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**CHILE**

**MICI-BID-CH-2017-0115**

**ACTION PLAN MONITORING REPORT AND CASE CLOSURE REPORT**

**ALTO MAIPO HYDROELECTRIC POWER PROJECT**

**(CH-L1067)  
(3008A/OC-CH, 3008B/OC-CH)**

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This document is being made publicly available simultaneously with its distribution to the Board for information.

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2.	Original Request and Annexes <a href="http://www.iadb.org/document.cfm?id=40837423">http://www.iadb.org/document.cfm?id=40837423</a> <a href="http://www.iadb.org/document.cfm?id=40848319">http://www.iadb.org/document.cfm?id=40848319</a>
3.	Eligibility Memorandum <a href="https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40871085">https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40871085</a>
4.	Recommendation for a Compliance Review and Terms of Reference for Case MICI-BID-CH-2017-0115 <a href="http://www.iadb.org/document.cfm?id=EZSHARE-1800453186-683">http://www.iadb.org/document.cfm?id=EZSHARE-1800453186-683</a>
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## ABBREVIATIONS

Action Plan	Management's Action Plan to address the MICI Recommendations
Board of Executive Directors or Board	Board of Executive Directors of the Inter-American Development Bank
Client	AES Gener S.A. <sup>1</sup>
ESPF	Environmental and social policy framework
EURTP	Estudio de Impacto de los Usos Recreativos, Turísticos y Paisajísticos [Recreational, tourist, and scenic use impact study]
GRAT	Gender Risk Assessment Tool
Guidelines	Implementation Guidelines for the Operational Policy on Gender Equality in Development (OP-761)
IDB Invest	IDB Group institution supporting the private sector, formerly the IIC
IFC	International Finance Corporation
Indicators	Monitoring indicators established in the MICI Monitoring Plan
Management	IDB Group Management
MICI	Independent Consultation and Investigation Mechanism
OP-703	Environment and Safeguards Compliance Policy
OP-761	Operational Policy on Gender Equality in Development
Pandemic	COVID-19 pandemic
Monitoring Plan	MICI Monitoring Plan and Timeline
Sustainability Policy	IDB Invest Environmental and Social Sustainability Policy
MICI Policy	Policy of the Independent Consultation and Investigation Mechanism (document <a href="#">MI-47-8</a> )
Recommendation	Recommendation for a MICI Compliance Review and Terms of Reference

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<sup>1</sup> According to media outlets such as [Diario Financiero](#), AES Gener changed its name to AES Andes in 2021. However, Management has indicated that it has received no official information in this regard. Accordingly, this report will use the name AES Gener when referring to the Client.

## EXECUTIVE SUMMARY

**The Project.** The Alto Maipo Hydroelectric Power Project (the Project) consists of the construction, operation, and maintenance of two run-of-the-river hydroelectric plants with an installed capacity of 531 megawatts. The Project is located in the San José de Maipo district, 48 km from the Chilean capital, on the upper part of the Maipo river basin. The hydroelectric plants capture water flows from the upper Volcán, El Yeso, and Colorado river basins, and then return the water downstream to the Maipo river. On 16 October 2013, the IDB Board of Executive Directors approved a nonsovereign guaranteed loan to Alto Maipo SpA for US\$200 million to execute the Project. The Project is currently still in the construction phase.

**The Request.** On 23 January 2017, the MICI received a Request from 23 individuals who live and work mainly in the San José de Maipo district. They allege that they have suffered or are likely to suffer harm in connection with the Project during both its construction stage and its operation. They also allege noncompliance on a variety of environmental and social issues. Subsequently, on 1 May 2017, the MICI Director determined the Request to be eligible and the case was transferred to the Compliance Review Phase, as selected by the Requesters. On 30 May 2018, the Board approved the MICI's Recommendation to investigate ([document MI-65-6](#)), and the investigation of the case was conducted from October 2018 to December 2019.<sup>2</sup>

**Compliance Review.** The investigation report concluded that the IDB Group failed to comply with specific requirements under Operational Policies OP-703 (Directives B.5, B.6, and B.7) and OP-761 with respect to the following matters, among others:

- Identification of impacts on the tourist and recreational uses of the targeted rivers as a result of reduced water flows, and determination of mitigation measures in consultation with the affected population.
- Assessment of impacts on communities due to the significant increase in the number of workers in the area, particularly the assessment of gender-differentiated impacts.
- Specific impacts on economic activities and lifestyle of the community during Project construction, particularly the activities of mule drivers and impacts from vehicle traffic in the area during construction.
- Impact assessment and appropriate mitigation measures for the community of El Alfalfal related to noise, air pollution, and social divisions within the community.
- Management supervision of certain environmental and social aspects of the Project.

Based on the findings of the investigation, the MICI included seven recommendations to address the identified instances of noncompliance. The Board of Executive Directors approved these recommendations on 12 June 2020 and asked that Management develop an action plan and that the MICI monitor its implementation.

**Monitoring of the Case.** Management prepared an [action plan](#), which was approved by the Board (document MI-65-16) on 7 October 2020. Pursuant to the MICI Policy, the MICI prepared a [monitoring plan and timeline](#) in consultation with Management and the

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<sup>2</sup> [Compliance Review Report for Case MICI-BID-CH-2017-0115](#).

Requesters. This plan was distributed to the Board for information on 6 July 2021, reported to the Parties, and published in the case file on the MICI website.

This document is the MICI's first monitoring report on the action plan and contains the decision to close the case at the MICI. To prepare this report, and for purposes of monitoring the action plan, the MICI verifies implementation of the activities set out in the action plan to ensure that they are carried out in accordance with the Relevant Operational Polices and that the instances of noncompliance identified in the Compliance Review Report are remedied. This document includes the actions carried out by Management from the approval of the action plan in October 2020 until January 2022.

In conclusion, the MICI has found that of 21 actions, 12 have been completed, 7 are in progress, and no progress has been reported on the remaining 2, as follows:

Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 1.1: Produce the final version of the Recreational, Tourist, and Scenic Use Impact Study (EURTP)	In progress	The MICI underscores the importance of including all relevant stakeholder groups, in addition to the rafting-related groups, when implementing this action.
Action 1.2: Publish the EURTP.	In progress	Finalize the EURTP and the consultation process to enable publication of the final version of the EURTP.
Action 1.3: Invite the stakeholders to participate in the EURTP socialization and discussion process.	In progress	Conduct a meaningful consultation process with the participation of all interested parties, ensuring that the consultation process is meaningful in practice and is in keeping with the standards of Directive B.6 of Operational Policy OP-703.
Action 1.4: Initiate the EURTP consultation process in keeping with Directive B.6 of Operational Policy OP-703.	In progress	Conduct a meaningful consultation process with the participation of all interested parties, ensuring that the consultation process is meaningful in practice and is in keeping with the standards of Directive B.6 of Operational Policy OP-703.
Action 1.5: If necessary, establish, with stakeholders, an implementation compliance program for the management plan, along with a timeline.	No reported progress	Not applicable, no reported progress
Action 1.6: If a management plan is needed, monitor its implementation.	No reported progress	Not applicable, no reported progress
Action 2.1: Enhance the study already prepared by Clodinámica to include: (i) an analysis of impacts that the flow of workers will have once the Project enters its operation phase; and (ii) if required, a plan to manage those impacts.	In progress	Determine appropriate mitigation measures for the identified impact in terms of decline in income, starting in 2017, associated with the conclusion of the construction stage. Analyze potential impacts of the flow of workers in the operation phase and the measures to manage those impacts as established in the action plan.
Action 2.2: If a management plan is needed, monitor its implementation.	In progress	Specifically identify the economic and social impacts of the results obtained in the study to determine the appropriate mitigation measures and ultimately determine whether or not a management plan is needed.

Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 3.1: With the inclusion of a gender specialist, enhance the study already produced by Clodinámica, to: (i) include an analysis of whether gender impacts on the population have materialized; (ii) assess whether the decision to host workers in the community has impacted or will impact the community's female population to a greater degree; and (iii) if required, generate management measures that consider the gender perspective and ensure that differentiated impacts are not perpetuated.	Completed	None
Action 3.2: If a management plan is needed, monitor its implementation.	Completed	None
Action 4.1: Monitor existing communication channels with the group of mule drivers.	In progress	Submit evidence of communications from September 2020 onward and include the Corporación de Turismo Ecuestre los Arrieros del Cajón del Maipo [Cajón del Maipo mule drivers' association] (Requesters under the complaint filed with the MICI) in the group of mule drivers to be notified.
Action 5.1: Analyze the traffic reports.	Completed	None
Action 5.2: Constantly monitor the traffic associated with the Project and its proposed management measures.	Completed	None
Action 6.1: IDB Management will update the Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761), in collaboration with VPS/ESG, IDB Invest, and GDI, and with a particular focus on operationalizing the provisions on preventing and addressing risks of sexual and gender-based violence and human trafficking.	Completed	None
Action 6.2: VPS/ESG, together with IDB Invest and under guidance from GDI, will provide training to IDB Group staff and support to operations regarding the implementation of safeguards associated with the Operational Policy on Gender Equality in Development (Operational Policy OP-761).	Completed	None
Action 6.[3]: Train all IDB Invest environmental and social officers (E&S) in gender risk assessment and offer the training to IDB Group personnel.	Completed	None
Action 6.[4]: Require IDB Invest's E&S officers to use the Gender Risk Assessment Tool (GRAT).	Completed	None
Action 6.[5]: Disseminate the GRAT guide so that IDB Invest clients can assess and prevent gender impacts arising from the projects.	Completed	None

Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 6.[6]: Organize a webinar for IDB Invest clients to discuss the content of the Gender Risk Assessment Tool.	Completed	None
Action 6.[7]: IDB Invest's clear commitment to identify and address gender risks in IDB Invest-supported investments, including by avoiding gender-based exclusion, gender-based violence, sexual exploitation, and human trafficking, and requiring clients to define and put in place measures to prevent and address these risks, can be found in the body of the new Sustainability Policy.	Completed	None
Action 6.[8]: Establish a blanket zero tolerance policy toward gender-based violence as part of the IDB Group's environmental and social commitments and ensure that this requirement is captured in the contractual conditions of operations approved by the IDB Group.	Completed	None

Source: Prepared by the MICI.

With regard to the decision to close the case at the MICI, this report includes a section aimed at explaining the grounds for the closure and informing the Board and the Parties as well as the general public thereof. Lastly, the MICI has included a section setting out the lessons learned from the case as part of what it considers a necessary process of reflection.



## I. CASE BACKGROUND

- 1.1 **The Project.** The Alto Maipo Hydroelectric Power Project (the Project) is located in the San José de Maipo district, on the upper part of the Maipo river basin. The Project consists of the construction, operation, and maintenance of two run-of-the-river hydroelectric plants with an installed capacity of 531 megawatts.<sup>3</sup> This Category “A” operation, to be executed by Alto Maipo SpA, was financed in 2013 by the IDB through its private sector window in the amount of US\$200 million, as approved by the IDB Board of Executive Directors (Board). In 2016, management of the operation was transferred to IDB Invest.<sup>4</sup> The Project was scheduled to enter commercial operation in April 2022.<sup>5</sup>
- 1.2 **The Request.** In 2017, the MICI received a Request from 23 individuals who live and work mainly in the San José de Maipo district. They allege that they have suffered or are likely to suffer harm in connection with the Project during both its construction stage and its operation. The Requesters allege noncompliance with respect to a large number of environmental and social issues, as well as impacts on various economic and tourist activities.<sup>6</sup> The MICI determined the Request to be eligible, and the case was transferred to the Compliance Review Phase. Subsequently, in 2018, the Board approved the Recommendation to investigate, and the investigation was completed in December 2019.<sup>7</sup>
- 1.3 **The Compliance Review.** The Compliance Review Report, approved by the Board in 2020, concluded that the IDB Group had not complied with specific requirements of the Environment and Safeguards Compliance Policy (Operational Policy [OP-703](#)) and the Operational Policy on Gender Equality in Development (Operational Policy [OP-761](#)). Accordingly, the MICI made seven Recommendations to address the noncompliance issues found in the case. As a result, the Board asked that Management develop an action plan and that the MICI monitor its implementation.
- 1.4 **The monitoring stage.** The [action plan](#) was approved by the Board (document MI-65-16) on 7 October 2020<sup>8</sup> and, from the moment it was published, the Requesters have described it as “an obsolete and largely irrelevant plan.” The MICI points out that, while both the Compliance Review Report and the action plan were approved by the Board, the MICI considers that the action plan prepared by Management does not adequately address all the Recommendations included in the report. In addition, the policies in effect for the MICI do not provide for the action plan to be made available for comments by the Requesters before it is approved by the Board. However, paragraph 49 of the MICI Policy establishes that the MICI will only monitor the activities set out in the action plan.
- 1.5 In accordance with the MICI Policy, the MICI prepared a [monitoring plan and timetable](#) in consultation with the Parties. This plan was distributed to the Board for

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<sup>3</sup> [Information on the Project is available on the IDB website.](#)

<sup>4</sup> [Information on the Project is available on the IDB Invest website.](#)

<sup>5</sup> Ibidem; and information provided by Management as the case was being processed.

<sup>6</sup> [Original Request](#); other international financial institutions, such as the IFC, as well as multilateral and commercial banks, are financing or have financed the project.

<sup>7</sup> [Recommendation for a Compliance Review and Terms of Reference on Case MICI-BID-CH-2017- 0115; Compliance Review Report on Case MICI-BID-CH-2017-0115.](#)

<sup>8</sup> [Action plan.](#)

information on 6 July 2021, was reported to the Parties, and was posted in the case file on the MICI website.

- 1.6 **The IDB Group's exit from the Project.** In November 2021, Alto Maipo SpA filed for protection under Chapter 11 of the United States Bankruptcy Code and reported that a preliminary restructuring agreement had been reached with its creditors.<sup>9</sup> In February 2022, Management informed the MICI that it was leaving the Project.<sup>10</sup>
- 1.7 The background of case MICI-BID-CH-2017-0115 and the public documents prepared in the course of the process may be consulted in the case file on the [MICI Public Registry](#).

## II. ALLEGED REPRISALS DURING THE PROCESSING OF THE CASE

- 2.1 On Tuesday, 9 November 2021, the Requesters sent the MICI an article published by a national media outlet in Chile. The article states that the Project engaged cyber intelligence services to obtain sensitive information on environmental leaders opposed to and critical of the Project. The article mentions reports that include addresses and telephone numbers of, and background information on, environmental activists and opponents of the Project. The individuals listed include the leader of Coordinadora Ciudadana No Alto Maipo [No Alto Maipo Coordinating Committee] (who is one of the Requesters, and who reported that her personal identification number, occupation, spouse, daughters, political background, and WhatsApp chats were checked).<sup>11</sup>
- 2.2 In view of this, and pursuant to the [Guidelines for Addressing Risk of Reprisals in Complaint Management](#), the MICI performed a risk of reprisals assessment (RRA) and held conversations in this regard with the Requesters. In these communications, specific actions were agreed upon to address the situation. As part of these actions, the MICI met with Management to request a formal response from the Bank on this issue. Management indicated that it forwarded this information, taking the appropriate steps to investigate what had occurred. In addition, it indicated that as soon as it was made aware of these events, it requested a formal explanation from the Client and met with the client in Washington, D.C. to receive a reply. In terms of preventive action, the IDB Group<sup>12</sup> informed the MICI that it shared additional recommendations and guidelines on risk and reprisal prevention. In addition, Management stated that it contacted the Requesters and made itself available to exchange information on this matter directly with them.

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<sup>9</sup> [Inicia proceso de reorganización: Alto Maipo se acoge a Capítulo 11 de la Ley de Quiebras en Estados Unidos](#). CNN Chile, 17 November 2021.

<sup>10</sup> [Information regarding the Project is available on the IDB Invest website](#).

<sup>11</sup> [Report cited in the article: Data and Information on the Surface Web, Deep Web, and Dark Web](#), prepared by Phillip Smith, Cyber Intelligence, OSINT, Computer Forensics & AI Data Mining; and Interference, [Alto Maipo contrató servicios de ciber inteligencia para infiltrar grupos de ambientalistas y monitorear a sus propios trabajadores](#) [Alto Maipo engaged cyber intelligence services to infiltrate environmentalist groups and monitor its own workers], 8 November 2021.

<sup>12</sup> This project was financed in 2013 for US\$200 million, approved by the IDB Board of Executive Directors through its private sector window. In 2016, the operation was transferred to IDB Invest and commercial operation of the project was scheduled for April 2022. For more information, see paragraph 1.1. of this document.

The MICI emphasizes that it is important that the IDB Group develop internal protocols aimed at operationalizing a policy of zero-tolerance for reprisals.<sup>13</sup>

### **III. BASIS FOR MONITORING A CASE UNDER THE MICI POLICY**

- 3.1 This report has been prepared in keeping with the provisions of paragraph 49 of the MICI Policy (document [MI-47-8](#)). This paragraph establishes that, when applicable, the MICI will monitor implementation of any action plan or any remedial or corrective action agreed upon as a result of a Compliance Review. To do so, it will issue a monitoring plan annually for distribution to the Board for information. This report will be published in the Public Registry. In addition, paragraph 49 establishes that Management will collaborate with the MICI throughout the duration of the monitoring, which will be determined by the Board and will not exceed five years as of the date on which the Board approves Management's action plan.

### **IV. METHODOLOGY USED**

- 4.1 Preparing this monitoring report required examining the project documentation for the relevant period, consisting of approximately 455 documents to which the MICI had access. The MICI conducted meetings with Management as well as with the Requesters, where it requested up-to-date information to learn their respective viewpoints on the issues to be monitored. Due to the COVID-19 pandemic (pandemic), these meetings were virtual.
- 4.2 To prepare this report, the MICI verifies implementation of the activities envisaged in the action plan to ensure that they are carried out in keeping with the Relevant Operational Policies.
- 4.3 This report includes the actions implemented by Management from the date of approval of the action plan in October 2020 until January 2022. It is worth noting that the pandemic affected many of the scheduled monitoring activities in terms of the time it took to perform them. In addition, due to the movement restrictions imposed in response to the pandemic, the MICI conducted all exchanges with the Parties virtually and did not carry out any field missions.

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<sup>13</sup> The MICI points out that, in another case (MICI-CII-GU-2018-0136) currently in the monitoring stage, one of the MICI's institutional Recommendations was to develop an implementation plan for the IDB Invest guidelines on reprisals. IDB Invest reported to the MICI that Management is currently developing internal procedures to address complaints of reprisals based on the Good Practice Note published by IDB Invest and the International Finance Corporation (IFC) on how to address the risks of retaliation against project stakeholders.

## V. ACTIONS TAKEN DURING THE REPORTED MONITORING PERIOD

- 5.1 This section describes the monitoring of the 21 actions envisaged by Management in its action plan and approved by the Board. Each of the following subsections includes: (1) the actions proposed by Management, (2) the monitoring by the MICI, and (3) the conclusion regarding implementation.<sup>14</sup>

**Action 1.1 of the action plan. Produce the final version of the recreational, tourist, and scenic use impact study (EURTP) by March 2020.**

- 5.2 **Reported progress.** Management stated that the EURTP was completed in March 2020.<sup>15</sup>
- 5.3 **Monitoring by the MICI.** To determine implementation of this action, the MICI assessed whether the EURTP encompasses the potential impacts on the various users of the different rivers targeted by the Project, in line with the requirements of the Relevant Operational Policies. In this regard, the MICI states that the previous analysis conducted in 2019 identified kayaking activities, in addition to rafting activities, in the examined section of the Maipo river.<sup>16</sup> However, despite Management's assertion that it had invited various users of the river in general, the MICI found that the EURTP only assessed potential impacts on rafting arising from the Project's operations, without analyzing potential impacts on kayaking activities. The MICI notes that it is important, in implementing this action, to include all relevant stakeholder groups and not only the rafting-related groups.
- 5.4 **Conclusion on the implementation of action 1.1.** The MICI finds that this action is **in progress**. Management has stated that, the study having been completed, this action should have been fully implemented. However, the MICI points out that its responsibility in the monitoring process is not only to verify whether the actions are implemented but also to ensure that they have been carried out in keeping with the requirements of the Relevant Operational Policies and the action plan. In this case, the MICI highlights that, while the study was completed within the established time frame for this action, it only includes considerations on rafting activities. Even though it was shown in previous studies that rafting on the Maipo river is the main recreational activity in the area, no justification was found for limiting the study to this activity on the Maipo river.<sup>17</sup> The MICI notes that in 2019, rafting and kayaking activities were identified in the examined section of the Maipo river.<sup>18</sup> Accordingly, the MICI finds that, while the deliverable has been completed, this does not mean that it complies with the requirements, as reflected in the implementation status of actions 1.2 and 1.3.

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<sup>14</sup> [Monitoring Plan for case MICI-BID-CH-2017-0115](#); and [Compliance Review Report for Case MICI-BID-CH-2017-0115](#).

<sup>15</sup> Progress Report on the action plan.

<sup>16</sup> Recreational Water Users Study – Draft Alto Maipo Hydroelectric Power Project, prepared by ERM, March 2019, p.19.

<sup>17</sup> [Compliance Review Report](#), pp. 28 and 31.

<sup>18</sup> Recreational Water Users Study – Draft Alto Maipo Hydroelectric Power Project, prepared by ERM, March 2019, p.19.

**Action 1.2 of the action plan. Publish the EURTP by March 2020.**

- 5.5 **Reported progress.** Management reported on publication of the study on the Project website and on the IDB Invest website.<sup>19</sup>
- 5.6 **Monitoring by the MICI.** To determine implementation of this action, the MICI verified whether the EURTP has been published.
- 5.7 **Finding on the implementation of action 1.2.** The MICI finds that this action is **in progress**. This is the case because, although the study has been posted on the [IDB website](#) and the [Client's website](#), the study is not complete (it focuses only on rafting). In addition, the MICI highlights the importance of updating the EURTP on the Client's and on the Bank's respective websites to reflect its final version, if applicable, once the consultation process has been concluded.
- 5.8 **Note:** The MICI considers that, to ensure effective access to the information, it is good practice to prepare a nontechnical summary of the EURTP to make its content easier to understand for the stakeholders and contribute to a meaningful consultation process in line with the standards of Directive B.6 of Operational Policy OP-703.

**Action 1.3 of the action plan. Invite the stakeholders to participate in the EURTP socialization and discussion process by March 2020.**

- 5.9 **Reported progress.** As part of the EURTP socialization and discussion process, Management reported that four invitations had been sent to users of the rivers to present to them the EURTP.
- 5.10 **Monitoring by the MICI.** Having reviewed the documents, the MICI found that four invitations to the EURTP socialization process had indeed been sent out to water sports businesses that offer rafting activities on the Maipo river. The invitations were sent by email and/or by certified mail to ensure receipt.<sup>20</sup> In terms of an analysis of stakeholders and as indicated in paragraph 5.4, the MICI found that not all stakeholders were included with a view to the EURTP socialization and discussion process.<sup>21</sup>
- 5.11 **Finding on the implementation of action 1.3.** The MICI finds that this action is **in progress**. This is the case because a meaningful socialization and discussion of the document should include a process of community engagement designed on the basis of a comprehensive and systematic identification of all interested parties. In this case, the interested parties should include all users of the lower portion of the Maipo river and not only commercial rafting users as reflected in the documents shared by Management.

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<sup>19</sup> Study published on the Project website and on the IDB website.

<sup>20</sup> Letters of invitation to EURTP socialization, dated: 14 September 2020, 19 February 2021, and 16 June 2021; and emails containing an invitation to EURTP socialization, dated: 16 March 2021 and 29 March 2021.

<sup>21</sup> List of rafting companies; and Recreational Water Users Study – Draft Alto Maipo Hydropower Project, prepared by ERM, March 2019, p.19.

**Action 1.4 of the action plan. Initiate the EURTP consultation process in keeping with Directive B.6 of Operational Policy OP-703 as soon as the movement restrictions due to COVID-19 are lifted.**

- 5.12 **Reported progress.** Management reported that invitations to four meetings were sent out and only three meetings were held. In addition, it indicated that the consultation process has not yet been concluded since, even though an offer was made to conduct virtual consultations, the interest groups insisted on holding in-person meetings.<sup>22</sup>
- 5.13 **Monitoring by the MICI.** Having reviewed the documents shared by Management, the MICI was able to confirm that four invitations were sent and three meetings were held to disseminate the EURTP. The matters dealt with in these meetings included a presentation of the study, the willingness to provide information (which was sent after the meetings), the willingness to conduct another study, information on water flows and surveys, and questions on mitigation alternatives. In the reviewed documentation, the MICI did not find detailed information on all the meetings that were held. For example, there is no systemic information indicating what concerns were raised in each of the meetings and how they were addressed. The MICI highlights the importance of ensuring that this process reflects two-way discussions in accordance with Directive B.6 of Operational Policy OP-703.
- 5.14 **Finding on the implementation of action 1.4.** The MICI finds that this action is **in progress** since the consultation process has not yet been concluded. The MICI highlights the importance of conducting a process of recording consultations with interest groups as indicated in preceding paragraphs, ensuring that the consultation process is meaningful in practice and is in keeping with the requirements of Directive B.6 of Operational Policy OP-703.

**Actions 1.5 and 1.6 of the action plan. If necessary, establish, with stakeholders, prior to the Project's commercial operation phase, an implementation compliance program for the management plan, along with a timeline, and supervise its implementation.**

- 5.15 **Reported progress.** Management reported that the consultation process has not yet concluded and therefore there is no progress to report.
- 5.16 **Finding on the implementation of actions 1.5 and 1.6.** The MICI finds that there has been no reported progress in implementing these actions.

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<sup>22</sup> Meeting with IDB Group Management on 5 August 2021.

**Action 2.1 of the action plan. Four months after the contract with Cliodinámica has been signed, enhance the study already prepared by Cliodinámica to include: (1) an analysis of impacts that the flow of workers will have once the Project begins its operation phase; and (2) if required, a plan to manage those impacts.**

- 5.17 **Reported progress.** Management reported that the order to proceed to hire Cliodinámica was issued and the publishable version of the study was scheduled for 30 April 2021.<sup>23</sup>
- 5.18 **Monitoring by the MICI.** To determine implementation of this action, the MICI reviewed whether the study analyzes the impact that the flow of workers will potentially have once the Project begins its operation phase and, if applicable, establishes the appropriate mitigation measures. The MICI's review found that one of the study's main conclusions<sup>24</sup> was that, beginning in 2017, there was a decline in income, associated with the exit from, and/or conclusion of, the Project's construction stage, due to the concomitant decrease in demand for services and in the number of contracts with suppliers. In addition, the study indicated that in 2019 there was a slight reduction in Project spending on these suppliers, reflecting a progressive process leading to the end of the Project construction stage. However, the MICI found that the study did not establish mitigation measures to address the decline in income starting in 2017. It also found that the study did not analyze the economic impact specifically arising from the flow of workers in the Project's operation phase as the action plan envisages.<sup>25</sup>
- 5.19 **Finding on the implementation of action 2.1.** The MICI finds that this action is **in progress**. This is the case because, although the study identifies a decline in income beginning in 2017, associated with the conclusion of the construction stage, it does not provide any measures to mitigate it. Moreover, it is worth noting that the study does not identify potential impacts from the flow of workers in the Project's operation phase, nor does it provide measures to manage those impacts as envisaged in the action plan.<sup>26</sup>

**Action 2.2 of the action plan. If a management plan is required, monitor its implementation.**

- 5.20 **Reported progress.** Management reported that the study does not formulate a management plan since, in the author's judgment, the results obtained do not justify such a plan.
- 5.21 **Finding on the implementation of action 2.2.** The MICI takes note of what Management has reported. However, as stated in the preceding paragraphs, since the study did not analyze all impacts specifically arising from the flow of workers during the Project's operation phase, there is not enough information to determine

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<sup>23</sup> Progress Report on the action plan.

<sup>24</sup> The study was submitted to the MICI by Management in March 2021.

<sup>25</sup> Cliodinámica, Medición actualizada y proyección futura de impacto de la construcción del PHAM sobre los proveedores y el empleo indirecto. Submittal of results, March, 2021, pp. 5, 6, 18, and 21 of the PDF.

<sup>26</sup> [Compliance Review Report on case MICI-BID-CH-2017-0115](#), p. 38.

whether or not a management plan is needed. Therefore, the MICI finds that this action is **in progress**.

**Action 3.1 of the action plan. Four months after Cliodinámica has received instructions to proceed, with the inclusion of a gender specialist, enhance the study already produced by Cliodinámica, to: (i) include an analysis of whether gender impacts on the population have materialized; (ii) assess whether the decision to host workers in the community has impacted or will impact the community's female population to a greater degree; and (iii) if required, generate management measures that consider the gender perspective and ensure that differentiated impacts are not perpetuated.**

- 5.22 **Reported progress.** Management reported that the movement restrictions due to the pandemic and the heavy rainfall in February 2021 delayed the delivery of Cliodinámica's study, titled "Análisis bajo enfoque de género de los efectos en las poblaciones del Cajón del Maipo, generados por la presencia de personas trabajadoras del PHAM que se alojan fuera de los campamentos" [Gender-focused analysis of the social and economic impacts on the communities of Cajón del Maipo stemming from Project workers housed outside the camps] (study).
- 5.23 **Monitoring by the MICI.** An analysis of the study sent to the MICI on 9 October 2021<sup>27</sup> finds that the study reaches seven main conclusions, notably including the following: (1) women were unaware of the job opportunities offered by the Project; (2) women in the San José de Maipo district face institutional barriers to reporting gender-based violence; and (3) while some women have derived economic benefits from the Project, women are one of the groups most heavily affected in economic terms by the departure of workers from the area. In addition, the study points to a normalization of gender-based violence among some women in San José de Maipo and notes that the training provided for the Project's workers and subcontractors does not address issues such as gender-based violence and sexual harassment outside the workplace. Lastly, it ends by reflecting on the importance of creating studies of this type in the initial stages of implementing a Project.
- 5.24 Specific mitigation measures were recommended to address the identified impacts.<sup>28</sup> To implement these measures, a gender action plan was prepared. It was sent by Management to the MICI in October 2021 and was supplemented by additional information in January 2022. The MICI finds that these measures address the impact identified in the study.
- 5.25 **Finding on the implementation of action 3.1.** The MICI finds that the submitted study identified impacts on women from the Project's construction and recommended preventive and mitigation measures to address those impacts pursuant to a gender action plan. The MICI found that the study complies with the minimum requirements under Operational Policy OP-761 in terms of identifying

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<sup>27</sup> Progress Report on the action plan, and the Relevant Operational Policies are the Operational Policy on Gender Equality in Development (Operational Policy OP-761).

<sup>28</sup> Cliodinámica, Análisis bajo enfoque de género de los efectos en las poblaciones del Cajón del Maipo, generados por la presencia de trabajadores del PHAM que se alojan fuera de los campamentos, 2021, pp. 3, 55, 56, 57, 58, 59, and 60.



impacts on women and mitigation measures. In view of the foregoing, the MICI finds that action 3.1 has been **completed**.

- 5.26 **Note:** The MICI highlights the importance, when preparing future studies on gender issues, of including good practices as part of the commitment to emphasizing them as indicated in the [Operational Policy on Gender Equality in Development](#). For example: (1) a gender-responsive approach,<sup>29</sup> identifying and pointing out gender inequalities and responding to them through actions that reduce the gender gaps; and (2) an intersectional approach, taking into account the interconnected nature of social identities such as age, ethnic origin, and gender, which results in overlapping and interdependent systems of discrimination.

**Action 3.2 of the action plan. If a management plan is required, monitor its implementation.**

- 5.27 **Reported progress.** With regard to implementation of the management plan, Management shared several documents, including the following: (1) an analysis of the parties involved; (2) the minutes of meetings with stakeholders; and (3) the procedure for filing and receiving complaints and for disseminating the updated complaints mechanism. Management also indicated that the “Digamos no” [Say no] campaign was strengthened.
- 5.28 **Monitoring by the MICI.** The MICI finds that the documents reviewed address the reported gender action plan.
- 5.29 **Finding on the implementation of action 3.2.** Following its analysis and review, the MICI finds that action 3.2 has been **completed**.

**Action 4.1 of the action plan: During Project supervision, continuously monitor existing communication channels with the group of mule drivers.**

- 5.30 **Reported progress.** Management reported that the blastings and potential road closures that the Project would require would not impact the mule drivers’ activities. In addition, Management indicated that it has been in constant communication with this group through in-person and virtual visits and telephone calls. Furthermore, by way of supporting documentation to show the progress made in implementing this action, Management shared evidence of communications and meetings with the mule drivers between 2015 and 2020. However, the MICI notes that for purposes of this monitoring report, it will only analyze documents produced in or after 2020, which is when the action plan was approved and monitoring of this case began. Lastly, Management included a testimonial by one of the mule drivers.<sup>30</sup>
- 5.31 **Monitoring by the MICI.** After reviewing the documents submitted by Management, the MICI confirmed that, as envisaged in the action plan, there was follow-up on communications with the mule drivers. The MICI found that in-person meetings were held in 2020 (from January to September) with various mule driver groups. However, the MICI found no further follow-up on communications with mule drivers after

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<sup>29</sup> This approach ensures that the different needs of women and men are addressed and promotes equal participation, distribution of benefits, and access to resources.

<sup>30</sup> Progress Report on the action plan.

September 2020.<sup>31</sup> As part of its monitoring of the case, the MICI met with the Corporación de Turismo Ecuestre los Arrieros del Cajón del Maipo [mule drivers' association] (Requesters under the complaint filed with the MICI). The representatives of this group of mule drivers asserted that their association was not contacted by either the IDB Group or the Project for purposes of implementing this action. They also stated that they continue to experience adverse effects from the Project's construction in terms of: (1) blastings; (2) maintenance of their roads; and (3) air pollution due to dust from construction.

- 5.32 **Finding on the implementation of action 4.1.** The MICI finds that this action is **in progress**. This is the case because the MICI found no evidence of communications with the mule driver group from September 2020 onward. In addition, the MICI emphasizes the importance of taking the Corporación de Turismo Ecuestre los Arrieros del Cajón del Maipo (Requesters under the complaint) into consideration as part of the group of mule drivers to be contacted for purposes of implementing this action.

**Actions 5.1 and 5.2 of the action plan: By May 2020, analyze the traffic reports and, during Project supervision, constantly monitor the traffic associated with the Project and its management measures.**

- 5.33 **Reported progress.** Management reported that the results of the most recent monitoring reports show: (i) a slight increase in traffic on the roads associated with the Project, compared to the figures recorded in November 2020; (ii) material deviations from compliance with schedule restrictions or speed limits on the part of vehicles associated with the Project; and (iii) the projected traffic levels are not exceeded. By way of support documentation, several road monitoring reports for 2018, 2019, 2020, and 2021 were provided, together with an environmental supervision report for 2021.<sup>32</sup> For purposes of this monitoring report, the MICI will only analyze documents produced in or after 2020, which is when the action plan was approved and monitoring of this case began. In reviewing such documents, the MICI will verify whether Management has continuously monitored the Project-related traffic and ensured that its management measures have been implemented.
- 5.34 **Monitoring by the MICI.** Having analyzed the monitoring reports, the MICI found evidence of a steady rise in vehicle traffic. This is primarily due to: (1) an increase in the number of vehicles; (2) a supply of new housing; and (3) tourism. As an exception, the report prepared in July 2020 shows a decline in vehicle traffic since the communities were subject to movement restrictions at the time of the analysis. This report explains that the data obtained for that period are not representative of the normal traffic conditions.<sup>33</sup> Regarding the monitoring of preventive and mitigation measures, it was found that visual inspections were made of the monitored routes and it was checked whether the roads used for the Project needed improvements.

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<sup>31</sup> Minutes of Project meetings submitted to the MICI by Management as part of the evidence that this action has been completed.

<sup>32</sup> Progress Report on the action plan

<sup>33</sup> Road Impact Monitoring Plan for the Alto Maipo Hydroelectric Power Project (PSIVPHAM), March 2020, p. 43; PSIVPHAM, November 2020, p. 44; PSIVPHAM, March 2021, pp. 10, 33, 42, and 43; Environmental monitoring report: Road Impact Monitoring Plan in the Construction Stage - Results period April-September 2020, p. 2; PSIVPHAM, September 2020, p. 42.

Whenever room for such improvements was found to exist, they were made and reported. Examples include the addition of acceleration and deceleration lanes and signage on the Aucayes access road at km 16.5 of Route G 345.<sup>34</sup>

- 5.35 **Finding on the implementation of actions 5.1 and 5.2.** The MICI finds that action 5.1 has been **completed**, since a comparative analysis was performed between traffic data in recent years and data from the National Census Plan. With regard to the continuous monitoring of Project-related traffic and the corresponding management measures, the MICI finds that Management has monitored vehicle traffic and its management measures during the years 2020 and 2021. Accordingly, the MICI finds that action 5.2 has been completed.

**Action 6.1 of the action plan: By July 2021, IDB Management will update the Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761), in collaboration with VPS/ESG, IDB Invest, and GDI, with a particular focus on operationalizing the provisions on preventing and addressing risks of sexual and gender-based violence and human trafficking.**

- 5.36 **Reported progress.** Management reported on the updates made to the Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761) (Guidelines). The areas highlighted by Management were the mainstreaming of gender into the issue of indigenous communities and an explanation as to when and at what point a gender study is to be conducted.<sup>35</sup> To determine whether this action had been implemented, the MICI verified that the Guidelines had been approved by the Board as established in the action plan.
- 5.37 **Monitoring by the MICI.** The MICI confirmed that the Guidelines had been developed and approved by the Board of Executive Directors.<sup>36</sup>
- 5.38 **Finding on the implementation of action 6.1.** The MICI finds that this action has been **completed**.

**Action 6.2 of the action plan: By July 2021, VPS/ESG, together with IDB Invest and under guidance from GDI, will provide training to IDB Group staff and support to operations regarding the implementation of safeguards associated with the Operational Policy on Gender Equality in Development (Operational Policy OP-761).**

- 5.39 **Reported progress.** Management submitted reports on training and activities carried out and planned from 2019 to date.<sup>37</sup>

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<sup>34</sup> Environmental monitoring report: Road Impact Monitoring Plan in the Construction Stage - Results period April-September 2020, p. 41; PSIVPHAM, September 2020, p. 10; PSIVPHAM, November 2020, p. 10; and PSIVPHAM, March 2020, p. 11.

<sup>35</sup> Progress Report on the action plan; and meeting with IDB Group Management on 5 August 2021.

<sup>36</sup> Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761), pp. 7-21.

<sup>37</sup> Progress Report on the action plan; and IDB online course "Safeguards in IDB Operations: The Essentials."

5.40 **Monitoring by the MICI.** The MICI confirmed that training was provided for IDB Group staff regarding the Operational Policy on Gender Equality in Development.<sup>38</sup>

5.41 **Finding on the implementation of action 6.2.** The MICI finds that this action has been **completed**.<sup>39</sup>

**Action 6.3 of the action plan: Train all IDB Invest environmental and social officers (E&S) in gender risk assessment and offer the training to IDB Group personnel.**

5.42 **Reported progress.** Management reported conducting a training event for Environmental, Social, and Governance Division (SEG) officers in February 2019 and a second training event for SEG officers and clients on 27 and 28 June 2019. Subsequently, Management reported conducting a third training event for SEG officers and clients on 1 July 2020 in the form of a webinar on the Gender Risk Assessment Tool (GRAT), and a fourth, mandatory in-depth training event on gender risks for SEG officers on 2 June 2021. Lastly, Management reported having conducted training on gender risks for IDB Invest staff on 7 March and 21 June 2021, with 300 participants.<sup>40</sup>

5.43 **Monitoring by the MICI.** To evidence the progress made in implementing this action, IDB Invest provided support documents for 2019 and 2020. The MICI acknowledges the effort expended and activities carried out with a gender perspective in 2019, which show the Bank's commitment regarding gender issues. However, as indicated above, the MICI must point out that for purposes of this monitoring report, it will only verify actions carried out in or after 2020, which is when the action plan was approved and monitoring of this case began.<sup>41</sup>

5.44 The MICI verified that mandatory training was conducted on 2 June 2021 for all SEG staff and on 7 March and 21 June 2021 for IDB Invest staff, in the latter case with 300 participants.<sup>42</sup>

5.45 **Finding on the implementation of action 6.3.** The MICI finds that this action has been **completed**. The training helps to reinforce the use of, and compliance with, gender policies in IDB Group operations, particularly through implementation of the GRAT.

**Action 6.4 of the action plan: Require IDB Invest's E&S officers to use the Gender Risk Assessment Tool (GRAT).**

5.46 **Reported progress.** Management reported that the Environmental and Social Review Summary (ESRS) template was modified to include a chapter on gender risks and that copies of the GRAT form are now used in all new high-risk projects.

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<sup>38</sup> IDB online course "Safeguards in IDB Operations: The Essentials."

<sup>39</sup> Ibidem.

<sup>40</sup> Progress Report on the action plan.

<sup>41</sup> Ibidem.

<sup>42</sup> Publication of the webinar on YouTube.

In addition, Management reported on implementation of the GRAT by means of internal IDB Invest emails.

- 5.47 **Monitoring by the MICI.** The MICI confirmed that the ESRS template has been modified to include a chapter on gender risks for category A and B operations and that the modified template is now being used.<sup>43</sup> In addition, the MICI confirmed that the GRAT form used in new high-risk projects includes a questionnaire for implementing the gender risk assessment.<sup>44</sup>
- 5.48 **Finding on the implementation of action 6.4.** The MICI reviewed the actions taken by IDB Invest and finds that the inclusion of a chapter on gender risks in the ESRS and the GRAT form with the questionnaire help to reinforce the use of, and compliance with, gender policies in IDB Group operations. In view of the foregoing, the MICI finds that this action has been completed.

**Action 6.5 of the action plan: Disseminate the GRAT so that IDB Invest clients can assess and prevent gender impacts in the projects.**

- 5.49 **Reported progress.** IDB Invest reports that the GRAT has been published on the IDB Invest website in Portuguese, English, and Spanish since May 2020, adding that it has been downloaded more than 7,100 times as of June 2021 and has been disseminated through IDB Invest's Twitter feed. In addition, IDB Invest reports that the following publications on this subject have been posted in English, Spanish, and Portuguese:<sup>45</sup> (1) Gender-based Violence and Harassment Prevention: The Role of the Private Sector in Latin America and the Caribbean, available since December 2020, and (2) Preventing Sexual Exploitation: A Practical Guide for the Private Sector, available since June 2021, published with World Childhood Foundation Brasil (Childhood Brasil).
- 5.50 **Monitoring by the MICI.** The MICI confirmed that the GRAT has been published on the IDB Invest website along with the postings reported by Management.
- 5.51 **Finding on the implementation of action 6.5.** The dissemination of the GRAT forms part of the IDB Group alternatives designed to help clients build capacity on gender issues. Accordingly, the MICI finds that this action has been **completed**.

**Action 6.6 of the action plan: In the summer of 2020 and throughout 2021, organize a webinar for IDB Invest clients to discuss the content of the Gender Risk Assessment Tool.**

- 5.52 **Reported progress.** IDB Invest reported that the webinar on the GRAT conducted on 1 July 2020 drew a total of total of 342 participants and is now available on YouTube.

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<sup>43</sup> Progress Report on the action plan; IDB Invest, emails dated 7 May and 13 August 2020; and ESRS template. Progress Report on the action plan.

<sup>44</sup> GRAT form. Progress Report on the action plan.

<sup>45</sup> Progress Report on the action plan; publication in English, Spanish, and Portuguese, since December 2020, on Gender-based Violence and Harassment Prevention: The Role of the Private Sector in Latin America and the Caribbean; and publication in English, Spanish, and Portuguese, since June 2021, with Childhood Brasil, of Preventing Sexual Exploitation: A Practical Guide for the Private Sector.

- 5.53 **Monitoring by the MICI.** The MICI confirmed that training events were held for clients on: (1) gender-based violence and harassment in Latin America and the Caribbean and on the GRAT; and on (2) gender-based violence and harassment prevention: the role of the private sector in Latin America and the Caribbean. These training events drew a total of 61 participants, including 33 client representatives and 8 IDB Invest officers. The MICI also confirmed that a webinar was conducted on 15 June 2021 for clients and IDB Invest, with the participation of World Childhood Foundation Brasil, on preventing sexual exploitation in private-sector projects, with approximately 190 participants.<sup>46</sup>
- 5.54 **Finding on the implementation of action 6.6.** The MICI finds that these activities are suitable in helping clients build capacity on gender issues. This is because disseminating and explaining the GRAT, as well as providing for exchanges with clients and client engagement, foster use of the tool and, thus, compliance with the Relevant Operational Policies. Accordingly, the MICI finds that this action has been **completed**.
- Action 6.7 of the action plan: IDB Invest’s clear commitment to identify and address gender-related risks in IDB Invest-supported investments, including by avoiding gender-based exclusion, gender-based violence, sexual exploitation, and human trafficking, and requiring clients to define and put in place measures to prevent and address these risks, can be found in the body of the new Sustainability Policy.**
- 5.55 **Reported progress.** IDB Invest reported on the IDB Invest Environmental and Social Sustainability Policy (the Sustainability Policy) and its Implementation Manual, indicating that both documents are available on the IDB Invest website and were additionally disseminated on Twitter in Spanish on 22 February 2021 and in English on 15 December 2020. Furthermore, IDB Invest noted that meetings were held with clients and civil society organizations as part of the consultation process.
- 5.56 **Monitoring by the MICI.** The MICI verified that the Sustainability Policy includes implementation of this action by identifying and addressing gender risks in IDB Invest’s investments.<sup>47</sup>
- 5.57 **Finding on the implementation of action 6.7.** The content and publication of the Sustainability Policy and its Implementation Manual contribute to the development of alternatives by the IDB Group to help clients build capacity on gender issues, establishing a specific framework in this regard. Accordingly, the MICI finds that this action has been **completed**.

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<sup>46</sup> Progress Report on the action plan.

<sup>47</sup> Progress Report on the action plan; Publication of the IDB Invest Environmental and Social Sustainability Policy and Implementation Manual on the IDB Invest website. Dissemination on Twitter: Example 1 and example 2; and IDB Invest presentation on “the Implementation Manual for the Environmental and Social Policy,” 15 February 2021.

**Action 6.8 of the action plan: Establish a blanket zero tolerance policy toward gender-based violence as part of the IDB Group’s environmental and social commitments and ensure that this requirement is captured in the contractual conditions of operations approved by the IDB Group.**

- 5.58 **Reported progress.** IDB Invest reported that: (1) the new Sustainability Policy and its Implementation Manual specifically affirm the institution’s commitment to promoting gender equality and require clients to identify and address gender-related risks; (2) the financial contracts require clients to comply with the Sustainability Policy; and (3) IDB Invest’s commitment to the continuous advancement of international standards to prevent sexual harassment, abuse, and exploitation has been posted on its website since April 2021. The IDB reported that: (1) it is a party to the 2018 International Financial Institutions’ Joint Statement on Continuous Advancement of Standards to Prevent Sexual Harassment, Abuse, and Exploitation; and (2) the objectives established under Standard 9 on Gender Equality in the Environmental and Social Policy Framework (ESPF) include preventing differentiated impacts based on gender. In addition, once the ESPF enters into force, compliance with this framework will be mandatory for all IDB borrowers.<sup>48</sup>
- 5.59 **Monitoring by the MICI.** The MICI confirmed that the Relevant Operational Policies of both IDB Invest and the IDB address gender issues: in the case of IDB Invest, this includes exclusion, gender-based violence, sexual exploitation, human trafficking, and sexually transmitted diseases; and in the case of the IDB, it includes sexual violence, gender-based violence, harassment, and sexual exploitation. In addition, as of the date of issuance of this monitoring report, IDB Group contracts require compliance with the Relevant Operational Policies in the context of its operations whenever the gender issue is expected to be present.
- 5.60 **Finding on the implementation of action 6.8.** In view of this, the MICI finds that this action has been **completed**.

## VI. CONCLUSIONS

- 6.1 Below is a summary of progress in implementing the action plan, showing that, of a total of 21 actions, 12 have been completed, 7 are in progress, and no progress has been reported on the remaining 2:

Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 1.1: Produce the final version of the recreational, tourist, and scenic use impact study (EURTP)	In progress	The MICI underscores the importance of including all relevant stakeholder groups, in addition to the rafting-related groups, when implementing this action.
Action 1.2: Publish the EURTP.	In progress	Finalize the EURTP and the consultation process to enable publication of the final version of the EURTP.

<sup>48</sup> Progress Report on the action plan; IDB Invest CEO’s commitment, April 2021; and 2018 IFIs Joint Statement on Continuous Advancement of Standards to Prevent Sexual Harassment, Abuse, and Exploitation.

Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 1.3: Invite the stakeholders to participate in the EURTP socialization and discussion process.	In progress	Conduct a meaningful consultation process with the participation of all interested parties, ensuring that the consultation process is meaningful in practice and is in keeping with the standards of Directive B.6 of Operational Policy OP-703
Action 1.4: Initiate the EURTP consultation process in keeping with Directive B.6 of Operational Policy OP-703.	In progress	
Action 1.5: If necessary, establish, with stakeholders, an implementation compliance program for the management plan, along with a timeline.	No progress reported	Not applicable, no progress reported
Action 1.6: If a management plan is required, supervise its implementation.	No progress reported	Not applicable, no progress reported
Action 2.1: Enhance the study already prepared by Clíodinámica to include: (1) an analysis of impacts that the flow of workers will have once the Project begins its operation phase; and (2) if required, a plan to manage those impacts.	In progress	Determine appropriate mitigation measures for the identified impact in terms of a decline in income, starting in 2017, associated with the conclusion of the construction stage.  Analyze potential impacts of the flow of workers in the operation phase and the measures to manage those impacts as established in the action plan.
Action 2.2: If a management plan is required, monitor its implementation.	In progress	Specifically identify the economic and social impacts of the results obtained in the study to determine the appropriate mitigation measures and ultimately determine whether or not a management plan is needed.
Action 3.1: With the inclusion of a gender specialist, enhance the study already produced by Clíodinámica, to: (i) include an analysis of whether gender impacts on the population have materialized; (ii) assess whether the decision to host workers in the community has impacted or will impact the community's female population to a greater degree; and (iii) if required, generate management measures that consider the gender perspective and ensure that differentiated impacts are not perpetuated.	Completed	None
Action 3.2: If a management plan is needed, monitor its implementation.	Completed	None



Actions of the action plan	Implementation status	Course of action proposed by the MICI
Action 4.1: During Project supervision, continuously monitor existing communication channels with the group of mule drivers.	In progress	Submit evidence of communications from September 2020 onward and include the Corporación de Turismo Ecuéstre los Arrieros del Cajón del Maipo [Cajón del Maipo mule driver association] (Requesters under the complaint filed with the MICI) in the group of mule drivers to be notified.
Action 5.1: Analyze the traffic reports.	Completed	None
Action 5.2: Constantly monitor the traffic associated with the Project and its proposed management measures.	Completed	None
Action 6.1: IDB Management will update the Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761), in collaboration with VPS/ESG, IDB Invest, and GDI, and with a particular focus on operationalizing the provisions on preventing and addressing risks of sexual and gender-based violence and human trafficking.	Completed	None
Action 6.2: VPS/ESG, together with IDB Invest and under guidance from GDI, will provide training to IDB Group staff and support to operations regarding the implementation of safeguards associated with the Operational Policy on Gender Equality in Development (Operational Policy OP-761).	Completed	None
Action 6.[3]: Train all IDB Invest environmental and social officers (E&S) in gender risk assessment and offer the training to IDB Group personnel.	Completed	None
Action 6.[4]: Require IDB Invest's E&S officers to use the Gender Risk Assessment Tool (GRAT).	Completed	None
Action 6.[5]: Disseminate the GRAT guide so that IDB Invest clients can assess and prevent gender impacts in the Projects.	Completed	None
Action 6.[6]: Organize a webinar for IDB Invest clients to discuss the content of the Gender Risk Assessment Tool.	Completed	None
Action 6.[7]: IDB Invest's clear commitment to identify and address gender-related risks in IDB Invest-supported investments, including by avoiding gender-based exclusion, gender-based violence, sexual exploitation, and human trafficking, and requiring clients to define and put in place measures to prevent and address these risks, may be found in the body of the new Sustainability Policy.	Completed	None
Action 6.[8]: Establish a blanket zero tolerance policy toward gender-based violence as part of the IDB Group's environmental and social commitments and ensure that this requirement is captured in the contractual conditions of operations approved by the IDB Group.	Completed	None

Source: Prepared by the MICI.

## VII. CLOSURE OF THE CASE BY THE MICI

- 7.1 **First case of monitoring under the new MICI policy.** It is worth noting that this is the first time the MICI has monitored an action plan since the new MICI policy was implemented. The MICI regrets that this case is being closed with actions pending compliance, Management having announced that it will not carry out any further actions due to the IDB Group's exit from the Project.
- 7.2 **The MICI's mandate to monitor an action plan.** Under paragraph 49 of the MICI Policy, the MICI may monitor an action plan prepared by Management if the Board so delegates. The MICI's monitoring role is a direct consequence of two necessary events: (1) approval of Management's action plan by the Board; and (2) a specific mandate from the Board delegating the monitoring of the action plan to the MICI.
- 7.3 **Implementation of the action plan.** The IDB Group's exit from the Project has meant termination of the contractual relationship between the client and Management. In this particular case, the MICI's compliance review report gave no indication of the Bank's potential exit and the minimum compliance that should be in place if this were to occur. It is additionally worth noting that there are no Management criteria or principles to guide the Bank in the event of an exit from any Project, whether as a result of divestment or early repayment. In the case under review, only on 2 of the 21 actions of the action plan has no progress been reported, and Management has indicated that these actions will not be implemented. Moreover, the Requesters have stated that the action plan is "obsolete." Consequently, the MICI considers that there is no reason for it to continue to monitor the actions pending implementation, and that, in any event, it would be unable to verify their implementation by Management.
- 7.4 **Position of the Parties on the action plan.** Management has announced that it will not carry out any additional activities to complete the seven actions currently in progress. Furthermore, the Requesters consider that implementation of the action plan does not contribute to repairing any alleged harm.
- 7.5 **Closure of the MICI's processing of the case.** Since the MICI's monitoring role has ceased to be relevant given that Management's action plan is no longer in effect after the Bank's exit from the Project, and since the Requesters see no added value in the implementation of the action plan, the MICI believes that the conditions needed to keep this case open are no longer present.
- 7.6 **Report to the Board.** In view of the foregoing, the Board is hereby informed that the MICI will proceed to close case file MICI-BID-CH-2017-0115 associated with the Alto Maipo Hydroelectric Power Project (CH-L1067) following the disclosure of this report to the Parties and the general public through the Public Registry.

## VIII. THOUGHTS ON THE CASE

- 8.1 With a view to fostering learning, and considering the particular features of this case, the MICI believes it is important to set out the following thoughts.
- 8.2 **Limitations on matters to be investigated.** The MICI excluded the following issues from this investigation: impacts on the sedimentology regime of the Maipo river and impacts related to third-party water use rights. Both issues were excluded under

clause 19(d) of the MICI Policy, then in effect,<sup>49</sup> since they were associated with judicial proceedings in Chile.<sup>50</sup> This exclusion dealt a blow to the Requesters' expectations since, as they explained, the excluded issues were a key component of their complaint to the MICI. The MICI has in multiple cases experienced first-hand the problems that the use of this clause meant for the fulfillment of the MICI's mission of providing effective accountability. In view of this, the MICI celebrates the recommendation made by the IDB Group's Office of Evaluation and Oversight (OVE), which served as a basis for the Board of Executive Directors' decision<sup>51</sup> to void the legal exclusion clause as of 1 July 2020, on the grounds that it hinders the MICI from operating effectively.<sup>52</sup>

- 8.3 **Length of the investigation process.** Under the MICI Policy, the maximum time frame for an investigation will be set out in the Terms of Reference, and the suggested length of time is six calendar months (from formation of the Panel to issuance of the draft report).<sup>53</sup> In this case, the Terms of Reference established a maximum time frame of nine months. However, the investigation lasted 14 months. The MICI is aware that most of its investigations are quite lengthy and is currently developing various types of upgrades to its internal processes to comply with the provisions of the MICI Policy.
- 8.4 However, it is worth noting that, for the Requesters, the time it takes to process the case runs from the start of its processing. Thus, almost six years have elapsed from the registration of the request (January 2017) to the current date (September 2022).
- 8.5 **Preparation and content of the action plan.** This case was the first in which the Board set a maximum period of 30 days for Management to prepare an action plan. Accordingly, the document was prepared in expedited fashion in keeping with the indicated deadline. The plan was to be prepared in consultation with the MICI. However, there was a lack of effective communication between Management and the MICI in this regard, as reflected in two documents (on one hand, the MICI's Recommendations in the compliance review report, and on the other, Management's action plan) which are not entirely in harmony. This placed a constraint on the extent to which the MICI could monitor compliance with the Recommendations approved by the Board.
- 8.6 In addition, as indicated early in this report, the MICI Policy does not provide for the action plan to be discussed with the Requesters. The MICI emphasizes that it is important for Requesters to have an opportunity to comment on the activities established in the Recommendations and in the action plan. Such an exchange would ensure that the actions that are carried out bring about the Project's

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<sup>49</sup> MICI-IDB Policy, document MI-47-8, 14 April 2021, clause 19 (d).

<sup>50</sup> In addition, the MICI decided not to investigate the allegations of noncompliance with Operational Policies OP-704, OP-710, and OP-708, as it did not find sufficient grounds for proposing the launch of a Compliance Review process.

<sup>51</sup> In April 2021, the IDB and IIC Boards of Executive Directors approved voiding the clause that excluded matters under judicial review from the processing of a case filed with the MICI. For more information, see this [notice](#) by the MICI.

<sup>52</sup> Evaluation of the Independent Consultation and Investigation Mechanism (MICI), OVE, March 2021. pp. 75 and 76.

<sup>53</sup> MICI Policy, paragraph 43.c, p.13

- compliance with the Relevant Operational Policies and remediation of the harm, when applicable.
- 8.7 As a lesson learned by the MICI, effective communication between the MICI and the Parties, in the sense that the findings and determination of harm in a Compliance Review report should conform to the approved Recommendations and the action plan prepared by Management, is highly important for the successful monitoring of a case. Based on this experience, a positive change took place in the interaction between the MICI and Management in terms of preparing action and monitoring plans for other cases in the MICI's Compliance Review phase.
- 8.8 **The IDB Group's exit from the Project.** The MICI emphasizes the importance of ensuring that, in the near future, the IDB Group develop a definition of responsible exit and principles guiding good practices in this regard, so that it can respond adequately and avoid leaving potential environmental and social impacts unaddressed when exiting a Project. The MICI deems it appropriate for the IDB Group to develop and implement guidelines regarding the various types of project exit that can take place, ensuring that the decisions made by the Bank are based on the principles of "responsibility" and "do good beyond do no harm." This means taking the affected communities into account to prevent any exit action from creating or contributing to the risk of reprisals and vulnerability for the communities.
- 8.9 It is also important that, when the Bank leaves a project, the relevant information be posted on the IDB Group website, thus ensuring adherence to the principles of transparency and access to information.
- 8.10 With a view to the future, the MICI agrees with the Requesters' comments in the sense that future Recommendations should specify that Management will be required to fully implement the activities envisaged in its action plan in the event of a potential exit from a project, regardless of the type of exit.

## Annex I: IDB and IDB Invest Progress Report

### I. IDB AND IDB INVEST MANAGEMENT'S MONITORING PLAN FOR THE ACTION PLAN APPROVED BY THE IDB BOARD OF EXECUTIVE DIRECTORS<sup>1</sup>

#### ALTO MAIPO PROJECT - CHILE

Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
1.1. Produce the final version of the recreational, tourist, and scenic use impact study (EURTP).	EURTP	March 2020.	<ul style="list-style-type: none"> <li>EURTP</li> </ul>	<ul style="list-style-type: none"> <li>Study completed.</li> </ul>
1.2. Publish the EURTP.	Link to the publication website.	March 2020.	<ul style="list-style-type: none"> <li>Availability of the EURTP on the indicated websites</li> </ul>	<ul style="list-style-type: none"> <li>The study was published on: <a href="https://www.altomaipo.com/descargas/evaluacion-idoneidad-de-realizacion-de-rafting-en-rio-maipo/">https://www.altomaipo.com/descargas/evaluacion-idoneidad-de-realizacion-de-rafting-en-rio-maipo/</a> and <a href="https://www.iadb.org/en/project/CH-L1067">https://www.iadb.org/en/project/CH-L1067</a></li> </ul>
1.3 Invite the stakeholders to participate in the EURTP socialization and discussion process.	Copy of the invitations sent for the consultation processes.	March 2020.	<ul style="list-style-type: none"> <li>Invitations sent and received</li> </ul>	<ul style="list-style-type: none"> <li>Invitations sent: <ul style="list-style-type: none"> <li>Email dated 17 March 2020</li> <li>Certified letter dated 14 September 2020</li> <li>Letter dated 18 December 2020</li> <li>Certified letter dated 18 December 2020</li> <li>Letters dated 19 February with invitation to meeting on 23 March Certificate of receipt of the letters.</li> <li>Letter dated 16 June containing invitation to meeting on 29 July and information requested during meeting on 23 March.</li> <li>Certificate of receipt of letters and requested documentation.</li> </ul> </li> </ul>
1.4. Initiate the EURTP consultation process in keeping with Directive B.6 of Operational Policy OP-703.	Minutes or records of the consultation events.	As soon as the COVID-19 movement restrictions are lifted.	<ul style="list-style-type: none"> <li>List of attendees.</li> <li>Photographs, recordings of the meetings, videos.</li> <li>Minutes of the meetings.</li> </ul>	<ul style="list-style-type: none"> <li>First meeting held on 20 October 2020.</li> <li>Second meeting held on 22 April 2021 (the meeting scheduled for March 2021 had to be postponed due to the pandemic).</li> <li>Invitation to third meeting to be held on 29 July 2021 sent.</li> </ul>

<sup>1</sup> Document MI-65-16 of 7 October 2020.

Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
1.5. If necessary, establish, with stakeholders, an implementation compliance program for the management plan, along with a timeline.	Mitigation plan.	Prior to the Project's commercial operation phase.	<ul style="list-style-type: none"> <li>Mitigation plan.</li> </ul>	<ul style="list-style-type: none"> <li>Not completed yet because the consultation process has not been concluded.</li> </ul>
1.6. If a management plan is needed, supervise its implementation.	Supervision plan	Prior to the Project's commercial operation phase.	<ul style="list-style-type: none"> <li>Those included in the mitigation plan.</li> </ul>	<ul style="list-style-type: none"> <li>Not completed yet because the consultation process has not been concluded.</li> </ul>
2.1. Enhance the study already prepared by Cliodinámica to include: (1) an analysis of impacts that the flow of workers will have once the Project begins its operation phase; and (2) if required, a plan to manage those impacts.	Study assessing the social and economic impacts of the influx of workers once the Project is operational.	Four months after signature of the contract with Cliodinámica.	<ul style="list-style-type: none"> <li>Terms of reference for preparing the study.</li> <li>Order to proceed for Cliodinámica.</li> <li>Partial report by Cliodinámica.</li> <li>Study completed.</li> <li>If authorized, publication of the study.</li> </ul>	<ul style="list-style-type: none"> <li>Study in execution:</li> <li>Terms of reference for preparing the study approved.</li> <li>Order to proceed for Cliodinámica issued.</li> <li>The pandemic and the movement restrictions, coupled with the heavy rainfall in February, have delayed the scheduled dates.</li> <li>Draft study to be delivered 12 March 2021.</li> <li>Final version of study scheduled for 15 April 2021.</li> <li>If authorized, publishable executive summary scheduled for 30 April 2021.</li> <li>Study completed.</li> <li>Study published on <a href="https://www.altomaipo.com/descargas/medicion-sobre-los-proveedores-y-el-empleo-indirecto/">https://www.altomaipo.com/descargas/medicion-sobre-los-proveedores-y-el-empleo-indirecto/</a></li> </ul>
2.2. If a management plan is needed, monitor its implementation.	Impact management plan.	With the final version of the study.	<ul style="list-style-type: none"> <li>Those established in the impact management plan.</li> </ul>	<ul style="list-style-type: none"> <li>The study does not formulate a management plan since, in the author's judgment, the results obtained do not justify it.</li> </ul>
3.1. With the inclusion of a gender specialist, enhance the study already produced by Cliodinámica, to: (i) include an analysis of whether gender impacts on the population have materialized; (ii) assess whether the decision to host workers in the community has impacted or will impact the community's female population to a greater degree; and (iii) if required, generate management measures that consider the gender perspective and ensure that differentiated impacts are not perpetuated.	Study assessing the impacts of worker migration with a gender perspective.	Four months after Cliodinámica has received the order to proceed.	<ul style="list-style-type: none"> <li>Terms of reference for preparing the study.</li> <li>Order to proceed for Cliodinámica.</li> <li>Partial reports by Cliodinámica.</li> <li>Study completed.</li> <li>If authorized, publication of the study.</li> </ul>	<ul style="list-style-type: none"> <li>Study in execution:</li> <li>Terms of reference for preparing the study approved.</li> <li>Order to proceed for Cliodinámica issued.</li> <li>The pandemic and the movement restrictions, coupled with the heavy rainfall in February, have delayed the scheduled dates.</li> <li>The study has been completed by the consultants and is undergoing a final review.</li> <li>Publication of the study is scheduled for late July 2020.</li> <li>Meanwhile, the "Say No" campaign against sexual harassment, including street harassment in the Project, has been strengthened.</li> </ul>

Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
3.2. If a management plan is needed, monitor its implementation.	Monitoring plan	With the final version of the study.	<ul style="list-style-type: none"> <li>Those established in the impact management plan.</li> </ul>	<ul style="list-style-type: none"> <li>The study is under review. The management plan will be prepared once the final version of the document is approved.</li> </ul>
4.1. Monitor existing communication channels with the group of mule drivers.	Monitoring documents for existing communication channels.	There is no specific delivery date. It will be performed continuously through the Project's routine supervision process.	<ul style="list-style-type: none"> <li>Copies of certificates of delivery of information.</li> <li>Minutes of meetings held.</li> </ul>	<ul style="list-style-type: none"> <li>Evidence of communications and meetings with the mule drivers from 2015 to 2020.</li> <li>Testimonial by one of the mule drivers on <a href="https://www.youtube.com/watch?v=-F8MbAFchdg">https://www.youtube.com/watch?v=-F8MbAFchdg</a></li> <li>Despite the fact that the mule drivers' activity decreases in fall (current season), is nonexistent in winter, and resumes only in spring, and that the blastings and potential road closures that the Project would require would not impact them, continuous communication has been maintained with them in the form of in-person and virtual visits and telephone calls.</li> </ul>
5.1. Analyze the traffic reports	Traffic reports	May 2020	<ul style="list-style-type: none"> <li>Traffic reports</li> </ul>	<ul style="list-style-type: none"> <li>Traffic reports produced by AMBITRANS: <ul style="list-style-type: none"> <li>Road monitoring with origin-destination survey in November 2018</li> <li>Road monitoring in July 2019</li> <li>Road monitoring with origin-destination survey in November 2019</li> <li>Road monitoring in March 2020</li> <li>Road monitoring in July 2020</li> <li>Road monitoring in November 2020</li> </ul> </li> <li>Last vehicle traffic monitoring campaigns conducted at the checkpoints on route G-25, Las Vizcachas sector (km 12); routes G-25 and G-345, access road to Los Maitenes; Av. Concha y Toro, V. Subercaseaux and R. Subercaseaux, El Toyo access road; and routes G-25 and G-455, access road to El Yeso.</li> </ul>
5.2. Constantly monitor the traffic associated with the Project and its proposed management measures.	Results of Project-related traffic monitoring	Continuously during the supervision process.	<ul style="list-style-type: none"> <li>Number of accidents.</li> <li>Number of violations of established schedules.</li> <li>Number of traffic violations</li> </ul>	<ul style="list-style-type: none"> <li>Reported together with the project supervision reports.</li> <li>The results of the latest campaigns show: (i) a slight increase in traffic on the roads associated with the Project, compared to the figures recorded in November 2020; (ii) material deviations from compliance with schedule restrictions and speed limits; and (iii) the projected traffic levels are not exceeded.</li> </ul>

Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
6.1. Update the Implementation Guidelines for the Operational Policy on Gender Equality in Development (Operational Policy OP-761), in collaboration with VPS/ESG, IDB Invest, and GDI, with a particular focus on operationalizing the provisions on preventing and addressing risks of sexual and gender-based violence and human trafficking.	Updated Implementation Guidelines for Operational Policy OP-761	July 2021	<ul style="list-style-type: none"> <li>Implementation Guidelines for Operational Policy OP-761 approved</li> </ul>	Guidelines in the process of final approval by the Operations Policy Committee after having been subjected to an internal quality review process in May and June 2021.
6.2. VPS/ESG, together with IDB Invest and under guidance from GDI, will provide training to IDB Group staff and support to operations regarding the implementation of safeguards associated with the Operational Policy on Gender Equality in Development (Operational Policy OP-761).	Documents on training for IDB Group staff on implementation of Operational Policy OP-761	July 2021 and continuously during 2021 and 2022	<ul style="list-style-type: none"> <li>Number of training events</li> <li>Number of IDB staff trained</li> </ul>	<ul style="list-style-type: none"> <li>As of 2019, all Bank staff is required to complete the online course "Safeguards in IDB Operations: The Essentials," which includes a section specifically on Operational Policy OP-761.</li> <li>Starting in March 2021 and continuing throughout 2021 and 2022, the IDB will implement an ESPF training plan, including Standard 9 on Gender Equality, aimed at Bank staff, executing agencies, and other external audiences.</li> </ul>
6.3. Train all IDB Invest environmental and social officers (E&S) in gender risk assessment and offer the training to IDB Group personnel.	Documents on training for IDB Invest E&S officers in gender risk assessment.	In progress	<ul style="list-style-type: none"> <li>Number of training events.</li> </ul>	<ul style="list-style-type: none"> <li>Events already held: <ul style="list-style-type: none"> <li>First training for SEG officials in February 2019 during Knowledge Week.</li> <li>Second training for SEG officers (and clients) from 27 to 28 June 2019, during the 2019 Sustainability Week.</li> <li>Third training for SEG officers (and clients) in a webinar on the Gender Risk Assessment Tool on 1 July 2020.</li> <li>Fourth, in-depth mandatory training on gender risk assessment for SEG officers on 2 June 2021.</li> <li>Training on gender risks for IDB Invest staff on 3/7/21 and 6/21/21 - 300 participants.</li> </ul> </li> </ul>
6.4. Require IDB Invest's E&S officers to use the Gender Risk Assessment Tool (GRAT).	Documents on the use of the Gender Risk Assessment Tool (GRAT).	Continuously during the due diligence process	<ul style="list-style-type: none"> <li>ESRS template</li> <li>Copies of gender risk assessment forms</li> <li>Communications from the RSM/SEG Chief indicating that use of the GRAT is mandatory.</li> </ul>	<ul style="list-style-type: none"> <li>ESRS template modified to include a chapter on gender risks.</li> <li>Copies of the GRAT form used in any new high-risk project.</li> </ul>
6.5. Disseminate the GRAT so that IDB Invest clients can assess and prevent gender impacts in projects.	Documents on dissemination to clients regarding impact assessment	Starting in May 2020	<ul style="list-style-type: none"> <li>Distribution communications.</li> </ul>	<ul style="list-style-type: none"> <li>Gender risk assessment tool available in Portuguese, English, and Spanish on the website since May 2020 (<a href="https://www.idbinvest.org/en/publications/gender-risk-">https://www.idbinvest.org/en/publications/gender-risk-</a></li> </ul>



Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
	with a gender perspective		<ul style="list-style-type: none"> <li>Number of downloads of the publications</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">assessment-tool</a>). More than 7,100 downloads in June 2021.</li> <li>Tool disseminated on Twitter (<a href="https://twitter.com/IDBInvest/status/1266119740617039873">https://twitter.com/IDBInvest/status/1266119740617039873</a>, and <a href="https://twitter.com/IDBInvest/status/1260706447991746561">https://twitter.com/IDBInvest/status/1260706447991746561</a>)</li> <li>Publication since December 2020 in English, Spanish, and Portuguese on Gender-based Violence and Harassment Prevention: The Role of the Private Sector in Latin America and the Caribbean.</li> <li>Publication since June 2021 in English, Spanish, and Portuguese on Preventing Sexual Exploitation: A Practical Guide for the Private Sector, with World Childhood Foundation Brasil (Childhood Brasil).</li> </ul>
6.6. Organize a webinar for IDB Invest clients to discuss the content of the Gender Risk Assessment Tool.	Documentation on webinars with clients on the Gender Risk Assessment Tool.	Summer 2020 and throughout 2021	<ul style="list-style-type: none"> <li>Invitation to the event.</li> <li>List of participants.</li> <li>Content of the presentations.</li> </ul>	<ul style="list-style-type: none"> <li>Webinar conducted with 342 participants (80 IDB and IDB Invest employees, and 262 corporate client employees)</li> <li>Webinar available on YouTube since July 2020 (<a href="https://www.youtube.com/watch?v=cXtkjWstbW8">https://www.youtube.com/watch?v=cXtkjWstbW8</a>)</li> <li>Training for clients (with the International Centre for Hydropower) on gender-based violence and sexual harassment and on the GRAT conducted in December 2020 with 61 participants, including 33 client representatives and 8 IDB Invest officers. Second module to be offered in November 2021.</li> <li>Webinar with Childhood Brasil for 190 participants on preventing sexual exploitation in private-sector projects (15 June 2021).</li> </ul>
6.7. IDB Invest's clear commitment to identify and address gender-related risks in IDB Invest-supported investments, including by avoiding gender-based exclusion, gender-based violence, sexual exploitation, and human trafficking, and requiring clients to define and put in place specific measures to prevent and address these risks, can be found in the body of the new Sustainability Policy.	New sustainability policy and implementation manual.	Consultations starting in April 2020. Policy December 2020. Implementation manual February 2021.	<ul style="list-style-type: none"> <li>Policy</li> <li>Manual</li> </ul>	<ul style="list-style-type: none"> <li>Policy approved and available at <a href="https://idbinvest.org/sites/default/files/2020-05/idb_invest_sustainability_policy_2020_EN.pdf?_ga=2.17170041.1778103236.1607960731-55442420.1606248622">https://idbinvest.org/sites/default/files/2020-05/idb_invest_sustainability_policy_2020_EN.pdf?_ga=2.17170041.1778103236.1607960731-55442420.1606248622</a></li> <li>Manual produced, consultation and dissemination process <a href="https://idbinvest.org/sites/default/files/2020-12/implementation%20manual_E.pdf">https://idbinvest.org/sites/default/files/2020-12/implementation%20manual_E.pdf</a></li> <li>Dissemination on Twitter (<a href="https://twitter.com/IDBInvest/status/1363881471749066753">https://twitter.com/IDBInvest/status/1363881471749066753</a> and <a href="https://twitter.com/IDBInvest/status/1338961883106250753">https://twitter.com/IDBInvest/status/1338961883106250753</a>)</li> <li>Meetings with clients or civil society organizations (presentation with gender content).</li> </ul>

Actions proposed by Management	Deliverable	Delivery date	Compliance indicators	Status of deliverables
<p>6.8. Establish a blanket zero tolerance policy toward gender-based violence as part of the IDB Group's environmental and social commitments and ensure that this requirement is captured in the contractual conditions of operations approved by the IDB Group.</p>	<p>Blanket zero tolerance policy toward gender-based violence.</p>	<p>IDB Invest</p> <ul style="list-style-type: none"> <li>• December 2020 (policy)</li> <li>• February 2021 (implementation manual)</li> <li>• April 2021 (Statement from the CEO of IDB Invest)</li> </ul>	<p>Content of the sustainability policy and corresponding implementation manual</p> <p>Content of Standard 9 of the ESPF</p>	<ul style="list-style-type: none"> <li>• The new IDB Invest Environmental and Social Sustainability Policy and Implementation Manual, which specifically affirm the institution's commitment to promoting gender equality and require clients to identify and address gender-related risks (including exclusion, violence, sexual exploitation, human trafficking, and sexually transmitted diseases), have been approved.</li> </ul>
		<p>IDB</p> <ul style="list-style-type: none"> <li>• December 2018 (IFIs Joint Statement)</li> <li>• July 2021 (OP-761 Guidelines)</li> <li>• October 2021 (entry into force of the Bank's ESPF)</li> </ul>		<ul style="list-style-type: none"> <li>• The IDB Invest financial contracts require clients to comply with the IDB Invest Environmental and Social Sustainability Policy.</li> <li>• Statement by the CEO of IDB Invest: "IDB Invest reaffirms its commitment to the continuous advancement of international standards to prevent sexual harassment, abuse and exploitation" published in April 2021: <a href="https://www.idbinvest.org/en/news-media/idb-invest-reaffirms-its-commitment-continuous-advancement-international-standards-prevent">https://www.idbinvest.org/en/news-media/idb-invest-reaffirms-its-commitment-continuous-advancement-international-standards-prevent</a>.</li> <li>• The IDB is a signatory to the "2018 IFIs Joint Statement on Continuous Advancement of Standards to Prevent Sexual Harassment, Abuse, and Exploitation."</li> <li>• The objectives established under Standard 9 on Gender Equality in the IDB's ESPF include "To prevent [sexual and gender-based violence (SGBV), including sexual harassment, exploitation and abuse, and when incidents of SGBV occur, to respond promptly." Upon the ESPF's entry into force, scheduled for October 2021, compliance with this framework will be mandatory for all IDB borrowers.</li> </ul>

**Annex II: Management’s Comments on the Preliminary Version of the MICI Monitoring and Case Closure Report regarding the Alto Maipo Hydroelectric Power Project**

**Joint Response of IDB-IDB Invest Management to the Monitoring and Closure Report on the Alto Maipo Hydroelectric Power Project in Chile**

**MICI-BID-CH-2017-0115**

The Management of the Inter-American Investment Corporation (“IDB Invest”) and the Inter-American Development Bank (“IDB”), hereinafter and jointly “Management,” would like to thank the Independent Consultation and Investigation Mechanism (the “MICI”) for having shared the Draft Monitoring and Case Closure Report on the Alto Maipo Hydroelectric Power Project (the “Project”) in Chile, MICI-BID-CH-2017-0115 (the “Report”).

Furthermore, Management:

- a. Would like to thank the MICI for its efforts in promoting avenues for discussion of the issues set out in the Report.
- b. Confirms that the loan operation that partially financed the Project was terminated in February 2022. In this regard, since there no longer is any contractual relationship with the company that is carrying out the Project, Management confirms that it is no longer able to: (i) work with the former borrower on the continuity of the activities envisaged in the Action Plan agreed-upon with the MICI and approved by the Boards of Executive Directors of the IDB and IDB Invest; and (ii) act on behalf of this company and implement actions related to the social or environmental management of the Project.
- c. Would like to note for the record that, once the decision to terminate the contractual relationship with the Project was made, Management asked the Independent Environmental and Social Consultant (IESC), retained by the group of financial institutions to conduct routine monitoring of the Project, to issue a certificate of environmental and social compliance by the Project with the environmental and social requirements of the IDB Group. This document, issued by the IESC in December 2021, certifies the Project’s substantial fulfillment of environmental and social commitments.
- d. Would like to emphasize that it has made all necessary efforts to implement the actions envisaged in the Action Plan agreed-upon with the MICI and approved by the Board of Executive Directors (document MI-65-16) on 7 October 2020 within the agreed-upon time frames. However, this was not possible in all cases due to the movement restrictions imposed by the Chilean government in response to the COVID-19 pandemic, which created involuntary delays beyond the control of Management and of the Project.
- e. Considers that maintaining effective, two-way communications with the MICI is essential for discussing and aligning recommendations and actions on any allegation of noncompliance with the IDB Environmental and Social Policies and the IDB Invest Environmental and Social Sustainability Policy.
- f. Is available to discuss any issue related to this case with the MICI.



**Annex III: Requesters' Comments on the Preliminary Version of the MICI Monitoring and Case Closure Report on the Alto Maipo Hydroelectric Power Project**

Response to

Action Plan Monitoring Report and Case Closure Report – Preliminary Draft -  
MICI-BID-CH-2017-0115  
“Alto Maipo Hydroelectric Power Project”

Prepared by

**Center for International Environmental Law (CIEL), Ecosistemas, and  
Coordinadora Ciudadana No Alto Maipo**

July 2022

We appreciate this opportunity to provide comments on the draft Monitoring and Case Closure Report on the Alto Maipo Hydroelectric Power Project (hereinafter “final report” or “MICI’s final report”).

Immediately below (Section I), we set out our comments on specific sections of the MICI’s draft report. Next (Section II) are some general thoughts on the processing of the complaint and the resulting impact on the complainants and the affected communities they represent. In addition, we address issues regarding the importance of this case for the IDB Group’s accountability system, illustrating the need to take urgent action to strengthen the system to make it relevant and effective. Lastly (Section III), we provide our authorization and state our wish to include this document in the final version of the MICI monitoring and case closure report.

## **I. Comments on specific sections of the MICI's draft final report**

### **A. Comments on Section II: Alleged reprisals during the processing of the case**

We would like to emphasize the importance of documenting these reprisals in the MICI's final report, both to leave a record of what occurred in this case and to spur IDB Invest to think seriously of how to prevent reprisals and any harassment of this nature in the future. In this regard, it is worth recalling IDB Invest's commitment not to tolerate retaliation in the context of its projects, as described in its new sustainability policy, which entered into force in late 2020 (see paragraph 20). In addition, the inclusion of this information in the final report is particularly significant inasmuch as it relates to compliance with the **guidelines for addressing the risk of reprisals in the processing of requests** by the MICI (see paragraphs 4.9 and 5.36).

In view of this, we welcome the information set out in paragraph 2.1 of the MICI's draft report, which deals with the reprisals that occurred in the context of this project. However, we deem it relevant to include the following additional details on this situation:

1. In addition to being given personal information—including not only home addresses and telephone numbers but also personal identification (RUT) numbers and information on occupation, spouse, and political history—on several individuals who have voiced their opposition to the Alto Maipo project, AES Andes (operator of the Alto Maipo Hydroelectric Power Project, formerly AES Gener S.A.) engaged cyber intelligence services to infiltrate and monitor the communications of Coordinadora Ciudadana No Alto Maipo [No Alto Maipo Coordinating Committee] (CCNAM). According to reports obtained by *Interferencia*, the monitoring of CCNAM included infiltrating its chat groups on the WhatsApp platform to obtain information on the online activities of its members.
2. In addition, we understand that personal information on the daughters of Marcela Mella (CCNAM spokesperson)—one of whom is a minor—was compiled and delivered to AES Andes.<sup>1</sup> This is particularly concerning in light of the risk patterns documented in various contexts in the region. These patterns involve direct harassment directed not only at activists but also at their families, who are identified and subjected to threats, intimidation, and other reprisals. This modus operandi is a way of exerting extreme pressure on advocates to stop their activities in defense of the environment and human rights.

As the MICI and the IDB Group know, human rights and environmental advocates in Latin America carry out their work in high-risk contexts, facing all manner of reprisals, from threats and intimidation to harassment, surveillance, defamation, and criminalization, and in many cases physical attacks and even murder. Unfortunately, it is clear in this case that the company developing the Alto Maipo project has participated in several acts of retaliation against Marcela Mella. These acts by the company are clearly an unlawful response to the central role that Ms. Mella and the CCNAM have played as part of the—

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<sup>1</sup> Due to security and privacy considerations, the investigative report published by *Interferencia* refrained from including this information.

always peaceful—citizen opposition to this project due to its serious impacts on human rights and the environment.

At the same time, paragraph 2.1 of the draft final report documents that IDB Management shared information with the MICI on the action taken by Management to address this situation directly with its client. We believe it is important that the performance of IDB Invest in the framework of its commitment against reprisals be evaluated to determine whether the action taken was appropriate and sufficient to address these reprisals engendered—according to reports—by IDB Invest’s client.

By way of example, Management indicates that one of the steps it took in this regard was to share reprisal prevention recommendations and guidelines with its client. We repeat: it is extremely important that the Bank’s commitment against retaliation of any type, including specific recommendations to prevent it, be conveyed proactively and preventively—from the start of its relationship with the client and repeatedly throughout this relationship—and not only when reprisals are reported. In addition, this case illustrates the need for the Bank to be prepared to respond to reports of retaliation, even when its client may be responsible for the alleged retaliation. Evidently, sharing reprisal prevention guidelines and materials will not be enough when there is a possibility that the Bank’s client has been involved in the retaliatory action.

In addition, Management indicated that it “received and duly channeled [the information on the alleged reprisals], [taking] the appropriate steps to investigate what happened,” and also “requested and received an explanation from the Client.”

Clearly, merely having requested and received an explanation from the client is not in itself sufficient. In addition to the lack of information on the findings of the investigation that the Bank reports having conducted, it is noteworthy that the Bank did not share information on the additional measures taken directly with the client to address this situation and ensure that it would not recur.

In view of the foregoing, we insist on the importance and utility of evaluating the Bank’s response in this case to determine whether other measures—such as a public statement by the Bank denouncing the alleged reprisals—should have been part of the Bank’s response to this situation, including to discourage this Bank client and others from carrying out actions of this type in the future. Such evaluation can serve to identify lessons learned for effective implementation of the commitment to zero tolerance for reprisals.

Any guide for Bank clients should be linked to internal protocols and clear guidelines to steer the actions of Bank staff when situations of this type arise, in order to ensure that the zero-tolerance commitment is implemented effectively and results in a consistent policy when reprisals take place in the context of Bank projects.

In addition, it is important that the MICI’s final report document the actions taken by the MICI to address the reprisals after being informed of them by the complainants. This would shed light on the practices regarding implementation of the MICI’s guidelines for addressing risk of reprisals and the precedent created by this case, particularly since these guidelines are relatively new, having been approved in 2019. Moreover, this

documentation by the MICI would make it possible to identify lessons learned and opportunities for improvement in future cases.

Lastly, we would like to underscore the gravity of the matter of reprisals in the context of IDB Invest's exit from the project. Having withdrawn its investment, IDB Invest no longer has the same influence as before to address this situation directly with its client and thereby make a positive intervention in the matter. Therefore, we believe that IDB Invest urgently needs to adopt and implement a formal framework to provide guidance and establish directives when exiting or remaining in problematic projects, and ensure that these decisions are taken responsibly, without leaving the communities and social leaders in a position of greater risk and vulnerability after the investment (and divestment). In this case, we believe that the existence of reprisals should have been one of the main considerations when deciding whether or not to withdraw from the Alto Maipo project.

#### **B. Comments on Section VII: Closure of the MICI's processing of the case**

According to its governing principles, the MICI is functionally independent from IDB Management and addresses requests objectively and impartially. These characteristics, essential for ensuring transparent accountability, should be evident both in the implementation of procedures through the course of processing a complaint and in the grounds for the decisions adopted by the MICI.

The MICI's decision to finalize the processing of the case appears to have been a direct result of Management's message that it would be unable to carry out additional activities to complete the Action Plan due to the absence of a current contractual bond. We note with concern that the MICI's decision is an instantaneous result of Management's message, arrived at without any prior independent analysis or grounds setting out the reasons why the case should or should not be closed. In other words, we believe that the MICI should not take Management's conclusion, on the consequences of lacking a current contractual relationship, as if it were its own. On the contrary, because of its independent, objective, and impartial nature, the MICI has the responsibility to provide autonomous grounds for its decisions.

Accordingly, the MICI should make a clearer distinction between:

1. The information obtained by the MICI (for example, that the Bank is no longer financing the Project and Management therefore indicates that it will be henceforth unable to carry out additional activities) and
2. The independent analysis of the situation conducted by the MICI to arrive at its decision to finalize the processing of the case.

On the second point, the MICI, instead of taking on a passive or observer's role, should not renounce its responsibility as overseer of Management's Action Plan and should invite further thoughts within the framework of its Monitoring Plan. Thus, the MICI should be ready to ask itself relevant, if difficult, questions to ensure accountability in this specific case, rather than become a vehicle for impunity.

For example, why does the MICI take for granted Management's conclusion that the absence of a contractual bond relieves the Bank from performing any additional activity of the Action Plan?



On this point, it is worth noting that the Bank's responsibility for the Action Plan does not arise from a current contractual relationship. This responsibility arises from the investment in the Alto Maipo hydroelectric power project, and particularly from the findings in the MICI's Compliance Review Report, which establishes a link between the Bank's various instances of noncompliance and the harm alleged by the requesters.

In this regard, to argue that Management's responsibility for its Action Plan disappears simply because the Bank withdraws from the project is to ignore the most basic foundations of the Bank's accountability framework. In this specific case, (i) the IDB-IDB Invest had a clear investment in the project; and (ii) the MICI had established both the Bank's failure to comply with its own Relevant Operational Policies and the existence of substantial and direct harm to the requesters as a consequence of such noncompliance. Under the MICI Policy, aside from the Bank's obvious role as an investor, the accountability system rests on these two basic pillars of responsibility:<sup>2</sup> "(...) [the] findings of Harm and how it is linked to the noncompliance of one or more Relevant Operational Policies."<sup>3</sup> Thus, it is no coincidence that this is also the purpose of the Compliance Review Report or what it aims to conclude.

In addition, it is worth recalling that following the findings and recommendations set out in that report, the IDB Board of Executive Directors approved the Report of the Chairperson of the Policy and Evaluation Committee, which supports the recommendations submitted by the MICI, and Management submitted its Action Plan while "(...) reaffirming its commitment to continuing with a broader supervision of implementation of the Alto Maipo Hydroelectric Power Project (...)".<sup>4</sup>

Thus, if the pillars of accountability have in this case been established, the conclusion of IDB Management is wrong and the MICI, in its oversight role, should address this issue specifically and adequately in its decision to close the processing of the case. The Bank's exit should not affect the MICI's responsibilities regarding the accountability system. Moreover, as indicated by the Office of the United Nations High Commissioner for Human Rights (UNHCHR), this type of exit should not affect the responsibility of development banks to provide remedial action for the affected communities.<sup>5</sup>

<sup>2</sup> With regard to harm, according to the Compliance Review Report for the Alto Maipo Hydroelectric Power Project, "(...) the MICI Policy calls for a determination as to whether any noncompliance found has caused or could cause harm, (...)." See Document of the Independent Consultation and Investigation Mechanism- MICI-BID-CH-2017-0115.

<sup>3</sup> See "Policy of the IIC Independent Consultation and Investigation Mechanism." Document of the Inter-American Investment Corporation, 27 April 2021.

<sup>4</sup> See Joint IDB-IDB Invest Action Plan to address the recommendations of the MICI Compliance Review Report Alto Maipo Hydroelectric Power Project (CH-L1067). Chile, Alto Maipo Hydroelectric Power Project – MICI-BID-CH-2017-0115. Document of the Inter-American Development Bank.

<sup>5</sup> Following an analysis of the Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct, the Office of the United Nations High Commissioner for Human Rights concludes that financial institutions should take human rights considerations into account when exiting a project and that, in any event, the decision to exit "does not affect responsibilities for remedy." "Remedy in Development Finance" (New York and Geneva, 2022), p. 93 (hereinafter, "UNHCHR Report"). Available at: <https://www.ohchr.org/sites/default/files/2022-03/Remedy-in-Development.pdf>

Lastly, we are especially concerned by the future implications of this decision. If the MICI fails to question Management's erroneous conclusions, with their damaging consequences for accountability, a door easily opens for financial institutions to use this *modus operandi* as a strategy of deceit with respect to the MICI's findings and recommendations.

This conduct—closing the case following the Bank's exit despite noncompliance with the policies and the existence of harm, while at the same time leaving implementation of the Action Plan half-finished and the communities without a remedy, has at least two critical ramifications.

First, in its decision to close the processing of the case without an independent analysis, the MICI would appear to make it easier for the IDB to "wash its hands" of its responsibility for having failed to comply with its policies and thereby caused harm to the requesters. This self-exoneration of responsibility by Management with regard to additional activities of the Action Plan is a mockery of the rights and expectations of the requesters as well as of the trust they placed, and the time they spent all these years, in using legal and out-of-court channels to report the project's irregularities and their harmful impact. Thus, the communities of Cajón del Maipo have had to deal not only with the absolute absence of remedial action but also with this type of decisions by Management, so far never questioned, which undermine the seriousness of the results of the accountability process and the monitoring thereof.

Second, beyond this specific case, the MICI's decision sets a dangerous precedent for the Bank's accountability system. It is unclear how the MICI could preserve its integrity and independence going forward, when determinations of this type undermine the very foundations of the system and the MICI appears not to question conclusions that, as explained above, are wrong. In this regard, it would be important for the MICI to explain why this pattern will not be replicated in other cases when the Bank exits problematic projects that are still subject to the MICI's monitoring process.

This is to avoid encouraging new scenarios of evasion of responsibility as well as prevent the MICI as a whole from weakening and from discouragement of its use.<sup>6</sup>

In addition, it would be worthwhile for the MICI to consider practical ways of suggesting to the Bank how to fulfill its duty regarding the accountability system, and ask itself the following questions: Why does it take Management's assertions for granted, namely, that there are no additional actions it can take? Based on the fact that the pillars of responsibility have been established, could the Bank continue periodically to request information from its former client in order to monitor the mitigation activities underway or the recommendations that have yet to be implemented?

Lastly, we again call on the MICI to describe fully and transparently the considerations it took into account to arrive at its decision to close the processing of the case, including, for

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<sup>6</sup> *Ibid*, p. 94. This risk has also been identified by the UNHCHR: "In situations in which a financial institution contributes to harm it is expected to contribute to remediating that harm. That expectation of contribution to remedy does not stop upon exit. Were it otherwise, this would create a perverse incentive to exit problematic projects simply to avoid remediation. Instead, remediation should be addressed as part of the exit or thereafter."

example, whether this is related to the fact that the complainants see no point in Management's Action Plan and the MICI's Monitoring Plan, viewing them as irrelevant for the affected communities, as will be described in greater detail in sections I(C)(i) and I(C)(iii) below.

### **C. Comments on Section VIII: Thoughts on the case**

We applaud the inclusion of thoughts on the case in Section VIII of the MICI's draft final report, particularly in view of the multiple challenges this case has posed for the MICI in substantive, procedural, and logistic terms, as well as the concomitant difficulties it raised for the complainants. Below we set out our comments regarding each of these thoughts.

#### **(i) Comments related to paragraph 8.2: Limitation on the issues to be investigated**

As indicated in the draft final report, the MICI excluded several issues from the scope of its investigation due to the applicability of the exclusion clause on matters related to judicial proceedings in Chile. The excluded issues were a core component of the complaint: the impact of the Alto Maipo project on the Maipo river basin—the ecosystem on which the water and biodiversity of the Santiago Metropolitan Region depend—the river's volume, the water rights over the river, and the sediment it carries. These are environmental issues that gave rise to the complaint inasmuch as they deal with impacts on, and damage to, the health, welfare, and way of life of the region's inhabitants, all of which are linked to the integrity of the river ecosystem and are affected by a megaproject financed by the IDB Group.

We know that the decision to eliminate the judicial exclusion clause from the MICI's policies was a direct consequence of the acknowledged failures in managing and processing the Alto Maipo case, among other factors. Both the complainants in this case and CIEL recognize the positive impact that eliminating this limitation will have for the communities affected by IDB projects in Latin America and the Caribbean, although not for the complainant communities in this case.

The exclusion clause, in an accountability process carried out in a development bank that has no connection to any judicial or arbitration proceedings being conducted nationally, should never have existed. We hope that this reform begins to resolve the unfair rejection of individuals and communities affected by IDB Group-financed projects throughout this region who have been unable to obtain access to the MICI to enforce their rights.

However, in the future, if the Bank indicates which of its operational policies are relevant to a specific project on the basis of the project's identified risks and environmental classification, it is essential that the MICI investigate these policies as part of its Compliance Review Phase, rather than eliminate, limit, or carve out portions of each policy when deciding what to investigate. In addition, if the complainants have highlighted issues that do not fall squarely within the scope of a policy, the MICI should be the one to make the relevant recommendation to allow these issues to be investigated in terms of IDB or IDB Invest compliance.

Had a comprehensive and systematic approach been adopted, the previous Environment and Safeguards Compliance Policy (Operational Policy OP-703)<sup>7</sup> would have been included in full, rather than in partial form, in the Terms of Reference for investigation of the Alto Maipo project, inasmuch as this policy is essential for an understanding of the project not only in environmental, but also in social, terms. Inasmuch as the environmental and climate crisis is causing irreversible global changes, we believe that the MICI's contribution to the people of Latin America and the Caribbean as an institution that furthers the mandate and vision of the IDB Group<sup>8</sup> encompasses the responsibility of caring for these issues, as has already been established.

Accordingly, it should be made clear that the Alto Maipo Hydroelectric Power Project has dramatically impacted not only the Maipo river basin but also the aquifers in the affected area, and that by diverting a significant percentage of the volume from the Volcán, El Yeso, and Colorado rivers, the Project has jeopardized the supply of drinking water<sup>9</sup> on which more than eight million inhabitants of Santiago, the country's capital, and the surrounding metropolitan region depend. This situation is already extremely serious, given the severe and prolonged drought that has been affecting central Chile for over a decade. The experts have stated that the central area of Chile and of Cajón del Maipo is in the midst of a desertification process. In this period, the Maipo river has lost one fourth of its volume.<sup>10</sup>

There is no doubt that the degradation of the Maipo river basin as a result of the Alto Maipo project is intensifying and accelerating this desertification process. The diversion of these three rivers, and the ensuing drop in the volume of the Maipo river along 100 kilometers, will lead to a dramatic decline in their water flows and in the volume of major tributaries and of brooks, springs, and water sources, thereby preventing the replenishment of aquifers.<sup>11</sup>

The aforementioned environmental phenomena, intensified by the hydropower project, have specific and real impacts, for example on access to water for residents of Cajón del Maipo. Most residents of the Cajón obtain potable groundwater from deep wells that are dependent on the integrity of the aquifers or water tables. These were seriously affected by the construction of tunnels for the Alto Maipo project, which led to large amounts of

<sup>7</sup> The IDB Board of Executive Directors approved the new IDB Invest Environmental and Social Sustainability Policy on 10 April 2020 and a new Environmental and Social Policy Framework on 16 September. These two documents replace the previous operational policies.

<sup>8</sup> Vision 2025. The IDB Group needs to foster economic growth, help reduce poverty and inequality, improve governance, foster climate change mitigation, promote gender equality and inclusion, and respond to crises, natural disasters, and other socioeconomic challenges.

<sup>9</sup> It is worth noting that the United Nations Committee on Economic, Social and Cultural Rights has voiced its concern over the limited access to drinking water in the country, recommending that the Chilean State ensure access to drinking water. See Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Chile, Doc. E/C.12/CHL/CO/4, 7 July 2015, paragraph 27.

<sup>10</sup> La Tercera, *Río Maipo pierde un cuarto de su nivel: Informe muestra cómo en las últimas tres décadas Chile se está quedando sin agua*, 23 August 2019, available at: [www.latercera.com/que-pasa/noticia/rio-maipo-pierde-un-cuarto-de-su-nivel/794825/](http://www.latercera.com/que-pasa/noticia/rio-maipo-pierde-un-cuarto-de-su-nivel/794825/).

<sup>11</sup> For more information on the water scarcity and climate change impacts of the Alto Maipo hydroelectric power project, see Marcela Mella Ortiz, *Observaciones en el marco del Procedimiento de Revisión de la Resolución de Calificación Ambiental No. 256/2009 del Proyecto Hidroeléctrico Alto Maipo*, received by Chile's Environmental Assessment Service on 1 March 2019, available at: [https://www.sea.gob.cl/sites/default/files/adjuntos/paginas-estaticas/n\\_17\\_consolidado.pdf](https://www.sea.gob.cl/sites/default/files/adjuntos/paginas-estaticas/n_17_consolidado.pdf).

groundwater leakage and evacuation. Worth underscoring in this regard is the deficient quality and superficiality of the hydrogeological studies submitted by the company for the project's environmental impact assessment in the initial stages of the project's design. There were serious engineering problems regarding the drilling and constant flooding of the tunnels in the first stages of construction, evidencing the poor quality of the prospecting and studies to determine the presence and location of the aquifers and groundwater that cross the Andean mountain range. These defects made it problematic to establish the true impacts that these tunnels would have on the entire hydrogeological system that supplies drinking water to thousands of residents of Cajón del Maipo.

Despite the fact that these impacts were foreseeable, the environmental assessment process for the Alto Maipo project failed to consider certain critical elements capable of altering the environmental and human rights scenario in a basin that is essential for the quality of life of 40% of the country's population, as we pointed out in the Complaint Letter that we submitted to the MICI in 2017. The process did not consider the real effects of climate change and desertification, the impact of these phenomena on glaciers and groundwater, or the hydrogeological consequences of the tunnels. The environmental studies conducted by AES Gener, S.A. did not project how the 100 kilometers of the Maipo river basin and its three major tributaries would be affected by an intervention that would reduce their volume to minimal quantities. This becomes particularly critical as the temperatures rise, rainfall declines, and glaciers recede. In addition, the blastings performed in the construction of the project also helped to degrade glaciers and permanent snow in the Andean range.<sup>12</sup>

Unfortunately, the MICI did not evaluate these issues or the cumulative effect of climate change in the region. At the time the complaint was submitted, the central area of Chile had experienced a record eight consecutive years of drought, a veritable "desertification process," as it was defined by the Chilean authority.

Through its major intervention on the Maipo basin and its tributaries, the Alto Maipo project is believed to have already directly affected the basin's ecological services and its ability to adapt to climate change.

Once again, we understand that acknowledging the failures in processing the specific case of Alto Maipo, among other factors, enabled one of the most significant changes in the MICI's policy that CIEL has been criticizing for years. The elimination of the judicial exclusion clause from the MICI's policies is a breakthrough. This obstacle having been eliminated, one would expect the eligibility process and the decisions on eligibility by the Board of Executive Directors to be expeditious, and we hope this turns out to be the case. The efforts required of any community—as well as the associated economic and time-related costs—in filing a complaint at the MICI are not inconsequential, not only in terms of the

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<sup>12</sup> See: "Antecedentes para la Comisión Especial Investigadora de los Actos de los Organismos Públicos Competentes en Materia de Fiscalización y Protección de los Glaciares, Cuencas Hidrográficas y Salares de Chile, Caso Monumento Natural El Morado, sus Glaciares y Alto Maipo," 2016, No Alto Maipo Metropolitan Network. Available at: <https://www.camara.cl/verDoc.aspx?prmID=87229&prmTIPO=DOCUMENTOCOMISION>

documentation and coordination work involved but also in terms of the risks faced by environmental and human rights advocates leading these management activities globally.

**(ii) Comments related to paragraph 8.3: Length of the investigation process**

We appreciate the MICI's thoughts, which are included in its draft final report, on its own need to make more efficient and timely progress toward concluding its investigations so as to ensure that its findings and recommendations are still relevant from the standpoint of the complainants.

However, it is inaccurate to state that the Alto Maipo case lasted 14 months as indicated in paragraph 8.3 of the MICI's draft. The MICI acknowledges that the case took more than three years from the time it was determined to be eligible, through its subsequent transfer to the Compliance Review Phase and approval of the investigation by the Board, until the finalization and publication of the final report. Accordingly, we suggest that the MICI explain that the case has stretched out over more than three and a half years, inasmuch as the complainants deem the process to have begun when they filed their complaint in January 2017 and to have tentatively ended in June 2020, when the final report on the MICI's investigation was received.

In fact, we take note of the Office of Evaluation and Oversight (OVE) analysis on the time frames associated with the processing of cases, specifically citing this case: "In Alto Maipo, the various extensions requested by the MICI to prepare its investigation recommendation and terms of reference in view of the technical difficulties encountered by the project, the complexity of the project, and the issues raised in the request were compounded by the time it took for the Board to approve the recommendation due to various discussions mainly dealing with the applicability of the legal exclusion. The investigation process also required multiple time limit extensions, primarily because of delays in the delivery of technical inputs from the experts."<sup>13</sup>

For years, the Cajón del Maipo complainants have faced various challenges resulting from the project. Throughout their complaint process, they have conveyed their urgent need to obtain a response to the complaint from the MICI in view of their circumstances and the serious impacts they live with on a daily basis as a consequence of the Alto Maipo project's operations.

At the same time, the fact that construction on the project did not cease during the MICI process or even during the COVID-19 pandemic deserves greater attention from the IDB going forward. The health emergency exacerbated the project's harm and negative impacts, exposing the communities to extreme health risks. Even so, IDB Invest took no action to address these risks or impacts.

It is essential that the MICI and the IDB Group publicly acknowledge not only the length of their investigation but also the length of the case as a whole, and what this has entailed for the affected communities. Such broader acknowledgment of the delays in this case could serve not only to improve the performance of the MICI but also to encourage serious

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<sup>13</sup> Evaluation of the Independent Consultation and Investigation Mechanism, Office of Evaluation and Oversight, March 2021, p. 49.

thought by Management and the Bank's Board of Executive Directors on the role they played in the delays throughout this case.

**(iii) Comments related to paragraph 8.4: Preparation and content of the action plan**

With regard to the preparation and contents of the action plan, it is essential to acknowledge that the MICI's limited investigation framework meant that this plan was fated to be inadequate. The application of the exclusion clause reduced the Terms of Reference to the point of eliminating any possibility of examining the general, specific, and crosscutting environmental ramifications of the project, such as water and river volumes. The lack of an environmental concept, and the concomitant absence of a finding on potential IDB noncompliance with environmental policies, is an original error that gave rise to an incomplete investigation. This resulted in impractical recommendations and an obsolete and largely irrelevant action plan.

Despite the aforementioned exclusion, we recognize that some of the issues included in the Terms of Reference for the investigation did have relevance for the residents of Cajón del Maipo. For example, issues related to their welfare, ways of life, economy, and local commerce were included (assessment of the project's impact on recreational, tourist, and scenic uses), as were the issues of security, health, increase in traffic, and in-migration (comprehensive assessment of the potential social and economic impacts of the flow of workers), and the activities and habits of the mule drivers of Cajón del Maipo. In any event, the recommendations proposed by the MICI in June 2020 based on the findings on these investigated issues were neither timely nor appropriate, giving rise to an Action Plan that failed to resolve or improve the conditions of the communities affected by the Alto Maipo project.

The specific recommendations made by the MICI for the Project included performing an **assessment of the social and economic impacts of the flow of workers, with a gender perspective**. However, the Action Plan's proposed activities and actions for performing this assessment not only were outdated but ran the risk of causing further harm. The intention to once again question, interview, and interrogate the victims of gender-based violence in order to conduct this assessment made no sense and actually ran counter to the best practices that the IDB is endeavoring to implement throughout the institution.

At the same time, we recognize the utility of the only recommendation that carries a general and systematic effect for the IDB Group:

"Strengthen IDB Group staff understanding and capability to implement the requirements of Operational Policy OP-761 and any relevant policy applicable to the process of identification, assessment, and mitigation of gender-based impacts in operations, as well as related to any requirements ensuring the safe, effective participation of vulnerable groups. Specifically, develop guidelines for implementing Operational Policy OP-761 and other policies related to such impact, in order to strengthen compliance with these policies and their proper implementation in Bank operations.

Establish a blanket zero tolerance policy toward gender-based violence as part of the IDB Group's environmental and social safeguard policies and ensure that

this policy is incorporated into the contractual conditions of operations approved by the IDB Group.”<sup>14</sup>

Here we acknowledge the value of the MICI’s proposal and all steps taken by Management to improve implementation of the Operational Policy on Gender Equality in Development (Operational Policy OP-761), the training and dissemination of guidelines both internally and for IDB Group clients, and the development of a *blanket policy of zero-tolerance for gender-based violence*. This is a welcome response to the MICI’s findings and recommendations for addressing gender risks effectively at an institution-wide level with effects for Bank clients.

We conclude this section by reiterating our concern at an Action Plan that is irrelevant for addressing the case of the Alto Maipo Hydroelectric Power Project, one of the most emblematic to have been brought before the accountability system. In addition, we believe that the omissions and defects of the Action Plan, which stem from a series of irrelevant Recommendations in terms of addressing the specific harm to the complainants, aside from being related to the foregoing, have to do with the absence of a remediation framework within the Bank’s accountability system.

Developing a comprehensive remediation framework is one of the mechanism’s greatest debts to the requesters. The absence of such a framework is not a trivial matter. In the case of Alto Maipo, the nonavailability of remedies after the processing of the complaint—which lasted easily as long as a judicial proceeding without yielding any outcome that recognizes the full extent of the harm suffered by the communities of Cajón del Maipo— makes it impossible to rate the Bank’s accountability system as sound and reliable.

At present, despite having contributed to the project’s adverse impacts as documented by the MICI, the Bank has abandoned Alto Maipo in an irresponsible manner, without ensuring for those affected a minimum standard of information on the reasons for its decision or providing comprehensive remediation measures.

In this regard, it is essential to recall that the UNHCHR has addressed this matter in vertical fashion: “[...] if development finance institutions (DFIs) have contributed to adverse impacts together with their clients, exiting relationships does not extinguish the responsibility to contribute to remedying the adverse impacts; hence, the emphasis on not leaving behind unremediated impacts. In addition, if disengagement itself causes adverse impacts, DFIs would be responsible for remediating those impacts to the extent of their contributions.”<sup>15</sup>

Under the existing remediation typology—the source of which is international human rights law—<sup>16</sup> the MICI should, before closing the processing of one of the IDB’s most emblematic cases (the Alto Maipo Hydroelectric Power Project), be able to agree with the requesters on some significant remediation measures and propose them to IDB Management. For example, to date, the Bank has neither publicly recognized its role in the concatenation of

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<sup>14</sup> Compliance Review Report Alto Maipo Hydroelectric Power Project, MICI-BID-CH-2017-0115, MICI, June 2020, pp. 77-78.

<sup>15</sup> UNHCHR Report, footnote 5 *supra*.

<sup>16</sup> Center for International Environmental Law, “Remedying Harm: Lessons from International Law for Development Finance” (March 2022). Available at: <https://www.ciel.org/reports/remedying-harm-lessons-from-international-law-for-development-finance/>



harms and adverse impacts suffered by the affected communities, nor taken steps to ensure that investments in harmful projects such as Alto Maipo cannot recur.

**(iv) Comments related to paragraph 8.5: IDB Group exit from the project**

We applaud the MICI's inclusion of these thoughts inasmuch as they foster a strengthening of the Bank's accountability system.

In any event, we would like to suggest providing a more detailed and broader version of these thoughts, in line with the following principles or guidelines:<sup>17</sup>

- a. Developing a responsible exit framework is clearly justified. In their procedures and decisions, DFIs are guided by various principles, including “do no harm.” The implementation of a comprehensive responsible exit policy is justified and validated by this principle, which means that those affected by a DFI's project should, at the very least, not be left worse off following the DFI's involvement and exit.
- b. There is no ideal time to exit or withdraw from a project if impacts are left unremediated. A “cut and run” approach or divestment from socially and environmentally problematic projects should be avoided at all costs without first conducting a specific assessment of the human rights impacts that would result from the exit and preparing a comprehensive remediation plan—in keeping with international human rights law—for the communities affected by the project.

For example, in the case of Alto Maipo, the fact that the withdrawal took place at the conclusion of the construction stage does not make it a responsible withdrawal. This is so not only because the Bank has ignored any responsibility for impacts caused until that time but also because it has disassociated itself from any potential future impacts in relation to the project. In fact, it would seem that the harm linked to Alto Maipo could be more severe during the operational phase in view of the effects of climate change on the ecosystem.

- c. Recognize project-affected communities and civil service organizations as stakeholders in the design and implementation of exit plans and remedial actions. For example, the design of a responsible exit plan should include a stage of consultation and engagement with these communities and organizations to ensure that the measures included in the plan are relevant, timely, and meaningful.
- d. If a complaint is being processed in any of the phases of the Bank's accountability system, the Bank should ensure, in adopting a responsible exit framework, that any withdrawal decision does not affect the continuity and outcomes, nor the monitoring, of the process. On the contrary, the Bank should undertake to complete the activities associated with these phases to the very end, regardless of its withdrawal. For this

<sup>17</sup> The guidelines and principles set out in subparagraphs (a), (b), (e), (f), (g), and (h) have been proposed by the UNHCHR. See UNHCHR Report, footnote 5 *supra*, p. 96. Those set out in subparagraphs (c), (i), (j), (k), and (l) are based on the blog “Does Divestment by Multilateral Development Banks Leave Communities in the Lurch?”, published by BIC and CIEL in March 2022. Available at: <https://www.ciel.org/does-divestment-by-multilateral-development-banks-leave-communities-in-the-lurch/development-banks-leave-communities-in-the-lurch/>.

- purpose, there should be coordination with the MICI to adjust any applicable recommendations.
- e. Ensure that complaints by affected people can be brought to the MICI within a reasonable period (such as two years) after the Bank's exit, or two years after the complainant became aware of the harm.
  - f. Ensure that communities and workers are not at risk of retaliation due to exit.
  - g. Ensure that benefits and opportunities promised to workers and communities have been provided and will continue after the institution's exit.
  - h. Ensure as far as possible that the project continues to operate in an environmentally and socially responsible manner after the departure of the institution.
  - i. Develop an institutional remedy fund to facilitate a coherent approach consistent with a comprehensive responsible exit policy and to prevent leaving affected communities without remedy after the institution's withdrawal or exit.
  - j. The financial institution should build leverage into contracts from the initial investment, including requirements for clients around divestment and commitments to remedy harm after divestment or early exit.
  - k. Immediately after divestment or exit happens, the financial institution should publish the information about the divestment or exit on its website and update relevant pages to reflect the accurate project status.
  - l. Following the exit or divestment, the financial institution should issue a divestment or exit note to announce this event and explain the main commitments from the client to address environmental and social issues following the divestment. This should include, for example, ongoing or anticipated impacts that the client should address and monitor. If there is a corrective action plan prepared by the client to address noncompliance issues, the divestment or exit note should also mention the main actions included in that action plan and how they are to be implemented.

## **II. Final comments**

### **A. Mandates and capabilities of the MICI and the IDB**

While it is true that the Alto Maipo case was the first of this scale to be filed at the MICI, the delays in processing it revealed a lack of experience in addressing complex issues as the subject matter and the affected communities deserve. We have already stated that if the IDB Group lacks the capacity to comply with its policies and due diligence processes when designing projects with this level of complexity, it is unthinkable that the MICI, as it operates today, can resolve the complaints and petitions of the communities that face the prospect of being harmed by these projects.

To return to OVE's evaluation, "in the case of Alto Maipo, the MICI considered that experts were needed to analyze the performance of the IDB Group on issues of high technical complexity."<sup>18</sup> If the reason for an investigation lies not simply in the IDB's possible failure to

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<sup>18</sup> Evaluation of the Independent Consultation and Investigation Mechanism, Office of Evaluation and Oversight, March 2021, p. 43.

comply with its social and environmental policies and standards but also in a lack of technical rigor when applying such policies, then there is a possibility that these failures have occurred not only during the implementation of the project but during its design. This being the case, the question is whether the IDB has the capacity to conduct rigorous due diligence processes when creating its projects.

The basis for the IDB Group's policies is to manage the environmental and social risks of its operations. At present, having modernized its policies, the Bank has elevated the concept of *respect for human rights*,<sup>19</sup> making it a central pillar of environmental and social risk management with a view to avoiding or minimizing adverse impacts on persons affected by IDB-financed projects. If the IDB fails to conduct consistent and rigorous due diligence processes in each of its projects, its environmental and social policies and standards become a dead letter and the human rights of their intended beneficiaries are violated.

Guaranteeing human rights in the context of IDB investments is particularly important in times of climate crisis. We cannot conclude this chapter without addressing this fact. The Alto Maipo Hydroelectric Power Project was promoted by the IDB as a renewable energy project, and the Bank's support provided not only financing but also legitimacy through an environmental and social due diligence analysis. It was even said that the project was aligned with the Bank's Integrated Strategy for Climate Change Adaptation and Mitigation, and Sustainable and Renewable Energy. Because of all this, Alto Maipo was able to obtain additional financing from the IFC, the Overseas Private Investment Corporation, and a series of private financial institutions. However, all the concerns expressed, filed, and documented by the affected communities on numerous occasions, and not properly received by the IDB, turned out to be completely justified.

Now Alto Maipo SpA has filed for protection under Chapter 11 of the United States Bankruptcy Code, arguing precisely that the climate change impacts evident in the drought and desertification affecting the region make the project nonviable. These are the same assertions that the complainants in this case have been making for years.

The IDB recognizes the importance of meaningful consultation with stakeholders,<sup>20</sup> and since this process has to be continuous and iterative throughout the project cycle, "[t]he engagement process should be based on robust analysis of development opportunities and risks, and on who the key stakeholders who may be affected or who have an interest in a project are. In order to consider the stakeholder engagement process meaningful, stakeholders' concerns and recommendations should be considered in project decision-making related to design and implementation."<sup>21</sup>

## **B. Lessons learned**

We believe that the MICI process has enabled us to become closely familiar with the MICI and how it operates with both the Board of Executive Directors and IDB Management. If the

<sup>19</sup> IDB Environmental and Social Policy Framework, September 2020, paragraph 1.3; IDB Invest Environmental and Social Sustainability Policy, approved in April 2020, paragraph 17.

<sup>20</sup> The IDB Group, at the institutional level, has translated "Consulta Significativa con las partes Interesadas" as "Meaningful Stakeholder Engagement."

<sup>21</sup> Meaningful stakeholder engagement: a joint publication of the MFI working group on environmental and social standards / Reidar Kvam, 2019, p. 4.

IDB Group's accountability system is to operate effectively and independently and provide solutions and effective remedies for those affected by Bank-financed projects, the system will need to continue to evolve. The recommendations arising from the OVE evaluation, the reforms of the IDB and IDB invest environmental and social policies, and the elimination of the judicial exclusion clause can, if used jointly, serve as the start of a deep reform of the IDB Group's accountability system.

As a result of the complaint filed by the Communities of Cajón del Maipo in Chile, the MICI has evolved and the IDB has changed its policies and structures, yet nothing concrete has been offered to the communities affected by the Alto Maipo project. The "do no harm" mandate of development financial institutions means, at the very least, that those affected by the financed projects should not be left worse off after the institution's involvement and exit, and that when a project financed and proactively supported by the Bank causes harm, the Bank should be prepared to fulfill its responsibilities to remediate this harm.

To fulfill its mandate, the MICI should provide a concrete response, not only in the Consultation Phase but also in the Compliance Review Phase, to the requests of the communities affected by IDB and IDB Invest projects. And for this to occur, IDB Management and the Board of Executive Directors should acknowledge their role and responsibilities as part of an institution committed to eradicating poverty and promoting sustainable development in Latin America and the Caribbean.

### **III. Authorization to publish this document**

Lastly, we hereby grant our authorization to set out and publish this document in the relevant annex of the monitoring report's final version. To address the contents hereof, please contact us through the following email addresses: [cgarcia@ciel.org](mailto:cgarcia@ciel.org), [sdorman@ciel.org](mailto:sdorman@ciel.org), [lgomez@ciel.org](mailto:lgomez@ciel.org), [jp.orrego@ecosistemas.cl](mailto:jp.orrego@ecosistemas.cl), [cuentaccrm@gmail.com](mailto:cuentaccrm@gmail.com).

22 July 2022

**Center for International Environmental Law Ecosistemas**  
**Coordinadora Ciudadana No Alto Maipo**