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Dear Sirs

### **Review of Paraguay**

We respectfully make the following submissions in connection with the Review of Paraguay scheduled for the 24<sup>th</sup> Session of the Human Rights Council from January to February 2016.

#### **Introduction**

1. Ayoreo Totobiegosode Indians in Paraguay are being forced off their land by cattle ranchers. The Government is well informed about violations of the tribe's rights, but has failed to comply with international and Paraguayan laws that guarantee the Ayoreo's right to remain on their ancestral land.
2. The Ayoreo Totobiegosode have been claiming legal title to their land since 1993, but the majority of the land remains under the control of foreign-owned companies.
3. Some members of the Ayoreo Totobiegosode tribe are uncontacted: they live in the Chaco forest avoiding all contact with outsiders. They hunt and gather and grow some crops, but their resources are becoming increasingly limited as the forest is destroyed to make way for cattle and agriculture. The Chaco has been found to have the highest rate of deforestation in the world by a Maryland University study.
4. Most Ayoreo have already been forced to abandon their nomadic way of life in the forest, and have been settled in communities spread out across the Chaco.
5. Contact with mainstream society has proven disastrous for the Ayoreo. Members of the tribe who have been forced out of the forest suffer disproportionate rates of disease. This is in part due to their lack of immunity to foreign-introduced diseases at the point of contact.

6. An unknown number of Ayoreo have already died from diseases spread following first contact, and many suffer from a TB-like illness that threatens to kill many more.
7. The Ayoreo who remain in the forest are amongst the most vulnerable societies on the planet. Unwanted contact between ranch workers and the Ayoreo is likely to be violent and will inevitably result in the spread of fatal diseases.

### **Cattle ranchers**

8. Several companies have been caught – through the use of satellite imagery – clearing forest and constructing buildings inside the Ayoreo's land claim. Although the cases have been reported to government authorities a weak and corrupt judicial system has failed to prevent further incursions of the land, or allowed for the return of the land to its indigenous owners.
9. The companies Carlos Casado S.A., Yaguarete Pora S.A. and Itapoti S.A. have all been caught illegally clearing the Ayoreo's forest.
10. Agricultural firm Carlos Casado S.A. owns 36,000 hectares of land in the core area of the Ayoreo's ancestral homeland.
11. In August 2012, the Paraguayan government confirmed in a letter to Ayoreo organisation OPIT that the company had begun construction of a road and reservoir without the required license.
12. The company subsequently wrote to the government offering to consider a payment for the land, which would then transfer the land title to the Ayoreo. But no action has since been taken against the company, and there has been no progress on transferring the land to the Ayoreo.
13. Beef company Yaguarete Pora S.A. owns 78,549 hectares of the Ayoreo's land. Thousands of hectares of land have already been illegally cleared by the company's workers.
14. In May 2010, the company was found guilty of hiding evidence proving uncontacted Indians were living on its land. It was issued with an unprecedented fine and its environmental license (required to carry out work on the land) was removed.
15. On 30 October 2013, Yaguarete's environmental license was renewed in a case taken to the courts by the company. On 28 January 2014, another judge revoked the decision to grant the company an environmental license to work on the Ayoreo's land.

16. Yaguarete Pora does not have the legal right to deforest any of the land inhabited by uncontacted Ayoreo Indians, or land that is being claimed as the ancestral property of the Ayoreo Totobiegosode. Despite this, satellite imagery taken over several years shows that the company has been repeatedly illegally clearing forest to make way for cattle.
17. Parcels of land that have been legally titled to the Ayoreo have also been invaded by cattle ranchers.
18. The company Itapoti S.A. has repeatedly entered and carried out works inside the Ayoreo's titled property (Finca 18.981) without consulting the Indians. The land was titled to the Ayoreo by the Government Rural Welfare Institute (IBR) in 1997.
19. On 22 July 2013, Itapoti S.A. was granted police protection by Judge Juan Carlos Molas in order that the firm could erect fencing inside Finca 18.981.
20. More recently, on 23 April 2015 a government team confirmed that the company had again carried out illegal works inside the Ayoreo's titled land. To date, no action has been taken against the company.

### **Health**

21. According to the World Health Organization, tuberculosis amongst indigenous peoples in Paraguay is 10 times more prevalent than the national average. Only 25% of indigenous peoples in Paraguay are treated at health posts, according to the Paraguayan Ministry of Public Health.
22. Ayoreo Totobiegosode have suffered acute health problems since coming into contact with outsiders. Like all previously uncontacted peoples, they have little or no immunity to diseases common in the Western world.
23. Today many Ayoreo suffer from respiratory disease, as well as malnutrition and diabetes. At least three adults have died from a TB-like illness in the past decade.
24. The Paraguayan government has been repeatedly informed about the state of the Ayoreo's health. However, local health promoters remain under-equipped and under-funded, and medical attention is minimal.

### **Legal position**

25. Paraguay's 1992 Constitutional Law (Chapter V, Article 64) ensures that "Indian people have a right, as communities, to a shared ownership of a piece of land, which will be

sufficient both in terms of size and quality for them to preserve and to develop their own lifestyles.”

26. The same Article states: “The removal or transfer of Indian groups from their habitat, without their express consent, is hereby prohibited.”
27. Paraguay has also ratified ILO Convention 169, which states: “Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities”.
28. In violation of these laws, the Ayoreo have not been consulted by the companies or the State about work on their land. In rare instances where consultation and consent has been sought, the Ayoreo have expressly rejected the presence of outsiders inside their land claim.
29. Although the ILO 169 does not address the specific situation of uncontacted tribes, in ratifying the convention Paraguay has undertaken a duty to protect and preserve the environment of the territories inhabited by indigenous peoples.
30. The choice of no contact of the Ayoreo-Totobiegosode who remain in the forest should be regarded as their response under Article 15.2 of the Convention.

### **Recommendations**

31. We respectfully ask the Council to urge Paraguay as a matter of the highest priority:
  - (1) to purchase or expropriate as a minimum the 550,000 hectares of land claimed by the Ayoreo Totobiegosode tribe since 1993.
  - (2) to take immediate legal action against the companies working inside the Ayoreo’s land claim.
  - (3) to provide appropriate emergency and ongoing medical care for contacted members of the tribe.

Yours faithfully,



Stephen Corry

Director, Survival International