

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
of the
ORGANIZATION OF AMERICAN STATES

In the Case of

THE TOLEDO MAYA CULTURAL COUNCIL on behalf of
MAYA INDIGENOUS COMMUNITIES OF THE TOLEDO DISTRICT

Petitioner

against

BELIZE

Respondent

Case No. 12.053

PETITIONER'S REQUEST FOR PRECAUTIONARY MEASURES

1. The petitioner in this case, the Toledo Maya Cultural Council (the "TMCC"), hereby requests precautionary measures under article 29 of the regulations of the Inter-American Commission on Human Rights. Precautionary measures are necessary in order to minimize the immediate, grave, and irreparable harm that is occurring and will worsen if Belize does not alter its present course of action and neglect. The irreparable damage that the Maya communities will suffer if logging and oil exploration under government-granted concessions are continued is uncertain only in the magnitude of its severity. The long history of encroachment onto indigenous lands establishes that, once commenced, such encroachment and its negative consequences for indigenous cultures are extremely difficult, if not impossible, to reverse.
2. The TMCC respectfully requests that the provisional measures include, at a minimum, the immediate suspension of all permits, licences, and concessions for logging, oil exploration, and other natural resource development activity on lands used and occupied by the Maya in the Toledo District, and specific measures to ensure that the logging and such other natural resource development activity in fact ceases and does not start again unless pursuant to a suitable arrangement with the affected Maya communities negotiated under the auspices of the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "Commission").
3. Additionally, the TMCC asks that the Commission immediately request from the State of Belize full clarification in regard to all authorized and pending concession proposals, agreements, and plans with respect to the exploitation of any natural resources within the area of the Toledo Maya communities and lands; and in regard to other plans or initiatives that will affect the Maya communities and Maya traditional lands.

I. BACKGROUND

4. The TMCC, a non-governmental organization that represents the Mopan and Ke'kchi Maya people of the Toledo District of southern Belize, submitted a petition to the Inter-American Commission on Human Rights on August 7, 1998 against the State of Belize (the "State" or "Belize") for failing to secure Maya rights over land and natural resources, and for violating those rights by granting numerous concessions for logging and oil development on lands traditionally used and occupied by the Maya. The victims in this case include the people of some thirty seven Maya villages in the Toledo District.

5. Known logging concessions already granted by Belize when the petition was filed cover almost 500,000 acres in the Toledo District, forty one percent of its total area of 1,162,000 acres.¹ The area ceded for oil exploration and development purposes may be as much as 749,222 acres, or sixty-four percent of the District.² Most of the area covered by these logging and oil concessions includes lands traditionally used and occupied by the Maya people.

6. After the petition in this matter was filed, the TMCC and Belize agreed to a process of friendly settlement under the auspices of the Commission. However, as explained to the Commission in several earlier communications and at the hearing on the friendly settlement process on October 4, 1999, this process has not been fruitful. The lack of progress in the friendly settlement process is because of the States' failure to abide by the agreed upon terms of negotiation or to respond adequately and in a timely manner to the petitioners proposals and requests for information.

7. At the hearing on October 4, 1999 in the present case, the TMCC communicated to the Commission and the State its conditions for continuing the friendly settlement process. Among these conditions was a commitment from the State to alter immediately its course of action regarding the logging, oil exploration, and other development activities. By a note of October 8, 1999, the Commission transmitted the petitioner's conditions to the State, with a request that the government respond within fifteen days. More than fifteen days have transpired and the State has not communicated to the TMCC its agreement with its conditions or otherwise communicated with the TMCC to agree on terms by which the friendly settlement process might continue. Instead, the government has proceeded to allow development activities which threaten irreparable harm to the Maya.

8. Belize continues to demonstrate an unwillingness to respect and secure the property rights of the Maya people. Furthermore, the State has not acted to suspend or modify, pending the outcome of this case, any concessions for natural resource extraction on land claimed by the Maya, nor, under the circumstances, is the State likely to do so. Accordingly, logging and oil exploration activities have proceeded apace with only a temporary pause due to the rainy season and are likely to continue into the future.

¹ See Pascal O. Girot, *Logging Concessions in Toledo District: Current Situation and Perspectives* (1998) at 5 (Appendix B.15 to the Petition) (hereinafter "Girot report").

² See letter from Steven Tullberg dated December 18, 1997, citing information from Mr. Wade-Garcia, Director of Geology and Petroleum Unit (Appendix B.24 to the Petition).

9. This case presents an urgent situation in which indigenous people are threatened with and actually experiencing the loss of land and their means of subsistence, and with it destruction of their cultural identity. The harm already done to the Maya communities at the time the petition was submitted was detailed in that document. This request contains additional information demonstrating the need for precautionary measures while the Commission investigates the facts of the case and prepares its report and recommendations at this time.

II. NATURE OF THE IRREPARABLE HARM

10. Activity under the concessions granted by the State of Belize to various private parties for the extraction of timber and oil from lands used and occupied by the Maya within the Toledo District threatens the life, health, and well-being of the Maya residents of Toledo; harms their economic development potential; and endangers their cultural integrity.

11. At least eighteen logging concessions are currently active in the Toledo region, most of which include the traditional lands of the communities represented by the TMCC in these proceedings. Since the petition in this case was filed, the State has re-issued two concessions for logging within Maya traditional lands to new licensees, in the face of opposition from the affected communities.³ A new concession has been granted within or adjacent to the Columbia / Maya Mountain Forest Reserve, also within Maya traditional lands,⁴ and another new concession has been granted to the New Enterprise Company for logging near Golden Stream B a concession that has been opposed by the affected communities for several years.⁵ Approximately half of the Maya communities lands are currently under logging concessions.

12. To extract timber on a commercial scale from these lands, the logging licensees build new roads into the forest, and use heavy machinery within it. The clearing of the forest, in addition to the actual removal of timber, leads to the effects detailed below which are harming the Maya and threatening them with further, irreparable harm.

13. Nine of the logging concessions granted in Toledo, including the largest, to Toledo Atlantic International,⁶ are for “conversion” logging and essentially permit non-sustainable, or “clear-cut” forestry which will convert the lands from its forest condition.⁷ Belize does not require licence applicants to prepare a management plan for the sustainable harvest of the timber,

³ The area previously under Forest Licence 44/96, held by William Logan, has been licenced to Jaime Gustillos. The area previously under Forest Licence 33/97 held by George Andrews, has been licenced to Braulio Copo.

⁴ Interview with Belize Forest Service Officer, June 1999.

⁵ Interview with Alfonso Cal, alcalde of Golden Stream and Chairman of the Toledo Alcaldes Association, September, 1999.

⁶ The government stated in correspondence that this concession has been canceled sometime since the petition was filed. See letter from Godfrey Smith, Chief of Staff, dated August 4, 1999 to Ms. Deborah Schaaf, one of the attorneys for the petitioner, and submitted to the Commission on August 20, 1999. The petitioner does not dispute this, but suffers still from the damage caused while the concession was active. In any event, as reported by villagers from Santa Ana, logging by a different company continues to take place in that same area.

⁷ See “Forest planning a mystery” from *The Reporter* July 14, 1996, at 2 (Appendix B.20 to the Petition); also Supplementary Conditions to Licence 1/93, at paragraph 9 (“Approval is given for clear felling in areas designated for future agricultural development”) (Appendix B.13 to the Petition).

but elaborates one itself where the State deems it appropriate. Only one of the concessions in Toledo is being logged pursuant to a management plan that provides for sustainable timber harvesting.⁸ Yet even as to that concession, the State has failed to devote the financial and human resources necessary to ensure implementation of even the minimal safeguards required by the management plan.⁹

14. In addition to granting numerous harmful logging concessions, Belize has granted two concessions for oil exploration and development. One of these, issued to AB Energy, Inc., appears to cover virtually all of the Maya lands at issue. Under Belizean law, the concession for oil exploration automatically gives the licensee rights to the development and production of any oil reserves discovered in the area of its concession. Although activity under this concession is minimal or non-existent at the moment, AB Energy may undertake exploratory activities at any time, which may lead to full scale oil extraction with potentially devastating consequences.

A. Irreparable Harm to Maya Life, Health, and Well-being

15. The actual or potential activities under the logging and oil licenses threaten the environment of the Maya communities, an environment upon which they depend for wild and cultivated food crops, medicine, drinking water, housing, and transportation, spiritual experience and other basic necessities. The effects of the exploitation of forest resources by the licensees imminently threaten the availability of wild food supplies and medicine, the viability of Maya subsistence crop production, their water supply, and their economic well-being.

16. Resource extraction activities under the concessions have caused and continue to threaten detrimental effects on the Maya diet, which consists primarily of food obtained through traditional rotating agriculture, and game and plants gathered from the forest. The disturbance caused by large-scale mechanized timber extraction activities to the environment has diminished the availability of forest based foods, game animals, and the productivity of Maya agriculture.

1) Medicine, Subsistence Plants and Wildlife

Logging

17. The clearing of the forest affects the availability of medicinal plants, perhaps the most important materials gathered from the forest by the Maya. At least 125 different plants are gathered for specific medical uses. These remedies are the most accessible and common medicines in many of the villages, although most have never been studied or even identified by non-Maya.¹⁰ Many of these plants are endemic to very localized areas, and Maya doctors from San Miguel, Midway, and San Pedro Colombia report that some have been eradicated by the logging to date. Other medicinal plants have been severely diminished and are becoming

⁸ See Girot report *supra* note 1, at 6. Two other concessions involve “long term sustained yield” harvesting, but apparently no management plans have yet been developed for the logging under those concessions.

⁹ See Girot report *supra* note 1, at 9, 13.

¹⁰ See Richard Wilk, *Mayan People of Toledo: Recent and Historical Land Use* (February 1997), at 8 (Appendix B.5 to the Petition) (hereinafter the “Wilk report”).

difficult to find.¹¹ The non-availability of medicines upon which the Maya communities depend threatens their lives, health, and well-being.

18. Logging has destroyed various food-bearing plant species relied on by the Maya for subsistence, i.e. cohune, botan, sapodilla, mami, pacaya. Already people in the villages of Midway and Conejo are having problems locating adequate supplies of these foods.¹² The Maya gather over twenty different wild plant foods from the forest, including palm hearts, edible shoots, mushrooms, greens, nuts, seeds and fruit.¹³ This important food source is threatened by logging.

19. Many plants are required and used by the Maya for non-food purposes as well. Pom (copal resin incense) is gathered for personal and commercial use. The Maya harvest trees - including bully wood, emory, rosewood, santa maria trees, and occasionally mahogany, vines and bark B for canoes and housing construction.¹⁴ Logging in the region has diminished all of these forest products, and some are facing disappearance at a local level.¹⁵

20. The Maya hunt forest animals for subsistence purposes, and wildlife is the most important source of protein in the Maya diet.¹⁶ Changes to their habitat, including disruptions in waterways, noise and human activity from logging, and the destruction of shelter and food-bearing plants, displace animal populations. Antelope, partridge, quail, gibbon, deer, armadillo and curassow have retreated into remaining undisturbed forest.¹⁷

21. The retreat of these animal populations has resulted in greatly increased time and effort on the part of the Maya in order to obtain equivalent, or often less, amounts of game. If logging continues at its current scope, and in light of the destruction that occurred due to logging under the Toledo Atlantic concession, under this and other concessions it is conceivable that there will be no viable game remaining within range of the village hunters. This of course would have severe repercussions in terms of the health and nutrition levels of their families.

22. More directly, logging impairs the ability to hunt successfully even if game is present: "Logging roads make it hard to track the animals because the trail disappears on the other side of the road."¹⁸ Logging leaves "significant areas of fast-growing, cutting grasses where trees have been cleared [that] cannot [be] moved through ... to find game."¹⁹

¹¹ See Affidavit of Santiago Chub (February, 1997), at &10 (Appendix B.16 to the Petition) (hereinafter "First Chub Affidavit"); see also Affidavit of Santiago Chub (December, 1997), at &14 (Appendix B.10 to the Petition) (hereinafter "Second Chub Affidavit"); see also Affidavit of Leonardo Acal, (February 1997) at &12 (Appendix B.18 to the Petition) (hereinafter "Acal Affidavit"); see also Affidavit of Sebastian Choco (February 1997) at &12 (Appendix B.17 to the Petition).

¹² See Second Chub affidavit, *supra* note 9, at &10.

¹³ See Wilk report *supra* note 8, at 8.

¹⁴ See *Id.*

¹⁵ See First Chub Affidavit *supra* note 9, at &10.

¹⁶ See Wilk report *supra* note 8, at 8.

¹⁷ See First and Second Chub Affidavits, *supra* note 9, at &5 and &6 respectively.

¹⁸ First Chub Affidavit *supra* note 8, at &5.

¹⁹ Second Chub Affidavit *supra* note 8, at &7.

Oil Exploration

23. Petroleum exploration usually involves setting off explosives throughout the forest so that the seismic response can be analyzed. These explosions may adversely affect wildlife, dislocating them to other areas, and disrupting their foraging patterns. Already the game animals hunted by the Maya for subsistence have been forced by logging activities into more remote, undisturbed areas. Oil exploration would introduce disruptive human activity into even those areas not logged, and hunting would become yet more time-consuming and difficult for the Maya.

2) Subsistence Crop Production

24. The Mopan and Ke'kchi Maya, who have the lowest incomes of any ethnic group in Belize,²⁰ depend on traditional agriculture, hunting and fishing for their subsistence. Agriculture provides the bulk of the Maya diet, while hunting and fishing provide important protein. Cultivation of their traditional lands provides over fifty different food crops for the Maya, including their basic grains: corn, rice, and beans. Traditional agriculture is central to Maya culture, and informs their social and political organization, religious festivals and dances, and family structure.

25. All agricultural systems depend directly on the fertility and structure of the soil, the hydrologic cycle, and the climatic conditions of an area. Agricultural productivity is a function of how well adapted the farming practices are to these environmental conditions.

26. The Mopan and Ke'kchi Maya communities live in a tropical humid forest environment, characterized by high species diversity but low species concentrations, high precipitation (over 4000 mm/yr)²¹ and humidity, and relatively low soil nutrients.²² These are particularly fragile lands, due to the complex drainage patterns of the terrain and the extreme permeability of the soil.²³

27. These environmental conditions encourage extensive land use methods. To sustainably use forest and river environments the Maya have developed methods that spread out human impact over time, space and species, so that human impacts are reduced from what would be the case with permanent agriculture and more spatially constrained hunting and fishing.²⁴

28. The traditional Maya agricultural method involves clearing small areas with fire, which provides the important benefit of boosting the soil's nutrient content with alkaline and nutrient-rich ashes. After an area is cleared, they plant their major grains (corn, rice, and beans), and after those are harvested, plant a second crop of vegetables, herbs, and root crops. As soil fertility

²⁰ See Wilk report, *supra* note 8, at 5.

²¹ See Girot report, *supra* note 1, at 1.

²² See Bernard Q. Nietschmann, *System of Customary Practices of the Maya in Southern Belize*, (1997) at 10 (Appendix B.9 to the Petition) (hereinafter "Nietschmann Report").

²³ See Girot report, *supra* note 1, at 1.

²⁴ See Nietschmann report, *supra* note 20, at 10.

declines from this use, cultivation then ends and livestock are grazed on the plot for a period of time, after which forest growth returns and the area is left fallow for eight to fifteen years to allow the soil nutrients to be replenished.²⁵ Food-bearing trees are often planted in the cleared areas and continue to provide a harvest for the Maya after they become part of the forest.

a. Destruction of Agricultural Soil by the Logging

29. The success of Maya food crops depends on the preservation of the delicate soil structure of their agricultural lands and maintaining or enhancing its nutrient base during cultivation. If these soils are disturbed, the ability of the Maya to survive on their agricultural product is threatened.

30. The soils of much of the Toledo District are sensitive and fragile. Clear-cut logging, or even significant removal of the forest cover, precipitates dramatic changes in the soil composition. In some areas, when the original broadleaf forest is felled, or invaded by fire, rapid deterioration of the soil begins and pine trees invade, with some rosewood, which further acidifies the soil and leaches out nutrients.²⁶

31. Forest cover and successive secondary regrowth provide crucial ground cover for these soils. Exposed to the heavy rainfall typical of this region, the soil quickly changes its structure, with clay particles accumulating to form an impermeable layer which in turn reduces the percolation of water through the soil and increases surface runoff.²⁷ Increased runoff carries away with it a greater proportion of topsoil than would otherwise be dislodged, and the result is increased erosion and removal of the shallow, nutrient bearing topsoil. Erosion of bare soil can be forty-five times higher than that from primary tropical forest.²⁸

32. Maya agricultural patterns depend on the reestablishment of the high forest in order to replenish soil nutrients and stabilize the soil structure, as well as to provide the Maya with forest products harvested from the forest during the fallow period. Once the soil structure has been thus altered, natural forest can reestablish itself only with great difficulty. Ninety percent of the nutrients in tropical forest environments are locked in the vegetation. Once the trees are cleared, nutrients are rapidly leached from the soil by continuously high temperatures and high rainfall.²⁹ Clearing large areas of tropical forest also virtually precludes the restoration of forest on that site because few seeds of forest trees are dispersed in the cleared area, and those that are have difficulties surviving in a cleared environment.³⁰

²⁵ See Wilk report, *supra* note 8, at 4.

²⁶ See Charles Wright, *Analysis of Forestry Concessions in Toledo District* at 4 (discussing the area covered by Forest Licence 14/96) (Appendix B.8 to the Petition).

²⁷ See Giroto report *supra* note 1, at 2.

²⁸ See James D. Nations, "Terrestrial Impacts in Mexico and Central America", in *Development or Destruction: the Conversion of Tropical Forest to Pasture in Latin America*, Theodore Downing et. al. (eds) (Westview Press, 1992), at 199.

²⁹ See James D. Nations, "Terrestrial Impacts in Mexico and Central America", *supra* note 26, at 198.

³⁰ See *Id.* at 200.

33. In the forested lands under Belize Forest Licence 14/96, this soil change has already occurred, and most of the traditional tree species, including many food trees, have been unable to reestablish themselves.³¹

34. Most of the soils in the Toledo region are totally unsuited to annual crop production.³² The State itself has recognized that in Belize, “the main direct cause of forest degradation is conversion to agriculture of forest lands that in many cases are not apt for cultivation,”³³ Yet Belize has failed to explain why it considers the area appropriate for conversion to continuous agricultural use, as contemplated in the licences.

35. Already, where machinery or rains have removed the light topsoil, the well-adapted traditional crops of the Maya are unsuccessful. As one Maya leader and farmer has observed, “Corn will not grow there with only the red ground.”³⁴ Should this soil degradation continue and expand, the agricultural activities of the Maya will be severely compromised.

36. The logging activities themselves have direct adverse affects on Maya agriculture. The use of heavy equipment to remove felled trees from the forest immediately disrupts and destroys the soil structure. Where logs have been removed under the concessions, the bulldozers have taken away the top layer of the soil, and only the nutrient-poor red subsoil remains.³⁵ In at least one case, logging equipment drove across an agricultural clearing, destroying the crops standing on it.³⁶ These crops represent a substantial investment of time and resources, and their harvest is the major source of subsistence for the people of these communities.

b. Climatic (Hydrological cycle) Disruption

Logging

37. Traditional Maya agricultural practices are suited to and depend on the humid tropical climate of the area. Vegetative cover in the area provides a mechanism for the trapping of rainfall through root structures and its return to the atmosphere through transpiration. As the forest cover is denuded, more water is transported from the area rapidly as runoff and uncaptured groundwater flow, and not returned to the local atmosphere. This gradually results in a drier microclimate in the area. Already, in some deforested regions of Brazil and Panama, local annual rainfall has dropped considerably.³⁷

³¹ See Wright report *supra* note 24, at. 11-12.

³² See *Id.* at 13.

³³ National Environmental Action Plan, Government of Belize, June 1996, posted on Internet at [www.ccad.org.gt/ccad/Planes.neap.htm].

³⁴ First Chub Affidavit *supra* note 9, at &7.

³⁵ See First Chub Affidavit, *supra* note 9, at &7.

³⁶ See Second Chub Affidavit, *supra* note 9, at &15.

³⁷ See Rind, David. “Drying out the Tropics”, *New Scientist*, Vol. 146 (1976). See also James D. Nations, “Terrestrial Impacts in Mexico and Central America”, *supra* note 26, at 199.

38. In 1998, much of Central America experienced severe forest fires because of unusually dry weather conditions.³⁸ Should the logging of Toledo be allowed to reach a level where the microclimate becomes drier, the traditional Maya methods of clearing agricultural plots by burning, a process developed in a humid, fire-resistant environment, will risk damaging larger tracts of forest by uncontrolled resultant fires. This would further threaten the local ecosystem, and force a dramatic change in the agricultural methods around which the Maya communities' subsistence and cultural life is focused.

39. The lack of the mediating process of vegetative transpiration accelerates the water cycle, so that at a micro climatic level, evaporation and atmospheric accumulation of vapor occurs more rapidly. This can lead to more erratic, episodic, and higher intensity precipitation than previously, again increasing the erosive power of the rainfall and decreasing absorption into the soil and exacerbating the problems of soil change, flooding and siltation.³⁹

Oil Exploration

40. Petroleum operations in forest areas inevitably result in both direct and indirect deforestation. Every stage of oil operations - seismic mapping, exploratory drilling, and production drilling - can involve deforestation. The least expensive and most reliable method of seismic mapping involves cutting straight paths through the forest on which explosives are placed.⁴⁰ While less intrusive technologies exist, the survey methods permitted or approved under the concessions in Toledo are unknown.

41. As the Inter-American Commission acknowledged in its *Report on the Situation of Human Rights in Ecuador*, oil exploration contributes to deforestation because of the associated construction of access roads, mud pits, derricks and pumps.⁴¹ Production drilling, of course, involves widespread clearing for roads, pipelines, and production stations. This deforestation would have similar effects on Maya agriculture as those caused by logging activities, described above. Elsewhere in Latin America, oil development activities have been linked, directly and indirectly, with problems in food supply and malnutrition.⁴²

42. The destruction of viable hunting, fishing, gathering, and agricultural production threatens the nutritional status of the Maya villagers, whose cash incomes are insufficient to replace the calories and nutrients lost to their diet as a result of the logging. Poorer nutrition increases susceptibility to disease, and diminishes individual energy levels, productivity, and ability to enjoy life.

³⁸ See "Report Quantifies Wildfire Damage in Central America" Reuters News Service, July 15, 1998.

³⁹ See V.M. Meger-Homji "Effects of Forests on Precipitation in India" in *Forest, Climate and Hydrology: Regional Impacts*, Evan R.C. Raynals and Frank B. Thompson (eds) (United Nations University, 1988), at 72.

⁴⁰ See D.R. Skinner, *Introduction to Petroleum Production, Volume 1* (Gulf Publishing Co., 1981), at 38.

⁴¹ See Inter-Am.C.H.R., *Report on the Situation of Human Rights in Ecuador*, (OEA/Ser.L./V/II.96, Doc. 10 rev. 1, April 24, 1997, at 81 (hereinafter "IACHR Ecuador Report").

⁴² See *Id.*, at 91.

3) Contamination and Disruption of Water Supply

Logging

43. The Maya of Toledo rely on the streams and rivers of the area for drinking water; bathing and washing; protein-rich food in the form of fish, turtles, snails and other crustaceans; and transportation. When these waterways are disrupted completely or the water quality is affected by excessive siltation, their lives and livelihood are endangered. Flooding of rivers can also directly endanger Maya lives, homes, and livestock.

44. Where a substantial amount of the forest cover is removed, the decreased permeability of the soil and increased runoff changes the hydrological systems of a watershed. The higher erosive power of rainfall means more soil is captured in the runoff, and the resultant siltation of waterways has interfered with traditional Maya water use.

45. The deforestation of the land around the village of Marbilha has already caused excessive run-off, widespread soil erosion, and flooding of local creeks with sediment-loaded water that caused unprecedented flooding of lowland villages further down the main rivers.⁴³

46. In some concession areas, logging debris and interference with waterways has caused creeks to dry up completely, and people in Midway and Conejo have been forced to dig wells as a result.⁴⁴ The creek passing through Conejo was seriously affected by siltation. Several tributaries of the Moho River - upon which the village of Santa Anna depends - have also been affected by increased siltation.⁴⁵ Many of the streams around Loren Creek are blocked by trees and mud. Logging roads have been built across streams without culverts, and the streams are then dry on the other side.⁴⁶

47. Increased siltation of waterways due to logging has meant that the drinking water used by the Maya in many communities poses a greater health hazard, as formerly forest-bound microbes are washed into the waterways with eroded soil. In those communities whose water supply has been most affected by the logging, the communities are threatened by increased risk of cholera. In the village of Boom Creek, in May 1999, one person died from cholera and another narrowly avoided death.

48. Logging results in direct contamination of waterways as well. Logging equipment is washed in the rivers, which then carry away contaminants. Excess fuel or waste oil has been frequently dumped into the rivers.⁴⁷ This pollution threatens the lives and health of the Maya communities and their crops.

⁴³ See Wright report *supra* note 24, at 20.

⁴⁴ See Second Chub Affidavit *supra* note 9, at &12.

⁴⁵ See Giroto report *supra* note 1, at 11.

⁴⁶ See First Chub Affidavit *supra* note 9, at &5.

⁴⁷ See Second Chub Affidavit *supra* note 9, at &9.

Oil Exploration

49. Water contamination from exploratory wells would be much more severe than that experienced by the logging, and the levels of waste contaminants is on a much greater scale. Populations in proximity to oil and gas projects are at an increased risk for ailments including respiratory diseases, reproductive and neurological disorders, and cancer.⁴⁸ If oil reserves are discovered and developed, the Maya communities face increased health risks from toxic waste products, industrial accidents, air contamination, and possible spills of crude oil.⁴⁹

50. Once exploratory drilling begins, large amounts of drilling wastes are produced by each well. Each well drilled typically results in the production of waste oil, toxic drilling mud (a liquid mixture of water and chemicals which can include carcinogens such as arsenic, lead, mercury, benzene, naphthalene) and rock cuttings.⁵⁰ Drilling mud is circulated through large, open pits, and can contaminate the ground water, and may overflow during heavy rains, thereby directly contaminating streams and rivers in the area.

51. Water sampling in the oil regions of Ecuador and Nigeria registered unhealthy levels of toxic contamination in drinking water due to oil projects.⁵¹ Wastes from merely exploratory wells will contaminate the rivers, streams, and soils upon which the communities rely for drinking, bathing, washing, transportation, and food. These effects could be minimized through effective storage and disposal procedures. However, there is no evidence that such procedures are required under the oil exploration concession granted, nor that Belize would devote sufficient resources to enforce such conditions.

B. Threat to Economic Development Opportunities

52. Health and well-being are often directly affected by the economic situation of a people. The destruction of tropical forests can eliminate the potential for sustainable economic development based on renewable natural resources.⁵² In addition to possible sustainable commercial use of forest products, the Maya may also lose the opportunity to develop eco-tourism in their area. The Maya already have embarked on efforts to develop eco-tourism, and these efforts already earned them a tourist industry prize for “sustainably responsible tourism.” In Belize, almost sixty percent of the domestic economy is based on eco-tourism, while logging accounts for merely two and a half percent. Environmentally sensitive tourism, and commercial exploitation of forest products at a sustainable level, may both be forms of profitable economic development compatible with the maintenance of the traditional Maya way of life.

53. By permitting the environmental destruction of their lands through logging and oil exploration activity, the State is precluding the Maya from developing this economic activity,

⁴⁸ See IACHR Ecuador Report *supra* note 39, at 79, 90.

⁴⁹ As detailed in the experience of the residents of the Ecuadoran Oriente. See *Id.* at 89-91.

⁵⁰ See *Id.* at 82.

⁵¹ See *Id.* at 91; see also Samples taken by Steve Kretzmann in Ukpeleide, Nigeria in April, 1997 from the community's drinking water found levels of hydrocarbons of 34 ppm - 680 times higher than the European Community standard. Results available from steve@moles.org.

⁵² See James D. Nations “Terrestrial Impacts in Mexico and Central America,” *supra* note 26, at 196.

which sustains much of the rest of the country, for their own benefit in the future. Despite its own recognition that “the Belizean economy will be able to maintain fast economic growth only if the forests are protected,”⁵³ the State of Belize is denying the possibility of such growth to the Maya communities, and in so doing is threatening their future well-being.

C. Irreparable Harm to Maya Cultural Integrity

Logging

54. Environmental destruction through logging and other commercial activities directly assaults Maya culture. The Maya attach a spiritual significance to the living forest generally, and to many of its denizens in particular. Forest and land are considered sacred.⁵⁴ “The trees, the sinkholes, the lagoons -- everything there has a history and a meaning to us. To us, everything in the [forest] is living, and what is living is sacred”⁵⁵ A similar significance is attached to some agricultural crops. “Corn has always been important, even sacred to the Maya. It is essential to our survival and to our traditional way of life.”⁵⁶ The Maya rely on the plants and animals of the forest, and their interrelationships, for practical and spiritual wisdom. There is no indication that the State or concession licensees are even taking any measures to ensure that logging will not dry up sacred sink holes or desecrate holy places and burial sites within the concession areas.

55. Whenever Ke’kchi or Mopan Maya people clear forests for their farming, they first ask permission from deities, who are considered the true owners of forest and animals. The Maya treat the forest with reverence and respect.⁵⁷ The methods used by the commercial loggers under the concessions are an affront to Maya religious beliefs.

56. Logging threatens Maya cultural integrity indirectly, as well. Maya culture is based in and revolves around their traditional customs and practices within the forest environment. Maya agricultural and other land use patterns are linked with familial and social relations, religious practices, and the existence and political organization of their communities.

57. The pattern of land use embedded in Maya culture is outlined in the petition. Described in the petition are villages where horticulture and livestock grazing occurs, surrounded by forested zones used for rotating and long fallow agriculture, in turn surrounded by undisturbed forest zones used for food collection, hunting, and spiritual purposes.

58. Destruction of any of these forested lands will result in the inability of the Maya communities to continue to live in the manner in which their culture is grounded. If the community-based system of land distribution is no longer adequate to provide a basis for the sustenance, there will be pressures on the non-commercial understanding of land currently central to the Maya culture.⁵⁸ If agriculture, hunting and fishing lose viability to sustain the

⁵³ See NEAP *supra* note 31.

⁵⁴ See Wilk report *supra* note 8, at 4.

⁵⁵ Acal Affidavit, *supra* note 9, at &11.

⁵⁶ First Chub Affidavit *supra* note 9, at &7.

⁵⁷ See Wilk report *supra* note 8, at 4.

⁵⁸ See Nietschmann report *supra* note 20, at 9 (92% of the Toledo Maya surveyed stated that land can not be bought

communities, in order to survive many will be forced to leave the communities in search of paid employment elsewhere.

59. Although in recent years the number of Maya seeking education and jobs outside this traditional mode has grown, particularly among the Mopan, most Maya traditionally keep to their villages, where they value their autonomy and the freedom of rural life.⁵⁹ A wholesale precipitous integration into the cash economy and significant emigration from the villages would contribute to social disintegration and the loss of Mayan cultural and spiritual values, and possibly their languages.

60. Cultural disruption and loss also affects the physical well-being of a people. In Costa Rica, for example, the social disruption, increasing poverty, and loss of cultural identity among indigenous groups following deforestation and disruption of their traditional agricultural lives has led to an increase in alcoholism, drug addiction, and increasing crime.⁶⁰

Oil Exploration

61. Although direct impacts from petroleum exploration can be relatively minor, exploration has been noted for opening up access to areas for unplanned development. Indirect impacts from squatters, such as deforestation for agriculture and social pressures on indigenous people, can be considerable. If oil is discovered, producing and exporting it will have significant direct and indirect impacts.⁶¹

62. As with logging, oil exploration, and the development of any oil deposits discovered, requires the building of roads to exploit the resource. As a general pattern globally, for each new mile of road built by the oil industry, 400 to 2,400 hectares of land are colonized.⁶² The entry of substantial new populations into an area that is being denuded of its resources bodes ill for the Maya communities.

63. Historically, settler populations following new roads have tended to displace local indigenous populations. In Colombia, the Constitutional Court found that “The project of exploration, and eventual future exploitation, of hydrocarbons [within] ... indigenous territories naturally and predictably will have important and profound consequences for their ecology, culture, economy, and social order. It is not difficult to foresee that the work carried out will affect not only the geological structure of those territories and the flora and fauna found there, but will also impact the customs, language, traditions, cosmology and family and tribal

or sold, indicating that land is viewed as a non-commercial, communal asset).

⁵⁹ See Wilk report *supra* note 8, at 5.

⁶⁰ See Peter Utting, *Bosques, Sociedad y Poder* (UCA/UNRSID, 1996), at 58.

⁶¹ See “Trip Report from the USAID Affirmative Investigation of the Proposed IDB Southern Highway Project and Associated Ongoing IDB Loan for the Environmental and Technical Assistance Project (ESTAP) in Belize,” (Appendix B.23 to the Petition).

⁶² See G. Ledec, “Preparing Environmental Manuals for Petroleum Exploration and Development in Tropical Forest Areas of Latin America and the Caribbean” presented at the XXV Ordinary Assembly of ARPEL, La Paz, Bolivia, May 1990.

institutions.”⁶³ Maya culture is similarly rooted in culturally specific forms of organization and land use. Displacement from the area would undermine their cultural cohesion.

III. CONCLUSION

64. The Maya communities of the Toledo District are facing irreparable harm to their lives, health, culture, property, and future as a result of the logging and potential oil exploration activities taking place under the concessions granted by the State of Belize. Other planned or proposed development projects and legislative initiatives threaten further harm. Precautionary measures are necessary in order to minimize the immediate, grave, and irreparable harm that is occurring and will worsen if Belize does not alter its present course of action and neglect.

65. The TMCC respectfully requests that the Commission call upon Belize, to:

- a. Immediately suspend all permits, licences, and concessions for logging, oil exploration, and other natural resource development activity on lands used and occupied by the Maya in the Toledo District (as those lands are defined in the exhibits to the petition), pending a resolution of the complaint before the Commission or a relevant agreement with the TMCC;
- b. Take specific measures to ensure that the logging and such other natural resource development activity in fact ceases;
- c. Provide the Commission and the TMCC with a full accounting of all granted and pending concession proposals, agreements, and plans with respect to the exploitation of any natural resources and other development projects within the Toledo District; and in regard to other plans or initiatives that will affect the communities and Maya traditional lands.

Dated: October 26, 1999

⁶³ Constitutional Court Judgement No. SU-039 (1997) (Case of Grupo Etnico U’wa), at &4, citing judgement of the Tribunal Superior de Santafe de Bogota of Sept.12, 1995.

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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
of the
ORGANIZATION OF AMERICAN STATES**

In the Case of

**THE TOLEDO MAYA CULTURAL COUNCIL on behalf of
MAYA INDIGENOUS COMMUNITIES OF THE TOLEDO DISTRICT
Petitioner**

against

**BELIZE
Respondent**

Case Number 12.053

PETITIONER'S REQUEST FOR PRECAUTIONARY MEASURES

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