
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 20/2025**

Precautionary Measure No. 113-16

Members of the “Tres Islas” Native Community of Madre de Dios regarding Peru

February 27, 2025

Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Members of the “Tres Islas” Native Community of Madre de Dios in Peru. When making its decision, the Commission assessed the measures adopted internally by the State. In addition, the IACHR considered the prolonged lack of response from the representation. Taking into account the nature of the precautionary measures and in light of the information available, the Commission considered that, at this time, it is not possible to identify a situation of risk under the terms of Article 25 of its Rules of Procedure, and has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On September 8, 2017, the IACHR granted precautionary measures in favor of the members of the “Tres Islas” Native Community of Madre de Dios. The request indicated that the beneficiaries were facing a situation of serious risk due to the lack of effective, comprehensive, and continuous medical care in the face of the presence of mercury in their bodies, as well as in their water and soil sources, as a result of the mining concessions in their territory. Upon analyzing the submissions of fact and law, the Commission considered that the information showed, *prima facie*, that the beneficiaries were facing a serious and urgent situation. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requested that Peru:

- a. adopt the necessary measures to preserve the life and personal integrity of the members of the “Tres Islas” Native Community of Madre de Dios, which include:
 - i. perform the necessary medical diagnoses to determine the levels of contamination by mercury or other substances that the proposed beneficiaries reportedly present, in order to provide adequate medical care, in accordance with applicable international standards in the field, with special attention to children and pregnant women;
 - ii. guarantee that members of the community have access to food that is adequate in nutritional and cultural terms and within the levels established as acceptable by international organizations such as the World Health Organization (WHO) or the Pan American Health Organization (PAHO);
 - iii. implement measures to protect community members from potential attacks by third parties;
- b. consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and,
- c. report on the measures adopted to mitigate, reduce, and eliminate the sources of risk identified in the current procedure; and report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.¹

III. INFORMATION PROVIDED DURING THE TIME THESE PRECAUTIONARY MEASURES WERE IN FORCE

¹ IACHR, [Resolution 38/2017](#), Precautionary Measure No. 113-16, “Tres Islas” Native Community of Madre de Dios regarding Peru, September 8, 2017 (Available only in Spanish).

a. Procedure during the time the measures were in force

3. During the time the precautionary measures were in force, the Commission followed-up on the situation by requesting information from the parties. In this regard, communications have been received from the parties and sent from the IACHR on the following dates:

	State	Representation	IACHR
2017	October 4	October 5, November 16, and December 6	September 8
2018	May 3 and November 26	March 9 and May 8	July 8, September 11, October 2, November 1
2019	April 4 and September 9	March 7, 13, and 22; May 20; August 30; November 12; and December 6, 20 and 31.	March 13 and 29, April 4, August 16, November 25, and December 10
2020	January 22 and July 24	March 7 and 23; May 14; July 7; and September 9 and 24	January 31; June 8; August 20 and 24; October 21; and November 18
2021	February 8	September 13 (representation waiver)	August 17
2022	December 15	No communications forwarded	August 16, December 16 and 20
2023	February 20 (request to lift) and May 12 (request to lift)	No communications forwarded	March 9, July 21 and December 14
2024	March 4 (request to lift) and June 27 (request to lift)	No communications forwarded	April 11, July 24, and December 4

4. The Commission held face-to-face and virtual working meetings in the 168th, 169th, 172nd, 175th, and 176th Period of Sessions. The State has requested that the precautionary measures be lifted in its communications sent on February 20 and May 12, 2023; March 4, and June 27, 2024. All requests to lift were forwarded to the representation, and it was indicated that it would assess keeping these measures in force. No response was received, despite multiple follow-ups.

5. The International Institute of Law and Society (IIDS) exerted representation before the Commission until September 13, 2021. After its resignation, the contact details of Clara Yomira Cagna Payaba, a member of the community, were provided.

b. Information provided by the State

6. On October 4, 2017, the State announced that a consultation meeting had been held on September 26, 2017, and that two more were planned: one for October 5, 2017, and another in the Madre de Dios region. On May 5, 2018, a Health Plan of Action and a Communal Census of the “Tres Islas” Native Community (the census) were reported. The State also explained that four fiscal investigations into alleged illegal mining crimes and actions against organized crime had been initiated. It also reported that there was no budget to cover travel costs for meetings in Lima.

7. On November 9, 2019, Peru reported that the census was verified with the president of the community, and it was stated that the treatment of health issues which are unrelated to mercury exposure should be provided through the standard healthcare system. It was reported that the National Water Authority (*Autoridad Nacional del Agua*) identified 23 sources of pollution in water resources in the “Tres Islas” community, as well as 15 devices and infrastructure for mining activity that were not in use when this inspection was carried out. It was added that during 2018, environmental inspection and control actions were

carried out and, for its part, the Environmental Evaluation and Control Agency (OEFA) provided recommendations to the Regional Government of Madre de Dios (GOREMAD). Illegal mining activity was detected in the Madre de Dios River, which runs through the “Tres Islas” community. As a result, an operation was conducted to seize seven rafts, seven engines, seven hoppers, and 90 gallons of fuel, along with other equipment. The State reported that two individuals under investigation for environmental crimes related to illegal mining, J.P.C. and V.P.C., are members of the community. It also stated that the Prosecutor’s Office implemented the Satellite Georeferenced Monitoring Unit for Environmental Crimes (*Unidad de Monitoreo Georreferencial Satelital de Delitos Medio Ambientales*) to collect information on deforestation, biodiversity loss, and other environmental damage, to be used as evidence in criminal proceedings.

8. On January 22, 2020, the State provided an update on the consensus meetings held on May 31 and October 14, 2019; and January 3, 2020. During these meetings, the Supranational Specialized Public Prosecutor’s Office (PPES) agreed to submit its observations to the authorities it had met with, including the Vice Ministry of Human Rights and Access to Justice within the Ministry of Justice (*Acceso a la Justicia del Ministerio de Justicia*). The State highlighted that, in December 2019, 95% of the Health Plan of Action for the “Tres Islas” Native Community had been carried out, reporting mercury dosages taken for the community and a total of 848 medical consultations in various areas. The measurement of air, water, and soil quality was pending. In addition, in July 2019, 44 urine samples were taken to determine the population’s level of exposure to mercury, and results were delivered on October 25, 2019. Peru added that, on August 8 and 13, 2019, 14 members of the community received specialized care under the Health Plan and it was argued that, although the representation referred to the situation of four people in the community who allegedly required specialized medical treatment, three have Comprehensive Health Insurance, and the other has ESSALUD insurance. The State further noted that none of them had referrals to other health centers or pending transfers. It was added that, if a transfer is required, it must be carried out with the corresponding medical assessments and in accordance with the internal law that regulates the provision of medical services. It was added that the Prosecutor’s Office had been carrying out “awareness-raising” work in the area and it was clarified that the interdiction of illegal mining only applies when mining concessions overlapping the community’s territory are declared illegal by the competent authorities.

9. In addition, it was communicated that a constitutional court judgment, confirmed on appeal on February 27, 2019, by the Superior Court of Justice of Madre de Dios (Case File 675/2017), ordered the competent authorities to annul the mining and water use concessions located within the territory of the community² addressed in these precautionary measures. In compliance with the judgment, the Ministry of Agriculture revoked four licenses for the use of water for mining purposes and GOREMAD declared the nullity of 13 resolutions granting mining concessions, including the one within which the Direct Fuel Consumer (*Consumidor Directo de Combustible*, also known as “fuel station”) was located. GOREMAD prohibited the granting of mining rights or concessions, the allocation of land, water use rights, and other similar rights in the territory of the community, and also requested that priority attention be given to the community in terms of

² The judicial decision orders the declaration of: “the nullity of administrative acts, as well as those that, by extension and application *erga omnes*, have been issued or are to be issued by the various regional directorates of the Regional Government of Madre de Dios and the National Water Authority related to mining rights or concessions, the allocation of land, water use rights, or other similar rights over the territorial property of the native community of Tres Islas.” It also decides “that the Regional Government of Madre de Dios, its various Regional Directorates, and the National Water Authority, within a period of ten days, issue the corresponding administrative acts that have been issued or are pending issuance related to mining rights or concessions, land allocation, water use rights, or other similar rights, which involve the territorial property of the native community of Tres Islas, and must prohibit any subsequent acts that contravene this.” It also orders “the immediate cessation of all activities derived from or linked to mining rights or concessions, land allocations, water use rights, and any other similar administrative act, license, or state authorization granted to third parties within the territory of the native community of Tres Islas, and an official notice must be sent to the National Police of Peru to enforce this provision.” It also states that “the Regional Government of Madre de Dios, through the Regional Directorate of Health or other relevant bodies, in coordination with the National Water Authority, must give priority attention to the members of the Tres Islas Native Community regarding their overall health, as well as undertake the necessary actions and activities for the provision of drinking water services, prioritizing human consumption over other uses. Additionally, it should explore the possibility of conducting a study and proposal for the decontamination of water, air, and soils, the restoration and reforestation of soils, resources, and the entire affected habitat, as well as the treatment and recovery of the overall health of the members of the Tres Islas Native Community.”

healthcare, drinking water, decontamination, repair and reforestation. It was reported that on December 16, 2019, the judicial body conducted a visit to the territory, which included the community members and competent authorities. During the visit, mining activities were observed, and their cessation was ordered.

10. On July 24, 2020, the State reported on measures adopted regarding the COVID-19 pandemic. In addition, reference was made to the Proposed Coordinated Plan presented by the community, which included 45 suggested measures for 2020. It was argued that the timeline was unrealistic due to the national emergency, however, a willingness for dialogue was expressed, and it was stated that a meeting took place in the community on February 28, 2020. There was a claimed discrepancy in the implementation of certain aspects,³ and it was considered that the other group did not align with the precautionary measures. In turn, it was noted that on March 17, 2020, an interdiction operation was carried out in the Madre de Dios River with the participation of the Navy, the Peruvian Army, and the Peruvian National Police (PNP). On this occasion, 38 fully operational rafts involved in illegal mining activities were discovered and destroyed in front of the community's port, in plain sight of its members, with no subsequent reports. On May 22, 2020, a new operation was performed in the La Pastora-Tres Islas sector, with the participation of the Public Prosecutor's Office, the Navy, and the PNP. The operation found instruments of illegal mining activity.

11. On February 8, 2021, the State reported that on October 31, 2020, there was a meeting between the Regional Health Directorate of Madre de Dios (DIRESA) and the "Tres Islas" Native Community to reschedule the Health Plan of Action. On the same day, the following activities were carried out: specialized medical evaluation of mercury levels in urine (three results were provided); a behavior and wellness assessment to evaluate health practices based on the educational and demonstration sessions held in 2019 (16 families were surveyed); a community surveillance sheet; and an educational session focused on proper handwashing, healthy habits to prevent heavy metal contamination, and nutrition to boost the immune system. Additionally, 73 medical consultations were reported in several departments. The State mentioned activities that were performed due to the pandemic and requested a statement on the points in which there was a dispute between the parties.⁴

12. On February 20, 2023, the State announced that, during 2022, the community had benefited from social programs offered by the Ministry of Development and Social Inclusion, including *Juntos*, which had 33 affiliated households and 27 subscribers; *Qali Warma* (a food service for public educational institutions), which served 163 children across three educational institutions; and *Pensión 65*, which had 13 beneficiaries. It was added that in 2021, a case of tuberculosis was treated, which included the patient receiving a food basket. However, the treatment has since been completed, and no new cases were reported in 2022. Furthermore, it was stated that the General Directorate of Mining Formalization (*Dirección General de Formalización Minera*) had not identified mining registrations superimposed on the community, as it is a restricted area. It was also noted that, in compliance with judicial judgment 675/2017, the Police had completed interventions against illegal mining. These authorities executed eight operations during 2022. The State emphasized that the representation had not provided any information that supports keeping the precautionary measures in force, and requested that they be lifted. In a letter dated May 12, 2023, the request to lift was reiterated.

³ It referred to (i) compliance with coverage for the transportation of the insured person and one companion, under the Comprehensive Health Insurance (Seguro Integral de Salud); (ii) monitoring of the 21 individuals diagnosed by Duke University and the Regional Directorate of Health of Madre de Dios; (iii) the impossibility of coordinating interdiction operations due to their nature; (iv) the Health Plan, which was agreed upon between the State and the "Tres Islas" Native Community; (v) the coordination and approval given by the Tres Islas Native Community regarding the census conducted by the Peruvian State; and (vi) the mercury testing based on urine samples.

⁴ In particular, it was noted regarding: (i) the delivery of records, reports, and budget execution of the 2018-2019 Health Plan by the State to the Tres Islas Native Community; (ii) the granting of "beneficiary cards" to all community members for preferential healthcare; (iii) the reconstruction of the fence and control house at the entrance of Kilometer 24, in coordination with the community; and (iv) the filing of criminal complaints against authorities and community members.

13. On March 4, 2024, the State provided an update on the status of compliance with the judgment in Case File 675/2017. In this line, on September 3, 2021, the PNP noticed a shapeless pool of water, rafts with wooden platforms, metal cylinders, engine oil, among other materials used for illegal mining, and proceeded to destroy and/or disable them. By resolution of October 26, 2021, the Permanent Civil Court “reminded the institutions involved in the execution of this judgment that it must be carried out solely and exclusively within the territory of the Native Community of Tres Islas.” In addition, during 2022 and 2023, certified copies of the judgment were issued as required by the authorities involved. The activities performed by the Public Prosecutor’s Office were also reported as follows: on July 24, 2021, it conducted proceedings in the beneficiary community, resulting in the interdiction of eight rafts. On December 17, 2021, in both the beneficiary community and another community, 33 engines and 33 rafts were interdicted. Both actions led to the opening of investigation files. It also stated that, during 2021-2022, they continued to take action to combat illegal mining, with “a total of 20 interdictions in the area of influence of the Tres Islas Native Community”. In turn, seven criminal cases initiated for illegal mining between 2011 and 2022 were shared: four were filed, one was dismissed, and two had an indictment (both from 2015).

14. Regarding medical care for the individuals poisoned by mercury, it was reported that on December 14, 2022, DIRESA collected 40 biological samples from members of the beneficiary community to determine mercury levels. It was found that three individuals had mercury concentrations that exceeded the reference value in their urine, and suggested the “Practice Guide for the Diagnosis and Treatment of Mercury Poisoning.” On April 25, 2023, the “Tres Islas” Native Community was visited and health care and results were provided to those who had their blood drawn; for those who did not attend this process, new care was provided on July 6, 2023. Subsequently, on October 5 and 6, 2023, health care was provided in the beneficiary community, which included general care for 94 individuals and biological samples for the determination of mercury for 89 individuals. It was added that, in 2023, five members of the DIRESA Madre de Dios staff were trained in caring for the population exposed to heavy metals, and three surgeons participated in a clinical toxicology workshop in July 2023. Additionally, in September 2023, the Health Functional Unit for the Exposure to Heavy Metals and Other Chemical Substances provided assistance to the DIRESA Madre de Dios staff. It reiterated the request for these precautionary measures to be lifted.

15. On June 27, 2024, the State updated that, of the 89 biological samples taken on October 5 and 6, 2023, the presence of mercury was detected in 25 people. Therefore, epidemiological surveillance continued with the application of epidemiological records scheduled for 2024. It was reported that there is an inter-institutional agreement between DIRESA Madre de Dios and the National Institute of Health to strengthen the processes for sampling and analysis to determine heavy metals in the exposed population in the region and the beneficiary native community. Additionally, the PPES followed up with the authorities to ensure the necessary budget was allocated for the medical care and nutrition of the beneficiaries. In this sense, they shared that a budget of 189,610.00 Peruvian soles was approved so that the DIRESA Madre de Dios could provide assistance to various communities, including the beneficiary community. It was added that there is new infrastructure for the water supply system in the community and mental health care is provided in two centers in Madre de Dios. The Department of Indigenous Peoples of the Ministry of Health (*Dirección de Pueblos Indígenas u Originarios del Ministerio de Salud*) had also adopted regulations to ensure health services are provided with cultural relevance and has a Comprehensive Health Plan for 2024 in 11 regions, including Madre de Dios. Within this framework, they hired two indigenous liaisons for coordination with the communities and scheduled staff training. In addition, on April 9, 2024, the Directorate for the Prevention and Control of Non-Communicable, Rare, and Orphan Diseases (*Dirección de Prevención y Control de Enfermedades No Transmisibles, Raras y Huérfanas*) concluded, “that the quality of water for human consumption, air, and soil for residential use carried out in the Tres Islas Native Community complies with the mercury parameters established by the current legal regulatory framework.” Lastly, it was stated that the “Comprehensive General Health Plan of Action for the Holistic Approach to the Population Exposed to Heavy Metals and Other Chemical Substances” by DIRESA Madre de Dios was being prepared. Once again, it was requested that the precautionary measures be lifted.

c. Information provided by the representation

16. On October 5, 2017, the representation communicated that it had not been called to any meeting. It was highlighted that mining concessions have an impact with the entry of third parties into the territory and a list was provided with measures that need to be implemented. On November 16, 2017, the representation stated that it had requested conciliation meetings on three occasions and had convened them for November 21, 2017. Information was gathered on the following: an oversight hearing with a congresswoman, a complaint the community filed with the Prosecutor's Office for environmental pollution, requested police force to remove all miners and third parties from their territory, requested diagnosis of mercury, and water and soil contamination.

17. On May 8, 2018, the representation requested that the State have a budget for the precautionary measure and organize a consultation meeting. A health diagnosis for the entire community was requested, along with free treatment for those affected by pollution. Additionally, an assessment of the soil, water, flora, and fauna in the communal territory was requested, as well as a halt to new concessions and the annulment of those not authorized by the community. On July 5, 2018, it was reported that a meeting with authorities had taken place on June 12, 2018, in which health issues were addressed and the accuracy of the census conducted by the State was questioned. At this time, the issues of safety, food, access to water, and investigation remained pending. On October 2, 2018, among other topics, the ongoing entrance of miners and machinery into the territory was addressed.

18. On March 22, 2019, the representation indicated that, to date, the community members did not have a medical diagnosis that determined the level of mercury contamination in their bodies that would allow them to take the necessary steps to treat it. It was alleged that the State's "Health Plan of Action" was not being implemented and that threats against members of the community continued, including threats against the new communal authorities. An operation was requested between the Prosecutor's Office and the Ministry of the Interior for the expulsion of illegal miners. It was added that in October 2017, the community became aware that a direct fuel consumer was setting up on their land, which had a fixed structure which was allegedly used to supply miners and illegal activities.

19. On August 30, 2019, concerns about impunity regarding acts of violence were raised, highlighting two incidents: in December 2018, the community president received a threat, and in July 2019, an unidentified van approached the community entrance but was prevented from entering when the gate was closed. In July 2019, an inspection was carried out where mining activity was identified. This activity was not stopped by the Prosecutor's Office or the police. The representation identified the main locations where they noticed third parties in the territory as Lake Pastora and Kilometer 24 of the Interoceanic Highway (photographs were provided). It was argued that it was difficult to arrange meetings with the State and that no progress had been made with the agreements. In addition, a request was made to revoke the authorization of "fuel station" and concerns were expressed about the medical brigades' care, citing limited access, inadequate equipment, a lack of medicines, and an insufficient number of specialists. It was reported that in August 2019, discussions were held with GOREMAD regarding water and food issues, as well as priority medical care. Additionally, delays were reported in mercury testing.

20. For its part, the actions of the Public Prosecutor's Office were questioned, as it raised awareness among the miners as a preliminary step, which they described as ineffective, as well as for the delay in making progress on the complaints filed. It was updated that they had meetings with the PNP in July and August 2019, but had only taken note of the location of illegal miners, stating that an operation aimed at intervening would be ordered at a later date. The representation reported the judgment in Case File 675/2017 issued in favor of the community and referred to the lack of agreements with the State on the implementation of some measures. Moreover, it was reported that they had already detected deterioration of Lake Pastora caused by illegal mining, of which photographs are provided.

21. On November 12, 2019, the representation reported the continued entry of illegal miners into its territory, both at Kilometer 24 of the Interoceanic Highway and at Lake Pastora. It was indicated that, on October 9, 2019, the applicants attempted to evict the miners themselves. However, the miners were armed with shotguns and resisted. The representation further stated that it held meetings with the PPES on October 14, 2019, and with a General of the Environmental Police on October 16, 2019. On December 6, 2019, it was reported that on November 18, 2019, the community decided to expel the illegal miners from Lake Pastora, following an agreement by the General Assembly of the Community. This decision was made despite threats from the miners, as the State's continued inaction persisted in response to multiple complaints filed.

22. On December 20, 2019, the representation stated that meetings are not held every four months as agreed. Actions aimed towards ensuring the health of the population were allegedly started, but several obstacles were mentioned, namely: (i) The results of the urine samples from July 2019 were received, showing high levels of mercury in several community members, which require urgent action; (ii) Three out of four identified individuals require medical transfers from Madre de Dios to Lima, but are in need coverage for travel and accommodation in the city. In addition, it was informed that the Public Prosecutor's Office carried out new "awareness-raising work" with the miners in the territory, which they allege as a permit for the expansion of mining activities, detecting a gas station and between 15 and 20 extractive operations. Consequently, the applicants had to request interventions.

23. It was also alleged that the judgment in Case File 675/2017 had still not been complied with. It was stated that, on December 16, 2019, a judicial investigation was carried out, during which the Judge corroborated the mining activity at Kilometer 24 of the Interoceanic Highway, and the mining concessionaire in the area where the "fuel station" is located had not been notified of the GOREMAD resolution that declared their concession null and void. It was highlighted that no interventions had been carried out to remove third parties, nor had there been any prohibitions to remove the machinery in Lake Pastora. They added that, despite having the requested police support, on October 9, 2019, community members once again expelled miners from Lake Pastora and destroyed the equipment, including stone crushers, five extraction sites, an engine, and an injector pump. It was noted that after these actions, one of the miners told the president "I know where you live and where your family lives, so be careful." It was added that the president subsequently received several text messages.

24. On March 7, 2020, the representation reported that a meeting with the PPES, environmental police, and representatives from DIRESA was held on February 28, 2020, where the following issues were discussed: i) the frequency of coordination meetings and communication with DIRESA; ii) regarding health: officials' lack of knowledge about the measures; incomplete mercury diagnosis and testing for community members; lack of treatment for the 21 individuals diagnosed with high mercury levels, and lack of coverage for expenses related to their transfer; iii) regarding nutrition, no actions have been taken; iv) regarding investigations: complaints filed with the Prosecutor's Office against miners are either filed or delayed; a request was made for the initiation of processes against third parties who have destroyed and polluted, as well as against prosecutors and officials who fail to fulfill their duties. Threats from miners have also allegedly increased. These miners have taken over "agricultural land" illegally, had a "fuel station" petrol pump, and were armed. The representation added that they continued to seek compliance with the judgment in favor of the community with the participation of sufficient police officers. In this regard, it was reported that a proceeding on December 27, 2019 was disrupted because the miners, who outnumbered the police, opposed it and shots were even heard, after which the operation was suspended. Although GOREMAD declared the nullity of some mining concessions on December 23, 2019, others were still pending, and the interdictions were yet to proceed. The representation also mentioned non-compliance in the schedule of the Health Plan of Action.

25. On March 19, 2020, a "proposal for an articulated plan of the community" was provided for the State's consideration. On March 23, 2020, it was indicated that on March 14, 2020, the community was intimidated by a helicopter flying at a very low altitude over its territory near the village. On March 17, an

intervention was carried out by an alleged prosecutor, officers from the Peruvian National Police, and the Navy, who violently entered the community, citing a “state of emergency.” According to the representation, none of the state agents wore masks or gloves, despite their obligation to protect vulnerable communities from COVID-19. They approached community members, stood less than a meter away, took the key to the community gate from the gatekeeper and did not return it, leaving the community in a complete state of defenselessness. The representation requested an investigation into the incident, claiming that the authorities violated the community’s territorial property and autonomy, failed to respect its leaders, and did not consult the community before entering their territory. It was reiterated that, to date, the state authorities had not coordinated with the communal authorities to carry out the interdictions at Kilometer 24 and considered it necessary to execute the judgment issued in Case File 675/2017. It was added that, at the moment, the expulsion of the miners had not yet taken place.

26. On July 7, 2020, it was announced that on May 27, 2020, a community commission carried out an inspection at Kilometer 24 of the Interoceanic Highway, during which it identified mining structures, miners, third party crops, miners’ camps, as well as contamination and destruction of various areas as a result of illegal activity (photographs are provided). The request to prohibit and evict miners in the area was reiterated and they alleged the impact of the COVID-19 pandemic on the community. On July 9, 2020, the representation shared that, of the 75 interdictions reported in Madre de Dios, only one took place in the beneficiary community. They added that no operation occurred at Kilometer 24, where the direct consumer of gasoline was located. A list of eight communications was provided to the Prosecutor’s Office between 2016 and 2019 requesting the interdictions, along with an indication of the obstacles in coordinating visits with the Police.

IV. ANALYSIS OF THE REQUIREMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

27. The precautionary measures mechanism is part of the Commission’s functions of overseeing compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general oversight functions are provided for in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the Statute of the IACHR; while the mechanism of precautionary measures is set forth in Article 25 of the Commission’s Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

28. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.⁵ Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights.⁶ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.⁷ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under study by

⁵ I/A Court H.R., [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

⁶ I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico, Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5. (Available only in Spanish)

⁷ I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

the organs of the inter-American system. Their precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

29. In this sense, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions. Article 25(9) sets forth that the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force. In this regard, the Commission shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may meet the requirements outlined in Article 25 of its Rules of Procedure.

30. Similarly, the Commission recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping such measures in force requires a more rigorous evaluation.⁸ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁹ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.¹⁰

31. In analyzing the procedural requirements, the Commission emphasizes that the purpose of this proceeding is to protect the members of the “Tres Islas” Native Community of Madre de Dios. Specifically, it recommended: conducting medical diagnoses to detect contamination levels of mercury or other substances, as well as to provide medical care; ensuring access to food; implementing safety measures against aggression by third parties; agreeing on appropriate actions; mitigating risk factors; and investigating the events that led to these measures.¹¹ Based on the information provided, the Commission notes the following:

- a. Mercury diagnostics and health care. The State carried out a communal census, which was compared with the presidency of the community, and adopted the Community Health Plan of Action. In this sense, information was provided on the specialized care provided to members of the community in August 2019 and, in December 2019, on the collection of samples to detect mercury levels. It also recorded 848 medical consultations and the transfer of three people who required care outside the community. In October 2020, a medical evaluation for mercury levels in urine was conducted, and health records

⁸ I/A Court H.R., [Case of Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

⁹ I/A Court H.R., [Case of Fernandez Ortega et al.](#), previously cited.

¹⁰ I/A Court H.R., [Case of Fernandez Ortega et al.](#), previously cited.

¹¹ IACHR, Resolution 38/2017, previously cited.

and educational sessions were held for families. Additionally, 73 medical services were provided. In 2021, a case of tuberculosis was treated.

Continuing with these actions, in December 2022, 40 biological samples were taken to detect mercury, with three cases detected that exceeded the maximum reference levels. As a follow-up, in April 2023, the community was approached to communicate the results and provide medical care. In October 2023, they returned to the community to treat 94 people and take samples from 89 people. The presence of mercury was detected in 25 people. Consequently, it was stated that epidemiological surveillance was ongoing, with the application of health forms for 2024.

In addition to the above, the community's medical personnel had been kept up to date and trained, with a focus on toxicology and heavy metal exposure, and had collaboration and agreements with other specialized State bodies for specialized care are maintained. Additionally, efforts were made to secure approval for the medical care budget from DIRESA Madre de Dios. As of the latest update, a new plan of action was being developed with a specific focus on the population exposed to heavy metals.

The Commission acknowledges the importance of the actions taken by the State, including conducting the necessary medical diagnoses and maintaining surveillance and medical care for individuals found to have mercury contamination. To this end, it was essential that the authorities had trained personnel and approved budgets, which showed the determination to continue with epidemiological surveillance and adequate medical treatment. The Commission calls on the State to continue with these actions.

- b. Nutrition. The inclusion of the beneficiary community in public policies such as the *Juntos*, *Qali Warma*, and *Pension 65* programs is noted. Moreover, it is noted that the budget reported in the latest State report for DIRESA Madre de Dios included provisions for addressing the issue of nutrition.

The IACHR takes note of these actions and considers their continuity important, as well as the need to assess the relevance of strengthening measures focused on the food and nutrition of the community members.

- c. Risk protection and mitigation measures. Since 2020, various interdiction procedures have been carried out regarding objects used for illegal mining, with reported operations expected to continue at least until 2022. Although operations have been referred to in relation to the Madre de Dios region in general, specific operations in the community of "Tres Islas" and at points of interest identified by the representation such as Kilometer 24 of the Interoceanic Highway or in La Pastora-Tres Islas have also been reported.

In line with the above, the Commission positively highlights the judgment upheld by the Superior Court of Justice of Madre de Dios in Case File 675/2017, in which the protection of the community and its territory was guaranteed. Within the framework of the court order, follow-up visits have been made and the Ministry of Agriculture has revoked four water use licenses, while GOREMAD has declared 13 concessions null and void, including the one for the fuel station pump, also prohibiting new concessions. The State has indicated that compliance with the resolution is ongoing and the authorities involved have required certified copies of the judgment.

The Commission observes that the judgment provided the community with legal certainty regarding the prohibition of specific activities on its territory, thereby allowing authorities to take action against the third parties on communal land. According to the representation, these individuals, in protecting their interests, are those who perpetrated various acts of violence against the community. Given the lack of response from the representation, the Commission does not have up-to-date information regarding the persistence of violent situations.

In addition, the IACHR notes the opening of investigation files by the Prosecutor's Office, which, along with the coordination of authorities, has contributed to the execution of proceedings in the community and interdiction efforts. It is emphasized that, although several investigations were archived or dismissed, two from 2015 are said to have charges brought against them.

Lastly, regarding other types of mitigation measures, it is noted that water quality has been recently reviewed, and on April 9, 2024, it was concluded that "the quality of water for human consumption, air, and soil for residential use in the Tres Islas Native Community complies with the mercury parameters established by the current legal regulatory framework."

The Commission recalls the importance of the authorities continuing to ensure the protection of the people of the "Tres Islas" community from the interests of illegal mining in the territory, through individuals who use violence against the people of the community, as well as the impact on the contamination of their resources.

- d. Agreement. The IACHR pays special attention to the parties' efforts to ensure that the measures are adopted in a concerted manner. In this regard, it is noted that the beneficiary community has had meetings with authorities, at least, in September and October 2017; May and June 2018; May, July, August and October 2019; and January, February and October 2020. On many occasions, these meetings have been face-to-face in the community or virtual. They have addressed implementation issues in general, health specificities, or other priorities. The Commission calls on the parties to continue with the open, well-articulated dialogue in good faith.

32. In an attempt to obtain information on the current situation of the beneficiaries, the Commission notes that the last response from the representation dates back to September 2021, more than three years having elapsed since then. Subsequently, after the State's reports (received up to 2024) were forwarded, and observations and updates were requested on several occasions, the Commission has not received a response. The Commission recalls the importance of receiving regular updates on the situation that presents a risk.¹² In this sense, the Commission has no additional elements of assessment when analyzing the actions of the State in the implementation of these precautionary measures.

33. In evaluating compliance with the procedural requirements, and based on the review conducted, the Commission positively assesses the actions implemented by the State through the competent authorities for the protection of the "Tres Islas" community. In this regard, given the lack of information from the beneficiary's representation, which was also referred to by the State, it is not possible to identify situations of risk or shortcomings in the implementation of the precautionary measures.

34. Considering the nature of the precautionary measures mechanism, the information available, and the analysis carried out, the Commission understands that it has no elements to support compliance with the requirements of Article 25 of its Rules of Procedure. Given the above, and taking into account the exceptional and temporary nature of precautionary measures,¹³ the Commission considers that it is appropriate to lift these measures.

35. The Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State of Peru to respect and guarantee the rights recognized therein. In this regard, the importance of continuing to provide medical care and

¹² IACHR [Resolution 97/2024](#), Precautionary Measure No. 994-16, Matter of Lorenzo Mendoza and family regarding Venezuela, December 16, 2024, para. 17; and [Resolution 104/2024](#), Precautionary Measure No. 603-22, Matter of Child K. L. R. regarding Mexico December 27, 2024, para. 21.

¹³ I/A Court H.R., [Matter of Adrián Meléndez Quijano et al.](#), Provisional Measures regarding El Salvador, Order of August 21, 2013, para. 22; [Matter of Galdámez Álvarez et al.](#), Provisional Measures regarding Honduras, Order of November 23, 2016, para. 24.

treatment to individuals diagnosed with mercury exposure, as well as conducting ongoing relevant diagnoses, is highlighted. Additionally, it is crucial to ensure the protection of the community against the presence of third parties who are allegedly attempting to carry out activities on its territory.

V. DECISION

36. The Commission decides to lift the precautionary measures granted in favor of Members of the “Tres Islas” Native Community of Madre de Dios, in Peru.

37. The Commission recalls that the lifting of these measures does not prevent the representation from filing a new request for precautionary measures, should they consider that there exists a situation presenting a risk that meets the requirements set forth in Article 25 of its Rules of Procedure.

38. The Commission instructs its Executive Secretariat to notify this resolution to the State of Peru and the representation.

39. Approved on February 27, 2025, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary