

# CHILE FACTS



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## HidroAysén's Environmental Impact Review: Weaknesses and Needed Solutions

Chile's environmental review of large energy projects has been a repeated source of conflict for communities, companies, and the government. Large and harmful projects, such as the Bio Bio dams in the 1990s, the Barrancones coal plant in 2010, and the current proposed HidroAysén mega-dam complex in Patagonia, were evaluated under a fundamentally flawed system. This inadequate system does not conform to international standards and it often fails to fully assess the environmental impacts or improve the quality of projects. The Chilean parliament revised the environmental review law in late 2010 to address some of the most problematic issues. But these changes are limited and came too late for the controversial proposed HidroAysén dam project, which is fatally flawed and should not be built. Chile should further reform its environmental review system to bring it in line with international standards and reduce potential risk around future projects.

### **HIDROAYSÉN'S HYDRO PROJECT WAS EVALUATED UNDER A WEAK AND FLAWED ENVIRONMENTAL REVIEW SYSTEM THAT FAILED TO MEET INTERNATIONAL STANDARDS**

Chile's previous environmental impact assessment (EIA) system was incapable of adequately evaluating complex energy projects such as HidroAysén. Under this flawed system, project developers unilaterally decided key factors such as project location, design, operating procedures, and even the scope of their project's environmental assessments.<sup>1</sup> This lack of input from the government and public during

a project's early development explains why HidroAysén and other energy projects have been so controversial in Chile. The EIA system also did not require companies to evaluate alternatives to their projects as proposed, which is the heart of the environmental impact statement<sup>2</sup> under the U.S. National Environmental Protection Act, and is a requirement of the Organization of Economic Cooperation and Development (OECD)<sup>3</sup> and the international finance community's Equator Principles.<sup>4</sup> In the case of HidroAysén, options such as non-conventional renewables and energy efficiency could meet Chile's energy needs without the environmental impacts of HidroAysén.<sup>5</sup>



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Another critical weakness of the Chilean EIA system was its bias in favor of project developers. Companies like HidroAysén have an unlimited amount of time to prepare their EIA documents, while public entities have just six months to respond.<sup>6</sup> This inequality created an incentive for HidroAysén to inundate agencies with over 15,000 pages during its nearly three year environmental review process, which included three arbitrary and legally questionable extensions. HidroAysén's technically deficient EIA documents received over 2,600 critical comments from government agencies—including calls for its outright rejection—and over 10,000 public comments, most of which were never addressed. Following the approval of the HidroAysén EIA, local government officials raised red flags about corruption and procedural irregularities. Opponents also legally challenged the EIA approval.

### **HIDROAYSÉN'S EIA LACKED KEY INFORMATION, USED INCOMPLETE OR ERRONEOUS DATA AND IGNORED CRUCIAL ISSUES**

In particular, scientists have pointed to a fundamental weakness in the EIA's sediment analysis, with implications for upstream and downstream biodiversity, as well as the useable life of the dams.<sup>7</sup> Other technical weaknesses included insufficiently addressing water flow regimes, failing to correctly identify affected biodiversity, and ignoring the risk of glacially-sourced floods and local volcanoes on the proposed dams and their infrastructure. The EIA's scientific analysis was so poor that an assessment of the true environmental and social impacts is impossible without new, time-consuming, and expensive research.

### **RECENT REFORMS TO CHILE'S EIA SYSTEM ARE A MOVE IN THE RIGHT DIRECTION— BUT NOT FOR HIDROAYSÉN**

The pre-reform Chilean EIA system, especially as applied to energy projects like HidroAysén, was inadequate. The OECD highlighted this issue, noting that “[a]lthough the sustainable growth of the electric power sector is an explicit goal of Chilean energy policy, little attention is given to environmental concerns as such.”<sup>8</sup> For admittance to the OECD, Chile revised its EIA system in 2010. Yet HidroAysén chose to develop its project below the best practices presented by the OECD and sought by international financiers. For example, in blatant disregard of the standards promoted by the World Bank, the HidroAysén review did not address the impacts of the nearly 2,000 kilometer-long

transmission line needed to take electricity from the proposed dams to demand in the north. Consequently, the true impact of the proposed dams and transmission line are unknown and are unlikely to be effectively mitigated. Such bifurcation is generally not permitted in OECD countries, nor is it permitted under Chile's reformed environmental law. Had HidroAysén's EIA, at a minimum, been held to the standard of the revised EIA system, it would have had to include the cumulative impacts of the dams and the transmission system together.

### **DESPITE THE 2010 REFORMS, THE SYSTEM IS STILL FLAWED**

Additional improvements are necessary to ensure a truly meaningful assessment of the environmental impacts of proposed projects. Chile can prevent future conflicts such as the HidroAysén controversy and meet international best practices by revising the EIA process further to address remaining deficiencies. As outlined in an NRDC report analyzing Chile's new EIA system, the environmental assessment process can be made more transparent, efficient, and socially inclusive by:

- **Expanding the substance of evaluations.** An enhanced environmental assessment process in Chile would include alternatives analysis, fully consider cumulative effects, and incorporate environmental justice considerations.
- **Improving the decision making process.** Chile must increase transparency and participation by regional actors in the EIA decision-making process—cutting down on arbitrary, political decisions and ensuring local legitimacy.
- **Strengthening evaluation procedures.** Environmental evaluations should not be directed by the project proponent, but by the regulatory authority, which should drive the scoping process and needed studies.
- **Bolstering public participation.** To confer true social legitimacy to projects, Chile's EIA system must increase opportunities for public participation and give more weight to public comments, offer grants for citizen participation and allow injunctions in citizen appeals. In addition, comment periods for highly complex projects such as HidroAysén should be open for extensions.<sup>9</sup>

These changes may help improve future projects, but HidroAysén remains a stark example of an ill-conceived project. Fortunately, it can still be stopped if Chileans and potential investors do not support it.

<sup>1</sup> Ministerio Secretaría General de la Presidencia. Reglamento del Sistema de Evaluación de Impacto Ambiental. D.S. No. 95 de 2001. Title III, Article 12. Biblioteca del Congreso Nacional de Chile. [leychile.cl/Navegar?idNorma=205385](http://leychile.cl/Navegar?idNorma=205385) Accessed October 18, 2011.

<sup>2</sup> Council on Environmental Quality. Regulations for Implementing NEPA at 40 CFR §1502. [http://ceq.hss.doe.gov/ceq\\_regulations/Council\\_on\\_Environmental\\_Quality\\_Regulations.pdf](http://ceq.hss.doe.gov/ceq_regulations/Council_on_Environmental_Quality_Regulations.pdf). Accessed October 18, 2011.

<sup>3</sup> Applying Strategic Environmental Assessment: Good practice guidance for development co-operation. *DAC Guidelines and Reference Series*. Paris, France; OECD Publishing:2006;32. [oecd.org/dataoecd/4/21/37353858.pdf](http://dataoecd.org/4/21/37353858.pdf). Accessed October 18, 2011.

<sup>4</sup> Colin RM, Collin W. *The Equator principles: A financial industry benchmark for determining, assessing and managing social and environmental risk in project financing*. Surrey, England; Oxford Index:2006;8. [oxindex.com/equator.asp](http://www.equator.asp.com/equator.asp).

<sup>5</sup> Román R, Hall S. *El Futuro Energético de Chile está en la Eficiencia Energética y las Energías Renovables*. Santiago, Chile; Futuro Renovable:2011. Retrieved from: <http://www.futurorenovable.cl/documentos/>.

<sup>6</sup> Ministerio Secretaría General de la Presidencia. Ley 19.300, Ley Sobre Bases Generales del Medio Ambiente. Articles 15 and 16. March 1994. [leychile.cl/Navegar?idNorma=30667](http://leychile.cl/Navegar?idNorma=30667). Accessed October 18, 2011.

<sup>7</sup> Rivera, P. HidroAysén sigue siendo inapropiado y absurdo. *El Dinamo*. January 29, 2011. [www.eldinamo.cl/2011/01/29/hidroaysen-sigue-siendo-inapropiado-y-absurdo-por-pedro-rivera/](http://www.eldinamo.cl/2011/01/29/hidroaysen-sigue-siendo-inapropiado-y-absurdo-por-pedro-rivera/). Accessed October 18, 2011.

<sup>8</sup> “Environmental Performance Reviews, Chile: Conclusions and Recommendations”, OECD Publishing, UN Economic Commission for Latin America and the Caribbean: 2005. [www.oecd.org/dataoecd/63/44/34856244.pdf](http://www.oecd.org/dataoecd/63/44/34856244.pdf). Accessed October 18, 2011.

<sup>9</sup> Natural Resources Defense Council. Fortalecimiento del Sistema de Evaluación de Impacto Ambiental de Chile: lecciones de la legislación internacional. December 2011. <http://www.nrdc.org/laondaverde/international/SEIAreport.asp>.