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**SUBMISSION TO THE CANADA-CHILE COMMISSION FOR ENVIRONMENTAL COOPERATION
PURSUANT TO ARTICLE 14 OF THE
AGREEMENT ON ENVIRONMENTAL COOPERATION BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF THE REPUBLIC OF CHILE**

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SUMMARY

This submission, made pursuant to Article 14 of the Agreement on Environmental Cooperation between the Government of Canada and the Government of the Republic of Chile (AECCE), arises out of the failure of the Chilean environmental authority to enforce Chile's environmental laws with respect to the Cascada – Chile project, proposed by Compañía Industrial Puerto Montt, S.A., a joint venture between the US corporation Boise Cascade and the Chilean Maderas Cóndor, S.A.

The Cascada-Chile is a project to build and operate a wood chip and oriented strandboard structural panels plant, proposed to be built in Ilque Bay in southern Chile's Region 10. The plant itself would occupy a site of 177 hectares and is expected to consume about 925,000 cubic metres—roughly 5,000 hectares-of old-growth forest each year.

The wood supply for the project is to come from Region 10, an area already severely degraded by industrial clearcut logging and exotic tree farming. Only 20% of the original forest remains, and in that forest is found some of the richest biodiversity remaining in Chile. Over the twenty-year life of the project, some 100,000 hectares of native forest will be liquidated and with it, species not yet even identified by science.

Under Chile's environmental law, large-scale¹ forest exploitation projects, wood chip and wood product plants likely to cause direct or indirect environmental impacts² are subject to a process of environmental impact assessment.³ If the project will have "significant adverse effects on the quantity and quality of renewable natural resources..." or will significantly alter the touristic appeal or cultural heritage of an area, it cannot be approved without an environmental impact study (EIS)⁴.

The EIS is intended to permit the assessment of the project's environmental impacts, as well as to describe actions to prevent or minimise adverse effects.⁵ To facilitate such an analysis, each EIS must include a "baseline"⁶, which is a "detailed description of the project's area of influence, prior to its execution"⁷, as well as a similarly detailed description of the project's potentially adverse effects⁸.

Chile's Regional Environmental Commission (*Comisión Regional de Medio Ambiente -COREMA*) had the legal duty to approve or reject the Cascada-Chile project EIS⁹. While it is clear from the company's submission that the project's area of influence includes all of the forests of Region 10, COREMA failed to require the EIS to look at impacts on the forest, approving instead an EIS that evaluated only the impacts on the site of the plant.

¹ Article 10 of Law 19.300, Chile's Fundamental Environmental Law, applies the environmental impact assessment process to native forest exploitation projects "of industrial dimensions." The regulations implementing that provision define "industrial dimensions" in the following manner:

- For forest development or exploitation projects, those "that comprise a single or combined surface area of more than . . . 500 hectares annually in [Region 10]" ("*Proyectos de desarrollo o explotación forestales que abarquen una superficie única o agregada de más ... de quinientas hectáreas anuales en [X Región]*").
- For wood chip plants, those that consume at least 25 cubic meters of bark-free wood per hour ("*Plantas astilladoras . . . cuyo consumo de madera, como materia prima, sea igual o superior a veinticinco metros cúbicos sólidos sin corteza por hora*").
- For wood panel plants, those that consume at least 10 cubic meters of bark-free wood per hour ("*Plantas elaboradoras de paneles cuyo consumo de madera, como material prima sea igual o superior a diez metros cúbicos sólidos sin corteza por hora*").

Supreme Decree No. 30/97 – Regulations of the Environmental Impact (*Reglamento del sistema de evaluación de Impacto Ambiental*), Articles 3.m.1, 3.m.3, 3.m.4.

² Article 2(k) of Law 19.300 defines "Environmental Impact" as "the change in the environment, **directly or indirectly** caused by a project or activity in a determined area" ("*la alteración del medio ambiente, provocado **directa o indirectamente** por un proyecto o actividad en un área determinada*") (emphasis added).

³ *Id.*, Article 10 and subsection (m).

⁴ *Id.*, Article 11.

⁵ *Id.*, Article 2(i).

⁶ *Id.*, Article 12(b).

⁷ *Id.*, Article 2(l) ("*la descripción detallada del área de influencia del proyecto o actividad, en forma previa a su ejecución*").

⁸ *Id.*, Article 12(c).

⁹ *Id.*, Article 16.

In permitting the company to restrict its assessment to the site of the plant itself, COREMA accepted the company's argument that it was proposing an industrial operation, not a logging operation. Because it would be purchasing logs from third parties and did not own the native forests to be logged, the company argued that it was not required to consider the impacts on the native forests. Chile's law makes no such distinction, however, requiring an EIS to take account of *any* environmental impacts of a project.

In practice, this decision means that the project's impact on the native forests will never be evaluated. Owners of native forest plots that are not more than 500 hectares (which is the case for most of the forests to be used by the Cascada-Chile project) are not required to present an EIS before cutting their forests. Rather, these forest owners are only required to submit a "management plan", which is approved by the forestry authorities, not the environmental authorities.

The difference between an EIS and a management plan is significant. Whereas an EIS is a holistic evaluation of a project's effects on the entire affected environment, taking into account considerations such as associated flora and fauna, waterways, and biodiversity, management plans are intended only to assure the use of appropriate silvicultural practices, regulating the techniques used for cutting and reforestation.

COREMA's interpretation of the scope of the assessment required here is erroneous and violates the letter and spirit of Chile's Fundamental Environmental Law and other national environmental laws, as described below.

This submitting parties state that this submission is consistent with Article 1 of the AECCE, because it seeks to:

- **Foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations.** The environmental and cultural heritage of Chile's Region 10 is clearly imperilled by the failure to enforce environmental laws requiring assessment of the proposed project's impact on the Region's forests.
- **Promote sustainable development based on cooperation and mutually supportive environmental and economic policies.** It is crucial that the sustainability of native forests and associated biodiversity of Chile's Region 10 be assured via cooperation between Chile and Canada through this Agreement. Both nations trade in timber and timber products and their respective requirements for environmental assessment must be equally and effectively enforced if this goal of the agreement is to be attained.
- **Increase cooperation between the Parties to better conserve, protect, and enhance the environment including wild flora and fauna.** The Canada-Chile Commission for Environmental Cooperation plays a valuable role in increasing cooperation between the parties when it accepts submissions for investigation. This submission provides an opportunity not only to investigate a project with particularly devastating consequences for the flora and fauna of Chile but also to encourage the cooperation necessary to conserve and protect them.
- **Support the environmental goals and objectives of the Canada-Chile Free Trade Agreement (CCFTA) and Enhance compliance with, and effective enforcement of, environmental laws and regulations.** These goals include ensuring that each party continues to effectively enforce its environmental laws, so that neither party subsidises its trade at the expense of the environment.
- **Promote transparency and public participation in the development of environmental laws, regulations, and policies.** The citizen submission provisions of AECCE, like those under the North American Agreement on Environmental Cooperation (NAAEC), are critical components of the free trade regime established under the related trade agreement. Citizens *must* be able to provide effective scrutiny of the actions of their governments, to ensure that laws are being effectively enforced and unfair advantage is not being created. In the absence of any forum in which to draw international attention to failures of enforcement, important concerns like environmental protection will in every instance be subordinated to considerations of profit. .

The claim made in this submission is based on the factual and legal background, as discussed below.

FACTS

1) THE NATIVE FOREST OF CHILE'S REGION 10 AND ITS BIODIVERSITY

The native forests of Region 10 are in critical condition because this region is the focus of the expansion of the national forestry industry. The industry places relentless pressure on these forests by substituting

rapidly growing exotic species for native ones, and by exploiting forest resources unsustainably. The devastation of these forests began in the year 1800, and by 1950 the area with native forest cover had been reduced to only 20% of the original area.

According to figures from the Native Forest Registry (CONAF, CONAMA, BIRF 1997) (Appendix XI), Region 10 contains 3,610,228 hectares of native forest. Fifty-two percent of these forests are already being exploited, particularly through logging practices such as clearcutting and "high grading," which consists of cutting the best trees in the forest and leaving the worst. This is causing serious degradation of the forests. Despite this situation, Region 10 currently has the highest portion of land covered by native or plantation forests of any region in Chile (53.96%), and contains 26.9% of all Chilean forests. These remaining forests are located in the coastal and mountain areas of the region. Until 1800, native forests nearly covered the area that today is Region 10, but by about 1850 the acreage had shrunk by approximately 50% due to influx of agriculture. During the past decade, the loss of native forests has accelerated because of increased wood chip exports and the replacement of native forest with rapidly growing exotic species that do not support the endemic forest biota. (Appendix VIII, C, E and I) **According to experts**, deforestation and the loss of native biodiversity are the primary environmental problems of Region 10. (Appendix VIII, A p. 48 - 49; D p.22 - 23; F p. 69; J)

The Chilean Forest Resources Registry, developed by the National Forestry Corporation (CONAF) between 1996 and 1999, and published by the Ministry of Agriculture at the end of 1999, showed that the native forest cover in the northern part of Region 10 alone had decreased by 25,000 hectares during the four years analysed. (Appendix VIII H) Adding to the concern is the fact that the other parts of Region 10 were not included in the study. The destruction of coastal forests in Region 10 is notorious, as these are highly exploited and near disappearance. (Appendix VIII E)

Most prevalent (by area) are evergreens (53.8%), followed by lenga (a species similar to beech) (15.9%) (Appendix VIII, A and B). Although the trees of these forests are fairly well studied, the associated non-arboreal species (shrubs, herbs, mosses, lichens, etc.) that make up the understory are not all known. It is estimated that nearly 50% of these non-arboreal species have not been identified. Moreover, it is said that the richest biodiversity is found in this type of vegetation.

According to other experts, the native forest is not a renewable resource because the composition of species and genotypes, as well as interactions among species, are the result of an evolutionary history that cannot be repeated. (Appendix VIII A) The experts maintain that it is impossible to reconstruct native forest ecosystems once they have been interfered with. This means that though the trees may be a renewable resource, the Chilean native forest itself, and its associated biodiversity, are not.

Among Chile's temperate forests, the diversity and number of terrestrial vertebrate species (birds, mammals and amphibians) reaches its apex in Region 10. In addition, this region is the center of diversity for woody ferns and boasts the greatest concentration of endemic genera of woody plants, that is, species exclusively found in Chilean forests. (Appendix VIII, H and Appendix II 5.37.1)

For these reasons, protection of the native forests of Region 10 requires that any project that will impact those forests in any way describe "in detail" the forest "before" beginning the project.

2) THE PROJECT

The Cascada Chile project was developed by Compania Industrial Puerto Montt S.A. (CIPM S.A.), a joint venture between the North American company Boise Cascade and Maderas Cóndor S.A. of Chile. Among the principal goals of the project is the construction and operation of an industrial facility for manufacturing oriented strandboard structural panels and producing wood chips, using raw materials from the native forests of Region 10. The facility will occupy 177 hectares and will be located in Ilque Bay, 20 km south-east of the community of Puerto Montt, Llanquihue Province, Region 10. (Maps in Appendix VII E)

According to the EIS presented by CIPM to the Environmental Authority, the project will use 925,000 cubic meters of pulpable native wood each year, all of which will come exclusively from Region 10. This is equivalent to using approximately 6,000,000 tree trunks, and will require logging more than 5,000 hectares of native forest each year. The Cascada Chile plant will convert at least 67% of the native wood received into 600,000,000 square feet of panels per year, and will process the remainder into wood chips.

3) PROJECT APPROVAL

3.a) THE PROJECT IS SUBMITTED TO THE ENVIRONMENTAL EVALUATION PROCESS

Chile is divided into thirteen political territories, each of which has a Regional Environmental Commission

(COREMA) charged with coordinating the environmental management of the territory. According to Title IV of the Regulations for the Environmental Impact Assessment Process, the COREMAs also responsible for Environmental Impact Studies and Declarations, including the public participation process and the final environmental decision on the projects (approval or rejection).

On May 29, 1998, CIPM S.A. took the first steps under the Environmental Impact Assessment System established by Law 19,300 and its Regulations by submitting an EIS for the Cascada Chile project to the Region 10 COREMA. The EIS confirmed that:

- That the company does not own forests, and that “the supply of wood for the industrial complex will come primarily from purchases from third parties and to a lesser degree from related companies”.
- That the facility was specially designed to make pressed panels from native forest wood: “the design of this plant was conceived based on the use of native species because these impart structural advantages to the panels”.
- That the raw material for the production of panels and wood chips will consist exclusively of wood from the native evergreen forests throughout Region 10.

(Appendix IX Chapter 2.1.14 “Recurso Forestal y Abastecimiento de Madera” [“Forest Resources and Wood Supply”] pp. 1-2, 2-11, and 2-12) Despite the fact that CIPM’s EIS made clear that the area of project influence is the entire Region 10, the government did not require any analysis of the project’s environmental impacts on the forests of the Region.

3.b) ABSENCE OF A “BASELINE”

Chilean law mandates that an EIS include a definition of what is called the “baseline,” which is “detailed description of the project’s area of influence, prior to its execution”. Therefore, the law requires that an EIS describe the status of the environment of the entire affected area before work on a project begins.

CIPM S.A. did not determine the “baseline” in relation to the project’s area of influence. The baseline should have included the specific Region 10 native forest resources to be used. **To justify this failure, the company alleged that the project is industrial, and not a forestry project. In other words, CIPM S.A. confused the project’s nature with its environmental impact.**

According to Chilean environmental law, and according to the great majority of environmental laws, the nature of a project is irrelevant from an environmental perspective. The nature of the project is relevant only to determining which projects are subject to the Environmental Impact Assessment Process. If a project is of great scope – that is, if it could have a substantial impact – an EIS is required (Law 19,300, Article 11). Otherwise, a simple environmental declaration is sufficient (Law 19,300, Article 18). For projects that require an EIS, the study should evaluate the project’s impacts on the environment. The law defines “Environmental Impact” as “alteration of the environment, directly or indirectly caused by a project or activity in a determined area” (“la alteración del medio ambiente, provocada directa o indirectamente por un proyecto o actividad en un área determinada”) (Law 19,300, Article 2 (k)).

How the Chilean authorities accepted the company’s interpretation, erroneously applying its own law with grave environmental consequences, is discussed below.

3.c) PUBLIC PARTICIPATION AND TECHNICAL OBSERVATIONS

During the Environmental Impact Assessment process, numerous organisations and authorities commented on the lack of a “baseline” for the project. Of particular note are:

- Observations presented by several of the organisations that have signed the present submission. In addition, and of particular importance, were the comments submitted by Professor Mario Silva G., Dean of the Agrarian and Forest Sciences Department at the University of Chile; María Cristina Maeztu, for the council of the zone; representing the territorial council; and by the Darwin Foundation Ecological Research Institute of Chiloé, signed by Professor Juan Armesto. COREMA did not adequately consider the vast majority of the public comments, and declared that some, such as those referring to the absence of a baseline for the native forests to be exploited, were satisfactorily “addressed” by the company, as is explained below. (Appendix II 5.5, 5.22 and 5.37; Appendix VI p. 14).
- In late July 1998, the Municipality of Puerto Montt also expressed its concern, and contracted forest experts from the University of Concepción to study the impact of the Cascada Chile project on Region 10. It must be noted that according to the Organic Constitutional Law, which regulates the functions of Municipalities (Article 4(c)), as well as the Fundamental Environmental Law (Articles 54 and 56), municipalities should concern themselves with the environmental protection of their communities.

(Appendix VI, p. 18) In this case, the Environmental Department of the Municipality expressed the clear and well-founded opinion that the project was unsustainable and that native forests were threatened. (Appendix III, p. 413 - 420.)

- In September of the same year, the report commissioned by the Municipality of Puerto Montt and written by experts from the University of Concepción was published. This report recommended that no activities related to the Cascada Chile project be authorised until detailed studies regarding the environmental impact on the native forests have been completed. (Appendix VI p. 32-A, Appendix III p. 421-446)
- In its first report, the National Forestry Corporation (CONAF) stated that the EIS's baseline should have included forest resources because the forests are the project's raw materials and are therefore a component of the environment that the project will potentially impact. CONAF based its report on Law 19,300 and the corresponding regulations. (Appendix III p. 29 - 32)
- The National Tourism Service (SERNATUR), under the heading "The Baseline," observed that the facts presented in the EIS "do not support the conclusion that the native forests will be sustained". For this reason, SERNATUR argued that the project's proponent should be required to specify "the area in Region 10 affected by the demand for raw materials" and "the species, dimensions, health and shape [of the trees to be used]". Thus, SERNATUR was requesting an assessment of the project's true baseline and the characteristics of the native forests to be used. (Appendix III p. 48-52).
- During the environmental impact assessment process, the following authorities with environmental expertise also submitted comments regarding the Cascada Chile project: the Council of National Monuments; the Marine Authority of Puerto Montt; the Subsecretary of Fisheries; the Department of Environmental Programs of the Health Service of Llanquihue, Chiloé and Palena; the Agriculture and Livestock Service of Region 10; the Secretary of the Ministry of Agriculture for Region 10; and the National Fisheries Service. The vast majority of these institutions were initially opposed to the approval of the EIS. (Appendix III)
- The September 1998 summary report sent by COREMA to CIPM S.A. contained 95 observations from COREMA's Technical Committee. Of particular importance was the observation that, pursuant to Law 19,300, the EIS should have included an evaluation of the forest resources. (Appendix VI p. 34 and 38) During a subsequent visit to the region, the Green Bench of the Chamber of Deputies, a diverse cross-party coalition of Members of Parliament with environmental concerns, indicated its opposition to the project and highlighted the project's unsustainability. (Appendix VI p.42)

3.d) THE COMPANY'S RESPONSES

In October 1998, CIPM S.A. submitted to the Region 10 COREMA the first "addendum" to the EIS. The addendum provides supplemental information and purports to address the criticisms and observations made in COREMA's first summary report. In the addendum, the company refused to evaluate the environmental impact on the native forests of Region 10. Nevertheless, the company contracted CONAF to develop three models of forest resource impacts under different "management plans". CONAF undertook this contract despite the fact that CONAF had already decided that the project could not be approved without an evaluation of its impact on the native forests. It is important to note that the "management plans" authorised by CONAF are not required under Chilean environmental law, but under D.L. 701, the law that promotes forest plantations. Accordingly, the goal of such "management plans" is not an environmental assessment of the resource but rather the application of good silviculture practices. The "management plans" also do not present a holistic view of the environment, as they pertain only to the parcel designated for forest exploitation. The National Director of The National Forestry Corporation (CONAF) has recognised this point in his recently comments published in "Voces del Bosque"¹⁰ newspaper where we said " The Management Plan is a right that every owner has. It can not be denied. It is possible to review how that intervention is going to be executed, but there is no way to stop it. Our acts must be done under a legislation and a Constitution too" . Moreover in the same opportunity he recognised that "the margin of movement " CONAF has in these areas "is not too wide". Therefore, environmental management plans can neither satisfy the requirements for evaluating environmental impacts established in Law 19,300, nor substitute for the specific instruments that law requires. Furthermore, the plans are not appropriate for the evaluation of environmental impacts for a project like Cascada Chile, whose area of influence covers more than one

¹⁰ "VOCES DEL BOSQUE" # 23, year 2.000 p. 7.

parcel. For this case, the only adequate environmental instrument is the EIS required by Law 19,300. The three models developed by CONAF at the request of CIPM were included in CIPM's addendum, but do not contain the information that is required for an EIS. To the contrary, the only thing demonstrated by these models is that the Cascada Chile plant will readily be able to obtain more than enough raw material to meet production goals. The latter is self-evident because the availability of low-cost wood is essentially a given for a project like this. However, this in no way guarantees the sustainability of the native forest. According to the data from Model No. 3 it is clear that total growth of mature forest in Region 10 is 5,423,622 m³ per year while total native wood consumption, including the 925,000 m³ that the oriented strandboard plant will consume annually, is 5,967,802 m³ per year. There is thus no doubt that there will be a wood deficit, even without taking into account any increased use of wood for other purposes. (Appendix X A p. 24 -25)

Apart from questions concerning the accuracy and implications of the CONAF models, the only thing these models demonstrate is that *the project produces a relevant environmental impact on the forest resource*. Therefore, the EIS should include an in-depth analysis, performed "in situ" as required by law, of the Cascada Chile project's impact on the native forests to be logged. *Theoretical interpretations can neither assure the sustainability of the resource, nor substitute for the required baseline because these interpretations do not consider the physical, environmental and legal limitations of specific areas to be logged.*

The conclusions of CONAF regarding the three models in no way change the agency's original conclusion that the project should be rejected as long as there is not an evaluation of the project's impact on the native forests. (Appendix VI p. 46 A and B, Appendix II 5.2.4) The two conclusions respond to different issues: environmental impact and the availability of a supply of wood for the plant. The agency conclusion expressed in the models was relevant only to whether enough wood would be available to satisfy the project's demands, but had nothing to do with whether it was necessary to include the forest resource in the EIS to assure the sustainability of the resource, an issue on which the agency had already expressed its opinion.

At the end of December 1998, in response to COREMA's second summary report, CIPM S.A. submitted to COREMA the second addendum to the project's EIS. This document also failed to consider the project's impact on the native forest, or to provide baseline data for the **entire** area of influence. CIPM S.A. argued that it did not have to carry out such a study because the Cascada Chile project is, according to the company, an industrial project, and therefore it need not evaluate the impacts on forest resources. (Third paragraph, p.7 of the Second Addendum, Appendix X A, p. 9-10).

On January 11, 1999, CIPM S.A. responded to COREMA's third summary report, in which COREMA once more requested explanations, corrections, and additions to the EIS. In its third addendum, CIPM S.A. once again insisted that it was not required to evaluate the environmental impact on the native forest to be exploited. (Appendix VI p. 51 and Appendix X C, p. 4 and 5)

3.e) ENVIRONMENTAL APPROVAL OF THE PROJECT

Finally, in late January 1999, the Region 10 COREMA issued Resolution No. 25/99, in which it authorised the Cascada Chile project. By approving the project **without** evaluating its impact on the specific native forest resource that was to be exploited – i.e., the entire area of the project's actual influence – COREMA violated Chilean law. The agency's justification for its action was a theory that has no legal basis. (Appendix II, Appendix VI p. 55-56 A and B and 64).

Using the arguments proposed by CIPM, SA and accepted by COREMA, any company could easily avoid the requirements of the law by first obtaining approval as an "industrial" project and later buying the forests or arranging for a subsidiary to do so. After the environmental authorisation, in a February 18, 1999, interview with Radio La Estrella del Mar, Italo Zunino, Jr., the manager of Maderas Cóndor (the Chilean half of the CIPM joint venture), stated that Cascada Chile's wood chip plant will obtain 50% of raw materials from suppliers and **50% from the company's own forests**. This statement supports the argument of the non-government organisations that ownership of the forests when the project is evaluated is irrelevant to the EIS process, because it is a project's environmental impacts that an EIS is intended to evaluate.

4) LEGAL CHALLENGES TO THE PROJECT

After COREMA's resolution approving the Cascada Chile project, several suits were filed in Chilean courts seeking reversal of the resolution.

In February 1999, attorney Marcelo Castle Sánchez filed a Constitutional Petition for Protection with the Court of Appeals of Puerto Montt on behalf of the Citizen Committees of Puerto Montt and Puerto Varas, the Community Ecological Council of Puerto Montt, the Terram Foundation, and the Green Bench. The suit also sought a preliminary injunction, which was granted. (Appendix III, p. 1-23).

Three days later attorney Fernando Dougnac, president of the Fiscalía del Medio Ambiente (FIMA), presented another Constitutional Petition for Protection on behalf of several individuals and environmental organisations. He also requested and obtained a preliminary injunction to halt the activities of the company until the suits had been resolved. (Appendix III, p. 77 -155). 79 residents of Region 10 joined the petition after it was filed.

On August 17, 1999, the Court of Appeals of Puerto Montt rejected the Petitions for Protection filed against COREMA. In a two to one vote, the court ruled in favour of the agency. **The minority opinion was very well founded and in favour of granting the petitions on the ground that the EIS did not contain a baseline that included the forests to be exploited. (Appendix IV)** The parties opposed to the project appealed to the Supreme Court.

In October of 1999, the Supreme Court affirmed the Puerto Montt Appellate Court ruling without hearing oral argument and with a ruling that states, in its entirety, "Seen, affirmed".

As described in this section, and in accordance with Article 14.2(c) of the Canada-Chile Agreement on Environmental Cooperation, the submitting parties have used legal recourses available under Chilean law.

THE LAW: FAILURE TO EFFECTIVELY ENFORCE ENVIRONMENTAL LAW

This section explains how the Chilean authorities consciously violated environmental norms in approving the Cascada Chile project.

1) THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS APPLIES TO THIS PROJECT

The Chilean Constitution requires the government to ensure the preservation of nature (Appendix I C, Article 19 N° 8). Law 19,300, the Fundamental Environmental Law, is one of the laws through which the government has attempted to satisfy this requirement. Article 10 of Law 19,300 states: "Projects or activities likely to cause environmental impacts in any phase that must be submitted to the Environmental Impact Assessment Process are the following: . . . m) Projects for development or exploitation of forests in fragile soils, in native forest areas, cellulose industries, wood pulp and paper factories, wood chip plants, wood producers and sawmills, all of industrial dimensions".¹¹

Article 3.m.1 of the Regulations (Appendix I B) defines which projects shall be considered to be of "industrial dimensions": "It will be understood that projects or activities are of industrial dimensions when they have to do with: . . . m.1. forestry development or exploitation projects that comprise a single or combined surface area of more than . . . **500 hectares annually (500 Ha/year) in Regions 8 - 11**, and that take place in: . . . Native forest areas, as defined in the relevant guideline".¹²

The Cascada Chile project includes a wood chip plant and a wood products plant, and, according to the company's own definition, will require forest exploitation in native forest areas. Moreover, the project is of industrial dimensions because within Region 10 it **will use logs from** a total surface area of much more than 500 hectares per year. The project is likely to cause environmental impacts and therefore meets the requirements of Article 10(m) of Law 19,300 for projects that must be submitted to the Environmental Impact Assessment Process.

2) REQUIREMENT TO CONDUCT AN ENVIRONMENTAL IMPACT STUDY

Article 11 of Law 19,300 provides that the projects listed in Article 10, **without distinction or exception**, require an EIS when they have certain effects, characteristics or circumstances. The first section of the article states:

¹¹ "Los proyectos o actividades susceptibles de causar impacto ambiental, en cualesquiera de sus fases, que deberán someterse al sistema de evaluación de impacto ambiental, son los siguientes: ... m) Proyectos de desarrollo o explotación forestales en suelos frágiles, en terrenos cubiertos de bosque nativo, industrias de celulosa, pasta de papel y papel, plantas astilladoras, elaboradoras de madera y aserraderos, todos de dimensiones industriales".

¹² "Se entenderá que estos proyectos o actividades son de dimensiones industriales cuando se trate de: ... m.1. Proyectos de desarrollo o explotación forestales que abarquen una superficie única o agregada de más ... de quinientas hectáreas anuales (500 há/año), tratándose de las Regiones VIII a XI, ... y que se ejecuten en: ... terrenos cubiertos de bosque nativo, entendiéndose por tales lo que se señale en la normativa pertinente."

Article 11. - The projects or activities listed in the preceding article require the preparation of an Environmental Impact Study if they have or cause at least one of the following effects, characteristics or circumstances: . . . b) Significant adverse effects on the quantity and quality of renewable natural resources, including soil, water, and air; . . . e) Significant alteration, in terms of magnitude or duration, of the aesthetic or touristic appeal of an area, and f) Alteration of monuments, sites having anthropological, archaeological, or historic value and, in general, those pertaining to cultural heritage”.¹³

Because the Cascada Chile project satisfied all these requirements, it was submitted to the Environmental Impact Assessment Process and CIPM was required to present an EIS. This was because it was evident that the project could cause: significant adverse effects on the quantity and quality of the native forest resource, significant alteration of the aesthetic and touristic appeal of Region 10, and changes in cultural heritage sites.

3) FAILURE TO EVALUATE THE BASELINE FOR THE ENTIRE AREA OF INFLUENCE

Article 2(i) of Law 19,300 defines the **Environmental Impact Study** as “the document that describes in detail the characteristics of a planned project or activity, or the modification of a project or activity. It should provide sufficient well-founded information to permit the prediction, identification, and interpretation of the project’s environmental impacts, and describe the actions that will be taken to prevent or minimise significant adverse effects”.¹⁴

According to this law, therefore, an EIS should describe “*in detail*” the effects of a project (Articles 2(i) and 12(b), (c) of Law 19,300). According to the Spanish Dictionary (used in Chilean jurisprudence to determine the meaning and scope of words used in laws), “in detail” (“pormenorizadamente”) as used here, means “**meticulously**” (“minuciosamente”), without omitting any circumstance or fact.

In turn, Article 12(b) of Law 19,300 indicates that all EISs must contain, among other requirements, a “baseline”. Article 2(l) of the same law defines “baseline” as a “**detailed description of the project’s area of influence, prior to its execution**”.¹⁵ Therefore, what the law requires is that the environmental authority be provided full and detailed information regarding the state of the total area of project influence as it exists prior to execution. (Appendix 1 A)

Article 12(b) of Law 19,300, which requires the “baseline,” is complementary to Article 12(c), which sets out the minimum content of an “Environmental Impact Study”, requiring: “A detailed description of those effects, characteristics and circumstances listed in Article 11 that give rise to the need to carry out an Environmental Impact Study”.¹⁶ As mentioned above, among the Article 11 “effects, characteristics, and circumstances” are:

- significant adverse effects on the quantity and quality of renewable natural resources;
- significant alteration, in terms of magnitude or duration, of the aesthetic or touristic appeal of an area; and
- alteration of monuments, sites having anthropological, archaeological, or historic value and, in general, those pertaining to cultural heritage.

It is precisely these effects that the law requires be described in detail. The content of an “Environmental Impact Study” is thus determined by the “**effects, characteristics, or circumstances**” of **Article 11** and **NOT** by the type of project as established in Article 10 of Law 19,300. As mentioned above, the latter article is only used to determine what types of projects are subject to the Environmental Impact Assessment Process established by the law.

According to Article 2(i) of Law 19,300, an EIS should provide a well-founded basis for predicting, identifying and interpreting the project’s environmental impacts. It is thus essential that the Article 12(b) requirement

¹³ “Artículo 11.- Los proyectos o actividades enumerados en el artículo precedente requerirán la elaboración de un Estudio de Impacto Ambiental, si generan o presentan a lo menos uno de los siguientes efectos, características o circunstancias: ... b) Efectos adversos significativos sobre la cantidad y calidad de los recursos naturales renovables, incluidos el suelo, agua y aire; ... e) Alteración significativa, en términos de magnitud o duración del valor paisajístico o turístico de una zona, y f) Alteración de monumentos, sitios con valor antropológico, arqueológico, histórico y, en general, los pertenecientes al patrimonio cultural.”

¹⁴ “el documento que describe pormenorizadamente las características de un proyecto o actividad que se pretenda llevar a cabo o su modificación. Debe proporcionar antecedentes fundados para la predicción, identificación e interpretación de su impacto ambiental y describir la o las acciones que ejecutará para impedir o minimizar sus efectos significativamente adversos”.

¹⁵ “la descripción detallada del área de influencia del proyecto o actividad, en forma previa a su ejecución”.

¹⁶ “Una descripción pormenorizada de aquellos efectos, características o circunstancias del artículo 11 que dan origen a la necesidad de efectuar un Estudio de Impacto Ambiental”.

for the development of a “baseline” be obeyed. The baseline should cover the area of project influence, or in this case the Region 10 forests designated for exploitation. This step is essential and unavoidable in predicting the environmental effects of the Cascada Chile project because it permits a comparison, once the project has been executed, with the actual effects that the project has on the native forests and associated biodiversity.

The Convention on Biological Diversity, having been ratified by Chile and implemented in Chilean law is accorded the same weight as Chilean law. Article 14(a) requires Contracting States, as far as possible, to “introduce appropriate procedures requiring environmental impact assessment of [their] proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimising such effects and, where appropriate, allow for public participation in such procedures”.

In this case, though it is true that there existed a procedure for evaluating environmental impacts, this was not appropriate for determining the important adverse effects of the project on biodiversity.

4) THE EIS FOR CASCADA CHILE DOES NOT ADDRESS THE PROJECT’S SIGNIFICANT ADVERSE EFFECTS ON THE NATIVE FORESTS OF REGION 10.

For an EIS to truly be a study of environmental impacts, it must comply with the requirement that it contain the “baseline” (Art. 12(b), Law 19,300) and describe “in detail” the project’s significant adverse effects (Art. 12(c) of the same law). In this case, therefore, the EIS should have included a detailed description of the Cascada Chile project’s significant adverse effects on the quantity and quality of forest resources and the significant alteration of the aesthetic and touristic appeal of Region 10.

The EIS presented by CIPM did not satisfy this essential requirement because it did not consider the project’s effects on the Region 10 native forests, which is extremely critical to the countryside and tourism of the region.

In the Fundamental Environmental Law, the expression “significant adverse effects” of the project can be considered synonymous with “environmental impact” when this impact is negative for the environment.

Article 2(k) of the law defines “**Environmental Impact**” as: “the change in the environment, **directly or indirectly** caused by a project or activity in a determined area”.¹⁷ The meaning of “**determined area**” is clarified in the same law’s definition of “baseline” in Article 2(i), which states that the baseline consists of “. . . a detailed description of the project’s area of influence, prior to its execution”.¹⁸

Given that by “**environment**” the law means “the global system comprised of the natural elements. . . that govern and determine existence and development of life,”¹⁹ (art. 2º letter II) it is incontrovertible that **the native forest is a component of the environment**, a component that will be altered by the Cascada Chile project. Therefore, to describe the true impact of the project on the forest, one must have a PRIOR detailed understanding of the characteristics of project’s “area of influence”, meaning the area that the project would impact. It would also be necessary to identify the adverse effects that the project would have on the environment and to propose measures to prevent or mitigate these effects.

In the case of Cascada Chile, the company itself declared in the EIS that the area of influence was and is the entire Region 10, failing to state which specific forests were to be exploited.

In the face of this omission, the Environmental Authority had only three legal options: 1) reject the EIS as incomplete; 2) demand to know what was the true state of the entire native forest in Region 10 before the project was executed; 3) request **the exact location of the native forests of Region 10 from which the company would derive its wood supply**. The two latter alternatives were necessary if the project was not rejected “a priori”. This is because there are legal restrictions on logging, such as altitude, proximity to rivers and other water sources, slopes, roadways, etc. (Ley de Bosques, D.S. 4.363 del año 1931). In addition to these limitations, there are also strictly environmental limitations such as biodiversity, scarcity of the resource, etc. (Convenio sobre Protección de la Diversidad Biológica, Ley de Bases del Medio Ambiente)

5) ADMINISTRATIVE PRECEDENT IN SIMILAR CASES

The analogous case of the company Forestal Trillium (today Savia S.A.) serves as an example and an administrative precedent. In that case, before authorising Forestal Trillium’s project, which proposed the exploitation of lenga trees (a species of beech), the CONAMA Board of Directors required the company to

¹⁷ “la alteración del medio ambiente, provocado directa o indirectamente por un proyecto o actividad en un área determinada”.

¹⁸ “... descripción detallada del área de influencia de un proyecto o actividad, en forma previa a su ejecución”.

¹⁹ “el sistema global constituido por elementos naturales ... que rige y condiciona la existencia y desarrollo de la vida”.

provide a detailed description of all of the forests to be exploited, including topographical mapping with contour lines every 20 meters, etc. – exactly the same information (necessary for the same reason) that has been indicated as missing in the Environmental Impact Study presented by CIPM and in the evaluation of that study. This is made clear in Resolution No. 032 by the Executive Director of the National Environment Commission, June 5, 1998, which conditioned the approval of the Forestal Trillium project on the fulfillment of these requirements. It should be emphasised that the two projects are essentially the same. The only difference between the Forestal Trillium project and the Cascada Chile project is the ownership of the forest. Trillium owned the forest it was going to use, whereas CIPM S.A. apparently and for the time being, does not own the forests it intends to use. However, we have explained that this difference is irrelevant from the environmental perspective.

The EIS presented by Cascada CIPM S.A. thus lacks a “baseline” in that it did not evaluate the project’s impact on the native forest, the primary source of raw material. As a result, the EIS also did not identify the principal adverse effects of the project on this natural resource. Nevertheless, the Chilean environmental authorities **approved** the study, which constitutes an obvious violation of existing Chilean environmental law.

6) FUTURE EISs AND “MANAGEMENT PLANS” FROM WOOD SUPPLIERS

It is significant that omissions in the EIS cannot be rectified in future EISs presented by those who will eventually supply native forest wood to CIPM S.A. These suppliers do not have to submit an EIS for review if their logging activities are not industrial, meaning that they cut no more than 500 hectares per year (Article 3(m.1) of the Regulations for the Environmental Impact Assessment Procedure). In Region 10, only a very small number of owners have title to more than 500 hectares of native forest. This means that the vast majority, if not all, of the Cascada Chile project’s suppliers would log without an EIS.

On the other hand, the “management plans” that the majority of these suppliers must present in no way constitute an effective environmental safeguard, as environmental protection is not the purpose of these plans. As explained above, the objective of the management plans is to verify good silviculture practices, and **the plans are limited to a specific parcel**. The sole objective of D.L. 701, the law that requires these plans, is to **“regulate forestry activities on lands that are particularly suitable for forestry or have degraded soil, and to provide incentives for forestation, especially by small holders and when necessary for the prevention of degradation, and the protection and recovery of soils in the national territories”**²⁰ (Article 1).

From this limited perspective, the **“management plans”** are defined in Article 2 as the “instrument that, combining the requirements established in this law, regulates the rational use and exploitation of natural renewable resources **on specific lands**, with the goal of obtaining the maximum benefits from them, at the same time ensuring the preservation, conservation, improvement, and growth of these resources and their ecosystems”.²¹ **It must not be forgotten that the principal objective of the law is to provide incentives for silviculture. Thus, the natural resources to which the law refers are the “soils” and forest resources.** The management plan thus lacks the detail, as well as the general and holistic vision, of an EIS. As a result, if the current situation is not remedied, there will be no evaluation of environmental impacts of the Cascada Chile project on the native forests of Region 10.

7) ARGUMENTS PRESENTED BY THE AUTHORITY TO JUSTIFY APPROVAL OF THE PROJECT

In a report to the Puerto Montt Court of Appeals, COREMA stated that: “Of the types of projects described (those of Article 10(m) of Law 19,300) the only ones that apply to what Cascada Chile presented are those related to wood chip and wood products plants of industrial dimensions.” (Appendix .III p. 227)

In an attempt to justify the defects in the study, COREMA arbitrarily distinguished between two different “kinds of projects”:

- forestry-industrial projects : “forestry development or exploitation projects on fragile soils, and forestry development or exploitation projects on lands with native forest cover, both of industrial dimensions”; and
- industrial projects: “the cellulose, wood pulp, and paper industries, wood chip plants, wood product plants

²⁰ “regular la actividad forestal en suelos de aptitud preferentemente forestal y en suelos degradados e incentivar la forestación, en especial por parte de los pequeños propietarios forestales y aquella necesaria para la prevención de la degradación, protección y recuperación de los suelos del territorio nacional”.

²¹ “instrumento que, reuniendo lo requisitos que se establecen en este cuerpo legal, regula el uso y aprovechamiento racional de los recursos naturales renovables de un terreno determinado, con el fin de obtener el máximo beneficio de ellos, asegurando al mismo tiempo la preservación, conservación, mejoramiento y acrecentamiento de dichos recursos y su ecosistema”.

and sawmills, all of industrial dimensions”.

According to this argument, “industrial projects” that use wood bought from third parties need not evaluate the impacts of their activity on native forests, because this natural resource does not belong to them. Only if the forest were owned by such third parties would the impact have to be assessed.

As is obvious, the Chilean environmental authority confused the **ownership** of the resource with the **impact** on the resource. This is a clear and grave error, because it is well known that negative environmental impacts generally affect the property of others, i.e., resources such as the air, the sea, the forest, etc., that do not belong to the owners of the project. It should be noted that under Fundamental Environmental Law 19,300, the Chilean environmental heritage includes “the components of the environment, especially those of the country that are unique, scarce, or representative. . .”. The use of such components should be rational in order to “insure their permanence and regenerative capacity” (Article 2(b)). In Chile there exists nothing more unique and representative than the native forests. With good reason, Nobel Laureate **Pablo Neruda** exclaimed in a poem “Whoever does not know the native forest, does not know Chile.”

The distinction made by COREMA is clearly illegal. Once more we reiterate that Article 10 of the Fundamental Environmental Law does not address the contents of “Environmental Impact Studies”. This article explains which activities or projects are subject to the “Environmental Impact Assessment Process,” which requires submission of an “Environmental Declaration” when a project will have minimal effects on the environment, and an “Environmental Impact Study” when there will or may be considerable environmental consequences. It is Article 11 of this law that indicates when an “Environmental Impact Study” must be submitted instead of an “Environmental Declaration”. This decision is not based on the type of activity, as the Region 10 COREMA erroneously asserted, but rather **on the environmental effects caused by the project or activity**. The article states that “projects or activities listed in the preceding article will require an Environmental Impact Study **if they generate or present at least one of the following effects, characteristics, or circumstances ...**”

Moreover, when Article 10(m) of Law 19,300 refers to forest projects, it is very clear that there is no distinction based on who owns the forests. The company, on the other hand, has created this distinction and the authority has erroneously accepted it.

8) CONCLUSION

In summary, the law provides that every location that could be adversely affected by a project must be analysed and studied in detail prior to project execution. Following from this study are the prediction and evaluation of the project’s environmental impact, mitigation and restoration measures, monitoring plans, etc., all of which permit the elimination or reduction of the project’s potential adverse environmental effects. With respect to the native forests, none of the above is present in the Cascada Chile EIS. referent to the native forest.

The Cascada Chile EIS lacks elements that are necessary to conclude that the exploitation of the forest that the project involves will be rational, i.e., that the exploitation will ensure the permanence and regenerative capacity of the forest (Article 2(b)). The EIS failed to indicate clearly and with good support whether or not the project will affect the conservation of a resource that until now has not been exploited industrially – the evergreen forest of “canelo”, “arrayán”, “tepa”, and “ulmo” trees. The EIS for the project also contains no scientific parameter that would permit a determination whether the use of the forest resources would cause deterioration of or harm to the environmental heritage and the environment in general.

The preceding points are extremely important because, as explained in the summary of this petition, there are authoritative arguments that the native forests of Region 10 are invaluable, are not renewable, and are currently being destroyed.

The facts presented in this case suggest the flagrant violation of the following laws, all of which are in effect in Chile and therefore are completely applicable to this case:

- Article 19 N° 8 of the Chilean Constitution (Appendix I C), which creates the State obligation to ensure the preservation of nature.
- The Fundamental Environmental Law 19,300. Particularly Articles 2(b), (c), (i) and (l); Article 10(m); Article 11; and Article 12(c).
- Article 3(m.1) of the Regulations for the Environmental Impact Assessment Process.

- Article 14(a) of the Convention on Biological Diversity (ratified by Chile on September 9, 1994, and implemented as Chilean Law in 1995 via D.S. No. 1,963 of 1994, by RR.EE.) (See Appendix I XXX)

The failure to effectively enforce environmental law will have irreversible and unavoidable negative effects on the environment of Region 10, and especially on the region's native forests. Consequently, both the Fundamental Environmental Law and the Regulations for the Environmental Impact Assessment Process lose their effectiveness as mechanisms for the analysis and prevention of environmental impacts.

Moreover, the Chilean government has failed to comply with Article 2(e) of the Canada-Chile Agreement on Environmental Cooperation, which creates the obligation to evaluate environmental impacts, when they occur, within its territory. **This article implies that such an evaluation be effective, i.e., that it serve the ends proposed in the agreement.** The violation of these laws constitutes a failure to effectively enforce Chilean environmental law, which violates the obligations and principles of the AECCC.

PETITIONERS, INTEREST AND ALLEGED DAMAGE

FISCALIA DEL MEDIO AMBIENTE (FIMA): Is a registered non-profit organisation whose objective, according to its bylaws, is "defending the public interest in matters related to environmental protection, the preservation of nature, and the conservation of environmental heritage, sustainable development, and representing persons, groups and/or communities whose rights to life and physical and emotional integrity, or to live in an environment free of pollution are affected". The public interest obviously includes the conservation of the environmental heritage of Chile's Region 10, which would be greatly harmed by the Cascada Chile project approved by the authorities. The same is true of the ALLIANCE FOR CHILEAN FORESTS; the NATIONAL COMMITTEE FOR THE DEFENSE OF FLORA AND FAUNA (CODEFF), the NATIONAL ENVIRONMENTAL NETWORK (RENACE), the SOCIEDADES SUSTENTABLES; and the INSTITUTO DE ECOLOGÍA POLÍTICA (IEP).

OBJECTIVE OF THIS SUBMISSION

The COMMISSION FOR ENVIRONMENTAL COOPERATION BETWEEN CANADA AND CHILE should accept this submission because it is consistent with the mandate established in Article 1 of the Agreement on Environmental Cooperation (AECCC), which seeks to:

- Foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations. This is particularly applicable to issues related to the environmental heritage and the population of Chile's Region 10.
- Promote sustainable development based on cooperation and mutually supportive environmental and economic policies. It is crucial that the sustainability of native forests and associated biodiversity of Chile's region 10 be assured via cooperation between Chile and Canada through this Agreement.
- Increase cooperation between the Parties to better conserve, protect, and enhance the environment including wild flora and fauna. The Cascada Chile project is a particularly appropriate case for ensuring that cooperation between the Parties brings concrete benefits for the flora and fauna of these nations.
- Support the environmental goals and objectives of the CCFTA
- **Enhance compliance with, and enforcement of, environmental laws and regulations. This petition has convincingly demonstrated that there are environmental laws that have not been effectively applied with regard to the approval of the EIS for the Cascada Chile project.**
- Promote transparency and public participation in the development of environmental laws, regulations, and policies.

In addition, and consistent with the above, Point 99.1 of the 1999 Work Program of the AECCC states that: "One of the objectives of the AECCC, as stated in Article 1(g), is to 'enhance compliance with, and enforcement of, environmental laws and regulations'". In addition, Article 5 of the agreement states that "each Party shall effectively enforce its environmental laws and regulations through appropriate governmental action". For this reason, the Council was commissioned in Article 10(5) to promote the "effective enforcement by each Party of its environmental laws and regulations; compliance with those laws and regulations; and technical cooperation between the Parties".

In light of the above, it is clear that the evaluation of this submission will promote the goals of the Canada-Chile Agreement on Environmental Cooperation, and especially, as is the intention of the submitting parties,

will contribute to the effective application of environmental law.

RELIEF REQUESTED

- 1) That the National Secretariat consider this submission, and forward it to the Joint Submission Committee and thus initiate the procedure for corroborating the failure to effectively enforce Chilean environmental law in the case of the Cascada Chile project; and
- 2) That in accordance with Articles 14 and 15 of the Canada-Chile Agreement on Environmental Cooperation, and in light of the failure to effectively enforce Chilean environmental law, a factual record be developed to corroborate information in this petition and to demonstrate that the State of Chile has failed to effectively enforce its environmental laws.

We trust that this petition to the National Secretariat will result in the issuance of Recommendations that will promote the conservation and protection of the environment of Chile's Region 10, thereby achieving the objectives and obligations of the Agreement on Environmental Cooperation.

BASIS FOR A FACTUAL RECORD

- 1) COMPLIANCE WITH THE REQUIREMENTS OF ARTICLE 14.1

This Submission

- Is submitted in Spanish and English.
- Clearly identifies the petitioners, who reside in Chile.
- Provides sufficient information for review of the text and appendixes.
- As previously stated, the petition's objective is to promote the enforcement of Chilean environmental law within the territory and in no way should be interpreted as harassment of an industry or productive activity.
- Clearly demonstrates that on various occasions, both through administrative and judicial means, the authority has been notified that the approval of the project under these circumstances constitutes a failure to enforce Chile's environmental law. The environmental authority has responded in writing to the judicial submissions. The arguments of the authority are described and the responses are attached. (See Appendix II and III).

This submission thus fully complies with the requirements of Article 14.1 of the AECCC.

- 2) BASES FOR REQUESTING A RESPONSE FROM THE PARTY

This submission:

- Demonstrates that the submitting parties have a legitimate interest in the conservation of the Chilean environment, which is threatened by the approval of the Cascada Chile project.
- As indicated above, the analysis of this petition would advance the goals of the Agreement.
- Indicates how and with what results private remedies under Chilean law have been pursued.
- Is based on facts and law that are documented in the appendices. And
- Addresses a matter that is not the subject of any pending judicial or legal proceeding.

For these reasons, this petition merits the request of a response from the party.

- 3) GROUNDS FOR THE ELABORATION OF A FACTUAL RECORD

Given:

- that the requirements of Article 14.1 of the AECCC are fulfilled,
- that there is a basis for soliciting a response from the party,
- and that the facts described indicate a grave threat to the environment of Chile's Region 10, and that the analysis of this case will further the objectives of the AECCC,

the petitioners believe that the development of a factual record is warranted and should be undertaken in accordance with the Agreement. Such factual record would establish beyond doubt the facts that have led to the Chilean authorities' approval of a project that flagrantly violates the national environmental laws.

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Manuel Baquedano
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