

OPPORTUNITIES AND MISSTEPS: LESSONS FROM THE INTERNATIONAL FINANCE CORPORATION (IFC) INVESTMENT POLICY IN PERU

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INTRODUCTION

Created in 1944 during World War II, the World Bank was founded with the stated purpose of helping in the reconstruction and development of Europe. From the start, the bank has focused its attention on fighting poverty around the globe in order to foster economic growth, reduce inequalities, and improve the living conditions for the population.¹

This approach was reinforced with the publication of the bank's new institutional objectives (2013). These objectives can be summarized in two essential points:

- 1) Ending extreme poverty: Bringing the proportion of the global population living on less than \$1.25 (U.S.) per day to under 3% by the year 2030.
- 2) Promoting shared prosperity: Stimulating income growth for the poorest 40% of the population in each country.²

Currently, the World Bank Group includes 188 member countries that administer its five component organizations: the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the Multilateral Investment Guarantee Agency (MIGA), the International Centre for Settlement of Investment Disputes (ICSID), and the International Finance Corporation (IFC).

In the year 2014, the World Bank Group committed \$65,600,000,000 in loans, donations, shareholder participation, and guarantees for member countries and private companies. With these funds, the bank seeks to drive economic growth, foster inclusion, and ensure the sustainability of these nations.³

The IFC is the principal international development institution that focuses its work on the private sectors in emerging countries. This work strives to build sustainable growth in developing countries by financing investments, mobilizing capital in international financial markets, and advising companies and governments. Today, the IFC has 184 member countries.⁴

Last year alone, the IFC invested \$17,261,000,000 around the world in 599 projects spread across 98 countries. An additional \$5,142,000,000 was mobilized from other investors to support the private sectors in developing countries.^{5,6}

¹ Later, its presence was a key factor to aid recovery work in nations affected by natural disasters, internal civil wars, or humanitarian emergencies.

² The World Bank Group Goals. End Extreme Poverty and Promote Shared Prosperity. 2013, 36 p. [<http://www.worldbank.org/content/dam/Worldbank/document/WB-goals2013.pdf>].

³ 2014 World Bank Annual Report, p.3 [<http://www.bancomundial.org/es/about/annual-report>].

⁴ The institutional vision of the IFC summarizes this spirit: "people have opportunities to emerge from poverty and improve their quality of life."

⁵ Big Changes, Big Solutions. IFC Annual Report 2014, p. 25. [http://www.ifc.org/wps/wcm/connect/CORP_EXT_Content/IFC_External_Corporate_Site/Annual+Report/2014_Online_Report/].

⁶ In all, the IFC invested exactly \$22,403,000,000 (USD) in 2014.

PERU AND THE WORLD BANK

The relationship between the World Bank and Peru dates back to 1952, when our country received its first loan: \$2.5 million dollars⁷ to improve the efficiency of the Callao Port. Peru was one of the first member countries of the IFC, joining on July 20, 1956.

As of October, 2013, the IFC had invested \$3,100,000,000 (U.S.) in the local private sector. Its strategy has focused on improving the investment climate and supporting key stakeholders in the Peruvian private sector to help them expand their services and products in under-served sectors.⁸

The IFC invests in the industries in which Peru has a competitive advantage, such as agro-industry and tourism; it also contributes to the financial expansion of MSMEs, ensuring greater access to housing, and financing education.

In an interview with Atul Mehta conducted by *Semana Económica* in December, 2004, the then IFC Director for Latin America and the Caribbean was asked:

“What criteria do you use in selecting the projects that you support in Peru?”

“We have two criteria: for the company to have trouble getting the loan they need in reasonable market conditions, and for the project to contribute to the development of the country and the region.

In Peru we have four main objectives: the financial sector – there are certain structural limits there and we want to strengthen the sector by investing in banks and other institutions; the capital market – we look to help emerging companies and infrastructure; and finally, in the health and education sectors we look to provide support through the companies themselves.”⁹

The World Bank Group signed a new Country Partnership Strategy for 2012-2016, which highlights four core strategic objectives:¹⁰

- Greater access to and higher quality social services for the poor
- Connecting the poor to services and markets
- Sustainable growth and production
- Improving the performance of the public sector to achieve greater inclusion

⁷ This and all other dollar figures in this document expressed in USD unless specified otherwise.

⁸ This figure includes the \$1,100,000 mobilized from other financial entities.

⁹ <http://semanaeconomica.com/article/otros/102738-america-latina-tiene-tramites-mas-complicados-que-africa/>

¹⁰ This strategic partnership was signed in December, 2006. The renewal term of the agreement coincides with the term of the Ollanta Humala administration, and it has been designed to support selected areas from his governing program.

HOW DOES THE IFC INVEST IN PERU?

The source we have used for this study is the list of investment projects published on the IFC website. We have selected only those projects located in Peru, regardless of their status (concluded or active).

This general list includes 71 projects approved between June 30, 1997, and May 18, 2015. There are no records prior to or after those dates. The total investment for that period amounts to \$2,194,823,00. The detailed characteristics of each project can be found in Annex 1.

1. Distribution by investment category

Loans were the most widely-used product, accounting for 85% of IFC investments in Peru (\$1,865,813,000). The next product in importance was purchase of stock (15%, 235,760,000), followed by guarantees (4%, \$93,250,000). In eight cases the IFC invested through both loans and stock purchases, and in one case the Corporation provided loans and collateral guarantees.

Investment category	# of projects	Amount (USD)
Loans	48	1,650,913,000
Stocks	10	170,260,000
Guarantees	4	38,280,000
Stocks and loans	8	255,400,000
Stocks and guarantees	1	79,970,000
TOTAL	71	2,194,823,000

2. Distribution by government administration

As we can see, the greatest number of projects (27) were approved during ex-President Alan García's second term (2006-2011), accounting for half of the total amount invested (\$1,115,150,000). It should be clarified that the original database reflects partial information from the Fujimori government (starting in 1997) and the Ollanta Humala government (in process).

Government	# of projects	%	Amount (USD)	%
Ollanta Humala (August 2011 - May 2015)	14	19.72	428,760,000	19.54
Alan García (August 2006 - July 2011)	27	38.03	1,115,150,000	50.81
Alejandro Toledo (August 2001 - July 2006)	16	22.54	267,513,000	12.19
Valentín Paniagua (November 2000 - July 2001)	2	2.82	15,400,000	0.70
Alberto Fujimori (June 1997 - October 2000)	12	16.90	368,000,000	16.77
TOTAL	71	100.00	2,194,823,000	100.00

3. Distribution by economic sector

As occurs on a global scale, in our country there is also a clear preference for investment in projects in the banking and finance sector: 30 such projects were approved, for a total amount of \$929,650,000 (42%). While the projects allocated in the agro-industry sector nearly double the number of projects in the energy sector, the six projects in the latter sector account for twice as much money.

Sector	# of projects	%	Amount (USD)	%
Agro-industry	11	15.49	234,000,000	10.66
Water and drainage	1	1.41	65,000,000	2.96
Storage	2	2.82	20,000,000	0.91
Banking and finance	30	42.25	929,650,000	42.36
Education	3	4.23	42,000,000	1.91
Energy	6	8.45	543,000,000	24.74
Logistics	3	4.23	113,000,000	5.15
Environment	1	1.41	788,000	0.04
Metallurgy	1	1.41	7,400,000	0.34
Mining	3	4.23	82,260,000	3.75
Health	3	4.23	39,000,000	1.78
Telephone	1	1.41	70,000,000	3.19
Tourism	6	8.45	48,725,000	2.22
TOTAL	71	100.00	2,194,823,000	100.00

Within the banking and finance sector, investments were allocated principally to projects to support the growth and expansion of commercial banks (BanBif, BBVA, Banco Continental, Interbank), and to diversify the client portfolio of microfinance groups (Financiera Confianza, Compartamos Financiera). In fact, economic groups with investments in the commercial banking sector demonstrated interest in acquiring microfinance institutions, such as the case of Grupo Credicorp (BCP), first with Financiera Edyficar and later with Mibanco.

	N°	Amount (USD)	%
Commercial banks	11	592,970,000	63.78
Micro-finance	14	240,160,000	25.83
Securitization	1	51,000,000	5.49
Financial services	3	30,520,000	3.28
Private capital funds management	1	15,000,000	1.61
TOTAL	30	929,650,000	100.00

4. IFC-financed projects linked to powerful groups

The data clearly show that the leading powerful groups in our country have been particularly favored with economic support from the IFC.¹¹

Grupo Breca leads the pack (owned by the sisters Ana María and Rosa Brescia Cafferata) with \$284,970,000 for its holdings in BBVA Banco Continental, followed by Grupo Romero (led by Dionisio Romero Paoletti), with \$180,000,000 allocated mainly to Edyficar, Ransa, and Alicorp. Intercorp appears in third place (led by Carlos Rodríguez Pastor), with \$164,000,000 for its Interbank and Interseguro products, with Grupo Wong in fourth place (held by the brothers Erasmo, Edgardo, Eric, Eduardo, and Efraín Wong), with \$45,000,000 invested in the rehabilitation of the Paramonga sugar processing plant.

Company	Product/activity financed by the IFC	Amount (USD)
Grupo Breca	BBVA Banco Continental	284,970,000
Grupo Romero	Grupo Credicorp, Mibanco, Financiera Edyficar, Ransa, Alicorp ¹²	180,000,000
Intercorp	Interbank, Interseguro	164,000,000
Grupo Wong	Rehabilitation of the Paramonga sugar processing plant	45,000,000
Enfoca SAFI	Private capital funds management, Delgado Clinic	40,000,000
Agrokasa Holdings S.A.	Infrastructure projects for export agriculture production	31,000,000
Grupo Gloria	Construction of a dairy plant	25,000,000
Vigenta Inversiones S.A. ¹³	Education project (Instituto Avansys, university, schools)	25,000,000
Grupo Salud del Perú S.A.C.	Construction of the Delgado Clinic	25,000,000
Peru Hotels S.A.	Remodeling the premium Belmond hotels chain	23,000,000
Grupo Graña y Montero	Road Network 5 operations (Northern Pan-American Highway)	18,000,000
Peruval Corp S.A.	Administration of PeruRail with Belmond (Great Britain)	17,000,000
Inkaterra Perú S.A.C.	Inkaterra ecological hotel chain	8,725,000
Majluf Family	Transformation and marketing of non-ferrous metals products (Tecnofil)	7,400,000

¹¹ Carlos Rodríguez Pastor (Intercorp), the sisters Ana María and Rosa Brescia Cafferata (Grupo Breca), and the brothers Vito and Jorge Rodríguez Rodríguez (Grupo Gloria) appear in Forbes' most recent list of multi-millionaires. They are in the top 6 business leaders in the country.

¹² Ransa and Alicorp are Grupo Romero companies. Financiera Edyficar and Mibanco are part of Grupo Credicorp. Grupo Romero is affiliated with Grupo Credicorp. Given these relations, we have chosen to show the consolidated representation of these companies.

¹³ In March, 2014, Editora El Comercio S.A. company decided to change its name to Vigenta Inversiones S.A.

5. Projects financed by the IFC with private foreign investment

Only projects with foreign shareholders have been included in formulating this table. In projects that have more than one foreign shareholder, we have noted the company with the largest percentage stake.

Most of these projects are for large-scale infrastructure (natural gas liquefaction plant, expansion of the Callao Port, construction of a hydroelectric plant, expansion of the Jorge Chávez airport, among others), as well as in the banking, finance, and mining sectors.

It is worth noting the presence of Spanish investors (\$468,360,00), focused on commercial banks and microfinance, followed by U.S. capital (\$360,000,000), which is mostly channeled into extractive projects. In a surprising third place is capital from Colombia, with \$101,000,000 invested in projects in the energy sector.

Company	Nationality	Product/Activity financed	Amount (USD)
Hunt Oil Company	USA	Pampa Melchorita natural gas liquefaction plant (Ica)	300,000,000
Grupo BBVA	Spain	Investment in BBVA Banco Continental	284,970,000
Grupo Fierro	Spain	Investment in BanBif	138,000,000
Statkraft	Norway	Construction of the Cheves Hydroelectric Plant (Lima)	85,000,000
APM Terminals B.V.	Netherlands	Expansion of the Northern dock at the Callao Port	75,000,000
Newmont Mining Corp.	USA	Development of the La Quinoa gold deposit (Cajamarca)	60,000,000
Pacific Rubiales Energy Corp. ¹⁴	Canada	Exploitation of gas and oil in Lot Z-1 off the Tumbes coast	50,000,000
Grupo Energía de Bogotá	Colombia	Expansion of the natural gas distribution network for industry, residential areas, and GNV stations in Lima and Callao	50,000,000
Fundación Microfinanzas BBVA	Spain	Investment in Financiera Confianza	45,390,000
Belmond	Great Britain	Administration of PeruRail and premium hotels in the Southern Peruvian mountain chain	40,000,000
Inversiones Manuelita	Colombia	Empresa Agro Industrial Laredo (sugarcane)	33,000,000
Genera, S.A.B. de C.V.	Mexico	Investment in Compartamos Financiera	21,010,000
Fraport AG Frankfurt Airport Services	Germany	Remodeling and expansion of the Jorge Chávez International Airport	20,000,000
Interconexión Eléctrica S.A.	Colombia	Construction, supply, and operation of the Oroya-Carhuamayo-Paragsha-Vizcarra and Aguaytía-Pucallpa electric transmission lines	18,000,000
HMC Capital	Chile	Investment in bonds issued by SMEs in the Alternate Stock Market	15,000,000
First Quantum Minerals	Canada	Viability study for the Haquire mining project, one of the largest undeveloped copper deposits in the world (Apurímac)	12,260,000

¹⁴ While Pacific Rubiales Energy Corp. only holds a 49% interest in Lot Z-1, we have included it in this summary as the owner of the remaining 51% (BPZ Resources) filed for bankruptcy in the United States in June, 2015.

Sector	Alberto Fujimori		Valentín Paniagua		Alejandro Toledo		Alan García		Ollanta Humala		Total	
	# of projects	Amount (USD)	# of projects	Amount (USD)	# of projects	Amount (USD)	# of projects	Amount (USD)	# of projects	Amount (USD)	# of projects	Amount (USD)
Agro-industry	6	151,000,000	0	50,000,000	3	50,000,000	2	33,000,000	0	0	11	234,000,000
Water and drainage	0	0	0	0	0	0	1	65,000,000	0	0	1	65,000,000
Storage	1	10,000,000	0	10,000,000	1	10,000,000	0	0	0	0	2	20,000,000
Banking and finance	2	130,000,000	0	77,000,000	4	77,000,000	14	413,890,000	10	308,760,000	30	929,650,000
Education	1	7,000,000	0	10,000,000	1	10,000,000	0	0	1	25,000,000	3	42,000,000
Energy	0	0	0	18,000,000	1	18,000,000	5	525,000,000	0	0	6	543,000,000
Logistics	0	0	0	18,000,000	1	18,000,000	1	20,000,000	1	75,000,000	3	113,000,000
Environment	0	0	0	788,000	1	788,000	0	0	0	0	1	788,000
Metallurgy	0	0	1	7,400,000	0	0	0	0	0	0	1	7,400,000
Mining	1	60,000,000	0	0	0	0	1	12,260,000	1	10,000,000	3	82,260,000
Health	0	0	0	4,000,000	1	4,000,000	1	25,000,000	1	10,000,000	3	39,000,000
Telephone	0	0	0	70,000,000	1	70,000,000	0	0	0	0	1	70,000,000
Tourism	1	10,000,000	1	8,000,000	2	9,725,000	2	21,000,000	0	0	6	48,725,000
TOTAL	12	368,000,000	2	15,400,000	16	267,513,000	27	1,115,150,000	14	428,760,000	71	2,194,823,000

6. Distribution of projects by sector and government administration

The above table is a more detailed version of Table 2, as it includes the projects approved in each presidential term, separated by economic sector.

As we can see, each government administration had its own particular characteristics. According to the records available for the Alberto Fujimori administration (beginning in June, 1997), most of the investment came in projects within the agro-industry sector, seeking to rehabilitate centers of production and arable land after the intense El Niño phenomenon during the first quarter of 1998, as well as promote exportation of flagship products such as asparagus.

The last years of the Fujimori government came on the heels of the economic crises of Eastern Asia (1997) and Russia (1998), which led to an economic slowdown and a reduction of private investments. This unfavorable economic climate coincided with a political crisis in our country following the discovery of a corruption network closely linked to the ruling political faction, leading to that administration's eventual collapse.

The transition government led by Valentín Paniagua clearly reflects the consequences of that period. There were flights of capital, cuts in private investment, and an overall economic slowdown, demonstrated by the lack of projects approved during that period. Decisions on investment were postponed until a successor could be democratically elected. The World Bank collaborated to produce a plan for the first 100 days of government (known as the "Road Map"), conducted a financial and accounting evaluation of the country, and promoted an anti-corruption initiative.

While the bank made no official announcement regarding Fujimori's resignation, the then World Bank Vice-President for Latin America and the Caribbean, David de Ferranti, congratulated Paniagua for "handling the transition under difficult circumstances, maintaining social and economic sustainability", and he highlighted the "important progress made in rebuilding institutions and fighting corruption".¹⁵

There was greater diversity in the projects financed during the Alejandro Toledo administration, with greater emphasis on agro-industry, banking, finance, and telecommunications. Nonetheless, the figures for this term are more austere than in other government administrations reviewed.

After five years of international financial turbulence, 2003 was the breaking point. Growth in exports responded to the Andean Tariff Preference and Drug Eradication Act (ATPDEA), passed in October, 2002. This law allowed entrance of Peruvian exports into the United States without tariffs, and it coincided with a spike in Chinese expansion to lead to rising prices of raw materials.

President Alan García's second term can be divided into two distinct moments for the international economy: before and after 2008. The period before 2008 saw a time of growth for Latin America, mainly driven by increased demand for raw materials (metals and oil) in China and India. After, the financial crisis in the United States triggered a "globalization" of the crisis around the world. This time, we were better-prepared to face the crisis than was the case in the late 1990s.

The economist Carlos Parodi explains that this stronger position was due to four factors: 1) better macro-economic conditions and responsible fiscal and monetary management, 2) diversification of our exports to China, and 3) the rising price of gold. On the fourth factor, Parodi writes:

¹⁵ Statements collected by the La República newspaper during a visit to Peru on July 14 and 15, 2001.

“Rapid recovery was thanks to one more factor. Advanced economies immediately implemented “economic stimulus programs” that increased public spending, financed by issuing currency and/or debt, in order to neutralize the free-fall of private investment and try to maintain internal demand.”¹⁶

As a result, the number of projects funded in the banking and finance sector rose dramatically in this period (especially investment to help expand microfinance). Financing was also given for energy infrastructure projects (Cheves hydroelectric plant, natural gas liquefaction plant in Pampa Melchorita, expansion of the Cálidda natural gas network, ethanol production, and oil and gas exploitation in Tumbes).

Lastly, during the Ollanta Humala administration, the IFC has shown a clear preference for projects linked to the commercial banking sector (10 of the 14 projects funded correspond to this sector). As mentioned above, the finance sector is currently the principal beneficiary of World Bank Group investments.

CONTROVERSIES

The actions of the World Bank have not been without criticism. One of the main controversies centers on the Group’s preference for supporting projects in the finance sector, particularly after the financial crisis of 2008. From July, 2009 to June, 2013, the IFC invested \$36,000,000,000 in financial intermediaries overall. This figure is three times greater than what the rest of the Group’s agencies invested directly in education, and 50% greater than the investments in health.^{17 18}

To that end, the Bretton Woods Project “Follow the Money” study remarks:

“There is not sufficient evidence to show that private banking or commercial banks lead to a more prosperous, sustainable, or equitable economy in developing countries. What is certain is that the IFC does not know the real impact of the use of these resources, because there are no systems to track their development nor to observe the true magnitude of the environmental or social consequences generated by their use.”¹⁹

In the case of Peru in particular, the IFC invested \$179,790,000 in financial intermediaries during the study period (July, 2009 to June, 2013). This amounts to approximately 3 times what the World Bank Group invested in our country to support health (\$55,950,000), and 2.5 times the money allocated to education projects (\$70,250,000).²⁰

¹⁶ PARODI TRECE, Carlos. Peru 1995-2012: Cambios y Continuidades. Lima, Universidad del Pacífico, 2015. Page 292.

¹⁷ The term “financial intermediary” includes financial entities such as banks, insurance companies, microfinance institutions, and private capital investment funds.

¹⁸ Chowla, Peter and Darío Kenner. Follow the money: The World Bank Group and the use of financial intermediaries. Bretton Woods Project, April, 2014.

¹⁹ Chowla, Peter and Darío Kenner. Op cit., page 17.

²⁰ Data obtained from a review of World Bank projects conducted during the study period. <http://www.bancomundial.org/es/country/peru/projects/all>

An article published by Reuters illustrated the situation: *“This world lender is lauded for its global reach, strict standards, and long-term approach. But it has also been criticized for avoiding risks, delaying approval of its projects, and failing to respond to country needs, throwing money out the door rather than investing in programming to produce outcomes.”*²¹

Another critique of the IFC refers to the criteria used to categorize the levels of social and environmental risk associated to the projects that cross its desk. Projects may be classified into four risk categories:

- **Category A:** Projects expected to have significant adverse social and/or environmental impacts that are diverse, irreversible, or unprecedented.
- **Category B:** Projects expected to have limited adverse social and/or environmental impacts, or few and specifically situated impacts that can be largely reversed and readily addressed through mitigation measures.
- **Category C:** Projects expected to have minimal or no adverse impacts, including certain financial intermediary projects.
- **Category FI:** Business activities that involve investments with financial intermediaries or are conducted through sub-project mechanisms with financial intermediaries. This category can be divided into FI-1, FI-2, and FI-3, following the same logic for categories A, B, and C.

A report by the Huffington Post and the International Consortium of Investigative Journalists (ICIJ) revealed that rather than avoiding high-risk projects, the World Bank Group – and the IFC in particular – tended to favor long-term projects with high environmental and social risks, such as hydroelectric dams, gas pipelines, or mines. From 2009 to 2013, 239 Category A projects received a total of \$50,000,000,000, which is more than twice the amount awarded for this category in the preceding five years.²²

In Peru, nearly half of the projects approved by the ICF fall into Category B (35 cases, 49.3%); these projects have limited environmental or social risks, with limited or reversible impacts. In second place in the country are projects in Category FI (28 cases, 39.5%), which involve investments with financial intermediaries. There are only four cases of Category A projects in the country (5.6%), and another four cases for Category C.

A third concern refers to the social costs of implementing these projects. The Huffington Post and ICIJ investigation estimates that from 2004 to 2013, nearly 1,000 World Bank projects have physically or economically displaced 3.4 million people living in urban or rural areas. This displacement affects their quality of life, forcing populations to abandon their homes or struggle to stay; the latter attitude often produces violent stand-offs with authorities and law-enforcement.

Our country has also been affected by these trends. The study reports 1,142 people displaced in Peru as a result of three World Bank projects approved from 2004-2013: A project for safe and sustainable transportation, in coordination with Provías Nacional (January, 2010), a rural electrification project implemented by the Ministry of Energy and Mines (March, 2006), and a road maintenance and rehabilitation project in the Vilcanota Valley, coordinated with the Ministry of Foreign Trade and Tourism (September, 2004).²³

21 Yukhananov, Anna. World Bank ties strategy to poverty-fighting goals. September 16, 2013. [<http://www.reuters.com/article/2013/09/16/us-worldbank-strategy-idUSBRE98F0FY20130916>]

22 The Huffington Post – ICIJ: <http://projects.huffingtonpost.com/worldbank-evicted-abandoned/how-worldbank-finances-environmental-destruction-peru>.

23 http://www.icij.org/project/world-bank/explore-10-years-world-bank-resettlement-data?cij_navigate=worldbank&cij_navigate_worldbank=%2Fevicted-and-abandoned%2Fabout#_ga=1.14813939.418715592.1383889544

EMBLEMATIC CASES IN PERU

Of the 71 projects recorded in the IFC database, we have selected three cases of investments in Peru that we believe are relevant in terms of their economic importance, socio-environmental repercussions, or reports of impacts or wrongdoing during their implementation: gold extraction by Minera Yanacocha, the Camisea gas project, and construction of the Cheves hydroelectric plant.

1) Yanacocha: 22 years of fragile coexistence

Yanacocha is the largest gold mine in South America, and the third-largest gold company in the world. Located in the Department of Cajamarca, Yanacocha began its operations in 1993, and is legally held by the Newmont Mining Corporation (USA, 51.35%), Compañía de Minas Buenaventura S.A. (Peru, 43.65%) and the IFC (USA, 5%). In the period from 1993 to 1999, the IFC granted two loans for capital expansion for Yanacocha; these loans were invested into the company's three mines: Carachugo, Maqui Maqui, and La Quinua.

Beginning a mining project in Peru in the early 1990s was a risky proposition. At that time, terrorist actions by the Shining Path and MRTA were battering the country, and banks and foreign companies were reluctant to invest in Peru; Peruvian borrowers had little access to long-term credit.

Facing this scenario, Newmont decided to approach the IFC, an institution that specializes in this type of situation. Initial IFC participation came for \$20,000,000. Researchers Raúl Wiener and José Torres have tagged this investment as "small but significant... it served as political-economic endorsement for an important investment in a country just emerging from a devastating crisis."²⁴

At the start, Minera Yanacocha was established as follows: the U.S.-based Newmont Second Capital (a branch of Newmont Mining Company) held a 38% stake, the Peruvian company Condesa (a branch of Minera Buenaventura) held 32.3%, the French group Mine Or (a subsidiary of Bureau des Recherches Géologiques et Minières - BRGM) held 24.7%, and the IFC acquired a 5% stake.

In 1994, BRGM attempted to sell its stake to Normandy Mining Ltd., an Australian rival of Newmont's, which triggered a litigation process for control of Yanacocha. The other shareholders asserted that BRGM should have offered to sell its stake to them, first, and that failure to do so had violated the mining company's bylaws. The case made it to the Supreme Court of Peru, which overturned a provisional 3-2 decision against Newmont and found 4-3 in favor, thus granting Newmont a majority stake.

In 1994, BRGM attempted to sell its stake to Normandy Mining Ltd., an Australian rival of Newmont's, which triggered a litigation process for control of Yanacocha. The other shareholders asserted that BRGM should have offered to sell its stake to them, first, and that failure to do so had violated the mining company's bylaws. The case made it to the Supreme Court of Peru, which overturned a provisional 3-2 decision against Newmont and found 4-3 in favor, thus granting Newmont a majority stake.

Seven years went by before - thanks to a complete report by the New York Times - we learned that this ruling was made under political pressure from Vladimiro Montesinos (National Intelligence Service (SIN) Advisor and right-hand man of ex-President Fujimori). These dealings also implicated

²⁴ Torres Polo, Juan, and Raúl Wiener Fresco. La gran minería: ¿paga los impuestos que debería pagar? El caso Yanacocha. Research report produced by the Latin American Network on Debt, Development, and Rights (Latindadd). Lima, December, 2014.

Lawrence Kurlander, an ex-official at Newmont; Don Arabian, head of the Lima CIA Desk, and Jaime Beltrán Quiroga, the supreme court justice who cast the decisive vote. Each of these players appeared before the SIN to defend the interests of the U.S. company.²⁵

Despite the existence of so-called “Vladi-videos” that document the contradictory meetings and testimony from these parties, the Government of Peru declined to cooperate with the U.S. Department of Justice in its investigation of the case; as a result, the latter was forced to conclude its investigation of alleged bribes paid to Peruvian government officials. The Attorney General and General Defender’s Office have closed these files.

On June 16, 1999, the IFC approved a loan for \$60,000,000 to facilitate the mine’s expansion to exploit the La Quinoa deposit, which contains an estimated reserve of 7 million ounces of gold. The company reports having purchased the La Quinoa terrain through a standard business transaction, providing appropriate compensation for each landowner in the form of money or houses. 30% of the inhabitants were relocated to a nearby area in the City of Cajamarca.

It is worth noting that IFC still holds 5% of the shares of Yanacocha. While at the beginning of the operation it was understandable that the corporation would seek to assure as much support as possible, after all these years of high profitability and bonanza, is it not time for the IFC to turn its attention to new projects? In the interview with *Semana Económica*, Atul Mehta responded:

“Some time ago it was said that the IFC said it sell its stake in Yanacocha. Is this true?”
“Our strategy is to support companies with investments, and when the project is mature and no longer needs IFC support, we withdraw. In the case of Yanacocha we are providing support in several areas; in that sense, when our aid is no longer needed and a good opportunity to sell arises - in terms of price - we will do so. And not before then.”²⁶

Over these 22 years of gold mine exploitation, the relationship between Minera Yanacocha and the community has been strained and problematic. This history includes episodes of contamination of rivers and channels, cyanide filtration and acid discharges in area water resources, livestock contaminated or killed from ingesting these waters, rural and urban protests and road blockades, stand-offs with the police, and others.

Without a doubt, though, the Choropampa case is the most emblematic of all. On June 2, 2000, 151 kilos of liquid mercury from Yanacocha were spilled along 27 kilometers of road that run from the mine to the town of Choropampa.

Mine workers showed up hours later, offering 100 soles for every kilo of mercury recovered. Hundreds of children and adults used cups and spoons to collect the substance, unaware of their direct toxic exposure. Later, people drank coffee from their cups.

Mercury is a shiny noble metal that is in its liquid state at room temperature, and vaporizes at temperatures above 30° C. Mercury’s toxicity depends on its chemical state. Inhaling mercury vapors can cause respiratory difficulties, heavy coughing, vomiting, and a metallic taste; if too much mercury vapor is inhaled it can cause brain or lung damage, and death. Effects of contact, ingestion, or inhalation of methyl mercury can appear years or even decades after prolonged exposure. These effects can include blindness, sensory disorders, memory problems, numbness, convulsions, and even death.

²⁵ Bergman, Lowell and Jane Perlez. “Tangled Strands in Fight Over Peru Gold Mine”, published in *The New York Times*, October 25, 2005. <http://query.nytimes.com/gst/fullpage.html?res=9B07E3D7103FF936A15753C1A9639C8B63>

²⁶ <http://semanaeconomica.com/articulo/otros/102738-america-latina-tiene-tramites-mas-complicados-que-africa/>

After the spill, 935 people showed blood mercury levels above the maximum recommended value (20 micrograms per liter); some people reported 7 times this level (135 ug/L). Calculations suggest that 750 people (40% of whom were children) suffered effects of mercury poisoning including migraines, tremors, blurry vision, dizziness, and other symptoms. Eight years after the incident, the Cajamarca Regional Department of Health found that 7 of the 18 homes inspected were still contaminated with mercury.

The year that the spill occurred, Yanacocha had the road paved and settled out of court with nearly 1,000 inhabitants, who received a laughable settlement in exchange for waiving any civil or criminal claims against the mining company and promising never to speak of the incident again.²⁷

Months later, U.S. legal advocates came to Choropampa promising to sue Newmont Mining Corporation in the United States. Approximately 1,000 inhabitants signed a power of attorney agreement for the case to be argued in Denver, Colorado. Eight years later, in January, 2008, the lawyers returned to Cajamarca and called upon the plaintiffs: They had won the case and wanted to pay each plaintiff their settlement awards. Some received \$1,000, others \$75,000, and others up to \$100,000. Nobody explained to them the total amount awarded, or why each person received a different amount.

More alarming still, a criminal suit was never filed for this environmental crime. Neither the inhabitants nor the institutions charged with ensuring their wellbeing (Ministry of Health, Ministry of Energy and Mines, Ministry of the Environment, Office of the Attorney General) did so. Only the Ministry of Energy and Mines assessed a fine of 600 Taxation Units (UIT) - its highest administrative penalty - against Yanacocha, for severe violations leading to harm against the environment and public health.²⁸

The report from the congressional working group in charge of collecting information on this spill (established eight years after the event) holds Minera Yanacocha and Ransa Comercial (owner of the vehicle that transported the mercury) directly responsible, and also found the Ministry of the Environment and Mines, Ministry of Health, and Attorney General's office at partial fault, as "over the years, contingency actions and plans were not followed with the diligence that they required".²⁹

To date, seven claims have been filed against Yanacocha with the Compliance Advisor Ombudsman (CAO), the accountability mechanism established to improve the environmental and social performance of the IFC:³⁰

²⁷ An article from the El Comercio newspaper highlights the case of Ms. Andrea Escalante, who received 1000 soles in compensation for herself, and 2000 soles for each of her eight children. (http://elcomercio.pe/ciencias/planeta/11-anos-derrame-mercurio-sintomas-persisten-choropampa-noticia-761410?ref=nota_peru&ft=contenido)

²⁸ Each Taxation Unit (UIT) for the year 2000 was equivalent to 2,900 soles. Therefore, Yanacocha's fine came to 1,740,00 soles.

²⁹ Cabrera Campos, Werner, Tomas Cenzano Sierralta, and Hilaria Supa Huamán. Report from the working group charged with gathering information on the environmental situation and health status of inhabitants affected by the mercury spill in San Juan, Choropampa, and Magdalena, in the Department of Cajamarca. Congress of Peru, Committee on Andean, Amazon and Afro-Peruvian Peoples, Environment, and Ecology. Lima, July, 2008. ([http://www2.congreso.gob.pe/Sicr/Comisiones/2007/com2007pueandamaaframbeco.nsf/34069c3bb71c123b05256f470062fea7/452AD01A481C2865052574800058AB01/\\$FILE/Informe-Choropampa-17-06-08.pdf](http://www2.congreso.gob.pe/Sicr/Comisiones/2007/com2007pueandamaaframbeco.nsf/34069c3bb71c123b05256f470062fea7/452AD01A481C2865052574800058AB01/$FILE/Informe-Choropampa-17-06-08.pdf)).

³⁰ The CAO plays three specific roles: 1) On-the-fly resolution of conflicts as a neutral forum separate from the judiciary, through mediation, conciliation, dialogue, negotiation, facilitation, etc.; 2) supervision of the environmental and social performance of the IFC to verify if the corresponding standards and norms have been met, including national laws, and; 3) advising the President of the World Bank Group and IFC Manager on environmental and social issues.

- Yanacocha-01: The Choropampa Defense Front filed a claim in December, 2000, in response to the mercury spill of that year, stressing the impact of the accident on the health of the population. The CAO organized meetings with each of the parties, and an agreement was reached to undertake an independent health assessment. The recommendations were followed despite “numerous roadblocks” set by the Ministry of Health and civil society organizations. Finally, the CAO decided to close the case in November, 2003, citing the lack of social and institutional support.
- Yanacocha-02: In March, 2011, the Rondas Campesinas Federation (Rural Patrols) filed another claim before the CAO on the Choropampa case, this time representing the local farming communities that had suffered social and environmental impacts. In September of that same year, the CAO threw its support behind the creation of a Roundtable for Multi-Sector Dialogue and Consensus. Over the course of four years this roundtable served as a bridge between the community and Yanacocha. The claim was closed in March, 2006.
- Yanacocha-03: With the previous case barely closed, in March, 2006, 30 users of the canals came together to file a joint claim before the CAO. The claimants demanded greater information on the potential impact of mining activity on the water levels of the rivers, canals, and streams surrounding the project area. Spaces were established for dialogue and exchange of information between the parties. The request was closed in August, 2006.
- Yanacocha-04: In November, 2012, the CAO received a case from members of a family in Cajamarca that claimed that the company never delivered the compensation they had promised in return for their grandfather’s land. The parties decided to resolve the conflict with CAO mediation; after numerous meetings, however, no agreement was ever reached. Mediation came to a close in February, 2014, and in May, 2015 the CAO determined that no further investigation was warranted.
- Yanacocha-05: Similar to the previous case, the Cerna Sánchez family came to the CAO with a case in May, 2013, claiming that Yanacocha had not provided any compensation for their family’s land. No agreement was reached, and the CAO closed the case in May, 2015.
- Yanacocha-06: An ex-worker from Yanacocha filed a claim with the CAO in February, 2014, questioning the termination of his employment. The CAO met with the parties on multiple occasions, but the company chose to resolve the case through legal tribunals. The CAO closed the case in May, 2015.
- Yanacocha-07: In March, 2014, a family presented a claim related to the process of land procurement and compensation at the Minas Conga project site. This family felt that upon selling their land, compensation would be recalculated if the mine project proceeded. The company opted to resolve the case through their own channels of communication. The CAO closed the case in May, 2015.

A recent environmental case occurred in March, 2014, when the inhabitants of the village of San José noted that whitish and reddish water was springing from their wells and irrigation canals. This water was foamy and smelled rotten, and seemed to have led to the death of at least 20 head of cattle.

The village of San José is located in the District, Province, and Region of Cajamarca. The springs affected are located below the Chaupiloma Sur project, which is administered by Yanacocha and operated from 1997 to 2000. As part of the mine closure actions, the company built a filtration deposit outside the village. The local inhabitants, led by the community president Teófilo Castrejón, presented their case to the District (Provincial) Attorney for the Environment in Cajamarca, as well as other local authorities, with little success.

In a statement, Yanacocha confirmed that the whitish substance in the water was due to a sediment from the waste pool that surfaced due to the rains, and that company studies “could

show that there were no substances present that might affect health or the environment". The company communicated with the OEFA³¹ to share the report.³²

Attention on this case changed after a video emerged clearly showing the severity of the situation. On November 11, 2014, a delegation of the local inhabitants paid a visit to the Congressional Committee on Andean, Amazon and Afro-Peruvian Peoples, Environment, and Ecology to present their case. During their stay in Lima, group members also took the opportunity to speak to the local media.

On November 13, the OEFA took samples of the contaminated water. Later, the Provincial Attorney for the Environment in Cajamarca and other institutions followed suit and took their own samples. According to the non-governmental organization GRUFIDES, the OEFA issued a preliminary report on the case on December 18, 2014, that "remained sealed and was not shared with the public."

This document stated that, despite the assurances in the mine's closure plan that there was no risk the waste deposit would generate acid drainage, filtration found during the supervisory visit showed a level of acidity 200% higher than the maximum allowable limit.^{33 34}

Nonetheless, in the conclusion of the report, the OEFA ordered Yanacocha to remedy and rehabilitate the affected areas within 30 days, and conceded to allow the company itself - the one responsible for the contamination in the first place - to produce a monitoring study to see if any acid infiltration persisted. The resolution does not require an independent study, nor are any sanctions imposed against the company. The final report has yet to be published.

It is clear that the relationship between Minera Yanacocha and the population of Cajamarca has been one of fragile coexistence. Wiener and Torres recount:

*"The problems between Yanacocha and the population of Cajamarca have been a constant tension over the last 20 years, and there is mistrust entrenched in many sectors, particularly in the rural zones. This is not simply an "anti-mining" attitude, strictly speaking, rather a negative experience with a specific company that makes it very difficult to accept any new projects that might lengthen its stay in the region."*³⁵

The adverse reactions are not limited to marches and protests that last one day, one week, or one month. Often, resistance has taken the form of regional stoppages with rural and urban mobilizations against a company that, without the social license to begin exploration, finally decide to suspend or cancel the mining project. This was the case in 2004 with Cerro Quillish, 2006 with Combayo, and in Conga in 2013. Unless both parties build bridges for dialogue and cooperate to rebuild mutual trust, these stoppages will be a recurring event, to the detriment of the people of Cajamarca.

31 Organization for Environmental Assessment and Oversight

32 <http://www.noticiasser.pe/12/11/2014/cajamarca/nuevas-denuncias-contra-minera-yanacocha-por-contaminacion-de-caserio-san-jose>

33 Grupo de Formación e Intervención para el Desarrollo Sostenible (Grufides) <https://grufides.lamula.pe/2015/02/10/oefa-confirma-que-yanacocha-contamina-con-aguas-acidas-a-la-comunidad-de-san-jose-y-al-rio-grande/grufides/>

34 Ministry of the Environment Organization for Environmental Assessment and Oversight Cédula de Notificación N° 012-2014. http://www.oefa.gob.pe/?wpfb_dl=12572. The pH value found at the filtration sites was 4.12; the maximum allowable limit is between 6 and 9.

35 Torres, José, and Raúl Wiener. Op cit, p. 20.

2) Camisea - Natural gas liquefaction plant

In July, 1981, the Anglo-Dutch company Shell signed a contract with the State of Peru to allow oil exploration in the Ucayali river basin. Six years and five exploratory wells later, in 1987 the company announced the discovery of the largest reserve of natural gas in South America: Camisea, located in the Province of La Convención, in the Cusco region.³⁶

In 1998, after a series of field studies, agreements with Mobil, and contracts signed with PetroPerú, Shell withdrew from the project, citing that it would not be profitable to take charge of the process of production, transportation, and distribution, without being able to export the gas first. They had invested over \$500,000,000 in the process.³⁷

To recoup from this frustrated attempt, the Commission for the Promotion of Private Investment (COPRI) determined that the Camisea project should follow a segmented system with two independent business lines: One line would be for gas exploitation, and the other would be in charge of transportation and distribution of the natural gas.

Along these lines, in February, 2000, the State of Peru awarded the exploitation, separation, and hydrocarbon fractionation rights for Lot 88 to the Camisea Consortium, operated by the Pluspetrol Peru Corporation (Argentina).

In October of that same year, Transportadora de Gas del Perú (TGP) won the concession for transportation and distribution of natural gas and liquids, through pipelines running from the Camisea reserves to Lima. The contract was awarded for a duration of 33 years.

In early 2002, TGP selected Gas Natural de Lima y Callao (today known commercially as Cálida) as the natural gas distribution service operator for Lima and Callao, using household pipe installations for the end consumers. The first shipment of gas came in August, 2004.

ESTABLISHMENT OF THE COMPANIES INVOLVED IN THE CAMISEA GAS PROJECT

Companies	Partners that were awarded the concession	Current shareholder makeup
Camisea Consortium	<ul style="list-style-type: none"> Pluspetrol Peru Corporation S.A. (Argentina) Hunt Oil Company of Peru L.L.C (USA) SK Corporation (South Korea) Tecpetrol del Perú S.A.C. (Argentina) Sonatrach Peru Corporation S.A.C. (Algeria) 	<ul style="list-style-type: none"> Hunt Oil Company of Peru L.L.C. (USA) Pluspetrol Camisea S.A. (Argentina) SK Innovation (South Korea) Tecpetrol del Perú S.A.C. (Argentina) Sonatrach Peru Corporation S.A.C. (Algeria) Repsol Exploración del Perú (Spain)
Transportadora de Gas del Perú (TGP)	<ul style="list-style-type: none"> Tecgas N.V. (Argentina) Pluspetrol Resources Corporation (Argentina) Hunt Pipeline Company of Peru L.L.C. (USA) SK Corporation (South Korea) L'Enterprise Nationale Sonatrach (Algeria) Graña y Montero S.A.A. (Peru) Corporación Financiera de Inversiones S.A.A. (Peru) 	<ul style="list-style-type: none"> Enagás Internacional, S.L.U. (Spain) Tecgas Camisea Inc. (Argentina) Sipco Perú Pipelines Corporation (Algeria) Carmen Corporation (Canada) International Power S.A. (Belgium) Graña y Montero S.A.A. (Peru)
Perú LNG	<ul style="list-style-type: none"> Hunt Oil Company (USA) SK Energy (South Korea) Repsol YPF (Spain) Marubeni Corporation (Japan) 	<ul style="list-style-type: none"> Hunt Oil Company (USA) SK Energy (South Korea) Shell Gas BV (Netherlands) Marubeni Corporation (Japan)

³⁶ Natural gas is a fossil fuel made up of a gas mixture: 88% methane, 11% ethane, 1% propane, butane, pentane, nitrogen, or carbon dioxide.

³⁷ Legislation in force at that time required internal supply to be ensured prior to exportation, although it was the latter activity that generated revenue.

In January, 2006, the State of Peru and the Perú LNG consortium signed a 40-year investment agreement to begin development, construction and operations at Pampa Melchorita (Cañete), the first natural gas liquefaction plant in South America. The project also included the construction of a maritime terminal with a loading dock, and a 408-km pipeline to transport the fuel.

The total cost of Pampa Melchorita was \$3,800,000,000, the largest direct foreign investment ever made in Peru. Financing was obtained through loans from multi-lateral organizations such as the IDB (\$400,000,000), development and export agencies, and corporate bonds placed in the Peruvian market. The IFC approved a loan for \$300,000,000, the largest amount that this institution has granted for a development project in our country.³⁸

The gas takes a circuitous route from Camisea to Lima: First, wells are drilled to great depths to extract natural gas reserves from the subsoil. When the gas ascends to the surface, it is mixed with other hydrocarbons to condense it. Then, it arrives at the Malvinas separation plant (Cusco), where contaminants are eliminated and the dry natural gas is separated from the natural gas liquids (NGLs).

Later, the natural gas is transported through ducts leading to the Chiquintirca compressor plant (Ayacucho), where the extracted gas is pressurized in order to send greater volumes to Lima with the needed pressure. The fuel can then take one of three routes, depending on its final use: It may be transported to Pampa Melchorita (Cañete) for liquefaction, to City Gate (Lurín) for industrial, commercial, or residential distribution in Metropolitan Lima and Callao, or head to the Lobería Fractioning Plant (Pisco) where the natural gas liquids are processed (transformation into propane, butane, nafta, or diesel).

At Pampa Melchorita, the natural gas is chilled to -162 °C, at which temperature it is liquefied and reduces in volume by a factor of 600. This product is then transported by LNG carrier ships over long distances; upon arrival the product is gasified once again and expands for its final use. The plant was opened on June 10, 2010.^{39 40}

From the beginning, the project faced an unavoidable controversy: Do we have sufficient reserves in Camisea to export liquefied natural gas and also cover the internal market demands for the coming years? The natural gas from Perú LNG is supplied by the existing reserves in Lot 56, which is contiguous to Lot 88 and has also been awarded to the Camisea Consortium, without a formal tender or bidding process.

For the liquefaction plant project to be viable, at least 4 trillion cubic feet (TCF) would need to be available for export over the next 18 years. But Lot 56 only had 2.2 TCF; the state thus signed a contract in 2005 with the Camisea Consortium to hand over part of the Lot 88 reserves as collateral (2.4 TCF).

This situation elicited opinions from all sides, including groups in favor and groups against gas exportation. Concerns arose of an energy crisis that could leave us without sufficient resources to sustain the domestic market in the future, interruptions in the Camisea gas supply that would lead to electricity rationing for 250 large companies, and changes in the legal norms that could put the country's energy security at risk.⁴¹

³⁸ According to data compiled for this report, 71 projects were approved from June 30, 1997 to May 18, 2015.

³⁹ The plant has capacity to process 620 million cubic feet per day, which can produce 4.4 million tons of liquefied natural gas per year.

⁴⁰ The Spanish oil company Repsol-YPF signed a 15-year supply agreement with a Mexican plant, worth \$15,000,000,000 (US).

⁴¹ <http://gestion.pe/economia/hay-riesgo-rationamiento-electrico-250-grandes-empresas-2054518>

Later, it was discovered that the Lot 56 reserves were larger than originally thought (4.6 TCF), making it no longer necessary to offer part of Lot 88 as collateral.

In July, 2014, the Ministry of Energy and Mines agreed to modify the Lot 88 license in order to establish that all of that lot's reserves (10.32 TCF) would be used exclusively to meet the demands of the Peruvian domestic market. On August 4 of that year, the "recovery" of the reserves for local consumption was made official, with President Humala paying a visit to Camisea to break the news.

When IFC support for the Perú LNG project was announced, numerous environmental organizations expressed their consternation. And this concern was not without cause: During the first phase of the Camisea project, five gas leaks had occurred in the first two years of operations, causing severe environmental and social impacts.⁴²

- On December 22, 2004, 723 barrels affected the right bank of the Urubamba river, near the rural Túpac Amaru settlement, leading to the contamination of the Kemiarato stream (Cusco).⁴³
- On August 29, 2005, 15.50 barrels were spilled near the center of the town of Pacobamba, causing havoc in the high marshes and subterranean waters (Ayacucho).
- On September 16, 2005, 4,000 barrels were spilled near the center of the town of Tocate, causing damages in the Chunchubamba, Alfarpampa, and Apurímac rivers (Ayacucho).
- On November 24, 2005, a new rupture appeared in the duct within the "Machiguenga Community Reserve" natural protected area, where 4,630 barrels affected the waters of the Chirumbia, Tsirompia, and Yotsiva streams, as well as the Paratori, Picha, and Urubamba rivers (Cusco).
- On March 4, 2006, 4,700 barrels stained the left bank of a tributary to the Kumpirushiato river, in the Manatarushiato-Kepashiato region (Cusco).

Over the course of its operations, Perú LNG has also been on the receiving end of fines and sanctions. Between late 2010 and early 2011, Repsol (then a member of the Camisea Consortium and Perú LNG) re-exported 10 shipments of natural gas from Lot 56 to non-approved destinations under the export contract. The final destination of these shipments was supposed to be Mexico, but Perupetro discovered that shipments ended up in ports of Europe and Asia, where the buyers paid a higher price for the fuel.

The case was brought to arbitration before the International Center for Settlement of Investment Disputes (ICSID) in 2012. Three years later, this tribunal ruled that the Camisea Consortium had to pay \$64,893,603 in penalties for the lost royalties as a result of the re-exported shipments, interests, and arbitration costs. Additionally, the ruling ordered Pluspetrol to pay 25% of the fine (\$16,223,400).

Another case is linked to regular oversight of the Pampa Melchorita plant conducted by the Supervisory Body for Investments in Energy and Mining (OSINERGMIN) conducted from March 30 to April 4, 2009. Via Director's Resolution No. 320-2013OEFA/DFSAI from July 8, 2013, the Department for Oversight, Sanction, and Enforcement of Incentives at the Organization for Environmental Assessment and Oversight (OEFA) assessed a fine of 33.85 UIT against Perú LNG for failure to comply with their commitments made in an environmental impact assessment, on the following points:

⁴² Fajardo Vargas, Walther. Proyecto Camisea: Monitoreo de los recursos hídricos y suelos por derrame de líquidos de gas natural en KP 125+487, Manatarushiato. GTCI-DIGESA, April, 2007. http://www.digesa.sd.pe/pw_camisea/INFORME%20ABRIL%202007.pdf

⁴³ A "barrel" is understood as a unit of measurement of the capacity of liquid hydrocarbons, equivalent to 42 US gallons.

- Extracting quarry materials without appropriate authorization
- Failure to comply with labor obligations
- Failure to compensate a local resident for damages to his land
- Insufficient operations staff to supervise fuel transfer
- Liquid fuel storage area not in compliance with the requirements established in the EIA.

Perú LNG filed an appeal before the Environmental Oversight Tribunal (TFA) on August 6, 2013. Through resolution No. 274-2013-OEFA/TFA on December 27, 2013, the TFA ruled to void the decision on the point related to the fuel storage area, as the alleged infraction was not congruent with the observations made during supervision. Nonetheless, this resolution confirmed the rest of the sanctions and set the fine at 26.55 taxation units (UIT).

Additionally, in 2011 OSINERGMIN assessed two fines against Perú LNG: One fine, for 5.66 UIT (equivalent to 20,376 soles), was for failure to provide appropriate meals for the workers at the Pampa Melchorita plant; the second fine, this one of 282.57 UIT (1,017,252 soles) was for failure to present an EIA for the construction of a temporary bridge located in the area next to the loading platform, within the company's marine facilities.

3) Cheves Hydroelectric Plant

The rural community of San Francisco de Huacho is located in the District of Pachangara, Province of Oyón, Lima Region. This community is home to approximately 100 families whose livelihoods include livestock, tourism, and agriculture. On the surrounding lands, these families grow peaches, corn, and avocados, mostly for their own consumption. Or they used to, at least.

One morning in 2012 they noticed that their land had cracked and divided in such a way that it was impossible for them to irrigate their crops. The water leaked into the rifts and down into the hillside: Their plantations had become dry, and their crops infertile. What caused this change? Residents attributed this change to the new hydroelectric plant in the area built by the Norwegian company SN Power Invest AS (now called Statkraft). Were they right?

In the year 2009, the Agency for Promotion of Private Investment (ProInversión) launched an international public tender process for energy contracts for the hydroelectric plants planned for construction. SN Power, a Norwegian company dedicated to investment, development, and operation of renewable energy projects in emerging markets, presented a proposal for the Cheves Hydroelectric Plant. This company had been studying the feasibility of this project for the last 12 years, and decided it was appropriate to proceed.

The project is located 245 km to the Northeast of Lima, between the Provinces of Oyón and Huaura. To function, the plant harnesses the strength of the Huaura and Checra rivers, and will have effective power of 168 MW. This will allow the plant to produce 836 GWh/year, to ensure a supply of 600 GWh/year to the state electricity distributors.⁴⁴

In mid-2010, SN Power presented a proposal for financing to the IFC, which was approved on December 7, with a loan of \$85,000,000. Additionally the project mobilized another \$180,000,000 from international commercial banks to finance construction of the hydroelectric plant.^{45 46}

As part of its social and environmental management, the project is registered to generate carbon credits under the U.N. Clean Energy Mechanisms. Estimates for the renewable and clean energy generated at Cheves project CO2 emissions reductions at 394,000 tons per year.⁴⁷

⁴⁴ Of the 168 MW to be generated, 109 will be for household use.

⁴⁵ The "Cheves Hydro" project (code 29405), submitted by Empresa de Generación Eléctrica Cheves S.A. <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/68614a713b3780b8852577af006720fe?opendocument>

⁴⁶ Prior to the approval of the Cheves project, SN Power and the IFC already had experience working together, with investments in Nepal, India, Philippines, and Chile.

⁴⁷ Tecnología minera, edición 39. May-June, 2013 <http://www.tecnologiaminera.com/tm/biblioteca/articulo.php?id=48>

After a series of postponements and delays, work began on March 22, 2011. The construction, engineering, and design responsibilities of the hydroelectric plant were assigned to Constructora Cheves S.A.C., a multinational consortium made up of the companies Hochtief Solutions AG (Germany), Salfacorp (Chile), and ICCGSA (Peru).⁴⁸

The works included construction of three concrete dams (Checras, Huaura, and Picunche), a 2.5 km derivation tunnel, an 18 km headrace tunnel, an underground machine room, and permanent access routes to the hydroelectric plant. To generate electricity, the water captured by the dam would be led through the headrace tunnel, passing beneath the agriculture zone of the rural community of Huacho in the Gayayniyoc region.

Community members felt that there was a direct cause-and-effect relationship between the use of explosives for tunnel construction and the fissures in their land. In July, 2012, they informed SN Power of what had occurred, and the company sought out specialists in geology and civil engineering from the Institute for Geology, Mines, and Metallurgy (INGEMMET) to evaluate the terrain.

They concluded that the fractures could be the product of multiple factors, including the location of the plots on steep hillsides, the soil characteristics, irrigation techniques used, and others. In conclusion, the appearance of the cracks was not the company's responsibility.

The community was not satisfied with the response, and in protest they illegally took control of the facilities on February 25, 2013, blocking access to the tunnel and paralyzing activities. The National Police of Peru intervened to remove them from the area.⁴⁹

The General Office of Social Management of the Ministry of Energy and Mines (OGSS-MINEM) intervened in the case one month later, and established a roundtable for dialogue that momentarily relaxed the tension. Through these meetings, the parties agreed to resort to an impartial third party to establish responsibility for the fissures in the Gayayniyoc zone.

In 2014, a new community council was elected, and in January the results of a second INGGEMMET study were presented; the study reported that the terrain was susceptible to landslides, but did not determine who was responsible. The institute recommended that a new detailed study be performed by tunnel specialists and geotechnicians.

In July of that year, the community held a series of demonstrations in protest, asking for compensation for the damages. It is worth noting that the Pucasaga spring was also affected by the construction of the hydroelectric plant, as there has been a stark reduction in its water levels. On Sunday, August 3, a news story was broadcast on television, reporting on the problems and inferring that the Cheves project EIA had not contemplated these risks.⁵⁰

Following the report, at the request of the People's Defense Office, the Organization for Environmental Assessment and Oversight (OEFA) and the National Water Authority (ANA) made inspection visits to supervise tunnel construction activities. At the request of the Community of Huacho, the National Office for Dialogue and Sustainability (ONDS-PCM) intervened in the case, and a new process of dialogue between the parties was opened in August, 2014.

⁴⁸ Ex-President Alan García attended the ceremony in which the first brick was laid.

⁴⁹ Three community members were reported injured, and 27 faced accusations from the company.

⁵⁰ "Las grietas de Oyón", by Cecilia Zuloeta. "Cuarto Poder", América TV, Sunday, August 3, 2014. <http://www.americatv.com.pe/cuarto-poder/reportaje/grietas-oyon-noticia-9220>.

Every month over the second half of the year, inter-sector sessions were convened with specialists from the Geo-Physical Institute of Peru (IGP), the National Civil Defense Institute (INDECI), OEFA, INGEMMET, ANA, the Ministry of Agriculture, Regional Government of Lima, and others, to perform technical assessments of the cracks in the Gayayniyoc.

During a meeting on November 5, it was agreed that the Regional of Government of Lima would perform the risk assessment in the affected area, with technical support from CENEPRED, INGEMMET and the IGP, and would set the date of the next meeting. This process was set to be conducted in February, 2015, but no word has been forthcoming to date. This means that it is still not clear who is responsible for the cracks.^{51 52}

Over the course of this year, no protest activity has been recorded in the area. In March, OGGG-MINEM reported that the community and the company “maintain peaceful relations” thanks to compliance with previous commitments. According to the most recent report of the People’s Defense Office, the defense commissioners visited the area on July 21, and verified that repair works are underway in accordance with the agreement between the parties.^{53 54}

In early December, 2014, Statkraft announced that Constructora Cheves had concluded its work, after nearly four years of construction. On Friday, August 21, 2015, the Cheves Hydroelectric Plant began commercial operations, with a final investment tally of \$600,000,000. The official opening was on September 15.

⁵¹ National Center for Forecasting, Prevention, and Disaster Risk Reduction

⁵² CHAIR OF THE COUNCIL OF MINISTERS National Office for Dialogue and Sustainability (ONDS) Willaqniki. Report on differences, controversies, and social conflict. N° 25, Lima, December, 2014

⁵³ General Office of Social Management of the Ministry of Energy and Mines (OGGS-MINEM) http://www.minem.gob.pe/minem/archivos/file/Gestion%20Social/Casos%20Sociales/Centro/Lima/PROYECTO%20HIDROEL%C3%89CTRICO%20CHEVEZ_1.pdf

⁵⁴ People’s Defense Office Department for Prevention of Social Conflicts and Governance Report on Social Conflicts No. 137. July, 2015, p. 67.

CONCLUSIONS

After analyzing the database of projects supported by the International Finance Corporation (IFC) in our country, we have reached the following conclusions:

1. In this new millennium, Peru is experiencing the same phenomenon that has occurred in other emerging countries: The IFC has shown a clear preference for projects in the banking and finance sector, which involve financial intermediaries and account for approximately 42% of the total amount invested (\$ 929,650,000 U.S.) during the study period (From June 30, 1997 to May 18, 2015).
2. The IFC investment policy has contributed to strengthening and concentrating economic power among a select cohort of business conglomerates. We note that in many cases these are companies with presence in several sectors, linked to the most important and powerful groups in the country.
3. In terms of direct foreign investment in our country linked to IFC investment projects, it is worth highlighting the predominant presence of Spanish, U.S., and Colombian capital.
4. Despite the IFC's detailed assessment procedures, social and environmental risks have not been diminished as hoped before, during, and after the implementation of extractive projects (mining, energy, and others). Cases such as Choropampa (Minera Yanacocha) or the Cheves Hydroelectric Plant illustrate the need to establish appropriate communication with the affected communities starting on day one.
5. The IFC should prioritize projects that truly respond to the needs of emerging countries and the core objectives of the World Bank: fighting poverty and promoting prosperity. On repeated occasions, the projects financed have wrought deep environmental damages and grave social consequences.



**OPPORTUNITIES AND MISSTEPS:
LESSONS FROM THE INTERNATIONAL
FINANCE CORPORATION (IFC)
INVESTMENT POLICY
IN PERU**