

Please note this is a machine translation of the original document provided by Repsol in Spanish. If you have any doubts or need any clarifications, please refer to the [original document](#).

Responses to the comments submitted by Repsol based on the report "5 unanswered questions from Repsol. Failures in the remediation process of one of Peru's worst environmental disasters"

The organizations that coordinated the preparation of the report "5 unanswered questions from Repsol. Failures in the remediation process of one of Peru's worst environmental disasters", have sent Repsol a copy of the report prior to its publication. In response, the company has sent its comments in a lengthy and detailed document, addressing various technical aspects of the case. However, the five key questions raised by the report in a comprehensive manner remain without a clear and satisfactory answer from Repsol.

For the organizations that signed the report, it is essential to place the people affected by this disaster at the center of the reparation and debate, beyond the technical and legal requirements detailed in the document. For this reason, the report focuses on obtaining answers that contribute to improving the lives of those who have suffered the consequences of this social and ecological catastrophe. Affected people, especially women, deserve comprehensive and fair reparations that will enable them to recover their livelihoods and lost well-being.

We celebrate Repsol's first place in the Corporate Human Rights Benchmark, which demonstrates its commitment to respecting human rights. A company that considers itself a benchmark for respecting human rights and applying the highest international standards on business and human rights should be more transparent about its processes, difficulties and lessons learned in order to promote change and best practices in its sector. Dialogue, listening to stakeholder concerns, openness to implement improvements in remediation processes and integrating a robust gender approach should be fundamental practices of a leading company.

In its response, Repsol addresses several issues, such as transparency in the management of the crisis, identification of affected people, compensation offered, environmental remediation, and implementation of its human rights policy. Although the company provides detailed information on these aspects, in many cases its statements contrast with the findings of the report and with the reality faced by the affected people. In addition, recurring arguments are observed, such as the attribution of responsibilities to third parties and the insistence on compliance with standards and regulations, without addressing the critical aspects, improvements, lessons learned or even the limitations of voluntary international standards in addressing a case like this one.

Throughout this document, we present our responses to each of the observations raised by Repsol, in order to clarify the points under discussion and reaffirm the need for the company to comprehensively address the five unanswered questions for the benefit of the affected people.

OBSERVATION 1:

On the use of the Congressional report. It is based on a document without technical support, so much so that it was issued without any type of technical expertise, neither oceanographic, nor maritime, nor PLEM. Subsequent to the Congressional report, the expert report of the prosecutor (published by a local media) indicates: 1) primary cause of the spill is the untimely displacement of the vessel against the facilities (NR: the operation of the vessel is the responsibility of the ship's captain, both according to national and international laws) and 2) the expertise states that the facilities supported the demands of normal operation, as it had been doing since 2013, the year of manufacture (NR: no facility in the world is prepared to withstand an onslaught of such magnitude of a ship).

ANSWER

1. The referenced report is the product of a Congressional Investigation Commission, whose creation is protected by Article 97 of the Political Constitution of Peru. The aforementioned article states:

The Congress may initiate investigations on any matter of public interest. It is obligatory to appear, upon summons, before the commissions in charge of such investigations, under the same constraints that are observed in judicial proceedings.

For the fulfillment of their purposes, such commissions may access any information, which may involve the lifting of bank secrecy and tax secrecy, except for information affecting personal privacy. Their conclusions are not binding on the courts.

The oil spill caused by Repsol was the largest environmental disaster to have occurred on the Peruvian coast. For this reason, the Congress considered it a matter of public interest and consequently, by means of agenda motion 1868¹ granted prerogatives and powers of investigative commission to the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology to investigate "on the actions of public and private officials who caused the oil spill of the multinational company Repsol YPF S.A, in the district of Ventanilla and its consequences on the Environment and Ecology"².

As a result, the investigative commission, created by Congress, was able to access any official, public or private information necessary and had all the actors involved in the spill appear before it, gathering their statements.

As appropriate, at the end of its investigations, the Congress forwarded its report, accompanied by evidence of the administrative and criminal responsibilities of Repsol and public officials, to the corresponding authorities for them to act within the framework of their functions.

Therefore, to say that the Congressional report lacks technical support is false. The Congress gathered a set of evidentiary instruments that must be evaluated by the Public Prosecutor's Office in the investigations that are being carried out and then, by the Judiciary.

¹ For further information : https://leyes.congreso.gob.pe/Documentos/2021_2026/Mociones_de_Orden_del_Dia/Mociones_de_Orden_del_Dia/MC0186820220131.pdf

² For more information : https://leyes.congreso.gob.pe/Documentos/2021_2026/Acuerdos/Junta_Portavoces/JP-INF-PREL-1868.pdf

OBSERVATION 2:

Regarding maintenance. The maintenance was carried out in compliance with the maintenance plan established by Peruvian law, so much so that during the statements made to the commission the authority responsible for overseeing maintenance, OSINERGMIN, confirmed this. Even days before the incident, the terminal had undergone maintenance, the breakage was caused by the force of the ship's ramming, since no facility in the world is prepared to withstand a force of such magnitude. According to the above-mentioned expert report of the prosecutor, the facilities withstood the demands of normal operation, as it had been doing since 2013, the year of manufacture.

ANSWER

2. In 2023 Osinergmin concluded the "Expert Report on resistance and hydraulic pressure of the PLEM to determine the cause of the fissure/fragmentation/breakage of the PLEM of the Multiboyas No. 2 marine terminal of La Pampilla Refinery". The studies on the remains of the PLEM were carried out in the United States and Argentina.

In said expert report it is determined as "*Main cause No. 1: The excessive displacement of the ship-tanker connection with respect to the PLEM caused over tensile and bending loads on the PLEM nozzles*" and as "*Main cause No. 2: Defects in the manufacture of the PLEM (Pipeline end Manifold) that reduced the resistance of the welded joint of the nozzles to the body of the PLEM*". In other words, there were manufacturing flaws in the construction of the PLEM that did not allow it to resist the abrupt movement caused by the displacement of the cargo ship. In this regard, the expert opinion states that:

"there is evidence of improper joint preparation prior to welding."

In addition, it states that "*It is determined that the total section of the weld bead is inadequate which caused the fracture in the two nozzles to propagate through the three contributed materials*".

It also states that the "*detachment of both nozzles was due to the initiation and propagation of fractures in the joints between nozzle, reinforcing plate and PLEM body as a result of the axial and bending loads transmitted by the nozzles*"; that, "*The fillet welds used in the nozzles and reinforcing plate do not meet the requirements of ASME BPVC VIII Div. 1 and ASME B31.4,*" and that "*their throat section is much smaller than the section of the joined parts. This was a direct cause of the detachment of the nozzles, particularly the south nozzle*".

As to whether or not there was diligent maintenance, everything indicates that there was not, because no one warned of the existing faults in the PLEM, which meant that there was a risk of breakage.

Furthermore, this lack of proper maintenance is evidenced by the filming carried out by two divers from a company hired by Repsol on January 21, 2022, six days after the spill occurred, in the disaster area, to determine the state of the PLEM. The footage shows a worn device and this is corroborated by photographs taken of the PLEM out of the water³.

It is true that the PLEM passed supervisions as the company claims, which is why the consulting firms that carried them out are being investigated by the Environmental Prosecutor's Office of Callao for having consigned false information in the reports. This is

³ <https://www.youtube.com/watch?v=ksF4GzHIBzA&t=688s> Epicenter Video. Spill: The raw truth

the case of Cosmo Agencia Marítima SAC and its technical report dated November 2, 2017 and Applus Norcontrol Perú SAC that inspected the PLEM in 2019.⁴

OBSERVATION 3:

On the identification of affected parties. According to the regulations governing the compensation process, the identification is the responsibility of the pipeline operator. In compliance with this responsibility, an agreement was signed with PCM - Presidency of the Council of Ministers - on March 4, 2022. This delegated to INDECI - National Institute of Civil Defense - the responsibility of its execution with the collaboration of all the local governments of the 5 affected districts.

ANSWER

3. Regarding the identification of those affected, the company points out that according to the regulations this task falls to it, and that in order to comply with it, it entered into an agreement with the Presidency of the Council of Ministers (PCM) on March 4, 2022, that is, almost two months after the spill occurred. It is worth mentioning that by not sending the register of affected people and the inventory of damages to OEFA and OSINERGMIN, the company was sanctioned by Subdirectorial Resolution N° 50-2022-OEFA/DFAI/SFEM (28/01/2022) and Resolution N°348-2022OS-GSE/DSHL (04/11/22), with a fine of 1087.933 UIT and 20.0751 UIT respectively, equivalent to S/ 5,004, 491.8⁵ and S/ 92,345.46.

In this regard, paragraph 4, "on compensation", of Annex 4 of the Hydrocarbon Pipeline Transportation Regulations approved by Supreme Decree No. 81-2007-EM, states:⁶

4.1 Compensation for damages caused must be adequate and as soon as possible, for which the operator shall identify those affected. This information shall be sent to OSINERGMIN.

4.2 The operator shall identify and make an inventory of the damages caused to third parties, properties and the environment within a period of 15 days from the date of the incident. This information shall be submitted to OSINERGMIN.

OBSERVATION 4:

On the transparency of the agreements. All agreements went through a period of information and dialogue with all those affected, who were personally or through their associations or authorized representatives, several brought lawyers, everything is recorded not only in minutes, but, in some cases, also in recordings and with the participation of the Ombudsman's Office.

ANSWER

4. While there was formal dialogue, the negotiations carried out with 19 fishermen's organizations lacked adequate technical assistance or external facilitation that would have allowed for consensus agreements, as was noted in more than one of the meetings by observers at the table. As the Ombudsman's Office points out in its letter dated May 17,

⁴ <https://convoca.pe/agenda-propia/mientras-fiscalia-investiga-sus-ejecutivos-repsol-sigue-negando-la-contaminacion-y>Convoca article: "While the Public Prosecutor's Office investigates its executives, Repsol continues to deny contamination and rules out paying more reparations to fishermen".

⁵ For further information : <https://www.gob.pe/institucion/oeffa/noticias/631558-el-oeffa-impone-multa-a-repsol-por-mas-de-5-millones-de-soles-por-incumplir-con-la-identificacion-de-las-zonas-afectadas-ante-el-derrame>

⁶ For further information : <https://www.minem.gob.pe/minem/archivos/Decreto%20Supremo%20081-2007-EM.pdf>

2023 *"the purpose of the compensation process is to achieve fair treatment for those affected, the Ombudsman's Office sought to verify that the amount of compensation proposed by the company responds to specific concepts and the methodology used for its determination, because this is what corresponds to a negotiation process to which the parties come duly informed, and have the confidence that they are acting transparently and in good faith."* However, the company maintained at all times an immovable position that contradicts the sense of dialogue, as is evident here:



*"Año de la unidad, la paz y el desarrollo"
"Decenio de la Igualdad de Oportunidades para Mujeres y hombres"*

9. Objeciones principales al proceso de compensación

9.1. Posición inamovible de la empresa

El Reglamento de Transporte de Hidrocarburos por Ductos señala en el numeral 4.3 del Anexo 4 que "la compensación debe acordarse con los afectados", es decir, la norma busca que se hagan todos los esfuerzos en procura de alcanzar acuerdos, aunque no necesariamente están obligadas a hacerlo. Sin embargo, cuando una de las partes presenta una propuesta inamovible desde el primer día, contradice el sentido de una negociación que es la de tomar en consideración las propuestas, ideas, expectativas de la otra parte y evaluar su pertinencia e inclusión en los acuerdos finales luego de un intercambio informativo, argumentativo y propositivo de ambas partes. A pesar de ello, los representantes de la empresa sostuvieron en todo momento que su propuesta no se iba a modificar.

OBSERVATION 5:

About the information shared by the company. There is multiple information posted on compromisorepsol.pe, not only our reports on the situation of the affected areas but also those of the authorities, as well as all the press releases, material and audiovisuals on the actions taken. We also explain, in a public way, the different stages of the Pampilla Social Action Plan and the communication and complaint channels at repsol.com.

This information shared publicly by the company complies with the commitments of Repsol's human rights policy, aligned with the requirements of the United Nations Guiding Principles on Business and Human Rights.

ANSWER

5. The aforementioned portal records information that Repsol decides to make public. However, this website does not share studies and reports, including those that are mandatory according to regulations. On the other hand, it is also important to remember that according to OEFA, Repsol was fined for providing false information through the Subdirectorial Resolution N° 205-2022-OEFA/DAI/SFEM (09/03/2022)⁷ for 3000 UIT for a total of S/15,450,000, sanction that was challenged.⁸

OBSERVATION 6:

Regarding the Damage Valuation Report. In compliance with Peruvian regulations, the authorities were informed of the methodology used and the calculation of the compensatory ranges by economic activity affected. Likewise, this was explained in each of the negotiation meetings held with the affected parties, several of which were attended by the Ombudsman's Office and were recorded.

ANSWER

6. The regulation to which Repsol refers to is the Regulation for the Transportation of Hydrocarbons through Pipelines approved by Supreme Decree No. 81-2007-EM, which states in paragraph 4 of Annex 4:

4.3 The operator shall value, in order to make compensation, the damages caused; this valuation shall be communicated to OSINERGMIN. Compensation must be agreed with the affected parties; however, it is up to the affected parties to request the support of the Ombudsman's Office to achieve fair treatment.

This regulation requires the operator to submit the valuation to OSINERGMIN and the company did not do so, which is why it has been sanctioned. As mentioned above, the regulation does not refer to the methodology or the result of the calculations, but to the valuation as a whole.

There is only record that in the session of 04/25/23, as part of the negotiation process held with fishermen, the calculation made by the company was presented through a PowerPoint file projection that was never shared.

⁷ For further information: <https://www.gob.pe/institucion/oeffa/noticias/590164-oeffa-inicia-procedimiento-sancionador-contra-repsol-por-informacion-falsa-en-el-reporte-preliminar-de-emergencias-ambientales>

⁸ For more information: <https://ojo-publico.com/ambiente/repsol-acumula-casi-s110-millones-multas-dos-anos-del-derrame>

It is worth noting that on the web page compromisorepsol.pe there are no damage valuations made by the company. In the same place, Repsol claims that it hired two companies (DATUM and Akuaipa) to calculate them, but to date it has not delivered the aforementioned reports.

OBSERVATION 7:

About the United Nations report. In this report, the United Nations itself indicates that: 1) Repsol followed international standards and 2) three weeks after the incident, the sea and beaches were already in a good state of cleanliness, cleaning work carried out by the company.

ANSWER

7. The report of February 15, 2022 gives an account of the cleanup one month after the spill, a relevant document, but to review the progress of the cleanup it is necessary to consider recent and official reports from the environmental authorities. Such as the communiqué from the Environmental Evaluation and Oversight Agency (OEFA) which states that, of the 97 beaches and coastal formations contaminated by the spill, as of October 5, 2022,⁹ 71 were still contaminated and for which a rehabilitation plan was available.

Likewise, in the Communiqué "Report on monitoring of areas affected by the oil spill" dated October 16, 2023 of the Instituto del Mar del Perú (IMARPE), it is stated:¹⁰

According to studies conducted by IMARPE, between June 12 and 26, 2023, it reports that it conducted an evaluation of ninety (90) sampling stations on the coastline and in front of the coastal edge, and most of these recorded values above the Environmental Quality Standard - ECA Cat.

02. The concentration of Total Petroleum Hydrocarbons (TPH) in seawater and the areas near the coastlines show higher values in front of Ventanilla, Ancón and Chancay. It should be noted that, due to marine dynamics (waves, currents, sediment transport and tides) and the anomalous waves recorded, new areas with traces of hydrocarbons could appear in the affected area; therefore, monitoring should continue.

*From the monitoring carried out this year by IMARPE, there is no conclusive evidence to indicate that the area affected by the oil spill is free of the presence of this hydrocarbon; therefore, there are **no conditions for a normal development of the extractive activities of hydrobiological resources related to artisanal fishing.***

On the other hand, the District Municipality of Aucallama, through Ordinance No. 020-2023-MDA/CM of December 28, 2023,¹¹ restricted access to the beaches Chacra y Mar and Chacra y Mar Peñón, affected by the spill, in order to maintain the health and safety of the citizens. It also ordered to temporarily disable access to these beaches. It also established that entering them for any reason constitutes a very serious infraction, imposing a fine of 1 UIT and 2 UIT for repeat offenses. It establishes as a complementary measure, the withdrawal, confiscation and denunciation. This ordinance is based on report No. D000077-DIGESA-

⁹ For further information: <https://www.gob.pe/institucion/oefa/noticias/657518-oefa-ordena-a-repsol-presentar-ante-el-ministerio-de-energia-y-minas-un-plan-de-rehabilitacion-para-69-sitios-identificados-como-afectados>

¹⁰ For further information: <https://www.gob.pe/institucion/produce/noticias/851106-informe-sobre-monitoreos-a-zonas-afectadas-por-derrame-de-petroleo>

¹¹ For more information: https://cdn.www.gob.pe/uploads/document/file/5624332/4985065-ordenanza_n_020-2023-mdm.pdf?v=1703896677

DECOVI-ACV-MINSA of the Ministry of Health, dated November 8, 2023, which states that the Chacra y Mar and Chacra y Mar Peñón beaches are affected by oil spills.

Regarding the United Nations report,¹² it is important to point out that it is a document that refers only to field observations, interviews and meetings with State authorities and specialists, civil society actors, people affected by the spill and representatives and technical teams of Repsol, carried out in the period from January 23 to February 15, 2022. The report states that, "According to Repsol's report, not confirmed by the competent authorities (...) the cleanup tasks on the beaches register a 60% progress"; however, in "Annex 1: Field observations of the impacted areas" it contains observations such as the following:

A la fecha de la toma de estas fotografías en la playa Ancón y en las cuevas rocosas cercanas, se observa que la contaminación continúa siendo severa. En estas zonas la técnica de limpieza de agua a presión en las rocas parece ser la más efectiva. Asimismo, en las zonas adyacentes rodeadas por barreras, sigue siendo conveniente continuar la recolección mediante skimmers (aparatos para recoger hidrocarburos en el mar).

Por otro lado, se observó que la técnica de recolección utilizada en un espigón de la playa, mediante medios manuales como mopas de limpieza de tejido absorbente, no parece ser muy efectiva. Más aún, dicha técnica, genera una gran cantidad de contaminación residual en la forma de productos textiles y equipos de protección impregnados de hidrocarburos

OBSERVATION 8:

On compensation in the initial phase of the emergency. A Rapid Assessment for Cash Feasibility was carried out, which allowed the affected people not to lose their income and not to have to choose non-reversible strategies in relation to their dignity and integrity. On the other hand, a socioeconomic study was carried out with a mixed methodology (direct surveys with people, focus groups, consultation sessions with civil society organizations present in the affected districts and analysis of local, regional and national secondary sources). This study provided information on initial compensations during the emergency period and also provided a profile of the population in relation to socioeconomic data on the groups most affected: fishing, tourism, recreational activities, etc.

This study was conducted by an external expert in line with Principle 18 of the UN Guiding Principles.

ANSWER

8. Both the aforementioned rapid assessment and the socio-economic study for compensation during the emergency period were not shared with those affected. Although the company provided compensation advances, these were deducted from the final compensation granted.

At this point it is worth mentioning the aforementioned report of the United Nations Mission, which points out the little support received by the affected people to face their emergency situation after the spill occurred, as detailed in the report. The lack of

¹² Mission Report: as of February 15, 2022. Prepared by the Joint Environmental Emergencies Unit (JEU) formed by the United Nations Environment Programme (UNEP) and the UN Office for the Coordination of Humanitarian Affairs (OCHA)
[https://www2.congreso.gob.pe/sicr/cendocbib/con5_uibd.nsf/BE4572519C1EF70E052587F4001850FA/\\$FILE/R_EPORTE-INFORTE-INFORME-DERRAME_compressed.pdf](https://www2.congreso.gob.pe/sicr/cendocbib/con5_uibd.nsf/BE4572519C1EF70E052587F4001850FA/$FILE/R_EPORTE-INFORTE-INFORME-DERRAME_compressed.pdf)

information they received and the fact that they were not taken into account in the cleanup process is noteworthy.

OBSERVATION 9:

Regarding transparency in compensation. Due to data protection laws it is not possible to make public information on compensation received by each person, but we can state that the fishermen received an average compensation of 100,000 soles, which means 4 times the income of the fishermen listed in the following government entities: 1) The census conducted by INEI, National Institute of Statistics, 2) The Structural Surveys of Artisanal Fisheries-ENEPA, conducted by the Institute of the Sea of Peru IMARPE (Ministry of Production) and 3) information given to the company by PCM.

ANSWER

9. While it may be true that the company has compensated each affected person with an average sum of S/100,000 soles (\$27,000 or €25,000, approximately), what it has not indicated is the period of affectation considered for the calculations. During the negotiations with the 19 fishermen's organizations between March and May 2023, your officials indicated that they would only recognize ten months, finally they increased it to 11.5 months. We wonder if this amount is the result of the calculation of what the fishermen obtained on average in 11.5 months; if so, it is similar to the amount that was calculated in the economic valuation study for CoperAcción fishermen,¹³ with a greater number of species and without considering the costs, for which the methodologies of national and international guides were followed, and had as a source the fishermen and fisherwomen from field work.

The affected people fish for high priced species, while the national census averages do not consider these species. In addition, it is important to note that the World Bank also estimated the income in losses considering only 8 species and the average obtained was much higher than the national data of the State.

The State's data are not a reference for artisanal fishermen because they do not consider all species and especially the species in greatest demand and most appreciated by the market. It should also be noted that the calculations presented by the company omit the income that many species brought to the affected fishermen.

Finally, Repsol's argument that it cannot make the information public due to data protection issues is not valid since it is possible to share it and make it public if the data is tested according to the regulations.

OBSERVATION 10:

About the compensation meetings. The dialogue processes began immediately after the accident. All with record minutes, including recordings, and with a formal internal company procedure that followed the United Nations precepts and all legal requirements of the country. Dialogue with the people in the affected areas has been continuous.

¹³ For further information: <https://peru.oxfam.org/lo-ultimo/publicaciones/dos-anos-del-derrame-de-repsol-pescadores-pierden-mas-de-149-mil-soles-al>

ANSWER

10. The company was very non-transparent with the information and inflexible with the compensation calculations, as pointed out by the Ombudsman's Office:

Por esta razón el 14 de abril de 2023 mediante Carta N° 011-2022-DP/APCSG, en atención a nuestro rol de apoyo a los pescadores para lograr un trato justo pusimos a consideración de la empresa Relapasaa la importancia de precisar a las asociaciones de pescadores por escrito y debidamente justificados, los conceptos considerados dentro de su propuesta económica denominada "pago total" y que fue presentada por la empresa en la reunión del 13 de abril. La intención del pedido era evitar confusiones, ambigüedades o malentendidos en la correspondencia que debe haber entre conceptos y montos que se podrían acordar.

Mediante Carta DCRI 050-2023 del 25 de abril de 2023 la empresa Relapasaa respondió la Carta N° 011-2023-DP/APCSG señalando que la Defensoría del Pueblo no está facultada para representar a las asociaciones de pescadores en la negociación, lo que excluye la posibilidad de solicitar información en su nombre. La empresa adjuntó a su respuesta la presentación denominada "Estimación de monto de compensación económica del rubro pesca" que realizó en la reunión del 13 de abril de 2023 y precisó que su propuesta de transacción extrajudicial la envió por correo electrónico en la cual se detallaría el concepto de la transacción.

Finalmente, la Defensoría del Pueblo considera que, en este proceso de negociación para la compensación, no ha habido un trato justo para los afectados. La posición inamovible de la empresa durante el proceso de compensación y la falta de precisión de aquellos conceptos no considerados en la metodología de cálculo de la empresa afecta la determinación de la compensación y, por ende, el derecho a una reparación integral. Además, afecta el derecho de los pescadores de acceder a la administración de justicia para demandar por aquello que no se le estuviese compensando y que, sin embargo, en la propuesta de transacción extrajudicial se les priva de este derecho.

OBSERVATION 11:

On future compensation and the duration of the effects. All reports, not only ours but also those of the government, indicate that, in terms of hydrocarbons, the entire sea and beaches comply with national quality standards and the most demanding international standards (for beaches, the Canadian sediment standard was used). Reports submitted to the authorities indicate the recovery of marine fauna and other indicators. So much so that recreational and fishing activities in the area have been carried out normally for months.

ANSWER

11. In the first place, Repsol's response only refers to the present moment, when the focus and concerns of the affected parties are centered on the future. Therefore, it would seem that the company does not consider that it should continue to compensate for the damages caused and whose consequences are still being suffered by the informants interviewed.

Furthermore, the above statements are not true, as we have already demonstrated in the response to comment 7, where we cited the various reports issued by the competent authorities and which point out the opposite of what Repsol claims here. Moreover, the official press release No. 186-2023, dated December 2, 2023, from all sectors and specialized

technical agencies summarizes the environmental impact that is still occurring in the coastal marine ecosystem almost two years after the spill.¹⁴

OBSERVATION 12:

About the contamination and the company's actions. The company has spent more than US\$300 million on cleanup, remediation and compensation. Thanks to all these actions, the entire area now meets the strictest international environmental quality standards, a condition that has been in place since the second half of 2022. It was the company that led and executed all the cleanup and remediation actions. To date, the company continues to monitor the entire area, cleaning up any hydrocarbons or similar that may be found, even though they are no longer related to the spill. So much so that the findings of hydrocarbons found fundamentally have another origin, such as lubricant from boats, change of fuel from boats, industrial drains, etc. 136 findings from other sources were identified and with technical reports informed and delivered to the authorities.

ANSWER

12. It is important for the company to separate reporting of cleanup and remediation expenditures from compensation payments. Although the differentiated amounts are not clear, the amount spent is not the indicator to know if the remediation has been completed or not. In order to comply with this statement, it is necessary to have the pronouncement and the monitoring carried out by OEFA and the competent authorities. In addition, we must remember that in October 2022 OEFA ordered RELAPASAA to submit remediation plans to remediate the areas that still remain affected and that these plans were submitted as of October 2023, many of which are currently in the process of evaluation. Furthermore, this is also made clear in the official communiqué from the Peruvian authorities dated December 2, 2023.

The company emphasizes that it has led the cleanup and remediation processes. It is important to point out that in Peru the polluter pays principle applies and therefore it is the company's obligation to clean up and remediate the contamination produced. Monitoring of the affected area, in any case, is part of the due diligence and remediation process. We recommend that Repsol also share the information from such monitoring, in order to make it public for the benefit of the affected people.

OBSERVATION 13:

On the recovery of the livelihoods of those affected. Compensation was paid to 98% of the 10,300 people included in the Single Registry of Affected People (prepared by the Peruvian Government). Most of those who have not received their compensation have not been located. Despite having asked the government for help in locating them, it has not been possible.

ANSWER

13. There are thousands of people engaged in fishing and other activities in the affected area who have been demanding to be included in the Single Register of Affected Persons. This has been one of the main demands of the fishermen's associations in recent times. In

¹⁴ For more information: <https://www.gob.pe/institucion/minsa/noticias/876274-comunicado-oficial-de-prensa-n-186-2023>

addition, more than 34,000 affected people have filed the lawsuit in the Dutch court mentioned in the report.

Regardless of the responsibility for the elaboration of the Register, Repsol should promote an active and continuous dialogue with the government derived from the new demands for the incorporation of fishermen to the Register.

OBSERVATION 14:

About the 26 rehabilitation plans. The information is inaccurate. The company has submitted 18 rehabilitation plans covering the entire affected area, not 26 as indicated in the report. To date, the 18 plans have already been accepted by the responsible authority (Ministry of Energy and Mines - MINEM) for evaluation. The information is verifiable with MINEM itself, which has made it public.

ANSWER

14. On April 24, 2024, the General Directorate of Hydrocarbons Environmental Affairs (DGAH) sent a response to the request for public information requested by CooperAcción staff on the current status of Repsol's remediation plans in this case. The DGAH sent a status report on the remediation plans submitted, information that can be verified in a public link.¹⁵

In the information submitted, we verified that on October 3 and 4, 2023 Repsol submitted a first package of 18 remediation plans. Of this first group, **12 were declared as "not submitted"**, 6 were declared "Admitted for processing". Therefore, of this first group of remediation plans, **only 6 remediation plans are under evaluation.**

The admissibility for processing has to do with compliance with the legal requirements for submitting a rehabilitation plan for evaluation. If they are not complied with, they are considered as not submitted and therefore cannot be evaluated.

Subsequently, on December 1 and 7, 2023, January 4 and 18, 2024, March 6 and 22, 2024, Repsol submitted for the second time 12 remediation plans, of which 9 were declared "Admitted for processing" and 3 are "in admissibility evaluation".

Therefore, according to the latest information sent by the DGAH (dated April 24, 2024), there are **15 Rehabilitation Plans "Admitted for processing" and, therefore, they are under evaluation.**

It is important to point out that the admission of the rehabilitation plans does not imply that they are ready to be executed by the owner; they must go through a process of evaluation by the environmental authority of the sector. The plans will determine whether the affected area and the damage have been adequately described and whether the measures proposed by the company to rehabilitate the affected area are adequate and sufficient.

¹⁵ For further information:
https://www.minem.gob.pe/_area.php?idSector=22&idArea=222&idTitular=9758&idMenu=sub8879&idCateg=1885

OBSERVATION 15:

On the recovery of the areas, economic reactivation and rehabilitation plans. It should be clarified that approval of the remediation plans is not required for the opening of activities (it is not a legal or technical condition). With the cleanup and remediation actions carried out by the company, the area complies with international and national quality standards, so much so that recreational and fishing activities have de facto been reactivated in the area.

ANSWER

15. This statement by the company contrasts with the technical opinions issued by state agencies. In the case of the Instituto del Mar del Peru (IMARPE), it stated in its last technical report last year that in the Ventanilla, Ancon and Chancay areas the presence of total petroleum hydrocarbons (TPH) still persisted in the "most coastal areas, as well as on the beach line".¹⁶ Compared to the February-March 2023 results, TPH concentrations in this latest September 2023 study were slightly lower, but still remained above the Environmental Quality Standards (EQS) in Categories "Cat 02 SubCat C1 - C2" (Extraction of hydrobiological resources) and "SubCat C3" (Marine port activities and remediation in coastal marine waters). Ecotoxicological tests off Chancay and Ventanilla showed a LC₅₀ (%) of 44.66 (high toxicity). IMARPE concludes in its report that "Given the evidence of the notorious presence of TPH, it could be considered to extend the restrictive measures regarding fishing extraction activities in the affected area".

Based on the results obtained by IMARPE, the Ministry of Production (PRODUCE) stated in a communiqué dated October 16, 2023, that "there is no conclusive evidence to indicate that the area affected by the oil spill is free of the presence of this hydrocarbon; therefore, there are no conditions for the normal development of extractive activities of hydrobiological resources related to artisanal fishing".¹⁷

In November 2023, the Ombudsman's Office issued a communiqué recommending the Ministry of Production (PRODUCE) to establish restrictive measures for the development of artisanal fishing in the area of the coastal coast that remains affected by the presence of oil.¹⁸ This recommendation was made after learning of the latest studies carried out by IMARPE in the report just cited.

Likewise, the General Directorate of Environmental Health (DIGESA) of the Ministry of Health (MINSA) reported on November 17, 2023 that, of the 30 bathing and recreational beaches impacted by the spill, 25 are still in an affected condition.¹⁹ These beaches are the following:

- Chica, Grande 1, Grande 2, Hondable, Los Corales, in the Santa Rosa district.
- Dieciocho Ancon, Las Conchitas, Miramar 1, Miramar 2, San Francisco Grande, D'onofrio, Casino Nautico, Esmar 1, Esmar 2, Los Pocitos, in the district of Ancon.
- Costa Azul 1, Costa Azul 2, Bahía Blanca, in the district of Ventanilla.
- Chacra y Mar, Chacra y Mar Peñón, in the district of Aucallama.

¹⁶ For further information at: <https://gestordp.imarpe.gob.pe/Busqueda/Details/20>

¹⁷ For more information at: <https://www.gob.pe/institucion/produce/noticias/851106-informe-sobre-monitoreo-a-zonas-afectadas-por-derrame-de-petroleo>.

¹⁸ For further information at: <https://www.defensoria.gob.pe/defensoria-del-pueblo-produce-debe-atender-informe-de-imarpe-y-restringir-pesca-en-zona-afectada-por-derrame-de-petroleo-en-ventanilla/>.

¹⁹ For further information at: <https://www.gob.pe/institucion/minam/noticias/876321-comunicado-001>

- Puerto, Chancayllo, Agua Dulce, Acapulco and Rio Seco, in the district of Chancay.

According to DIGESA, rehabilitation plans will be carried out on these beaches, so the population is urged not to go to them until this condition is changed to unaffected.

Likewise, according to a supervision carried out by OEFA, from August 1 to 4, 2023, the following findings were revealed:²⁰

- In the surface water of the Ventanilla sea, at Los Delfines beach, there is a presence of petroleum above the environmental quality standards for water, mainly in the parameter total petroleum hydrocarbons, for category 4, E3.
- Hydrocarbons were found on the seabed off the beaches of Costa Azul, Los Delfines and Caverro (Ventanilla); Santa Rosa Grande (Santa Rosa); Chacra y Mar, and Del Óvalo (Aucallama); Crisantemos Chancay and Cascajo (Chancay), and Grande (Huacho). The same occurred at the height of the multiboyas terminal N° 2 and Ventanilla beach.
- Hydrocarbon impregnation was found in the rocky areas of Caverro and Punta Lachay beaches, in Ventanilla and Huacho, respectively.
- With respect to the sediment component, there was evidence of exceeding the background level, mainly in the total petroleum hydrocarbons parameter, at Costa Azul, Los Delfines and Caverro beaches (Ventanilla); Santa Rosa Grande (Santa Rosa); Chacra y Mar, and Del Óvalo (Aucallama); Crisantemos Chancay and Cascajo (Chancay), and Grande (Huacho).
- There was also evidence that the bottom level was exceeded, mainly in the total petroleum hydrocarbons parameter, in the subtidal zones of the multiboyas terminal No. 2 and Ventanilla beach.
- From the organoleptic evaluation carried out in the rocky areas of the coastal formations of Caverro beach and Punta Lachay, in Ventanilla and Huacho, respectively, hydrocarbon impregnation in rock was observed.

OBSERVATION 16:

On the diligent implementation of remediation plans. Three months after the spill, all the studies presented to the Government indicated that the area was complying with the quality standards. The time from when the first report was presented to the authorities has been less when compared to other spills in other parts of the world with smaller spills, even in the USA and other developed countries, which demonstrates the diligence of the case.

ANSWER

16. It is not true that three months after the spill "the area was complying with the quality standards", and to demonstrate this we refer to the previous point and to all the official reports mentioned.

²⁰ For further information at: <https://www.gob.pe/institucion/minam/noticias/876321-comunicado-001>

OBSERVATION 17:

Regarding our participation in the processes of the meetings convened by PCM. The company has participated in all the meetings to which it has been invited, whether by PCM, the Ombudsman's Office or MINEM.

ANSWER

17. We have no record of the dialogue meeting convened by the PCM. We request Repsol to make public the minutes of these meetings in order to know the agreements reached.

OBSERVATION 18:

On people not included in the Single Register of Affected People (PUA). The PUA was prepared by the executive, particularly by the PCM who publicly led the process, with INDECI, without Repsol's intervention. The company received the complete list and voluntarily undertook to compensate all those included, about 10,300 people.

ANSWER

18. It is a similar observation to number 11, so we refer to the answer given.

OBSERVATION 19:

On the status of the affected area. The company has issued several reports, all submitted to the authorities, following international guidelines and indicating that the conditions of the sea and beaches are suitable as of the second half of 2022. The reports of the various authorities have used outdated information (more than 15 months old), do not follow international guidelines, contain serious methodological errors, and contradict each other among the various government institutions. Beyond this, all the deficiencies in the reports of the various authorities were brought to Repsol's attention, either by individual letters or by public statements.

ANSWER

19. These statements are not true, as we have shown in the response to comment 7 where we cited the various reports issued by the competent authorities and which point out the opposite of what Repsol points out here. Moreover, the official press release No. 186-2023, dated December 2, 2023, from all sectors and specialized technical agencies summarizes in detail the environmental situation of the coastal marine ecosystem almost two years after the spill, and it is not at all the one indicated by Repsol.²¹

OBSERVATION 20:

On when Repsol will implement the remediation actions. More than 300 million dollars have been allocated for cleanup, remediation and compensation. The areas are already suitable as of the second half of 2022. From the beginning, we have asked the authorities to use international standards. The OEFA, in particular, refuses to use them without giving technical explanations. As a company we have used Canadian standards for beaches and national standards for water. Throughout the area they are below the required parameters.

²¹ For further information: <https://www.gob.pe/institucion/minsa/noticias/876274-comunicado-oficial-de-prensa-n-186-2023>

ANSWER

20. The statement that the "zones are already apt since the 2nd semester of 2022" has not been verified by the OEFA, the entity in charge of environmental control in the hydrocarbons sector, nor by the other environmental entities with competence in the subject, as we have accredited in the answers to points 7 and 15.

In two communiqués dated August 1 and August 9, 2023, Repsol claims that the OEFA refuses to use international standards; an accusation that OEFA immediately denied.

In a communiqué dated August 10, 2023,²² the OEFA points out that the company has reported "incorrectly, incompletely and tendentiously" on the results of the environmental monitoring that this state entity has been carrying out in response to the crude oil spill that occurred in January 2022.

On the issue of an alleged refusal to use international standards, the OEFA stated:

"As Repsol is aware, the sediment samples are compared with background levels prepared by OEFA and the NOAA (Shoreline Assessment Manual) methodology, but not with international standards as indicated in their communiqué.

Therefore, Repsol's statement regarding the absence of hydrocarbons in sediments is not true, since our Report No. 006-2023-OEFA/DEAM-STEAC has clearly indicated the presence of hydrocarbons on three beaches (Cavero, Ancón and Santa Rosa Grande). It should be emphasized that the OEFA is not competent to determine if the beaches are suitable or healthy".

In addition, the OEFA adds that Repsol has not reported the results of the monitoring carried out in the 78 coastal formations between May 31 and June 15, 2023, which include sampling of the seabed, beach sand and seawater, in which it is concluded that to date there are a total of 19 areas impacted by the oil spill that still have the presence of hydrocarbons.

OBSERVATION 21:

On the company's actions with respect to the affected fishermen. The company has compensated the fishermen an average of 100,000 soles in total, which is well above their income in normal situations. Official income data indicate that the fishermen do not earn more than 2,000 soles per month, but less. Both INEI (national statistics institute), IMARPE and information provided by the PCM. To date, 98% have already received full compensation, more than 10,000 of the 10,300 people included in the Peruvian government's list.

ANSWER

21. This observation is similar to 9, so the answer is the same.

OBSERVATION 22:

On the loss of income and economic generation capacity. After the 2nd phase, which was individual compensation, the phase of compensation to society has been launched, through a social development program, designed, financed and developed by Repsol, which deals with the germination of enterprises for socioeconomic improvement in the 5 affected districts, generating microeconomic circuits with a gender approach: ImpulsaRed. The lines of action of the ImpulsaRed Program arise from workshops and meetings with people in the affected areas.

²² For further information at: <https://www.gob.pe/institucion/oefa/noticias/816665-comunicado-n-2>.

Repsol works hand in hand with Akuaipa, independent experts in Business and Human Rights, creating a social economy program, which includes training and education in technical and social economy issues, entrepreneurship and management, with the aim of helping them to design and create sustainable enterprises. In addition, seed capital is provided and the groups of beneficiaries are accompanied in the start-up and development of these initiatives for the first 2 to 3 years.

ANSWER

22. Regarding the implementation of the ImpulsaRed program, there is very little information in general. It is not known how much funding will be allocated or how many beneficiaries it has. We recommend Repsol to make this information public for the benefit of potential beneficiaries.

OBSERVATION 23:

On conducting our own census of those affected: as we have reported in multiple forums and communiqués, Repsol hired the local specialized company DATUM to prepare the census of those affected. The census was elaborated with a focus on the family profile of the people. Prior to the census, Repsol managed, in a preliminary identification, to identify 4,800 people in the first days after the spill. Then came the signing of the agreement with the PCM, where the company agreed that the government would make a single census and we would compensate all of them. This list includes 10,300 people and was carried out by INDECI, led by PCM with help and information from the 5 affected municipalities.

ANSWER

23. The aforementioned census of those affected was not submitted within the term established in the Regulation for the Transportation of Hydrocarbons through pipelines. Almost two months after the spill, the aforementioned agreement was entered into with the Presidency of the Council of Ministers of the Peruvian government so that the State would be the one to prepare the census.

OBSERVATION 24:

On the amounts compensated. The affected parties were invited to participate in a transparent, participatory, voluntary and good faith dialogue process, in which they were asked to provide a detailed account of their day-to-day activities. The information provided by those affected was studied, contrasted with information obtained in interviews in the area, and compared with official sources. The process not only took official data, but also involved detailed and in-depth field work to determine the impact on the different stakeholders. We followed the precepts of the United Nations and therefore the compensation must be differentiated by economic activity, since the analysis is made by type of family affected, not all people were affected in the same way. In all the meetings it was emphasized that all the people are free to sign the final compensation agreements or not, since the final compensation agreements are individual and voluntary. Their right to go to court was insisted upon. At each meeting, minutes of attendance and minutes of the topics discussed during the meeting were signed.

ANSWER

24. The observation refers mainly to the dialogue process, which took place with 19 associations of artisanal fishermen from March 27 to May 9, 2023, with the presence of the Ombudsman's Office and observers. In this space, the company refused to have impartial facilitation. Nor did it make its damage valuation studies available to the fishermen's associations, observers and the Ombudsman's Office, and only showed calculations through a PowerPoint presentation, as mentioned above. In addition, the company maintained its initial position throughout the process, pointing out to the fishermen that if they did not accept it they could go to the judiciary. It is for this reason that the ombudsman's office in its letter of May 17, 2023 points out:

Finalmente, la Defensoría del Pueblo considera que, en este proceso de negociación para la compensación, no ha habido un trato justo para los afectados. La posición inamovible de la empresa durante el proceso de compensación y la falta de precisión de aquellos conceptos no considerados en la metodología de cálculo de la empresa afecta la determinación de la compensación y, por ende, el derecho a una reparación integral. Además, afecta el derecho de los pescadores de acceder a la administración de justicia para demandar por aquello que no se le estuviese compensando y que, sin embargo, en la propuesta de transacción extrajudicial se les priva de este derecho.

OBSERVATION 25:

Regarding the CooperAcción report. The report lacks technical support, 1) no government agency that includes information on the income of these groups agrees with this data, 2) field studies and the living conditions of these groups reflect that the alleged income that CooperAcción says does not match reality, 3) when comparing the income of the same work in other areas or beaches, it is found that the amounts of this NGO are totally out of the real range that these economic activities generate. So much the amounts calculated by the NGO are not real, that it is worth clarifying that artisanal fishing in Peru is an activity subsidized by the State, precisely because of the low income that artisanal fishermen collect, so they do not pay taxes, fishing landings are built and maintained by the Government, there is the Fisheries Development Fund FONDEPES, an entity responsible for assisting fishermen and granting soft loans just so they can develop their activities. Finally, in comparison, the Government has given 2 bonds of 500 soles to support the families of artisanal fishermen nationwide due to the scarcity of fishery resources caused by El Niño phenomenon.

ANSWER

25. As noted in point 9, the State's statistics do not include all the species harvested by fishermen in this area, especially those in greatest demand. Also, a World Bank study reports much higher revenues than those recorded by the State, considering only 8 species.

It is also necessary to mention that in the CooperAccion study, the species and fishing quantity have been defined by the fishermen and the prices are market prices, corresponding to December 2021. The quantities have been provided by the fishermen and are supported by 42 associations. These figures are not easily questionable because there is no previous report on it.

In the vast majority of countries, when there are high-risk activities such as those carried out by the La Pampilla refinery at the multiboyas No. 2 terminal, the company should have, as part of its environmental certification, a social baseline, including an economic chapter, where the species extracted from the sea by fishermen and the quantities have been

identified. This would have helped Repsol to establish damages, prevent them and repair them. Unfortunately, these basic instruments are not available to facilitate a valuation.

OBSERVATION 26:

Regarding the agreement on the amount of 6,000 soles between the Government and Repsol. This is false because there was no agreement on the total amount of compensation. What the agreement indicated was that the company would give compensation advances of 3,000 soles approximately every 30 days. Each advance was obviously recorded in the minutes, but they were advances until the final total compensation agreements were reached. It is erroneous to consider these advances as full compensation. People who are part of the Single Register of Affected People (PUA) received between 1 and 10 advances, during the time they were gathering all the necessary data to understand the details of their activity, and a compensation agreement was reached according to their degree of affectation. Fishermen received an average of 100,000 soles in total compensation, which is much higher than any official data on artisanal fishermen's income.

ANSWER

26. According to the agreement between the PCM and Relapasaa, entered into on March 4, 2022, the company committed to provide an advance payment of compensation of up to 3,000 soles.²³

OBSERVATION 27:

On the collection of compensation. All affected parties have been informed in our informative meetings about what was the base information for the calculation of the compensation amounts. The compensation agreements were reached after several dialogue sessions with all the affected parties. Gathering information that they themselves contributed to the process, but also showing the results of our socio-economic studies.

ANSWER

27. The various testimonies collected from individuals who negotiated alone indicate that they received very little information before entering into the transaction and that the terms of the transaction were imposed by the company, which did not agree to any of their requests. According to the informants, the company did not even provide a copy of the transaction.

OBSERVATION 28:

On cases of possible health impacts. To date, no cases of health effects related to the spill have been demonstrated, neither in the municipalities, nor in the regional health offices, nor in the Ministry of Health facilities.

²³ For more information:

https://twitter.com/pcmperu/status/1499745215783002112?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembd%7Ctwtterm%5E1499745215783002112%7Ctwgr%5Ec97aba051eb810f37cb2b83e4d32c732d2596268%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.elperuano.pe%2Fnoticia%2F140584-suscriben-acuerdo-con-repsol-para-indemnizacion-economica-a-afectados-por-derrame-de-petroleo

ANSWER

28. Regarding cases of possible health effects, the company states that, to date, there are no cases of health effects related to the spill. The truth is that there are newspaper reports that include testimonies where the affected people express suffering symptoms that could be linked to the exposure of hydrocarbons in the area of the spill.²⁴ In addition to these cases of physical health effects, there are also cases of mental health effects, to which the women interviewed for the report made special reference.

In addition, health damages may occur that do not appear immediately. If they manifest themselves after some time, Repsol has to face its responsibility, so we ask you to take these potential cases into account within the remediation measures.

OBSERVATION 29:

On the dialogue between the company and the communities. It is important to highlight that in the negotiation process the affected people, in some cases, brought their legal team, sometimes composed of more than 6 lawyers, as well as experts on the subject chosen by themselves and allowed the participation of observers such as NGOs, representatives of the Human Rights Office of the United Nations in Peru, among others.

ANSWER

29. This observation refers to the negotiation table with the 19 fishermen's associations, held between March and May 2023. However, what Repsol omits is that it did not allow professional and impartial facilitation that would have helped to reach fair agreements. There was only collegial facilitation by a lawyer for the fishermen and a representative of the company. This situation led to inadequate management of the table. For example, when it was necessary to determine what was understood as full and fair reparations, the company objected. When the fishermen demanded that, in addition to consequential damages, lost profits, moral damage and damage to human rights be considered, the company refused. Instead, Repsol focused the dialogue only on consequential damages. Another central issue that the company refused to discuss was the temporality of the impacts. This is a central issue in any economic valuation, since it is necessary to know over what period the calculations will be made. The company only wanted to recognize the duration of the environmental emergency (ten months). Then it agreed to extend it for another month and a half, but did not want to consider a longer period, despite the fact that the sea is not yet officially considered recovered and everything seems to indicate that it will take time to do so.

OBSERVATION 30:

On the assistance provided by the company in the first months after the spill. It is important to highlight that from the first day assistance was provided and consumption vouchers were granted so that those affected could cover their needs, within the framework of the first response actions implemented by the company. Likewise, the amounts granted were not considered within the compensatory amount of those affected.

²⁴ For further information: <https://wayka.pe/la-salud-de-las-personas-expuestas-al-derrame-de-petroleo-de-repsol-es-invisible-para-el-estado/#:~:text=Populations%20seated%20about%20burn%20eyes%20and%20diarrhea.>

ANSWER

30. In relation to the assistance provided by the company in the first months after the spill, it is not indicated how many received the aforementioned assistance and consumption vouchers. In particular, it is not known how many of the 10,300 affected initially registered in the list of associates received them.

According to information provided by the company itself, during the month of January 2022, **1,905** deliveries of S/500 soles (\$135 or €125, approximately) were made to 15 associations located in the districts of Ventanilla, Santa Rosa, Ancón and Chancay. The aid was delivered in the form of supermarket vouchers and Visa cards. In February 2022, 4,652 deliveries of S/500 soles were made, through agreements with 83 affected associations and under the same modality. Consequently, only a small number of those affected received this support. Moreover, if we consider that each affected person represents a family, the S/500.00 soles did not cover a week's food, much less when they were forced to redeem the vouchers in a supermarket, since these usually have higher prices than those of a popular market. In addition to these shortages, families felt the pressure of having to pay for water, electricity, gas, telephone, internet and other services. The expenses for these supplies were not considered.

It was not until March 2022 that an agreement was reached with the government and the company, according to which Repsol agreed to deliver an advance payment of no more than S/3000 soles, an amount that would be deducted from the final amount.

OBSERVATION 31:

About Grievance Mechanism and Communication Channels. Communication channels have been enabled so that any affected person can contact the company and express their claim, complaint or concern without fear of retaliation and with the commitment to protect personal data. A grievance mechanism was designed and created adapted to the circumstances of the context and the people affected. This grievance mechanism was designed to be accessible to any person through different communication channels and has been adapted and updated based on the observation and analysis of interactions with affected individuals using these different communication channels. As necessary communication channels, an email, social networks, a form on the compromisorepsol.pe website, telephones with continuous attention and the WhatsApp of our community relations officers were identified. Those who cannot access by any of these means can submit their complaint at the La Pampilla Refinery's Front Desk or to our community representatives who work in the different affected districts. The grievance mechanism was explained during the information sessions provided to the people in the affected areas through social media communications, by broadcasting in markets and community centers, and also by the community liaisons present in the 5 districts. All people have access to the mechanism without fear of retaliation. Repsol has been analyzed on a case-by-case basis and has responded individually to 98.6% of all complaints. During 2022 and 2023 the number of people affected and the extent of the spill generated a large volume of complaints, requests for information and concerns, mostly related to the compensation process for affected people. In addition, the company maintains a specific website, compromisorepsol.pe, where all the progress and recovery work can be consulted. Progress is also shared on the company's social profiles.

ANSWER

31. The existence of a grievance mechanism is not in doubt, what is questionable is its effectiveness, especially given the collective claim in The Hague. What seems to have been

demonstrated is that the claims mechanism and information channels have not helped to achieve early recovery of the sea or to ensure that the affected parties receive reparations that they consider fair.

OBSERVATION 32:

On compliance with international standards. The process, in addition to all of the above, contains additional elements that Due Diligence and the UN Guiding Principles do not contemplate. Repsol decided to incorporate additional elements that non-governmental organizations use in emergency interventions or identification of needs and lines of action in recovery processes after an incident. These methodologies applied have included, among others, the following: 'Cash Transfer Interventions' (Action Against Hunger), 'International Federation Guide for the Development of Recovery Programs' (International Federation of Red Cross and Red Crescent Societies) or the 'Sustainable Livelihood. Framework' (SLF) of DFID (DFID, Department for International Development).

ANSWER

32. Again, and without questioning that the company has implemented such methodologies and additional elements to international standards, to date the remediation has not returned the environment to its pre-discharge state, nor have the reparations for the affected parties been comprehensive or fair. No reparations have been made for consequential damages, moral damages or human rights damages. Nor has consideration been given to the damage that to date persists and affects the lives of those who live in the affected area, or the future damage to the environment and to health, both physical and psychological.

OBSERVATION 33:

On the specific impacts on women. The gender perspective has been applied throughout the process. In the impact studies carried out by an external human rights expert, the information gathering has been designed specifically for women. Both the questionnaires and the focus groups (several of them were organized exclusively for women) have collected the needs identified, as well as the problems. An analysis of the opportunities was carried out, but also an analysis of the risks that the women concerned were exposed to. These results yielded very relevant information: the fact of compensating women first would cause risk situations for them for several reasons: the most affected group is composed of a large majority of men, the low sensitivity and the idiosyncrasy and culture in the area about women's rights and the violence that women could face both intrafamily and socially if men perceived a personal grievance if women were compensated first. For this reason, their family and social role was analyzed and with it the difference that could exist in these compensations.

In the Impulsared program, more than 70% of the participants are women.

ANSWER

33. To date, the studies mentioned by the company have not been socialized or published, therefore, we do not know them. It would be convenient for Repsol to share them for the benefit of the most vulnerable groups.

In any case, it is not simply a matter of compensating women first, but of considering the differentiated impacts on women and men. Of all women. This is especially relevant taking

into account that women also occupied functions linked to the fishing economy, such as shipowners, filleters or shore fisherwomen, whose work is usually made invisible.

It should be noted that some of the women involved in fishing were single mothers, so the impact of the loss of livelihood has had a great impact on the economy of their households, and they would not be affected by the risk of domestic violence referred to. We do not know if these extremes have been taken into account in the studies that Repsol has carried out and in the subsequent compensation process.

As we pointed out in the report, all these women lost their livelihoods and had greater difficulties than men in receiving compensation, as they were not considered fisherwomen per se. Also due to the fact that the negotiation did not take into account the fact that family burdens could limit these women's capacity for representation and advocacy.

Without questioning the very important conclusion reached by the external human rights expert's study, it is not in accordance with due diligence that Repsol made the decision not to compensate the women unilaterally in the first place, without considering the women's opinion.

Regarding the Impulsared program, which Repsol has created for collective compensation and of which more than 70% of participants are women, the number of beneficiaries of this program and the investment amounts involved are unknown. It is also not known how many of them are women and what the application of the gender approach consists of. The women interviewed were divided between those who did not know about Impulsared and those who considered that it would not have a significant impact on their future lives. It would be useful for Repsol to share more information about the program, for the benefit of women and girls.

OBSERVATION 34:

Regarding the company's human rights policy. Repsol has complied with the most demanding international standards in accordance with its Human Rights Policy. In a recent study of the most prestigious analysis of business and human rights conducted by the Corporate Human Rights Benchmark (CHRB), Repsol obtained the highest score of the 237 companies worldwide analyzed between 2022 and 2023. The specific chapter on the Peru case obtained the highest possible score. The company also obtained the highest score worldwide in "Corporate human rights practices". This recognition reinforces Repsol's commitment and efforts to ensure respect for human rights.

In addition, beyond simply following the UN Guiding Principles for companies, it has been able to establish a protocol that sets out the steps that a company must follow in the immediate phase of an incident (emergency), recovery and development with regard to the human rights of people.

ANSWER

34. First of all, the people affected by the La Ventanilla spill of January 2022 do not benefit from the fact that Repsol has obtained "the highest score" in the "most prestigious" study on corporate respect for human rights. We are not dealing with a statistic, a ranking, a recognition or an award; what we are dealing with are human lives, families and interrupted life projects.

Considering the information gathered in this document, we can conclude that there are failures in the management of this disaster, linked to the implementation of the human rights policy. The problems for those affected persist. The sea has not yet recovered. And,

for this reason, the affected people have not recovered their spaces and livelihoods. No comprehensive and fair reparation has been made to the affected people, who continue to demonstrate and claim through the courts.

Finally, the above response does not answer the last of the 5 outstanding questions in the report:

What changes will Repsol make when implementing its human rights policies and due diligence practices?

We ask Repsol to detail how it will incorporate the lessons learned from this case into its human rights policy in order to, on the one hand, prevent possible future cases and, on the other hand, improve its practices in remediation and compensation processes in the future.