

Executive Summary

Chinese Business Activities and Human Rights in Latin America

Cases of Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Peru, and Venezuela

4th Universal Periodic Review Cycle of the United Nations
People's Republic of China

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Executive Summary

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Introduction

Since 2015, China has been Latin America's second business partner, and South America's first; China is the main destination for raw materials exported from the region and the main source of capital assets. Latin America is the second destination for Chinese investments worldwide¹, and for the past five years, the main focus of these investments are renewable energies, transport, food, and critical minerals. China is the second moneylender in the region, beating even some multilateral organizations; between 2005-2022, its financing reached US\$135 billion, and more than 90% went to Venezuela, Brazil, Ecuador, Argentina, and Bolivia. This greater economic influence affects territories and populations that are socially and environmentally fragile.

In this context, the Collective on Chinese Financing and Investment, Human Rights and the Environment (CICDHA, in Spanish), alongside other 35 partner organizations that monitor the social and environmental impacts of Chinese business and financial activities in the region, have consolidated a regional report that indicates serious impacts of Chinese investments and a systematic breach of treaties and agreements on human rights and the environment. The report analyzes 28 projects that include the participation of 28 companies and at least 8 banks domiciled in China. These projects have an impact on the territories of 9 countries: Argentina (3), Bolivia (4), Brazil (1), Chile (2), Colombia (1), Ecuador (8), Mexico (2), Peru (5), and Venezuela (2); and include the mining (14), hydropower (5), hydrocarbons (4), infrastructure (2), food and agriculture (2), and energy (1) sectors.

1. Chinese investments in Latin America: US\$155 billion on average between 2005-2020.

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Chinese extraterritorial obligations, and social and environmental policies for overseas business activities

In its third UPR (2018), China received six recommendations with regard to its extraterritorial obligations on business activities (28.130, 28.131, 28.132, 28.133, 28.134, 28.135). These recommendations were assessed by CICDHA, the International Service for Human Rights, and the International Federation for Human Rights, showing that the State of China has carried out initial actions to comply with the recommendations, but these are insufficient and ineffective. Likewise, UN Special Rapporteurs and the Working Group on Business and Human Rights have expressed their concerns over different projects. Furthermore, since 2018, eleven letters have been sent to the State of China regarding cases of abuse involving the participation of Chinese corporations and, in March 2023, in the Concluding observations on the third periodic report of China, the Committee on Economic, Social and Cultural Rights (CESCR) recommended establishing a clear regulatory framework for business and financial entities to avoid affecting ESCR (par. 17-21).

China has different social and environmental guidelines, plans, and policies to guide the actions of its business and financial entities overseas. These have gradually evolved, encouraging the compliance of international standards, which shows they have the intention to take co-responsibility for the social and environmental impacts of the projects supported by the State of China and its economic entities. Nevertheless, the different projects analyzed herein show that these efforts are not enough nor are being implemented.

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Impacts on human rights and the environment of Chinese business activities in Latin America

Right to a clean, healthy and sustainable environment

Impacts on the right to a clean, healthy and sustainable environment are seen in all 28 projects, 21 of which are located in fragile and strategic ecosystems for climate change – such as the Amazon and glaciers – and have national and international protection programs. This is the case of Tarapoa and Ishpingo Oil Blocks and the Coca Codo Sinclair Hydropower Complex in Ecuador, and the Santa Cruz Oil Block in Argentina. In several cases, areas that are protected by national environmental protection systems have been affected, such as the Ivirizu Hydropower Project (Bolivia), Junín and Carabobo Oil Blocks (Venezuela), and lithium mining – affecting Uyuni and Coipasa Salt Flats in Bolivia, and the Olaroz-Cauchari and the Tres Quebradas Projects in Argentina.

Mercury contamination of water sources and contributions to illegal mining practices have been reported in the mining projects of El Napo in Ecuador and El Madidi in Bolivia. Large-scale mining also contaminates water sources, such as Las Bambas and Toromocho Projects in Peru, and the Mirador Project in Ecuador.

In at least 10 cases, projects lack an appropriate environmental license. Various projects show deficient and outdated Environmental Impact Assessments (EIAs), such as San Carlos-Panantza Project in Ecuador. On the other hand, the São Manuel Hydropower Plant in Brazil has an incomplete EIA and/or lacks an impact assessment on Indigenous Peoples. Other cases demonstrate irregular practices, particularly untimely modifications, such as in the Rucalhue Hydropower Plant and the Dumestre Salmon Plant in Chile. Most projects show a lack of transparency, such as the Buriticá Mine in Colombia, Mayan Train in Mexico, and Ivirizu Hydropower Plant in Bolivia.

Indigenous people rights

Twenty projects show abuse of Indigenous Peoples' rights. There are serious threats to the integrity of Indigenous Peoples in Voluntary Isolation (IPVI), such as the Toromona, who are threatened by illegal mining in El Madidi in Bolivia, and the Tagaeri-Taromenane, threatened by the Ishpingo Block in Ecuador, which is under investigation by the Inter-American Court of Human Rights (IACtHR) for ethnocide allegations. Moreover, sixteen projects affect the cultural heritage of Indigenous Peoples' lands, such as the case of the São Manoel Hydropower Plant in Brazil. Sixteen projects did not follow a consultation process according to international standards to obtain free, prior and informed consent (FPIC) from affected communities, such as in the case of the Dumestre Salmon Plant in Chile and the Mayan Train in Mexico. At least five projects were shut down due to either rejection or problems getting the FPIC: Río Blanco, San Carlos Panantza and gold mining in El Napo in Ecuador; Rucalhue Hydropower Plant in Chile; and Yucatán Solar Park in Mexico.

Right to an adequate standard of living, food and housing

Nine projects breached the right to food, they also affected food sovereignty and food security. In the Port of Chancay in Peru, dozens of houses were affected, causing deterioration and the risk of collapse. In different mining and infrastructure projects, communities have reported land grabbing, dispossession processes and forced evictions, such as in the case of Mirador and San Carlos-Panantza Mines in Ecuador, Toromocho in Peru and the Mayan Train in Mexico.

Civil and political rights

In 15 projects there is abuse of and violations against civil and political rights. In this context, there is a clear process of corporate capture, since the violations identified are led by law enforcement and the judicial system of the State receiving the investment, benefiting the interests of private security companies hired by them. At least 9 cases show legal processes and criminal lawsuits criminalizing defenders.

High levels of conflict and violence in the projects show a lack of business mechanisms to prevent, mitigate and attend to the demands of the affected communities. There is proof of criminalization of the right to peaceful protest in the Rucalhue hydropower plant in Chile and the Junín and Carabobo Blocks in Venezuela; excessive use of force in social protest situations where people from affected communities have even lost their lives in the Río Blanco in Ecuador, and Las Bambas, Toromocho and Río Blanco projects in Peru; excessive use of the judicial system (harassment, arbitrary arrests, and disproportionate criminal accusations); clientelism and other irregular practices that affect participation rights and social control in Yucatan Solar in Mexico, and Junín Block in Venezuela.

Labor rights

Thirteen projects show abuse of labor rights, for instance poor working conditions and low wages. This is the case of Ivirizu hydroelectric power plant in Bolivia, Mirador in Ecuador, and Buriticá in Colombia. Reiterative payment delays and absence of payment has been documented in Santa Cruz River in Argentina, Marcona in Peru, and the Mayan Train in Mexico; breach of negotiations and collective agreements in El Mutun in Bolivia, Marcona, Junín and Carabobo in Venezuela; and illegal dismissals in Buritica and Three Gorges in Argentina. In addition, they show actions against unionized workers in Junín, Carabobo and Marcona, and mass dismissals in Junín and Toromocho in Peru. In at least three projects, namely, Marcona, Ivirizu and Buriticá, companies outsource workers to avoid their labor responsibilities. Additionally, in the context of the COVID-19 pandemic there was evidence of lack of labor protection (unsanitary conditions).

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Conclusions and recommendations

As a result of the weak implementation of the recommendations accepted by China in the third UPR, it is clear that abuse of human rights and the environment continues in the 28 projects in the 9 countries analyzed herein. Projects by Chinese financial companies and entities are large scale and are currently affecting socially and environmentally sensitive areas, such as Indigenous Peoples lands (and IPVI) and rural communities, and highly biodiverse ecosystems that are key to global climate stability.

Therefore, the Latin American civil society calls on the State parties that will evaluate China in its 4th UPR to channel the following recommendations so that China complies with its extraterritorial obligations. We urge them to recommend to China:

1. To demand immediate implementation of the recommendations related to business, human rights and climate change made by CESCR in its Concluding Observations, which are in line with General Comment No. 24 made by CESCR on the obligations of the States.

2. To urge Chinese embassies and consulates in each Latin American and Caribbean country to become formal channels of communication between host-country civil society organizations and Chinese entities, in order to facilitate timely discussions on social and environmental conflicts related to projects and to prevent their escalation.
3. To request the State-owned Assets Supervision and Administration Commission of the State Council, the National Financial Regulatory Administration, and the National Development and Reform Commission to conduct due diligence examinations and establish redress mechanisms for projects involving Chinese banks and companies abroad, meeting the highest international standards.
4. To request the National Financial Regulatory Administration to require Chinese policy and commercial banks to establish independent grievance response mechanisms – as advised by the Green Finance Guidelines for the Banking and Insurance Industry, issued by China Banking and Insurance Regulatory Commission in 2022 – opening platforms for dialogue and conflict resolution in a timely and safe manner for any type of loan, whether sovereign, direct or intermediated by other financial institutions or through investment funds.
5. To develop in a two-year period a National Action Plan for Chinese Overseas Investment that includes quality indicators, resources and institutional support to ensure that Chinese business stakeholder and state financiers operating abroad comply with the SDGs and extraterritorial obligations included in international treaties and conventions ratified by China and the receiving country, such as ILO Convention No. 169, the American Convention on Human Rights, UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), and the Escazú Agreement.
6. To request Chinese financial institutions and companies involved in the 28 projects included in this report to take urgent measures for comprehensive repair and remedy due to the negative impacts inflicted on the affected communities, as incorporate control mechanisms that prevent the recurrence of such impacts.
7. To request the China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters (CCCME) to proactively inform all stakeholders about the existence of the Mediation and Consultation Mechanism for the Mining Industry and Mineral Value Chain. CCCME should encourage the Mechanism to align to international treaties and covenants in terms of business and human rights, guaranteeing its accessibility, legitimacy, predictability, transparency, equity, rights-based.

8. To request banks to establish public, mandatory, quality social and environmental safeguards, detailing: how they will be implemented and updated; an exclusion list of financial activities in areas with cultural value, environmentally fragile – such as the Amazon biome or the glaciers, and territories without FPIC; project risk categorization, assessment and due diligence; a climate change mitigation and adaptation plan that align with the recommendations by the Intergovernmental Panel on Climate Change.
9. To request banks to improve the quantity and quality of the information they publicly disclose and provide on their websites, it should include information on approved loans involving both governments and companies or those granted through financial intermediaries; a summary detailing every project funded, the Environmental Impact Assessment (EIA) and the Environmental Management Plan (EMP); and evidence of the FPIC for projects located in Indigenous territories. Also, ensure that all information published on their website is available in Spanish and/or Portuguese.
10. To include social, environmental, transparency and anticorruption clauses in loan and construction contracts. These contracts should at least contain an Environmental Annex including: laws and regulations relevant to the host country; international conventions and treaties such as the Escazú Agreement and ILO's Convention No. 169; the highest international standards for the relevant sector; Chinese social and environmental guidelines; and the highest international standards.
11. To urge the Permanent Mission of China to the United Nations and other international organizations in Geneva to direct the complaints from civil society organizations affected by Chinese companies and banks in regards to breaches of international conventions and covenants on human rights, to the competent Chinese organizations.
12. To adhere to Resolution 76/300 of the United Nations General Assembly from July 2022, which declares a “clean, healthy and sustainable environment” as a universal human right, and to support a more effective environmental multilateralism with conviction and ambition. We consider that supporting the aforementioned Resolution is an essential step towards a greater commitment to the implementation of the Paris Agreement.

Table 1. Projects analyzed and impacts on social and environmental rights

No.	Country	Project Name	SECTOR	Status	Chinese Company	Chinese Banks ²	Affected Groups			UNDRIP ¹		ICCPR ¹					ICESCR ¹			Environment, business and human rights development ¹				Labor rights	Sensitive and protected natural environment	Amazon		
							Indigenous Peoples	Local Communities	Human Rights Defenders	Territory	Self-determination	Free Prior and Informed Consultation (FPIC)	Participation	Information	Life	Personal integrity	Freedom	Criminalization	Militarization	Freedom of association	Right to Food	Right to Health	Cultural rights				Environment	Land
1	ARG	Olaroz-Cauchari lithium mining project	Mining	Under construction	Jiangxi Ganfeng Lithium Co. Ltd.	...	X			X	X							X			X	X		X				
2	ARG	Tres Quebradas lithium mining project	Mining	Under construction	Zijin Mining	...	X	X	X	X	X								X					X	X			
3	ARG	Hydroelectric complex on the Santa Cruz River	Hydroelectric power	Under construction	China Gezhouba Group Company Limited	CDB, ICBC	X	X		X	X								X					X	X			
4	BRA	Sao Manuel hydroelectric power plant	Hydroelectric power	In operation	China Three Gorges	CDB	X				X							X	X	X							X	
5	BOL	El Mutún steel project	Mining	Under construction	Sinosteel Equipment & Engineering Co. Ltda.	EXIMBANK	X				X									X				X	X	X		
6	BOL	Lithium mining project in the Uyuni and Coipasa Salt Flats	Mining	Under construction	CATL - Contemporary Amperex Technology, BRUNP - Grupo empre-sarial (subsidiaria de CATL) y CMOC ³ - China Molybdenum Co	...	X	X		X	X	X	X						X			X	X					
7	BOL	Illegal gold mining in Madidi National Park	Mining	In operation	Ranfeng Import & Export S.R.L. Liuyang Huixin Co. Ltd., Yongchen Placer Machinery Co. Ltd., Jinqi Kuangshan Co. Ltd. y Qingzhou Hengchuan Co. Ltd. ⁴	...	X		X	X	X	X						X	X	X	X	X	X	X		X	X	
8	BOL	Ivirizu hydropower project	Hydroelectric power	Under construction	Sinohydro Corporation Limited Sucursal Bolivia	...																		X	X	X		
9	COL	Buritica Mine	Mining	In operation	Zijin-Continental Group	...		X				X	X						X		X	X	X	X				
10	CHL	Rucalhue Hydroelectric Power Plant	Hydroelectric power	Paralyzed	China International Water & Electric	...	X	X	X	X	X	X						X								X		
11	CHL	Dumestre Hydrobiological Resources Processing Plant	Food	In operation	Grupo Joyvio, Legend Holdings	...		X			X	X									X					X		
12	ECU	Mirador mining project	Mining	In operation	CRCC-Tongguan, China Railway Construction Corporation (CRCC) y Tongling Nonferrous Metal Group (TNMG)	BDC, BCh, EXIMBANK, ICBC, Merchant Bank of China, China Construction Bank	X		X	X	X												X		X	X	X	
13	ECU	Río Blanco mining project	Mining	Paralyzed	Junefield Mineral Resources Holding Ltd. y Hunan Gold Group	...	X			X	X	X											X				X	
14	ECU	San Carlos-Panantzana mining project	Mining	Paralyzed	CRCC Tongguan Invest-ment Co.Ltd., Tongling Nonferrous Metals Group Holdings Co.Ltd. y China Railway Cons-truction Corpor. (CRCC ⁵).	BDC, BCh, EXIMBANK, ICBC, Merchant Bank of China, China Construction Bank	X			X	X	X								X	X	X				X	X	
15	ECU	Illegal gold mining in El Napo	Mining	Paralyzed	TerraEarth Resources SA	...	X			X	X								X	X	X	X	X					X
16	ECU	Coca Codo Sinclair hydroelectric project	Hydroelectric power	In operation	Sinohydro Corporation	EXIMBANK	X	X	X										X	X	X	X			X	X		

1. UNDIPI: Declaration on the Rights of Indigenous Peoples; ICCPR: International Covenant on Civil and Political Rights; ICESCR: International Covenant on Economic, Social and Cultural Rights; Human right to a clean, healthy, and sustainable environment
2. CDB: China Development Bank; ICBC: Industrial and Commercial Bank of China; Chexim: Export-Import Bank of China; BOC: Bank of China; CMB: China Merchants Bank; CCB: China Construction Bank; ABC: Agricultural Bank of China
3. CATL: Contemporary Amperex Technology; BRUNP - Business group (CATL subsidiary); CMOC: China Molybdenum Co.
4. Ranfeng Import & Export SRL. Liuyang Huixin Co.Ltd, Yongchen Placer Machinery Co.Ltd, Jinqi Kuangshan Co. Ltd, Qingzhou Hengchuan Co. Ltd
5. CRCC: China Railway Construction Corporation (CRCC); TNMG: Tongling Nonferrous Metal Group (TNMG)
6. CNPC: China National Petroleum Corporation; CCDC: Chuanqing Drilling Engineering Company Ltd; SINOPEC: China Petroleum & Chemical Corporation
7. Minerals and Metals Group MMG Limited; Guoxin International Investment Co. Ltd., CITIC Metal Co. Ltd.
8. OB: Orinoco Belt

No.	Country	Project Name	SECTOR	Status	Chinese Company	Chinese Banks ²	Affected Groups				UNDRIP ¹ United Nations Declaration on the Rights of Indigenous Peoples				ICCPR ¹ International Covenant on Civil and Political Rights				ICESCR ¹ International Covenant on Economic, Social and Cultural Rights				Environment, business and human rights development ¹				Labor rights	Sensitive and protected natural environment	Amazon	
							Indigenous Peoples	Local Communities	Human Rights Defenders	Human Rights Defenders	Territory	Self-determination	Free Prior and Informed Consultation (FPIC)	Participation	Information	Life	Personal integrity	Freedom	Criminalization	Militarization	freedom of association	Right to Food	Right to Health	Cultural rights	Environment	Land				Water
17	ECU	Ishpingo ITT Block	Oil industry	In operation	China Nacional Petroleum Corporation (CNPC ⁶), Chuangqing Drilling Engineering Company Ltd (CCDC ⁶)	...	x				x	x	x	x	x	x												x	x	
18	ECU	Tarapoa Petroleum Block	Oil industry	In operation	China National Petroleum Corporation (CNPC) y China Petrochemical Corporation (SINOPEC ⁶)	...	x											x	x									x	x	
19	ECU	Shrimp farm in Puná Island	Food	In operation	Heng Xin Cia. Ltda	...		x																				x		
20	MEX	Yucatan Solar Project	Energy	Paralyzed	JinkoSolar Investment Pte. Lt.	...	x	x			x																			
21	MEX	First Section of the Tren Maya	Infrastructure	Under construction	China Communications Construction Company	...	x	x		x	x																x	x		
22	PER	Las Bambas mining project	Mining	In operation	Minerals and Metals Group MMG Limited, Guoxin International Investment Co. Ltd. Y CITIC Metal Co. Ltd. ⁷	CDB, BCh, EXIMBANK, ICBC																								
23	PER	Marcona Mine	Mining	In operation	Shougang Hierro Perú SA, Shougang Corporation	ICBC, Banco DBS Hong Kong																						x	x	
24	PER	Río Blanco mining project	Mining	In operation	Zijin Mining Group Co. Ltd., Tongling NonFerrous Metals Group Holdings Co. Ltd., Xiamen C&D Inc	Agricultural Bank of China, ACBh, China Construction Bank, ICBC	x	x																				x		
25	PER	Toromocho mining unit	Mining	In operation	Minera Chinalco Perú S.A. (Chinalco Perú), Aluminum Corporation of China (CHINALCO)	CDB, EXIMBANK		x																				x		
26	PER	Chancay Port	Infrastructure	In operation	Cosco Shipping Ports	...		x																				x	x	
27	VEN	Carabobo Block, Orinoco Oil Belt ⁸	Oil industry	In operation	China National Petroleum Corporation (CNPC ⁶)	...	x																					x	x	
28	VEN	Junín Block, Orinoco Oil Belt ⁸	Oil industry	In operation	China National Petroleum Corporation (CNPC ⁶), China Petroleum & Chemical Corporation (Sinopec ⁶)	CDB	x																					x	x	x

1. UNDRIP: Declaration on the Rights of Indigenous Peoples; ICCPR: International Covenant on Civil and Political Rights; ICESCR: International Covenant on Economic, Social and Cultural Rights; Human right to a clean, healthy, and sustainable environment
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