

INFORMATIVE
BRIEFING

Amazon Waterway: Good business for the country?

An indigenous peoples' rights view,
economic and environmental perspective

2019 EDITION



INFORMATIVE BRIEFING

Amazon Waterway: Good business for Perú?

A legal, environmental and economic perspective
on indigenous peoples

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This publication has been produced with the assistance of Gordon and Betty Moore Foundation and Rainforest Norway Foundation (RFN). Its contents are exclusive AIDSESP, ORPIO, CORPI, ORAU, Derecho, Ambiente y Recursos Naturales and the Coalición Regional por la Transparencia y la Participación's responsibility; and in no way should it be considered as reflecting the views of the Gordon and Betty Moore Foundation or the Rainforest Norway Foundation (RFN).



Presentation

The “Amazon Waterway: Marañón and Amazonas River, Saramiriza-Iquitos Santa Rosa section: Huallaga River, Yurimaguas-Confluence with the Marañón River section, Ucayali River Pucallpa-Confluence with the Marañón River section” is an infrastructure project in the form of public-private partnership, which generates diverse social, economic and environmental concerns, including confusion regarding the impact that the project’s activities will bear on the ecosystems and lifestyles of the local population; and the weak social and environmental standards that have accompanied the development of the Environmental Impact Assessment and its citizen participation process.

That is why there is now the need to provoke a debate on how the project is being developed. Thus, this publication contains information on the most relevant characteristics of the Amazon Waterway project, environmental and social concerns, and information on the contract and the economic base of the project.

This information briefing is promoted by the indigenous organizations AIDSESEP, ORPIO, CORPI and ORAU, as well as the Civil Society Derecho, Ambiente y Recursos Naturales (DAR) and the Coalición Regional por la Transparencia y la Participación.

What is the Amazon Waterway Project about?

The Amazon Waterway Project is sponsored by the Peruvian government, as part of the project portfolio of the Initiative for the Integration of Regional Infrastructure - IIRSA, which was renamed UNASUR since 2008, and is being promoted by its planning council (COSIPLAN).

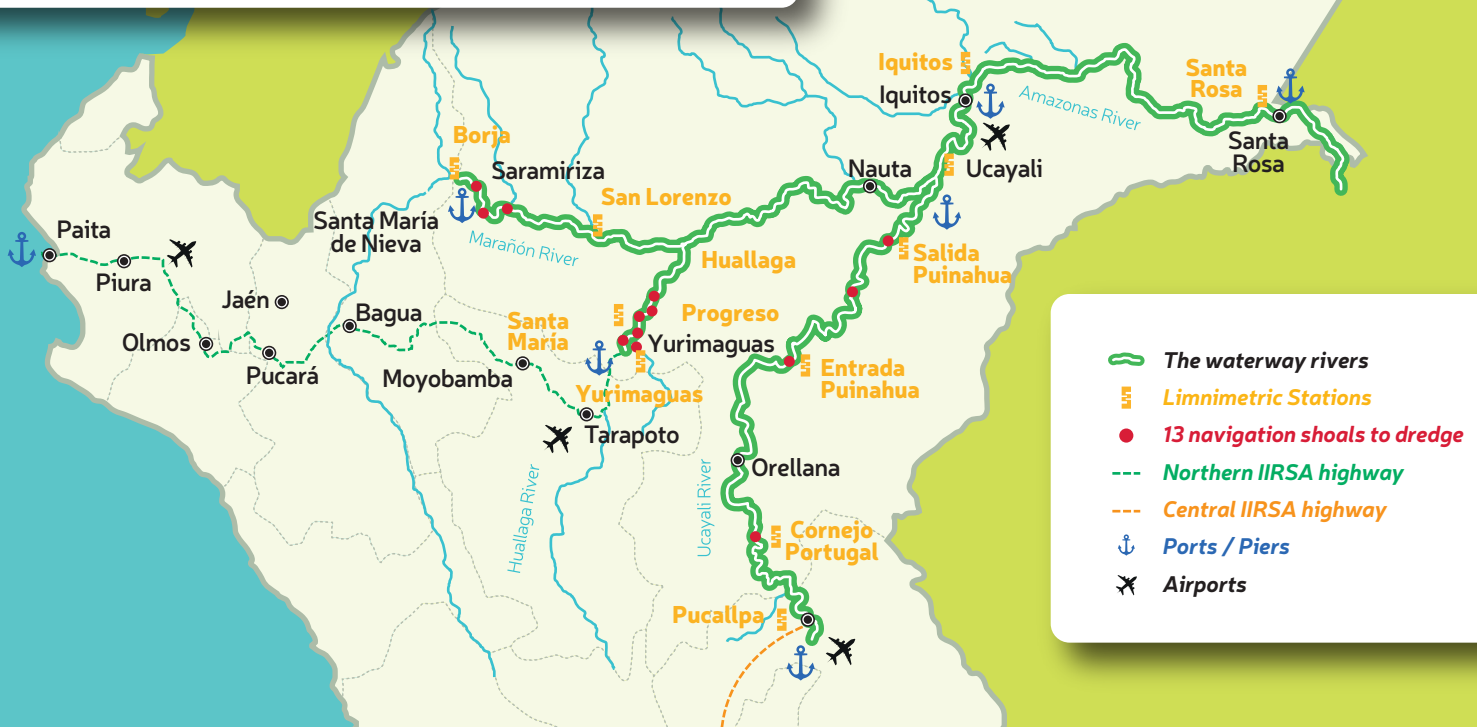
The project aims to adapt navigation in four major rivers of the Peruvian Amazon: Huallaga, Amazonas, Marañón and Ucayali; for a concession of 20 years.

The Waterway Rivers

Marañón y Amazonas Rivers, Saramiriza – Iquitos – Santa Rosa section

Huallaga River, Yurimaguas – Marañón confluence section

Ucayali River, Pucallpa – Marañón confluence section



Fuente: Proinversión. Elaboración propia

The conditioning of the navigation would imply, according to the contract: “dredging” works in the streambed of the rivers to facilitate the passage of the boats; the cleaning service of the river (refers to the cleaning of “quirumas” or stumps, among others); and a package of services for safer navigation within the river channel, such as satellite navigation via GPS.

The project is in charge of the COHIDRO S.A. consortium, integrated by the Peruvian company CASA Construcción y Administración S.A. (50%) and the Chinese company SINOHYDRO Corporation Ltd (50%):

- CASA Construcción y Administración S.A. is a Peruvian company dedicated to the construction industry belonging to the Ecuadorian Hidalgo e Hidalgo business group.

It was part of the Puerto Amazonas S.A. Concessionaire (COPAM), which built the Yurimaguas port and is currently part of the investigation process due to the corruption case of the "Club de la Construcción".

- Sinohydro Corporation Ltd is a Chinese state company dedicated to the construction of infrastructure.

The media and international organizations have associated it with serious impacts, such as biodiversity loss (Kamchay-Cambodia Dam), climate alteration due to forest degradation (Bui- Ghana Dam), human rights violations during relocation (Kjbar-Sudán), water quality affectation (Patuca-Honduras Dam) and work accidents (Coca Codo Synclair- Ecuador Dam).



5

PHOTOGRAPH: Rolando Mondragón / DAR

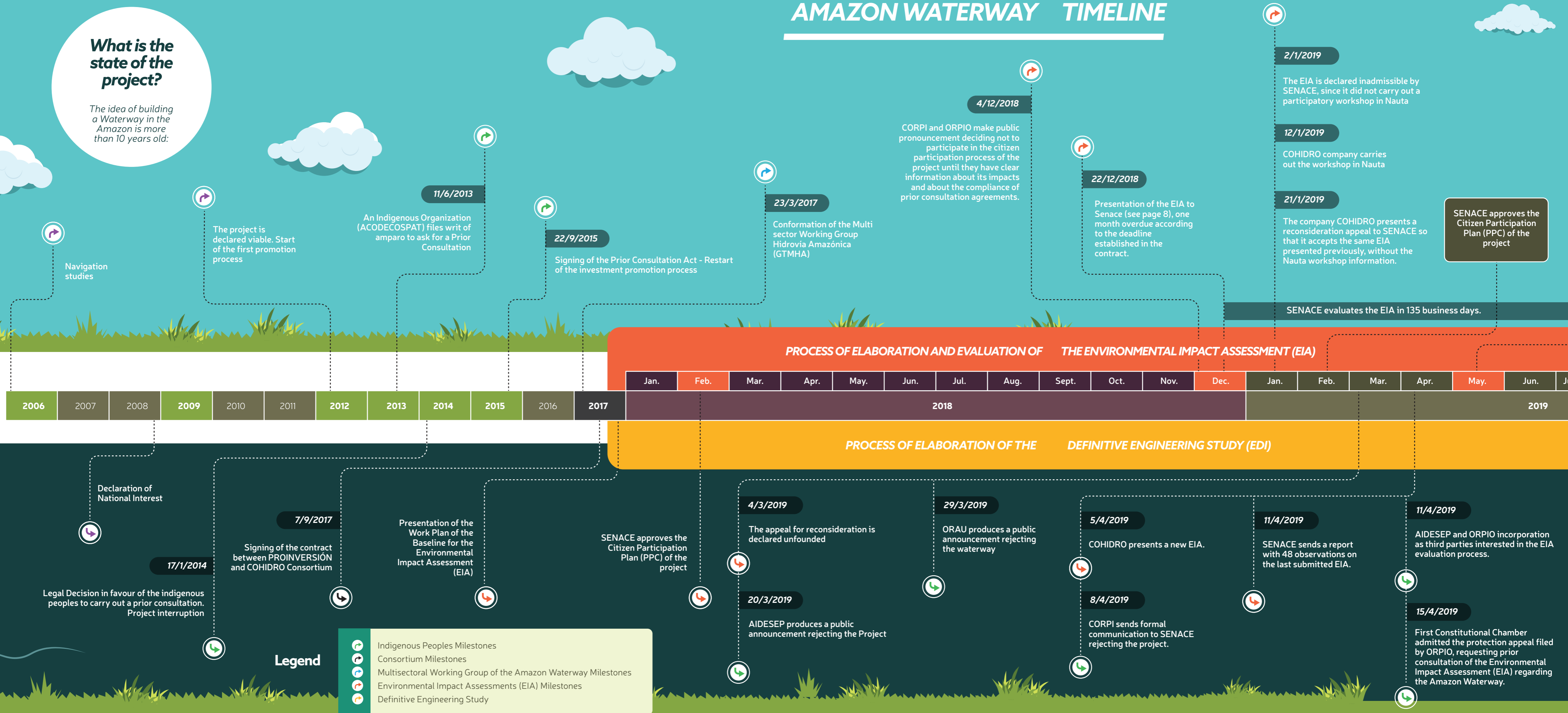
AMAZON WATERWAY TIMELINE

1. <https://www.americaeconomia.com/politica-sociedad/politica/fiscalia-de-peru-pide-investigacion-penalmente-16-empresas-implicadas-en-el>
2. <https://www.phnompenhpost.com/national/hydro-standards-below-par-study-finds>
3. <https://www.internationalrivers.org/resources/bui-dam-ghana-3608>
4. <https://www.theguardian.com/world/2014/dec/12/sudans-anti-dam-movement-fights-the-flooding-of-nubian-culture>
5. https://www.washingtonpost.com/outlook/a-hidden-cost-of-corruption-environmental-devastation/2017/06/16/03f93c1e-52b8-11e7-b064-828ba60fb998_story.html?noredirect=on&utm_term=.7bae8e050b9a
6. <http://www.elcomercio.com/actualidad/coca-codo-sinclair-hidroelectrica-china.html>

AMAZON WATERWAY TIMELINE

What is the state of the project?

The idea of building a Waterway in the Amazon is more than 10 years old:



Navigation studies

11/6/2013
The project is declared viable. Start of the first promotion process

11/6/2013
An Indigenous Organization (ACODECOSPAT) files writ of amparo to ask for a Prior Consultation

22/9/2015
Signing of the Prior Consultation Act - Restart of the investment promotion process

23/3/2017
Conformation of the Multi sector Working Group Hidrovía Amazónica (GTMHA)

4/12/2018
CORPI and ORPIO make public pronouncement deciding not to participate in the citizen participation process of the project until they have clear information about its impacts and about the compliance of prior consultation agreements.

22/12/2018
Presentation of the EIA to Senace (see page 8), one month overdue according to the deadline established in the contract.

2/1/2019
The EIA is declared inadmissible by SENACE, since it did not carry out a participatory workshop in Nauta

12/1/2019
COHIDRO company carries out the workshop in Nauta

21/1/2019
The company COHIDRO presents a reconsideration appeal to SENACE so that it accepts the same EIA presented previously, without the Nauta workshop information.

SENACE approves the Citizen Participation Plan (PPC) of the project

SENACE evaluates the EIA in 135 business days.

PROCESS OF ELABORATION AND EVALUATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

PROCESS OF ELABORATION OF THE DEFINITIVE ENGINEERING STUDY (EDI)

Declaration of National Interest

17/1/2014
Legal Decision in favour of the indigenous peoples to carry out a prior consultation. Project interruption

7/9/2017
Signing of the contract between PROINVERSIÓN and COHIDRO Consortium

Presentation of the Work Plan of the Baseline for the Environmental Impact Assessment (EIA)

SENACE approves the Citizen Participation Plan (PPC) of the project

4/3/2019
The appeal for reconsideration is declared unfounded

20/3/2019
AIDSESEP produces a public announcement rejecting the Project

29/3/2019
ORAU produces a public announcement rejecting the waterway

5/4/2019
COHIDRO presents a new EIA.

8/4/2019
CORPI sends formal communication to SENACE rejecting the project.

11/4/2019
SENACE sends a report with 48 observations on the last submitted EIA.

11/4/2019
AIDSESEP and ORPIO incorporation as third parties interested in the EIA evaluation process.

15/4/2019
First Constitutional Chamber admitted the protection appeal filed by ORPIO, requesting prior consultation of the Environmental Impact Assessment (EIA) regarding the Amazon Waterway.

Legend

- Indigenous Peoples Milestones
- Consortium Milestones
- Multisectoral Working Group of the Amazon Waterway Milestones
- Environmental Impact Assessments (EIA) Milestones
- Definitive Engineering Study



19/5/2019 y 23/5/2019

AIDSESEP, ORPIO, CORPI and ORAU make a public announcement demanding that the project be declared non-viable.



20/5/2019

SENACE accepts the EIA for evaluation.



27/5/2019 y 29/5/2019, respectively

ORAU and CORPI- SL incorporation as an interested third party interested in the EIA evaluation process.



29/5/2019

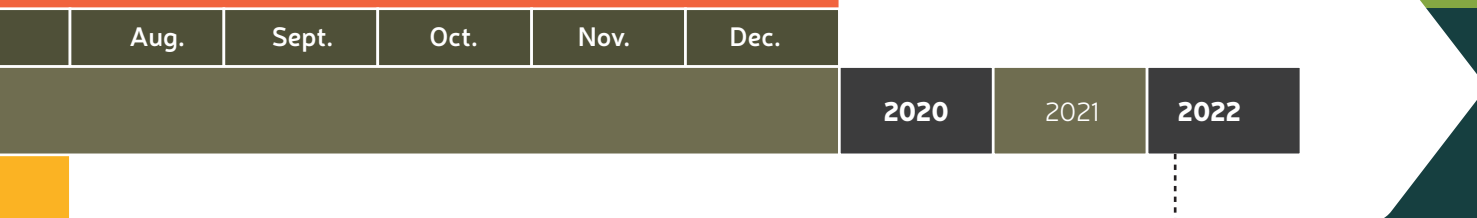
AIDSESEP files a Compliance appeal with the Superior Court of Justice of Lima for the Ministry of Transport and Communications (MTC) to implement the project's prior consultation agreements.



Estimated deadline for the approval or rejection of the EIA.

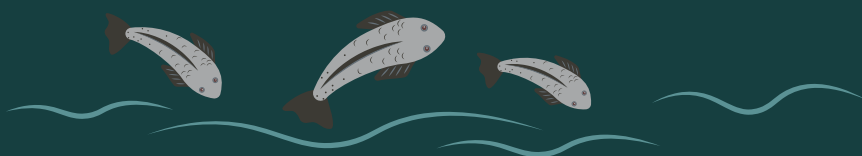


Beginning of Works for a 24-month period



EID Final Report. Up to 22 months contract.

Beginning of Operations



Project File

- Concessionaire: **COHIDRO S.A.**, Consortium, conformed by the Peruvian company CASA S.A. and the Chinese company SYNOHIDRO Corporation Ltd
- Concession Term: **20 years**
- Initial investment: **\$95 million**

Acronymus

- EDI:** Definitive Engineering Study
- EIA:** Environment Effect Assessment
- GTMHA:** Amazon Waterway's Multi-Sector Working Group
- MTC:** Ministry of Transport and Communications
- PPC:** Citizen Participation Plan
- SEA:** Strategic Environmental Study
- TOR:** Terms of Reference

Current Project State:

The Definitive Engineering Study (EDI): Will define the technical characteristics of the project, detailing the areas and volumes of sediment dredging (that would be removed from the streambed of the rivers) and the location of their deposit zones (i.e. where the sediments would be placed), among others.

The EDI is in charge of COHIDRO.SA, which has hired the Royal Haskoning DHV company for its elaboration, and must present the Study before the MTC in July 2019 at most (22 months after the signing of the contract).

The MTC must evaluate the information delivered and OSITRAN, as the regulator of the contract, must issue an opinion on it.

Currently, 5 progress reports have been presented; However, up to now, EDI information has not yet been taken into account in the elaboration of the EIA of the project, mainly related to dredging areas.

It is worth noting that the last two progress reports, particularly important because they contain detailed information on dredging, have been requested to the MTC by indigenous organizations, who rejected their request, violating their right to participation and the prior consultation agreement to make of public knowledge the EDI information to the native communities in the participatory workshops of the project.



FOTO: Rolando Mondragón / DAR

Environmental Impact Assessment (EIA): It foresees the project negative impacts and the actions to mitigate them. It should be presented on November 2018 to SENACE. However, the MTC agreed to extend the submission deadline until December 22nd of the same year.

The company presented the EIA on this date despite the fact that it lacked a public participation workshop in the town of Nauta (Loreto), which on its originally scheduled date (November 30th 2018) was suspended due to the lack of a proper translator of the Kukama language, among other observations.

Therefore, on January 22nd, 2019, SENACE declared the evaluation request by RD No. 001-2019-SENACE-PE /DEIN inadmissible. Despite this, the company filed an appeal for reconsideration on January 22nd, 2019, which was declared unfounded by SENACE on March 4th, 2019.

All this adds up as a background of bad social practices, since the contributions of the citizens attending the Nauta workshop in the presented EIA were not included.

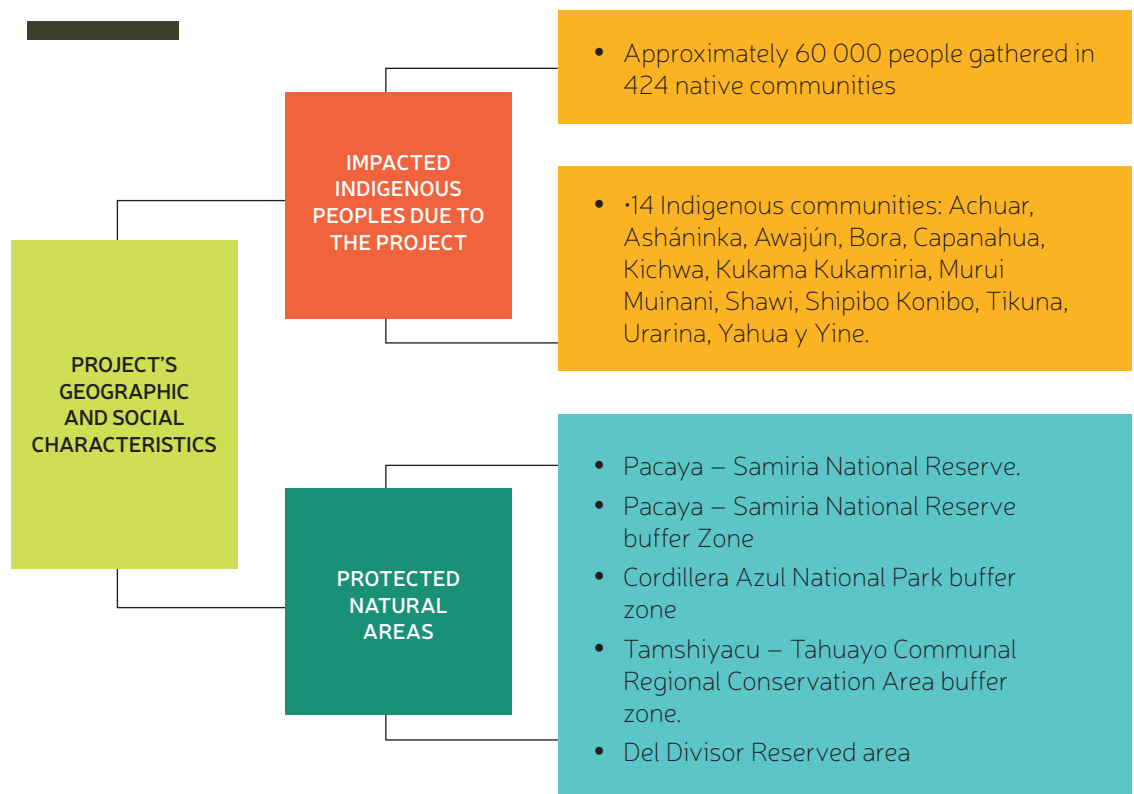
A month later (April 4th), the consultant presented an EIA again. On April 11th, SENACE issued observations on the requirements compliance for the EIA to be admitted. The Consortium delivered this information on May 10th. On May 20th, SENACE admitted the EIA and had 135 working days for its evaluation.

The indigenous organizations AIDSESP, ORPIO, CORPI-SL and ORAU have been included as third parties interested in the evaluation process of the EIA, thus they must

be notified with all the formal information of the process, they may formally send additional letters or reports, participate in or request hearings, and even take legal action.

The AIDSEP, CORPI-SL, ORPIO and ORAU indigenous organizations have made public announcements rejecting the project due to the risks to food safety and indigenous rights that it would encourage, as well as the non-compliance to the agreements of the prior consultation.

Project's geographic and social characteristics



Source: Proinversión. MINCU. Own elaboration

PHOTOGRAPH: Rolando Mondragón / DAR



Amazon Waterway main threats to indigenous people's rights

There are social and environmental risks related to the project. Among those which are most insidious for its effects on the rights of indigenous peoples - such as the right to life, health, territory and cultural identity – are:

- **Food Safety:** The sediments that will be removed during the dredging process are food for different species; in addition, the dredging works could interfere with the “mijano”, affecting fish migration and spawning.
- **Health:** Due to the probability of sediment removal where oil spills have existed, as well as levels of arsenic which have been found in some areas that are above what is allowed.
- **Transport Safety:** The waves produced by large vessels can affect small boats such as the “peque peques”, causing accidents. In addition, dredging could affect the rivers' behaviour, causing changes in the course of rivers, and thereby changing the dynamics of droughts or floods.

Such concerns have been expressed by the indigenous peoples within the geographical scope of the project.

Indigenous participation restrictions: 343 native communities were let out of the EIA

1

To calculate the communities involved in the project, in the previous consultation carried out in 2015, the Ministry of Transport and Communications used a range of 5 km. of distance to the rivers, which meant the participation of 14 indigenous peoples settled in **424** native communities. However, in the Citizen Participation Plan submitted by the concessionaire and approved by SENACE, only **81** native communities and **25** peasant communities were included, greatly reducing participation compared to the prior consultation process.

The Project moves forward without fully complying with the prior consultation agreements previous to signing the contract

2

In 2015, a prior consultation was carried out as a result of a judicial process, where the indigenous peoples (ACODECOSPAT, base of ORPIO) demanded that this process be carried out in response to the initial refusal of the MTC. The prior consultation agreements are linked to the contract, the Terms of Reference for preparing the Environmental Impact Assessment and the policies of the Transport sector.

Next, we will analyse whether the prior consultation agreements have been observed in the Environmental Impact Assessment or not.

Critical Point

- **Critical Points description in relation to the Project.** There was agreement that the EIA would include definitions and a characterization of the such critical points: dredging areas, “*quirumas*” location, characterization of the “*mijano*”. This information is not fully described in the EIA.
- **Dredging areas.** So far there is no definition on how many dredging areas are there and where they are located. Thus, informative workshops have been held in two rounds without clear information about their possible impacts.

Although 13 dredging areas were initially considered, the MTC has stated that there would be a larger number of them. Not having these areas clearly identified prevents the identification of the magnitude of the impacts or the necessary mitigation measures.

- **Quirumas.** The location and number of “*quirumas*” (trunks stuck in the river) that would be removed have not been identified. This generates concern for biological issues, since they are areas where fish reproduce. Also, cultural concerns, because they are key areas for the worldview of the indigenous peoples.
- **Mijanos.** The characteristics of fish migration have not been identified in depth, in relation to times, seasons, average quantities and species. Without this information, the possible impacts cannot be adequately mitigated, and may affect the food safety of the population.

Material Component

- **On sediments, ecotoxicological investigation and heavy metals.** In relation to the quality of sediments, it was agreed to evaluate this in the previous consultation, especially in the dredging and sediment deposit areas.

Although samples are included in the information, there are two problems: There are points that exceed the concentration limits of heavy metals such as arsenic, however there is no clear strategy to deal with this situation. And on the other hand, the samples had to be taken from dredging areas and deposit of sediments, but both are not yet defined in the EIA.

EIAS' TOR Social and Cultural Components

- **Ancestral knowledge was not included in the EIA,** according to the prior consultation agreements the EIA does not guarantee or present a description and full cultural characterization of the indigenous peoples, omitting an in-depth analysis on the indigenous peoples link to the river, with the natural resources and their management from their own point of view.
- **Participation of indigenous spiritual leaders.** The ancestral knowledge of the indigenous spiritual leaders chosen for the project has not been sufficiently identified: according to the EIA, only one inter-learning meeting was held for the collection of cultural information and ancestral knowledge.
- **The Environmental Monitoring Committee has not yet been implemented.** This is a prior consultation agreement that would help strengthen the active participation of local communities. In this regard, the MTC has developed a training process, but a scheme, model or operating system of the Committee has not yet been publicized.
- **Water Supply.** It is a prior consultation agreement that would help identify mechanisms to guarantee access to water during dredging activities. This agreement is not included in the submitted EIA.

Overall MTC commitments

- **The Infringement Regulation and environmental sanctions for fluvial transport are not yet available**, which is a prior consultation agreement that must be fulfilled before the execution of the project. To date, this regulation has not seen any significant progress, it is necessary to initiate this process in order to generate an institutional framework that provides security on the risk management of the Amazon Waterway.
- **There is no fluvial transport regulation.** This was also an agreement of the 2015 consultation, and it is the responsibility of the MTC to prepare it as a precondition for any intervention in fluvial transportation in Peru. So far this instrument has not been put forward.

In the face of uncertainty of impacts, a new process of prior consultation.

What the project has shown up until now, two years after signing the contract, is that there is no clear information about the impacts it may generate. Of the four project's components, two are related to their intervention in the river. One is the dredging and the second is the removal of the "quirumas", and neither of them has elaborated information that allows to define their quantity and location.

On the contrary, confusing and contradictory information was provided during the informative workshops. Both from the consultant hired by the company, and the State, it has been asserted that there might not be 13, but that more dredging areas or "navigation shoals" have appeared, which need to be dredged to make a navigation channel viable such as the Amazon Waterway. This would increase the risks, and represent new and unexpected impacts.

PHOTOGRAPH: Rolando Mondragón / DAR



In the same fashion, in relation to the areas where samples were taken to evaluate the quality of sediments, it was pointed out, in the second round of informative workshops that new dredging areas that exceeded the concentration limits of heavy metals such as arsenic, had appeared. This information was ratified in the EIA but omitted concrete measures to address this scenario. To that extent, we would be facing new and unforeseen impacts.

Only with both points, the conditions of the agreement number 1 of the 2015 process of prior consultation would be fulfilled, which says: "In the case that in the present project (...), the Amazon waterway, new affectations to the indigenous peoples that have not been the subject of this consultation, and are identified during the development of the EIA, they are to be evaluated according to the legislation on the rights of indigenous peoples and their right to prior consultation."

On the other hand, given this uncertainty, Article 2 of the Law of Prior Consultation could be applied, which states that: "it is the right of indigenous or native peoples to be consulted beforehand on legislative or administrative measures that directly affect their collective rights, physical existence, cultural identity, quality of life and development".

Likewise, the Ombudsman's Office is also promoting the Prior Consultation of the EIA in investment projects.

Economic Findings

1

The Amazon Waterway has been found to be an oversized project

According to an analysis made to the Feasibility Assessment of the Amazon Waterway project, dated August 28th 2012, approved by the Ministry of Transport and Communications - MTC, the feasibility declaration of the project has the same weaknesses that characterize other questioned projects such as the Chinchero Airport or the Southern Inter-oceanic Highway: a) overestimated demand and b) unsustainable social benefits.

In the Feasibility Study, the estimated demand gap -which measures the impact of the project on this indicator and contributes to the economic support of the project- **is overestimated by more than 680%**, since its economic 20-year projection, estimates a growth rate superior to that of their own calculations.

Also, 40% of the total demand of the Waterway would be constituted by informal transport that, the study assumes, would be willing to pay the "toll" for the use of the Waterway, despite not quantifying the benefits that in the short term it would bring to shippers and users.

Then, the Peruvian State will make an approximate payment of **US \$ 160 million⁷** for an oversized Waterway project which does not contribute to solve the informality of the current transport, something that is recognized by the feasibility study itself.

7. Current value estimation with a 12% discount rate

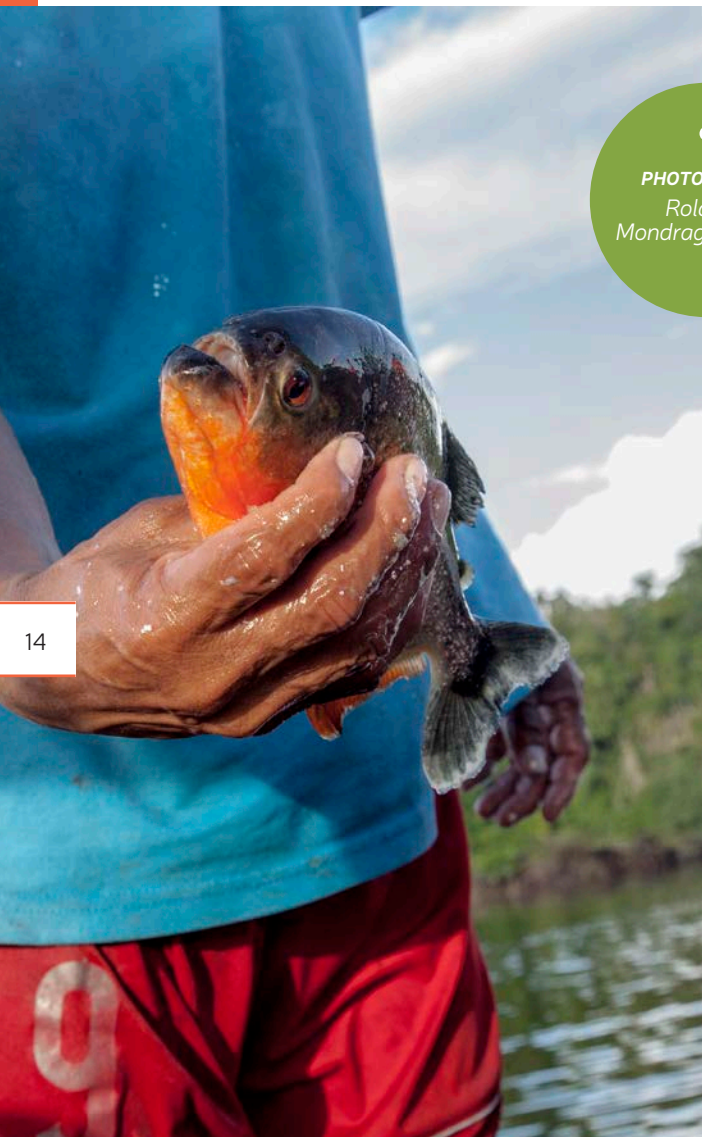
- The growth of trade with Brazil, based on the transfer of phosphates from Bayóvar and soybean through the Amazon Waterway, has no economic sustainability.
- The financing of the Amazon Waterway focuses on the construction work itself and not its utilization. The Southern Interoceanic Highway had, for example, this same scheme.
- There has not been a correct analysis of alternatives for improving the navigability.

2

Growth of exports to Brazil from an unsustainable Amazon Waterway

Although the Feasibility Study indicates that the transit of vessels generated by foreign trade will not occur from the Waterway implementation, and that therefore the focus of the study will be based on internal demand, when making the projections of the demand with project in use, the Feasibility Study estimates, without solid support, a large growth in the foreign trade due to future exports from Bayóvar phosphates as well as the transit of soy from Brazil and destined for the Asian market, which grows by 300% in the 20 year period.

PHOTOGRAPH:
Rolando
Mondragón / DAR



A component of the project includes the cleaning of quirumas or trunks stuck in the river. The quirumas are sacred to the Kukama people because they are considered entry gates to the world that exists under water, and it is a Prior Consultation Agreement for the project that they are not withdrawn from the river.

Thus, foreign trade goes from representing 3.6% of total traffic at the beginning of the project to 15%, although it is acknowledged in the same study that the route by the waterway is up to 50% more expensive than the one currently used by the Brazilian exporters. In that order, it is not clear why they would be willing to pay more in Peru, especially when logistics costs are critical in the trade of raw materials.

In addition, the motorboats that sail along the Madeira River in Brazil (where 8% of the soybean exported by the country is transported), part of which would be diverted to the Peruvian Amazon under the projection of the investigation, have a depth of 3.5mts (depth from the water level); while the Amazon Waterway is designed to ensure a depth of 2.4mts.⁸

3

Validity of the Feasibility Study

When the public tender process to award the Amazon Waterway project to the private sector began, the validity period of the Feasibility Study had already ended, which is a three years term according to the current regulations⁹ of the National Public Investment System.

Three Amazon Waterway contradictions



The Amazon Waterway project would be:

More expensive for foreign trade: The Feasibility Study itself acknowledges that the route by the Amazon waterway would be 50% more expensive than the one currently used by Brazilian exporters.

Inviability for the navigation of vessels from Brazil: the motorboats that sail along the Madeira River in Brazil - part of which is expected to be diverted to the Peruvian Amazon - have a depth of 3.5mts; while the Amazon Waterway is designed to ensure a depth of only 2.4mts.

Oversized: The total demand gap is overestimated by more than 680%.

8. See: A planning framework for improving reliability of inland navigation on the Madeira river in Brazil», Creech, et al., US Army Corps of Engineers, 2018.

9. According to the Directorial Resolution N° 003-2011-EF / 68.01 (General Directive of the National System of Public Investment), the validity of the pre-investment studies was 3 years from the declaration of viability. But the MTC asks "Pro Inversion" to restart the project promotion process two months after the expiration of said term

Environmental Observations

1

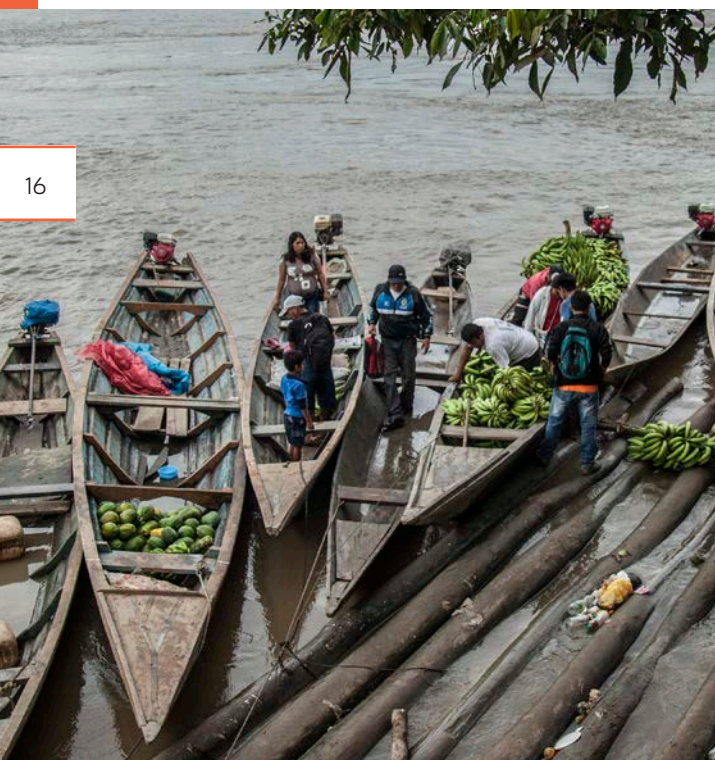
Lack of specialized investigation on the behaviour of the Amazonian rivers

- a. Specific studies of morphodynamics or rivers' behaviour.
- b. Insufficient and unclear studies on fishery, migratory behaviour and fish reproduction.
- c. Dynamics and biological functions of the quirumas or trunks stranded in the river, as they serve as food and shelter for some species.
- d. Identification of environmental liabilities, this commitment is part of the agreements of the prior consultation process, and it is the State's obligation to comply.
- e. Investigation on ecotoxicology of the sediments to be dredged, that is to say, in depth studies about how the heavy metals present in the sediments will affect the aquatic fauna and the life of the river in general.
- f. Field studies on transport of bottom sediments. That is, how the bottom sediments behave and move.

These studies should have been included in the EIA to comply with the many prior consultation agreements, and be made public through mechanisms of transparency and access to information.

Additionally, an analysis of risk and vulnerability to climate change and / or studies on the effect of climate change on the Amazonian rivers must be carried out.

PHOTOGRAPH: Rolando Mondragón / DAR



2

Legal vacuum and weaknesses of the regulatory framework

- a. The Environmental Protection Regulation of the Sector does not include specific environmental protection measures for waterways.
- b. The updating of the Regulations on Citizen Participation of the Transport Sector is pending, the current regulation was approved 14 years ago.
- c. The transfer of Surveillance and Inspection powers to OEFA, which was scheduled for 2016, is still pending; and the approval of the sanction and environmental incentives for the Transport sector; and the approval of the Infringement and Sanctions Regulation in matters of Environment, for fluvial transport.
- d. It is necessary to make the proposal of the National Waterway Plan public, which needs the application of a Strategic Environmental Study (SEA) so that the investments made under such Plan are sustainable.

In that order, there is no adequate regulatory framework for the development of the Amazon waterway that assures the respect local citizens require.

3

Social Observations

- a. According to the Environmental Impact Assessment, it would affect food safety, water supply and indigenous worldview. The EIA does not provide sufficient mitigation measures to counteract and reduce these impacts.
- b. Insufficient and limited incorporation of ancestral knowledge of certified indigenous spiritual leaders and contributions from the local population in the Environmental Impact Assessment.
- c. Deficient Citizen Participation process:
 - **Decreased citizen participation:** In the second round of participatory workshops, the number of participants declined by almost one-third in comparison to that of the first round, and the absence of authorities was noted.



- **The organizational structure of indigenous organizations was not taken into account**, since it was coordinated directly with the authorities of each community and not at the local and regional federation levels.
- **Citizen participation was limited**, as the consultant reduced the number of participants per federation.
- **Lack of intelligible information** and lack of preparation from the exhibitors' part.
- **The MTC has not made public the information that has been collected** in the progress reports of the Definitive Engineering Study.

4

The contract does not guarantee the total mitigation of environmental impacts by the company.

The concession contract for this Public Private Partnership (PPP) project states that if mitigation measures, identified by an environmental authority, additional to those established in the Environmental Impact Assessment (EIA) are necessary, they will be considered "additional works" and a modification to the contract would be necessary for them to be taken into account (Source: Clause 13.29). According to the Contract, the concessionaire may not agree to additional works; in that case, the Peruvian State would end up assuming the costs. This exempts the company from liability, while the State, and all Peruvian citizens would be the ones who pay the mitigation measures.

This clause is even more worrying in a context where the Consortium has elaborated an EIA and identified impacts without considering previous rigorous technical studies.

Considering that the Amazonian rivers can vary in an unpredictable way, it is very probable that during the 20 years of concession conditions will be generated where additional works and modification of the contract will be necessary, therefore the efficiency of the project is questioned.

Additional works are established by a modification of the contract. Thus, if greater dredging volumes than those established in the contract are identified, or modifications in the most essential works, it would be necessary to carry out the questioned **addendum**.

This mechanism has generated corruption and huge losses for the Peruvian state in other infrastructure projects.

Likewise, the contract states that the administrative procedures for environmental authorizations and / or certifications will be carried out according to the SEIA. That is to say, if the concessionaire makes any changes in the main or secondary components of the project, it must elaborate the corresponding environmental instrument, such as a new EIA, among others.

What should the State do?

- a. SENACE should not approve the EIA of the project because it does not present clear information about the dredging areas, their real impacts and mitigation measures. To do this, it is necessary to include detailed and up-to-date technical studies on the rivers' behaviour, ecosystems and pollutant dynamics, as part of the identification of the impacts of dredging on Amazonian rivers and on food safety.
- b. The MTC must fully comply with all the agreements from the prior consultation carried out in 2015, mainly regarding the non-affectation of food safety caused by the dredging works, the access of the population to clean water, the development of the mijano; and the affectation of the sacred quirumas, maintaining this as a precondition for the continuation of the project. Also, the MTC must make transparent and public the Definitive Engineering Study.
- c. The MTC should apply a Strategic Environmental Assessment (SEA) to the National Waterway Plan, so that the investments issued under the Plan are sustainable.
- d. The Comptroller of the Republic must review the project's concession contract in order to analyse the economic justification criteria of the project, as well as the compliance of the requirements to obtain the feasibility of the project.
- e. OSITRAN, in its role as the contract's regulator, must guarantee compliance with the clauses within the contract, avoiding the generation of an addendum and guarantee the corresponding fines for the delay in the submission of the EIA and other non-compliances.
- f. SERNANP, as the project's technical adviser, should require the EIA to have a precise and exhaustive analysis of the impacts on protected areas of the project's area of influence.
- g. ANA, in its capacity as technical adviser for the project, must ensure that the quality of water and rivers and the ecological flow to be intervened are not affected.
- h. The Ombudsman's Office must produce a report on the risks that this project could cause, in relation to the violation of the rights of indigenous peoples and environmental rights.
- i. The State must develop an Amazon Development Plan to incorporate the vision of development of the local people and increase the viability of the projects.
- j. The State must strengthen the implementation of the right to prior consultation in all its stages: at the beginning (before the contract or TORs), before the approval of the EIA and before the project's closure.
- k. The MINCU (Ministry of Culture) must ensure and strengthen the functioning of the Permanent Nature Multisectoral Commission for the application of the Right to Prior Consultation, created by S.D. 021-2013-PCM and modified by S.D. 052-2016-PCM, in charge of the Vice-Ministry of Interculturality, and in charge of the follow-up actions for the implementation of the agreements of the prior consultation processes.



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