

Madrid, 25 September 2023

Ladies and Gentlemen representing the  
Business and Human Rights Information Centre (CIEDH) of Colombia

This is to inform you of our consideration:

I am writing to you in relation to your e-mail sent on September 19 this year about the opportunity to provide our opinion related to the report developed by Equidad, CooperAcción, Earth Rights International and International Federation of Human Rights (FDIH) NGOs, "Repsol, una catástrofe que se pudo evitar" about the oil spill that occurred in Ventanilla.

We'd like to comment the next topics related to the content of the mentioned report:

- The document shows biased and inaccurate information. As to the cause of it, is based mainly on a report issued by the Congress of the Republic of Peru, **which is not a technical document** and even it gets to address strictly technical criteria to get intentionally to conclusions.
- About the cause of the spill, we'd like to specify that **the subject is still under investigation by the relevant authorities**. However, Prosecutor's expert testing, which was made public by a local media outlet last year, and based on the analysis that the same authority did about the damaged piece of the equipment in Argentinian and American labs, **indicates as first cause of the spill the rough movement of more than 80m of the vessel crashing into the terminal, causing forces that resulted in its breakage** . This confirms the position of Repsol, when analyzing the geo-positioning of the vessel, its black box and several registries. No terminal of this type around the world is prepared for such an impact. No terminal of this type in the world is prepared for an impact of this magnitude.
- Regarding the operation of the PLEM (Pipeline End Manifold) the piece of equipment that broke, the same expert testing of the prosecutor in charge of the investigation, the PLEM design reports and the records correspondent to the maintenance and hydraulic tests executed before the breakage, demonstrated that the installation withstood the operating conditions. Pressure of 10kg/cm<sup>2</sup> is the normal discharge operating pressure and the maintenance hydrostatic tests were conducted even applying much higher-pressure values. The related reports were sent to the corresponding authority in due time.
- We firmly deny the statements about alleged bad practices during the cleaning and remediation processes. The companies called for these tasks are among the most recognized ones worldwide regarding spill cleaning works. Besides this, subject specialized organizations like IMO (International Maritime Organization), ITOPF (International Tanker Owners Pollution Federation Limited), NOAA (USA National Oceanic and Atmospheric Organization) and the United Nations Commission among others, witnessed the implemented processes for the cleaning and remediation. Currently, reports of the corresponding authorities indicate that areas already meet the environmental quality national and international standards (considering as reference the Canadian strict standards)

- The Mission Report elaborated by the Joint Environmental Emergency Unit (JEU) of the United Nations just three weeks after the accident happened, indicates in several paragraphs that the Company **acted according to the international standards**:
  - In page 4, it is indicated: *“operations of containment and cleaning of the spill have been developed according to the good practices used in similar contexts, prioritizing the spill contention during the emergency first stages, and in parallel, the cleaning operations. Three weeks after the spill, there was no evidence of significant amounts of crude oil in sea.”*
  - In page 12 the same report indicates: *“Contamination on beaches and sandy areas. 12 days after the spill, the Mission checked that the level of pollution on the sand beaches was already low, having been collected the largest part of the spilled oil. At this stage, most part of the oil that was found on the coast came from polluted foam deposition.”*
  - And in page 27, report indicates: *“the 28<sup>th</sup> of January, the Mission visited Repsol Incident Control Center in the Pampilla Refinery. From this center, coast and sea cleaning operations were controlled. It could be observed that the center operated following the standard methodologies for providing response for this kind of disasters and they managed updated information (satellite images, spill behavior models and projections, location and activities of vessels and the staff in charge of the cleaning activities, etc.) Cleaning operations were implemented by two internationally recognized companies, experts on marine hydrocarbon contamination cleaning (LAMOR Corporation y Oil Spill Response Limited).”*
- According to the Peruvian and the international laws, Captain of the vessel is the maximal authority responsible for the maneuvers and processes for mooring the vessel. Shipowner company contracts the vessel staff and it is the final responsible of the safety provisions. **It needs to be highlighted that the vessel was not contracted by Repsol but by the oil supplier company.**
- **The Contingency Plan implementation was done according to the procedures approved by the authority at the time.** This was verified by the corresponding authority the day of the accident, and it could be checked in the pertinent audit record. This includes the containment barriers laying and the divers' operations, who dived as soon as they could, when the marine currents didn't represent a risk for their lives. There is evidence that on that day, the subsea currents were abnormal and strong.
- Company stated from the beginning that the cleaning actions for the inaccessible areas (understanding “inaccessible areas” term as those areas where neither working teams nor cleaning equipment can access without risking people's lives) would be different: breaking of the waves on the rocks would be awaited to immediately collect the detached oil on the sea. Pasamayo area, which is a deep cliffs zone, was defined and informed to the authorities as inaccessible.

- Company decided to take care of all the consequences generated by the spill. To date, Company has allocated more than one billion of soles for the cleaning actions, remediation, and compensations. As results of all these addressed tasks, measurements taken by involved authorities (SANIPES – marine fauna health, ANA – sea pollution, OEFA – sea and beaches measurements among others) indicate that conditions meet the environmental standards. **Analysis and measurements indicate that there is neither risk for fishing nor commercial activities.**
- About the Social Action Plan, Repsol hired an internationally renowned independent expert consultant, Akuaipa Transformation, to conduct a Human Rights Impact Assessment in accordance with our commitment to proceed with human right's due diligence. This participatory analysis was carried out in line with the United Nations Guiding Principles on Business and Human Rights. The Human Rights Impact Assessment was an engaging process, and it was performed by the expert consultant through different workshops and interviews with the affected people of the 5 districts. Also, results of this human rights impact study were shared, discussed, and validated with the communities of the 5 districts affected.
- Finally, we'd like to inform you that we've already compensated 97% of all the people affected identified by the Peruvian Government, which represent more than 10,000 people of a total of 10,300. A participatory negotiation process was designed for the compensation to which we invite all the affected people by professional groups. This process is voluntary and by mutual agreement where both parts must feel that the process is based on transparency and good faith. *The Defensoría del Pueblo* (Ombudsman's Office) has attended several meetings as an independent observer to witness and to analyze the negotiation process. Compensation amounts are not just higher than the estimated calculation that the Peruvian Government presented us in March 2022, but also these are higher than the official income registries of the Government, as for example, the income levels of the craft fishermen that are listed in the Government entities.
- Additionally, we have designed and already started a social and economic recovery program of the affected areas that will frame several sustainable development projects. These projects will boost the training of the affected people, improve the economic activity, foster the entrepreneurship, and promote the social wellbeing with a stronger community cohesion. This strategy is based on the projects proposals according to the affected people, gathered from the workshops and meetings held and it counts with the collaboration of the affected communities, associations, social entities, and national and international organizations and relevant authorities. The main axes where the re-activation program is centered are fishing, tourism and environment and it will always consider those activities of social cohesion and gender perspective. These development projects are aligned with Repsol's commitment to the United Nations 2030 Agenda.

As we already have stated, we regret deeply what it occurred, and we understand the harsh times the citizens of the affected areas had. Today we continue focusing all our efforts on the compensation, recovery and, restoration of the economic activities of the areas.

Kind regards,