

2 • OIL BLOCK 113, PERU

Respecting the lands of indigenous people in voluntary isolation

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to

the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

SAPET, the Peruvian subsidiary of CNPC has been one of the first Chinese overseas oil undertakings and is operating in Peru since the 1990s. In 2005 SAPET acquired exploration rights for Block 113, which overlapped with a Territorial Reserve for indigenous peoples in voluntary isolation, groups that are extremely vulnerable to contact with outsiders because of a lack of immunity to diseases which are common in the rest of the world. These groups enjoy special protection under Peruvian law and previous oil operations in the area had been halted due to their presence. After learning about the situation from civil society groups, SAPET held several meetings with NGO representatives and decided not to explore in this part of their concession, disregarding initial opposition from the Peruvian government and upholding the rights of the vulnerable local population. This is a very significant precedent for sticking to a high standard of social responsibility, even without the host government corresponding to the intention.



Chinese Institutions involved

Oil Company:

- Sino-American Petroleum Development Peru Inc. (SAPET, CNPC subsidiary in Peru)

Key actors in Peru

Authorities:

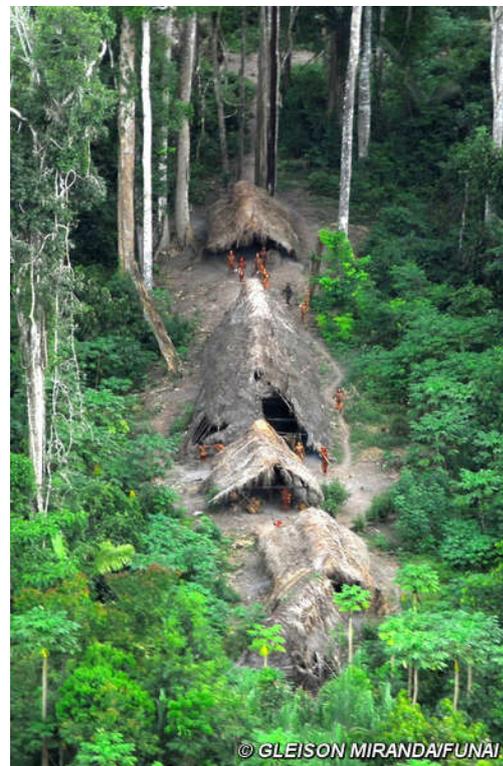
- PeruPetro

NGOs:

- FENAMAD (Federación Nativa del Río Madre de Dios y Afluentes)
- AIDSESEP (Asociación Interétnica de Desarrollo de la Selva Peruana)

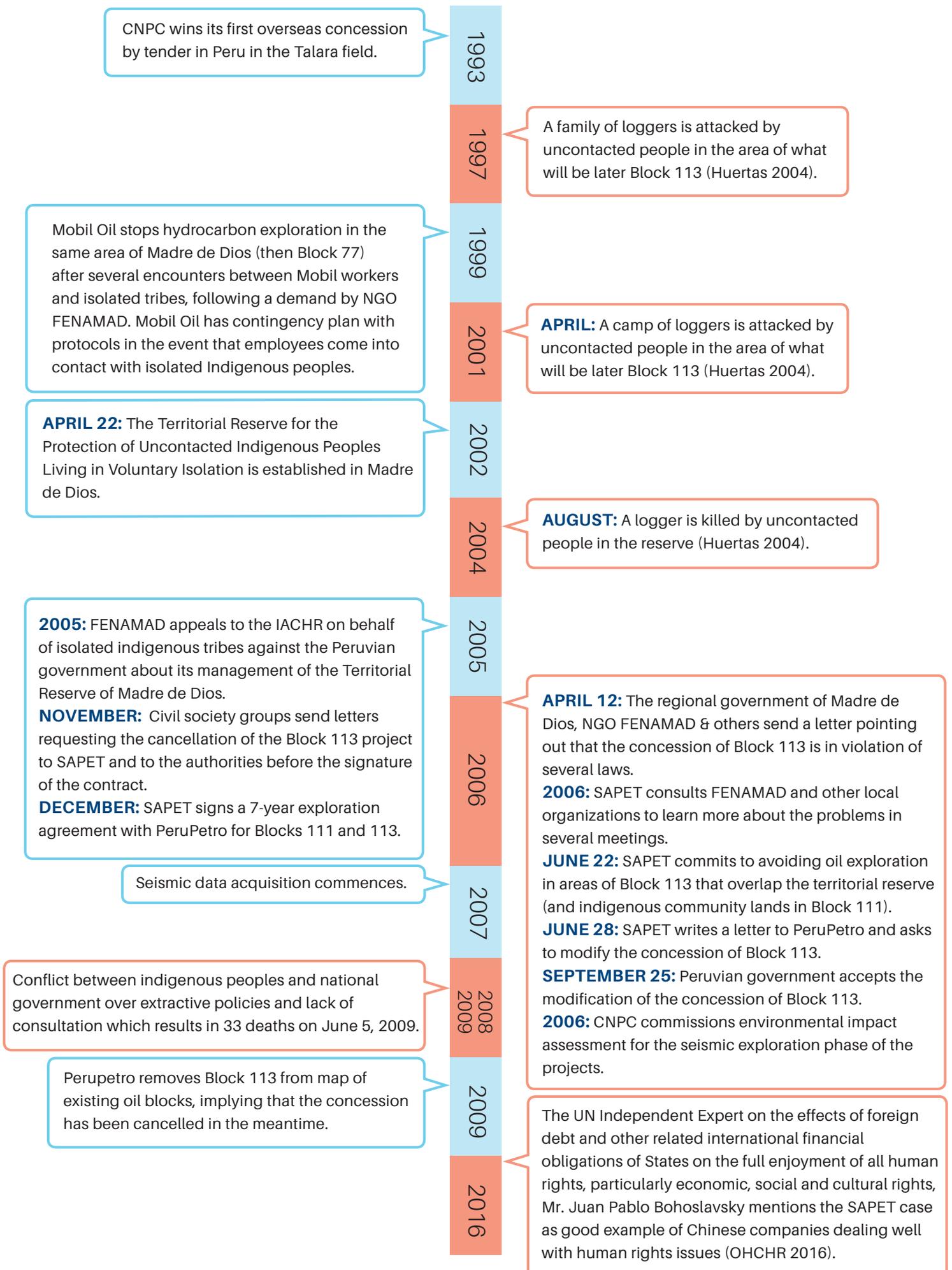
THE PROJECT

The concession of Block 113 is located in the Peruvian department of Madre de Dios and comprises 1.2 million ha mainly of rainforest. In 2005, SAPET signed a 7 year contract for this and adjacent Block 111 to undertake seismic exploration of the area. SAPET was to invest at least 34.5 million US dollar in the block during exploration (PeruPetro undated) and - together with adjacent block 111 - up to 1 billion US dollar during production (BNAmericas 2005). Of the total area of Blocks 111 and 113, only a tiny percentage (158 ha) were planned to be used and the project seems to have been of minor significance to CNPC from a global perspective, representing low economic stakes (Matisoff 2015).



Indigenous people in voluntary isolation on the border between Brazil and Peru. Source: Gleison Miranda, FUNAI

TIMELINE





Oil spill in the Peruvian Amazon in 2016

POLICY RELEVANCE

China's reputation

The cautious and responsible way of proceeding contributed to establishing a good name for the Chinese company and the country. This is, however not always the case, so less responsible ways of acting of other companies can undo this achievement. Even more important it is to watch over all Chinese investments and make sure that a high standard of social and ecological responsibility is maintained.

Complementing information provided by government

The Peruvian government did not inform SAPET of the presence of uncontacted indigenous people in the concession and even argued that it did not matter (Servindi 2006a). This underscores the need for a proper due diligence process which will complement information provided by government with other sources. In many countries, government officials have a personal interest in concreting commercial transactions with foreign investors, even at the expense of local communities and the environment. When the rule of law is not well established, this often

leads to situations where existing rights and legal obligations – such as consultation of indigenous communities and their Free Prior and Informed Consent (FPIC) – are disregarded, resulting in social conflict. A proper and exhaustive due diligence process can inform these contradictions ahead of time.

Importance of local knowledge

Most staff of SAPET is Peruvian and the company at the time had been working in Peru for over a decade. According to observers familiar with the case, the rooting of SAPET in the national culture has been important in this case, providing for cultural sensitivity that allowed to proceed with caution and to good effect.

Sticking to the law

One of the key foundations of responsibility of overseas investors is complying with the laws of the host country. This may seem trivial, however situations abound where the applicability of different laws is highly contested. Investors can rely on stakeholders such as non-governmental organizations and local communities to point out potential inconsistencies. In countries where bending the law for investments is common place, the decision to stick with the law can be a hard one. It becomes even harder when the government actively insists on bending the law. Laws protecting communities and the environment are often an achievement that has been won through much sacrifice of social movements in long and difficult struggles. Respecting these achievements and actively pursuing their implementation even if it means not embarking on a contentious project, is important. In this case, it had already been pointed out by FENAMAD that the concession of Block 113 would contravene ILO Convention 169, Ministerial Resolution No 0427-2002-AG, and Supreme Decree No 024-2005-PCM (Servindi 2006b).



A sign left by indigenous people in voluntary isolation, signalling: do not enter. Source: AIDSESEP

POLICY RECOMMENDATIONS

- Establish/strengthen dedicated mechanisms to receive civil society input to complement government information.
- Strengthen due diligence process ahead of authorizing an investment.
- Identify implementation challenges of existing laws that are relevant for the project.

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I would like to thank Adina Matisoff on who's in-depth research the current case study is based and Rufo Quispe for providing input and feedback on the draft.