



Buenos Aires, December 4th, 2018

To: China Development Bank, Bank of China, Industrial and Commercial Bank of China, China Ministry of Commerce, China Ministry of Ecology and Environment and State-owned Asset Supervision and Administration Commission of China.

In copy: China Gezhouba Group

Subject: Comments on the Cóndor Cliff and La Barrancosa Hydropower Project (CCLBHP) related to corruption and climate change

Dear Madams and Sirs,

The Fundación Ambiente y Recursos Naturales (FARN) would like to take this opportunity to continue our efforts (see letters sent on July 18th 2016, March 6th 2017, August 4th 2017 and July 19th 2018) to inform the Chinese banks and companies involved in the CCLBHP Project as well as the Chinese Ministries of Commerce, Environment and Ecology and the State-owned Asset Supervision and Administration Commission of pressing problems with the projects in every front, namely the environmental, poor technical and risk assessment, lack of fulfilment with Chinese measures and guidelines for overseas investments and corruption. All of these becomes even more relevant due to the new, at least, 30 agreements signed between Argentina and China in the framework of the G20 Summit in our country, with focus on the Joint Action Plan between the Government of the People's Republic of China and the Government of the Argentine Republic (2019-2023).

China has chosen Latin America, in general, and Argentina in particular as the destination of its investments. The CCLBHP will be the third hydropower project for our country, and however it still lacks an adequate analysis of its environmental impact, regarding not only climate change but also the glaciers, and it has been involved in several corruption scandals.

As we have mentioned in previous letters, the construction of the dams has serious environmental consequences. In relation to the climate change, a recent investigation published in BioScience

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Journal in 2016¹, indicates that 1.3% of greenhouse gases (GHG) are produced by anthropic dams. Also, the Intergovernmental Panel on Climate Change (IPCC), in its last report, mentions the multiple negative impacts on the environment and on human health of hydroelectric dams. Hydroelectric dams are considered a barrier that alters water regimes, which, in turn, affects the ecosystem dynamics of aquatic environments, declaring that there are doubts about whether dams are an adequate adaptation to climate change.

The third National Communication of Argentina for the United Nations Framework Convention on Climate Change (UNFCCC) clearly states that the precipitation projections of the worst-case scenario established by the IPCC are significantly negative in the Patagonia region with a negative impact on the generation of hydroelectric power. All these considerations were poorly included in the EIA and needs more deep studies before continuing with the works regarding the commitments assumed by Argentina and China in the Paris Agreement in the UNFCCC.

Also, this project will affect the glaciers; scientists have expressed their concerns regarding the Santa Cruz dams declaring that the last Environmental Impact Assessment (EIA) has major gaps and inconsistencies. They consider that the long-term stability of the Southern Patagonian Ice Field is in jeopardy. They agree that more thorough studies should be done in order to know the negative real impacts that the dams will create in the environment. So, this project can aggravate the process of affectation of the glaciers that is already proven in Patagonia.

Therefore, not only there are environmental and climate implications but also issues of corruption. The C ndor Cliff and La Barrancosa dams were tendered for the third time in 2013 since then, they have been protagonists of great irregularities.

For example, on the day of the award, the enterprise Electroingenier a, in a consortium with Gezhouba and Hidrocuyo, presented a discount note which made it become the best bidder, and therefore won the award, despite the project was going to be adjudged to another constructor. However, none of the competitors objected, nor the Ministries of Energy and Planning opposed to this situation. In fact, the Minister of Planning and the Secretary of Public Works (at the time of the dam's construction adjudication) are both arrested because they are involved in a scandal of corruption. In addition, in August 2018, the heads of Electroingenier a were also arrested for paying bribes.

In 2014, the first EIA of the project was carried out by the company IATASA, in which Jorge Marcolini participated, after appointed as Undersecretary of Hydroelectric Energy in 2015. This implies a conflict of interest under the terms of art. 13 and 15 of Law N  25.188 (Law on Public Service Ethics) due to his previous role in the private sector.

In 2017, EBISA (a public entity operating under the Ministry of Energy and Mines) whose president was also Mr. Marcolini, conducted the new CCLBHP's EIA, in response to what was established by the Supreme Court of Justice. However, EBISA was not registered in the Environmental Impact

¹ "Greenhouse Gas Emissions from Reservoir Water Surfaces: A New Global Synthesis"

Consultants Registry, essential condition to carry out an EIA in our country. The entity was enrolled several days after the publication of the EIA.

Regarding these two key issues (climate and corruption), there are Chinese guidelines that it seems weren't considered under this project.

For guidelines lead the Chinese institutions in the course of action in outbound operations, **"Opinions on Green Credit Implementation"** of the China Banking Regulatory Commission (2014), strictly recommends that *"in cases where clients and projects are exposed to high credit or reputation risks, the banking institutions shall take timely measures to preserve assets, report to the board of directors and regulatory authorities, and strictly pursue accountability"* (Art. 4)².

Besides, the bank institutions should manage the loans by the **"Three Checks"** (due diligence before the lending, review requirements during the lending, and exam implementation after the lending). We wonder if these three checks have been taken into practice during the CCLBHP and if the banking institutions are, in fact, taking measures to preserve assets and guarantee accountability.

Furthermore, the **"Guiding and Regulating the Directions of Overseas Investments"**³ issued by the National Development and Reform Commission, the Ministry of Commerce, the People's Bank of China and the Ministry of Foreign Affairs of the People's Republic of China, makes it clear that regarding all the issues in CCLBHP an exhaustive third-party audit is needed to investigate if the Chinese actors were conscious of the irregularities taken place in Argentina. The CCLBHP could be blacklisted and punished for illegal investment practices (Art. 6).

Otherwise the Bank of China's **"Standardization of Banking Services Enterprises to go Out and Strengthen the guidance of control and risk prevention"** (2017) prays *"Banking financial institutions should continue to enhance overall risk management capabilities, strengthen strategic risks, credit risk, market risk, compliance risk, country risk, environmental and social risks, liquidity risk and operational risk management associated with foreign institutions and operations"* (Art. 4). Also, art. 10 says *"Banking financial institutions should follow the principle of independence, comprehensiveness, depth and prudence, and strengthen overseas business due diligence and risk assessment. Analyze thoroughly the economic, legal, political and social environment of the project location, carefully assess project profitability and related risks, independently research and estimate for project feasibility"*. So, the banks in charge of the CCLBHP finance is responsible for managing risks, making sure that the local laws and regulations are being complied and assess the project feasibility. However, it remains uncertain whether the banks implemented actions to comply these articles in order to mitigate the risks.

Last but not least, the **"Interim Measures for Recordation (Confirmation) and Reporting of Outbound Investment"**⁴ launched by China's Ministry of Commerce (2018), forces a domestic

² <http://www.cbrc.gov.cn/chinese/home/docView/C5AE0DDAFB3E43DF85DC12DD6840244A.html>

³ https://www.paulweiss.com/media/3977255/ruletranslation_082217.pdf

⁴ <http://en.pkulaw.cn/display.aspx?cgid=309268&lib=law>

investor to submit information about: major problems in outbound investment and the information on compliance with local laws and regulations, protection of the resource environment, maintenance of the lawful rights and interests of employees, fulfilment of social responsibility and implementation of safety rules, among others. We wonder if the banks involved in the project have reported, as the guideline states, the corruption milestones and major environmental problems related to the dams.

We hope you find our letter useful to assess the reputational, legal and environmental risks of the CCLBHP. It is clear to us that this project has no positive aspects. It has been born under doubtful circumstances and it only brought more irregularities as it has been developed. This is why we believe that it should get under deep investigation before it continues its course.

We prize China's efforts to curb green gas emissions and to promote wind and solar energy and green finance at home. Argentina has a great potential in terms of renewable energies, one of the best in the region. It has a vast and very diverse territory which includes all kinds of climates and biomes.

Sincerely,

A handwritten signature in black ink, appearing to read 'AN 74', with a horizontal line underneath.

Andrés Nápoli

Executive Director

Fundación Ambiente y Recursos Naturales