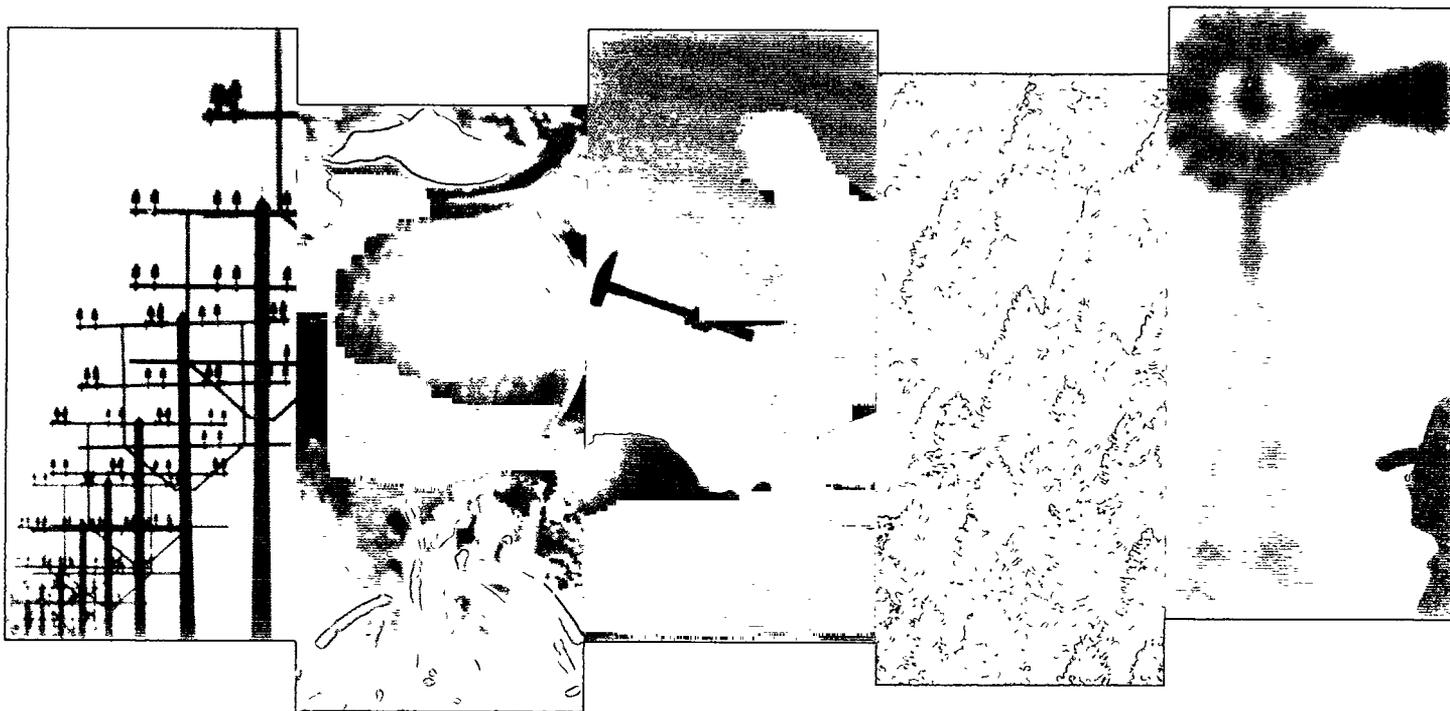


The Population, Energy and Environmental Program (EAP)



Energy

Sector

Management

Assistance

Programme

August 2002



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**JOINT UNDP / WORLD BANK
ENERGY SECTOR MANAGEMENT ASSISTANCE PROGRAMME (ESMAP)**

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The Population, Energy and Environmental
Program (EAP)

An initiative for the understanding and sustainable
development in the Amazon Region

August 2002

Final Document

Presented at the 4th tripartite meeting of EAP
(Cuzco, May 6-8, 2002)

Joint UNDP/World Bank Energy Sector Management Assistance Programme
(ESMAP)

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Preface

At the Third Tripartite Meeting (Cartagena, 2001) it was agreed to summarize, in a document, the background, origins, institutional efforts, agreements, and organizational contributions to the construction and development of The Population, Energy and Environment Program (EAP).

Miguel Ángel Santiago (ARPEL), Verónica Potes (OLADE), Rodrigo de la Cruz (COICA) and Eleodoro Mayorga Alba (The World Bank) have prepared this document to answer this request of the third meeting.

It is not a final document, but rather a report about an on-going Program that over the course of four years of hard work and positive results searches to analyze its background and progress with the purpose of defining the necessary lines of action that will orient its future activities and allow for the achievement of its set objectives.

The document should be viewed as “**work in progress**” put at the disposition of representatives of all stakeholders that have participated and act in the Tripartite Dialogue so that they can continue to progress, looking for new plans of action, making them more effective.

The opinions included in this document should be considered as well-intentioned contributions from the own perspective of the authors; they do not necessarily express the opinions of the organizations they represent.

In these notes we wish to express thanks to those who contributed with their opinions and comments on its preparation. The authors hope that their efforts will continue to significantly contribute to the development of the EAP projects and of the new initiatives emerging from the Tripartite Dialogues.

1

Introduction: The Indigenous People and the Oil and Gas Industry.

Over the past two decades there has been great concern to understand and reduce the effects that the oil and gas exploration projects have had on indigenous peoples, their environment, and, in general, on the local communities within their territories.

This document offers a description of the origins, progress, and results that The Population, Energy and Environmental Program (EAP) has had: an united effort that the stakeholders- governments, oil industry, and indigenous people- are making to reach an understanding through the dialogue and the formulation of initiatives that encourage the integration and development of hydrocarbon projects in a way compatible with the sustainable development of the Amazon region.

Since 1998, the EAP Program, initially sponsored by the Latin American Energy Organization (Organización Latinoamericana de Energia, OLADE) and the World Bank, has evolved into a response by the stakeholders of the countries¹ which share the Sub-Andean and Amazon Basin to the challenge of developing a sustainable hydrocarbon industry.

In the 90's, oil and gas exploration and exploitation activities reached the areas of the Basin that are most fragile in environmental and social terms. Conscious of the problematic nature of projects in the indigenous peoples' territories, the industry oriented its goals to establish better social and environmental measures and to find adequate solutions to the implied social conflicts and difficulties. This new introduction of industry to the Amazon, advanced by the successful discoveries in Colombia, was carried out under a growing socio-environmental consciousness.

At the same time, the organizations of the indigenous peoples that have lived for generations in the Basin, have clearly expressed their demand for recognition of their territorial rights, the conservation of their culture, and the improvement of their socioeconomic conditions.

¹ Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Guinea, Paraguay, Peru, Surinam and Venezuela.

It should be noted that the roles and rights of indigenous peoples are recognized by the laws and Constitutions of almost all the countries of the Sub-Andean and Amazon Basin. They are also defined in international treaties and agendas, like the Convention No. 169 of the International Labor Organization (ILO). Nevertheless, the countries themselves should more frequently resolve conflicts generated by the attempt to harmonize the exploitation of subsoil natural resources through projects of national interest, with the particular interests of indigenous peoples and those of civil society in general .

The accelerated movement of oil and gas exploration into the most remote and fragile areas of the world, has challenged the companies to adequately identify, understand and manage socioeconomic risks that are not only technical, but are already associated with operations in these areas. It is hoped that the operating companies in these zones continue to use “state of the art technology” that minimize the impact on the environment, allow for coordination with the governments that permit the stakeholders to participate in the decision making process, and implement social programs that contribute to the sustainability of the indigenous peoples and communities in contact with these operations.

In Latin America indigenous organizations, environmental groups and non-governmental organizations (NGOs) have closely followed the development of oil projects with the purpose of influencing and searching solutions for the attention required to deal with the social and environmental impacts of the hydrocarbon activities and to achieve an effective participation of the stakeholder groups in the execution of these projects.

The prospect of benefits that Latin American potential resources could provide for the wealth of the population are growing conditioned with the fears of environmental issues. Many of the areas that are targets of oil development in South America are areas with fragile ecosystems and home to indigenous populations, some of which have had little to no contact with the outside world. These fears are accentuated by the fact that the region has one of the richest biodiversities in the world, including 46% of tropical rainforests, 40% of tropical animal and plant life, and 31% of drinkable water reserves. The flora and fauna of the Amazon Basin by itself, represents more than half of the world’s biodiversity.

In so much, governments are conscious of the importance of implementing a responsible approach to environmental management that should incorporate consideration of the quality of life of local inhabitants, including the indigenous peoples, and the possible impact of the proposed developments. For many operators of the oil industry, the management of some of these problems and the focus on an effective coordination of social and environmental issues within the development of oil and gas sites has been relatively innovative and creative. The results should be analyzed in light of a greater number of projects that have been implemented with the effective participation of the indigenous peoples and other local communities.

The majority of companies in the 90’s that obtained concessions and contracts for operating in this basin have had to develop, often on their own initiative, consultation and participation processes, and to establish compensations without precise regulations to define proper rules of fair play. Throughout these years, the oil companies - particularly those that take part in

transnational operations and are exposed to broad public opinion in this field - have designed policies and combined their efforts to respond to the new situation. The indigenous people, for their own part, are becoming better organized at claiming their rights. In turn, government officials in countries that share the Basin have been forced to face the emerging problem with limited information and resources.

The EAP program is based in the confluence of these fears and the genuine interest of the stakeholders to look at and create together a sustainable solution to the difficulties and challenge described, in favor of positive development in the oil industry. In particular, the EAP program is configured as a regional forum of dialogue between the stakeholders and the identification and development of tools that facilitate the management of the problem inside the region.

2

The Indigenous Peoples and the oil industry in the 90's

1. Recognition of the multiethnic nature of the countries in the Sub-Andean basin, the constitutional reforms, oil policies and ILO Convention No. 169.

According to ILO data, at the beginning of the past decade approximately 22 million indigenous peoples² lived in the eleven countries that participate in the EAP program with percentages ranging from 71% (Bolivia) to 0.02% (Brazil) of the national population.

Beyond this quantitative information, it is clear that there is great ethnic diversity in the indigenous populations of the countries involved in the EAP program. So, when the indigenous population is mentioned a single culture should not come to mind. The cultural wealth that many of these countries enjoy is based, precisely, in the multitude of diverse indigenous peoples³ that inhabit their territories. In Peru, for example, 42 distinct nationalities reside solely in the Amazon region. In Ecuador, nine nationalities live in the same area.

Latin American societies, sensitive and conscious of this wealth, are dedicated to conserving this reality through their highest hierarchal legal bodies, in some cases, the political constitutions. Bolivia, Brazil, Colombia, Ecuador, Peru, and recently Venezuela have recognized themselves through their constitutions as multiethnic and multicultural nations⁴, and emphasize the special rights of indigenous peoples⁵ residing within their territories.

The Constitutions of Bolivia and Colombia clearly note the multiethnic nature of these societies. Equally, Article 75 in the Argentinean Constitution states that Congress should

² <http://www.OLADE.org.ec/redeap/FrameInformacion.htm>

³ In the Program, the term "indigenous peoples" is used in the sense of the ILO Convention No. 169, that is to say without any reference to the rights associated with this term in an international context. Convention, Article 1, No. 3.

⁴ Article 1 from the Bolivian Political Constitution; article 1 from the Ecuadorian Constitution; Columbia Article 7 and Venezuela Article 119 and 126.

⁵ Ibid, article 171

recognize the preexisting ethnicity and culture of the Argentinean indigenous peoples and dictate laws which protect their identity and culture.

In Brazil, Article 2 of the 1600 Law of December, 1973, mandates that pertinent state organizations protect the indigenous peoples and their rights. Article 14 recognizes the adaptation of working conditions to the indigenous customs and use.

In Chile, Law No. 19253 of 1993 provides that the State value the indigenous ethnicities as they are an essential part of the integrity and development of the roots of the Chilean nation. The law also recognizes uniformity of their customs and values, and calls for the establishment of rules for the protection, fomentation and development.

In Peru, the constitution in force equally recognizes the rights of the indigenous peoples, identified as native communities. Peru recognizes and protects the ethnic and cultural plurality of the Nation, as it recognizes the rights of every Peruvian to speak his/her own language.

Among those instruments of the *soft* international environmental rights, that is to say those that are not mandatory in international courts and that do not constitute legal obligations, like dispositions over recognizing the cultural difference, these are:

- The Declaration of Rio of 1992, which proclaims in its 22 principles that governments should recognize and give adequate support to the identity, culture, and interests of the indigenous peoples and their communities and ensure their effective participation in search for a sustainable ecological development.
- The Agenda 21 Plan of Action in the Rio Declaration, dedicates Chapter 26 to setting the basis for the recognition and strengthening of indigenous peoples and their communities, whose ancestral knowledge and relationship with the land makes them advocates of a sustainable ecological development.
- The Santa Cruz of the Sierra Conference on Sustainable Development ratified in the United States Summit (1996), where principles and actions of sustainability are recognized.
- The American Declaration Project on the Declaration of Rights of Indigenous Peoples of America passed in 1997, by the Inter-American Commission of Human Rights of the Organization of American States establishes that "States will respect the cultural integrity of the indigenous peoples and their development in their respective habitats, as well as the historic and archeological inheritance important for the identity of their members and their ethnic survival."⁶

Perhaps the most important international instrument on this issue is **Convention No. 169 on indigenous peoples and tribes in independent countries of the International Labor**

⁶ Project of Declaration, Third section "Self Cultural Development," article VII

Organization, which has been ratified by at least seven countries participating in the EAP program.⁷

The Convention defines the indigenous peoples as those whose social, cultural and economic conditions distinguishes them from other parts of the nation's population and those who are considered indigenous by their ancestry.

In opposition to the previous Convention of the ILO that proposed the assimilation of the indigenous peoples to the dominant cultures, the new Convention No. 169 incorporates the recognition of the rights of the peoples to conserve their customs and institutions, and to decide their own priorities.⁸

The Convention recognizes important rights of the indigenous peoples in the consultation and participation on the benefits of projects in their territories. The Convention establishes that in the case the state detains the property of subsoil resources, governments should establish procedures to consult the indigenous peoples as to ensure them when and to what degree their interests would be affected before beginning programs of exploration and exploitation of resources in their territories. The interested indigenous peoples should participate as much as is possible in the benefits of these activities and should receive just compensation for the damages that these activities cause. The Convention also establishes that in the case that it is impossible to avoid the resettlement of peoples, it will abide by procedures established by national laws, including public hearings which assure the effective representation of the stakeholders and provide just compensation.

In considering the dispositions of Convention No. 169 it was constituted the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean through a treaty ratified in 1994 at the Latin American Summit. The main objective of the Fund is the "establishment of a mechanism created to support the processes of self-development of the indigenous peoples, communities and organizations of Latin America and the Caribbean."⁹

2. Increasing concern to protect the global environment and achieve the sustainable development and the respect for minorities.

As well as the Rio de Janeiro Declaration of 1992, the Latin American countries have the Santa Cruz of the Sierra Declaration as a reference for sustainable development policies. This declaration was ratified at the American States Summit held in Santa Cruz in 1996. In the Declaration, the states of the region recognized the applicability of sustainability principles and actions such as those of human rights for a healthy and productive life co-existing with nature. The key related concern of sustainable development includes incorporating environmental considerations in the planning and decisions of development, as well as social

⁷ Bolivia, Peru, Ecuador, Paraguay, Columbia, Argentina, Chile (Not yet approved for Congress)

⁸ The ILO Convention of 1989, article 7

⁹ Constitutional Convention, article 1

and economic factors. The participation of stakeholders as a way to reach better decisions, is essential particularly in those that affect the conditions of life of indigenous groups, organizations, businesses and individuals.

Inside nations, the trend has been to incorporate in laws environmental concerns and sustainability of development. It is commendable that the right to a healthy environment has reached a constitutional level in different countries of the region. Likewise, a trend of the times has been the profuse legislation concerning the environment. In the 90's, at least six countries of the area issued new laws about the environment with a more comprehensive focus than the previous treatment of the issue.

Some countries have begun to set penal laws with fines enforced to protect the environment. Also in the 90's, a great number of countries accepted the Environmental Impact Assessment (EIA) as a tool of prevention, mitigation, management and reparation for negative impacts. Equally, there have been standards established to guide productive processes. In the energy sector, there have been dispositions dictated to regulate energy operations and activities, specifically for the electricity and hydrocarbon sectors. These regulations have also been collected to promote new and renewable sources and energy efficiency.

With respect to the participation, specifically of indigenous peoples, it should be emphasized that following the mandates of ILO Convention No. 169, respecting the claims of indigenous peoples and organizations, the tendency aims to recognize their right to participate as a people with a cultural identity different from the rest of society. This is the sense, for example, of Article 15 No. 2 of Convention No. 169 that orders governments to establish procedures of consultation with the peoples to determine if their interests would be affected in case of the development of a program of exploration and exploitation of subsoil resources.

Consequently, in Bolivia, the sector law proposes to avoid of hydrocarbon operations as far as possible in indigenous territories. There is an effort to reach an agreement through specific legislation in the case that the aforementioned operations come to take place in indigenous territories.

On the other hand, the Colombian Constitution establishes that the exploitation of natural resources in indigenous territories should happen without negatively affecting the culture and ethnic integrity of these communities and with the participation of their representatives. Colombia made an effort to regulate consultations with indigenous peoples and black communities for the exploitations of natural resources that concluded with Decree 1320/98. Nevertheless, the application of this rule has generated important objections from organizations of indigenous peoples in this country.

In Peru, a Guide of Community Relations has been elaborated to orient the activities of the energy sector, which in case of being quoted in an oil contract becomes mandatory. Additionally, it has elaborated with the cooperation of different participants the project of a "Regulation of consultation of farming, native and indigenous peoples communities in hydrocarbon activities." The project is in a stage of preliminary publication, part of the

process of consultation with the purpose of obtaining comments and observations before it is submitted for approval.

Likewise, the new Venezuelan Constitution includes, among other new provisions, the recognized rights of indigenous peoples, on previous information and consultations about the development of natural resources in their territories.

Ecuador, for its own part, allots the indigenous peoples right to be told prospective plans and exploitation of resources in their territories, to benefit from the exploitation and to be compensated in the event of damages. Ecuador has also tried to incorporate these measures through legal changes and new regulations. To accomplish this, Ecuador has begun a tripartite work process aiming at elaborating, through consensus a Rule, for consultation and participation in the case of oil and gas operations in indigenous lands and other communities.

3. The efforts of oil companies and NGOs to initiate dialogue

In 1997, the Program on non-Violent Sanctions and Cultural Survival (PONSACS) of the Center of International Affairs of Harvard University summoned a process called "Oil Dialogues in Fragile Environments." This call began looking for a different way to treat the controversial issues of oil exploration and exploitation in the Amazon Basin.

During the 90's, a great number of leading oil companies (Shell, Chevron, Mobil, Conoco, Arco, among others) participated in the exploration of this Basin in areas more and more isolated, rich in bio-diversity, and with particularly fragile indigenous populations. Also during these years, the growing number of non-governmental organizations intensified their activities on these issues, fixed on the conservation of global resources and directing their criticism at the sustainable development of these industries in fragile zones. Initially, the invitation of the Harvard Dialogues, was limited to oil company representatives and NGOs, as much as from the Northern Hemisphere as from the Southern Hemisphere. Later, invitations were expanded to include international developmental agencies and indigenous peoples' organizations.

The goal of the Dialogues was not to develop formal treaties and specific documents, it was only desired to provide for the smooth interchange of information in an impartial environment. Nevertheless, in March of 2000, after almost ten meetings, PONSAC prepared a document¹⁰ about the Dialogues and the most important perceptions of the participants with respect to the consultation and participation of the indigenous peoples.

One of the most noteworthy shortcomings of these Dialogues was the absence of State representatives. Even though the Dialogues were based on the idea of establishing an open climate of trust between the stakeholders, the Harvard Dialogues closed at the beginning of 2001. It was impossible in its framework to come to a consensus, to discuss the benefits, and

¹⁰ Center of International Weatherhead Relations, "Perspectives about a Consultation", Harvard University, Cambridge, Massachusetts, USA - March, 2000.

to reach an agreement on solutions and on rules of fair play that should be established for the effective participation of indigenous peoples.

4. Concerns and proposals of indigenous organizations in response to oil activities in their territories.

One of the topics that the Coordination of Indigenous Organizations in the Amazon Basin (Coordinadora de las Organizaciones Indigenas de la Cuenca Amazonica, COICA), is currently working on the oil industry and its relationship with indigenous peoples, with attempts to reflect on the implication of this activity, in both threatening and opportunistic terms. COICAs analysis particularly focuses on the socio cultural and environmental impacts, and on the need to plan measures and strategies for the effective application of indigenous rights.

In the internal order, the organizations with an indigenous base in the different countries have acted distinctly in response to oil activity in their territories. In recent years they have entered in direct negotiations with companies under conditions of mutual respect as well as in negotiations still on unequal conditions. There are cases of strong opposition to all activities because indigenous stakeholders have considered that any oil and mineral operations threaten the survival of their populations, the integrity of their territories and their biodiversity. There are diverse arguments for the different positions. In some cases they are unstable and fragmented, in others well-organized and concrete. There is no one uniform position that indigenous organizations as a whole will defend in a set instance.

COICA, as a representative organization for indigenous peoples in the international field, is made up of this diversity of opinions. Adding to this, the direct intervention of the State in indigenous territories, peoples' position what it may be, creates a very complex situation that has, in some cases, aroused conflict between the indigenous peoples and oil companies. It is under this context that COICA and its member organizations are looking to respond in the following directions:

- A more technical and political understanding of oil activity by the indigenous peoples.
- A more profound understanding of the cultural and environmental impacts generated by this activity.
- An understanding and respect of the indigenous peoples' rights recognized by the national and international legislations, the governments, and oil companies.
- An effort to reform or adapt a new framework with respect to the oil industry, the establishment of better oil practices, and the improvement of the industry's relationship with indigenous peoples.
- To put into effective practice prior consultations, the right to participate in the benefits, and the incorporation of a "veto" right in contractual frameworks.

To respond to these directions, COICA has identified several strategies. First, they will work towards the organization of the indigenous peoples and their representing organizations.

Second, they will establish a forum for collective discussion between bilateral organizations, the governments (offices of energy and mines), and non-governmental organizations, with the goal of taking the discussion to various levels to explain the real situation that affects the indigenous peoples, and to adopt better policies and legislation concerning the activity in their territories.

The indigenous communities are organized into zonal, regional and national organizations of greater representation. Unfortunately, these last levels of organization have not been included in many negotiations with companies and governments. Frequently, many of these organizations have preferred to enter into exclusive relationships with local communities that seem to reach agreements more easily, avoiding responsibilities including the impact and the assignment of fair compensation and benefits. This tendency in the relationship between companies and indigenous peoples in the Amazon Basin has been a catalyst for conflicts. It is essential to require that the communities should obtain due advisory, particularly from the indigenous national federations when addressing issues that they do not fully understand.

In reference to these concerns and in consideration of the conditions of the indigenous communities, from COICA and in front of the EAP proposed activities, the following proposals are pursued:

1. Guarantee of legal security of the indigenous territories, when affected by any oil activity. The demarcation and titling of these territories are key in guaranteeing the rights and existence of indigenous peoples.
2. The institutionalization of prior consultation and the right of the participation in the decision making process of the indigenous people to arrive at agreements more balanced with the respective representational organizations.
3. A fair distribution of benefits generated by oil exploitation, which should be oriented to support of the "Plan de Vida" of indigenous peoples. The practice of many bilateral arrangements with the indigenous communities so that they participate in oil compensations has not been an effective mechanism that supports the integral development of the communities, but has rather fomented paternalism and dependence to the detriment of the regions' ability to develop on their own.
4. The resources of oil industries that go to indigenous peoples should also support the institutional strengthening of the representative organizations of their communities and the formation of indigenous professionals in oil subjects and matters.
5. The integration in the Environmental Impact Assessments (EIA), of the socio-cultural component for preserving the existence of indigenous peoples and the integrity of their territories and cultures.
6. The establishment of a suitable system of information for the indigenous peoples about oil policies so that they are informed of investment plans, particularly when they affect indigenous territories.
7. The conservation of natural resources in indigenous territories, especially those with biodiversity, that guarantee the existence of a harmonious relationship between man

and nature. Oil activity should not upset this balance, but rather strengthen the traditional practices of conservation and sustainable use of the resources.

8. The majority of indigenous peoples live in vulnerable conditions of survival as much physically as culturally. They depend on the existing resources in their territories. These areas should be declared protected zones to guarantee the existence of indigenous peoples, bio-diverse resources, and their environment.

The oil industry is a delicate issue for the indigenous peoples. It is precisely for this reason that COICA representatives have declared that their presence in the EAP should not be considered synonymous with reconciliation or that the goal of the negotiations is to expand the oil companies' presence in indigenous territories. The goal of their presence in this process is to guarantee that respect be granted to indigenous peoples and that other fundamental rights be recognized in national and international legislation. Within this framework, they search for better solutions for equality and to eradicate the old practices of paternalistic negotiations and of absolute inequality. The indigenous community, oil industry and governments have, in many cases, separated community organizations to the disadvantage of indigenous peoples.

3

EAP - Records and First Achievements

In response to the given situation, the Latin American Organization of Energy, the Oil, Gas and Chemical Department and the Vice-presidency for Latin America of the World Bank, called a meeting in Quito, Ecuador, in 1998, with the goal of facilitating, at the governmental level, the exchange of ideas and to help develop similar criteria for an improved environmental and social management of the oil and gas operations in areas inhabited by indigenous peoples. The invitation was extended to 11 governments¹¹, inviting high level officials knowledgeable of the problem - National Coordinators (Coordinadores Nacionales, CN) - so that they could begin to exchange information and share experiences.

This first meeting took place on 16 and 17 July, 1998. In the meeting, the general processes in which all the countries were immersed and the different levels of laws and national regulations, such as the respectful political treatment of the social impact of the problems associated with the industries' activities were confirmed. At this meeting it was agreed to conduct a comparative study of the legal, regulatory, contractual, and institutional framework under which the hydrocarbon industry operates in the Sub-Andean Basin.

Also in the meeting, the new joint effort was given the name *The Population, Energy and Environmental Program (Programa Energía, Ambiente y Población, EAP)*.

1. The comparative study of the legal, regulatory, contractual and institutional framework relevant to the management of the social impact of the oil operations.¹²

To accomplish this task, the Alconsult International Ltd. and the Canadian E2 Environmental Alliance were selected as consultants. The World Bank gave them access to relevant documents, answers to a questionnaire circulated among all the Coordinators, and, in particular, to the collection of regulations and laws relevant to the energy activity that was underway in the cooperation of OLADE with the Calgary University¹³.

¹¹ Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Surinam, and Venezuela.

¹² Look at ESMAP 217/99 document (July 1999) - "Environmental and Social Considerations of Operations by the Oil and Gas Sector in Fragile Zones of the Sub-Andean Basin."

¹³ "Environmental and Energy in Latin America and the Caribbean Rights, Inventory and Analysis of

A preliminary version of the comparative study was presented at the Second Meeting of the National Coordinators, held in Quito, 9-10 November, in the OLADE headquarters. The final version that includes the suggestions of the National Coordinators was presented at the First Tripartite Meeting in Cartagena de Indias, Colombia, 4-6 May, 1999.

The three important and tangible results of the first two meetings of the National Coordinators that took place in Quito, Ecuador (July and November 1998) were: (1) the comparative study of legal, regulatory and institutional frameworks under which the hydrocarbon activities abide in the Sub-Andean Basin; (2) the starting of joint efforts under a long-term program of action that involves industry and the indigenous peoples in the search for solutions to the emerging problems, and (3) the recognition of the need for a tripartite dialogue as a platform for the analysis and search for solutions to the emerging problems.

2. Proposal for a short and long term Plan of Action

At the second meeting of National Coordinators, the following recommendations were the most important:

In the short term, the countries of the Sub-Andean Basin should:

- a) Establish a mechanism to continue the initiative of regional cooperation.
- b) Define the most important actions, create a plan for their development, put them into practice, and identify opportunities for regional cooperation and the exchange of information through the development of this plan.
- c) Begin the initiatives that are important for the majority of the participants and that could be implemented through the use of the available resources (for example, the preparation of standard contractual clauses, and the commencement of discussion of the topics that will be part of the common guiding framework).
- d) Consider measures to achieve the participation of other groups, in particular industry and indigenous peoples in the process.
- e) Evaluate the function of the sponsors, including the World Bank and OLADE. Determine if they should engage other groups and organizations (for example: the Regional Association of Gas and Oil Companies in Latin America and the Caribbean, the Inter-American Development Bank of the Coordination of Indigenous Organizations in the Amazon Basin, the Canadian and German Corporation, the Andean Corporation for Development, etc)

In the long term, the countries of the Sub-Andean Basin should develop and put into action important regional programs such as the establishment of an open information system and data base. They should prepare guidelines and other reference documents to regulate the impact on ecologically fragile areas and the territories of indigenous peoples as well as improve environmental regulations. Also, they should create and execute a regional training

program that helps to push forward the dialogue between the stakeholders. The development of long term objectives should be accomplished by sustainable action that co-exists in balance with the environment, the indigenous peoples, and the gas and oil industry.

3. The need of a tripartite dialogue

At their second meeting, the National Coordinators recognized the need to carry out a long term work plan that included representatives from the government, the industry and the indigenous peoples' organizations. This plan should be based on the exchange of information and dialogue respecting the interests of all parties. At the same time, the dialogue should serve as a platform for a common program of activities and projects to be developed equally in the medium to long term range.

In essence, the tripartite dialogue that the EAP program was later generated from the two above mentioned meetings and different conversations with the most important stakeholders, ARPEL and COICA. The conditions to begin joint activities under tripartite management committees with the support of the international institutions committed to attain the same proposals of sustainable development were of critical importance in this effort.

These activities were identified to be:

- (i) the development of an **information system** open to all the participants that permitted fast access to documents and work to facilitate the dialogue;
- (ii) the **elaboration of reference guidelines to improve the legal and regulatory framework**. This was not necessarily the search for a common regulatory framework, but rather for the consensus between the three parties about the principles that should serve as a guide for the improvement of national regulatory frameworks;
- (iii) the planning and implementation of a **training program** that increases the level of knowledge that each party has of the other, and provides tools to facilitate the exchange and enrichment of ideas.

In practice, the EAP program looks like an “umbrella” program. The tripartite nature and the variety of institutions that participate has made it so that each one of the components of the EAP program is established with a minimum structure of decision, coordination, and execution. This permits the achievement of specific goals of each component as well as the coherence of the specific goals between the components, promoting the general goals of the program.

The Steering Committee of a component project is the platform for formulating the specific goals of the project and integrating them with the general goals of the EAP program. It is also in charge of making decisions which include, but are not limited to, defining, orienting, authorizing variants and supervising the achievement of the goals. The composition of committees is tripartite and also includes the support groups.

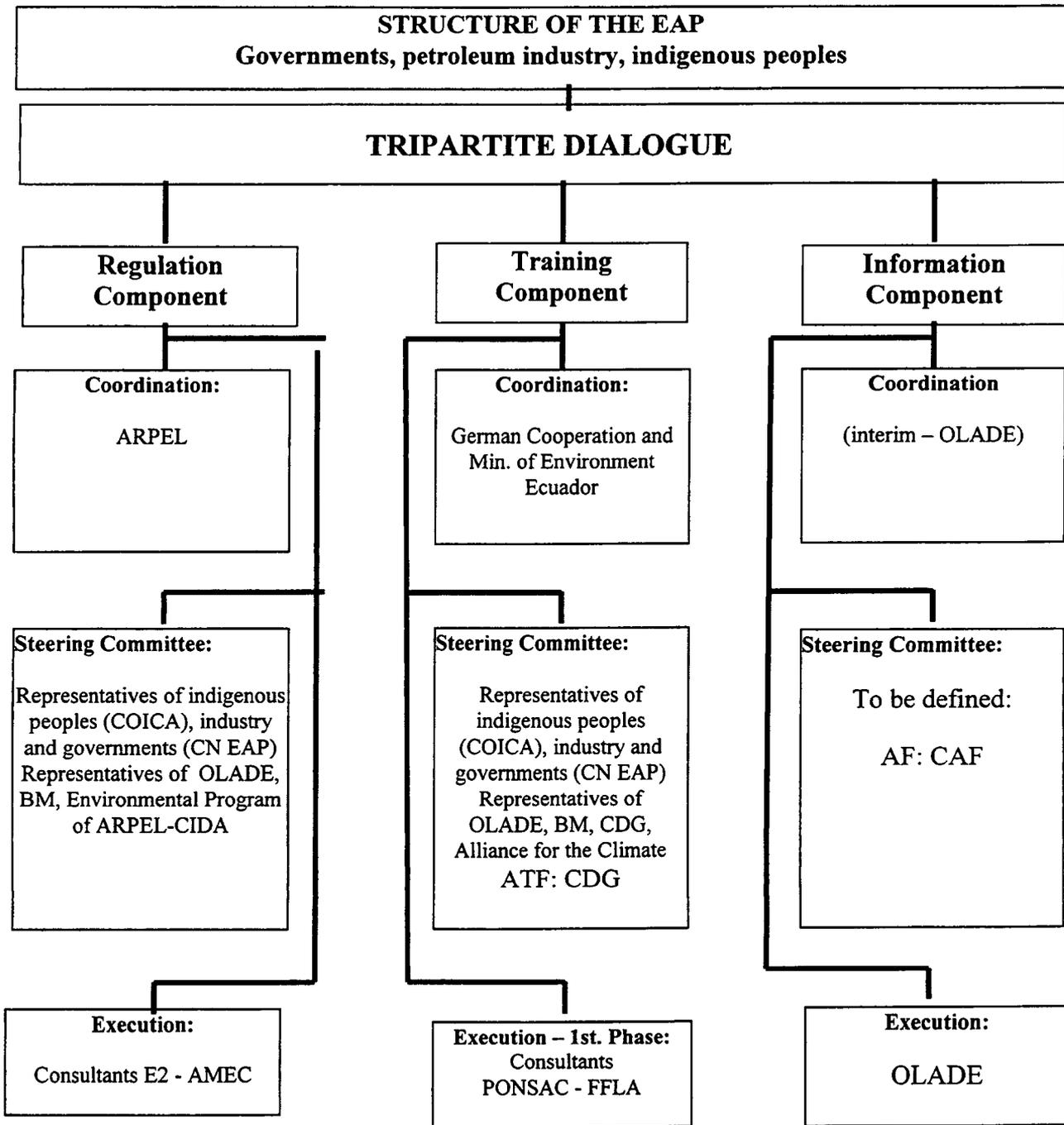
Each component of the Program has had to find financial support. The financial entity is in charge of establishing a coordination responsible for making administrative decisions, watching over the efficient execution of the project, and informing the Steering Committee. Its functions include the direction and supervision of the accomplishment of the goals and the activities of the component. It is the link between the requests for decision and the requests for execution. The financing body names a representative with a voice and vote for the Steering Committee.

The institution in charge of executing the activities of the component - normally a consulting firm - should follow the goals and directives put forth by the Steering Committee under the guidance of the designated coordinator.

To promote the understanding of the EAP program by linking the distinct models, those who execute the coordination have participated in the meetings of the separate Steering Committees.

This structure recognizes the substantial differences between the components and, in particular, the individual requirements that each one demands. It is sufficiently flexible to accommodate these differing demands.

At the moment (April 2002), those designated to be in charge of the coordination of these components are part of the Steering Committee of Training and Regulation at the approval of these committees. The Information component requires express definition by both. Meanwhile, OLADE has practiced the interim coordination of information actions. It is hoped that this structure is applied to new EAP program activities.



4

The EAP program: Who are the stakeholders and their Organizations

The construction of this process has been possible thanks to the active participation of the different stakeholders - governments, indigenous peoples and oil companies - which have, at the right moment, united with their representative organizations to participate in the proposed EAP program. This refers concretely and principally to OLADE, COICA and ARPEL, who have contributed with their resources and work plans to make possible each of the initiatives in the development of this Program.

Together with the will of the stakeholders, the World Bank made the effort to ensure the appropriate summons and the transparency of the process.

1. The Latin American Energy Organization (Organización Latinoamericana de Energía, OLADE) is an intergovernmental organization that consists of 26 Latin American and Caribbean countries. It has its central office in Quito, Ecuador, and its members are the Ministers/Secretaries or competent agencies of the energy sector in those countries. Its plan of action is oriented to:

- Assist the member countries in terms of energy planning, regulation and policies.
- Promote national regional cooperation projects.
- Unite member countries to facilitate the coordination of actions in different related fields of the energy sector.

The purpose of the Organization is to contribute to the sustainable energy development of the region following the focus that puts the emphasis on the human being and recognizes the quality of life as subject and object of development. On one side, this assertion implies that people have the power to decide the direction and route of development. On the other side, it implies that the implementation of this mandate should be executed in a manner that “amplifies the range of options to the people including the total spectrum of options from a physical environment in good conditions to economic and political freedom.”¹⁴

¹⁴ Definition of the Program of Human Development in the United Nations, for the PNUD Development, cited in OLADE/CEPAL/GTZ, *Sustainable Energy and Development in Latin America and the Caribbean*.

The commanding of sustainability adds to the environmental, social, and political dimensions, **one of timing**, so that the current generation's needs are achieved without lessening the ability of future generations to satisfy their own needs.¹⁵

For OLADE, the search for sustainable development should suggest a harmonic balance in the management of the component elements of fiscal capital and natural reserve, while maintaining a respect for the equality and the cultural diversity of the population. Under these general principles, OLADE has developed a methodology for the identification and formulation of energy policies that provides for a more sustainable development.

The decentralization of the decision-making power is based on the recognition of the principle that the human being is the subject and object of development. It is also based on the need to orchestrate, in the democracies, the principle of popular participation in topics of public interest, a participation more evolved than the simple act of voting. Additionally, sustainable development is a shared responsibility between the distinct social parties. It is imperative that the active participation of state agents, the industry, and the individual citizen be capable and informed for the success of the national goals of sustained development. The development of energy, "taking into account the importance of the interactions of the energy system with the economy, society, environment and even politics, it is evident that the formulation of energy politics that promotes the sustainable development should be of systematic character."¹⁶ The party that possesses vital interests can be affected by the implementation of definite energy politics. The conception of these politics requires their participation.

2. The Coordination of Indigenous Organizations in the Amazon Basin - (La Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica, COICA), in a consultation process with its affiliated companies, accepted to participate in this program. In 1996, the COICA, together with the German Foundation Carl Duisberg Gesellschaft CDG, and the Alliance for the Climate initiated contacts to achieve cooperation on issues of training, through orientation programs, to prepare the leaders and member organizations in oil and sustainable development issues.

COICA is an indigenous regional organization, created at the first Congress of Indigenous Amazon Peoples that took place in Lima, Peru March, 1984, and is a coordination space for the indigenous member organizations which are made up of the indigenous peoples of the Amazon Basin. Furthermore, it is not only an organization of representation, but rather one of coordination, fundamentally organized to promote the adoption of policies and legislation of the different international groups for the defense of indigenous peoples' rights.

Focuses for the energy policy, May of 1997

¹⁵ Global Commission about the Environment and Development, *Our Joint Future*, New York, Oxford, 1987.

¹⁶ Energy Project and Sustainable Development in Latin America and the Caribbean, OLADE/CEPAL/GTZ *Sustainable Energy and Development in Latin America and the Caribbean: Guidelines for the Formulation of Energy Policies*, Quito, July 2000

Their member organizations are:

Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana, CONFENIAE

Asociación Interétnica de Desarrollo de la Selva Peruana, AIDSESP
Confederación de Pueblos Indígenas de Bolivia, CIDOB
Coordinadora de las Organizaciones Indígenas de la Amazonía Brasileña, COIAB
Organización de Indígenas de Surinam, OIS
Asociación de Pueblos Amerindios de Guyana, APA
Consejo Nacional Indio de Venezuela, CONIVE
Organización de Pueblos Indígenas de la Amazonía Colombiana, OPIAC
Federación de Pueblos Amerindios de la Guyana Francesa, FOAG

COICA has its central offices in Quito and is jurisdictionally recognized by the Ecuadorian Government with the **Ministerial Resolution of the Social Wealth Ministry No. 1255** of August 24, 1995. It is a non-profit private organization.

Its fundamental goals are:

- The promotion, develop and push of the necessary mechanisms for the interaction between the indigenous peoples and the member organizations of COICA.
- To defend the territorial claims and self-determination of the indigenous peoples. To respect their human rights, as the rest of their rights and interests.
- Coordinate with the member organizations, in sight of different inter-governmental and non-governmental organizations at the international level, the different actions inside the Amazon Basin.
- Strengthen the unity and mutual collaboration between all indigenous peoples.
- Promote the revaluation, cultural claim and autonomous development of the members.

COICA has participated with its organizations in the tripartite dialogues of the Sub-Andean Amazon field and has significantly contributed to the development of the different projects that have arisen as joint work initiatives in the EAP. In completing their objectives, the most important thematic ideas are:

- Biodiversity, traditional knowledge, genetic resources and rights.
- Judicial instruments of the indigenous peoples in international groups like the UN and the OAS.
- Issues concerning forests (**The United Nations Forum on Forests**).
- Presence in front of other international groups to insure the adoption of indigenous policies, like the UN (Permanent Forum for the Indigenous Peoples, IDB, ILO, Andean Community of Nations, CAN, European Union, TCA, World Bank, Indigenous Fund, FIDA-CAF, UNDP, and OMPI among others).

- Oil and mining activity within indigenous territories.
- United Nations Conference on Oil and Climate Change and the Protocol Kyoto.
- Strategic Alliances of the COICA (Amazon Alliance, Alliance for the Climate, and World Alliance of Indigenous Peoples in Tropical Rainforests).
- The relationship with other areas of indigenous activities in which references are made to indigenous issues, particularly environmental organizations like the UICN and the International-WWF.

3. The Regional Association of Oil and Natural Gas Companies of Latin America and the Caribbean - (La Asociación Regional de Empresas de Petróleo y Gas Natural en Latinoamérica y el Caribe, ARPEL) has shared, from the beginning, interest and goals with the EAP program. With almost four decades dedicated to the oil and gas industry of the region, ARPEL is the only association that has readily worked to anticipate the affects of the tendencies, policies, and regulations that could effect the operative activities of the industry it represents. It was created in 1965 and today consists of 27 member businesses in the local, regional and international fields. These companies represent a little more than 90% of the “upstream” and “downstream” regional operations. ARPEL has also become a forum for the debate of strategic issues related to the oil and gas industry.

The “vision” of ARPEL is to be a focal point of the Latin American and Caribbean Region for all issues interlaced with the industry especially relating to the environment, legislation, energy integration, technology, and society.

Likewise, the Association has made it its mission to promote and facilitate the development, integration, and optimization of the oil and natural gas industry in Latin America and the Carribean, becoming a forum for all the key issues of interest for their member companies.

In the first part of its history, ARPEL was especially integrated by state companies which were important for the economic and social developmental programs in those countries. In the 90’s, they began a process of privatization and deregulation that affected a great part of the Latin American region. In this period, the opening of markets, the globalization and integration of the region, and the information technology caused a great impact on the Association. The increase of private capital in the sector gave way to a process of reflection and transformation in ARPEL. Today, the more important challenges are addressed in its mission and vision.

The organizational structure of ARPEL is made up of the General Assembly, the Directory, the Executive Secretary, and the Advising Committees. Its central offices are located in Montevideo, Uruguay, and their corporate goals are:

- The promotion of cooperation among its members.
- The study and evaluation of actions that lead to energy integration.

- Proactive participation in the developmental process of laws and regulations regarding the industry.
- Supporting actions that expand the areas of activity and increase business opportunities.
- To serve as a center of information for the oil and gas industry.
- To design and carry out programs of international cooperation.
- To promote conduct that protects the environment, contributing to its sustainable development.
- To protect the public image of the oil and gas industry.
- To study and circulate criticisms and relevant opinions of the sector.

Conscious of the problem and with the background of the decisions adapted by the current Assembly of ARPEL's member companies that took place in May, 1997, in Cartagena, it was resolved to consider and treat the issue of the relationship with indigenous peoples. It was decided that through the conception of a Working Team consisting of representatives from diverse businesses affiliated with ARPEL, the goal of offering support to the industry, exploiting oil resources in the region, and developing ethnic communities, particularly that of indigenous peoples, could be done in a harmonious manner by:

- The provision of assistance to the oil and gas industry through directives, guides and practices to develop high standards of respect and care for the culture and tradition of indigenous peoples.
- The exchange of experiences.
- Determining methods to minimize and measure the impacts and to provide local benefits.
- Acting as a valid participant in the oil industry in front of international NGOs, through the better understanding of their activities and a constructive relationship with the community and influential governments.

The first measures to address the adequate attention and management of these projects in fragile areas was developed when ARPEL met in November, 1997, in Cartagena, Colombia in a workshop about the shared experiences of the oil Association's member companies. Later, November 15-17, 1994, a seminar about the "Management and Resolution of socio-environmental Conflicts in the formulation and execution of hydrocarbon projects" was held in Riohacha, Department of Guajira, Colombia. The seminar included the participation of state and private businesses of Venezuela, Ecuador, Mexico, Spain, Peru and Colombia as well as the intervention of indigenous representatives.

In this manner, constructive relationships were developed between the government, communities, NGOs and other groups to ensure the implementation of related socio-environmental management programs. Generally, the companies engaged in exploration and

production have had limited experience with the implementation of community development programs. This is due to the fact that the duration of the oil companies' work programs in the areas of the projects are frequently limited. Usually, the period of exploration activities is short (two to six years). The period of complete development has a longer duration of twenty or more years. The alliances and socially responsible programs help ensure the sustainability of the projects even after the companies have left the area.

Many other companies that are not members of ARPEL, like Occidental, Shell, Chevron, BP/Amoco, Conoco, and Pluspetrol among others, have established corporate policies and actions that work toward the achievement of the same goals. Representatives from these companies have participated in the tripartite meetings. As a basic principle, these meetings are open to all interested companies and organizations.

To explain ARPEL's understanding of the issue, it is useful to discuss the workshop that took place October 23-24, 1997, in Bogota, Colombia about the "Relationship of the local ethnic communities and the industrial oil and gas projects." This event took place with the participation of ARPEL member companies and governmental representatives. The participation of Colombian indigenous legislators helped towards the first approximation of an understanding of the positions of the three involved parties: the government, the communities, and the industry.

After a broad analysis, it became necessary to resolve and propose solutions and questions such as:

1. The definition of the concept of territory: the current definition is unclear. Many times instead of limiting themselves to legal terms, the indigenous peoples include the ideas of mythic, ancestral, and royal territories. A more clear definition of territory would make it easier to determine who should be consulted about the execution of oil projects.
2. The definition of the concept of consultation: once the territory of interest is defined, the function of the national governmental, environmental authorities, and state and private companies from the hydrocarbon sector should be clearly identified. These parties' role as an instrument of dialogue or as a decision-making body of competent authority, with respect to the viable licensing or granting permission to realize the project work or activity should be established.
3. The definition of the concept to safeguard ethnic integrity: an appropriate methodology is needed to determine real effective measures for the prevention, reduction, mitigation and compensation for the impact of oil projects to safeguard the ethnic and cultural integrity with regard to the exploitation of non-renewable natural resources.

Beginning with this important meeting, the ARPEL Working Team on Community Relations started an intense and productive activity that was put into effect in Lima, Peru, August, 1998. It was a seminar on the knowledge, exchange of experience, and analysis of the relationship between the oil industry and Latin American indigenous peoples. The conclusions from the

seminar are posted at www.OLADE.org.ec/redeap and www.ARPEL.org to facilitate the consultation of indigenous peoples and organizations, governments, and the oil industry.

At the Lima meeting, important initiatives were advanced like the developmental of the exchange of experiences about better practices, the elaboration of the universal application of methodological guides, and the analysis and diffusion of regulatory frameworks. This is how ARPEL took an orientation to further and forward efforts to achieve dialogue between the industry with governments and indigenous peoples, the promotion of the elaboration of work guidelines for the treatment of the issue, and the establishment of contacts with OLADE to unite efforts to achieve the same objectives that the EAP program strove to meet.

In the Fourth Tripartite Meeting that will take place in Cuzco, Peru, May 2002, ARPEL wants to present the activity and plan of action that the new Committee on Corporate Social Responsibility, recently created by its general assembly, will take.

4- Lastly, the role of The World Bank Group in the regional oil industry and the EAP program should be identified.

The World Bank Group has participated in the financing and technical assistance of the oil and gas industry for more than three decades. All of their institutions¹⁷, IBRD, ADI, IFC, and MIGA, are active in this sector. The premises under which The World Bank Group participates in this sector are:

- that the development of the hydrocarbon industry contributes to the sustainable development and reduction of poverty; but
- that the risks and costs should be known and managed in a way not to lose the desired benefits;
- that the demand of commercial fossil energy and the production of hydrocarbons will continue growing in the next two or three decades in the developing countries, and
- that an institution like the “Bank” has the important role of collaborating with these countries to manage the risks and maximize the benefits of the exploitation of resources.

The international development agencies are prepared to contribute to the governments, private sector, and indigenous peoples pushing forward sector reforms that will improve the investment opportunities, including the financing of projects. These reforms are guaranteed to lessen the risks of expansion and technically assist the development of management, environmental protection, and defense of indigenous peoples’ rights.

The strategic priorities of The World Bank can be summarized in the contribution of the oil industry to the economic development that increases appropriately with the environmental and

¹⁷ IBRD, International Bank for the Reconstruction and Development. ADI, Agency for International Development. CFI, International Financing Corporation. MIGA, Multilateral Insurance Guarantee Agency

social impacts of the industry. This goes along in collaboration with the governments. They try to formulate and implement policies, develop locally and regionally, manage the impacts, take a leading role in reaching a consensus between the stakeholders, and apply good policies that mitigate the negative impacts and maximize the positive ones.

The strategy has evolved, reflecting a more detailed appreciation of the inherent risks and benefits of the sustainable development of the industry both at the local and national level. One of the most interesting efforts has been the convocation and facilitation of dialogue between governments, the oil industry, and organizations of the indigenous peoples of the Amazon. These efforts strive to better mutual understanding and to find principles that ensure a development of the oil and gas industry that is compatible with sustainable development.

The Bank has a policy¹⁸ with respect to the way in which to proceed in projects of development in areas inhabited by indigenous peoples. Basically, it looks to facilitate the participation of those involved in the design and implementation of projects through an appropriate consultation process. Whenever it is possible, it tries to avoid or mitigate the negative effects. It requires that tangible benefits should be obtained by the indigenous peoples from a fair distribution of rents that should be used in a culturally acceptable manner by the peoples.

To attain these objectives, the Bank is focusing on improving their role and policies with respect to the hydrocarbon industry and to other extractive activities.¹⁹ The Bank considers indispensable that an *informed participation* of indigenous peoples is maintained in the design and implementation of the projects. It recognizes that the economies, identities, and social organization of the indigenous peoples are closely linked to the earth, water, and other resources. Consequently, all projects should take into consideration the individual and collective rights of indigenous peoples over these resources, and should ensure that the developmental activities include and help improve the socio-economic situation of these populations.

Specifically with respect to the oil operations, the World Bank has served as a working forum for a group of companies and NGOs committed to the protection of the environment and the mitigation of the social impact of the oil and gas operations. This forum has created a website on the Internet²⁰ to strengthen good practices, exchange information, and provide references on the achievement of solutions to these problems.

¹⁸ Look at the documents about the Operating Policy of the World Bank - OD 4.20

¹⁹ Since August 2001 to June 2003, the World Bank is developing an external consultation related to its role on the extracting industry, with looks at formulating specific recommendations that allow for better approaches to activities in this industry. For information about this independent revision process of consultation <http://www.eireview.org>

²⁰ Look at --- <http://www.worldbank.org/ogsimpact>

5

EAP program: Current Achievements and Results

The Population, Energy and Environmental Program (EAP), with the contribution of all parties, has produced the following results:

- The strengthening of **tripartite dialogues** in the countries participating with the purpose of achieving better communication between the most important parties, the facilitation of the search for better regulations, and, if it is the case, the solution of conflict situations.
- The development of an **Information Network** - supported by the Andean Corporation for Development and OLADE which has created a website <http://www.OLADE.org.ec/redeap> with the goal of providing all those interested with easy access to relevant information in all the countries, including regulations, events and pertinent studies.
- The preparation of **Reference Documents** that would permit the improvement of the regulatory framework of industry operations in the Sub-Andean and Amazonian Basin under common criteria, agreed upon by the stakeholders. This activity is executed under Terms of Reference prepared by the parties and a financial support from the program of Canadian cooperation to ARPEL.
- A **Training Program** that seeks to improve the environmental and social standards, and the conditions of dialogue between the parties. This activity is being carried out in five countries, Bolivia, Peru, Colombia, Ecuador and Venezuela, with the support of the Carls Duisberg Foundation using the consulting services of PONSAC and the Foundation Futuro Latinoamericano.

In addition to these four central activities of the EAP labor program, they have also begun new initiatives such as:

- The effort of the Interamerican Development Bank (IDB) to establish lending operations that provide resources to governments that desire to make effective prior consultations, and pre study efforts in case of opening new areas to exploration.

- The comparative study of the distribution of rents from oil operations destined for the development of regions where the industry works, in particular, the areas where indigenous peoples live and are directly affected by the operations.

All these activities are in different stages of development. But, now, it is clear that the EAP program is filling an important need for communication and dialogue between the key stakeholders for a search for new solutions. Thus, it is receiving growing attention from other stakeholders and supporting institutions.

1. The Tripartite Dialogues

As already mentioned, the national coordinators recognized the importance of developing a work plan that included government representatives, the industry, and the indigenous peoples' organizations. The dialogues are representative of the respect of the interests and positions of each one of the parties. Four regional meetings of representatives of the Sub-Andean Basin have taken place; three in Cartagena, Colombia in 1999, 2000, and 2001; and the last one in Cuzco, Peru in May 2002²¹.

In the development of the tripartite dialogues, the joint need arose for the three parties to carry out projects to strengthen their relationship and mutual understanding. In the first dialogue that took place in Cartagena, Colombia May, 1999, the interests and concerns of the three parties were identified and could be resumed as:

The Government

- Ensure that the benefits of social and economic development are distributed equally maintaining respect for environmental protection and the social and cultural values of indigenous peoples.
- Guarantee the participation of indigenous peoples, taking into account the perspectives and established regulations both nationally and internationally.

The Industry

- The need to consider, before signing the contract or initiating litigation processes, relevant social information about the area of exploration and the general plan of action to have a consultation process with the local communities.
- Visible presence of government institutions as a guide in the consultation process and in the follow-up of coordinated programs.
- Regulatory definitions that define the rules of fair game.

²¹ The Aide-memoires of these meetings are annexed to the document.

The Indigenous Peoples

- Ensure the respect of their traditional cultural values, way of life, territory, and recognition as an active sector in the economy and development of the country.
- Obtain compensation for the impact of oil activities on the environment, their culture, and society.
- Fulfillment of international agreements and, in particular, of ILO Convention No.169 and the regulations that ratify and regulate this Convention.

In the following chart, the principle interests and concerns identified by the tripartite dialogues of the respective involved parties in the aforementioned meeting realized in Colombia.

Table 5.1: The Interests and Concerns of the Involved Parties

| Indigenous Peoples | Government (State) | Oil Industry |
|---|---|--|
| <input type="checkbox"/> Organization and autonomy | <input type="checkbox"/> National sustainable development <input type="checkbox"/> Define processes of clear democratic decision | <input type="checkbox"/> count on current information about populations and territories |
| <input type="checkbox"/> Territory | <input type="checkbox"/> Complete regulatory frameworks | <input type="checkbox"/> Clarity of regulations |
| <input type="checkbox"/> Respect for their cultural, economic and social integrity | <input type="checkbox"/> Avoid the conflict of competition | <input type="checkbox"/> More visible presence and cooperation with state entities |
| <input type="checkbox"/> Improve living conditions | <input type="checkbox"/> Quicken the procedure | <input type="checkbox"/> Reference terms for environmental studies |
| <input type="checkbox"/> Redefine the concept of development | <input type="checkbox"/> Efforts to define the norm | <input type="checkbox"/> Dialogue before confrontation |
| <input type="checkbox"/> Adhere to and follow global conventions. | <input type="checkbox"/> Implement international compromises | <input type="checkbox"/> Indicate where and how consultation should take place |
| <input type="checkbox"/> Consultation and Participation | <input type="checkbox"/> Promote responsible democratic participation | <input type="checkbox"/> Desire to contribute and generate opportunity for participation |
| <input type="checkbox"/> Compensation for environmental and socio-cultural damages. | | |
| <input type="checkbox"/> Cultural objection | <input type="checkbox"/> Improve decision processes through the opinions of diverse parties | |

As well as in the first tripartite dialogue, the need to develop diverse projects that strengthen the relationships and mutual knowledge between the three parties became apparent.

This is how the Training Project started sponsored by the German Carl Duisberg Foundation; the Information System, financed by the Andean Development Corporation (ADC), and the Regulatory Framework Improvement Project, financed by the environmental program of ARPEL/CIDA, phase 3. They also established tripartite work groups to develop the terms of reference that allowed for the formulation of the basic objectives to develop and finance these three projects.

The two following regional meetings did more in informing the national coordinators about the advance of the dialogues in each of their countries and develop the environmental and social regulations in the processes of national licensing in hydrocarbon projects. They formulated the contribution offers of the multilateral organizations, discussed the progress of each of the projects, and formulated new initiatives. Two of these initiatives were the proposal of the Interamerican Development Bank concerning the qualification of areas for exploration activities, and of the World Bank regarding the study on the distribution of oil rents in Bolivia, Colombia, Ecuador, and Peru.

The meetings discussed issues of common interest, like the formulation of the Declaration of Rights of the Indigenous Peoples of America and the presentation of national documents about new policies prepared in a tripartite manner. Likewise, there were the presentations of the external consultation process for the new World Bank policy on indigenous peoples (OP 4.10), the NGO's contribution, the social impact of large projects - the case of the Bolivia-Brazil Gas Pipeline and the planning of the gas project of Camisea in Peru - for the formulation of an effective consultation and participation proposal, the pilot trial of the formulation of an indigenous company interested in processing gas flared in Ecuador, and the development of ESMAP training programs of indigenous peoples in Bolivia and Ecuador.

In the same way, the tripartite meetings have made considerable progress in the quality of presentations and debates. As the following graphs indicate, there is a growing participation of government representatives, indigenous organizations, the oil industry, NGOs, and multilateral groups.

In the last meeting in Cartagena (May 23-25, 2002), an offer was made to strengthen the relationship between the First Nations of Canada and the Indigenous Peoples of the Amazon. This was finalized through an invitation from the Center of Indigenous Environmental Resources of Winnipeg (CIER) to COICA and the indigenous organizations of the Amazon, to work for the consolidation of cooperation ties. The CIER emphasized that there is much in common between the ideals and visions of development of the First Nations of Canada and those of the indigenous peoples of the Amazon. The contribution of Canadian cooperation and other institutions would serve to reduce the differences between the parties in the tripartite dialogue. This in turn will facilitate the advancement of the proposed EAP activities

The last meeting that took place in Cuzco, May 2002, was very significantly positive in participation, analysis and proposals. The projects that have emerged from the tripartite dialogue were the support of the EAP Program, show their strength and achievements. The Steering Committees for the Training and Regulation components had on their own an evaluation and prepared decisions for pursuing their work in the future. Through Direct Technical Assistances, the five (5) Reference Documents for improving the Regulatory frameworks will reach more participants to the dialogues in a way that will be able to implement them in their specific contexts.

As well, for the Training Component, decisions were made to define the next steps for a second phase for the next three years.

Overall, the participants to the Cuzco meeting recommended among the most important initiatives to deepen the mutual understanding by integrating the intercultural component, to search for an effective participation of local communities and indigenous peoples in the benefits of the oil rent, to provide a more solid training to indigenous leaders on hydrocarbon issues and to extend the EAP program to the electric and mining sectors and to progress in the analysis and definition of environmental monitoring with community participation. The following table shows the Program of work of the EAP approved at the meeting:

I – Ongoing Activities

Information Component

- OLADE will call for a tripartite working team that will propose improvements to the EAP website, to the existing documentation and to the process of dissemination of EAP related information.
- Send to the OLADE coordinator the documents that are suggested for the website.

Training Component

- Complete the preparation of the proposal for the 2nd. Phase, on the basis of the proposals of the National Tripartite Committees.
- Complete the preparation of the manuals
- Include a module for the training of national trainers/facilitators
- The details of the agreements are in the Aide Memoire of the Steering Committee

Regulation Component

- Complete the review of the five Reference Documents – 3rd drafts.
- Agree on mechanisms for their dissemination and the Direct Technical Assistance for their implementation.
- The details of the agreements are in the Aide Memoire of the Steering Committee

II – New Activities

Strengthening of the Capacity of the Indigenous Organizations

- Activity to be developed independently of the EAP framework by COICA and the national organizations themselves.
- The EAP is ready to contribute.

Distribution of Rents

- Deepen the collection of statistics.
- Create a tripartite working team that will propose criteria for improving the current distribution mechanisms, including recommendations for increasing the share of indigenous peoples and its effective utilization.

Participatory Environmental Monitoring

- Study on the current regulatory frameworks and successful cases of participatory monitoring. Proposal for implementation in the oil industry in the Amazon region.

III – Next Steps

- Receive comments and then publish this EAP document (July 2002).
- Tripartite meeting to formulate a detailed plan of activities for the next two years.
- Presentation of the plan for its funding at a donors meeting
- Organize the 5th. Tripartite meeting at a city in the Amazon by May 2003.
- Les presentation and more debate in the agenda of this 5th. Meeting.

Figure 5.1: Total Number of Participants per Meeting

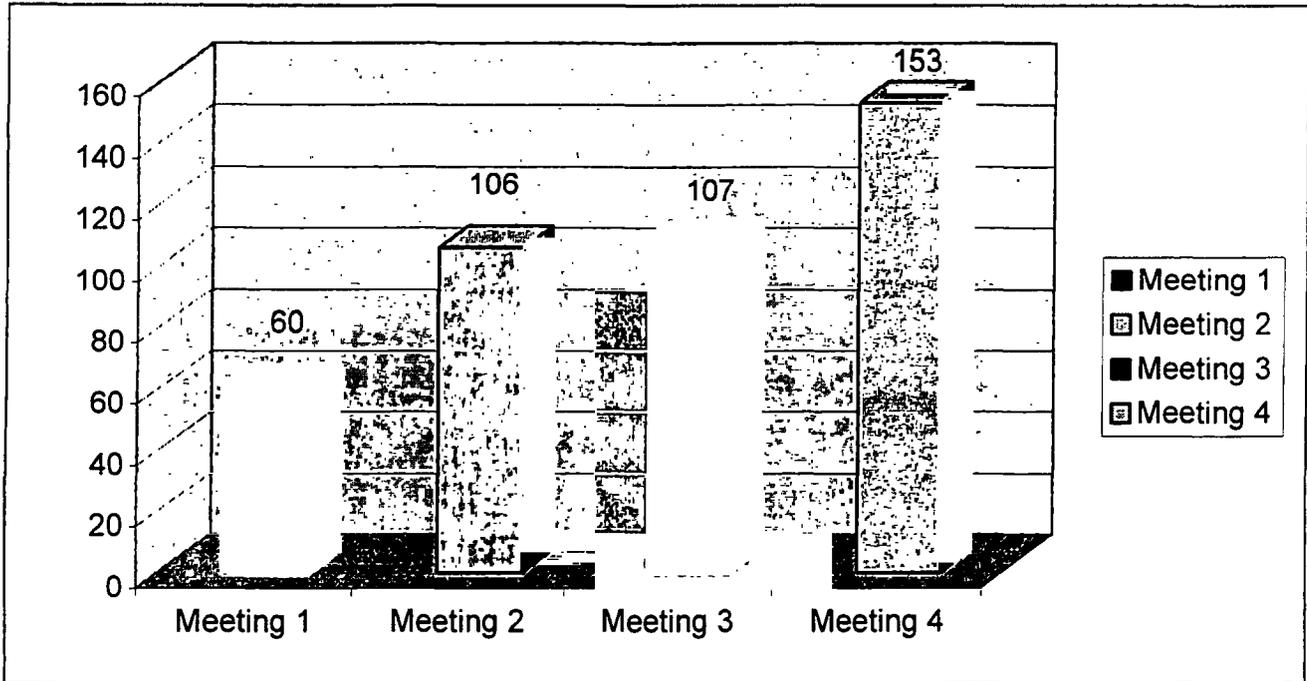


Figure 5.2: Participation of Stakeholders Groups at the Tripartite Meetings

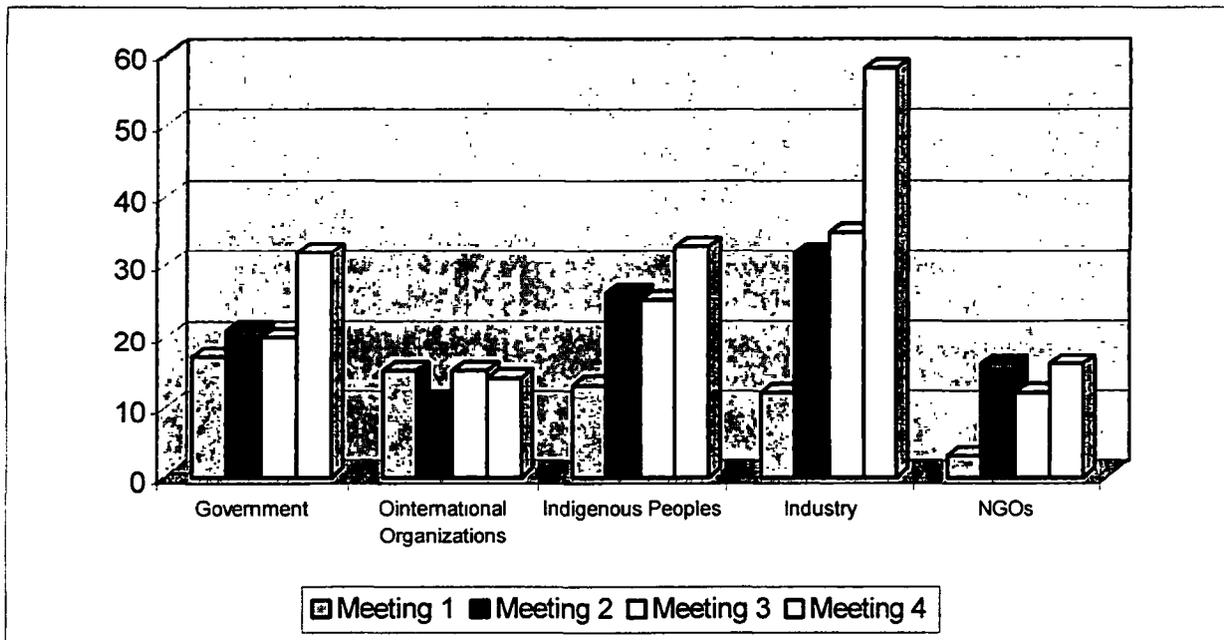
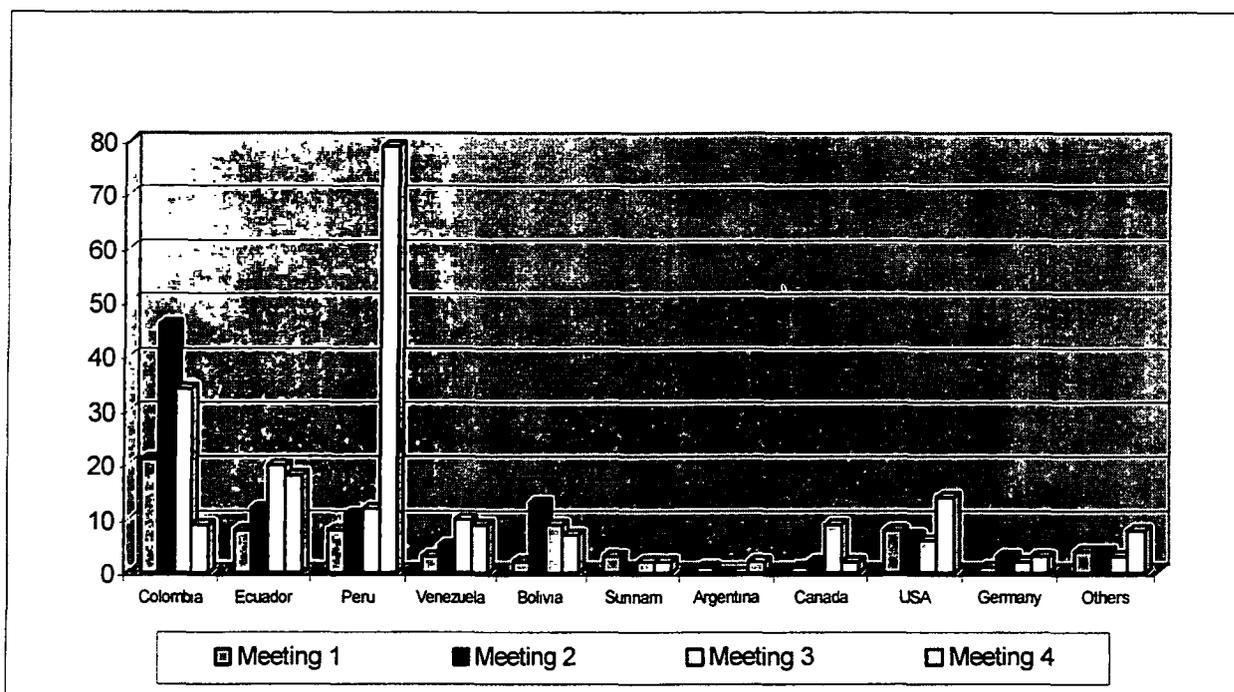


Figure 5.3: Participants per Country at the Tripartite Meetings



2. System of Information

The EAP information module was created in recognition of the value of exchanging information and experiences between the different parties, maintaining effective means of access to information, and making public the activities of the program. It is currently displayed on the website <http://www.OLADE.org.ec/redeap>.

The page contains contact information of the people who participate in the EAP process, a review of the program, access to document information on better practices in the oil and gas industry, and laws. It has links to the Interamerican Development Bank page on Indigenous Rights, the page on Indigenous Peoples of the World Bank, and the System of Legal Information on Energy and Environment (SIEAL) of OLADE and the University of Calgary. The page also contains geographic information that will link to the Condor System of Geographic Information of the CAF

It is a platform, a gate from where public information is integrated and available on the Internet, related to EAP program problems. It will also contain the "Electronic EAP Forum" in which the interested regional and international community will be able to exchange criticism and information, and discuss current issues. Pilot programs are underway to define the most adequate model for this Forum.

If the Internet format is cost efficient, the program recognizes that it is not necessarily the best way to cover the information needs of all actors of the program. Without negating the value of the current EAP network, the participants of the EAP program recognize that a tripartite

exchange process deserves to be carried out to design a new “information” module under more elaborate criteria, following the demands of the parties and the financial availability.

The need to disseminate the information continues to be a negative aspect to the EAP program. While the Internet is an economically effective medium, it is clear that the socio-economic reality of the Sub-Andean region as well as the composition of the Program prevent the internet from being the only mode of mass diffusion.

3. The Regulatory Module and Its Relationship with the Environmental Program of ARPEL - CIDA

Using different cooperation agreements, ARPEL has developed a range of environmental projects with support from the Canadian International Development Agency (CIDA). In the negotiation of the programs for a third phase of financing, starting in 2001, the possibility arose of providing financial backing from the achievement of cooperation agreement for the development of the Regulatory Frameworks project. This possibility surfaced from previous contacts between OLADE, the World Bank, and ARPEL.

In May 10-11, 2000, in Montevideo, the GTRC, Group of Work for Community Relations, revised terms of reference for this project that aimed at developing and implementing guidelines. These guidelines were intended to permit government groups, the oil industry, and indigenous peoples to integrate social and environmental components into the development of oil and gas projects, to better their relationships, to provide a “tool kit” to adequately realize the projects, and to contribute to the resolution of conflicts.

In the Tripartite Dialogue that took place for the second time in Cartagena from July 7-9, 2000, an extended working team was formed. The group included government representatives, industry, ARPEL, the World Bank and indigenous organizations belonging to COICA. The group was created to coordinate the project and establish working relation with a consulting firm chosen to carry it out. The current Assembly of ARPEL Member Company Representatives that took place in Buenos Aires, Argentina July 6-7, 2000, agreed to integrate the project into Phase 3 of the ARPEL/CIDA program and into the Population, Energy and Environmental Program, and EAP.

The Canadian International Development Agency (CIDA) has ensured the financing of the project, which should take place for four and a half years, beginning early in 2001. The ESAA (Environmental Services Association of Alberta), will be the Canadian associate of ARPEL for the development of the project.

Among other activities, the member companies of ARPEL will be able to receive direct technical assistance to revise their corporate environmental policies of environmental management, in accordance with international standards. The projects that the Program will take on are:

- Climate Change Initiatives

- Atmospheric Emissions
- Socio-environmental issues, within which the Regulatory Framework EAP component.
- Systems of environmental, health, and industrial security management
- Emergency response planning
- Implementation of best practices

In Montevideo (October 9-11, 2000), CIDA approved the program's of terms reference, which had already been revised by the extended working team in a tripartite meeting that took place in Bogota, in August of the same year. The Regulation Module project looks to:

- Develop guides to assist the companies, governments, and indigenous peoples in their efforts to integrate the social and environmental elements of the hydrocarbon projects.
- Push forward the application of legal and regulatory mechanisms of the hydrocarbon sector, with respect to social and environmental components.
- Give support to the decision making process on regulatory issues.
- Offer orientation of social-economic practices.
- Strengthen the interaction between indigenous peoples and the government and industry.
- Promote the revision of national laws and regulatory frameworks.
- Set principles for regional cooperation and integration.
- Improve relationships between Government, Industry, and Indigenous Peoples.
- Offer orientation for the resolution of conflicts.

The Programs fundamental goal is to supply useful references to national processes of debate and improvement of the legal and relative regulatory frameworks for the interaction between the government, indigenous peoples, and oil industries within the framework of the hydrocarbon operation in accordance to sustainable development. These guidelines, mechanisms, and lines of action bring around the dialogue and the integration of the socio-environmental aspects of the projects under jointly defined principles.

The principal components of the project that are currently under development include:

- **GUIDES (Reference Documents)** - Inter-institutional work of regional character where representatives from ESAA, ARPEL, OLADE, the World Bank, COICA, and indigenous organizations participate.

- **DIRECT TECHNICAL ASSISTANCE FOR THE USE OF THE GUIDES**
 - The implementation of retained concepts, in accordance with the specific needs of the selected countries.
 - The promotion of processes of consultation.
- **SOCIAL ASPECTS AS PART OF THE EIAs.** An additional guide of help to integrate the social and cultural components of the EIAs of oil and gas projects in Latin America.

The content of the GUIDES comprises the following subjects:

GUIDE No. 1 Relationships with Indigenous Peoples

- The process of regulatory development. Ability of the interested parties to implement a regulation of social character.
- Concept of territory and property rights.
- Criteria to define the area of influence of new projects.
- Compensation and participation in the oil projects' benefits (economic, social, and land use components). A tool to support the regulation: Social study for base-line assessments.
- Instruments for constructive relationships with indigenous communities.
- Definition, role, rights, and obligations of the three parties.
- Community consensus and active participation in sustainable projects.
- Participatory, monitoring, and auditing forums

GUIDE No. 2: Public Participation in the Process of Environmental Evaluation

- Public Participation and consultation: methods and legal framework.
- Opportunity and mechanisms of participation
- Roles of the key parties
- Laws and regulations about consultation and participation. Cases of Bolivia, Peru, and Colombia.
- Prior consultation with respect to an evaluating document and environmental management. Operative base of a conciliatory plan.
- The social dimension of the environmental evaluation.
- Traditional knowledge: indigenous participation as a tool for investigation and planning.
- Design and implementation of indigenous participation in the process of environmental evaluation: public plans of consultation and information divulgence.

Period of notification. Base line. Evaluation of impacts. Plan of mitigation and warning. Consultation results. Limits of participation.

- Indigenous participation beyond the Environmental Evaluation process.
- Key principles for the three parties.

GUIDE No. 3: Social, Political, Economic and Territorial Characterization of Indigenous Peoples, Communities, and/or Farmers.

- Indigenous peoples: vision of land/territory and natural resources
- Indigenous peoples, native communities, and farmers
- International Conventions
- Governments
- Oil and Gas companies
- Forms of organization, representation, and legitimacy
- Basic principles for work with indigenous peoples
- The importance of knowledge of the codes of conduct
- Policies of external relations of the hydrocarbon companies
- Indigenous **cosmvision**
- Methods of identifying **ex-ante** and initial contacts
- Socio economic characterization
- Methodology for the construction of the social map
- Culture and cultural identity of the indigenous peoples

GUIDE No. 4: Resolution of Conflicts

- Goals and objectives of regulation of the Alternative Resolution of Conflicts (RAC)
- Consideration of options to improve a given situation.
- Sources of conflict and methods of resolution: litigation, arbitration, mediation, Negotiation.
- Methods and forms of negotiation.
- Implementation of a Regulation for Alternative Resolution of Conflicts.
- Identification and understanding of the current situation

GUIDE No. 5: Indicators of Management to Evaluate the Relationship Between Companies and Indigenous Peoples

- The function of the indicators of relationships with the community.
- Framework for the development of indicators
- Classification of the indicators: quantitative, qualitative, at the level of the project versus general indicators of the company.
- Warnings and evaluation
- Management of the relationship with the community: social responsibility, shared responsibility for the management of problems/impacts. Agreements with the community.
- Examples of qualitative indicators.

Through a rigorous process of selection, knowledge, abilities, experience of environmental legislation, resolution of conflicts, knowledge of the objective zone, and knowledge of Spanish, the work group, made up of representatives from the three sectors - indigenous peoples, governments, and oil industry - together with the manager of the ESAA, selected the Canadian AMEC - E2 Consultant group to realize this project.

The continuance and productive interrelationship between the members of the work group and the Canadian consultant firm has allowed for the effective and satisfactory advancement at the project planed phase, realized through regional meetings, the electronic remission and review of documents and the formulation of regional workshops. At present, there are fairly advanced second drafts of the guides. In the work session the day after the 4th tripartite meeting, the extensive work group will discuss these drafts and will set dates for their completion and distribution in workshops and direct technical assistance events. This EAP activity should end in December 2002.

4. The Training Project

Without a doubt, one of the most important components in the EAP program is training for dialogue. It is based on the premise that the individual stakeholders - governments, oil industries, and indigenous peoples - are not familiar with the concerns and interests of the other parties. The project essentially looks to promote a permanent dialogue and encourage mutual understanding between the participants, facilitating a direct access to this knowledge through a common effort enhanced by an appropriate facilitator.

The project organizes the training process in different phases. These phases are dedicated to the government sectors, indigenous peoples, and oil companies of the five countries of the Andean Community (Bolivia, Colombia, Ecuador, Peru, and Venezuela). They aim at providing them with tools to establish free dialogue and new environmental and social standards as well as the ability to improve their procedures and relationship.

The EAP training program is, for the most part, financed by the German Carl Duisberg Gesellschaft (CDG). This organization is dedicated to the realization of international products of professional formation and cooperation in the advancement of personnel from developing countries. The relationship between the environmental sustainability, social efficiency and equality, promoted by Agenda 21, directs the CDG's work in its different projects. The Alliance for the Climate, an organization of cooperation between the European community and the indigenous peoples of the Amazon, also accompanies the development of this project.

After three preparatory and planning meetings, the bases were set to establish the information and terms of reference that allowed for the selection of consultants. Through a process led by the CDG rules, the Fundación Futuro Latinoamericano (FFLA) and PONSAC of Harvard University²² was selected to execute the first phase of the project. This began in October, 2000 and included the following events.

National tripartite dialogue (Diálogo tripartito nacional, DTN) - With the goal of identifying the parties of each one of the objective groups and thoroughly understanding its concerns and demands. In this first meeting, the five countries reached many conclusions. In the five countries there was an exchange of experiences, an analysis of information and training methods, and a first notion of the ideas and visions of the other parties by simply identifying the most serious problems and the concerns of each of them.

Module No. 1: "Joint Understanding" - Each one of the five countries involved in the development project learned international and national rules within this module that regulate the relationship between the three sector. They also explored issues like the structure and regulations of the hydrocarbon industry, the visions and customs of indigenous organizations and communities, public oil administration, and the function of the governmental entities.

Module No. 2: "Constructive Relationships" - This gave the three participating groups tools to assist the dialogue, negotiation, and management of conflicts. It also provided for planning methodologies, participatory monitoring, and the elaboration of indicators, issues that were explained by practical exercises of fictitious cases.

Regional Tripartite Dialogue (DTR) - This took place in Quito, Ecuador (November 2001) to exchange experiences, share a vision of the future and of the sustainable development, and to identify needs and initiatives to execute a second phase.

Module No. 3: "Development of Facilitators". Its goal is to supply the tools and

²² The FFLA is an NGO accredited before the Ecuadorian Government that looks to construct a culture of dialogue as an essential form of Sustainable Development, working with leaders of the different societal sectors. PONSAC is a part of the Center of International affairs of Weatherhead in Harvard University established as a response to conflicts about the use and the rights to natural resource, in which the interested parties are distinguished by their different cultures and asymmetric political-economic positions.

methodologies that permit the replication of information. It strives to delve into the techniques for the management of conflicts, planning of local dialogues, and negotiation.

The first national tripartite dialogue took place in Peru in October, 2000. During the next twelve months, other dialogues took place in the Andean countries and the first and second Modules of the project were put into action. The regional tripartite dialogue permitted for the summarization of the national events and the exchange of experiences at a regional level.

Pending is the 3rd Module that will serve as a link between the first phase and the second phase of the project in a way that will involve representatives from the three sectors of each country. These representatives have leadership ability, the potential to be facilitators, and are representatives from training organizations and/or institutions from the countries of the project.

The Training Project has counted on significant participation from the three sectors. 312 people participated in the development of the first phase of the project, from October 2000 to November 2001. The sector with the most number of participants was the indigenous peoples (54%). The industry sector and the government sector participated 22% and 19% respectively. One fifth of the total participants were women.

In the evaluation of the advances and achievements of the first phase that took place during the regional tripartite dialogue of Quito, it became clear that the Project had significantly contributed to:

- improving the understanding and capacity for dialogue between the parties.
- a better and more substantial personal relation.
- the acquisition of new personnel abilities.
- legitimacy of the dialogue process.
- joint recognition
- that although the events were postponed by the consulting agency, the improvement of mechanisms for dialogue in the region were achieved.

The awaited advancement was related with the transmission of formal understanding and the preparation of sufficient documentation. All the participants agreed on identifying the usefulness of the project so that the development of the second phase would take into consideration the recommendations of the Regional Tripartite Dialogue and the Management Committee. In particular, the general objective of this new phase would be, "the improvement and development of a tripartite dialogue in each one of the five countries as a sustainable form of contribution to the prevention and solution of conflicts and cooperation in training processes to aid local and national development."

Among the possible tasks to develop are:

- Cooperation with countries that require a dialogue process in concrete situations. This

is key because each country has a different situation and therefore should identify relevant issues for discussion in the tripartite dialogues.

- Strengthen understanding so that the dialogues are made more meaningful.
- Broadening of knowledge through the design and application of assistance programs allowing for better interaction between the sectors, which would contribute to a deeper joint understanding.
- Set up, in each country, suitable local institutions/organizations that will assure future training and tripartite dialogue.
- Train people to help in local projects of tripartite dialogues.
- Document and disseminate training materials making use of the EAP program platform, “component information” and/or the Global Campus 21 (CDG’s system of documentation). Alternative analysis of diffusion through the Internet for a bigger and more effective socialization, develop strategies of educational communication, and take advantage of national resources like local and regional television, media, etc.
- Exchange experiences and understanding in a regional 2004 event about concrete executed cases. Representatives of the five countries share the results of the dialogues in their countries.
- Present the good policies and “learned lessons” as new standards in an international forum.

The first steps of phase 2 have begun with meetings of the National Committee of each country. These meetings are responsible for acting at a national level and cooperating with the Coordinator of the Project.

On another angle, ideas have emerged for the “Training” and “Regulatory Framework” components of the EAP program that offer the opportunity to intensify the cooperation and development on the review of common issues, the exchange of experts, materials, and other possible joint initiatives.

Further initiatives at a national level have also emerged, as in the case of Colombia where under a joint effort between the three sectors, new ideas and tasks were formulated to intensify the common issues and develop local workshops to respond to the learned understanding. In this sense, more than participating in the training project, they will broaden the training with other funds.

It also fits to mention the parallel effort of Peru in reinforcing the training through executed events thanks to the resources of the fund for training obtained through the contractual contributions from the oil companies dedicated to the exploration and exploitation of hydrocarbons.

Additionally, COICA, within the training activities, has insisted on the emergent need to establish a specific program of technical professionalization of the indigenous community as a

strategy for the equal participation in the tripartite dialogues with relation to the other parties in the process. In this sense, COICA has called the involved international groups in this process and the governments of the region to offer the necessary facilities for the establishment of indigenous professionalization programs on mining and hydrocarbon issues.

Table 5.2: Participants in the first phase - Training Project

| Countries | People | Government | Indigenous | Industry | Others | Mas. | Fem. |
|--------------|------------|------------|------------|-----------|-----------|------------|-----------|
| Bolivia | 65 | 10 | 42 | 13 | | 53 | 12 |
| Colombia | 59 | 7 | 36 | 16 | | 44 | 15 |
| Ecuador | 65 | 17 | 35 | 13 | | 54 | 11 |
| Peru | 70 | 13 | 40 | 17 | | 63 | 7 |
| Venezuela | 38 | 12 | 16 | 10 | | 23 | 15 |
| Institutions | 15 | | | | 15 | 13 | 2 |
| TOTAL | 312 | 59 | 169 | 69 | 15 | 250 | 62 |
| Percentage | 100 | 19 | 54 | 22 | 5 | 80 | 20 |

Table 5.3: Assistance by event and country - Training Project

| Countries | Event | Government | Indigenous | Industry | Sub-Total | TOTAL |
|--------------|---------|------------|------------|------------|------------|-------|
| Bolivia | NTD | 7 | 22 | 11 | 40 | |
| | Module1 | 6 | 21 | 8 | 35 | |
| | Module2 | 7 | 27 | 4 | 38 | |
| | RTD | 0 | 2 | 5 | 7 | 120 |
| Colombia | NTD | 4 | 16 | 8 | 28 | |
| | Module1 | 5 | 23 | 7 | 35 | |
| | Module2 | 5 | 24 | 7 | 36 | |
| | RTD | 3 | 5 | 5 | 13 | 112 |
| Ecuador | NTD | 6 | 15 | 8 | 29 | |
| | Module1 | 12 | 15 | 8 | 35 | |
| | Module2 | 6 | 16 | 5 | 27 | |
| | RTD | 5 | 5 | 3 | 13 | 104 |
| Peru | NTD | 6 | 16 | 9 | 31 | |
| | Module1 | 9 | 15 | 12 | 36 | |
| | Module2 | 8 | 28 | 6 | 42 | |
| | RTD | 4 | 6 | 3 | 13 | 122 |
| Venezuela | NTD | 9 | 14 | 2 | 25 | |
| | Module1 | 8 | 10 | 8 | 26 | |
| | Module2 | 4 | 9 | 4 | 17 | |
| | RTD | 4 | 4 | 3 | 11 | 79 |
| Institutions | RTD | | | | 15 | 15 |
| TOTAL | | 118 | 293 | 126 | 552 | |

5. The comparative study of the distribution of oil rents

The problem of rent distribution has been continually debated in both the national and regional Meetings of the EAP program. With the prospect of obtaining information about the current situation, it was decided, in the Second Tripartite Meeting in Cartagena, to carry out a comparative study between countries able to provide information (Bolivia, Colombia, Ecuador, and Peru).

The study²³, that covered the period from 1995-2000 made interesting observations about the existing mechanisms in the region to distribute oil rents. For the purpose of the study, oil rents were defined as the royalties, taxes, participations, and other benefits that the countries received as a result of the oil and gas operations. Notwithstanding the methodological difficulties intertwined with the accounting definitions of each country, the comparison has unearthed important conclusions and recommendations. A few of these are:

- The level of political decentralization of each country had an influence in the distribution of the oil rents. The average of the oil rents distribution in the four countries during the period of study shows that the government retains 50% of all income, the regional government receives 19%, the municipalities 9%, the funds of stabilization or investment 12%, and the social funds and other applications 10%.

Table 5.4: Comparison of the Distribution of the Oil Income

| | Bolivia (%) | Colombia (%) | Ecuador (%) | Peru (%) | Average |
|--------------------|------------------------|-------------------------|------------------------|---------------------|----------------|
| Central Government | 53,50 | 32,10 | 62,14 | 49,24 | 49,25 |
| Departments | 21,18 | 27,34 | 1,42 | 25,90 | 18,91 |
| Municipalities | 1,25 | 15,37 | 2,40 | 18,76 | 9,45 |
| Funds | 23,10 | 22,10 | 3,30 | - | 12,13 |
| Social Support | 0,19 | 2,55 | - | 1,06 | 0,95 |
| Others | 0,80 | 0,63 | 30,94 | 5,04 | 9,35 |
| Total | 100,00 | 100,00 | 100,00 | 100,00 | 100,00 |

- Colombia is the country with the most precise rules of distribution. They include, most recently, a regulation according to which a part of the rents of the regional governments and the municipals should be invested in projects for the benefit of the indigenous peoples that live in the areas of oil operation.

²³ ESMAP – Technical Paper No. 20 -Daniel Guerra: “A comparative study about the distribution of the oil rent”. February 2002

- As Peru is an importing country, there are no Funds of stabilization nor investments funded by oil income. In the other three exporting countries, Bolivia (gas), Colombia (oil), and Ecuador (oil), the said funds exist.
- In Peru and Bolivia, the contracting and regulatory agencies of the sector receive a part of the oil income to assure their professional quality. In the case of Colombia and Ecuador, these functions are executed, for the most part, by the national oil companies, ECOPETROL and PETROECUADOR, respectively.
- In Bolivia, as a result of the capitalization process, an important part of the rents goes into a fund that shares its deposits and profits with the whole population.
- Ecuador is the country where the distribution rules are least precise. The item "others", that includes many Government entities, has a high percentage.
- The consulting firm concluded that the indigenous peoples need to improve their organizations' administrative capacity to profit from the oil rents and to be capable of directly receiving funds from the resources that are part of the income or regional governments and municipalities.

In the 4th Tripartite Meeting that took place in Cuzco, Peru during the month of May 2002, the final document was presented and discussed. The EAP participants considered of importance to deepen and to extent the study as well as to work in its dissemination to the indigenous peoples. There is an emerging consensus in the producing countries to evaluate the way the exploitation of its natural resources is taking place in order to maximize income and decide how to redistribute it to obtain the maximum social benefits for all its peoples.

6

Evaluation of the Achieved Progress, New Challenges and Possible Improvements

The results achieved in the development of each one of the projects and initiatives integrated in the EAP program have, without a doubt, demonstrated the important progress in the dialogue between the parties. They have permitted a sensible improvement of common understanding, which has opened the possibility of executing joint activities. The search for tangible methods has included the joint effort of the indigenous organizations, government representatives and the hydrocarbon industry.

Nonetheless, to be capable of recognizing the achievements and better define the scope of the regional tripartite dialogues, one should be conscious that there is still much to do in the search for a truly sustainable hydrocarbon industry. In effect, the executed EAP activities have demonstrated the need to continue working together to have precise and fair rules of game in relation to:

- 1) ***the consultation and participation of indigenous peoples in all aspects of the oil industry*** - from the formulation of policies and exploratory projects to the abandonment of the sites-; rules that will only be followed when the capacity level of the parties is considerably built up.
- 2) ***the joint environmental monitoring and the protection of biodiversity and indigenous culture***, the assurance that projects will be put forward through the use of genuinely clean technologies, where the benefits outweigh the damages and where the indigenous peoples are given real options of social and cultural survival.
- 3) ***the distribution of resulting rents of the oil activity***. It is clear that the compensation and indemnification that the indigenous peoples receive, including, in some cases, some small portion of the rents is not enough to open real possibilities of sustainable economic and social development of these peoples.

The evaluation of the accomplishments of the EAP program is satisfactory. Nonetheless, concepts should continue to evolve and improved methods should be found to socialize and put into practice the learned lessons.

Assessing the progress in parties' relationships inside the countries -- The description of the projects and the underlying concerns that are illustrated in this document of the EAP program, elaborated by the three sectors to attend to the need of registering and recognizing the common effort, makes clear that each one has put in efforts to reach a real understanding and to win the trust of the other parties.

The need of a better relationship has become more and more evident in the different tripartite Meetings and shows the significant progression of the execution of goals of the Program. This is how that in the Third Tripartite Meeting (Cartagena, May 2001) it was easy to observe the result of tripartite work. The report of the accomplished efforts and activities in each one of the countries of the EAP was not made under the responsibility of the national coordinators. It was, instead, prepared in a tripartite manner, prior to the meeting and presented jointly.

In the last meeting, the national reports from Bolivia, Colombia, Ecuador, Peru and Venezuela were delivered, from the same tribune, to indigenous, governmental and industrial representatives from each one of the countries. If in some cases there was no agreement to show the results and consensual points of view, the parties had the opportunity to jointly express the differences and disagreements. This is a sign of the progress made in the dialogue and joint understanding. In these presentations, it was clear that the dialogues did not facilitate and could not be understood as a negotiation process, they reflected the peculiarities of the social situation and the oil investment in each one of the countries. They have been useful instruments for favoring and improving the relations between the parties and finding consensual solutions to the need of improving the regulation of the industry in its operations in areas inhabited by indigenous peoples.

The Bolivian delegation informed, for example, the obtained profits of the participatory process discussing the rules of Hydrocarbon Operations, which reflects related aspects to the consultation of the indigenous peoples and the development of the projects, the Socio Environmental Evaluation, Resolution of Conflicts, monitoring, compensations, etc. If the regulation still has not been completed and issued the process as it is has a value in itself. The Colombian document was previously prepared through team work and discussion in a national tripartite meeting. In Peru, the government, the industry, and the indigenous peoples are applying in a practical form a policy to strengthen and further citizen participation in the execution of projects that involve the civilian population.

In summary, it was clear that each one of the national delegations contributed to the constitution of a summary view of the EAP program's achievements. The ex-general coordinator of COICA recognized the contribution of the dialogues in facilitating joint understanding and in setting the bases for the elaboration of reference documents. He also clarified that the participation of indigenous peoples should not be interpreted as an agreement with the governmental policies or as consent for oil exploitation in indigenous territories.

Assessing of the limitations of the regional tripartite dialogue. It is also important to recognize the limitations of the tripartite dialogue in the search for solutions to national

conflicts. The prevailing legal frameworks in the countries of the Sub-Andean Basin establish that the decisions related to hydrocarbon projects are national ones. They are based in the sovereignty of the countries with respect to the exploitation of their natural resources. In this context, the advances and recommendations of the EAP program and of other programs of regional cooperation are limited to providing guidelines with the object of improving process but the decisions are the competition of the national government.

The framework in which the EAP program operates is one that: (i) elevates the level of understanding between the parties, (ii) gives tools that facilitate the consultation process and the participation of the indigenous peoples in a way that improves the design and implementation of the project incorporating their points of view and fundamental interests and, (iii) give guidelines that serve to reduce the negative impacts of the projects and accentuate the positive ones.

This is the importance of continuing to reflect in national dialogues what has already been advanced in a regional context. As we have been able to observe, the achievements are: in terms of more fluid mechanisms for the exchange of information, the recognition of the interests of the involved parties, the differences in the current processes of consultation and participation- in the decisions such as the benefits generated by the projects and the recognition of the importance of consensual work for the achievement of established decisions and many others. They should serve as examples, or maybe as starting point, for works of greater scope and development in the national environment. A part of this effort should consolidate itself in its national strategies for training to advance in the following phase of the EAP training module.

The evaluation executed by the representation of indigenous peoples - the new COICA directive has defined the achieved progress of the EAP program and has identified some indicators with which it has used in its evaluation.

COICA participation in the EAP program has been voluntary and under the consultation and approval of its member organizations. Its active participation has been demonstrated in the three regional tripartite dialogues, in the Management Committee with organizations based inside the regulatory framework, and in the training activities.

COICA highlights three indicators that should be assessed in the evaluation process:

The participating parties and their role - The need of a direct relationship between the governments and the oil industry to understand their policies and plans for operations in the indigenous territories has been constantly motivated by COICA and their local organizations. In the same way, the need of the non-indigenous parties (governments and the oil industry) to understand more thoroughly the reality of the indigenous peoples, their demands, and internationally recognized rights, through national laws are also part of what has been defined as their ideals. In this way, the regional tripartite dialogues have been constituted in the possibility for dialogues where distinct parties and sectors have listened to the experiences of the indigenous

peoples. This has been positive, in that it has not only been a place for the exchange of information, but also a period in which to critique the relationship between indigenous peoples and the oil industries. This happened in the case of U'wa during the Second Regional Tripartite Dialogue, where the indigenous organizations involved by COICA demonstrated their desire to not continue with the project where the decisions of the energy authorities of the country (Colombia) ignored the joint experiences in the EAP process and, above all, the position of the indigenous peoples with respect to the case.

In general, the EAP project has allowed for achievements in advancement between the governments, indigenous peoples, and oil companies and the understanding of experiences and perspectives, that is to say, they have considered it as a space for dialogue and not for negotiation.

COICA highlights a limitation that concerns them seriously; the fact that the EAP program has little relevance in the decisions made by the energy authorities with respect to concessions to the oil companies and other administrative and political measures, that in the end affect the weakest part: the indigenous peoples.

The role of the World Bank as a "facilitating" group of the EAP program is also a credible entity for the meetings of the diverse parties. From the point of view of the indigenous peoples, the World Bank's presence helps to facilitate the achievement of foreseen goals through financial assistance including large grants to respective governments. That is to say, the World Bank prevents or mediates conflicts of interest that arise during the completion of global cooperation agreements whose objectives and goals are not well known by indigenous peoples and, obviously, have not been socialized in the EAP project. It is affirmed with a good degree of certainty that the large multilateral credits are oriented towards the adoption of profound structural reforms in the states, the privatization of strategic sectors, and the integration into the global economy. The World Bank Policy 04,20 about indigenous peoples clearly states the intention to relieve or lower tensions in the relationship with governments - companies and indigenous peoples when large mega projects are put underway in indigenous territories. The World Bank, according to the COICA evaluation, should be more clear in this respect, and the indigenous organizations should have the right to be notified of the global assistance packages that the governments receive.

With respect to the parties, it is also desired that the indigenous peoples allow their representative organizations a bigger ability to intervene in government decisions and in the oil industry when they grant oil exploration concessions in the indigenous territories.

Development of technical capabilities - The regulations about risk contracts, concessions to oil companies, granting of environmental licenses, remediation of impacts, relations with the indigenous peoples, commercialization, distribution of the

oil income, etc. are some of the legal and technical aspects that the indigenous peoples have the opportunity to learn about through participating in the EAP program. Some of these aspects have already been discussed by experts during the tripartite dialogues, but because of time constraints, it has not been easy to provide the indigenous peoples with all the necessary information to strengthen their capabilities and knowledge on these issues.

In this direction, COICA advances the idea that with a more solid understanding of these aspects, the indigenous peoples could take a position of leadership. With good bases for the dialogue with the oil companies and the governments they could strengthen their defense mechanisms against these parties.

The implementation of the training component has a clear orientation with respect to stimulating a better understanding between the parties and the teaching of new dialogue skills to relate with the oil companies. This has clearly helped the indigenous peoples to strengthen their understanding, but it is hoped that studies about regulatory guidelines will contribute to a deep reformulation of oil policies and legislation in each one of the countries of the region.

The oil industry and the sustainable development in indigenous territories - In all of the EAP program projects, from the instant that COICA began to participate, it has been clear that from the point of view of the oil industry and the governments, the developmental objective has been to establish good policies about oil exploitation in indigenous territories, so as to reach sustainable energy development, minimizing the impacts, promoting the dialogue between the three parties, and integrating technology with respect to the culture. But COICA asks *what is sustainable development?* It is a paradigm still unresolved in practice. It has been defined in many ways depending on the interested party and how they want to see sustainable development.

Through internal analysis performed by the indigenous peoples, they have reached the conclusion that the projects presented with a tag of sustainable development will not be possible while the oil industry and governments have as their only goal the acquisition of a better rate of return through the extraction of natural resources as in the case of oil. In countries like Ecuador, Colombia, and Venezuela the revenue of the oil income is the best source of resources for the treasury and this has made it so that the oil rents have been considered a strategic resource, of which there is no policy or legislation that prioritizes the sustainable use as a strategic resource. Notwithstanding, in the Ecuadorian Constitution in Article 85, No. 2, the indigenous peoples are given the right to conserve their essential territories. Their territories will be not be able to be transferred, seized, or divided, *except by the power of the State when it declares its public use...*The territorial space declared under the National System of Protected Areas is also under legal supremacy.

For the indigenous peoples *sustainable development* does not mean that more and more pressure is exerted against their territories to reduce their land and authorize the

exploitation of natural resources. Sustainable development is not only a promise to respect the indigenous peoples culture, and to support the indigenous peoples in their efforts to conserve natural resources. Through the omission or the commission of the state, indigenous communities are becoming more impoverished with the further difficulty of adopting regulations on how the indigenous peoples should conserve the natural resources of their territories. For example, the Cofán indigenous peoples of Colombia, are an example of how the government's interest in oil exploitation in the Guamués Valley, -Putumayo- (ancestral Cofán territory), the indigenous peoples have gradually been moved from the territory that was legally granted to them in the 70's. For this resettlement, they were only awarded 28,000 hs. Today, they have less than 10% of the original granted territory. With the penetration of the oil companies, the phenomenon of colonization has notably grown constituting another underlying cause for the usurpation of indigenous territories. Because of this, the communities have made it clear that they do not want to continue losing the natural conditions of life (territory, forest, fauna, flora, water, etc.) that allow them to survive culturally. They do not want to continue to fight for the recuperation, extension, and enrichment of their territory.²⁴ In the case of Colombia and Cofán the internal conflict in the Putumayo Department clarified the situation and put the integrity of the ancestral territory in great risk.

An alternative of autonomous development presented by the same peoples is the "*Plan de Vida*" of the Cofán and Cabildos Indigenous Peoples of the Guamués and San Miguel Valley. This has been supported by the government and the industry, and consists of a long-term integral, sustainable development plan made up of seven components: Territory, Natural Resources, Environmental and Cultural Education and Culture, Health and Culture, Social Infrastructure, Institutional Development and Indigenous Organization, Economy, and Production and Social Conflicts as a jumping off point for the respect of the integrity of the indigenous land, cultural identity, traditional understandings, organizational strengthening, and management plans for the sustainable use of the resources that guarantee the basic needs of the community, among others. It was also established that sustainability could not be discussed when the indigenous peoples are not taken into account in the developmental plans, and it only appears to benefit the privileged sector.

In this sense, it could be concluded that the sustainable development policies in indigenous territories should be accomplished with the full participation of the local inhabitants in the decision making process, integrating their traditional understandings about the conservation and sustainable use of the resources. The principles of giving, receiving, and reciprocating should be truly respected so that the generosity becomes the central value of this module of development. Before the other, the accumulation of goods and services is maximum when it is done through the extraction of the resources in the indigenous territories, the indigenous peoples generally react negatively by considering these selfish attitudes opposed to the

²⁴ The City of Cofán. Offprint on Amazon Initiative magazine No. 1. ALDHU, August 2001

indigenous cosmovision. Members of a local meeting that misbehave, hiding food or luxury articles, are shunned by the rest; if such behavior continues, the offenders could be isolated from daily social life.²⁵

The old practice of **asistencialism** and **clientelism** in negotiation with indigenous peoples to obtain their consent should be faded out. Projects of any type, especially energy and mining projects should be implemented with the consultation and participation of the local people because the impacts will have a direct effect on their lives. With this effect, for example, the Convention 169 of the ILO about Indigenous Peoples and Tribes in Independent Countries²⁶ in article 7 states that: *The interested people should have the right to decide their own priorities that concern the development process, in the measure that this affects their lives, beliefs, institutions, spiritual well being, the lands that they occupy and use in some way, and the control, in any way possible, of their own economic, social and cultural development. Furthermore, the said peoples should participate in the formation, application and evaluation of the plans and programs of national and regional development that could directly affect them.*

In conclusion, COICA affirms that participation in the EAP project, “while contributing to the achievement of better documented information about the different aspects of the oil industry, has had its limitations in that it is not the adequate forum in which to make determinations about the reformulation of oil policy and the relation with indigenous peoples. It is a space good for the exchange of experiences and produces reference proposals that are oriented at adopting new policies and legislation. These new policies and legislations have addressed, for example, the equal distribution of profits from oil activity, especially to the indigenous peoples, the sector most excluded in this relation, so that they can substantially mitigate the environmental, social and cultural impacts.

Search for new ways that allow for a fair participation of indigenous peoples in the benefits of oil activity - The study about the distribution of oil income confirms that the indigenous peoples have not been direct beneficiaries of the oil rents. If they received benefits, they were very small, insufficient in many cases to compensate the negative impacts. For this reason, the following two options have been established:

- *look for a better relationship between the “Planes de Vida” of the indigenous peoples and the operations of businesses.* As part of the community relations plans, companies should give specific funds to support projects of sustainable development that generate employment and direct revenues to indigenous peoples to improve the

²⁵ Amazon: Indigenous Economy and Market. The challenge of the autonomous development. COICA - OXFAM America. Quito, 1996.

²⁶ The ILO Convention No. 169, in South America has been ratified by Colombia, Peru, Bolivia, Paraguay, Ecuador and Argentina.

quality and general formation of their representatives. Obviously, these plans of development should be in line with the definition of sustainable development and should contain projects that fit into a tripartite context of government, industry and community. The participation of representatives of indigenous organizations is of critical importance in defining the framework of the "Planes de Vida" and the achievement of long-term goals. Government participation is also important in that it can administer resources, such as tax credits, that will stop being received by the State and that should be invested in sustainable projects that complement other projects part of regional development plans.

- *change the applicable rules and grant a precise part of the oil rents to the indigenous peoples* to sustain their development. It clearly does not try to alter the legal management of these resources but rather to change the distribution of these benefits. Following Colombia's example, the changes should begin by identifying the part of the income that the governments and/or municipalities receive that should be invested in projects that favor the development of the communities directly impacted. With this goal, the indigenous peoples should improve their organization and their ability to propose and participate in the developmental projects.

Possible improvements to the EAP Program

- **The form of dialogue-** It is very difficult to substitute direct contact and dialogue as a means of establishing and maintaining efficient communication between people with differing points of view and cosmovisions. Currently, within a national context, a year is allocated to various tripartite meetings as part of the EAP's work plan. The meetings address events intertwined with the training program, the processes of discussion and consultation to improve the regulations, and the search for solutions to the problems that plague the industry in each country. In the regional framework, activities are developed that unite subgroups of the involved parties, in particular representatives of organizations. Additionally, there is an annual regional Tripartite Conference. To prepare for these events, more and more people are taking advantage of e-mail, but, in the end, personal communication and dialogue will continue to be essential.
- **The methodologies, type, and frequency of the Meetings-** It seemed very difficult to change the format of EAP work. The extension of the work boundary outside of the Sub-Andean region brought about the intervention of new parties that contributed ideas as well as introducing their particular interests into the dialogue. On the other hand, to reach a consensus, more time and resources are needed. The protagonists in the dialogue need the opportunity to consult with their bases and return to the dialogue with new information about the interests and positions of their respective groups.
- **The extension-** The training activities, like the national dialogues, have mostly concerned participants from Andean countries, principally Colombia, Ecuador, Peru, and Bolivia, but also Venezuela and Brazil. In the future, these activities should include representatives from the other countries that the oil and gas industry will affect

as they advance into more fragile areas. In particular, countries like Argentina which has just ratified Convention No 169 of the ILO, or Brazil which is looking for oil exploration investment in their vast territory, or Venezuela which is making efforts to put into practice new constitutional principles, should have the opportunity to intervene in and benefit from the program. Along with tight coordination with their institutions, their participation could ensure the achievement of future EAP activities in their countries.

- **The number of participants and the socialization of acquired experiences and understandings-** If it is desirable to maintain the format of the tripartite dialogues, it is very difficult to expand the number of participants at a regional level. It is at the national level that it is important to involve a growing number of participants. For this purpose it is key to help COICA proceed with a process of “socialization” of the dialogue so that a larger number of indigenous participants in areas of oil work will know the results of the activities and will participate in enriching the dialogue.

Improvements in the content of the Program- the following recommendations have been made:

- 1- **Continue making efforts to establish dialogues at the national level as common practice.** For this, it is important to continue with the efforts of the training component of the EAP program to improve the quality of dialogues at a regional level, that is to say its issues, goals and format as well as its repercussions at the national level. The evaluation of the achieved results, the discussion, and national training strategies put into effect should be useful in making the dialogue more effective.
- 2- **A broad discussion about the versions of sustainable development from the perspective of each of the parties is essential.** This is to improve the understanding that we all have of the final goals of each one of the involved parties, such as a discussion, has been proposed for the agenda at the next Tripartite Conference. In particular, it looks to clarify what the governments understand as sustainable development, the importance that they grant to the exploitation of natural resources, in particular energy resources, and how they can incorporate, in the sector projects, the indigenous peoples’ “Planes de Vida.” In essence, it is key to clarify how to achieve a process that permits for the continuance of socio-cultural patrons in indigenous communities, and at the same time provides for their participation in political and economic decisions, assuring a better sustainability of their conditions of life.
- 3- **The mechanisms of collecting, distribution, and use of the oil rents should be revised in a more detailed way in the context of the tripartite dialogues.** The conclusions and recommendations of the comparative study on the distribution of rents, although preliminary deserve a careful analysis. The EAP program offers a forum in which the differences between the countries in respect to the distribution and use of oil income can be adequately analyzed. For this, we should continue to make comparison studies of other countries and enrich the findings by examining the existing projects of sustainable development as well as through the participation of the industry with indigenous organizations. Perhaps the study should include the existing

projects about the application of oil income, as well as an evaluation of the negative experiences and the formulation of consensual recommendations.

4- Contribute to the improvement and harmonization of environmental and social regulations applicable to the oil and gas industry in the Sub-Andean Basin. The component of the EAP program work plan that concerns these issues is close to integrating agreed upon guidelines that should: (i) facilitate the open exchange of the involved parties points of view about the improvement of rules and principles inside the countries, (ii) arrive at consensuses about critical issues concerning the management of environmental and social problems, (iii) and make recommendations that can be incorporated into the regulations of each country. In the coming months, a joint effort should be made to take maximum advantage of this component, including, in the end, a training and information campaign that includes all interested parties of the oil companies, government agencies, representatives of indigenous organizations, and, in general, representatives of civil society.

5- Biodiversity and the management of particularly fragile zones in the Sub-Andean Basin - In the last two decades, the industry has had a growing recognition of the need and obligation to identify and reduce the adverse environmental consequences of their activities. Similarly, the indigenous peoples, governments, and civil society have demonstrated a growing concern. At the same time, we are witnessing better technologies that reduce the damage and, once integrated into the projects, should help to attain positive environmental changes in new projects.

Nonetheless, it is necessary to introduce better techniques to the proposed operations for the oil industry that are elaborated on codes of conduct that assure the indigenous peoples that the negative impacts will be eliminated or that they will be fairly compensated. With the existing information, mostly based on the negative environmental consequences of previous operations of the 70's, the indigenous peoples are seriously questioning the new oil activities in their territories.

Many times, this questioning has caused a strong negative response of some indigenous organizations concerning the presence of the oil industry in their territories. Among the arguments is that of the conservation of bio-diversity, an argument that, for the NGO's is more and more important to defend. Some governments have decided to bar all industrial operations, especially extractive ones, in some areas particularly rich in bio-diversity. These zones are called zones of exclusion.

The extension of these zones of exclusion conflicts, in some degree, with the need of Amazon countries to exploit their natural resources and respond to the growing pressure for improving the living conditions of their populations. It is difficult to visualize economic compensation from the international community that would undoubtedly preserve the basin.

The debate of these ideas, the presentation of new technologies, the exchange of information and criticism between the different representatives of government, industry, and indigenous peoples should continue in the 21st century. Perhaps an important issue to consider will be the development of participatory environmental monitoring meetings. The EAP program provides a forum that permits for the

exploration of concepts and the facilitation of national decisions. In the next tripartite Conference these issues were discussed and it was suggested to prepare a document that offers a factual and balanced representation of the facts, and to make recommendations to open, in joint agreement, a new component of the EAP program.

- 6- **The participatory environmental monitoring of the activities** - It is fitting that the indigenous organizations progress and achieve, through consultation in the context of the studies about the socio-environmental impact, effective agreements of cooperation and of the implementation of sustainable projects in oil activity zones. It is important to develop mechanisms of monitoring that permit for the correction of possible deficiencies and, most importantly, adapt to the changing circumstances of the initial agreements. For this, it is key to elevate the technical training of the indigenous organizations and achieve an effective participation of qualified NGOs. Basically, these organizations should serve to ensure the independence between the criticism of existing agreement of field supervision and the discussion of better solutions.

The EAP program could act as a table of discussion for the analysis of the understood experiences of joint environmental monitoring and for the joint establishment of a proposal of monitoring mechanisms acceptable to the parties.

- 7- **Conflict resolution** - As a matter of fact the regional tripartite dialogue cannot extend its authority to conflict resolution. As it was previously explained, it corresponds to the governments, companies, and indigenous organizations involved in a concrete project to give them mechanisms to resolve conflicts that are judged fairly. Nonetheless, the EAP program could be a forum for the discussion of a document that revises the existing mechanisms, including a study of some existing examples that could be used in similar contexts.

Joint UNDP/World Bank
ENERGY SECTOR MANAGEMENT ASSISTANCE PROGRAMME (ESMAP)

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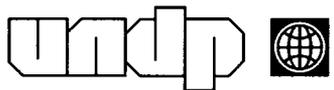
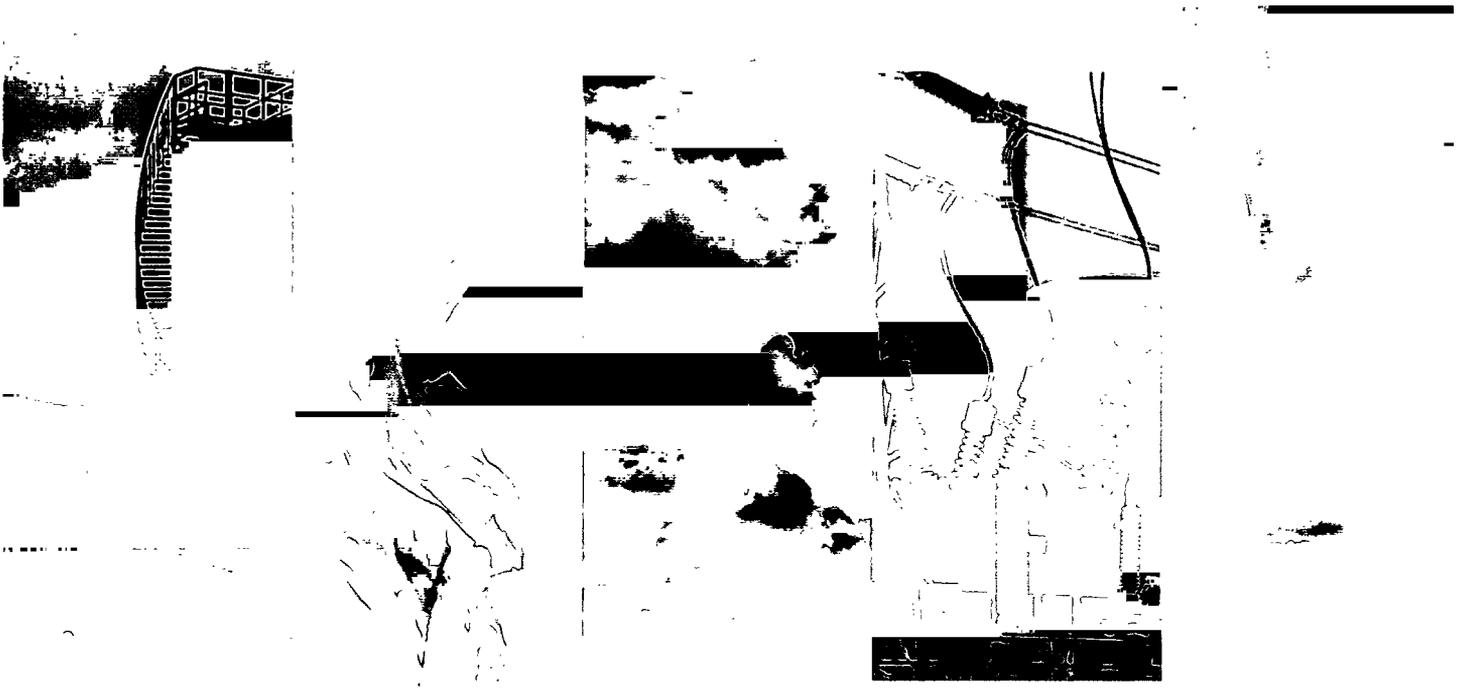
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