



Complaint against “Dutch” oil company Pluspetrol for violation of OECD guidelines

Oil company in Peruvian oil scandal located in Amsterdam mailbox

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On 11 March 2020, indigenous leaders from Peru filed a complaint against oil company Pluspetrol to the National Contact Point for the OECD guidelines. Originally an Argentinian company, with its headquarters in Amsterdam via a “letterbox construction”, it has been guilty of serious environmental pollution and violations of the rights of indigenous people in the Peruvian Amazon. According to the complaint, Pluspetrol also acts contrary to OECD guidelines on taxation and transparency, because its Dutch office has set up fiscal constructions that make tax avoidance possible.

Oil extraction by Pluspetrol has led to large-scale pollution of the habitat of the indigenous Achuar, Kichwa, Kukama, and Quechua communities in northern Peru. For fifteen years, Pluspetrol contaminated nearly two thousand different locations in the Amazon. Pluspetrol’s operations in the area ended in 2015, but instead of cleaning up the pollution and compensating the local population, the oil company refuses to clean up.

Severe pollution

Pluspetrol’s activities resulted in numerous fines for the company from the Peruvian authorities for violating environmental laws. For example, the oil company discharged huge amounts of toxic waste water for years and allowed overdue maintenance on the outdated installations and pipelines that caused many oil leaks. Toxic substances such as cadmium, barium, and lead, contaminated soil, rivers and groundwater. This has disastrous consequences for the fish and game stock, drinking water quality and biodiversity in the area and thus the food supply of the indigenous population.

The large-scale pollution is related to serious health problems in the nearby communities. Research by the Peruvian Ministry of Health, for example, already showed in 2005 and 2006 that the amount of heavy metals – in particular cadmium and lead – in blood and urine samples of the indigenous population far exceeded international standards. The report pointed to an unusually high level of miscarriages, common acute diarrhea, persistent skin problems and other health conditions that are not characteristic of Peruvian indigenous peoples. In addition, there are frequent outbreaks of malaria in areas where this disease has not been traditionally endemic.

Fiscal construction via the Netherlands

In addition to violations of the OECD guidelines on the environment and human rights in Peru, Pluspetrol also acts in violation of the OECD guidelines on taxation and transparency. Pluspetrol's head office is officially established in the Netherlands through a letterbox company in Amsterdam. According to the complainants, the letterbox construction is the hub in a complex, opaque international corporate structure with numerous branches in tax havens. This has allowed the company to avoid tax on the profits it made with its polluting oil extraction in Peru. The fiscal structure of the company makes it possible, via Luxembourg, to pass on profits from the Netherlands to the Bahamas.



The structure that Pluspetrol has set up is indicative of the formulation that many multinationals create in order to avoid as much tax as possible. The Netherlands plays a central role in facilitating this fiscal box of tricks; nowadays, with fifteen thousand letterbox companies, the Netherlands is also often called a tax haven. SOMO believes that the Dutch government should do more to combat these types of tax constructions.

OECD guidelines

The OECD Guidelines for Multinational Enterprises make clear what the governments of the OECD countries, including the Netherlands, expect from internationally operating companies in the field of corporate social responsibility. Among other things, the OECD considers it important that companies report how they comply with these guidelines. The OECD also has a complaints mechanism, where victims can make use of business-related violations. They can submit this complaint to the National Contact Point (NCP) of the OECD in the country where the company is located. Because Pluspetrol's head office is located in the Netherlands, stakeholders in the PlusPetrol case filed a complaint with the Dutch NCP.

The complaint

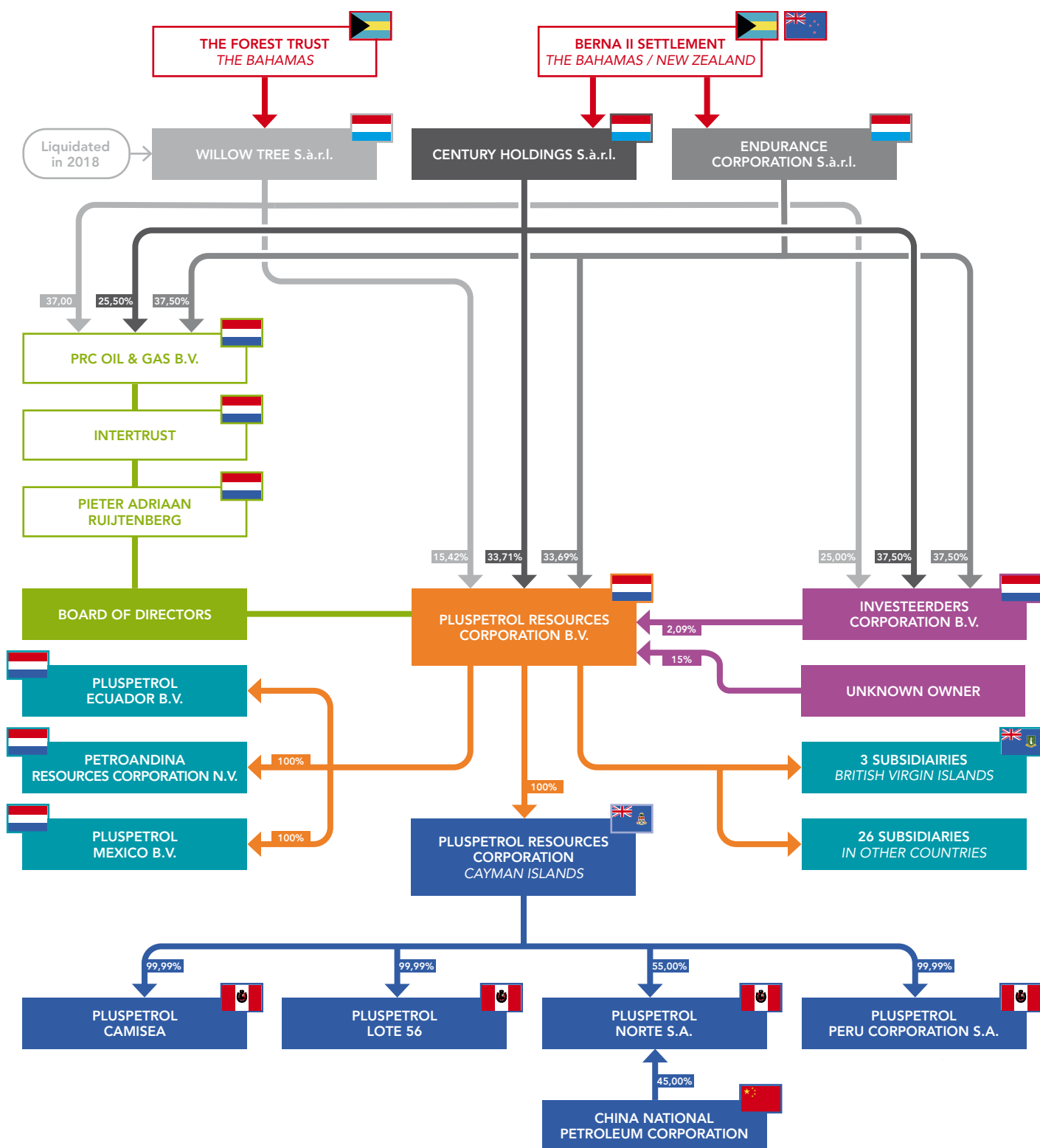
With their complaint, the indigenous leaders, SOMO and Oxfam Novib ask the NCP in The Hague to review the social policy of Pluspetrol and to mediate between the communities and the company so that the company takes responsibility and the pollution in the rainforest is cleared up. In addition, they request Pluspetrol via the NCP for more transparency with regard to their tax arrangements. The substantiation of the allegations mentioned here can be found in the official complaint submitted to the NCP. SOMO, Oxfam Novib, Oxfam Peru and Equidad Peru are co-submitters of the complaint.

Politics must appeal to companies

This complaint clearly shows that policymakers need to do more to bring the activities of oil and gas companies into line with international standards for responsible business. In February 2020, the NCP ruled that Shell also acted in violation of the OECD guidelines in Nigeria.

Following an investigation by the NCP in 2019, Minister Kaag (Foreign Trade and Development Cooperation) urged the Dutch oil and gas sector to come up with an action plan to improve compliance with the OECD guidelines by the first quarter of 2020. However, it is unclear whether that is sufficient to combat abuses such as these in Peru.

The tax construction of Pluspetrol





Colophon

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