different reservoirs. The oil produced was then suctioned off using vacuum trucks and transported to the closest production stations, where it received the appropriate treatment to remove the solids and water associated with the oil, before being pumped into the storage tanks.

Due to the sandy composition of the soil in the East, ponds built by excavation are impermeable, and prevent filtrations of the perforation slurry to the subsoil, or spilling over its borders, for which reason sealant or waterproofing materials were not required for building them.

Ecuadorian law and international practices require the use of these ponds for the treatment of water and other liquids in all phases of the oil industry.

c) Drilling Slurry

The slurry used in the drilling of oil wells in the Amazon region was of the water-based “Non-Disperse / Low Solid” type, whose products used are not toxic to the environment.

Currently oil companies in Ecuador continue to use it with excellent results, to prevent environmental pollution and damage to the formations that produce oil.

At all times the use of slurry that does not pollute the environment and does not damage productive formations was pursued. The slurry used always contained natural or biodegradable materials.

The drilling slurry basically contained the following chemical components:

Barite: Barium sulfate. A natural product used to increase the density (weight) of the drilling slurry. They are natural rocks ground and mixed into the slurry without any additional chemical treatment.

Bentonite: Sodium bentonite. A natural product used to increase the viscosity of the drilling slurry.

Caustic soda: A pH regulator and controller of the average alkaline content in the fluid. This product degrades once the slurry goes to the rubble and drilling fluid collection ponds.

Drispac: A cellulose derivative and principal controller of the filtrate.

Starch: Potato or corn starch. A secondary product to control the filtrate.

Sodium bicarbonate: Calcium, cement or anhydrate pollution controller. This product turns into insoluble calcium carbonate, a product found in nature in the form of limestone.

Paraformaldehyde. Bactericide. A compound used to inhibit bacteria.

Defoaming Agents: Controls the foam in the drilling slurry.

d) Well Casing

The wells were initially drilled with a large diameter bit, to an approximate depth of 2000 feet. Then it was cased with a 10 ¾” surface well casing and cemented on the outside to prevent contamination of aquiferous areas (areas that contain water), the drilling fluids and the fluids produced in the oil deposits.

Then the well was drilled to its approximate total depth of 10,000 feet with a smaller diameter bit. Then the well casing was installed, which was generally 7” in diameter along the entire depth of the well. This casing was cemented on the outside at the lower section of the well, to isolate and prevent contact between the different hydrocarbon deposits. Then the 7 inch tubing was fully cemented on the outside.

Finally, the wells were completed with 3 ½” or 2 7/8” tubing called production tubing (tubing), coupled to several accessories such as gaskets, linings, reductions, etc., to allow the production of different oil deposits separately.

e) Reconditioning of Wells

In one of the productive life phases of an oil well, it is necessary to perform work to increase or maintain the productivity therefore, by stimulating the formation with acid or fractures. These

reconditioning works are also required to reduce the production of water, through cement squeeze.

To perform these works requires a reconditioning tower, controlling the well (killing the well) with saltwater and removing the base installation (tubing, gaskets, etc.).

During reconditioning, it is frequently necessary to evaluate the results of the work performed through production tests for which the well is opened and placed into production toward the production station; occasionally the well flows toward the collection ponds at the well site; in these cases the crude from the pools is suctioned off using vacuum trucks and transported to the production stations, to receive treatment before pumping it to the storage tanks.

Production Facilities

According to the production volume and operating needs, production stations were built in each field, following generally-accepted practices and standards in the oil industry.

Description of the Production Process

The production process at field stations was as follows: Once the well was drilled, the fluids produced (oil, water and gas) were transported to the respective production stations, through tubing called a flow line, equipped with all valves and accessories. The fluids produced, once at the production station, were diversified by the production manifold or collector (a set of valves) that allows the fluids to be distributed to the different production separators.

In the production separators, the fluids (oil, water and gas) are separated principally by reducing the speed and changing the direction of the liquid and gas currents, as well as by differences in the specific gravity.

The gas, because it is the lightest, migrates to the upper part of the separator, after which it is channeled through several pipes (gas pipelines) to be used as gas fuel in: electricity generation turbines, gas compressors, motorized crude oil pumps, etc., and the remaining gas, if it does not have commercial purposes, is burned in the respective incinerators (burners).

Due to the fact that there was relatively little gas remaining in many of the consortium's fields, their owner, the Ecuadorian State, did not want to process it for its commercial use in domestic consumption.

The water produced from the deposit, due to its high density, flows through the lower part of the production separators and through pipes it is evacuated to the decantation ponds or ditches, at the production stations.

The water produced remains in the decantation ponds for long periods of time, where the solids are deposited (carbonates, sulfates, salts, etc.). The water, prior to being evacuated to the decantation ponds, met the requirements established by applicable regulations.

Certain oil particles are associated with the water evacuated to the decantation ponds, forming small laminas of oil on the surface, which is recovered using vacuum tankers.

After the production separators the oil goes to the washing tank, in which the remaining particles of water that are associated with the oil are finally separated and drained to the decantation pools or ditches. Likewise, the gas dissolved in the oil is separated at the gas butt at the entrance to the wash tank and then burned in the respective incinerators (burners).

The clean crude (without water and gas) passes by gravity to the standing tank, where the production balances are made at each station; from this tank, the oil is pumped to the oil pipeline tank, through the automatic transfer meters (ACT's). The oil stored in the oil pipeline tank is transported through the secondary oil pipeline to the principal pumping station in Lago Agrio, then to be transported through the Trans-Ecuadorian oil pipeline, for final marketing.”

II.B.1.8 As a conclusion to this succinct technical description of the production process of the operations executed by the PETROECUADOR- TEXPET Consortium, CHEVRONTEXACO CORPORATION, which obviously knows about generally-used techniques of that time in the petroleum industry, can state that they complied with the international practices of the oil industry prevailing at the time and with the legal regulations of the Republic of Ecuador. Furthermore, it states that, as it has been informed, such procedures were approved, supervised and controlled by the competent authorities of the Ecuadorian Government, which contradicts the constant affirmation in the complaint that the operator of the Consortium, acting as an agent or by charge of the co-owners, employed illegal or prohibited methods.

II,B.2 PLAINTIFFS DID NOT DEMONSTRATE A “CAUSE AND EFFECT” RELATIONSHIP IN THEIR ALLEGATIONS

II.B.2.1 It is a basic principle of legislation related to crimes and unintentional torts contained in the Civil Code of the Republic of Ecuador that a direct cause and effect connection is required between the action or omission of the presumed perpetrator and the damage or harm suffered by the victim, for him to be able to seek indemnification. In the complaint I am answering plaintiffs did not specify that indispensable connection, for which reason its claims lack a basis, not only against CHEVRONTEXACO CORPORATION or TEXACO INC., which had no participation in the presumed events that gave rise to the presumed injuries superficially stated in the complaint, but also against TEXPET.

II.B.2.2 Indeed, the actions of the latter company in the operation of the Consortium could not have been a cause of the events that are claimed in the complaint, inasmuch as the operation was performed with the best techniques, in the manner approved by the co-owners of the Consortium and the Ecuadorian Government, always within the legal contractual framework and applicable practices, as has been shown by the audits that I cited above.

II.B.2.3 Any analysis made of the complaint I am answering, to seek the indispensable causality required by the law between the actions or omissions of the defendant and the supposedly harmful actions or events that are being claimed, allows us to state that that necessary connection between what they say is affecting the plaintiffs and the use of the technical methods and procedures by the company that was the operator of the Consortium by order and in behalf of the co-owners more than thirteen years ago, evidently does not exist. What the complaint does claim are allegations that are otherwise general, such as, for example, that such procedures “destroyed aquatic life, natural vegetation and crops...and even the rainwater was polluted due to the dispersion in the area of the gases resulting from the combustion of rudimentary burners...”; or

that there was “brutal environmental deterioration.” They don’t provide any data on the truth of such facts and, obviously, not on the aforementioned causal relationship with the company that was the operator of the Consortium and, much less, with the defendant CHEVRONTEXACO CORPORATION.

II.B.2.4 To comply with that stipulated in relation to the answer to the complaint by the Ecuadorian Code of Civil Procedure, we believed it necessary to describe the true process of the technical operation used by the Consortium, despite the fact that in the judgment of the defendant plaintiffs have not met their legal obligation established in Article 71 of the Ecuadorian Code of Civil Procedure, according to which the complaint must contain the bases in fact “**stated clearly and precisely.**” This means that the complaint must indicate the specific facts on which plaintiffs’ claims are based, specifying them and describing them in detail, in order for the Court to be informed of the factual events through which plaintiff seeks the intervention of the jurisdictional authority, and also to allow defendant also to make specific statements on such facts, and the claims derived from them, contributing its version and its arguments, which must be compared by you, Mr. President, to those contained in the complaint.

II.B.2.5 As CHEVRONTEXACO CORPORATION has been informed, to perform any activity related to the **1973 Contract**, TEXPET used methods and systems widely used in the industry of the time, with prior acceptance of both the National Government, through the National Office of Hydrocarbons (DNH), part of the Ministry of Energy and Mines, and also with prior authorization from PETROECUADOR, the majority shareholder in the consortium, which was in compliance with the stipulations contained in the aforementioned **1973 Contract, in the clauses that we have previously cited and especially in Clause 40, which states:** “The

Contactors shall use modern and efficient machinery, **and they shall also apply the most appropriate technology and methods for the performance of their work, in order to obtain the greatest productivity in the exploitation of the deposits, observing in any case the reserve conservation policy formulated by the Government....”**

II.B.2.6 Inasmuch as no evidence exists that the competent Bodies of the Ecuadorian State have objected to or made timely claims against the actions of TEXPET both as operator of the Consortium and in relation to the performance of its aforementioned contractual obligations, it is not legally acceptable for the plaintiffs, without any right to do so, today question the actions of the aforementioned company, with respect to which the defendant CHEVRON TEXACO CORPORATION had no participation.

II.B.2.7 Likewise, TEXPET, according to information that we possess, fully complied with the stipulations contained in points s) and t) of Article 29 of the Hydrocarbons Act, issued through Supreme Decree No. 1459 of September 27, 1971, published in Official Record No. 322 of October 1, 1971, which stipulate that the following “shall be the obligations of contractors”:

“s) To take the measures required to protect the flora and other natural resources; and

“t) To avoid polluting the water, air and land.”

II.B.2.8 Nor in relation to these aspects did any claim whatsoever exist at the time; in this regard it must be considered that Article 68 of the 1971 Hydrocarbons Act itself stipulates that: “...the appropriate Ministry may nullify contracts if the contractor: 1... fails to comply with any of the obligations contained in Article 29....” It is therefore surprising that eleven years after the

termination of the 1973 Concession Contract upon expiration of its effective term, that plaintiffs accuse just TEXPET, the Consortium's minority shareholder, of having breached these already-transcribed precepts of Article 29 of the Hydrocarbons Act, related to environmental protection, when during the very life of the Contract the maximum authority in this area did not deem applicable the aforementioned drastic sanction, which is the unilateral termination of the contract, which would have caused the immediate loss in favor of the Ecuadorian State of all the rights and assets that the contractors had in the concession area.

II.B.2.9 In relation to this I must remind you, Mr. President, that all matters related to the environment in the 1973 Concession Area were covered by the final settlements intimately detailed above, such that for TEXPET, TEXACO INC., and their successors and predecessors, these are matters already resolved by the competent authorities. It is, therefore, a violation of all legal principles of any civilized society governed by laws, to attempt to once again debate over an issue that was concluded to the satisfaction of the Government of Ecuador and that such be performed with the only purpose of obtaining remedies which TEXPET has already performed.

II.B.2.10 Furthermore, plaintiffs state in number II.7 that "Texaco burnt waste gas without taking measures to avoid or attenuate contamination with highly toxic particles" and they include a baseless calculation of the number of cubic feet that were supposedly burned by that company. Without CHEVRONTEXACO CORPORATION's accepting that it had any participation whatsoever in those events, I must state that we have been informed that the natural gas produced during the Consortium's operations was used for several purposes: as an energy source, to aid in the production of crude oil and for delivery to the state company PETROCOMERCIAL, which converted it into liquefied petroleum gas (LPG). The excess gas

was burnt, which constituted a standard practice in the oil industry throughout the world at that time and is even fully effective at the current time.

II.B.2.11 The disposal of the associated gas produced in the PETROECUADOR-TEXACO Consortium's fields was done with methods generally used in the industry and with approval from the pertinent authorities, as stipulated in the 1973 Contract and in the law. At the time of TEXPET's operation in the Consortium by order of its co-owners, there was no legal or regulatory precept that prohibited burning the gas that cannot be used or disposed of in any other manner. On this matter the inconsistency in the complaint is also notorious by explaining how this "burning of gas" may have affected the plaintiffs or caused the effects cited in the complaint.

II.B.2.12 Furthermore, the disposal of the natural gas produced in the 1973 Concession area was and is the exclusive decision of the Ecuadorian Government, because it was its exclusive property, pursuant to the 1973 contract and the Hydrocarbon Act, for which reason its use was always a free and sovereign decision of the Ecuadorian Government, against which claims may be made on these matters but not against CHEVRONTEXACO CORPORATION. Just so that history is remembered, we know that during the period from 1986 to 1988 there was an attempt to use this gas by a third company, which was in no way associated with TEXPET, but the Government of Ecuador at that time did not accept the proposed operating scheme.

II.B.2.13 With respect to the plaintiffs' accusation regarding the crude irrigation on highways, I state that such practice was and is internationally accepted in the oil industry, and it was performed upon express requests made by the communities in the area, as well as the requests from different entities and civilian and military authorities, and there are even instructions from public bodies, such as the Ministry of Public Works of Ecuador and Petroecuador (CEPE) on the handling and irrigation of "crude oil" on highways, encampments and roads.

II.B.2.14 During the time when TEXPET was Operator and Agent of the co-owners of the Consortium, the practice of irrigating crude on highways was legally accepted even in the United States of America, and also the Republic of Ecuador.

II.B.2.14 On this matter I believe it necessary to illustrate the judgment of the Court by transcribing one of the multiple requests made to the Consortium's operating company by authorities of different natures, in this case Mr. Luis Gutiérrez R., President of the Illustrious Municipality of Lago Agro who, in official correspondence 0407 CMLA, stated the following, according to a report that we have received from TEXPET: "in view of the abundant dust caused by the summer season, I request that you cooperate with us by irrigating crude from the El Aguarico roadway to Compañía Tesca; I am making this request because in this area there are a number of families affected by diverse illnesses caused by the dust." It is also important to mention, for example, the instructions contained in official letter number 840387 DMH-ET, of February 14, 1984, through which the National Director of Hydrocarbons give express instructions to use irrigation of crude mixed with gravel for the maintenance of the "Lago Agrio – Tarapoa" highway. According to the information we have there are many requests similar to the one that we have transcribed, and the instructions the authorities gave to take advantage of the residual crude produced by the Consortium's operations to improve the road infrastructure in the area are very precise, benefiting not only the health of the population, but also its social and economic welfare. For this reason we do not understand the plaintiffs' claim in this regard, because they may have been the beneficiaries of this practice, through the requests from their authorities or community leaders.

II.B.2.16 Finally, on this same point it is necessary to stress that the plaintiffs also did not indicate the causality between the practice of irrigating crude on the highways and the damages they state they have suffered.

In summary, and as a conclusion to what is stated in this paragraph of my answer, I feel it is necessary to highlight the clear fact that the complaint filed by Maria Aguinda and others is nothing but a host of generalities regarding alleged actions that were supposed to have taken place when the Hydrocarbons Exploration and Exploitation Agreement was executed, which was authorized and signed by the Government of the Republic of Ecuador on August 6, 1973, pursuant to legislation in effect, for which reason the complaint I am answering cannot be admitted by you, Mr. President, since it does not comply with the essential requirement of clearly indicating which crimes and quasi-crimes have supposedly been committed, that is, the illegal acts or the voluntary human acts due to which CHEVRONTEXACO CORPORATION would have infringed a rule of law or a legal statute, whether deliberately, whether by guilt or negligence; it also omits specifying the exact damages that the actions or omissions of the defendant supposedly caused to the plaintiffs or to their properties. Therefore, you cannot, Mr. President, accept the complaint that I am answering, since it does not point to the source of the alleged obligation that they say CHEVRONTEXACO CORPORATION has towards the plaintiffs, nor does it point to the essential causal relationship between the alleged guilt and the alleged damages to which it refers.

II.B.3 ALLEGED DAMAGE TO POPULATIONS

II.B.3.1 Likewise, without accepting any liability whatsoever on the part of the defendant CHEVRONTEXACO CORPORATION regarding the facts covered by this case, and only to comply with the requirements of the Code of Civil Procedure of Ecuador, I will refer below to

chapter III of the complaint, called “The Damages and the Affected Population,” based on information that has been provided to us by TEXPET:

II.B.3.2 According to number III.1 of the complaint, the procedures used by TEXPET in the operation of the Consortium have “polluted the soil, natural waterways and the air; they destroyed aquatic life, natural vegetation and crops.” Procedures are nothing but theoretical methods of action that might be used to obtain one or more specific purposes, it therefore being impossible that something theoretical could cause the effects that are cited in the complaint. The text of the number to which I am referring demonstrates yet again the lack of precision on the part of the plaintiffs to specify duly and legally the bases of their complaints, which cannot be but rejected by you, Mr. President, for this and the other reasons stated throughout the answer to the complaint, inasmuch as it cannot be accepted that the operating procedures employed in the Consortium by TEXPET by order and in behalf of the co-owners be the causes of a supposed damaging situation that might be affecting the operating area and, even worse, the entire environment within which the Consortium performed its activities. In this regard we have been informed that TEXPET limited itself only to clearing the land that it required to perform its operations, which is corroborated by the environmental audits specified above, which demonstrate that less than two thousand six hundred hectares of deforested land can be attributed to the Consortium’s facilities, of which two thousand hectares are roads and highways opened at the request of the Government and by the operation itself. This surface area is equivalent to zero point five percent (0.5%) of the total concession area and less than zero point zero two percent (0.02%) of the total area of the Ecuadorian Amazon Region. Operations performed within the legal parameters in effect at the time in such a small space cannot have caused enormous

environmental damage that without basis the plaintiffs state that their communities have suffered.

II.B.3.3 CHEVRONTEXACO CORPORATION has been informed that the deforestation of the region occurred outside the oil operation areas, above all on the banks of the rivers and waterways, as demonstrated by satellite photographic information that we know the ex-operator of the Consortium has. The damage caused over the last 30 years would then be the result of the colonization and the activities of its inhabitants, including possibly the plaintiffs, and not because of operational practices or techniques used by the Consortium.

II.B.3.4 CHEVRONTEXACO CORPORATION knows that the accusations regarding the supposed negative effect of the Consortium's operations on the health of the local population has not been proved by any scientific or factual evidence. Indeed, an analysis of general health condition indices do not reveal any negative effect directly caused by the oil operations in the Province of Napo, the site of the Consortium's principal facilities. Rather, the health standards of that Province remained in general parallel to the rate of improvement occurring with respect to health throughout the Republic of Ecuador and, in some cases, such as those as infant mortality and mortality from childbirth, even showed a reduction with respect to the national average. To illustrate the judgment of the President of the Court and to confirm my preceding asseveration, we present the statistics related to the health matters to which I have alluded before, produced by the Ecuadorian Institute of Statistics and Censuses and confirmed by UNICEF, related to the Province of Napo, in some cases and in others all the four Provinces that comprised the Eastern or Amazonian region of the Republic of Ecuador. The statistical tables are cut off at 1989 due to the fact that, as is known by CHEVRONTEXACO CORPORATION, after June 1990 the

operation of the Consortium was entirely under the responsibility of the state company PETROECUADOR.

II.B.3.5 Scientifically some indicators exist that provide common and adequate forms of measuring the state of health. Those indicators are principally life expectancy at birth, the rate of infant mortality, the rate of maternal mortality and the general mortality rate, whose official statistics as they pertain to the Ecuadorian Amazon Region are recorded in the document that I shall present at the end of this answer, marked as Exhibit 4, to be included in the file.

II.B.3.6 Inasmuch as plaintiffs failed in their obligation to specify the bases of their complaints and refer in general to supposed “studies” that according to them would demonstrate the serious health situation that exists in the area, it is impossible for me to respond specifically to the statements made in number III.2 of the complaint, with respect to which, however, I believe it necessary to reiterate that the preceding studies and statistics constitute evidence that contradicts that stated by the plaintiffs, with respect to which my statement is also valid that the complaint does not contain a specific demonstration of cause and effect between the actions of TEXPET as Operator of the Consortium and agent of its co-owners and the general state of health of the plaintiffs. On this matter I affirm that CHEVRONTEXACO CORPORATION did not have any participation therein, not even as supposed heir to the company that operated the consortium’s fields in behalf and by order of their co-owners.

II.B.3.7 The activities of TEXPET as Operator of the Consortium did not affect framing in the area, nor “the native fauna or domestic animals.” The Consortium’s areas of operations were actually small, in relation to the surface area of the region, to be able to accept that they affected

those activities in the way held in the complaint. Factors such as soil quality, farming systems, lack of technical and economic ability of the farmers and anti-technical colonization, true causers of the problems which are sought to be attributed to the oil operation, are deliberately and maliciously ignored by the plaintiffs, for which reason I also reject any allocation of responsibility to CHEVRONTEXACO CORPORATION for the economic situation of the people in the region.

II.B.3.8 In this regard I ask, Mr. President, that you not forget the aforementioned on the colonization policy of the Ecuadorian Amazon region fostered by the Republic of Ecuador for reasons not attributable to my constituent, CHEVRONTEXACO CORPORATION, nor to TEXPET or TEXACO INC.

II.B.4 FACTS SUBSEQUENT TO 1990

II.B.4.1 The environmental claims that may have been caused by TEXPET as Operator of the Consortium, do not subsist nor can their effects be felt in the future. TEXPET ceased operating in the Consortium more than 13 years ago and since then PETROECUADOR has been in charge of such activities. From the date on which Texaco Petroleum ended its function as operator of the Consortium there have been several events and legal actions which plaintiffs seek to ignore, such as the remediation work which we have previously explained in detail and the final settlements that have been granted by authorities, municipalities, provincial prefectures, bodies and the Company itself which is currently in charge of the operation in the concession area, PETROECUADOR. Thirteen years constitutes a sufficiently long period of time for them to be ignored as the plaintiffs do in the baseless attempt to blame all possible effects in the area on the

actions of one single company, which was a minority partner in the Consortium and which operated as agent and mandatary of the co-owners, under the constant supervision of the bodies of the Ecuadorian Government competent in this matter. In any case I reject that CHEVRONTEXACO CORPORATION has had or has any responsibility for the supposed contaminating effects and the danger to the health and property cited in number III.5 of the complaint.

II.B.4.2 Defendants deliberately forget that for several years other public and private oil companies have also operated in the area, and they wish to “judge” only the actions of a company that was the agent and mandatary of the co-owners of part of the oil field existing in the area which it stopped operating more than thirteen years ago.

II.B.4.3 Finally, we consider the mentioned lack of showing causality between the facts of TEXPET and the damages being claimed to be an insurmountable legal error, that makes the complaint unacceptable is the aforementioned lack of demonstration of causality between the acts of TEXPET and the damages claimed, as well as not acknowledging the public evidence that most of the events that might have affected the environment of the region, as can happen in any oil operation throughout the world, were caused by force majeure, acts of God, sabotage and natural events such as the serious earthquake of March 1987, and in no case by negligence or malpractice that might be demonstrated and, even less so, by fraud or bad faith, as is insinuated in the complaint, which CHEVRONTEXACO CORPORATION rejects.

II.B.4.4 It is not legally acceptable to attempt to question TEXPET’s action in this complaint, as Consortium Operator, without duly basing the reasons for such attack, as required by Ecuadorian

procedural law. The public final settlement documents to which I have extensively referred, as well as the audits of diverse natures undertaken during the effective term of the 1973 Concession Contract and after its termination, allow us to state that TEXPET acted in the operation of the Consortium in the manner so allowed by the governmental entities in charge by law of the management and execution of the hydrocarbon policy formulated by the Ecuadorian Government; it complied with the terms of the mandate granted to it by the companies holding the rights in the Consortium; it subjected itself strictly to the stipulations of the 1973 Concession Contract, the laws in effect at that time and what constituted the most adequate operating practices in the industry in the 1960's, 1970's and 1980's.

II.B.4.5 CHEVRONTEXACO CORPORATION states that the complaint that it is answering violates a basic principle of the Political Constitution of the Republic of Ecuador, contained in Article 24, which was issued to guarantee and safeguard due process in Ecuadorian Courts. The pertinent part of such precept states that “to assure due process the following basic guaranties shall be followed, without a diminishment of others established by the Constitution, international instruments, laws or case law: 1. No one may be judged by an act or omission which at the time committed is not legally defined as a criminal, administrative or other type of violation, nor shall a penalty be applied against him not stipulated in the Constitution or the Law. Nor may a person be judged except pursuant to preexisting law, observing the procedure appropriate to each proceeding.”

II.B.4.6 CHEVRONTEXACO CORPORATION has been informed that during the course of its actions as operator of the Consortium, TEXPET was not questioned in any manner for the facts covered by this case. Furthermore, the legal precepts in effect at the time did not contemplate as

a violation putting into practice and executing a process of exploration or exploitation of crude oil, with due governmental approval and with procedures adequate therefore, for which reason seeking to judge my constituent, CHEVRONTEXACO CORPORATION, for acts legally performed by another company, violates the constitutional guaranty of due process which I have transcribed above.

II.B.5 THE RESPONSIBILITY OF THE GOVERNMENT OF THE REPUBLIC OF ECUADOR

II.B.5.1 From the text of the claim, it can be seen that the company that operated in Ecuador, and which, presumably, caused the alleged damages was TEXACO PETROLEUM COMPANY (TEXPET), which company maintained a contract with the Government of the Republic of Ecuador. It is also stated therein that the Consortium's operation was regulated by means of an Agreement that the concessionaires made effective as of January 1st, 1965.

II.B.5.2 Equally, from the text of the claim it can be seen that TEXPET maintained a consortium or a joint operation or an association with the Corporación Estatal Petrolera Ecuatoriana (CEPE) and its successor, the Empresa Estatal Petróleos del Ecuador (PETROECUADOR).

II.B.5.3 From the same claim it can also be seen that the "stock" interest between PETROECUADOR (and its predecessor) and TEXPET was 62.50% and 37.50%, respectively.

II.B.5.4 Additionally, from the claim I am answering it can be seen that as of July 1st, 1990 the operator was PETROECUADOR and that the 1973 Concession Contract terminated in June of 1992.

II.B.5.5 The plaintiffs agree that PETROECUADOR, successor to CEPE, continued operations in the zone which was the object of the 1973 concession, with the methods used to this effect by TEXPET.

II.B.5.7 The claim acknowledges that TEXPET, through an agreement with the Government of the Republic of Ecuador, following the termination of the 1973 Concession Contract executed works of environmental remediation in the zone that had been under concession to the then-extinguished PETROECUADOR-TEXACO Consortium, and that said Agreement was fulfilled in its entirety by TEXPET, as the Government itself acknowledged.

II.B.5.7 In the same way, from the claim it can be seen that TEXPET was charged, as an agent of the co-owners with executing the Consortium's operations which exploited hydrocarbons in the Amazon Region of Ecuador.

II.B.5.8 From the text of the claim it is intended to deduct that: a) the company called Texaco Inc. had responsibility in the operations carried out by TEXPET in Ecuador; and, b) that my constituent is allegedly a successor of Texaco Inc.'s right, in virtue of a merger that the plaintiffs claim took place between "Texaco Inc. and Chevron."

II.B.5.9 Base on information given to us by TEXPET, based as we understand on public documents and said company's files, I place in your knowledge additional facts besides those given by the plaintiffs, which I have transcribed above, to specify what had really happened and which serve as a basis to several of the exceptions I shall set forth further on:

II.B.5.10 Through Supreme Decree No. 925, dated August 4, 1973, published in the Official Record No. 370, of the 16th day of the same month and year, the Ministry of Natural and Energy Resources was authorized to "on behalf of and in representation of the Government of Ecuador," proceed to sign a contract that is known as the "1973 Concession," to which the plaintiffs refer.

Its object was "exploring the concession zone and exploitation of crude oil and free gas that exists therein," and to comply the contractors were authorized to execute "...operations acceptable by the petroleum industry as necessary and adequate..." under approval and supervision of the respective ministry.

We have also been informed that the legislation that was in effect during TEXPET's actions as Consortium operator, granted to the Government of Ecuador, through the respective Ministry, wide powers to approve and control all contractors' activities, which had to submit for recognition and prior approval of the governmental authorities their "plans for exploring and developing deposits or other industrial activities, prior to beginning execution," among other obligations that the applicable laws and regulations imposed on them.

This legal and contractual framework brought about from the very beginning of TEXPET's operations in the PETROECUADOR- TEXPET Consortium, a strongly-controlled and regulated

operation by the authorities, which had decision-making power, even in routine activities in the petroleum industry, to which power TEXPET had to submit itself, under the possibility established in the Law and the Contract whereby it could be declared “null and void,” which involves the “immediate return to the State of the controlled zones and handing over all equipment, machinery, etc..., at no cost whatsoever ... and automatic loss of all security and guarantees produced according to the Law and the Contract...”

II.B.5.11 Ratifying and extending what was stated to this respect in the claim, I must point out that the Corporación Estatal Petrolera Ecuatoriana, CEPE, succeeded later on by the Empresa Estatal Petróleos del Ecuador, PETROECUADOR, became a part of the Consortium by having first acquired 25% of the rights and stock derived from the 1973 concession contract (12.5% to Texaco and 12.5% to Gulf) and subsequently when replacing Gulf the full amount of remaining rights and stocks which this company possessed (37.5%). With this, PETROECUADOR became the Consortium’s majority shareholder, which continued being operated by TEXPET up till June 30, 1990.

The August 6, 1973 Contract granted to the parties rights and it also conferred obligations which PETROECUADOR assumed in its majority percentage, beginning with signing of the agreements for acquiring rights and stock previously mentioned.

As the plaintiffs acknowledge, operations in the concession zone were performed under the so-called “Napo” Joint Operating Agreement, signed between Texaco and Gulf, in which the article sixth, section 6.4 establishes the following:

If the operator uses good judgment and care to select competent personnel and competent contractors to perform and execute its duties and obligations under this Agreement, the operator shall not be liable to the parties for damages or for their acts or omissions in performing or executing, or in not performing or executing, its duties and obligations pursuant to this Agreement. The parties shall indemnify and release the operator from all culpability and liability, from all claims and complaints made against it by third parties due to, as a result of or related to the performance of the operator's duties pursuant to this Agreement.

This contractual rule obliges PETROECUADOR, as a party that it was to the Consortium, to indemnify and hold free the operator for any damage derived from complaints and lawsuits for its activity.

In this regard, Mr. President, I must indicate that, as reported to CHEVRONTEXACO CORPORATION, the Operator of the Consortium, TEXPET, the same as all big international oil companies, always contracted specific technical tasks with specialized companies of international prestige, which are the best qualified and therefore used to date in Ecuador and other countries. Examples are the companies Schlumberger Surenco, Parker Drilling Company, Williams Brothers, Cia. Generale de Geophysique, Harbert Distral de Panamá, inter alia.

In addition, the 1965 same joint operating agreement, referred to in the complaint, granted the operator the capacity of “exclusive agent of the parties” and as such it was subject to regulations and authorizations, even as regards to “work programs and budgets,” “policies and procedures,” and “any other matter related to the joint operation,” which was executed in common with the parties per their respective participation percentages...”

Consequently, the Consortium operator, (TEXPET from 1973 to June 30, 1990) acted under the authorization of its agents, the co-owners of the rights derived from the 1973 Contract.

The State Company PETROECUADOR, as majority shareholder that it was of the Consortium with TEXACO PETROLEUM COMPANY and as successor of Ecuadorian Gulf Oil Company, has the obligation to indemnify and hold harmless TEXPET.

II.B.5.12 I already pointed out to you, Mr. President, that the plaintiffs themselves state that PETROECUADOR succeeded TEXPET in the PETROECUADOR –TEXPET Consortium operations activity as of July 1st, 1990, until June 6, 1992, on which date the 1973 Concession Contract finalized and from when the mentioned State Company became owner and exclusively responsible for the operation and its facilities.

For the plaintiffs, these singular facts have no importance whatsoever in this case, when the truth is that it means 13 years of operations by PETROECUADOR, with regards to which it is illogical to even think that they haven't had any incidence in the alleged harm and damages which are the object of María Aguinda, et al's complaint.

As the plaintiffs themselves acknowledge, PETROECUADOR continued operating the Consortium voluntarily using the same techniques that TEXPET had used and which are questioned in the complaint. 13 years have gone by since the change of Operators in the Consortium's hydrocarbon fields and practically no technique has been changed, being deemed to cause the effects mentioned in the complaint. This is a fundamental fact, that must be taken

into account by you, Mr. President, since it means that any decision that you eventually make with regard to said operational techniques, must clearly separate the facts which occurred prior to June 30, 1990, and those that have occurred in the last 13 years, in which operations in the zones that belonged to the Consortium have continued on practically in the same way in which TEXPET was executing them.

II.B.5.13 My constituent has been instructed by TEXPET regarding the contents of an Agreement signed on May 4, 1995 with the Ecuadorian Government to execute works of environmental repair in the 1993 Concession zone and the Final Document signed in 1998, when same were completed, to which I have already extensively referred.

We have been informed that the obligations contained in said Contract, were assumed and executed by TEXPET based on the Ecuadorian Government and the Empresa Estatal Petróleos del Ecuador, PETROECUADOR, which at that time was exclusive owner of the 1973 concession zone as well as its installations, facilities and deposits, were in agreement with the scope of the work committed and therefore they granted to TEXACO PETROLEUM COMPANY and to TEXACO INC. and their predecessors or successors, a wide, total and definitive release of liabilities for possible environmental impact that the Consortium's operations could have originated, as contained in section 5.1 of said contract, which text is already contained in section II.A.2.1.4 of this answer.

We also know that the works that TEXPET was obligated to perform were executed to the satisfaction of the Ecuadorian Government and of PETROECUADOR; each of them received the acceptance of inspectors and auditors appointed by the Ecuadorian Government and

PETROECUADOR, a result of which was the Final Document signed on September 30, 1998, to which the plaintiffs refer and whose scope was also laid out in detail prior to this answer.

Therefore, the Government of the Republic of Ecuador and PETROECUADOR granted in favor of TEXACO PETROLEUM COMPANY, TEXACO INC. and their predecessors and successors, total and definitive release, both from “environmental impacts resulting from the Consortium’s operations,” as well as for execution of environmental remediation works which TEXPET committed to execute.

II.B.5.14 In the complaint without any proof whatsoever it is stated that TEXACO INC. had liability for the actions of TEXPET as Consortium operator and that said liability finally now falls to CHEVRONTEXACO CORPORATION, ignoring on one hand that in reality, pursuant to the 1973 Concession Contract, by which the Ecuadorian State granted to the concessionaires the rights to the concession zone and on the other hand, that according to the then current laws and regulations of the Republic of Ecuador, the State controlled, ordered and directed the way in which hydrocarbon operations should be performed, for which reason all actions undertaken by the Consortium Operator (TEXPET) on behalf of the co-owners were approved by the Ecuadorian Government, through the Ministry of Energy and Mines and the Ministries who preceded with the same attributions, as I have already stated.

In reality, I can state that neither TEXACO INC. nor CHEVRONTEXACO CORPORATION made operational decisions with regards to the PETROECUADOR-TEXPET Consortium. For this reason, if any liability were to be determined for said decisions, it would not be either TEXACO INC. nor CHEVRONTEXACO CORPORATION the ones to assume said liability,

but rather PETROECUADOR and The Government of Ecuador, since, as I have already explained, the operating decisions were made with the majority vote of the Consortium's co-owner with prior approval from the competent government entities.

Finally, it is unquestionable, Mr. President, that the Final Settlements to which I refer in this section, meant that the Government of Ecuador and PETROECUADOR assumed the facilities and deposits that belonged to the Consortium in the state they were in following remediation work executed by TEXPET and thoroughly accepted by said Entities. Consequently, any claim concerning this matter must be addressed against the Ecuadorian Government and PETROECUADOR.

II.B.5.15 The de facto corporation that was organized to execute the 1973 Concession Contract divided up, obviously, the profits obtained in proportion to the rights of each of the co-owners. Additionally, the minority shareholder, Texaco Petroleum Company, had to pay from its own participation both the royalty established contractually at 18.5% of gross production, as well as an income tax that was the highest in the world, as it reached 87.31%. This means that for each dollar produced by the Consortium, approximately 95% benefited the Government of Ecuador and its State Company.

II.B.5.16 As a corollary or conclusion to the foregoing, the following can be established without any doubt whatsoever:

II.B.16.1 CHEVRONTEXACO CORPORATION knows that the Consortium Operator holding the rights and obligations under the 1973 Concession Contract was a mere agent which acted

under the instructions and control of its principals. Legally, it acts as agent were carried out “as if done by the principals”, which therefore assume the benefits of such action, as well as the obligations arising from it.

II.B.16.2 That, according to the Joint Operations Agreement admitted in the complaint, PETROECUADOR has the obligation of indemnifying and defending TEXPET from any complaint or lawsuit filed by third parties with regards to Consortium operations.

Under clause 6.4 of the aforementioned Napo Agreement, Corporacion Estatal Petrolera Ecuatoriana, CEPE and its successor, Empresa Estatal Petroleos del Ecuador, PETROECUADOR, as successors of GULF and for 12.5% of

TEXPET, are obligated to hold harmless TEXPET, in its former capacity of operator, against claims and petitions from third parties and consequently assume the obligations that may stem from adverse rulings.

II.B.5.16.3 That, from the facts pointed out in the complaint, to which I have referred previously, it is clear that the Ecuadorian Government, grantor and regulator of the 1973 Concession and PETROECUADOR, its majority co-owner, sole operator for more than 13 years and exclusive proprietor for the last 11 years, had direct participation in Consortium operations which TEXPET was in charge of and currently they continue to be its exclusive beneficiaries.

II.B.16.4 That, as a result of the Final Settlements and Releases granted in favor of TEXPET, Texaco Inc. and its successors and predecessors, establishing liability against the defendant in this case would in reality be a condemnation of the Ecuadorian Government and of PETROECUADOR, who not only should have to answer for their majority percentage of shares in the Consortium, but for the total amount of an alleged condemnation to whom they released from liabilities as “successor,” as is said in the complaint, Texaco Inc.

II.B.16.5 The granting of Final Settlements, to which I have alluded above, means that the Government of Ecuador, through its State Company PETROECUADOR, assumed exclusive ownership and control over the facilities that belonged to the Consortium, in the state in which they were, by construing that the previous operator and minority co-owner complied with its obligations legally and in accordance with contractual provisions and therefore are the only parties liable for any claim related to environmental damage.

Once again I reiterate my request that you, Mr. President, completely reject the complaint I am answering, because of being illegally filed against my constituent, which has no participation in or responsibility for the actions to which the plaintiffs refer in an inaccurate and vague way.

II.C LEGAL BASES OF THE COMPLAINT

II.C.1 NON-RETROACTIVITY OF THE LAW – UNDUE ACCUMULATION OF ACTIONS

II.C.1.1 Plaintiffs base or seek to base their complaint first on the rules of the Civil Code that establish liability for illegal acts, that is in the stipulations of Articles 2241 and 2246, first of all, of the Civil Code, and second of all, 2260 of the same Code. Furthermore they base themselves on the stipulations of Article 15 of OIT's Agreement 169, on the stipulations of Articles 23, number 6 of the Constitution and on the precepts of the 1999 Environmental Management Act. This means that two actions have accumulated which necessarily have different procedures and which would even cause them to be heard under different law, since the actions for damages derived from the Civil Code are to be heard at an ordinary trial, before a competent Civil judge, whereas the new law created by the Environmental Management Act gives rise to actions that as ordered by the law itself, is heard at a summary verbal trial and is heard by the President of the Supreme Court of Justice. On the one hand, this causes your lack of jurisdiction and competence in this case, and the violation of procedural law by hearing the complaint answered by me, when it has no right to be heard.

II.C.1.2 Those same plaintiffs acknowledge that TEXPET operated only through June 1990 and ceased to be a minority partner in the consortium in 1992. Therefore neither the

stipulations of Article 15 of OIT's Agreement 169, nor those of the Constitution of 1998 nor those of the 1999 Environmental Management Act were in effect in Ecuador at the time the alleged damage occurred.

II.C.1.3 Pursuant to the stipulations of Article 7 of the Civil Code, **“The Law stipulates only for the future: it does not have a retroactive effect.”**

From the text of the legal precept in reference it can be seen that the law to be invoked for the purposes of a claim must be that which was in effect on the date on which the supposed damages occurred. In virtue whereof, Articles 42 paragraph 2 and Article 43 final paragraph of the Environmental Management Act, issued through Legislative Function Law No. 997, published in Official Record No. 245 of June 30, 1999, are not and cannot be applicable to this case. Said Act created new law, previously non-existent, in virtue of which enjoying an adequate environment constitutes a right that is not only individual or personal, but rather collectively or commonly. This collective law did not exist at the time when the alleged damaging actions occurred. At that time the consequences of the damage generated only indemnification of a personal or individual sort, under the Civil Code. Therefore, law which was non-existent at the time when the damages allegedly took place cannot be intended to apply based on a 1999 Act.

II.C.1.4 Likewise, and for the aforementioned reasons, the retroactive application of Agreement 169 issued by the International Labour Conference, published in Official Record No. 206 of June 7, 1999 and, therefore, in effect in Ecuador only since then, is also inapplicable.

II.C.1.5 From the working of Article 15 of the aforementioned Agreement 169 it can be seen with absolute clarity that such Agreement was conceived for future application, without it being

feasible or legal to seek to give it retroactive effect; indeed, number 2 of the aforementioned Article 15 stipulates that:

“If ownership of the minerals or resources in the subsoil belongs to the State, or it has rights over other resources existing in the land, governments shall establish or maintain procedures with a view toward consulting the interested peoples, in order to determine whether the interests of these peoples would be harmed, and to what extent, PRIOR TO UNDERTAKING OR AUTHORIZING ANY PROSPECTING OR EXPLOITATION PROGRAM FOR THE RESOURCES EXISTING ON THEIR LANDS....”

II.C.1.6 From the preceding transcription it also appears that the plaintiffs could not legally base their claim on a precept which in all lights is ordering for the future, such that, Mr. President, you must, subjecting yourself to law, accept for this reason and for the reasons cited above the defense of non-retroactivity of the Law, which I will propose further on.

II.C.1.7 Furthermore, Rule 18 of Article 7 of the Civil Code stipulates that: “Prevailing law shall be deemed incorporated into all contracts at the time they are entered into....”

From the aforesaid it can be seen that the actions that were presumably performed under the rule of a Law in effect 30 years ago, cannot be judged under current substantive laws. In order to understand this principle clearly, it is appropriate to quote Dr. Víctor Manuel Peñaherrera, who in his work, “Lessons on Practical Civil and Criminal Law,” (Volume , p.), tells us:

“...That is why in the social body two systems of institutions and laws are indispensable: one of them to establish legal relationships, determining the rights and obligations when, when certain acts are performed, bind the individuals; the other to give life and effectiveness to those relationships, removing obstacles placed by the interested parties to the normal state of law.

“The institutions of the first type are called substantive; those of the second objective. The former state, for example, that the purchaser must pay the price; the seller, deliver the thing and be liable for full conversion to quiet enjoyment and hidden defects. These regulate how these precepts are made effective, which otherwise, exposed to abused of freedom or errors in the ideas of the interested parties, would be mere entities of reason bereft of practical utility... The rule of adjective laws is limited, as with all human laws, by time and space.

“Temporal limits, that is, the two extremes that begin and end that rule, are promulgation and repeal.... Temporal limitation gives rise to the fundamental principal of non-retroactivity, which consists in the fact that laws may not be applied to events prior to their promulgation, nor destroy or alter rights legitimately acquired before them.

Non-retroactivity is based on the very essence of the law; thus if it is the precept or rule of conduct to which individuals must adapt their actions, it must necessarily precede the events to which they must adapt; and to try to subject an act to subsequent rules or precepts would be so absurd in the moral order as to assume, in metaphysics, an effect prior to the cause.”

When explaining the principle of non-retroactivity of the Law, Luis Felipe Borja points out (“Study of Chilean Civil Code,” Tipografía de la Escuela de Artes y Oficios, Quito, 1899,

Volume I, p. 100): “In these matters a principle is almost always established which can be reduced to the following two formulas: *Subsequent laws have no retroactive effect; subsequent laws cannot alter acquired rights.*” In this case we found ourselves before the first formula: The Environmental Management Act creates new law, with collective character, which did not exist previously. It is only applied for facts subsequent to the date of its effectiveness.

II.C.1.8 From the reasoned arguments of Dr. Peñaherrera it can clearly be seen that the principal is the non-retroactivity of the law, the exception is its retroactivity made acknowledged worldwide not in vain in the Journals on Legislative Technique, made by the Center for Legislative Studies and Assistance of the Catholic University of Valparaíso, with the collaboration of the Senate of the Republic, in which it was stated: “*The non-retroactivity of legal precepts. The non-retroactivity of legal precepts is the general rule and, therefore, if one seeks a retroactive effect, it must be stated expressly. The rule of retroactivity must fix the date to which the effectiveness of the precept is retroactive and determine whether the time frames it contains are calculated from its effective date, from its publication or from another date.*”

(The quotation should be included here)

II.C.1.9 From the analysis of the rules on retroactivity of the Law contained in the Civil Code, it can clearly be deduced that a subsequent law prevails over the prior law only in the case of rules of an adjective nature and not those of a substantial nature; that is to say, the exception is not applied in relation to substantial rights (such as is, in effect, the right of action) which did not exist under the rule of the prior law. In this specific case, the action is filed by “human groups” who adhere to the right to take action for reparation for supposed environmental damages in virtue of the prescriptions of the Environmental Management Law issued in 1999. It is evident

that this law grants them that “right” in the future, but it is also undeniable that that right did not exist prior to the promulgation of the aforementioned law; as a result, no one denies that in the event that today damages to the environment were to occur under the scope of the law, these groups are authorized to sue. However, Mr. President, plaintiffs now claim supposed damages caused during the operation of the PETROECUADOR-TEXPET Consortium that took place between 1973 and 1990, that is to say that the “damages” they seek to claim were caused at a time prior to that of the effective date of the aforementioned Environmental Management Law, when the human groups lacked collective cause of action. In conclusion it is unacceptable that the complaint filed by these human groups be accepted, granting them a right to action for supposed damages which under the scope of the laws in effect at the time in which they supposedly occurred they did not have. To support this basis allow me to quote Luis Moisset de Espanes, (include quotation here) who when writing on the “Non-Retroactivity of the Law” states: “...to seek to judge the creation, modification or extinguishment of a legal relationship pursuant to new laws, is to give them a retroactive effect” and he adds that “the same principle governs for the already-exhausted consequences of existing legal situations; nor in this case can one seek to go back and to govern by new laws, because the basic principle of the non-retroactivity of the law would be violated.”

II.C.1.10 As a result and in the unaccepted event that a hearing of the present case were granted, granting plaintiffs a right which they lacked under the law in effect at the time, the most elemental principle of Law would be being violated and you, Mr. President, would be acting against express law.

II.C.1.11 Therefore, it is not appropriate to apply, to resolve this dispute, precepts that were not in effect at the time when the events which, supposedly, gave rise to the damages, occurred.

II.C.1.12. The Environmental Management Act, issued in 1999, creates a new law in virtue of which persons affected by environmental damages may demand the performance of certain acts or obligations to do which were not contained in the law in effect until then and, less so, in the laws issued during the time in which TEXPET operated the consortium. To apply the Environmental Management Act would constitute giving retroactive effect to such law, artificially generating rights which the plaintiffs never had and giving rise to obligations which TEXPET never acquired, because such Law did not exist.

II.C.2 PRESCRIPTION

II.C.2.1 As it has been repeatedly stated in this answer, CHEVRONTEXACO CORPORATION is no way successor, neither to TEXACO INC. nor to TEXPET. Therefore my constituent cannot be required to fulfill obligations which, eventually, could have been required from said companies, which, as has been said, continue existing. For identical reasons, as has been expressed, my constituent is not obligated by the decision issued by the Federal Court of New York, in the lawsuit filed by María Aguinda, et al versus TEXACO INC. which decision is binding only on said company, since the principle whereby only litigating parties are bound is universal. Therefore, my constituent is not bound to the stipulation which came out of said Federal Court with regards to the obligation of construing that on November 3, 1993 prescription of actions that plaintiffs could have against TEXACO INC. had been discontinued. Therefore, it is without a doubt that any action for damages, has prescribed for plaintiffs, against

CHEVRONTEXACO CORPORATION, pursuant with stipulations in Article 2259 of the Civil Code.

II.C.2.2 The procedures of Articles 2241 and 2246 of the Civil Code which were certainly valid at the time the alleged damage was caused do not apply to this case, since Article 2259 of the Civil Code establishes that actions to claim indemnities for damage prescribe four years after the perpetration of the act. Consequently, it is obvious that all possible actions against my client are prescribed, since any action had to be filed within four years from the occurrence of the fact which caused the damage. If it is true that the last facts alleged occurred on June 30, 1990, it is obvious that the possibility to claim any damages is extinguished by prescription.

II.C.2.3 Consequently, it is obvious that the prescription referred to in Article 2259 of the Civil Code applied in favor of my client, CHEVRONTEXACO CORPORATION, since the damaging facts charged against my client allegedly took place during the period when TEXPET was the Operator of the Consortium, i.e. from August 6, 1973 to June 30, 1990.

II.C.2.4 Indeed, as can be seen from the published decisions of the Courts of New York, the commitment to accept the existence of civil interruption of prescription caused by the institution in the month of November 1993 of a complaint against TEXACO INC. in New York, also for supposed environmental damages derived from the so often cited operation of the Consortium, which commitment is contained in the Decision of August 16, 2002, issued by the Federal Court of Appeals of the Second District of the United States of America, is applicable only and exclusively to TEXACO INC., without, therefore, its having to be respected by the

defendant, which is a legal person different from TEXACO INC., which is not its successor nor did it acquire any right or obligation whatsoever that TEXACO INC. might have had.

I have been informed that TEXACO INC. did, for its part, comply with the stipulations of the decision of the New York Court of Appeals of August 16, 2003 [sic], in the sense of subjecting itself to Ecuadorian jurisdiction and accepting the effectiveness of a civil suspension of prescription. To that end, it named agents in Ecuador with capacity to answer complaints and it noticed the plaintiffs of such decision, through their Attorneys.

II.C.2.5. In the unaccepted and not admitted case that it is deemed that CHEVRONTEXACO CORPORATION is successor to TEXACO INC. any action taken to claim damages occurred prior to November 3, 1989 has also prescribed, for the same aforementioned legal cause. Indeed, if prescription of action against TEXACO INC. is deemed interrupted on November 3, 1989, it is evident that actions to claim for damages from facts occurred prior to November 3, 1989 are prescribed, since prescription operates within the four years from when the facts causing damage occur. This statement is based on the fact that that held in the complaint regarding the waiver to “claim prescription,” supposedly derived from the decisions of the New York Courts, is not true. As CHEVRONTEXACO CORPORATION has been informed, what is established in those decisions is that TEXACO INC. had to accept the existence of a civil suspension of prescription caused on the date the complaint was filed in the New York Court, what is, November 3, 1993, and that the precept of Article 2259 of the Civil Code had to be applied, which contemplates prescription in four years for actions to claim damages derived from crimes or unintentional torts, which would mean that even in this hypothetical case any act claimed that occurred prior to November 3, 1989 could also not be claimed by the plaintiffs, inasmuch as their right of action

has prescribed pursuant to the Law. In this regard it is important to cite the case law which in application of the respective legal precepts Ecuadorian Courts have issued, deciding as follows: *“Prescription that extinguishes third party rights and actions occurs by the mere lapsing of the time indicated by the law without causes for suspensions of prescription being acceptable other than those indicated in Article 2538 of the Civil Code (Currently Article 2242) (Judicial Gazette VIII-9, p. 85). Likewise, in application of the specific legal precepts that regulate suspension, Ecuadorian Courts on in repeated decisions have stressed that “interruption of prescription that extinguishes an action occurs only by notification of the complaint and not by the mere institution thereof. Article 99 Number 2 Code of Civil Procedure – S.IX.-No. 2, pg. 182.”*

II.C.2.6 On the other hand, it should not be forgotten that, in accordance with the Ecuadorian Civil Code system, in harmony with European Continental Law, with improvements introduced by the authors of the Civil Code, prescription, as a mode of extinguishing actions, it is of public order and, therefore, is not subject to arbitration between the parties. In consequence, suspension of prescription cannot be based on circumstances other than those expressly included in the Law. Therefore, prescription can only be suspended pursuant to terms contained in Article 2433 of the Civil Code and only extinguishing prescription can be interrupted, by facts determined in Article 2442 of the same Civil Code inasmuch as it does not allow for creation of a different situation of suspension of prescription or interruption of same. Therefore, CHEVRONTEXACO CORPORATION believes that even in the supposed fact that it were successor to TEXACO INC., which it is not, under Ecuadorian Law, the suspension of the prescription that might have been granted or resolved in a Federal Court of the State of New York would not be valid in this case.

II.C.3 INAPPLICABILITY OF ARTICLE 2260 OF THE ECUADORIAN CIVIL CODE

II.C.3.1 Art. 2260 of the Ecuadorian Civil Code is also not applicable to the present case, inasmuch as such precept, which confers a right that can only be exercised through an ordinary trial, before a Civil Judge, establishes preventive action in order to avoid possible damage for the activities therein described. Plaintiffs could well have, through June 1990, addressed action against TEXPET and Petroecuador, attempting to suspend the entire operation of the Consortium, because they deemed it hazardous. Today they may only take that action against Petroecuador, which is the only company that continues the operations over which TEXPET ceased to have responsibility on June 30, 1990.

II.C.3.2 Such legal precept (Article 2260) states: “As a general rule popular cause of action is granted in all cases of contingent damages which because of imprudence or negligence by someone threaten undetermined persons. If the damage threatens only determined persons, only one of them may file the action.” This precept allows, then that when a contingent risk exists, that is, the possibility of damage, any person may sue for termination or correction of the acts that threaten damage. But that precept does not authorize, in any manner whatsoever, any natural or legal person, public or private, to seek indemnification for damages supposedly caused to undetermined persons. In the case the right to demand indemnification, only that specific subject who has suffered the damage may demand the consequent reparation from the person who caused it. Thus it is clearly established by Article 2242 of the Civil Code and unnumbered articles one and two which were ordered after Article 2258 of the Code itself, by Law No. 171, promulgated in Official Record No. 779 of July 4, 1984.

For these reasons it is entirely inappropriate that Article 2260 be invoked, which I repeat would only be applicable against the current operator and owner of the areas that belonged to the Consortium, that is, Compañía Estatal Petrolera del Ecuador – Petroecuador.

CHEVRONTEXACO CORPORATION has full confidence that you, Mr. President, in view of the fact that from the account of the facts it can be clearly seen that there is no contingent damage that is claimed to be avoided, will fully and thoroughly evaluate the legal arguments set forth in this paragraph and will conclude that the only option remaining in this case is to fully reject the complaint, not only because of the legal reasons set forth herein, but also due to the defenses that are forthcoming from them, to which I shall refer further on.

III. EXPRESS PRONOUNCEMENT ON PLAINTIFFS' CLAIMS

In terms of Chapter “VI CLAIMS,” contained in the complaint, I expressly state that I do not accept any of the claims therein mentioned, for the aforementioned reasons and based on my defenses which are contained below. Thus I comply with the requirement contained in number 2 of Article 106 of the Code of Civil Procedure.

I believe, Mr. President of the Superior Court of Justice of Nueva Loja, that with the foregoing arguments you have full basis to apply immediately, that is without further processes or proceedings, the stipulations of the last part of Article 850 of the aforementioned Procedural Code, issuing your decision immediately or within the next three days, to reject the complaint,

for the reasons I have presented under the caption “I Prior Matters,” this is due to the evident lack of jurisdiction of any Ecuadorian judge over CHEVRONTEXACO CORPORATION.

IV. DEFENSES

In virtue of the reasons stated previously in this answer, I make the following defenses:

IV.1 PRINCIPAL DEFENSE. As a principal defense I CLAIM LACK OF JURISDICTION OF ECUADORIAN COURTS AND, THEREFORE, LACK OF YOUR COMPETENCE AND JURISDICTION, MR. PRESIDENT OF THE HONORABLE SUPERIOR COURT OF JUSTICE OF NUEVA LOJA, to hear and decide the present case filed by María Aguinda S. et al, versus CHEVRONTEXACO CORPORATION, since it lacks these regarding the company I represent.

IV.2 FIRST SUBSIDIARY DEFENSES. As first subsidiary defenses I claim, in order, the following:

IV.2.1 LACK OF LEGITIMATE OPPONENT

IV2.2 I DENY THAT CHEVRONTEXACO CORPORATION IS A LEGITIMATE OPPONENT

IV2.3 I DENY THAT CHEVRONTEXACO CORPORATION IS THE SUCCESSOR OF TEXACO INC., NOR THAT IT HAS ACQUIRED ANY RIGHT OR OBLIGATION WHATSOEVER OF TEXACO INC.

IV.3 SECONDARY SUBSIDIARY DEFENSES

I also allege the following secondary subsidiary defenses, in their order:

IV.3.1 Undue accumulation of actions, since they have been instituted in summary verbal proceedings, actions which require differing substantiation and hearing of which does not fall to you, Mr. President.

IV.3.2 I expressly claim the **INAPPLICABILITY OF THE ENVIRONMENTAL MANAGEMENT LAW, BECAUSE I EXPRESSLY CLAIM THE NON-RETROACTIVITY OF SUCH LAW.**

IV.3.3 I make the same pronouncement in relation to Article 15 of the International Labour Organisation's Agreement 169.

IV.3.4 I expressly claim **PRESCRIPTION OF THE CAUSE OF ACTION, PURSUANT TO THE STIPULATIONS OF ARTICLE 2259 OF THE CIVIL CODE.**

IV.4. THIRD SUBSIDIARY DEFENSES. Subsidiary to all the preceding defense and in the unaccepted and –admitted event that the defenses cited above were not sufficient, I claim:

IV.4.1 **PLAINTIFF'S LACK OF RIGHT TO INSTITUTE THE PRESENT ACTION**, inasmuch as they lack all connection to **CHEVRONTEXACO CORPORATION** and because the supposed ecological damage in the Amazon region, in the area that belonged to **PETROECUADOR-TEXACO**, unjustifiably attributed solely to **TEXACO PETROLEUM COMPANY**, were

covered by final settlements legally entered into and granted, as we have explained in detail above.

IV.4.2. I EXPRESSLY CLAIM THE ILLEGITIMACY OF THE COMPLAINT that has been filed under the scope of Article 2260 of the Civil Code.

IV.4.3 I CLAIM EXTINGUISHMENT OF ALL OBLIGATIONS that TEXPET might have had inasmuch as such company was released from the reparation of the environmental damages that are being claimed.

IV.5. FOURTH SUBSIDIARY DEFENSES. Finally, subsidiary to all that stated, I make the following additional defenses, also subsidiary in nature:

IV.5.1 I deny that my constituent has caused any damage whatsoever to the plaintiffs.

IV.5.2 I deny that my constituent must be liable for the actions of third parties.

IV.5.3 I deny that my constituent has any obligation whatsoever to cure any damage whatsoever.

IV.5.4 I deny that any of the legal precepts on which plaintiffs base their complaint are applicable to CHEVRONTEXACO CORPORATION.

IV.5.5 I deny that my constituent CHEVRONTEXACO CORPORATION has performed any of the actions that are described in the complaint.

IV.5.6 I deny that my constituent has caused any damage whatsoever.

IV.5.7 Finally, I deny all the bases in fact and law of the complaint.

IV.5.8 I deny that CHEVRONTEXACO CORPORATION has committed a crime or unintentional tort that would have caused any damage to plaintiffs.

IV.5.9 I deny that CHEVRONTEXACO CORPORATION can be imputed with malice or negligence that would cause damage to plaintiffs neither in the past nor presently.

In view of the fact that, as I state, my constituent CHEVRONTEXACO CORPORATION is not the successor of TEXACO INC. nor of TEXACO PETROLEUM COMPANY (TEXPET); it does not have in its possession any document that it must contribute as documentary evidence, with the exception of those I will mention below. Therefore during the evidence period I shall request that the parties to the Concession Contract present, remit or produce, as the case may be, the pertinent documents, and I shall also request such inspections as are necessary.

In support of my statements contained in Chapter "I. PRELIMINARY MATTER," of this answer, I attach, so as to be made a part of the file as evidence in favor of the defendant, the following documents:

1. Certification granted by Harriet Smith Windsor, Secretary of State of the State of Delaware, United States of America, regarding the incorporation and legal existence of TEXACO PETROLEUM COMPANY. Said document has been certified by Mr. Colin L. Powell, Secretary of State of the United States of America, on August 13, 2003 and by Mr. Pablo F. Yanez, Consul General of Ecuador in the city of Washington, D.C., United States of America, on the same date. The required translation into the Spanish language has been performed legally before the Acting Fifteenth Notary Public of the Quito canton, Dr. Ruben Dario Espinosa, on October 13, 2003. (Exhibit No. 5)

2. Certification granted by Harriet Smith Windsor, Secretary of State of the State of Delaware, United States of America, regarding the incorporation, current legal existence and merger of the company TEXACO INC. with the company KEEPEP INC., on October 9, 2001. Said document has been certified by Mr. Colin L. Powell, Secretary of State of the United States of America, on August 14, 2003 and by Mr. Pablo F. Yanez, Consul General of Ecuador in the city of Washington, D.C., United States of America, on the same date. The required translation into the Spanish language has been performed legally before the Acting Fifteenth Notary Public of the Quito canton, Dr. Ruben Dario Espinosa, on October 13, 2003. (Exhibit No. 6)

3. Certification granted by Harriet Smith Windsor, Secretary of State of the State of Delaware, United States of America, regarding the incorporation, current legal existence and name change of CHEVRONTEXACO CORPORATION. Said document has been certified by Mr. Colin L. Powell, Secretary of State of the United States of America, on August 14, 2003 and by Mr. Pablo F. Yanez, Consul General of Ecuador in the city of Washington, D.C., United States of America, on the same date. The required translation into the Spanish language has been performed legally before the Acting Fifteenth Notary Public of the Quito canton, Dr. Ruben Dario Espinosa, on October 13, 2003. (Exhibit No. 7)

As a consequence of all the foregoing, I request you Judge, **TO REJECT** the complaint in its entirety, ordering plaintiffs to pay legal costs, including the fees of my Defending Attorneys.

May you, Mr. President, please open the case to evidence for the legal term of six days. I reserve the right to address the Court again, if I so deem necessary.