



National Plan to Promote Green Hydrogen Production on Government-Owned Land

Legal flash

December 2, 2021



On November 23, 2021, under exempt resolution no. 998, Chile's National Assets and Energy Ministries jointly announced the opening of the "Window to the Future" process for plants to produce Green Hydrogen ("GH2") to be installed on government-owned land.

This is part of the drive to develop the GH2 industry in Chile, one of the main elements of the 2050 National Energy Policy as it is a key measure in reducing and mitigating greenhouse gas ("GHG") emissions.



Specifically:

- > This National Plan to Promote GH2 Production on Government-Owned Land (the “Plan”) has been conceived to establish guidelines as a reference framework for making decisions on using government assets to produce and develop this means of producing energy.
- > The aim of the Plan is to boost GH2 technology in Chile at an early stage, opening this single time window for individuals interested in developing GH2 projects to file their applications for concessions allowing them to use government-owned land in exchange for rent (“State Land Concessions”).
- > Although government-owned land is usually allocated to projects in public tenders, State Land Concessions will be exceptionally granted directly to individuals in this process.
- > **Plan schedule:**
 - Announcement and opening of the consultation period: November 23, 2021.
 - Closing of the consultation period: December 17, 2021.
 - Answering questions submitted: deadline December 31, 2021.
 - **Opening single window for applications:** January 3, 2022.
 - **Closing single window:** January 14, 2022.

Criteria and Action Plan

- > The State Land Concession granted under the applications can be for up to 40 years. The land applied for and allocated will include the area required to produce GH2 and its derivatives, as well as the easements required to develop and operate the plant.
- > To accept an application for processing and grant a State Land Concession, the land applied for must be available and not already earmarked for a use that is incompatible with this Plan.
- > The GH2 and derivative projects for which the State Land Concession is applied for must have an installed capacity of electrolyzers of at least 20 MW.
- > State Land Concessions can also be applied for to generate renewable energy, provided they meet the following conditions:



- (i) Areas of land must be consistent with the electrolysis capacity offered by the GH2 production plant. As a guide, the reference will be 2 MW generating capacity for every 1 MW of electrolysis capacity.
 - (ii) The renewable energy projects must be for self-consumption, and so it must be guaranteed that the energy to be generated will in turn be consumed by the GH2 plant.
- > The concessionaires and their projects must meet the following requirements:
 - (i) **Qualification under the Environmental Impact Assessment System (“EIAS”).** It must qualify within 18 months of entering into the respective State Land Concession agreement.

A single extension of up to six months can be requested, although the concessionaire must give specific grounds and pay a fee to the Ministry to file the request.

The concessionaire must provide proof that it meets this requirement, and the Ministry of National Assets will verify this.
 - (ii) **Commencement of construction of the GH2 project.** The construction must begin by 2025 at the latest, when there will be a single window for requesting an extension of up to 18 months. To file the extension request, the concessionaire must pay a fee to the Ministry.

The Ministry of Energy will confirm that it meets this requirement.
 - (iii) **Commissioning of the GH2 project.** This requirement will depend on the concessionaire’s proposed schedule outlined in its Gantt letter when it applied for the concession. There will also be a single window to request an extension of up to 18 months, and, again, the concessionaire must pay a fee to the Ministry to file it.

Nonetheless, it is established that at least 20 MW of electrolysis capacity must be operational by 2030.

The Ministry of Energy will also confirm that this requirement has been met by means of a report issued by an external expert selected by mutual agreement between the concessionaire, the Ministry of Energy and the Ministry of National Assets.
- > The annual rent on the concession will be set by the Ministry of National Assets based on the market value of the allocated land. The rent will be calculated and collected in two phases:



- (i) **Studies and construction phase.** Half the annual rent must be paid from the signing of the public deed on the State Land Concession agreement through the project's commissioning.
 - (ii) **Operation phase.** The full annual rent will start accruing from the project's commissioning through the end of the concession.
- > The Plan establishes the following guarantees and fines to ensure the projects comply with the conditions, requirements and deadlines.
 - (i) **Bid bond.** This amount will be two annual rent payments.
 - (ii) **Studies and construction phase guarantee.** This amount will be two annual rent payments.
 - (iii) **Operation phase guarantee.** This amount will be four annual rent payments.
 - (iv) **Payment for extending the EIAS qualification or construction commencement deadline.** This payment will be 25% of the annual rent for each month of delay (operation phase).
 - (v) **Payment for extending the commissioning deadline.** This payment will be 50% of the annual rent for each month of delay (operation phase).
- > The Ministry will determine the validity period, procedure and other terms to file State Land Concession applications under this Plan in a public call for applications based on the following schedule:
 - (i) **Announcement and opening of the consultation period:** November 23, 2021.
 - (ii) **Closing of the consultation period:** December 17, 2021.
 - (iii) **Answering questions submitted:** December 31, 2021.
 - (iv) **Opening of single window for applications:** January 3, 2022.
 - (v) **Closing of single window:** January 14, 2022.
 - (vi) **Analysis of applications, cadastral validations, relevance analysis and resolution of conflicts due to potential overlapping:** February 25, 2022.
 - (vii) **Processing of the State Land Concession and decree:** July 29, 2022.
 - (viii) **Signing of the State Land Concession agreement:** September 2, 2022.
 - (ix) **Decree approving the agreement:** September 30, 2022.



- > In addition to this Plan, the Chilean government has adopted other measures to foster growth and development of the GH2 industry, including:
 - (i) National GH2 Strategy.
 - (ii) Signing a memorandum of understanding (“MoU”) with the Port of Rotterdam to export/import GH2; this will be key to develop this new area of progress in Chile, as Rotterdam is the largest port in Europe, handling around 13% of its energy demand.
 - (iii) Signing a MoU to share knowledge and experience with South Korea to promote the distribution and use of GH2.
 - (iv) Signing a MoU with Singapore to cooperate for managing GH2 projects and the technology and financing required to operate them, as well as for developing supply chains.
 - (v) Signing a MoU with representatives of the Port of Antwerp and the Port of Zeebrugge stating their interest in cooperating to establish a corridor between Chile and Belgium for transporting green hydrogen and its derivatives.

For further information on the content of this document, please refer to your regular contact at Cuatrecasas. Otherwise, you can contact the following lawyers who specialize in this area.

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