



# ASSESSING PETROPERÚ'S FINANCIAL, LEGAL, ENVIRONMENTAL, AND SOCIAL RISKS

## Risk Alert



April 2024

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Front cover photo's: Community members from Yankuntich / Oil refinery in Talara.

Back cover photo: an oil spill flows down Chuuntsa Creek in Oil Block 1-AB, in the Peruvian Amazon.

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# Executive Summary

Photo: Senar Irar (president of the Peruvian Federation of Achuar Nationality), Olivia Bisa Tirko (president of the Autonomous Territorial Government of the Chapra Nation) and: Neil Encinas (leader for the Autonomous Territorial Government of the Wampís Nation) in Talara

**Petróleos del Perú - Petroperú S.A.** is a state-owned Peruvian oil company, primarily operating in the downstream sector with its principal refinery and largest asset: the **Talara Refinery**. Recently, it returned to the upstream business, operating Block I, Block VI, and Block Z-69.<sup>1</sup> It also operates the controversial **North Peruvian Pipeline**, which transports crude oil from the Peruvian Amazon to the coast.

Petroperú has plunged into massive indebtedness to complete its Talara Refinery Modernization Project, now at a projected cost of US\$6.5 billion. As a result, Petroperú is financially obligated to maximize its oil production to sustain its business and must open new oil wells in addition to imports from existing blocks. It is now actively trying to start new operations on key oil concessions located in the Peruvian Amazon, in **Block 64** and **Block 192**, and in **Block Z-2B** and **Block X**, located in the north coast.<sup>2</sup> These blocks however, face growing Indigenous and community opposition, intensifying demands for proper remediation prior to new oil activities, and significant legal risks.<sup>3</sup> This opposition can impede Petroperú's future operations and may disrupt current plans to make its Talara Refinery fully operational and be able to repay Petroperú's investors and lenders.

Amid its financial situation and escalating opposition against its activities, Petroperú is in search of new sources of financing to support its business in 2024.<sup>4</sup> New financing for Petroperú, however, presents an updated set of potent financial, governance, social, environmental, legal, and climate risks.



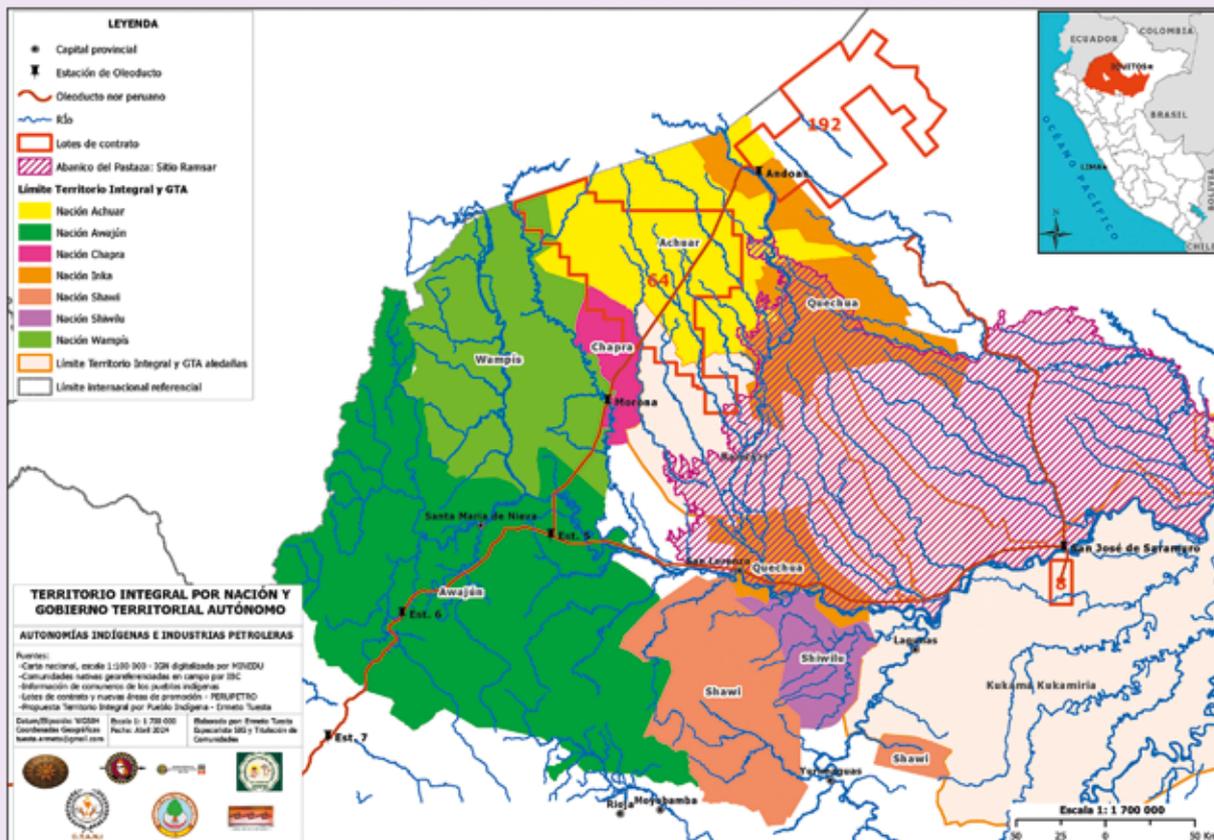
The following report, *Assessing Petroperú's Financial, Environmental, Legal, and Social Risks* serves as an update to *The Risks of Investing in Petroperú*, which was released in 2022. This latest brief underscores the heightened risks of supporting Petroperú and shows the alarming implications of investing in the Peruvian oil industry at large.<sup>5</sup> It compiles new data and information from publicly available information and references two newly released research reports: *Circuito petrolero y derechos humanos: oleoductos, derrames y violencia sistemática contra los pueblos indígenas en el Perú* (2024) and *Las sombras de los hidrocarburos: Informe III* (2024).<sup>6</sup>

This Issue Brief outlines the following risk faced by Petroperú and its financial backers:

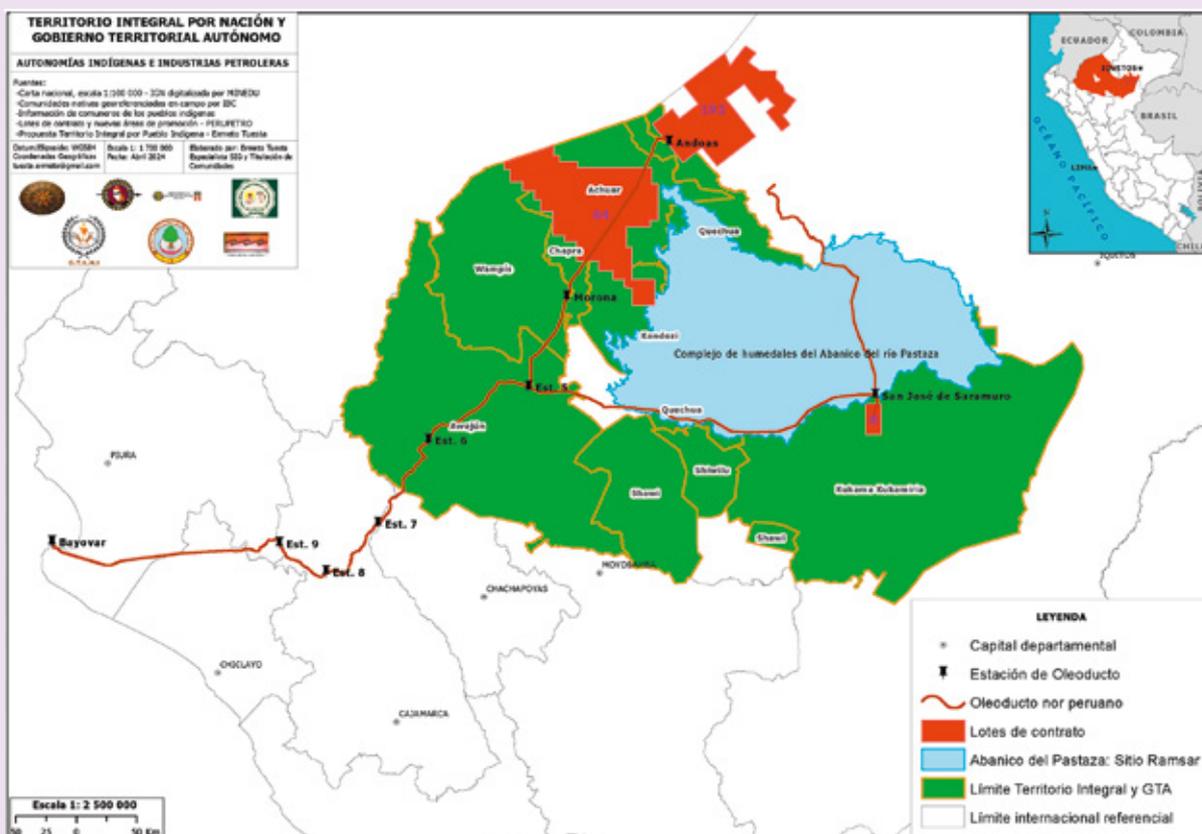
- 1. Financial & Governance:** Petroperú's massive debt burden, financial instability, and highly unstable corporate governance, have further deteriorated since its 2022 crisis and credit downgrading. These risks cast serious doubts about its capacity to become a stable and financially solvent company.
- 2. Environmental:** PetroPerú's plans to operate blocks with unresolved environmental liabilities represents a clear risk for the oil company, investors, and insurers, who may unknowingly bear high costs associated with spills and remediation. These costs also far exceed Petroperú and the Peruvian State's capacity to clean up and compensate, which will likely cause social conflict with affected communities where new drilling is slated to occur. This could hinder future operations by Petroperú and other oil companies.
- 3. Social:** Community opposition faced by the company has grown substantially over the last two years. Seven Amazonian Indigenous nations opposed to oil extraction in their territories have consolidated an alliance to defend their rights and territories against PetroPerú. Simultaneously, they have established a coalition with fisherfolk communities who are affected by PetroPerú in the Northern-Coast of Perú that questions the viability of PetroPerú's key oil blocks. This Amazon-Coastal alliance, called *MarAmazonía*, has gathered international support in their questioning
- 4. Legal:** Petroperú may be exposed to the risk of legal action taken by communities who demand remedy and redress for historic damages, as a condition before allowing new investments. The legal implications of these impacts are documented in two new studies published in April 2024. In addition, the Achuar Nation has a pending petition in the IACHR<sup>7</sup>; if granted, Block 64 will be declared null due to the absence of Free, Prior, and Informed Consent (FPIC). Precedents within the Inter-American System suggest a strong likelihood of a ruling in favor of the Achuar Nation.<sup>8</sup>
- 5. Climate:** In December 2023, Petroperú produced its own report for the Task Force on Climate-Related Financial Disclosures (TCFD), which aims to provide climate-related risk disclosures for its financial backers. However, the report fails to disclose the repercussions of its refinery expansion plans and forthcoming drilling in the coast, and blocks in the Peruvian Amazon which overlaps the third largest forest carbon sink in the world. Petroperú plans for new oil exploration and extraction are inconsistent with the Paris Agreement—of which Peru is a signatory—to limit global warming to well below 2°C and pursue efforts to limit temperature increase to 1.5°C above pre-industrial levels. They are also starkly misaligned with an international scientific consensus that calls for a rapid phase-out of fossil fuels.

Investing in the Peruvian oil industry will further the toxic legacy of oil pollution throughout Perú, which has severely and disproportionately affected Amazonian Indigenous peoples and local fishing communities over the past 50 years. Financing Petroperú and the country's oil industry will ultimately obstruct the country's transition out of fossil fuels. **This brief therefore calls on financial institutions to abstain from any direct or indirect financial support to PetroPerú or other companies, that leads to new oil exploration and exploitation in the Peruvian Amazon.**

## Peruvian Oil Circuit and Indigenous Territories

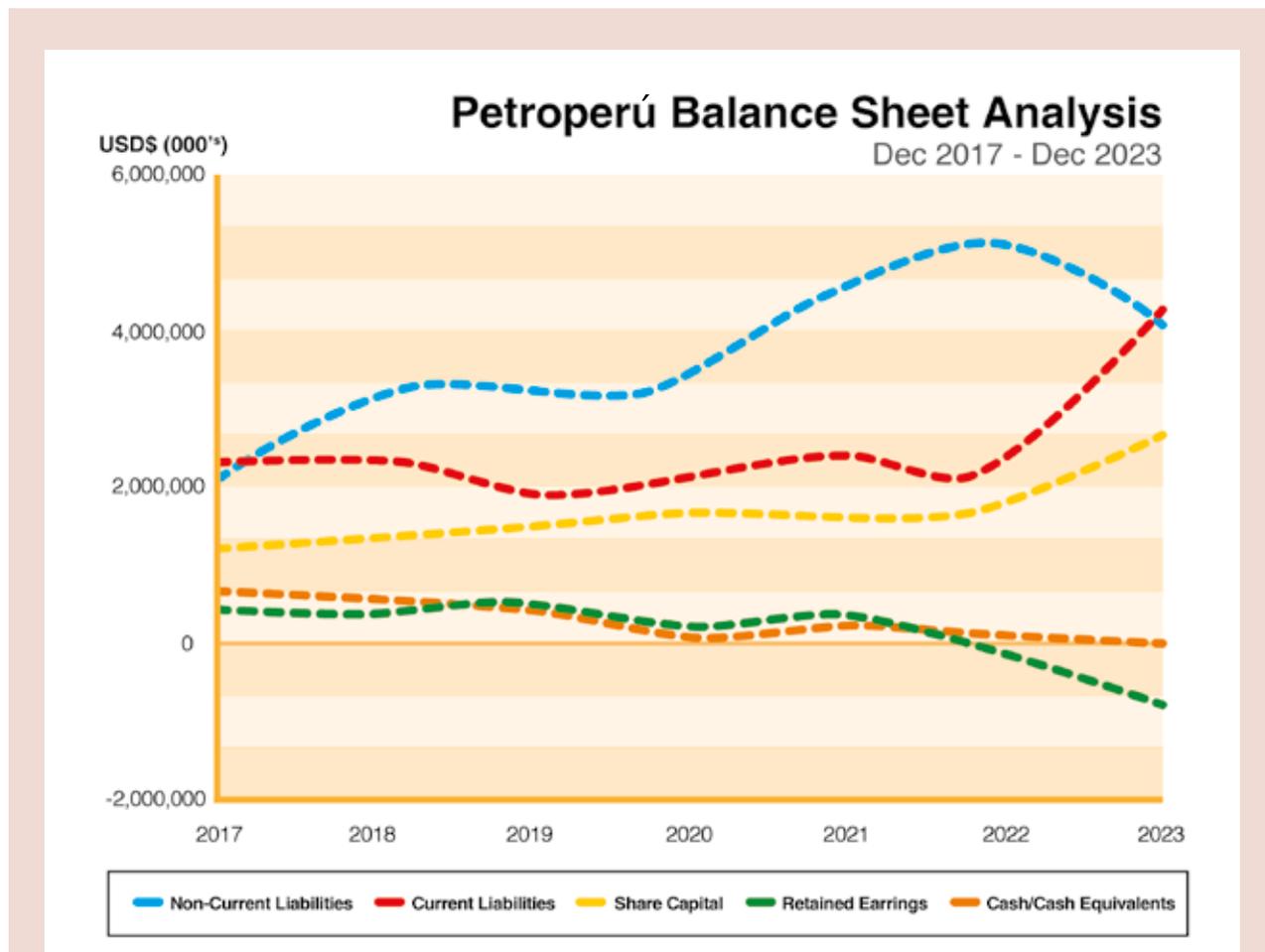


2. **Block Z-2B and Block X (North Peruvian Coast):** These two blocks, located in the north Peruvian coast, overlap with the city of Cabo Blanco. In the past, Cabo Blanco housed marine ecosystems with abundant fish species, such as some of the biggest marlins in the world. However, Cabo Blanco was impacted by offshore drilling. More oil activities in these blocks would lead to further destruction of aquatic life and local biodiversity, but also affect the traditional fisherfolk whose practice of fishing with artisanal sailboats was designated by Perú as a cultural heritage site.<sup>11</sup>
3. **North Peruvian Pipeline:** The North Peruvian Pipeline, which connects across oil blocks in the Peruvian Amazon, not only crosses the territory of seven Indigenous nations, but has also been identified as one of the greatest sources of risk to the *Pastaza Abanico*, a gigantic wetland, protected by the Ramsar Convention.<sup>12</sup> This is the third largest carbon stock in the world, storing 6.7 billion tons of CO<sub>2</sub>, equivalent to 90% of the emissions of all the cars in the world in a year.<sup>13</sup>
4. **Talara Refinery:** Petroperú asserts that “fossil fuels and renewable energy” are partners on the path to sustainability.<sup>14</sup> However, its primary asset, the Talara refinery, will only serve as a major driver of new oil exploration and production. In addition, according to a 2021 study, oil refining serves as the third largest source of global greenhouse gas emissions (GHG) among stationary sources, underscoring the need to consider the environmental impact of refining activities.<sup>15</sup>



## I. Financial And Governance Risks: Doubts Over Petroperú's Solvency and Stability

Petroperú is heavily indebted and overleveraged as a direct result of its Talara Refinery Modernization Project, which now has an estimated cost of US\$6.53 billion, more than twice its anticipated budget.<sup>16</sup> According to its financial statements, approximately US\$4.45 billion is attributed to long-term bonds and loans either financed or facilitated by prominent U.S. and European commercial banks.<sup>17</sup> Likewise, international insurers, reinsurers, and brokers have also supported a number of Petroperú's insurance policies.



*The chart above uses key information from Petroperú's balance sheets from December 2017 to December 2023.*

*The graph reveals that 2022 serves as a critical inflection point, in which the company's retained earnings decreased to negative USD\$854 million, while its cash on hand continues to dip to dangerous levels, explaining the company's ongoing liquidity crisis. The graph also shows the absence of new, meaningful, long-term international financing, as with the case from 2017 to 2021, categorized under "non-current liabilities." In 2022 and 2023, there is an increase in "short-term liabilities" primarily attributed to an increase in trade payables (around US\$800 million) and an uptick in the foreign supply of crude. Commercial banks have been linked to this trade financing in the past.<sup>18</sup> However, a sharp increase in short-term debt implies more financial burden. To financially recover from its current situation, the company will likely attempt to **1) increase its capital injection from the state, which can increase share capital; 2) increase profitability by extracting and refining more crude to offset its pending debts; and / or 3) seek more long-term financing from other sources. Each of these paths, however, faces serious obstacles.***

It now seeks additional capital from the Peruvian government and international markets to address its long-term capital structure, decrease in liquidity, and a stagnant increase in short-term debt.<sup>19</sup> Despite optimism from credit rating agencies about profitability once the Talara Refinery reaches full operational capacity at 95,000 barrels of oil, challenges persist due to accumulating debt, dwindling state support, and growing community opposition at key blocks in the Peruvian Amazon and north Peruvian coast.<sup>20</sup>

## 1. The Talara Refinery Modernization Project: A Financial Disaster for Petroperú

The Talara Refinery received sizable financial support from commercial banks abroad. However, it is in danger of becoming a stranded asset if it is unable to increase upstream production, presenting a risk to future financiers and investors. The project aims to increase refinery capacity by 30,000 bpd from 65,000 bpd to 95,000 bpd. But its viability—and Petroperú's ability to repay project financiers—hinges on questionable plans that can bring new upstream reserves online. It is a major gamble given resistance on the ground from Indigenous peoples in the Peruvian Amazon and fishing communities on the coast.

### a. Financing Structure of the Talara Refinery as of 4th Quarter of 2023<sup>21</sup>

Type	International Banks Involved	Amount
Capital Contribution	N/A	US\$325 million
Own Resources	N/A	US\$1.75 billion
Bond Issuances (15 years & 30 years)	JPMorgan Chase, Santander, HSBC, Citibank, Goldman Sachs, Bank of America <sup>22</sup>	US\$2 billion
Syndicated loan guaranteed by Spain's Export Credit Agency: Compañía de Seguros de Crédito a la Exportación (CESCE)	BBVA, BNP Paribas, Citibank, Deutsche Bank, HSBC, JPMorgan Chase, Santander <sup>23</sup>	US\$1.3 billion
Reopening of Bonds (30 years)		US\$1.155 billion
<b>New Estimated Budget</b>		<b>US\$6.53 billion</b>

### b. Petroperú's dispute with insurers of its Talara Refinery in 2020

Petroperú's insurance policies show that the building of the Talara Refinery has been covered for up to US\$1 billion by insurers such as MAPFRE.<sup>24</sup> Petroperú has struggled

to obtain money for these claims. In 2020 for example, Petroperú attempted to claim US\$760 million to US\$860 million, citing that the COVID-19 contributed to construction delays that resulted in cost overruns. However, the company experienced difficulties with this claim, as its previous broker, Marsh, did not account for infectious diseases as a possible disruption.<sup>25</sup> MAPFRE was said to reject the claim.<sup>26</sup> Petroperú's inability to get its full claims, as it sought more financing for its refinery in 2021, likely put additional financial strain on the company.

As of March 2023, Petroperú strongly alluded that other international insurers such as American International Group (AIG), Munich Re, and Zurich, were likely involved with the company's respective insurance policies.<sup>27</sup>

## 2. Petroperú's Diminishing State Support and Lowered Credit Ratings

Petroperú's state-backing is considered among the company's main competitive advantages.<sup>28</sup> However, financial support from the state has dwindled in 2023. In 2022, Petroperú was granted USD\$750 million by the Peruvian state. In 2023, however, despite asking another for USD\$2 billion, Petroperú was only granted USD\$1.3 billion—USD\$800 million guaranteed by the Peruvian state, and USD\$500 in additional lines of credit—both with state-owned Banco de la Nación.<sup>29</sup> The government cited the need to reserve funds in preparation for the climate phenomena, *El Niño*, resulting in less state support compared to previous years.<sup>30</sup>

International credit rating agencies analyze that this weakened financial support may be a cause for prolonged concern to investors in the medium term. For example, Apoyo & Asociados stated that the Peruvian state may prioritize funding sectors impacted by *El Niño*, generating uncertainty about Petroperú's capacity to rely on the state to alleviate its long-term capital needs.<sup>31</sup> This analysis ultimately resulted in sovereign credit downgrades and higher interest rates, greater market skepticism, and can lead to lower investor confidence.<sup>32</sup>

## 3. Reliance on International Markets for Debt

In 2023, Petroperú attempted to secure a long-term loan guarantee of up to US\$500 million with Italy's export credit agency, SACE, but was met with scrutiny after the Chapra, Achuar, and Wampís Indigenous peoples whose territories are overlapped by Block 64 expressed opposition to drilling plans. Members of the Italian Parliament, in a parliamentary hearing, publicly denounced the possible transaction and Petroperú.<sup>33</sup> Major Italian news outlets and civil society also highlighted the deal's potential risks for Italian taxpayers.<sup>34</sup> As of the beginning of 2024, the deal has not yet reached financial close.

Petroperú stated its plans to issue a US\$1 billion bond in U.S. markets, citing JPMorgan Chase & Co., and Citibank as potential underwriters or facilitators in late 2023.<sup>35</sup> However, Fitch reports that banks withheld existing lines of credit, of up to a substantial US\$865 million, "citing ESG concerns."<sup>36</sup> To diversify funding sources, Petroperú's has also considered making more of its shares public.<sup>37</sup>

#### 4. History of Highly Unstable Corporate Governance and Accusations of Corruption

Petroperú heralds its Corporate Restructuring Plan as a vital strategy to rebuild as a company and to attract investment.<sup>38</sup> However, the volatility of its corporate governance has long been part of Petroperú's history, and one that presents serious risks to the entity and institutions that finance it. Petroperú's pattern of corporate governance deficiencies, high-turnover rates with high-ranking management, and "accusation of links with criminal activities and collusion," is cited among the main reasons for Petroperú's severe liquidity and reputational crisis.<sup>39</sup>

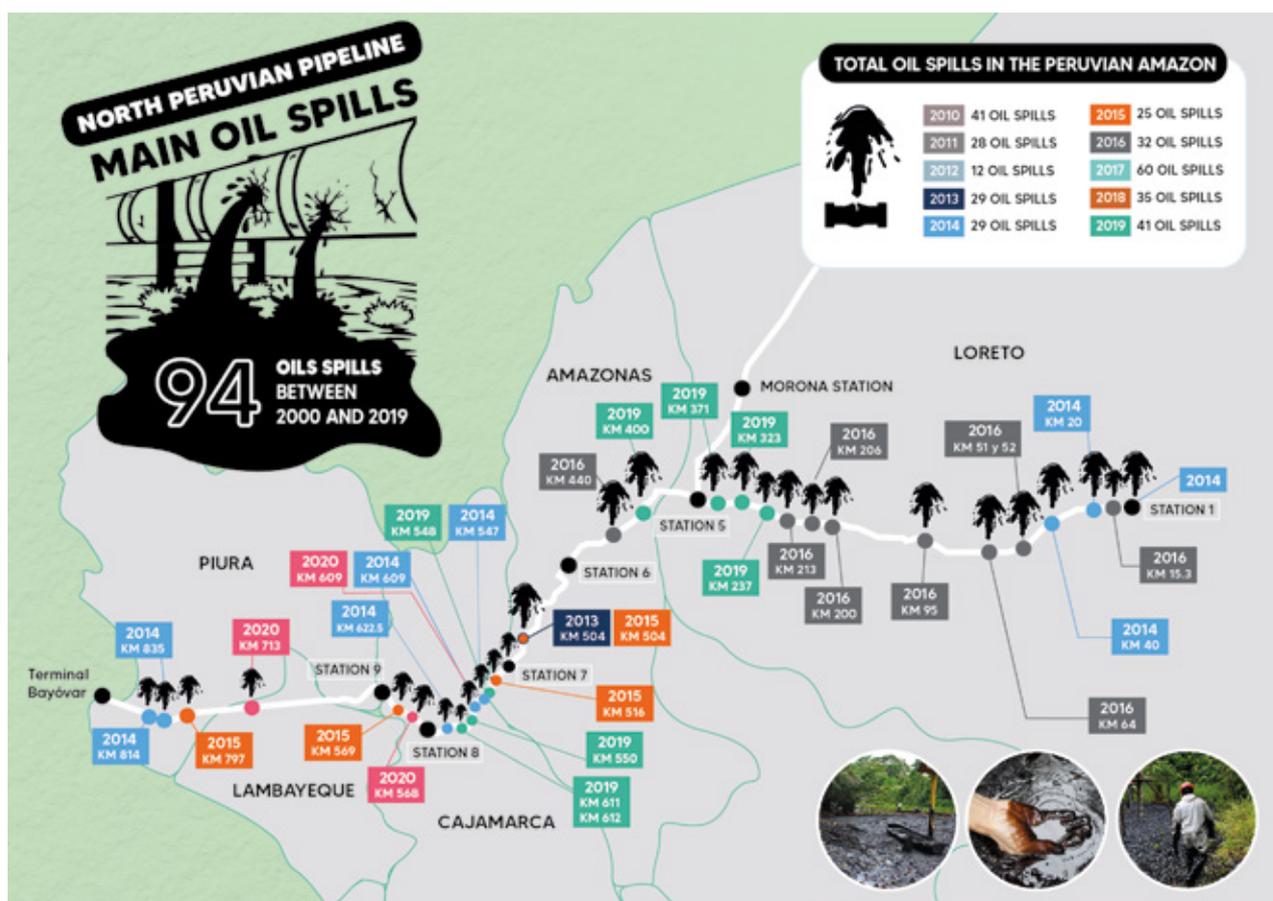
Timeline of Petroperú Presidents	
12/02/2016	Luis Eduardo García-Rosell Artola <sup>40</sup> (resigned)
03/21/2018 04/26/2018	James Aktins Lerggios <sup>41</sup> (passed away)
03/10/2019 05/01/2019	Carlos Paredes Lanatta <sup>42</sup> (resigned)
02/22/2020 04/06/2020	Eduardo Guevara Doods <sup>43</sup> (resigned)
09/15/2021 09/16/2021	Mario Contreras Ibárcena <sup>44</sup> (resigned)
04/01/2022 04/02/2022	Humberto Campodónico Sánchez <sup>45</sup> (resigned)
10/27/2022 01/09/2023	Carlos Vives Suarez <sup>46</sup> (resigned)
04/24/2023 04/25/2023	Pedro Oswaldo Chira Fernandez <sup>47</sup> (resigned)
02/28/2024 02/29/2024 ongoing	Carlos Adrián Linares Peñaloza <sup>48</sup>

## II. Environmental Risks: Neglected Oil Spills and High Remediation Costs Threaten Future Operations

The *Circuito petrolero y derechos humanos* (2024) report provides a historical analysis of the Peruvian oil industry, and underscores the prioritization of economic interests over the environment and the rights of Indigenous peoples.<sup>49</sup> It documents a wide variety of cases where Indigenous rights and livelihoods have suffered extensively due to the activities stemming from the oil production chain—from upstream, midstream transportation, and downstream refining, with a particular focus on the North Peruvian Pipeline.

Petroperú's plans to operate blocks with unresolved environmental liabilities represents a clear risk for the oil company, investors, and insurers, who may unknowingly bear high costs associated with spills and remediation.

### 1. Systemic and Structural Impacts: Peru's Oil Industry and the Legacy of the North Peruvian Pipeline



*Las sombras de los hidrocarburos: Informe III* (2024) documents structural environmental degradation caused by the Peruvian oil industry.<sup>50</sup> With 87,751 barrels spilled as of May 2023, investing in this sector will intensify environmental risks, especially in Loreto and Piura, where frequent oil spills occur. Since 2016, there has been an alarming increase of oil spills surpassing an average of 100 spills annually in 2019.<sup>51</sup> If this trend persists, the report projects approximately 3,505 oil spills nationwide by 2030, posing significant threats to ecosystems and Indigenous peoples.

Furthermore, the North Peruvian Pipeline recorded 139 oil spills from 1997 to 2022, with the highest number of spilled barrels in relation to other oil blocks,<sup>52</sup> exceeding 36,000 barrels, followed by Block 8 with over 19,000 barrels, and Block 192 with approximately 6,000 barrels spilled.



*Picture of Marañón River Oil Spill / Olivia Bisa*

One particularly notable spill occurred in 2022 at kilometer 177 of the North Peruvian Pipeline, impacting the Chapra and Wampís territories, prompting denunciation from Olivia Bisa, the President of the Chapra Nation.<sup>53</sup> Olivia was met with retaliation and criminalization by Petroperú.<sup>54</sup> Although the complaints against her were eventually dismissed, she remains a victim of threats and intimidation.<sup>54</sup>

For decades, Petroperú accused Indigenous communities of causing oil spills. In Petroperú's financial statements from 2015 and 2023, Petroperú records receiving a range of approximately US\$5 million to US\$20 million in insurance claims yearly, under the basis of "pipeline cuts" and oil spills.<sup>56</sup>

However, the disproportionate volume of spilled barrels attributable to third-party involvement raises questions about Petroperú's protocols and oversight of the North Peruvian Pipeline. Despite knowledge of the situation, the company has not updated protocols to enhance preventive measures. Additionally, Perú's Public Prosecutor's Office recently arrested individuals linked to a criminal organization called "Los Crudos," for cutting the North Peruvian Pipeline. These arrests included Petroperú officials, complicating Petroperú's claims which only attributes cuts to Indigenous communities.<sup>57</sup>

## 2. Petroperú's Risky Pursuit of Blocks with Unresolved Environmental Liabilities

The Achuar and Kichwa Indigenous Peoples, represented by the federations of FEDIQUEP, FECONACOR, and OPIKAFPE, have suffered severely from oil spills in Block 192, with devastating consequences on their livelihoods and traditional ways of life.<sup>58</sup> These communities insist on comprehensive environmental remediation before any oil activities resume in their territories.<sup>59</sup> However, remediation for Block 192 poses significant challenges due to decades of government neglect of Indigenous demands. Pluspetro Norte, the Block's former operator, was legally dissolved without addressing the environmental damage, leaving the government responsible for remediation. According to a report,<sup>60</sup> remediation costs for Block 192 are estimated at S/5 billion soles (around USD\$1.5 billion).<sup>61</sup> yet the state's "Contingency Fund for Oil Remediation"<sup>62</sup> only contains S/400 million soles (about US\$110 million), insufficient to cover even 10% of these costs. Despite any potential intentions by Petroperú or other companies to fund the necessary clean-up, the exorbitant costs make such efforts financially unfeasible. This financial gap jeopardizes the future joint operation of Block 192 with Altamesa.



Consequently, forthcoming oil activities on Block 192 will lack the social license to operate, as demands for full remediation set forth by impacted Indigenous peoples will not be granted. Therefore, a decision to operate in Block 192 will inevitably generate social conflicts and opposition, which can hamper the success of operations, as previously mentioned.

### III. Social Risks: Growing Indigenous-Fisherfolk Alliance Challenges Oil Exploitation and Viability

Opposition to oil activities in the Amazon has led to significant protests in recent years. Factors fueling these protests include legal disputes, legislative reforms, and the failure to clean up and compensate for past damages. These demonstrations have caused substantial disruptions, including the shutdown of the North Peruvian pipeline, river blockades, the halt of upstream oil activities, and companies being compelled to declare force majeure.<sup>63</sup> Additionally, some companies have completely abandoned their drilling projects.<sup>64</sup> Unfortunately, some of these confrontational clashes have resulted in fatalities.<sup>65</sup> Over the last years, organizing and coalitions against Petroperú have grown across Peru's oil production chain, posing a serious challenge to its operations.

#### 1. Growing Indigenous Opposition and the Formation of the *MarAmazonía* Alliance Against Oil Operations Across Perú's Oil Production Chain

The Achuar, Wampís, and Chapra nations are adamantly opposed to Petroperú's plans to begin oil activities in Block 64, and have made this opposition clear to the company, the government, and other relevant stakeholders for many years. Their resistance to oil extraction in their territories stems from bearing witness to the devastating impact of oil operations in the adjacent Block 192 (formerly known as Block 1A-B), with lasting environmental, health, and cultural consequences. In 2023, they joined forces with the Awajún, Kichwa, Shawi, and Shiwilu to form an alliance of seven Indigenous nations across the oil production chain to demand remediation, reparation, and respect for their rejection of Block 64.<sup>66</sup>



Teófilo Kukush, the Pamuk (leader) of the Autonomous Territorial Government of the Wampis speaks to the Assembly of the seven Indigenous Nations in San Lorenzo. Photograph: Moccic.

**“We have seen for decades how oil has not only failed to bring the ‘development’ they promised, but has caused death, illness, social conflicts, local corruption, impoverishment, degradation, and pollution in our territories.” Declaration of the Seven Indigenous Nations, September 16 and 17, in San Lorenzo”<sup>67</sup>**

In a major initiative to expand this effort, the seven nations have also formed a strategic alliance with artisanal fishing communities along the North Peruvian coast, culminating in the *MarAmazonía Alliance*.<sup>68</sup> This growing coalition shows how the opposition to new oil exploitation and the demand for reparation of historical damages is increasing, as are the social and operational risks of Petroperú or other oil company that seeks operations in blocks not only in the Peruvian Amazon, but the north coast as well. Companies' disregard of such dissent may likely result in delays, suspensions of operations, and financial losses for investors and other financial backers, as evidenced by the long-standing opposition against oil drilling in Block 64.<sup>69</sup>

### **Indigenous Achuar, Wampís, and Chapra Peoples Resistance Halts Oil Drilling in Block 64 for Three Decades**

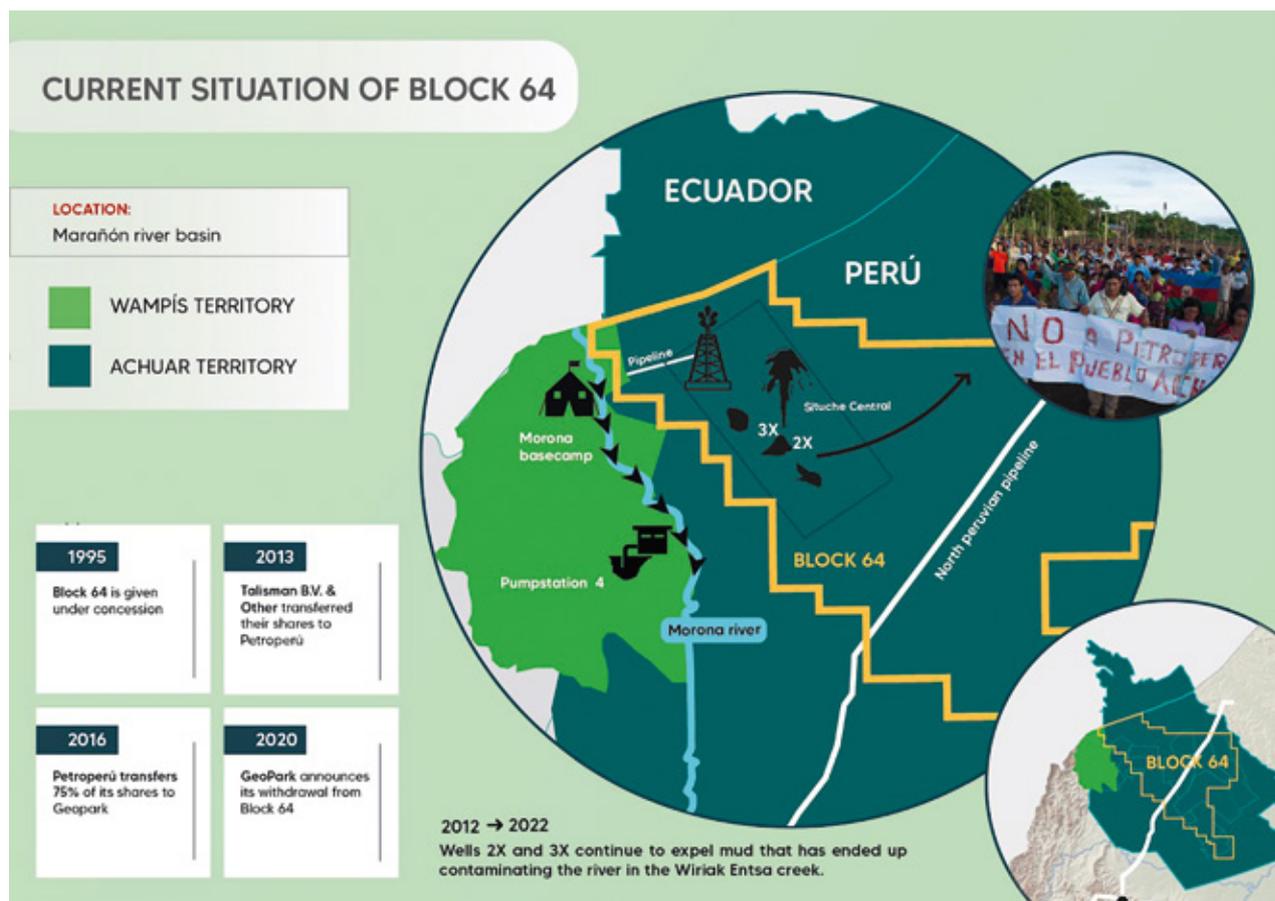
The Wampis and Achuar peoples have steadfastly opposed oil operations in their territories for nearly three decades, with recent support from the Chapra People. The Wampis and Achuar Indigenous Peoples, predating the Peruvian and Ecuadorian states, inhabit a remote, vast, and biodiverse area of the Amazon along the Peruvian-Ecuadorian border. They are organized under the Peruvian Federation of Achuar Nationalities, (FENAP) the Autonomous Territorial Governments of the Wampis (GTANW), and the Chapra Peoples (GTANCH), overseeing the governance of their Nations.

Despite their opposition, Block 64, formerly known as the Morona Block, was established in December 1995, encroaching on Wampis and Achuar territories without obtaining the required Free, Prior, and Informed Consent (FPIC) mandated after the International Labour Organization Convention 169 (ILO Convention 169) took effect in Peru in February 1995. In June 2022, the Achuar Nation petitioned the Interamerican Commission (IACHR) to nullify Block 64 due to the lack of FPIC.

The persistent resistance by of the Achuar, Wampís, and recently, Chapra Peoples has complicated the exploitation efforts by private companies like Occidental Petroleum, Talisman, and most recently Geopark.<sup>70</sup> Geopark claimed a loss of at least US\$71 million due to “a failed oil project”, exacerbated by ongoing opposition.<sup>71</sup> In 2020, Geopark exited Block 64, incurring a US\$34 million impairment loss of its Property, Plant, and Equipment.<sup>72</sup>

Perupetro awarded the operation rights of Block 64 to Petroperú in 2021. Attempts by Perupetro to introduce Petroperú as the new operator at a “community gathering” were met with opposition from the Achuar and Wampis, citing health risks due to the pandemic. Petroperú's subsequent divisive tactics<sup>73</sup> have deepened social conflicts, including death threats against leaders opposing the oil activities and the influx of illegal settlers.

Petroperú's late 2023 Quarterly Earnings Report indicated plans to seek a new operating partner for Block 64 in early 2024,<sup>74</sup> with an estimated cost of US\$724 million, of which Petroperú would be responsible for US\$190 million. Despite prior investments of US\$35 million,<sup>75</sup> ongoing community resistance renders the project's future profitability uncertain. The steadfast opposition of the Achuar, Wampís, and Chapra Peoples continues to challenge the project's feasibility, casting doubt on its successful implementation.



Map elaborated by Amazon Watch

## IV. Legal Risks: Petroperú Faces Potential of Costly Lawsuits and Possible Nullification of Block 64

The legal landscape of Petroperú's activities in the Peruvian Amazon and the North Peruvian Pipeline is fraught with risks and challenges, with implications for the company's financial viability and reputation. Perú, having ratified International Labour Convention 169 (ILO Convention 169) and recognizing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), holds international standards at a constitutional level.<sup>76</sup> This includes the recognition of Indigenous peoples' rights to compensation for the dispossession or intervention of their territories, as outlined in Article 28 of the UNDRIP.

### 1. The Debate About Whether Indigenous Peoples Should be Financially Compensated for the Use of their Territories to Extract Hydrocarbons has Begun, Implying Legal Risks for Oil Companies

Indigenous peoples in the Peruvian Amazon, affected by the North Peruvian Pipeline and other oil infrastructure, have not received compensation for the occupation of their territories. Peruvian regulations have established compensation mechanisms for operations post-1994,<sup>77</sup> granting Indigenous peoples the right to compensation for the loss or disruption of their territories, as established in Article 28 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). This claim could apply to the entire region occupied by the North Peruvian Pipeline, potentially causing legal and financial instability for Petroperú in

the future. The recent report, *Circuito petrolero y derechos humanos* (2024), documents a wide variety of damages done to the Indigenous peoples affected by the oil circuit.

## 2. The Achuar Nation's Pending Petition in the Inter-American Commission on Human Rights May Nullify Block 64 and Question Viability of Petroperú's Plans to Exploit Oil



Nelton Yamkur of the Peruvian Federation of the Achuar People in the Interamerican Commission of Human Rights.  
Photo: Interamerican Commission of Human Rights.

Currently, the Achuar Nation has a pending petition at the IACHR.<sup>78</sup> One of the demands of the Achuar Nation is the nullification of Block 64 due to the absence of Free, Prior, and Informed Consent (FPIC). The lack of FPIC constitutes a violation of Indigenous rights and international norms. Precedents within the Interamerican System suggest a strong likelihood that the IACHR will rule in favor of the Achuar Nation, potentially nullifying Block 64 and barring any new oil activities on the block.<sup>79</sup> This outcome would disrupt ongoing operations and raise doubts about the legitimacy of future projects, while posing significant risks for Petroperú, any strategic partner, and potential investors.

## 3. Petroperú's History of Costly Administrative Sanctions Totalling Approximately USD\$5 Million

Petroperú faces significant legal risks from its operations in the Peruvian Amazon and the North Peruvian Pipeline, because of ongoing sanctions due to environmental impacts. Between 2011 and 2023, OEFA reported 129 crude oil spills along the North Peruvian Pipeline, imposing 127 Administrative Sanction Procedures, with some concluded and others ongoing.<sup>80</sup> The cumulative fines are equivalent to S/22,458,150 Peruvian soles (approximately USD\$6 million dollars) as of 2023. Past incidents, such as oil spills in Chiriaco and Morona in 2016, resulted in substantial fines and highlighted Petroperú's failure to adequately maintain the pipeline. These fines could result in additional costs for Petroperú, given prior hardships with placing insurance for oil spills related to its pipeline in international markets.<sup>81</sup>

## V: Climate Risks: Petroperú's Expansion Contradicts Global Mandate for Oil Reduction

### 1. Petroperú's Task Force on Climate-Related Financial Disclosures (TCFD) Fails to State Environmental and Climate Implications of Scaling Up Crude Production and Refining

In December 2023, Petroperú released its first TCFD. This voluntary framework aims to highlight its efforts to disclose climate-related risks that may pose material risks for investors, shareholders, and underwriters. This report assesses four thematic areas: governance, strategy, risk management, and metrics and targets. It attempts to describe external factors which could impact its operations and underscores market risks, while broadly acknowledging implications of climate change, citing that extreme weather events could lead to increased costs. Despite Petroperú's poor performance of disclosing and anticipating climate risks, as stated in the TCFD report, it maintains that the report serves as a milestone for improving corporate resilience.<sup>82</sup>

The report, however, is limited in scope, and fails to state that the company's core business of oil refining, transport, and potential for more production, explicitly goes against international climate agreements that aim to mitigate and curb climate change. Petroperú's oil operations, especially its efforts to explore and exploit new oil blocks, will contribute to increased carbon emissions. It is also misaligned with the Intergovernmental Panel on Climate Change's 1.5 °C scenario and guidance from the International Energy Agency that there is no room for new coal, gas, or oil on the road to a net-zero pathway by 2050.<sup>83</sup>

Furthermore, financially supporting Petroperú and any of its activities, especially as it scales up its oil business, starkly contradicts climate commitments and many ESG policies of potential financiers.<sup>84</sup> A decision to financially support will also contribute to the heightened degradation of the Amazon, due to the cumulative impacts of new oil activities, considering the impacts in already more than 2,000 hectares in the rainforest.



## Conclusion and Recommendations

**Financially supporting Petroperú and the wider Peruvian oil industry poses immense financial, governance, environmental, social, legal, and climate risks.** These challenges range from internal issues, such as its governance instability, accusations of corruption, and weakened financial position. It also faces external pressures from growing possibility of litigation and growing public opposition to its activities in sensitive areas such as the Peruvian Amazon and the north Peruvian coast. Petroperú's operations also pose an existential threat to the climate, as it lacks a credible transition plan and now seeks to exploit new oil blocks.

**Based on the issues outlined herein, we provide the following recommendations:**

- 1. Financial institutions must not provide new financial support for Petroperú,** as its Talara Refinery is a driver of oil production in the Amazon and the company maintains intentions to expand drilling in Block 64 and Block 192,<sup>85</sup> which will serve as major risks for potentially affected communities, the environment and the climate. This financing includes, but is not limited to, direct and indirect financing and lending by commercial banks, policy underwriting by insurers and reinsurers, and investment support from institutional investors.
- 2. Financial institutions must abstain from any financial support to Petroperú or any other company, which seeks to exploit Block 64,** for its failure to comply with FPIC for the Chapra, Wampís, and Achuar peoples, and the enormous risks such a project would present to the Amazon.
- 3. Financial institutions should adopt and implement policies that** recognize and are guided by international standards on FPIC as outlined in the UNDRIP and ILO Convention 169, and ruled on by the Interamerican Court of Human Rights. Clients that have violated Indigenous rights, such as FPIC, and have not engaged in adequate redress mechanisms should not receive any financial support.
- 4. Financial institutions must implement a transparent due diligence framework and robust grievance mechanisms to assess the direct and indirect impacts of financing and lending activities on the rights of Indigenous Peoples.** In the case of the Indigenous Peoples impacted by Petroperú's plans; demands by Indigenous communities may not be easily communicated to financial institutions. Clients may obfuscate or downplay opposition to planned operations.
- 5. Financial institutions must abstain from direct and indirect financial support that leads to new oil exploration and exploitation in the Amazon,** as such projects are incompatible with the international scientific consensus and policy frameworks on climate mitigation.

## Glossary of Terms

**CNDDHH:** Coordinadora Nacional de Derechos Humanos (National Coordinator for Human Rights)

**FPIC:** Free, Prior and Informed Consent

**IACHR:** Interamerican Commission on Human Rights

**ILO:** International Labour Organization

**MINEM:** Ministerio de Energía y Minas (Ministry of Energy and Mines)

**Non-Current Liabilities:** Long-term corporate debts that must be paid beyond a 1 year time horizon.

**Current Liabilities:** Short-term corporate debts that must be paid within a 1 year time horizon.

**OEFA:** Organismo de Evaluación y Fiscalización Ambiental (Environmental Evaluation and Enforcement Agency)

**OSINERGMIN:** Organismo Supervisor de la Inversión en Energía y Minería (Supervisory Agency for Investment in Energy and Mining)

**PERUPETRO:** Is a state institution whose function is to promote oil exploration and exploitation's investments, negotiate, execute, and oversee contracts, and technical evaluation agreements.

**PETROPERÚ:** A Peruvian state-owned oil company.

**PROFONANPE:** Fondo de Promoción de las Áreas Naturales Protegidas del Perú (Peruvian Trust Fund for National Parks and Protected Areas)

**Retained Earnings:** Amount a company retains after deducting net income or loss and dividends.

**Share Capital:** Money a company raises by issuing shares or equity

**TCFD:** Task Force on Climate-Related Financial Disclosures

**UNDRIP:** United Nations Declaration on the Rights of Indigenous Peoples

## Footnotes

- 1 New Talara Refinery: more than 7 million barrels of fuels produced in 2023. Petroperú (2024, January 17). Available at: <https://www.petroperu.com.pe/english/new-talara-refinery--more-than-7-million-barrels-of-fuels-produced-in-2023>
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- 3 Peru indigenous groups block river in the Amazon after oil spill. Euronews (2022, September 30). Available at: <https://www.euronews.com/2022/09/30/peru-environment-amazon-oil>
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- 5 *The Risks of Investing in Petroperú*. Available at: <https://amazonwatch.org/assets/files/2022-09-petroperu-risk-assessment.pdf>
- 6 *Las sombras de los hidrocarburos: Informe III* (Lima: 2024 - *The Shadow of Hydrocarbons: Report III in English*), builds on two reports carried out by civil society in 2019 and 2021, which outlines data on oil spills, remediation processes, and environmental emergencies from 1997–2003. This report was completed in collaboration with OXFAM and the Working Group on Hydrocarbon Impacts led by the National Human Rights Coordination of Peru (CNDDHH) and provides new data up to 2023; Roger Merino, *Circuito petrolero y derechos humanos: oleoductos, derrames y violencia sistemática contra los pueblos indígenas en el Perú* (Lima: 2024 - *The Human Rights in the Peruvian Oil Circuit: Pipelines, Oil Spills, and the Systematic Violence Against Indigenous Peoples in English*) focuses on the oil circuit located in the Peruvian Amazon, with special emphasis on the North Peruvian Pipeline. This report was elaborated by indigenous rights specialist Roger Merino (PhD) in collaboration with the Autonomous Territorial Government of the Wampís Nation (GTANW in Spanish), and released with seven nations from the Peruvian Amazon: Achuar People (FENAP), Chapra People (GTANCH, Awajun People (GTAA), Shawi (GTA Shawi), Kandozi People (GT Kandozi), Quechua People (GTA Inga) and the Wampis People (GTANW).
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- 11 La pesca tradicional con veleros artesanales en Cabo Blanco y El Ñuro ya es Patrimonio Cultural de la Nación (2018). Gob.pe. <https://www.gob.pe/institucion/cultura/noticias/17593-la-pesca-tradicional-con-veleros-artesanales-en-cabo-blanco-y-el-nuro-ya-es-patrimonio-cultural-de-la-nacion>
- 12 The Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat is an international treaty for the conservation and sustainable use of Ramsar sites. It is also known as the Convention on Wetlands. It is named after the city of Ramsar in Iran, where the convention was signed in 1971. See: Santander Arranged Billion-Dollar Oil Bond After Making Green Pledge. The Bureau of Investigative Journalism (2024, February 19). [https://www.thebureauinvestigates.com/stories/2024-02-19/santander-arranged-billion-dollar-oil-bond-after-making-green-pledge/?x-craft-preview=stU9t1Ta0H&token=idMYjFKQaifzIU4t1E\\_3-AkZceh4Jdsg](https://www.thebureauinvestigates.com/stories/2024-02-19/santander-arranged-billion-dollar-oil-bond-after-making-green-pledge/?x-craft-preview=stU9t1Ta0H&token=idMYjFKQaifzIU4t1E_3-AkZceh4Jdsg); and: <https://www.ramsar.org/es/news/peru-pushes-ramsar-convention-over-100-million-hectares-world-environment-day>
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- 59 Remediation must be holistic, and include comprehensive compensation for historical damages, adverse health impacts, and cultural losses as a result of past oil activities. Failure to abide by communities' demands for remediation will result in opposition against activities in Block 192, which has been suspended since 2020. The Indigenous federations of FEDIQUEP, FECONACOR, and OPIKAFPE have repeatedly warned throughout 2022, through pronouncements in their assemblies, that if the remediation of their territories does not begin and the commitments agreed upon are not fulfilled, they will not allow the entry of any new operator. "We say to Peru and the State that not a drop of oil will leave our territories if they do not comply". Available at: <https://observatoriopetrolero.org/gobierno-reactivara-lote-192-sin-cumplir-con-remediacion-ambiental-y-derechos-de-las-comunidades/>
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- 62 Created by Law 30321 in 2015 and was meant to remedy impacts for the entire nation
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