

Between national engine and corporate plunder: the drift of Argentina's Fiscal Oilfields **YPF**

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REPORT SUMMARY

YPF

Few symbols encapsulate **Argentina's national development narrative** as much as the Yacimientos Petrolíferos Fiscales **YPF** (fiscal oilfields)

With assets worth **US\$12 billion** and responsible for nearly half of the country's oil **production**, it is not just another company: **it has virtually shaped the future of the entire national economy**. Without analysing decisions regarding YPF, however, it is impossible to understand the results of foreign trade in energy, or the start of shale-gas production (fracking) at Vaca Muerta.

The management of YPF has changed according to the priorities of successive governments, but **business options**, always open up to different **economic groups, transnational companies (TNCs) and investment funds**.



There are documented cases of **asset-stripping**.

Both **REPSOL** (1999-2012) and the **Petersen Group** (2008-2012) used a similar **predatory strategy**: buying shares using YPF's future profits as collateral, distributing massive dividends to decapitalise the company, and withdrawing assets to their parent companies, thus undermining the country's economy by limiting growth and driving up the national energy deficit.

REPSOL

GRUPO PETERSEN (G-P)

A HYBRID NATIONALISATION

as in the **expropriation of YPF in 2012**, was a response to the lack of investment and asset-stripping by **REPSOL**, which was already seeking to withdraw from YPF. However, this expropriation maintained the format of a publicly traded company on foreign stock exchanges, subjecting YPF to international private commercial law and enabling predatory practices such as lawsuits by venture funds, or, rather, 'vulture funds', demonstrating that a change of ownership without institutional reform perpetuates vulnerability.

EXTREME FINANCIALISATION FOLLOWED THROUGH THE BURFORD FUND,

a vulture fund that never invested in YPF but bought the right to sue the Petersen Group for US\$17 million.

Burford claimed to have been harmed by the expropriation (despite never having invested even a peso in YPF!).

After 11 years of litigation, Burford obtained a favourable ruling for **US\$ 16 billions**, more than the total value of YPF.

Burford took advantage of the international investment protection system that enables pure speculation against sovereign states.



INTERNATIONAL ARBITRATION AS SYSTEMATIC BLACKMAIL

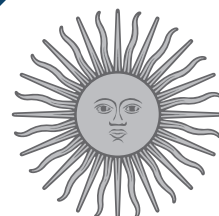
The **48 Bilateral Investment Treaties (BITs)** currently in force in Argentina and investors' access to arbitration tribunals, such as ICSID, create a system **parallel justice** that subordinates Argentina's constitution and national laws to international commercial law, allowing corporations, such as Repsol, to deploy multiple litigation strategies to condition public policies and maximise compensation, while limiting state autonomy. **REPSOL** sued Argentina in different jurisdictions, using different arguments to exert political pressure. **Burford** obtained an unprecedented ruling by exploiting these legal loopholes.

INSTITUTIONAL CONTINUITY FOR EXTRACTIVE PLUNDERING

has been deepened by the government of President Javier Milei of La Libertad Avanza party, **in favour of corporations, through the RIGI** (Large Investment Incentive Regime) which grants multiple privileges, including 30 years of legal stability and expanded access to arbitration. This facilitates the promotion of export-oriented megaprojects such as Vaca Muerta Oleoducto Sur (VMOS) rather than promoting the country's development. Thus, historical patterns of handing over the country's raw materials are reproduced.

NEED TO ESTABLISH SOVEREIGNTY

to **recover YPF as an engine of national development** by moving away from the public limited company (PLC) format, abandoning listing on foreign stock exchanges, denouncing Argentina's BITs, leaving the RIGI and reorienting oil revenues towards energy transition and autonomous technological development.



Introduction

Few symbols encapsulate Argentina's national development narrative and its ups and downs like Yacimientos Petrolíferos Fiscales (YPF) (fiscal oilfields). YPF is at the heart of Argentina's political imagination: it is not just another company, it is virtually an economic sector in itself, and thus plays a key role in the future of the national economy. It is at the centre of controversies about the country's direction.

The state has frequently changed how it manages and regulates YPF, according to the prevailing priorities. Large businesses have been created with the help of YPF, leading economic groups and transnational companies (TNCs) to compete for alignment with these management models. Although the relationship between the state and corporations always runs through YPF, as this report shows, this has taken on different forms.

Since its foundation in 1922, YPF has been a driving force behind the country's industrial development and the consolidation of Argentina's national territory. It has established towns and connected them to each other. It led the way in oil refining, developing a petrochemical industry and achieving residential gas coverage that surpassed that of several more advanced economies. As a public company, YPF played a leading role for decades, seeking energy self-sufficiency as a key to national sovereignty. This 'social efficiency' is often overlooked by its detractors.¹

However, for 50 years since the 1976 civil-military dictatorship, a series of political and institutional changes relegated those objectives to **surrendering oil revenues and the transfer of assets** to various local business groups and TNCs, which expanded their businesses (and profits) alongside the public effort crystallised in YPF, taking what was useful to them to capture value: explored or active areas, business units, foreign subsidiaries etc.

In extreme cases, such as that of the Spanish company REPSOL, they did this through the purchase and sale of YPF (between 1999 and 2012), using its assets until they were depleted, and then withdrawing with legal claims. REPSOL deployed a litigation strategy in multiple jurisdictions, including an international arbitration tribunal, to leverage its negotiating position and ultimately obtain compensation that would allow it to continue its expansion.

The YPF case is relevant first, because it highlights the link between these operations and broader access to capital markets in the quest to generate investment income. And second, because it **exposes the inconsistencies of the international investment protection system, which enables large corporations to engage in predatory practices, creating severe macroeconomic problems for Argentina**. Both rely on lawsuits, but also exert pressure on the country to maintain a sound reputation, which is basically a form of blackmail that limits the policy options available to successive governments. Governments thus refrain from implementing policies that could benefit the population at large for fear of legal reprisals by investors.

Far from being an anomaly, these practices are a common form of capital appreciation, which increasingly blur the distinction between productive and financial investments, regardless of whether these are local or foreign.

The Spanish TNC REPSOL, for instance, took advantage of the privatisation phase, but so did the Petersen Group, owned by the Argentine Eskenazi family, which entered YPF during the nationalisation attempt. **Ultimately, Argentina faced years of lawsuits brought by the investment fund Burford Capital, whose main activity and asset has been the lawsuit against Argentina.** In 2023, this fund, which never produced anything or invested a single peso in YPF projects, won a favourable ruling in New York for US\$ 16 billion – more than the total market value of the oil company.

YPF is thus constrained, not only by the millions of dollars to be settled in disputes, but also by the need to adapt to possible new claims.

THE CENTRALITY OF YPF

» It is a **very valuable asset**. At the end of 2024, its net worth was US\$ 12 billion,² making it one of the country's most valuable companies. Its sales account for between 2% and 2.5% of the country's total gross domestic product (GDP).

» It is **the main energy supplier**. Around 84% of Argentina's energy use in 2023 came from fossil fuels.³ YPF was responsible for almost half of the national oil production and 25% of gas production, controlling over 50% of the petrol market.

» Its **investment strategy** generates signals and business opportunities for a wide range of companies that follow its lead. YPF has been and continues to be the central player in the development of the Vaca Muerta shale gas or fracking field.⁴

» Thanks to YPF's investments, in 2024 Argentina had a trade surplus in the fuel and energy sector⁵ for the first time since 2010 (apart from 2020, the first year of the COVID-19 pandemic). YPF was the **country's leading energy exporter**,⁶ obtaining 15% of its revenue from foreign sales.

How did the former flagship of Argentina's industrial development end up as a bargaining chip between TNCs, local economic groups, and 'vulture funds'? How did REPSOL, Eskenazi/Petersen Group, or Burford make profits and expand their capital by plundering YPF's assets? These actors are, however, merely extreme expressions of more general behaviour where, regardless of the origin of capital, they treat YPF as a resource from which to derive profits, even if this goes against the objectives of national sovereignty, distribution, technological development or even YPF's sustainability. Being a private company, subject to international courts, enables and validates such plunder.

This report presents the key elements for understanding the future of YPF, which is now hamstrung by overlapping institutional constraints that prevent it from becoming a vehicle for more equitable economic development. It reviews the company's recent history in order to understand its link to broader national reform processes.

REPSOL buys YPF using YPF's assets

Given its structural importance in the country's economy, YPF is key to the direction of economic policy in Argentina. Thus, YPF gives an insight into the broader direction of the national economy. Since the last dictatorship (1976–1983), various governments have expanded the economic policy of external openness and deregulation, especially during the two Menem administrations (1989–1999). What role did YPF play in this process? A very important one. Local economic groups grew by selling expensive services, retaining concession areas and related companies: Pérez Companc, Bidas (Bulgheroni), Astra CAPSA and Techint, Pluspetrol and CGC (Soldati) are some of the most important that emerged in the wake of this liberalisation.⁷

YPF was at the centre of a process of neoliberal reforms. Given its size, it was difficult to begin the privatisation process by selling off the entire company. However, in 1992 YPF became a public limited company (Sociedad Anónima, S.A., or PLC) and was listed on the stock exchange. The following year, just as a concessionary Foreign Investment Law was passed, YPF also began trading on the New York Stock Exchange. In the same period, Argentina also signed almost 50 Bilateral Investment Treaties (BITs) in the hope of attracting foreign capital.⁸ But it was not until 1999 that the company was finally privatised when it was sold to the Spanish company REPSOL. This was the last major privatisation in Argentina, providing the country with foreign currency just as the Convertibility Plan was entering its long crisis.

REPSOL, originally linked to the Spanish state, began a restructuring process in the 1980s, in a bid to internationalise. REPSOL was not then a global oil company, ranking 17th worldwide, and as there were almost no hydrocarbon reserves in Spain it needed to secure them elsewhere.⁹ Entering Argentina looked promising. In 1996 and 1997, REPSOL bought stakes in companies in the sector (Astra-Evangelista and Pluspetrol Energía) to enter the country's market.

In January 1999, it acquired 14.99% of YPF for approximately US\$ 2 billion. Why 14.99%? Because under the terms of the new statute, any shareholder wishing to acquire 15% or more of the company had to make a takeover bid for all the shares, the sale of which had to be approved by a majority of the board of directors. In other words,

all shareholders had to be offered the opportunity to sell their shares. This operation involved various problems, including calculating the total volume of capital

and overcoming the various political obstacles the operation might need to overcome. The company's share price in Buenos Aires and New York, with this statutory limitation, would once again prove an obstacle to a change of ownership, as we shall see. By purchasing 14.99%, REPSOL secured representatives on YPF's board of directors with a view to its total acquisition.

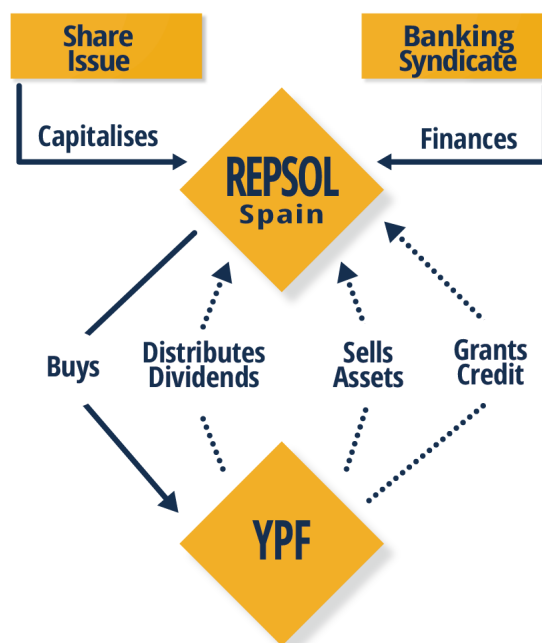


By April 1999, REPSOL finalised a takeover bid for the entire share of YPF's capital. In June, it acquired 98.2% of the entire company by paying an additional US\$13.439 billion.¹⁰ With this, REPSOL became the world's ninth largest oil company in terms of reserves and capitalisation, and the seventh largest in terms of refining capacity.

Where did REPSOL get the US\$15 billion to buy YPF, given that this exceeded the Spanish company's market capitalisation, which was then around US\$14 billion. First, it issued shares worth approximately US\$6,685 billion in July, when it was finalising the purchase of YPF; and second, through a letter of commitment, it secured access to up to US\$16 billion from a group of banks (Citibank, Goldman Sachs, Merrill Lynch, Warburg Dillon Read, UBS AG, Banco Bilbao Vizcaya and La Caixa), of which it used almost US\$14 billion. Access to cheap financing was decisive in REPSOL's takeover of YPF.

In short, **Repsol took on debt to buy YPF, using YPF's assets as collateral.** To pay off this debt, REPSOL forced YPF to divest its foreign assets in Bolivia, Brazil, Canada, Colombia, Ecuador, Indonesia, Peru, the US and Venezuela, some of which were purchased by other REPSOL subsidiaries and sold on to third parties. YPF also made loans to REPSOL. In other words, REPSOL bought YPF and dismantled it to finance its own expansion.¹¹

Figure 1 • How REPSOL bought YPF



Source: Own elaboration

REPSOL bought YPF by using YPF's own assets as collateral and then defunded the Argentine company as a means to advance its own internationalisation.

Carving up YPF is a problem for Argentina

With the deregulation of the economy, hydrocarbons ceased to be a strategic resource and became a marketable asset, to be exploited for rapid profits. REPSOL-YPF took advantage of the wells that had already been explored by the former state-owned YPF to boost its exports. The goal was to sell what was there, along with auctioning off its other assets. This led to rapid depletion: REPSOL accounted for almost the entire decline (98%) in oil extraction in Argentina between 1999 and 2010, and two-thirds of the decline in reserves. It sold everything there was.

REPSOL obtained half of its profits in Argentina, but only 20% of its investments were made in the country.¹² On the other hand, it maintained an aggressive dividend-distribution policy. Between 2000 and 2011, YPF distributed profits of US\$17.445 billion – a 16% return (above the initial investment), a not inconsiderable 1.4% per year.

To these profits must be added the assets transferred to REPSOL and sold on to third parties plus the loans it received.¹³

YPF sold assets in Argentina and abroad to REPSOL. It lent it money.

It remitted profits. All at the expense of disinvesting in Argentina.

Naturally, this caused a problem for the national economy. After the Convertibility Crisis, a phase of growth began that required more energy, but the existing reserves had been exported, and no further reserves had been sought. From 2003 onwards, energy imports began to grow, leading to a trade deficit in the sector from 2011. **The dismantling of YPF hampered the country's economic growth because it began to lack energy and then dollars.** How can economic expansion be sustained under such conditions?

In this context, REPSOL decided to withdraw from YPF.¹⁴ It stated as much in its 2005 asset-diversification plan and was emphasised the following year by the company's president, Antonio Brufau, when he spoke of incorporating local participation.¹⁵ Far from confrontation, Cristina Fernández's government (2007–2015) sought to find a local partner.¹⁶ This is when the possibility of a process of 'Argentinisation' arose with the entry of the Petersen Group, owned by the Eskenazi family. Copying the entry format used by REPSOL, Petersen used YPF as a source of collateral in order to acquire it. In other words, instead of a genuine investment process, the logic of plundering a key national asset was maintained.

Petersen enters YPF using YPF's assets

In 2008, the Petersen Group, controlled by the Argentine Eskenazi family, purchased 14.9% of the shares in YPF for US\$ 2,235 billion. As with REPSOL in 1999, this was the purchase limit to avoid being forced to bid for the capital of all shareholders. But unlike REPSOL, Petersen did not have access to cheap financing. How did it acquire its stake?

Basically, it financed it with the return on its future stake in YPF. In other words, Petersen bought on the basis of the proceeds of its purchase, just as REPSOL had done before. YPF also lent US\$ 1,017 billion (a 'vendor's loan'), to which was added a loan from a consortium of banks (BNP Paribas, Credit Suisse, Goldman Sachs and Itaú) for the remaining US\$ 1,018 billion.¹⁷

In 2011, the scheme was repeated enabling Petersen to obtain a 25.5% stake, capitalising US\$ 1.302 billion, financed in equal parts by REPSOL-YPF itself and a syndicated bank loan (Banco Itaú, Santander, Standard Bank, Credit Suisse and Citibank).

Eskenazi used YPF's future profits to back its own purchase.

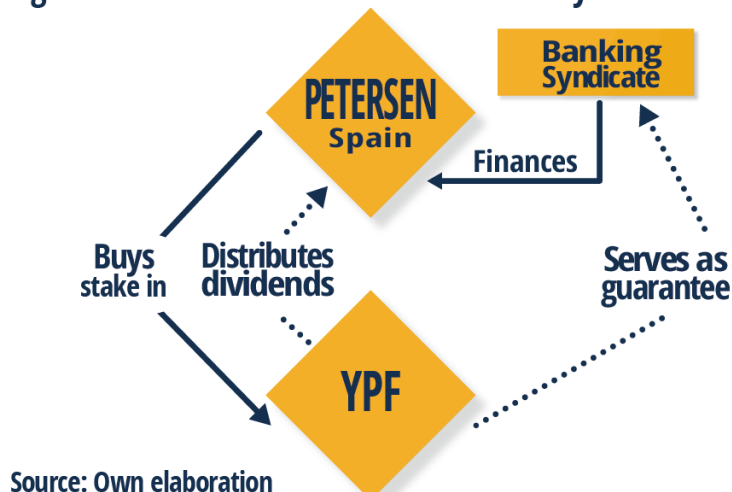


With this scheme, any citizen could gain a seat on YPF's board of directors even without having any funds. Since 2008, dividend-distribution intensified so that Petersen could pay REPSOL: YPF distributed US\$ 6,734 billion in dividends between 2008 and 2011. This led to the decapitalisation of YPF, which would later prompt state intervention.

Although the Petersen Group is of Argentine origin, the operation was carried out through companies controlled from Spain, created between 2007 and 2008, which were in turn controlled by other companies based in Australia and Austria, created between 2008 and 2009. These companies had no activity or personnel and virtually no assets. When the situation became contentious, the Eskenazi family denied any link with Petersen Spain-Australia-Austria. Meanwhile, REPSOL continued to divest itself of its stake.¹⁸

Both the TNC (REPSOL) and the local financial group (Petersen Group) viewed YPF as a short-term asset, a kind of financial speculation for buying and selling. In both cases, they took advantage of its status as publicly traded company to enter YPF, even using shell companies based in third countries.

Figure 2 • Petersen-Eskenazi's scheme to buy YPF shares

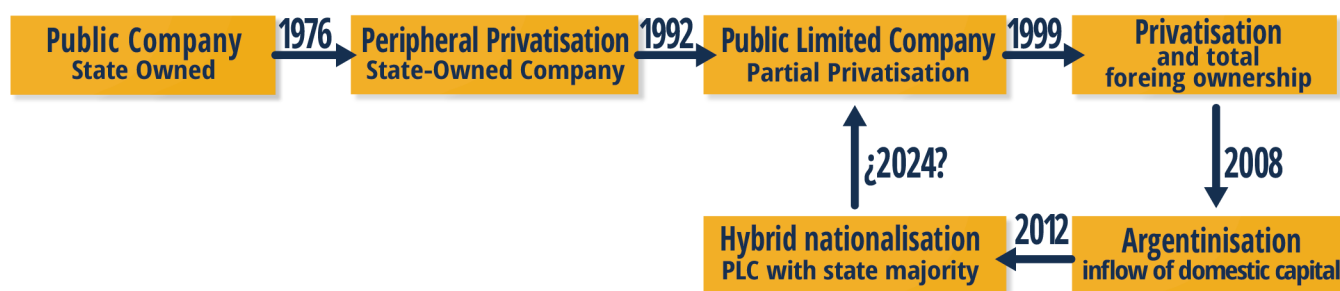


Rather than supporting national development, YPF became a source of short-term corporate profit.

The 'productivist shift': a false swing of the pendulum

As the arrival of Petersen Group did not much change the functioning of YPF, the Argentine government began to look for another solution.¹⁹ The most significant change came in May 2012, when Law No. 26,741 on Hydrocarbon Sovereignty declared that achieving self-sufficiency in hydrocarbons was in the national public interest and ordered the expropriation of the shares held by REPSOL, which now represented 51% of YPF's capital.

Figure 3 • YPF's path towards hybrid nationalisation



Source: Own elaboration

Although this marked a clear management shift, YPF remained a publicly traded company on the Buenos Aires and New York stock exchanges.²⁰ This is a model that has grown worldwide as national oil companies have gained a larger share of production and control of reserves. In general, these companies adopt hybrid management structures, combining state participation and private capital – a sort of amalgamation between the state and global capital. This makes it necessary to consider the interests of shareholders when using the company to pursue public policy, which is not always clearly aligned with the public interest.²¹ For this reason, the concept of nationalisation demands further explanation; the company did not return to its pre-1992 form. Some observers refer to it as *hybrid nationalisation*.²²

Since the state's re-entry, YPF has undergone a 'productivist shift': it changed its dividend-distribution policy, reinvesting its profits in improving the productivity of mature wells and bringing new wells into production in unconventional fields, namely shale gas, or fracking, particularly Vaca Muerta.²³

The company took an active role in promoting development by boosting the supply chain (Plan Sustenta), linking up with hydrocarbon-processing companies (such as the acquisition of GASA, which controls the gas distributor Metrogas), innovation (creating Y-TEC together with the Ministry of Science and Technology and CONICET), and entering expanding sectors linked to renewable energies (creating YPF Luz). In other words, YPF, with majority state ownership, returned to the path of investment, production, value-chain coordination and technological development. It regained some of its developmental momentum, repositioning itself in that rhetorical space. But it remained a publicly traded company, which would bring problems.

This 'productivist shift' focused on unconventional deposits, namely shale gas. This is why YPF sought to strengthen its links with other companies, for example by acquiring Apache, a pioneer in Vaca Muerta.²⁴

In general, strategic partnerships were sought with TNCs that could provide capital and technical expertise to operate this type of deposit. The most significant agreement in this regard was signed in July 2013 with Chevron.

MILKING THE 'DEAD COW' – VACA MUERTA

Feasibility studies in the Neuquén basin began in 2006. Medanito was the first company to extract *tight gas*, or shale gas.²⁵ In 2008, the Gas Plus programme was approved to boost gas production (Resolution 1031/2008 of the Secretariat of Energy). With these subsidies, Pampa Energía and Apache partnered the following year to boost production in Vaca Muerta.²⁶ REPSOL-YPF made the first shale gas drilling in Loma La Lata in 2010.²⁷ This marked the beginning of the fracking era in Argentina. In 2011, REPSOL-YPF announced the discovery of a field with reserves equivalent to all those held by YPF at the time.²⁸

Since then, the Vaca Muerta shale-gas fields have become central: they produce more than half of the country's hydrocarbons, and YPF is the main producer in the basin.²⁹ In 2015, the declining trend in gas production was reversed, and in 2018, the same happened with oil. The sustained increase in extraction meant that transport and distribution became the limiting factors, which is why the first part of the Néstor Kirchner gas pipeline was completed in 2023, to transmit the gas to large towns and cities. Since 2024, the energy sector has been in surplus in foreign trade.³⁰

Partners and cronies – saving Chevron

In 2011, Chevron was ordered by an Ecuadorian court to pay US\$ 9.5 billion for socio-environmental damage caused by its subsidiary Texaco (acquired in 1991) in the Amazon rainforest.³¹ In 2012, at Ecuador's request, the Argentine courts seized Chevron's assets and profits in the country. But in 2013, as part of negotiations to launch Vaca Muerta, the then Attorney General, Alejandra Gils Carbó, issued a ruling stating that Chevron Argentina was legally independent from Chevron Corp. The same argument was used by the Supreme Court of Justice to overturn the seizure.³²

Following this ruling, YPF signed an Investment Project Agreement with Chevron in July 2013, which was negotiated behind closed doors. Indeed, there was strong resistance to the contract being made public. In order to implement the Agreement, the Neuquén legislature had to approve the concession of an area in Vaca Muerta, which it did amidst strong protests in August that year, with Law No. 2,867.³³ The then provincial governor, Jorge Sapag, acknowledged that he had never had access to the confidential clauses negotiated by the oil companies.³⁴ The National Senator Rubén Giustiniani, together with Claudio Lozano, filed a lawsuit to gain access to the contract clauses, which was denied in 2014 by the Federal Administrative Court but finally accepted by the Supreme Court of Justice two years later, in November 2015.³⁵ Despite this ruling, YPF submitted a redacted version to the courts. In March 2016, the Anti-Corruption Office endorsed this failure to comply with the court order.³⁶

For Chevron to be willing to invest in Argentina, a legal structure was guaranteed to protect it from its own actions.³⁷ Six *ad hoc* firms, several of them in tax havens (Bermuda, Delaware, and Uruguay), were involved in the agreement between Chevron and YPF, guaranteeing Chevron minimum returns of 7% while protecting it from national labour and environmental litigation and also from international litigation: REPSOL had threatened to sue Exxon, Chevron and ConocoPhillips if they invested in YPF for undue interference or unfair competition, seeking to take advantage of the circumstances.³⁸ However, during the negotiations, YPF avoided democratic control and transparency mechanisms because it was no longer a state-owned company but a PLC and, as such, had the right to withhold information.³⁹

With no risks and guaranteed profits, protected from its actions in other countries, Chevron had already won with the new YPF. In exchange, it committed to make investments worth US\$ 16.5 billion.

It is important to underline that the search for a strategic partner nullified the claims for reparations from any country in the region, favouring the corporation's negotiating position and retaining impunity for its legacy of environmental disasters in Ecuador. As a first step following the agreement, the Mapuche territory of Campo Maripe was put into production without consulting the community, despite the provisions of the National Constitution and Convention 169 of the International Labour Organization (ILO). The community's claims were ignored.



“They started working overnight on our territory [...] before the agreement was signed, they installed two towers in the plateau area and that’s where our struggle began. Now YPF wanted to sit down and talk, but at that time there was no prior consultation to install the towers, they just arrived and set up shop as if it were no man’s land.”

Natalia Izaza, Werken (spokeperson) of the Mapuche community.⁴⁰

This was no trivial matter. Argentina wanted to signal credibility to the international capital market while seeking a solution to the problem with REPSOL.

In addition to Chevron, YPF sought agreements with various companies, including private national companies such as PBB Polisor, Tecpetrol and Pampa Energía, TNCs such as Dow Chemicals, Total and Schlumberger, and state-owned oil companies such as Norway’s Statoil (Equinor), Malaysia’s Petronas, China’s Sinopec and Russia’s Gazprom.⁴⁰ ExxonMobil, ConocoPhillips, Anadarko Petroleum and Southwestern Energy, Italy’s ENI, Britain’s British Petroleum and China’s CNOOC also showed interest.⁴¹

Vaca Muerta held the promise of expanding business, a new Humid Pampa, a kind of El Dorado. **These companies benefited from YPF’s exploration, drilling and production activities, as well as from price-incentive policies to encourage production.**⁴² YPF lowered the entry bar, making it economically viable.

Hybrid nationalisation allowed this partnership with TNCs and economic groups to develop the production of shale gas in the basin and boost investment to expand hydrocarbon production. However, it was not without conflict. The expropriation heralded a series of conflicts that branched out in different directions.

Legal harassment strategies

REPSOL bought YPF, sold off its assets, depleted its reserves and distributed dividends, thereby financing its expansion in other countries. Even so, it did not go quietly.

The Argentine government claimed that the lack of investment had damaged the country’s energy self-sufficiency and that it was necessary to intervene in the market. REPSOL, on the other hand, argued that its discovery of reserves in Vaca Muerta was the real reason for the interest.⁴³ There was much speculation about the real value of the reserves in the field: with each estimate, the total value of the company changed.⁴⁴

In April 2012, the government intervened in YPF, preventing the distribution of dividends. In May, the expropriation of YPF was voted on in Congress. Specifically, it was voted to acquire Repsol’s stake in YPF, without affecting other shareholders.

However, the nature of the company as a PLC listed on the Buenos Aires and New York stock exchanges was not affected, which left the company subject to investment protection and private commercial law in other jurisdictions. This triggered various legal consequences for the country, which we detail below.

Repsol complains and demands payment

After claiming a campaign of harassment, the president of REPSOL, Antonio Brufau, stated that: *'All states have the right to expropriate, but they must also pay a fair price'*, declaring that *'these acts will not go unpunished' and that they would take 'all legal measures at their disposal'*.⁴⁵ The measure was understood as an illegal and discriminatory expropriation for several reasons:⁴⁶

» Because it affected only YPF and no other oil companies. If the energy supply problem was widespread throughout the economy, why were only YPF shares expropriated and not those of other companies in the sector?

» The public utility of the expropriation was not fully justified, since there was no evidence of a public utility cause directly related to the company. How did the change in ownership of YPF resolve the energy situation?

» Because it only expropriated REPSOL's capital in YPF, it was unclear why the holdings of other groups that also had shares in the company were not affected. This not only implied discriminatory treatment, but also violated the requirement of the YPF Statute: no public takeover bid was made, despite the acquisition of more than 15% of the capital (which had been an obstacle for REPSOL in 1999 and for Eskenazi/Petersen Group in 2008). This argument was taken up again by Burford (see next section).

» It violated the original terms of privatisation.

» It violated legal certainty of investment under Argentine law, stock exchange regulations and international law, specifically the 'Agreement for the Promotion and Reciprocal Protection of Investments between the Kingdom of Spain and the Argentine Republic', signed in 1991 – a BIT that protected the interests of corporations against the autonomy of the national state.

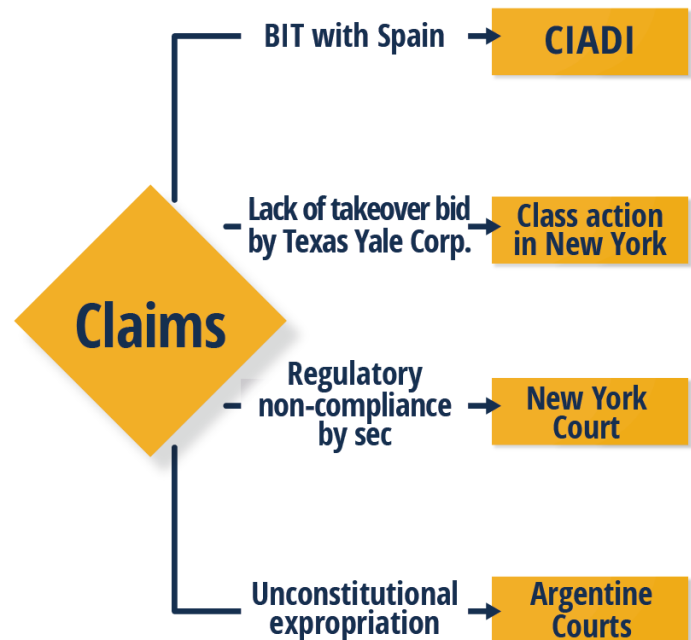
The European Commission indicated that the expropriation was illegal if there was no financial compensation. At that time, REPSOL owned 57.4% of YPF, a stake it had gained due to Petersen's default on payments (see next section). Based on the estimate regulated in YPF's Articles of Association, the total value of the company was around US\$ 19 billion, of which REPSOL claimed it was entitled to US\$ 10.5 billion. The Argentine government could not pay that amount. REPSOL immediately launched a strategy of multiple lawsuits in different jurisdictions to put pressure on the Argentine government.



Just as the expropriation was being voted on, REPSOL initiated a parallel strategy of legal harassment in every possible arena:

- 1** sue the country before the International Centre for the Settlement of Investment Disputes (ICSID) for breach of the BIT with Spain;
- 2** initiate a class-action lawsuit in New York courts (for failure to make a takeover bid);
- 3** sue for breach of *Securities and Exchange Commission* (SEC) regulations on information that had to be disclosed when acquiring a significant stake in the company, linked to the specific transaction and the purchaser's business plans (Form 13D);

Figure 4 • REPSOL's claims



Source: Own elaboration

- 4** sue in Argentine courts for the unconstitutionality of the expropriation (alleging lack of public utility).⁴⁷

Thus, REPSOL took advantage of all possible jurisdictions to harass the Argentine government and thus leverage its own negotiating power for compensation, even though the company had wanted to leave for some time.

WHERE TO JUDGE IS NOT TRIVIAL

The lawsuits filed in New York courts made the litigation contingent on the case of a private company listed there, regardless of Argentina's laws and policy objectives. ***Maintaining the status of a publicly traded company means maintaining this exposure to commercial laws.*** Since it is also listed abroad, it is subject to the courts of that jurisdiction.

» YPF should have resumed its status as a public company in order to be subject to public law and judged for its actions. If financing was needed, special companies or vehicles could have been created for that purpose, protecting the company.

The ICSID case is even more evident: the company was protected from changes in national economic policy that affected its business through the BIT between Argentina and Spain, even if its business drained an entire country of energy. ***Maintaining the BIT allows the company to challenge any policy change that is not in its favour.***

» Argentina should have denounced its BITs and withdrawn in time. The sunset clause means that the BITs persist for several years after the treaties are denounced. The sooner they are denounced, the sooner their effects can be avoided. Argentina had dozens of complaints before ICSID because of the Convertibility Crisis; it was known to be a hostile forum.

Only the lawsuits in Argentine courts were limited to Argentine law.

» In this case, the legal priority of the national constitution and the expropriation law prevails over the statutes of the company subject to expropriation.

The Argentine government then presented the Mosconi Report, which showed how the divestment of the controlling company (REPSOL) had led to the asset-stripping of YPF and had damaged the country's trade balance and energy supply.⁴⁸ This was the basis for voting in favour of expropriation, which would partly address REPSOL's concerns. The then Minister of Economy, Axel Kicillof, argued that the environmental damage caused by the company should also be considered. **Preliminary surveys with governors indicated environmental liabilities of around US\$ 6 billion. Although it was a promising proposal, it never reached the courts.**⁴⁹ Chevron had just been ordered to pay damages in Ecuador and its assets were frozen in Argentina, but as Chevron became a partner for YPF in the development of Vaca Muerta, the claim for environmental liabilities was diluted. In July 2013, the agreement with Chevron was signed, and in December, the agreement with REPSOL was reached.

The ICSID had taken up REPSOL's claim in December 2012. At that time, Argentina insisted that any compensation awarded had to be ratified in local courts. This was the so-called Rosatti Doctrine, which the Attorney General's Office had already used in previous lawsuits and had allowed Argentina to refrain from paying all lost arbitration claims until 2013.⁵⁰ To reinforce the centrality of ICSID, the US reacted by suspending Argentina's tariff preferences for failing to pay compensation awarded in two cases involving US companies.⁵¹ The US even blocked Argentina's credit at the World Bank (Country Partnership Strategy) until it paid. Argentina attempted to veto two arbitrators in the ICSID proceeding, but faced with the difficulty of making progress, in 2013 it proposed a settlement to REPSOL for US\$ 5 billion, which included a partnership to exploit a field in Vaca Muerta. **Had REPSOL wanted to continue operating in the country and in the basin, it would have had the opportunity to do so, but chose to act otherwise.**

In February 2014, the 'Friendly Settlement Agreement and Expropriation Settlement Agreement' was approved: Argentina recognised a debt of US 5 billion (the same amount offered the previous year) and REPSOL withdrew all legal and arbitration proceedings.⁵² Thus, both parties waived any further claims. In the event of any dispute over the Agreement, it would be resolved in accordance with the rules of the United Nations Commission on International Trade Law (UNCITRAL), specialised in the reform of international trade law.⁵³

In May 2014, REPSOL sold its remaining shares in YPF (11.9% of the capital) to Morgan Stanley for US\$ 1,255 billion. Following this, it received four bonds (Bonar X, Discount 33, Bonar 24 and Boden 2015) from the Argentine government as compensation for the expropriation, for a total of US\$ 5,317 billion. Before the end of the month, it had already sold all these bonds to JP Morgan.⁵⁴ The remaining shares were sold to other institutional investors. With this profit, REPSOL bought the Canadian company Talisman.⁵⁵

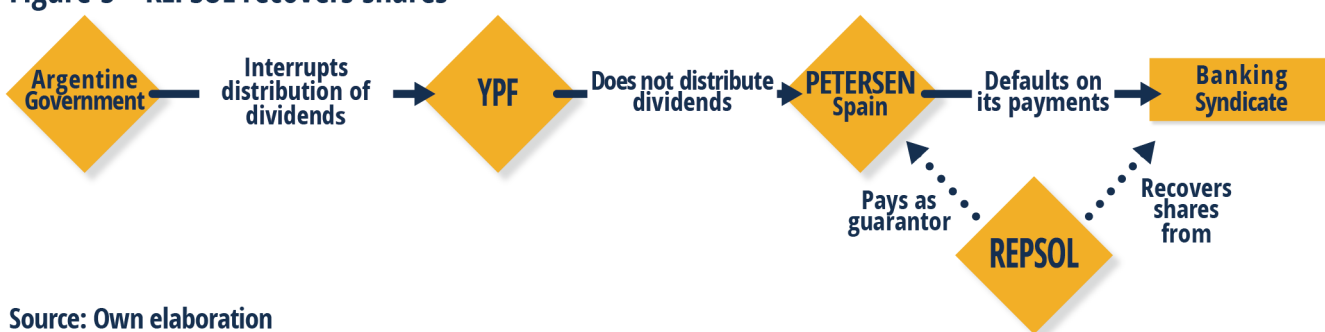
Repsol obtained assets (related companies), financing and dividends from YPF, after which it sold shares to Petersen, Morgan Stanley and other investors, and received a payment from the national government. It did not fare badly at all.

The Argentine government gave up discussing environmental liabilities in order to unlock investment in unconventional oil fields. In addition, by dismantling the REPSOL lawsuits and paying them with bonds, it sought access to international capital markets.

The final metamorphosis: Petersen becomes Burford, which wants to charge only for litigation

In April 2012, in the run-up to the expropriation that was approved the following month, the Argentine government's representative prevented a YPF shareholders' meeting from taking place to stop the company from being decapitalised. This halted the approval of a new dividend distribution. Petersen Spain, which the Eskenazi Group had used as a vehicle to buy shares in YPF since 2007, depended on these dividends to repay the loans it used to enter YPF. When the dividend flow stopped, Petersen Spain defaulted on its loans to Santander and filed for bankruptcy. REPSOL had to pay that debt as Petersen Spain's guarantor, thereby recovering 5.4% of its stake in YPF.⁵⁶

Figure 5 • REPSOL recovers shares



Source: Own elaboration

At that point, the speculative investment fund Burford Capital entered the scene. It is a vulture fund specialising in long-term litigation.

WHAT IS THE BURFORD FUND?

Burford Capital is a litigation fund specialising in financing and acquiring rights to lawsuits worldwide.⁵⁷ It was founded in 2009 by Christopher Bogart, former legal director of Time Warner.

It played a crucial role in the case against Argentina for the expropriation of YPF, and specialises in litigation around the world. It is not specialised in financial investments, let alone in the energy or oil sector, but solely in mega-lawsuits involving millions of pounds sterling in claims.⁵⁸ Its business model consists of 'buying' lawsuits, then financing them with partial sales of the case at different stages of the litigation, increasing the amount as the resolution approaches, and finally distributing the dividends if the outcome is favourable.

Internationally, it has been criticised for its lack of transparency. There are times when the parties want to reach an agreement, but funds such as Burford push to keep the litigation alive with the sole aim of making a profit. In 2023, the US food company Sysco filed a lawsuit against Burford, demanding that it clarifies 'what role it is playing in other cases and publish its financing agreements. That level of transparency is the only way the courts and the parties will know who is really making the decisions.'⁵⁹

Burford wasted no time in purchasing Petersen Energía Inversora, Petersen Energía and Eton Park's⁶⁰ **right to sue the Argentine state for not making a takeover bid when it bought YPF**, the same argument previously used by REPSOL. Burford pointed out that it did not acquire these shell companies, nor even the claim itself: it alleged that it acquired the right to finance the litigation.⁶¹ Burford would provide the necessary funds for the affected companies to litigate against Argentina in exchange for a share of the outcome of that lawsuit. It was the first action of its kind in Spain, eventually owning 70% of the proceeds from Petersen's companies and 75% of Eton Park. It paid the Petersen Group US\$ 17 million for this right.

In response, the Argentine government used several arguments. It sought to show the spurious nature of the Petersen and Burford transaction, a simulated transfer aimed solely at litigation. If Petersen wanted to sell its stake legitimately, it could well have offered the Argentine state the possibility of buying it before going to court or even matching what Burford paid.

Having purchased the rights to the litigation in Spain, Burford brought the case against the Argentine government in the courts of New York, where YPF S.A. is listed. The Argentine defence argued that it had relied on the country's constitution, which has superior legal status, the Foreign Sovereign Immunity Law and Law 26,741 on the expropriation of YPF. However, as pointed out by Econojournal, a website specialising in energy issues, strictly speaking, it did not directly dispute the jurisdiction of the case, but rather the nature of the rights at stake.⁶² Judge Loretta Preska stated that the dispute was commercial in nature, due to the legal status of the company in the jurisdiction, and her ruling was upheld by the US Supreme Court, following Argentina's appeal for *certiorari* [the right to have a case reviewed in a lower court] as the case was commercial, not public law.

The Argentine government also attempted to argue that Petersen's original purchase had been fraudulent, assuming no risk and damaging YPF's assets. Although these arguments were upheld after the change of government (from Cristina Fernández de Kirchner to Mauricio Macri), various courts considered this claim to be untimely. The Argentine defence also made an unsuccessful bid to settle the dispute in Argentina. The case remained in New York, using commercial law to resolve the dispute and accepting Burford's legitimate interest.

This 'vulture fund' had no interest in investing in the country or in any other jurisdiction: its business model is long-term litigation.

Therefore, there was no possibility of a settlement as with REPSOL, which was interested in another investment (the purchase of Talisman). Burford was making money from the lawsuit itself, a real contradiction in terms of reaching a fair settlement.



In fact, since 2016, Burford began selling the right to participate in the potential profits from the lawsuit to other companies. According to Burford's balance sheets, which are listed on Wall Street, it had spent US\$ 46.2 million on the combined lawsuit (Petersen and Eton Park) by 2021, having sold 39% of its collection rights for US\$ 236 million to companies such as Colorado Investment, created to participate in this lawsuit.⁶³

This is a purely speculative scheme, based on the expected outcome of the lawsuit. In fact, in 2019, Burford's shares on the London Stock Exchange plummeted by 46% after being accused of accounting fraud by Muddy Waters Research: apparently, Burford manipulated the rate of return on its capital invested in the lawsuit against YPF.⁶⁴ The agency said that Burford is a *'poor man disguised as big'* who *'woos investors'* with estimates that *'make no sense.'* According to Muddy Waters, the expected return was 426% on invested capital, while Burford estimated it at 3.278%.

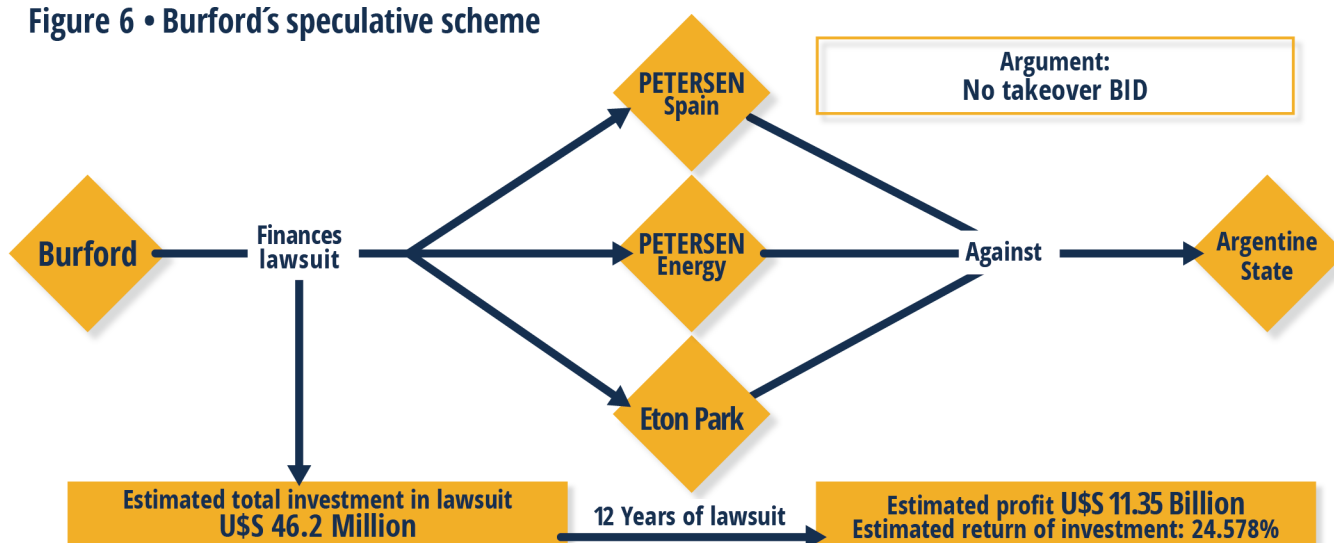
In April 2023, Judge Loretta Preska of the Southern District of New York once again ruled in favour of Burford. In September, she estimated the compensation figure at US\$ 16 billion: US\$ 14.4 billion to the Petersen Group and 1.7 billion to Eton Park.⁶⁵ This represents a 300% increase over their estimated values when they were expropriated in 2012. Of that amount, US\$ 11,355 billion would be pocketed by Burford Capital for pursuing the lawsuit, obtaining a return of 24,578% according to the expenses reported by the fund itself.⁶⁶ Twelve years of litigation certainly paid off.

'Nothing they said today [in court] refutes the fact that Burford Capital manipulates its performance metrics and abuses the freedom afforded by fair value accounting'.

Carson Block, founder of Muddy Waters.⁶

Following the ruling, beyond the appeal attempt, a new stage of the trial began, in which Burford is evaluating collection options, including the transfer of its stake in YPF or the delivery of new debt securities.⁶⁸ The value of the ruling exceeds YPF's total assets. The Argentine government even attempted to pay in pesos, given that the expropriation took place in Argentina, but this was denied: payment must be made in US dollars.

Figure 6 • Burford's speculative scheme



Source: Own elaboration

The form of a publicly traded company listed on a foreign stock exchange exposed Argentina to this vulture behaviour. It was impossible to argue the spurious nature of the operation, or to discuss jurisdiction or the applicable law. Meanwhile, Argentina's Petersen Group hid behind shell companies and vulture funds to sue the same state that originally allowed it to obtain shares in YPF. The measure that was intended to favour local business ended up in a financialised and internationalised metamorphosis with no connection to national development.

La Libertad Avanza ... more deals with Milei

In December 2023, Javier Milei, of the La Libertad Avanza party, took office. His government implemented a severe fiscal-adjustment programme, exceeding the targets set under the 2022 agreement with the International Monetary Fund (IMF). The IMF praised the fiscal adjustment and the incorporation of structural reforms, especially those included in the bill known as the 'Ley Bases' (Basic Law).

Among these, the Large Investment Incentive Regime (RIGI) stands out, a scheme of tax, customs, and exchange privileges for 30 years.

The RIGI includes the possibility for investors to resort to international arbitration tribunals through the ISDS mechanism, creating a parallel justice system and removing powers from the national and subnational judicial systems.⁶⁹

Horacio Marín, an engineer with 35 years' experience at Techint, the main beneficiary of the stimulus plans under the government of Cambiemos (2015–2019) and of the construction of the Néstor Kirchner gas pipeline under the Frente de Todos government (2015–2023), was appointed to head YPF. Marín launched his strategy under the name 'Plan 4x4', based on:⁷⁰ 1) focusing management on the most profitable activity, the exploitation of Vaca Muerta; 2) divesting from conventional field assets (sale of mature areas) and a review of YPF's participation in other companies; 3) developing a more efficient operation in the value chain; 4) accelerating liquefied natural gas (LPG) projects. Strictly speaking, only the second point is new compared to the plans presented in 2023 on the 30th anniversary of YPF SA's listing on the New York stock exchange.⁷¹

The new board considered YPF's reserves to be overvalued, citing high operating costs in certain areas. In April 2024, it launched the *Andes Project*, offering 11 clusters of 30 areas in the country, with the support of Banco Santander.⁷² By the end of 2024, nine agreements had been reached, although the transfer was not immediate.⁷³ Among the beneficiaries of this auction are companies with a certain track record in the sector, such as Petroquímica Comodoro Rivadavia, Quintana (Carlos Gilardone) and TSB (Claudio Urcera),⁷⁴ but also new ones such as Velitec and even those created specifically to participate in this auction, such as Bentia (created by the former Minister of Energy of Cambiemos, Javier Iguacel).⁷⁵ The giant PECOM (Pérez Companc), a long-time beneficiary of these auctions, has also signed up.⁷⁶



The sale of areas considered secondary or very expensive is nothing new: it had already happened in the 1990s. The same is true of the divestment of businesses considered non-core, such as foreign subsidiaries – e.g. YPF Brazil and YPF Chile – and Metrogas (the main natural gas distributor), all of which were announced for sale in 2024. The list of companies ‘susceptible to sale’ by the government is completed by the Dock Sud power plant, YPF Luz (which generates 9% of the country’s electricity), Oiltanking, Profertil (the country’s main fertiliser producer), Y-TEC (R&D, linked to CONICET), OPESSA (operator of YPF service stations), AESA (the only refinery in the north of the country), Termap (stores and transports oil in the San Jorge Gulf), YPF Gas, Oleoducto Loma Campana – Lago Pellegrini, YPF Litio, MEGA, Refinor and OTASA.⁷⁷

On the other hand, the government ordered *increases in the domestic price of energy*, hitting consumers’ pockets hard (increased energy poverty) and local businesses (increased costs). With this measure, YPF and other oil companies improved their profitability in 2024. YPF allocated an amount equivalent to its primary income to investment, some US\$ 1,373 billion, most of which went to the drilling and production areas. However, this investment is not aimed at local supply, but at exports.⁷⁸

In fact, YPF’s main investment is linked to the RIGI through the Duplicar Project of its subsidiary Oldelval (Oleoductos del Valle). **This involves the expansion of the gas pipeline needed to boost exports, the first energy project presented to the RIGI, seeking to send a signal to the rest of the industry. It was approved quickly. Given that it requires an investment of US\$ 2.5 billion, YPF created the company Vaca Muerta Oleoducto Sur (VMOS) together with PAE, Pluspetrol, Vista, Pampa Energía, Shell Argentina and Chevron.** Between them, the companies will contribute US\$ 730 million, seeking to obtain the rest through foreign loans. Tenaris (Techint group) will supply the pipes for construction.⁷⁹

Just as in the past, this agreement could not only unlock the energy business, but also generate a new wave of external debt for the country. In early 2025, the VMOS project is moving forward in parallel with negotiations with Burford Capital for the issuance of bonds to pay the New York ruling, as well as negotiations with the IMF for new funds. The inflow of dollars into the country would help the government maintain an appreciated exchange rate, which is vital for the capitalisation of sectors such as energy, but also for financial valuation operations.

Getting out of the mess

A national oil company such as YPF can be an engine for development: it can drive the creation of companies associated with the value chain, such as suppliers or customers, as well as technological development and the creation of high-quality jobs. Oil revenues can be used for productive and redistributive purposes, or to create countercyclical funds, thereby increasing national sovereignty. They could even finance mitigation, adaptation, and remediation strategies in the face of climate breakdown.

The company’s weight in the country would make it possible to generate specialisation pathways that could change Argentina’s productive profile.⁸¹

However, for this to happen, YPF cannot be the basis for the auctioning off of reserves, areas under control and related companies.

For the last 50 years, YPF has been plundered by local economic groups, TNCs and vulture funds that not only cause damage to the country's assets but also limit its capacity to develop an autonomous economic policy. To take advantage of YPF in a sense of progressive national autonomy, some of the following recommendations should be considered.

» **MODIFY** its legal status as a public company, removing it from the limits of private commercial law and from obligations to minority shareholders with veto power. YPF must abandon its status as a PLC.

» For the same reason, it should **REVIEW** its listing on foreign capital markets. This subverts the legal order by placing the Constitution and local laws below the regulations of stock exchanges or the company's internal statutes. If it is for access to these markets, the country can be protected through mechanisms such as controlling companies based in the country, special investment vehicles and other variants. Related companies have been used to protect investments from social claims (as with Chevron), but not from claims from vulture companies and funds.

» **REVIEW** the company's internal statutes to ensure that they are in line with the relevant national regulations.

» **DENOUNCE** BITs that affect the company's investment. A comprehensive audit of the 48 existing BITs would make it possible to determine their interest, viability, and relevance. The audit should include a review of arbitration claims already made against Argentina under these BITs.

» **PROMOTE** an international register of ultimate beneficiaries to prevent national groups such as Eskenazi/Grupo Petersen from taking advantage of YPF through shell companies.⁸¹

» **REPEAL** the RIGI and conduct a thorough review of the neoliberal Foreign Investment Law in order to limit the tax, customs, commercial, and judicial privileges of investors, seeking instead to promote value creation, quality employment and technological development.

» **REGULATE** the use of oil revenues to finance socially relevant uses, such as adaptation, mitigation, and remediation in the face of climate change.⁸² YPF can become a leader in a socio-energy transition – but to do this, it needs to pursue specialisations that reduce dependence on hydrocarbons.



Endnotes

Titles originally published in Spanish are given in English translation, but the URLs link to the original.

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- 11 • Some of the assets purchased by REPSOL were resold to third parties, generating a capital gain of US\$ 4,338 billion. At the same time, YPF lent its parent company (REPSOL) between US\$ 1 billion and US\$ 2 billion per year. See García Zanotti, G. (2022) Corporate asset stripping in the Argentine oil sector during the new millennium: The experiences of YPF-Repsol and Petrobras Argentina. *Pilquen Magazine - Social Sciences Section* 25(2). <https://www.redalyc.org/journal/3475/347572703006/>
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- 20 • Cabrales, J.J. (2022) Quo vadis, YPF? *Bordes*, 6(25).
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- 22 •** Birmes, J. and García Zanotti, G. (2023) The contract between YPF and Chevron: A blurred line in the relationship between the state and the market. Cuadernos de Economía Crítica, 3(6). Bertinat, P. and D'Elía, E. (2014) Observatorio Petrolero Sur, Roberto Ochandio, Maristella Svampa and Enrique Viale. 20 Myths and Realities of Fracking, El Colectivo.
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- 37 •** García Zanotti (2017), op.cit.
- 38 •** Bonnefoy (2016), op. cit. In fact, when the agreement with Chevron was reached, REPSOL sued the US company in Spanish and US courts, seeking the annulment of the agreement and compensation. The shell company structure of the agreement allowed this legal obstacle to be circumvented.
- 39 •** YPF is not a state-owned company, but rather, as the law states, a public limited company. For this reason, the negotiations with Chevron were conducted in compliance with all obligations arising from both the Commercial Companies Act and those arising from regulators and shareholders, as it is a company listed on the Buenos Aires and New York stock exchanges', according to YPF in a report to the New York Stock Exchange in 2013.
- 40 •** The search for partnerships was persistent. See Bertinat et al. (2014), op.cit.; Cretini, I. (2018) Transformaciones socioeconómicas en torno a la extracción de hidrocarburos no convencionales. El caso de YPF S.A. en Vaca Muerta' [Socio-economic transformations surrounding the extraction of unconventional hydrocarbons. The case of YPF S.A. in Vaca Muerta] Identidades8(14).
- 41 •** The latter two partnered with Bulgheroni in PanAmerican Energy. This company, CGC, Pluspetrol and Petrobras were the first to invest in Vaca Muerta. The presence of the same groups that benefited decades earlier from the dismantling of YPF, alongside oil companies with state participation, is grimly ironic.
- 42 •** Some of these companies were direct beneficiaries of the promotion policies that emerged from the Investment Promotion Regime (Decree No. 929/13) and the reform of the Hydrocarbons Law (No. 27,007/14). The stimulus programme launched in 2017 (Resolution 46-E/2017) particularly benefited Tecpetrol (which received nearly half of the plan's funds) and CGC. Despite this, Tecpetrol filed a lawsuit against the State in 2019 for the collection of these benefits. On the latter case, see Sabbatella, I. and Nunes Chas, B. (2020) ¿Ámbitos privilegiados de acumulación en Vaca Muerta? El caso de Tecpetrol' [Privileged areas of accumulation in Vaca Muerta? The case of Tecpetrol]. Realidad Económica, 50(335).
- 43 •** Bonnefoy (2016), op. cit.; Costamagna et al. (2015).

44 • Barrera (2012b), op.cit., details how changes in the valuation of reserves affected the sale price of YPF in the years prior to privatisation. Arelovich et al. (2015), op.cit. and Bilmes (2017), op.cit. show how this affected the negotiations with REPSOL.

45 • Libre Mercado (2020) Repsol will take 'all measures' to ensure that the plundering 'does not go unpunished'. 17 April. <https://www.libremercado.com/2012-04-17/brufau-advierde-de-que-la-expropiacion-de-ypf-no-quedara-impune-1276455966/>

46 • Bilmes (2017), op.cit.; Bonnefoy (2016), op.cit.; Costamagna et al. (2015), op.cit.; Fernández González, R., Arce Fariña, M.E. and Garza Gil, M.D. (2019) Resolving conflict between parties and consequences for Foreign Direct Investment: The Repsol-YPF Case in Argentina', Sustainability 11; and REPSOL Annual Reports and Financial Statements for 2012, 2013 and 2014.

47 • The various lawsuits are explained in REPSOL's 2013 Annual Report, available at https://www.repsol.com/content/dam/repsol-corporate/es/accionistas-e-inversores/pdf/informe_cuentas_individuales_tcm13-14862.pdf

48 • It is available at <https://cdi.mecon.gob.ar/bases/docelec/fc1307.pdf>

49 • Bueno and Fernández Alonso (2014). As Svampa, M. and Viale, E. (2014) point out, '[...] the concept of 'environmental liability' made a surprising and dazzling but equally fleeting appearance... Evidently, the ruling party found that it was not convenient to continue insisting on the issue due to the existence – real and potential – of so many socio-environmental claims. https://www.rionegro.com.ar/indemnizar-a-repsol-socializar-los-pasivos-a-CARN_1923621/

50 • Página 12 (2005) The ICSID arbitration tribunal; The trap. 15 May. <https://www.pagina12.com.ar/diario/suplementos/cash/subnotas/1869-535-2005-05-15.html>

51 • According to the UNCTAD Annual Investment Report (2012, p. 87), this was the first time that a country had been suspended from the Generalised System of Preferences for failing to pay an arbitration award, raising concerns about the 're-politicisation' of investment disputes. Available at <https://digitallibrary.un.org/record/734363?ln=es&v=pdf>

52 • Arelovich et al (2015), op.cit.; Bonnefoy (2016), op.cit. See also REPSOL's 2013 and 2014 Annual Reports.

53 • Unlike ICSID, UNCITRAL does not directly administer arbitrations, but rather provides a set of procedural rules that parties may agree to use to resolve their disputes, generally through ad hoc arbitral tribunals.

54 • Fernández González, R., Arce Fariña, M.E. and Garza Gil, M.D. (2019) Resolving conflict between parties and consequences for Foreign Direct Investment: The Repsol-YPF case in Argentina', Sustainability, 11(21). <http://dx.doi.org/10.3390/su11216012> ; see also REPSOL official statement of 7 May 2014. https://www.repsol.com/content/dam/repsol-corporate/en_gb/accionistas-e-inversores/pdfs/Repsol_vende_1186_YPF_tcm14-13380.pdf and REPSOL 2014 Annual Report, available at https://www.repsol.com/content/dam/repsol-corporate/es/accionistas-e-inversores/pdf/Informe_auditoria_cuentas_anuales_consolidados_tcm13-14841.pdf

55 • See REPSOL 2015 Annual Report. https://www.repsol.com/content/dam/repsol-corporate/es/accionistas-e-inversores/pdf/Informe_de_gestion_consolidado_tcm13-14820.pdf

56 • Data provided by the company itself, REPSOL (2013). op. cit.

57 • Guven, B. and Johnson, L. (2019) The Policy Implications of Third-Party Funding in Investor-State Dispute Settlement. Columbia Center on Sustainable Investment. CCSI Working Paper 2019. <http://dx.doi.org/10.2139/ssrn.3661129>

58 • Ámbito Financiero (2023) YPF: Who is behind the Burford fund? 8 September. <https://www.ambito.com/economia/ypf-quienes-estan-detras-del-fondo-burford-n5816056>

59 • US Chamber of Commerce (2023) Lawsuit against Burford gives a peek into the secretive world of litigation funding. 2 August. <https://instituteforlegalreform.com/blog/lawsuit-against-burford-gives-a-peek-into-the-secretive-world-of-litigation-funding/>

60 • In 2017, Eton Park closed its operations, but the lawsuit continued on its behalf.

61 • Reuters (2023) This billion-dollar case against Argentina's YPF wouldn't exist without litigation funding. Is that a good thing? 3 April. <https://www.reuters.com/legal/litigation/column-this-billion-dollar-case-against-argentinasy-pf-wouldnt-exist-without-2023-04-03/>

62 • Econojournal (2019) Point by point, the government's legal strategy to neutralise Burford, 12 July. <https://econojournal.com.ar/2019/07/punto-por-punto-la-estrategia-legal-del-gobierno-para-neutralizar-a-burford/>

63 • <https://investors.burfordcapital.com/financials/annual-reports/default.aspx>

64 • BAE Negocios (2019) Shares plummet for vulture fund suing Argentina over YPF. 7 August. <https://www.baenegocios.com/economia-finanzas/Se-derrumban-las-acciones-del-fondo-buitre-que-litiga-contr-Arentina-por-YPF-20190807-0019.html>

65 • Minuto de Cierre (2023) YPF trial: the Eskenazi family could collect some \$4 billion. 13 September. <https://www.minutodecierre.com/nota/2023-9-13-11-45-0-juicio-a-ypf-la-familia-eskenazi-podria-cobrar-unos-4-000-millones-de-dolares>

66 • The figure comes from adding the 70% commission it would charge the Petersen Group for its US\$ 14.4 billion and the 75% it would charge Eton Park for its US\$ 1.7 billion, resulting in an estimated US\$ 11.375 billion to be collected by Burford. Given the £46.2 million it claimed to have invested in the lawsuit, this gives an expected return of 24,578%.

67 • Institutional Investor (2020) Muddy Waters stands by allegations against litigation finance firm. 7 January. <https://www.institutionalinvestor.com/article/2bswz33rm6kbhpdzdtz4/culture/muddy-waters-stands-by-allegations-against-litigation-finance-firm>

- 68 •** Although the US government did not endorse or push for such an outcome, the New York courts ruled in favour of it in June 2025, with avenues for appeal still open. See <https://www.ambito.com/finanzas/expropiacion-ypf-justicia-eeuu-ordeno-que-la-argentina-le-transfiera-el-51-las-acciones-demandantes-n6162003>
- 69 •** Transnational Institute (2012) Parallel justice: how does the investment protection system threaten the independence of the judiciary in Latin America. <https://www.tni.org/es/publicaci%C3%B3n/justicia-paralela>
- 70 •** Ambito (2024) YPF's 4x4 plan to export US\$30 billion and bring the share price to US\$60 revealed. 7 February. <https://www.ambito.com/energia/revelan-el-plan-4x4-ypf-exportar-us30000-millones-y-llevar-la-accion-us60-n5940099>
- 71 •** La Nación (2023) YPF celebrated 30 years on Wall Street, answered questions from investors and announced investments of US\$5 billion. 10 March. <https://www.lanacion.com.ar/economia/ypf-cumplio-30-anos-de-en-la-bolsa-de-nueva-york-contesto-preguntas-de-inversores-y-anuncio-us5000-nid10032023/>
- 72 •** See <https://infoenergia.info/amp/nota-principal/ypf-recibe-mas-de-60-ofertas-para-la-venta-de-areas-maduras-de-hidrocarburos> The original plan includes up to 55 areas, see <https://econojournal.com.ar/2024/04/proyecto-andes-santander-proceso-55-conventional-fields-ypf/>
- 73 •** Energía Online EOL (2024) YPF moves forward with the 'Andes Process': new areas approved in Río Negro and Chubut, 30 December. <https://energiaonline.com.ar/ypf-avanza-en-el-proceso-andes-nuevas-areas-aprobadas-en-rio-negro-y-chubut/>
- 74 •** Mejor Energía (2025) Andes Plan: the sale of mature fields will be completed on 1 July, 19 March. <https://www.mejorenergia.com.ar/noticias/2025/03/19/3915-plan-andes-la-venta-de-campos-maduros-se-completara-el-1-de-julio>
- 75 •** EconoJournal (2025) Iguacel's oil company reveals its plans in the Northern Cluster of Neuquén to sustain conventional production, 9 April. <https://econojournal.com.ar/2025/04/la-petrolera-de-iguacel-revela-sus-planes-en-el-cluster-norte-de-neuquen-para-sostener-la-produccion-convencional/>
- 76 •** EconoJournal (2024) Pecom closed the purchase of YPF's oil fields in Chubut and confirmed its return as an operator in the oil industry, 5 August. <https://econojournal.com.ar/2024/08/pecom-compra-yacimientos-ypf-en-chubut/>
- 77 •** Bellato, R. (2024) The 18 companies in which YPF has shares that Milei's government could sell, El Destape, 20 February. <https://www.eldestapeweb.com/energia/energia/las-18-empresas-donde-ypf-tiene-acciones-que-el-gobierno-de-milei-podria-vender-202422317410>
- 78 •** Mejor Energía (2024) YPF is no longer a 'silly company' that finances others. 12 September. <https://www.mejorenergia.com.72-ypf-no-es-mas-unaboba-quear/noticias/2024/09/12/32-empresa--financia-a-los-demas>
- 79 •** Energy Report (2024) YPF and six partners accelerate the Vaca Muerta Oleoducto Sur, the largest private investment in Argentine history, 20 November. <https://www.ambito.com/energia/ypf-y-seis-socios-aceleran-el-vaca-muerta-oleoducto-sur-la-inversion-privada-mas-grande-la-historia-argentina-n6084073>
- 80 •** In this regard, the construction of an export-oriented gas pipeline deepens specialisation in hydrocarbon exploitation, an investment that will pay for itself in decades.
- 81 •** International civil society organisations (CSOs) are already pushing for these initiatives to be included, for example, in the negotiations for a United Nations Tax Convention. See <https://latindadd.org/justicia-fiscal/por-que-necesitamos-la-convencion-tributaria-en-onu/>
- 82 •** This is a long-standing debate in Colombia. See <https://latfem.org/de-donde-saldra-la-plata-para-la-transicion-energetica-de-colombia/>



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