

# Chile's mining and metals investment guide 2025

InvestChile 

  
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# Chile's mining and metals investment guide 2025

## Chile: On the Road to Responsible Mining

Chilean mining is looking to the future not only as a supplier of essential minerals, but is doing so with high operational, technological and socio-environmental standards, strengthening its management model and its positive impact on global development. Chile is moving forward on consolidating its international leadership as a benchmark of responsible, sustainable and virtuous mining to face the challenges imposed by the energy transition and electromobility.

Given its high complexity throughout the production chain, Chilean mining today offers a wide range of services and technological solutions that go beyond the simple extraction and commercialization of minerals. Likewise, Chile's notable history in mining has led to the development of a robust logistics chain, with an ecosystem that is conducive to new mining projects in copper, lithium and other minerals.

The scale and diversity of our industry is supported by a stable investment environment, with clear rules, solid infrastructure, an energy grid that is transitioning to renewables, world-class digital connectivity, a secure transportation system and specialized ports. We are also exporters in the mining industry, with cutting-edge technological solutions, driven by automation, artificial intelligence and clean technologies, in partnership with global leaders, startups and specialized suppliers.

Like much of the global industry, Chilean mining is not exempt from addressing complex challenges such as decarbonization, human capital specialization and sustainable management of environmental liabilities. However, we have a solid foundation to build on. During the government of president Gabriel Boric, we worked on key initiatives to boost mining activity, such as the National Lithium Strategy, underway since 2023, and the Strategic Minerals Strategy, which we will work on in 2025. These actions reinforce Chile's reputation as a reliable destination for investment, with responsibility, innovation and engagement with communities and territories.

This comprehensive view of our mining industry is complemented by the country's leadership as the main destination for exploration in Latin America and the fourth in the world, with more than USD 790 million captured in 2024. This position is reaffirmed by Chile's leading position in the global copper exploration budget, with more than USD 636 million in investments, which represents 27.4% of the total. We also have a portfolio of 51 mining projects, with an estimated investment of over USD 83 billion for the 2024-2033 period, the highest value recorded in a decade.

If we are to respond to the growing demand for minerals and further contribute to the development of the global mining industry, we must continue to encourage investment and open up new areas for exploration. With this 2025 Mining and Metals Investment Guide, Chile invites you to join the future of responsible and sustainable mining by taking advantage of the opportunities offered by our industry.

**Aurora Williams**

Mining Minister,  
Government of Chile



## Chile: Promoting the Minerals of the Future

Chile is not just a mining country—it is a country with a vision. For decades, we have led the global mining industry, especially in copper production, overcoming challenges through innovation and commitment, alongside world-class companies and local talent. Today, we are ready to take the next step and become a driving force behind the technologies of tomorrow.

In a world demanding solutions for climate change and the digital revolution, Chile has much to offer. With more than 48% of the world's lithium reserves and a strong track record in copper production, our country is a key strategic partner. In an era where success is measured not only by what we do but how we do it, Chile has reaffirmed its commitment to sustainability, inclusion, and early adoption of new technologies.

We understand that the global landscape is changing. The demand for minerals essential to energy technologies is projected to multiply in the coming decades. From electromobility to power grids and advanced batteries, Chile is at the heart of this transformation. Our copper and lithium are not just resources; they are catalysts for a cleaner, more connected future.

However, our vision extends beyond mineral extraction. We aim to move up the value chain, integrating local communities, creating skilled jobs, and generating positive regional impacts. Chile offers a business environment that inspires confidence, with a robust regulatory framework and a focus on sustainable partnerships, reflected in the strong interest from international companies.

In terms of projects, InvestChile, the Foreign Investment Promotion Agency, closed 2024 with a record-high project portfolio of \$56.23 billion—the highest since its creation. The agency supported 474 foreign investment projects in various stages of development, marking a 68% increase compared to 2023's \$33.5 billion.

Foreign companies, supported throughout their project lifecycle by InvestChile, concentrated their investments in three main sectors:

- Energy: \$36.82 billion
- Mining: \$8.65 billion
- Global Services and Technology: \$5.4 billion

Notably, mining projects reached their highest recorded value in InvestChile's portfolio history, representing a 6% increase from 2023, with the number of projects rising by 10.7% to 31.

It is no coincidence that these three sectors present new strategic opportunities, particularly in:

- Lithium in mining
- Green hydrogen in energy
- Technology infrastructure in global services

Chile has maintained a consistent state policy, independent of political cycles, to drive these industries' growth and develop national strategies for their global promotion.

These achievements come in a challenging global context. According to UNCTAD's 2024 World Investment Report, global foreign direct investment (FDI) fell by 2% in 2023, while flows to developing economies declined by 7%. With a slowing global economy and rising geopolitical tensions, competition for investment is fiercer than ever. In 2023, 86% of policy measures in developing economies focused on facilitating foreign investment.

In Chile, we are working to attract more and better investments by strengthening a comprehensive investor support framework, from regional offices to global investment attachés, embassies, and government ministries. Additionally, we are implementing a set of reforms to reduce sectoral permit processing times by 30-70%. The Environmental Evaluation 2.0 Project will also help reduce uncertainties and streamline approval timelines for project evaluation, review, and modification.

The success of InvestChile confirms that the world continues to see Chile as a secure and reliable destination for large-scale projects. Now, more than ever, we are ready to attract investment that drives innovation and economic development.

Chile is ready to lead the way in the minerals of the future and clean energy. We will achieve this through strategic partnerships, technological innovation, and an unwavering commitment to sustainable development that benefits everyone.

**Karla Flores**

Director of InvestChile



## About this mining and metals investment guide

We are pleased to present the Mining and Metals Investment Guide, designed as an essential resource for evaluating the mining landscape in Chile. This Guide is particularly beneficial for those considering long-term investments in the exploration and development of new mines within the country.

This publication features insights from several leading professionals in the mining industry at EY Chile, who bring a diverse range of expertise in legal, tax, economic, and accounting fields. They share their unique perspectives and outline the key elements necessary for successful expansion by international mining and metals companies into Chile.

As in the previous edition, we have included valuable information from InvestChile, highlighting Chile's sustained global leadership in the mining sector and the promising future within the new economy.

Within these pages, we explore various factors that miners and investors worldwide typically consider before making critical decisions regarding the development of new mining projects.

The guide provides an overview of Chile's political structure, business environment, macroeconomic profile, key indicators, and outlook for the coming years. It also examines geological potential, trends in the mining and metals sector, and recent developments.

Additionally, the guide offers essential information to assist foreign investors in understanding the regulations governing investments, particularly the legal, taxation, and regulatory requirements for operating in Chile's mining sector.

Designed for easy consultation, this publication aims to provide a balanced and objective account of areas of potential interest to foreign mining investors. We have included the most recent data available as of February 2025, along with commentary on various critical topics and information about major reforms that have recently been approved or are currently under discussion.

Our goal is to equip international exploration and mining companies with a comprehensive database and information to facilitate and support their discussions and investment decisions.

We hope that this new material proves valuable for foreign companies evaluating investment opportunities in Chile.

**Alicia Domínguez**

Mining and Metals  
Leading partner, EY Chile



PHOTO: CODELCO



# Overview

PHOTO: AMSA

### 1.1.1 Form of government

Chile has had a stable democracy since the end of the Pinochet government in 1990. It has a republican system of government comprising three separate and independent branches: executive, legislative and judicial. The executive branch is headed by the president, who is elected by a popular, mandatory vote for a single four-year term. The president appoints the cabinet and is advised by cabinet ministers. In the 2021 elections, Gabriel Boric was elected as president (the youngest in the history of the country). The legislative powers are vested with the government and the Chilean Congress.

The legislative branch is made up of a Senate (with 50 senators) and the Chamber of Deputies (with 155 deputies). The judicial branch is an independent body, headed by the Supreme Court and supported by regional courts of appeal. The president has the power to appoint supreme court judges.

Chile is divided into 16 regions. Regions are subdivided into provinces, which are headed by a governor, appointed by the president. These provinces are further subdivided into municipalities, which are governed by a democratically elected mayor.

After the massive social protests of 2019, the country entered a process of constitutional reform. As a result, during the last years, two draft proposals were put forward, both of which were rejected in separate referendums. This implies that the current constitution will remain in place.

## Government overview

### Government type

Constitutional republic

### Legal system

Based on Civil Law

### Executive branch

- Chief of state and head of government: President Gabriel Boric (since March 2022)
- Elections: Every four years by popular vote (non-consecutive reelection); next elections: November 2025
- Cabinet: Council of Ministers appointed by the president

### Legislative branch

- Bicameral Congress
- Senate: 50 seats
- Chamber of Deputies: 155 seats
- Next elections: November 2025

### Judicial branch

Supreme Court judges are appointed by the president and ratified by the Senate. The Court provides the list of candidates.

### International relationships

- The country is an associated member of Mercosur and the Andean Community of Nations and a full member of the Asia-Pacific Economic Cooperation (APEC) forum and the Pacific Alliance.
- Chile has been a full member of the OECD since 2010

1.1.2 Geography

Chile extends for 4,270 kilometers (km) (or 2,670 miles) along the west coast of South America bordering the Pacific Ocean and is 175 km wide on an average. Chile's primary territory shares a border with Peru to the north, Bolivia to the northeast and Argentina to the east. Chile also has the Easter Island in Oceania and territory in Antarctica.

Chile's geography is extremely diverse and varies significantly from the north to the south. Chile can be divided into three geographic zones:

- ▶ Most of the northern region is arid and is composed of the 600-mile-long Atacama Desert. This region provides Chile with salt, nitrates, lithium, iron and most of its copper, molybdenum, gold and silver mining. Other productive economic activities include fishing, fish meal and fish oil industries, fruit and wine production, as well as tourism.
- ▶ The central part of the country, often referred to as the Central Valley, is devoted primarily to industry, agriculture and mining activities. Most of Chile's business activities are concentrated in this region. Santiago, Chile's capital, and other major cities are located in the central region, which has the highest population density in the country. From the Central Valley, Chile expanded during the late 19th century to include the northern and southern regions of its current national territory.
- ▶ The southern region of Chile features rich grazing lands and forests, as well as many lakes and a series of volcanoes. This region is the center of the forestry industry. Cattle and sheep farming are also significant activities. Petroleum and natural gas are found in the far south.

1.1.3 People

Chile had an estimated population of 20.09 million people in 2024.

The official language is Spanish and indigenous languages are used by a minority of the population. In Chile, the availability of bilingual personnel is limited.

In Chile, the majority religion is Catholicism, although it has been declining over the years.

People overview 2024 <sup>1</sup>	
<b>Population</b> 19.2 million	<b>Growth rate</b> 3.35%
<b>Age structure</b> 0-14 years: 17.1% 15-64 years: 69.1% Over 65 years: 13.8%	<b>Fertility rate</b> 1.5 births per woman
<b>Urban/Rural</b> population: 88%/11%	<b>Life expectancy</b> at birth 81 years

1 Estimated value for 2024. Estimates and projections 2002-2035 base 2017. National Institute of Statistics.

## 1.2

### Chilean economy overview

Chile is traditionally considered one of the strongest Latin American countries in terms of institutionalism and fiscal policies. According to the World Bank, it has been one of Latin America's fastest-growing economies in recent decades.

This has allowed the country to show significant progress in the fight against poverty, which decreased from 10.7% in 2020 to a historic 6.5% in 2022, the lowest value since the National Socioeconomic Characterization Survey (CASEN) has been conducted. Meanwhile, extreme poverty fell from 4.3% to 2.0% in the same period<sup>1</sup>.

However, recent years have been complex. After economic imbalances caused by the pandemic, the international scenario, as well as specific internal factors, Chile's GDP grew only 0.2% in 2023<sup>2</sup>, and 2.5% in 2024 according to pre-closing figures<sup>3</sup>.

Additionally, following an inflation rate that reached 12.8% in 2022, the highest since 1991, the price index decreased to 3.9% in 2023 approaching 3%, which is the historic target set by the Central Bank. 2024 inflation was 4.5%, slightly above expectations.

Also as presented above, the country underwent a major process of change in its constitution and a series of regulatory reforms are under discussion, which has led to greater uncertainty.

Despite the international and local scenario, the prestigious British magazine, The Economist, highlighted Chile among the best-performing economies in the world in 2023, naming it the top in South America and the seventh between 35 mostly rich countries (OCDE)<sup>4</sup>.



1. Social Development Report, Ministry of Social Development
2. Monetary Policy Report December 2024, Central Bank of Chile
3. Ministry of Finance press conference, February 3, 2025
4. Which economy did best in 2023?, The Economist, Dec 17th 2023



# 1.3

## Economic Situation

1.3.1 Overview

Chile is the fifth-largest economy in Latin America in terms of nominal Gross Domestic Product (GDP)<sup>1</sup>. It ranks among the world’s leading producers of copper, lithium, and iodine, as well as agricultural products such as fresh grapes, blueberries, plums, and dried apples. The International Monetary Fund highlights the country’s resilience due to its very strong economic policies and fundamentals, which have enabled

it to recover from recent shocks. Furthermore, it emphasizes that “the country’s policy frameworks are anchored in an inflation targeting regime, a structural fiscal balance rule, a freely floating exchange rate, and a sound financial system backed by effective supervision and regulation<sup>2</sup>.” The United Nations’ Human Development Index (HDI) for Chile in 2022 (2024 report<sup>3</sup>) was 0.86, keeping it in the “very high” human development category and leading among countries in Latin America and the Caribbean.

Indicator	Chile
Gross Domestic Product 2024 Q3 (Current prices, USD millions, Last 12 months) <sup>4</sup>	\$323,113
Gross Domestic Product 2024e (Current prices, Purchasing power parity, International dollars, millions) <sup>5</sup>	\$674,388
Gross Domestic Product Per Capita 2024e (Current prices, Purchasing power parity, International dollars) <sup>6</sup>	\$33,574
International Reserves 2024 Q3 (USD millions) <sup>7</sup>	\$45,629
Total Foreign Debt 2024 Q3 (USD millions) <sup>8</sup>	\$254,443
Public Foreign Debt 2024 Q3 (USD millions) <sup>8</sup>	\$87,856
Public Foreign Debt 2024 Q3 (% of GDP) <sup>9</sup>	26.3%
Gross Debt - Central Gov. 2024 Q3 (USD millions) <sup>10</sup>	\$141,514
Gross Debt - Central Gov. 2024 Q3 (% of GDP) <sup>11</sup>	42.4%
Inflation 2024 <sup>12</sup>	4.5%
Unemployment Rate (Dec 2024) <sup>13</sup>	8.1%
Population below poverty line 2022 <sup>14</sup>	6.50%
Minimum Monthly Wage since January 2025 (USD aprox) <sup>15</sup>	\$538

Sources: Central Bank of Chile, World Economic Outlook, National Institute of Statistics of Chile, Socioeconomic National Survey of Chile 2022 (CASEN), Chilean Labour Directorate.

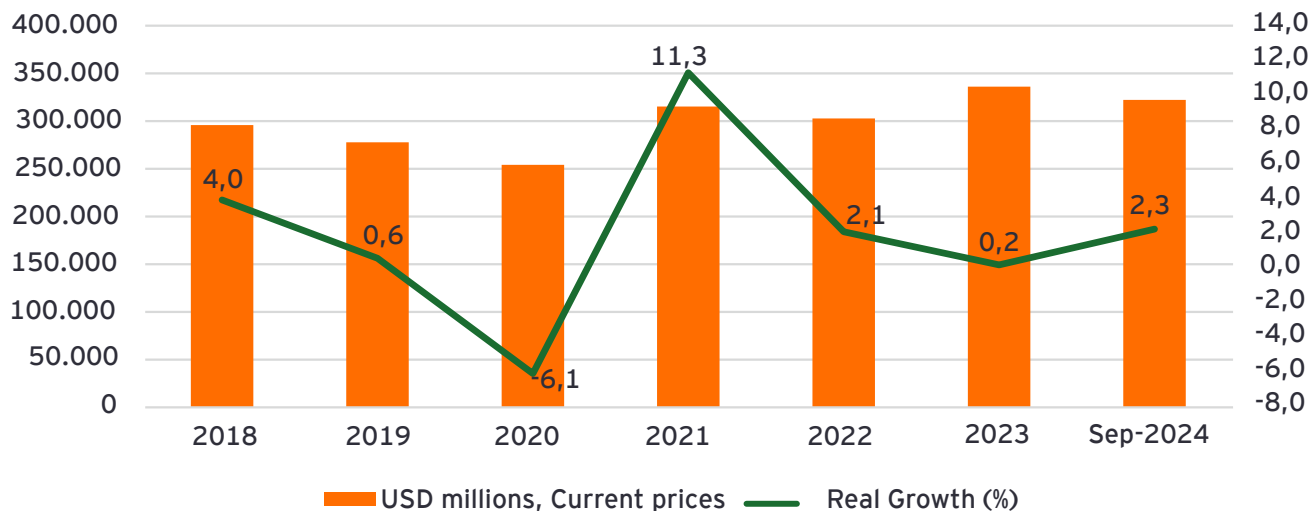
### 1.3.2 Growth expectations

Regarding GDP growth, after a rebound of 11.3% in 2021, its highest annual increase on record, the economy has been readjusting. As pandemic stimuli were withdrawn, the labor market weakened, demand normalized, and the policy interest rate was raised significantly, among other factors, leading to a sharp

deceleration of the economy and a 2.0% growth in 2022.

The year 2023 continued the downwards trend ending with a growth rate of 0.2% and 2024-Q3 closed at 2.3%. Pre-closing figures show 2.5% growth for 2024 and the forecast for 2025 and 2026 remains stable at 1.5%-2.5%, according to the Chilean Central Bank<sup>16</sup>.

GDP - Volume and Growth (12 months)



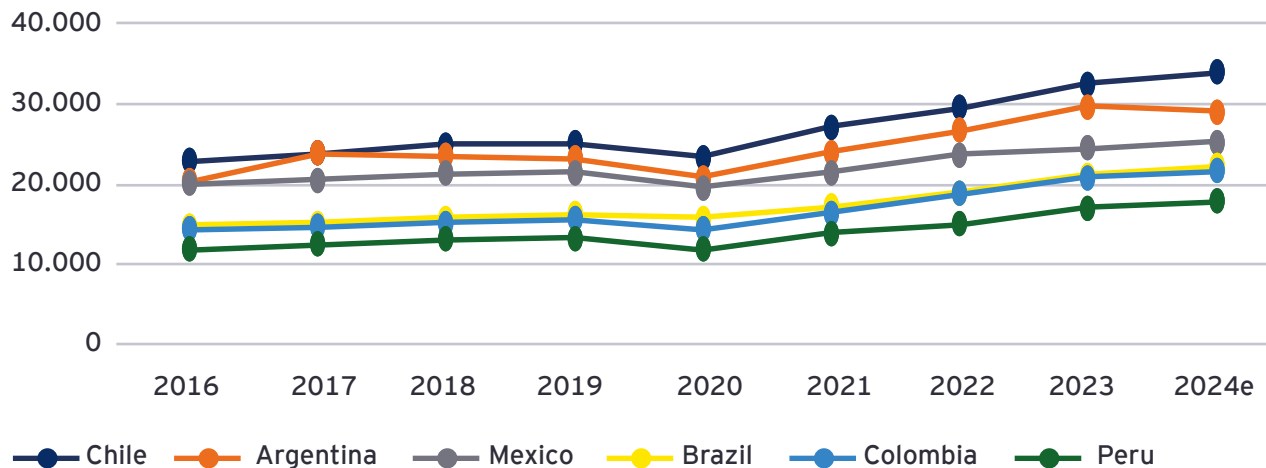
Sources: National Accounts and Annual GDP growth variation, Central Bank of Chile.

### 1.3.3 GDP Per capita

Chile has the third-highest GDP per capita (PPP) in Latin America following Panama and Uruguay.

According to the International Monetary Fund (IMF), the country will end 2024 with a GDP per capita in current dollars at purchasing power parity of \$33,574 and will surpass the \$40,000 threshold in 2029<sup>6</sup>.

Per capita gross domestic product. Purchasing power parity. International dollars.



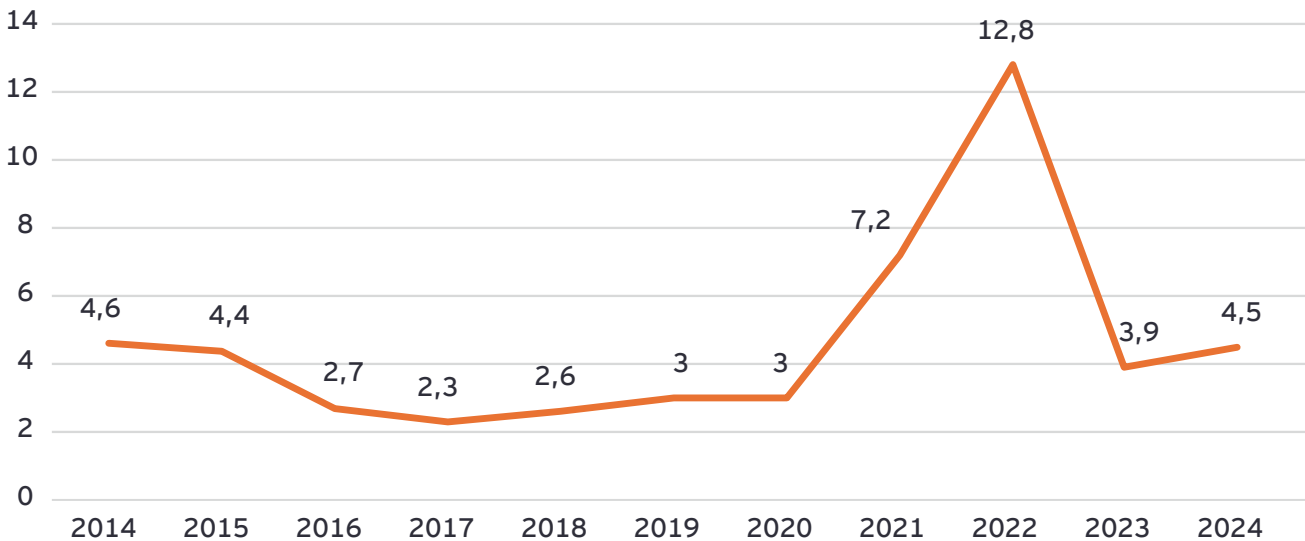
Source: World Economic Outlook Database, October 2024.

1.3.4 Inflation and exchange rate

In Chile, the Central Bank is the agency in charge of ensuring low and stable inflation over time. It structures its monetary policy within a conceptual framework of targets and uses instruments to ensure that the annual variation in inflation is around 3% with a tolerance range of one percentage point. This policy is complemented by a flexible exchange rate regime.

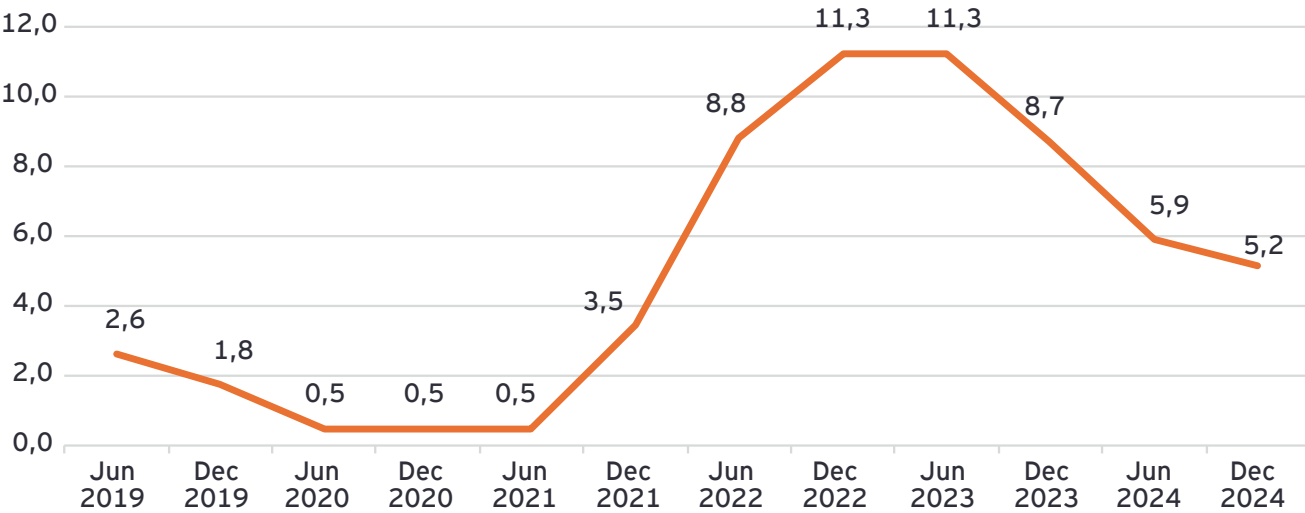
Chile was not an exception to the high inflation that affected several economies in 2021. Both international and local factors contributed to the Consumer Price Index (CPI) reaching double digits in 2022 and the highest since 1991. However, a robust monetary policy response and inherent economic adjustments have helped bring down inflation. 2023 closed with an annual variation of the total CPI of 3.9% and 2024 with 4.5%, slightly above the expected<sup>12</sup>. In this scenario, the Central Bank of Chile decided in July 2023 to begin lowering the policy interest rate, closing at 5.0% by January 2025<sup>17</sup>.

Annual Inflation (CPI) Variation (%)



Source: Consumer Price Index variation, Central Bank of Chile.

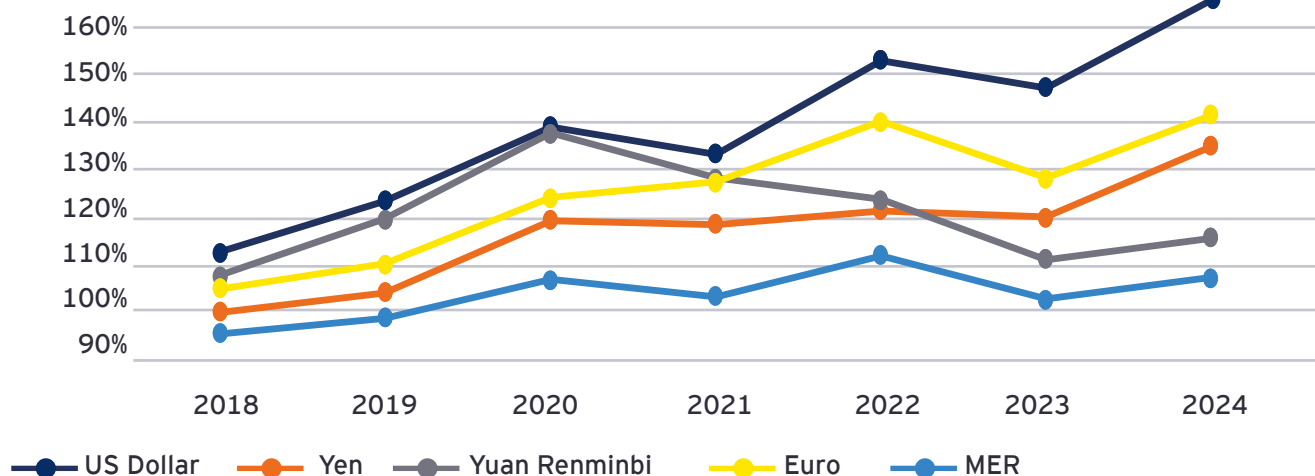
Monetary Policy Interest Rate (%)



Source: Monetary policy rates, Central Bank of Chile.

Chile adopted a fully flexible exchange rate regime in the late 1990s and since then, the Central Bank only intervenes in the foreign exchange market occasionally. In recent times, both internal and external uncertainty factors have led the Chilean peso to increase its volatility.

Evolution of Multilateral Exchange Rate (MER)<sup>18</sup> and International Currencies<sup>19</sup> (baseline 2014=100)



Sources: Exchange rates and Multilateral exchange rate variations, Central Bank of Chile.

Currency Exchange - CLPs per currency<sup>20,21</sup>

Currency	2019	2020	2021	2022	2023	2024
US Dollar	702.63	792.22	759.27	872.33	839.07	943.58
Euro	786.35	902.68	897.37	917.59	907.21	1020.62
Yen	6.45	7.42	6.91	6.67	5.98	6.24
Yuan Renminbi	101.61	114.2	117.74	129.54	118.40	130.9
MER	106.4	114.95	111.16	120.59	110.57	115.50

Sources: Exchange rates and Multilateral exchange rate, Central Bank of Chile.

### 1.3.5 Fiscal accounts

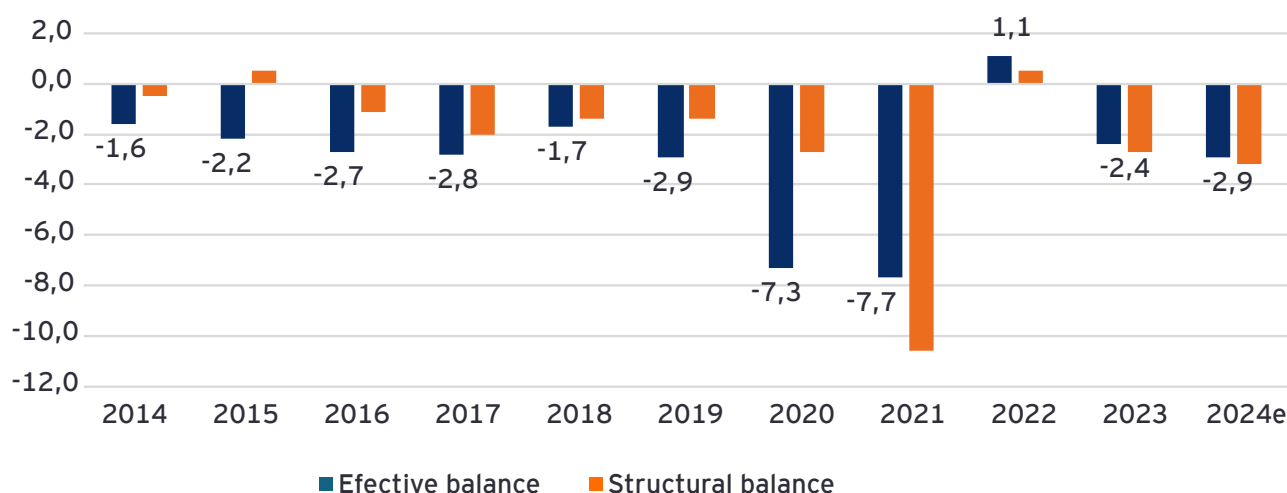
Since 2001, Chile's fiscal policy has been guided by a rule based on a cyclically adjusted balance (CAB), better known as the Central Government's structural balance rule complemented by a sovereign stabilization fund. This policy puts the focus of the Treasury's situation in a medium-term perspective, instead of its current situation.

However, in recent years, Chile suffered a deterioration in its fiscal accounts. At the end of 2023, the effective fiscal balance of the Central Government

represented a deficit of 2.4% of the Gross Domestic Product (GDP)<sup>22</sup>. Preliminary numbers for 2024 show a fiscal deficit of 2.9%<sup>23</sup>.

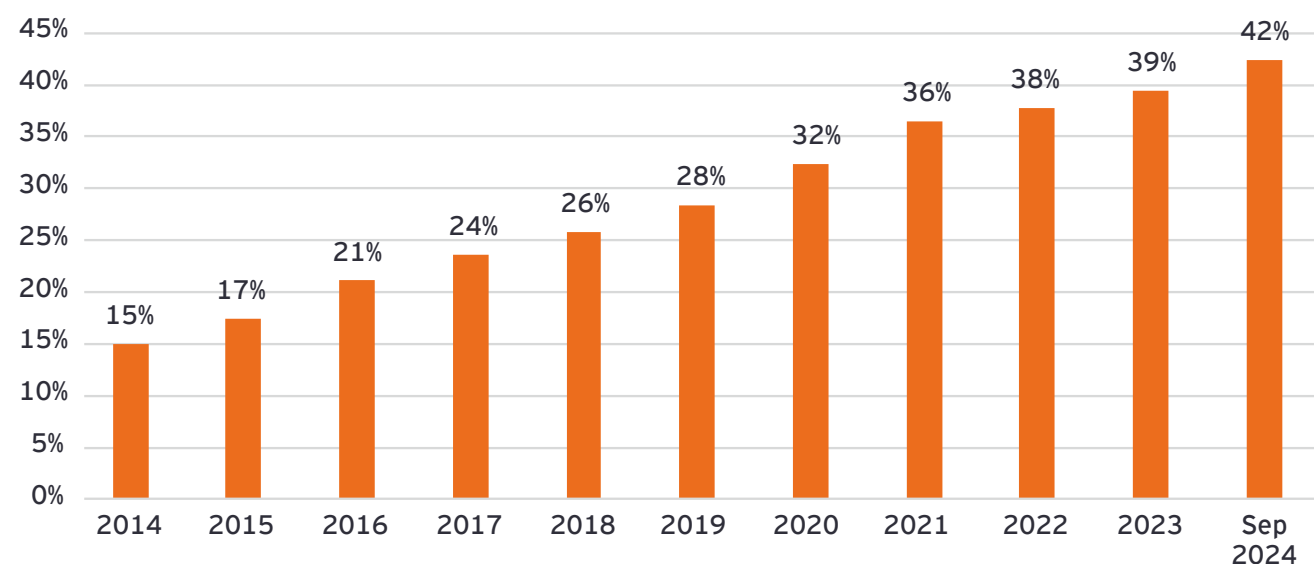
The debt reached 42.4% in the third quarter of 2024<sup>24</sup> and is expected to close the year at 42.3 % and then stabilize at approximately 40.9% of the estimated GDP by 2027<sup>25</sup>, a figure below the recommended prudent debt level of 45% outlined in the same Fiscal Policy Decree. These numbers are still much lower than most of the region and most developed countries (e.g., the Euro Area's was 88.2%<sup>26</sup>).

## Effective and Structural Balance (% of GDP)



Source: Central government structural balance, Central Bank of Chile.

## Gross Debt - Central Government (% of GDP)



Source: Public debt in relation to GDP, Central Bank of Chile.

1. GDP in current prices (USD), World Economic Outlook, October 2024
2. Consultation Press Releases, IMF.
3. United Nations Development Program, Human Development Index, 2024 Report
4. National accounts, Central bank of Chile
5. GDP in current prices (PPP international dollars), World Economic Outlook, October 2024
6. GDP per capita in Current prices (PPP international dollars), World Economic Outlook, October 2024
7. International reserves, Central Bank of Chile
8. Foreign debt, Central Bank of Chile
9. EY, based on data from the Central Bank of Chile
10. Public debt, Central gov. debt, Central Bank of Chile
11. Public finances, Central gov. debt, Central Bank of Chile
12. Consumer Price Index Variation, Central Bank of Chile

13. Unemployment rate, Central Bank of Chile
14. CASEN Survey 2022, Ministry of Social Development
15. FAQ, Labor Directorate
16. Annual GDP growth variation, Central Bank of Chile
17. Monetary policy rates, Central Bank of Chile
18. Multilateral exchange rate variations, Central Bank of Chile
19. Exchange rates variations, Central Bank of Chile
20. Multilateral exchange rate, Central Bank of Chile
21. Exchange rates, Central Bank of Chile
22. Central government structural balance, Central Bank of Chile.
23. Public finances report 2024-Q4, Directorate of Budgets
24. Public debt in relation to GDP, Central Bank of Chile.
25. Public finances report 2024-Q4, Directorate of Budgets
26. Euro indicators dashboard, Eurostat

# 1.4

## Economic Sectors and Balance of Trade

### 1.4.1 Main economic sectors

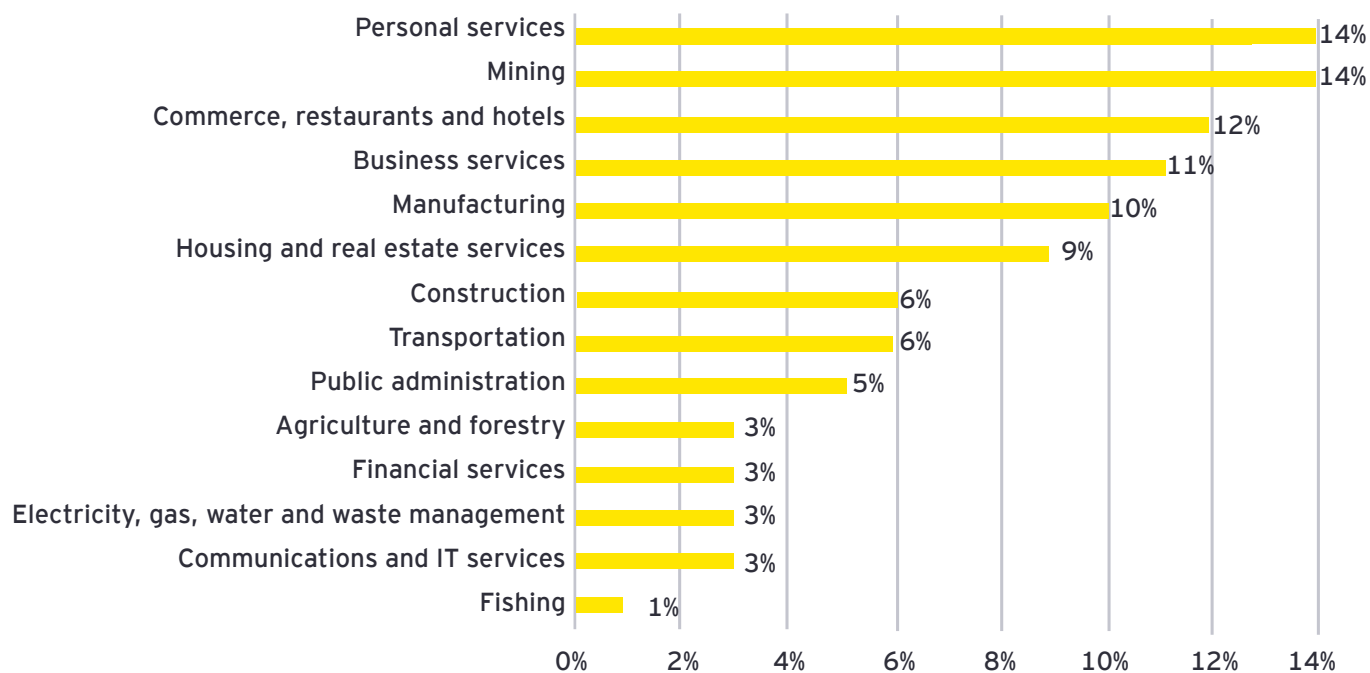
Chile is the world's leading producer of copper and growth in GDP is driven mainly by exports of minerals, wood, fruit, seafood and wine.

As of November 2024, goods and services exports were the main factor driving the country's growth,

with an expected growth of 5.6% compared to 2023.

The mining and manufacturing sectors were the main contributors to exports growth. At the same time some import lines, specially consumer goods, have shown a slow dynamism, and together with higher private savings have translated into higher national savings (19.4% to 20.4%) and better balance of trade<sup>1</sup>.

GDP by economic sector (% of total)<sup>2</sup>



Source: Monetary policy report December 2024, Central Bank of Chile.

1. Monetary Policy Report December 2024, Central Bank of Chile

2. GDP by economic activity, Central Bank of Chile.



# 1.5

## Low Credit Risk

Chile continues to be the country in the region with the lowest credit risk and the best rating from risk rating agencies. Although the global situation poses an uncertain scenario for all economies, the country continues to show leadership in terms of payment conditions, with solid legal and political institutions.

Debt rating in Latin America<sup>1</sup>

Country	Moody´s	S&P	Fitch
Chile	A2	A	A-
Uruguay	Baa1	BBB+	BBB-
Perú	Baa1	BBB-	BBB
México	Baa2	BBB	BBB-
Colombia	Baa2	BB+	BB+
Paraguay	Baa3	BB+	BB+
Brasil	Ba1	BB	BB-
Ecuador	Caa3	B-	B-
Bolivia	Caa3	CCC+	B-
Argentina	Caa3	CCC	C
Venezuela	C	B-	WD

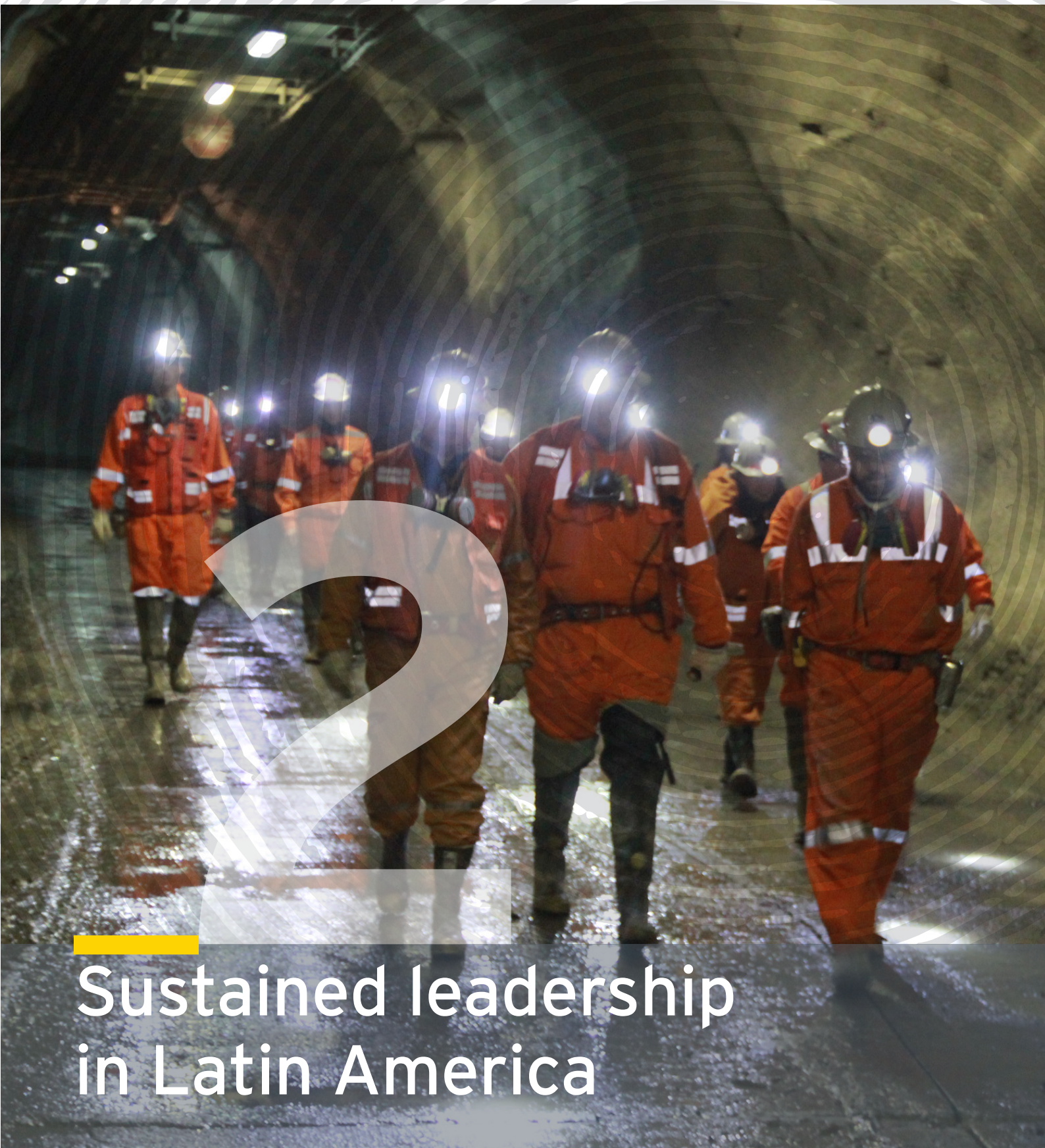


Risk rating description<sup>2</sup>

Quality	Moody's	S&P	Fitch
Highest quality	Aaa	AAA	AAA
High quality	Aa1	AA+	AA+
High quality	Aa2	AA	AA
High quality	Aa3	AA-	AA-
Upper-medium-grade	A1	A+	A+
Upper-medium-grade	A2	A	A
Upper-medium-grade	A3	A-	A-
Lower-medium-grade	Baa1	BBB+	BBB+
Lower-medium-grade	Baa2	BBB	BBB
Lower-medium-grade	Baa3	BBB-	BBB-
Speculative non-investment grade	Ba1	BB+	BB+
Speculative non-investment grade	Ba2	BB	BB
Speculative non-investment grade	Ba3	BB-	BB-
Highly speculative	B1	B+	B+
Highly speculative	B2	B	B
Highly speculative	B3	B-	B-
Substantial risk	Caa1	CCC+	CCC+
Substantial risk	Caa2	CCC	CCC
Substantial risk	Caa3	CCC-	CCC-
Extremely speculative	Ca	CC	CC
Extremely speculative			C
Little prospect of recovery		SD	RD
In default	C	D	D
In default			DD
In default			DDD
Not rated	WR	NR	

1. Country debt rating (foreign currency, long term). Latest information available as of January 2024. Expansion (Datosmacro.com).

2. Description of risk classifications. Expansion (Datosmacro.com).



# Sustained leadership in Latin America

PHOTO: CODELCO

Chile has consistently been regarded as the economy with the best business climate in Latin America over the past decades. The World Bank traditionally ranked the country first in its now-defunct “Doing Business” index at the regional level, while the Institute for Management Development (IMD) places it as No. 1 in Latin America in its Competitiveness Ranking (No. 44 globally)<sup>1</sup>.

Thanks to its international economic openness—a state policy maintained by successive governments since the 1990s—Chile is also one of the most globally connected and open economies. The country has 34 active trade agreements with 65 economies, covering 88% of global GDP and 63% of the world’s population, allowing products manufactured within its borders to enter major global markets under favorable tariff conditions<sup>2</sup>.

Additionally, Chile boasts the highest per capita productivity in Latin America and leads the region in global talent rankings<sup>3</sup>.

As an OECD member since 2010, Chile is recognized as one of the economies that invests the most in education. By 2019, the country allocated 6.5% of its GDP to educational institutions, significantly above the OECD average of 4.9%. Furthermore, between 2008 and 2019, this investment grew by 62%<sup>4</sup>. Over 1,300,000 students enroll in higher education each year, and more than 270,000 graduate annually.

Chile has also strengthened its leadership in Latin America in areas such as digital connectivity—being a pioneer in 5G implementation, an early adopter of new technologies, and boasting the world’s fastest fixed internet speed<sup>5</sup>—positioning itself as a regional digital hub. Additionally, it is a leader in green energy generation, as confirmed by Bloomberg’s “Climatescope” ranking, which places Chile among the top emerging economies for clean energy investment<sup>6</sup>.

The ease of setting up businesses is another key advantage in the country. More than 1,250,000 companies have been created through the Ministry of Economy’s “Tu Empresa en un Día” program between 2013 and 2024, equating to more than 300 new businesses per day.

The long-term efforts of the Chilean government in fostering entrepreneurship and venture capital investment have transformed the country into “one of the best environments for entrepreneurial activity,”<sup>7</sup> while also leading the Global Innovation Index since 2007<sup>8</sup>.

1. <https://www.imd.org/centers/wcc/world-competitiveness-center/rankings/world-competitiveness-ranking/>
2. <https://www.subrei.gob.cl/>
3. Índice de Competitividad de Talento Global.
4. [https://read.oecd-ilibrary.org/education/education-at-a-glance-2022\\_a9164c19-es#page3](https://read.oecd-ilibrary.org/education/education-at-a-glance-2022_a9164c19-es#page3)
5. Speedtest Global Index
6. <https://www.global-climatescope.org/results/>
7. GEM 2022-2023
8. WIPO 2022



## 2.1 New Perspective: Key Opportunities for Global Challenges

In recent years, the Chilean government has focused its efforts on promoting investment opportunities in key sectors that address global challenges such as climate change and the digital revolution. This is the result of long-term state policies that have been upheld across different administrations and are now being implemented through specific strategies.

One such initiative is the National Lithium Strategy, launched in 2024, which seeks to leverage the country's natural advantages—Chile holds 48% of the world's lithium reserves—through public-private partnerships. This strategy serves as a roadmap for developing the necessary capabilities, institutions, and regulations to provide interested companies with not only investment plans but also concrete opportunities to partner with the state. The government's goal is to increase lithium production in a sustainable manner, with respect for the environment and local communities, while ensuring value-added processes that maximize benefits for Chileans.

At the same time, Chile has set ambitious goals for green hydrogen production. The country aims to produce the world's lowest-cost hydrogen by 2030 and become one of the top three global hydrogen exporters by 2040. According to projections from the Ministry of Energy, this industry could generate up to USD 330 billion in private investment opportunities and approximately USD 30 billion in annual exports by 2050<sup>1</sup>.

Chile is also making rapid progress in electromobility. The country currently has the world's second-largest fleet of electric buses, with 31% of the public transport fleet in the Metropolitan Region—the largest in the country—now operating with electric vehicles. In the capital, Santiago alone, there are already 2,480 electric buses, and the goal is for the entire public transport system to be electric by 2040.

The advancement of sectors such as technology infrastructure and global services is reflected in the portfolio of InvestChile, the country's foreign investment promotion agency. The agency has grown from supporting 13 projects worth USD 508 million in 2016 to managing a current portfolio of over USD 5.4 billion, with more than 215 projects.

<sup>1</sup> - National Green Hydrogen Strategy

## 2.3 Foreign Investment Flows and Stock

According to data from the Central Bank, Chile received a net inflow of USD 15.3 billion in foreign direct investment (FDI) during 2024. This figure represents the third-highest level in the last nine years, surpassed only by the record-breaking foreign investment of 2023 (USD21.7 billion) and the USD 18.2 billion received in 2022.

As a result, the average FDI inflow for the past three years reached USD 18.4 billion, 27% higher than the historical series average (USD 14.4 billion), which spans two decades.

The FDI inflow recorded in 2024 reflects a positive performance, especially when compared to the exceptional year of 2023, which saw the highest level of the last nine years. In this context, the 2024 figure is 29.5% lower than the previous year, highlighting the impact of a particularly high base of comparison.

The largest component of the accumulated FDI inflow for 2024 was profit reinvestment, totaling USD 10.2 billion, followed by equity contributions with USD 4.2 billion, and related debt with USD 912 million.

It is worth noting that this result comes amid a global investment decline for the second consecutive year (-2%), with a 9% drop in inflows to Latin American and Caribbean economies, according to UNCTAD<sup>1</sup>.

### 2.3.1 Stock, Countries, and Sectors

In terms of stock, or the historical accumulated investment in the country, the most recent data (2023) indicates that it amounts to USD 286.7 billion.

Regarding the origin of investment, Canada leads the ranking. According to the Central Bank, Canada's accumulated investment reached USD40.2 billion, followed by the United States in second place with USD28.8 billion. The top five is completed by Spain (USD20.6 billion), the Netherlands (USD 19.4 billion), and the United Kingdom (USD 16.3 billion).

### Foreign Direct Investment Stock by Country of Origin (millions of USD)

Country	2022	2023
Canada	35,130	40,233
United States	25,134	28,820
Spain	19,142	20,687
Netherlands	20,737	19,496
United Kingdom	20,192	16,341
Italy	15,859	14,762
Japan	4,048	7,209
Belgium	6,240	6,207
Colombia	3,216	3,370
Brazil	3,519	2,978
Bermuda	3,031	2,914
Australia	2,410	2,597
Switzerland	1,970	2,204
Sweden	1,115	1,927
Mexico	1,205	1,903
France	1,877	1,739
British Virgin Island	1,453	1,720
Norway	1,513	1,484
Germany	1,109	1,192
Luxembourg	1,406	1,169
Panama	677	921
Other countries	17,766	19,770

Source: Central Bank of Chile

1. Global Investment Trends Monitor, No. 46, UNCTAD

Other countries with significant investment amounts include Italy (USD 14.7 billion) and Belgium (USD 6.2 billion) from Europe; Colombia (USD 3.3 billion) and Brazil (USD 2.9 billion), which led Latin American FDI in Chile; and Japan (USD 7.2 billion) and Australia (USD 2.6 billion) from the Asia-Pacific region.

Geographically, the Metropolitan Region (USD 85.7 billion) and Antofagasta Region (USD 45.3 billion) lead in regional FDI stock.

Regarding the main sectors, mining stands out with USD 71.6 billion, followed by electricity, gas, and water (USD 37.5 billion) and Financial Services (USD 29.9 billion). Notably, the mining sector experienced a significant increase, with investment flows rising from USD 1.4 billion in 2020 to USD 8.8 billion in 2023.

### Foreign Direct Investment Flows by Destination Economic Sector (millions of USD)

Sector	2018	2019	2020	2021	2022	2023
Agriculture and fishing	19	182	563	147	293	893
Mining	-1,520	830	1,454	4,322	4,696	8,859
Manufacturing industry	-220	362	-228	203	570	1,351
Electricity, gas and water	1,525	3,987	3,859	10,277	4,007	4,117
Construction	104	153	1,286	763	299	220
Commerce	157	1,422	1,076	337	529	1,757
Hotels y restaurants	12	7	1	2	9	12
Transport and storage	-309	-203	639	-2,095	-1,466	1,823
Communications	422	1,236	-1,603	-360	1,039	771
Financial services	8,194	3,638	917	419	4,602	-1,179
Real estate and business services	-46	16	10	-13	7	-7
Other services	215	-316	169	344	-42	-360
Unassigned	4,477	3,089	3,148	-1,720	2,340	2,770
<b>TOTAL</b>	<b>13,031</b>	<b>14,403</b>	<b>11,292</b>	<b>12,627</b>	<b>16,882</b>	<b>21,027</b>

Source: Central Bank of Chile

## 2.4 InvestChile Portfolio

In terms of projects, InvestChile, the Foreign Investment Promotion Agency, reported that it closed 2024 with a project portfolio worth USD56,2 billion,

the highest amount since its creation. A total of 474 foreign investment projects—at various stages of development—were supported by the agency throughout the year, representing a 68% increase compared to 2023 (USD 33,5 billion).

### Evolution of the InvestChile Project Portfolio (\*)

(\*) Figures at the end of each year.

	2018	2019	2020	2021	2022	2023	2024
Amount (USD MM)	14,067	17,799	22,289	27,776	28,345	33,505	56,234
Nº of Projects	274	413	500	486	476	450	474
Nº of Jobs	14,998	14,831	15,010	20,686	18,866	18,102	21,096

Source: InvestChile

Of the total amount, USD14.4 billion corresponds to investments already in the materialization phase (initiatives established and under development in the country). The 113 projects corresponding to this stage generated 4,605 direct and permanent jobs.

### InvestChile Portfolio by Sector (\*)

(\*) At the end of 2024

Sector	Amount (USD MM)
Energy	36,817
Mining	8,649
Global Services y Technology	5,400
Infraestructure	3,390
Food Industry	1,265
Miscellaneous	696
Financiak	16
Tourism	3.7

Source: InvestChile

Foreign companies supported by InvestChile concentrated their investments primarily in three sectors: Energy, with USD 36,8 billion; Mining, with \$8,6 billion; and Global Services, with USD 5,4 billion. In both Energy and Mining, the number of projects increased compared to 2023, by 131% and 6%, respectively.

### InvestChile Portfolio by Country of Origin (\*)

(\*) At the en of 2024.

Country	Amount (USD MM)
United States	20,510
Austria	11,052
Canada	6,275
China	3,965
Spain	2,015
Brazil	1,897
Saudi Arabia	1,400
France	1,264
Norway	1,100
Ireland	1,059
Others	5,697

Regarding the countries of origin of the foreign investment projects in InvestChile's portfolio, U.S. companies concentrated the largest amount, with USD20.5 billion. They were followed by Austria with USD11.1 billion, and in third place were Canadian companies, with USD6.2 billion.

For these three countries, the 2024 investment amount surpassed the previous year's figures: U.S. investments increased by 107%, and Canada's by 18%. Austria appeared for the first time among the top investing countries. In 2023, the European economy had only USD52 million in InvestChile's portfolio, but this situation changed dramatically last year with the entry of the HNH project from Austria Energy and Ökowind, worth USD11 billion.

2.4.1 InvestChile Mining Portfolio

Regarding the details of the mining project portfolio managed by InvestChile, initiatives in the Extraction subsector lead by far in terms of amount, with USD4.9 billion spread across 17 projects, followed by exploration projects, totaling USD2.6 billion.

Subsectors of InvestChile's Mining Portfolio

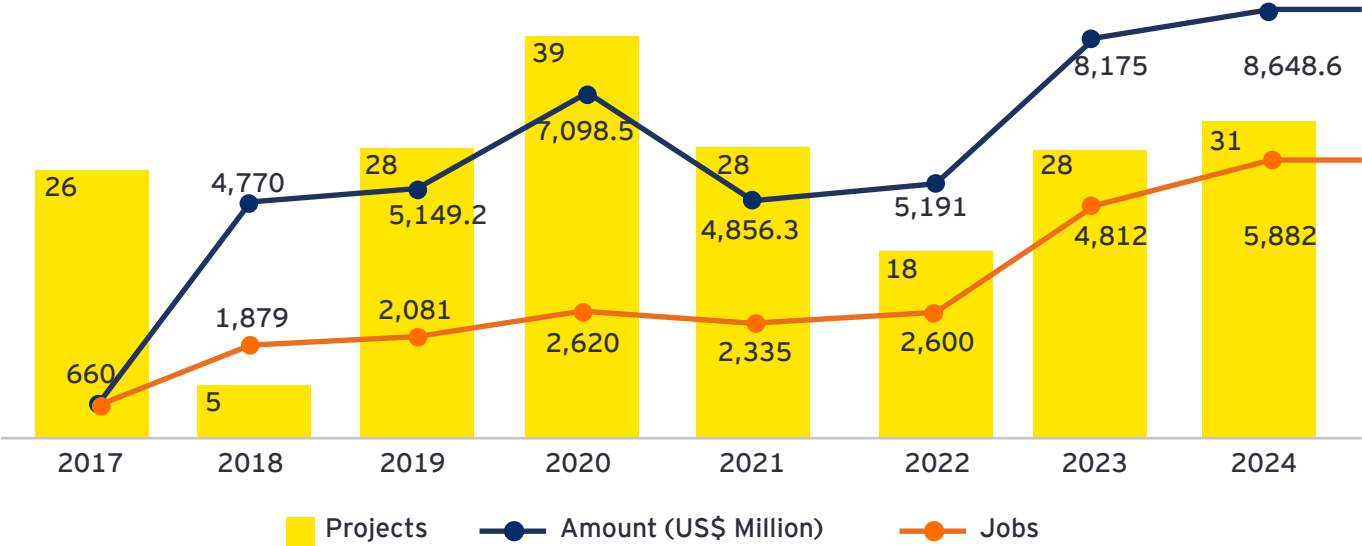
(December 2024, millions of USD)

Subsector	Amount
Exploitation	4,928
Exploration	2,677
Lithium Industry	965
Machinery, Engineering, and Technology Services Providers (METS)	74
Other mining projects	4.3

Source: InvestChile

In terms of countries, Canada leads with 7 projects totaling USD5.8 billion, followed by South Africa with 2 projects worth USD954 million, and Germany with 3 projects totaling USD543 million.

The Evolution of InvestChile's Mining Projects Portfolio



Source: InvestChile

It is worth noting that the mining portfolio at the end of 2024 represents the highest amount the sector has ever recorded in the agency's portfolio since its inception. The figure marks a 5.8% increase compared to the amount registered in 2023, and a 10.7% increase in the number of projects.



## Importance of Chile's mining sector

PHOTO: CODELCO



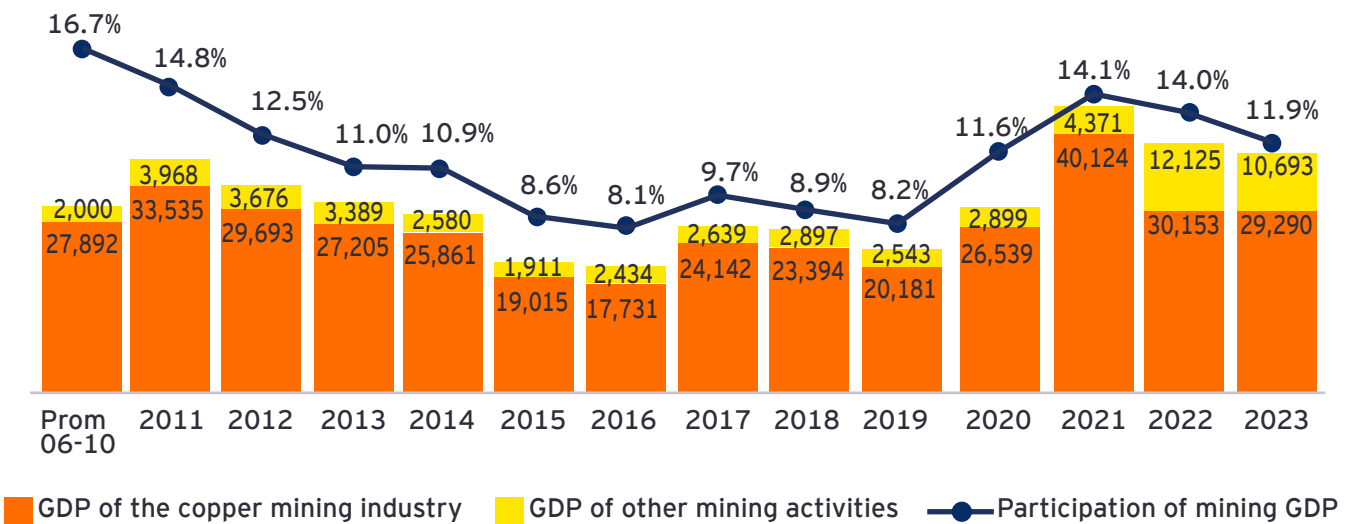
# 3.1

## Contribution of mining to the Chilean economy

Mining continues to play an important role in the economy of Chile, as the second largest industry after the services industry sector and one of the main drivers of the country's economic development. Mining has contributed an average of 10.9% of the country's

jobs and 10.5% to Chile's GDP over the last 10 years, exhibiting a positive annual expansion progression of approximately 3% from 2019 to 2021, year where it reached its peak decreasing to 11.9% for 2023.

GDP of the mining sector and its contribution to the national GDP  
USD millions (1)



(1) GDP at current prices measured in pesos converted to dollars.  
Source: Mining Council based on information from the Central Bank of Chile, 2024.

Chile remains a highly appealing mining destination, thanks to its rich mineral resources characterized by substantial deposits, frequently located at high altitudes and in remote areas. The country still benefits from investor-friendly regulations, along with a stable economic and political environment. Additionally, its established mining jurisdiction features well-developed road and port infrastructure, as well as a skilled workforce.

In Chile, the mining industry has accounted for an average of 58% of the country's export revenues and has been the economic sector with the largest contribution to fiscal revenues, averaging 8% over the past five years and declining to 6% of total tax revenues by 2023.

In the last decade, mining was responsible for an average of 15% of investments in the country and is the economic sector with the largest stock of foreign direct investment (FDI), which for 2023 set its highest figure since and saw an increase from 35% in 2022 to 43% in participation in FDI2.

## FDI inflows by economic sector (millions of USD)

Sector	2019	2020	2021	2022	2023
Agriculture and fishing	184	564	148	293	892
Mining	1,482	2,157	5,946	6,558	9,346
Manufacturing	328	-226	207	648	757
Electricity, gas and water	3,988	3,860	10,278	4,027	4,119
Construction	153	1,286	763	299	220
Trade	1,449	1,077	219	474	1,783
Hotels y restaurants	7	1	2	9	12
Transport and storage	-203	639	-2,320	-1,466	1,278
Communications	1,236	-1,603	-368	326	771
Financial services	2,108	136	614	3,785	-594
Real estate and business services	16	10	-13	7	-14
Other services	-316	169	316	-63	-374
Not Assigned	3,147	3,376	-615	3,339	3,542
<b>TOTAL</b>	<b>13,579</b>	<b>11,447</b>	<b>15,177</b>	<b>18,237</b>	<b>21,738</b>

Source: Central Bank of Chile, December 2024.

### 3.1.2 Copper mining

Copper drove the next mining boom in Chile in the 1990s, when industrialization and urbanization, mainly in China, led to a sharp increase on its demand. China accounted for 57% of global copper demand in 2023, while only accounting for 8% of global production. Meanwhile, Chile's copper production has steadily increased over the last decades, but its share of the global copper market has been declining. Nevertheless, Chile has maintained its position as the world's largest producer, contributing with 22% of global copper production in 2022. Cochilco's copper production projections for 2025 are higher than 6Mt<sup>1</sup>.

### 3.1.3 Lithium production

In 2023, Chile's lithium production was estimated at 44,000 metric tons, marking the highest figure recorded during the observed period. This represented an increase of over 15% compared to the previous year, with Chile contributing approximately 24% of global lithium production for that year<sup>4</sup>. Chile primarily produces lithium carbonate, followed by lithium hydroxide and lithium chloride. Lithium carbonate holds the highest commercial transaction value and can be produced through either hard-rock mining extraction, the method mainly used in Australia, or by extraction from brine. In Chile, lithium is mined through brine extraction, which is easier and more cost-effective.

### 3.1.4 Other Mining activities

Chile boasts a diverse mining sector that includes the extraction of various other minerals and metals. The country is a significant producer of gold, often found alongside copper in operations. Silver, for which Chile is the 6th producer worldwide<sup>1</sup>, is also mined, primarily as a byproduct of copper and gold mining, with notable contributions from the San Francisco and Cerro Blanco mines. Chile has also substantial iron ore reserves, with mines such as El Romeral and Los Colorados supplying both domestic and international markets.

Molybdenum, used in steel alloys, is another important metal produced as a byproduct of copper mining, particularly from Chuquicamata and El Teniente. Currently, Chile is the world's second largest molybdenum producer. Zinc and lead are extracted in smaller quantities, often in polymetallic deposits, and coal mining operations exist primarily in the southern regions for domestic energy use.

### 3.1.5 Mining companies in Chile

Today Chile hosts the operations of the world's largest miners. These include both national and internationally owned companies:

- ▶ Codelco - Based in Santiago, Chile, used to be the largest copper producer, now second to the American Freeport-McMoRan, with an average annual tonnage of 1.8 million tonnes, operating several major mines including Chuquicamata and El Teniente.
- ▶ BHP - An Australian company with headquarters in Melbourne, BHP holds a majority stake in the Escondida mine, producing approximately 1.47 million tonnes annually.
- ▶ Anglo American - This British multinational, headquartered in London, has an average annual tonnage of 0.83 million tonnes, primarily from its 44% stake in the Collahuasi mine.
- ▶ Antofagasta Minerals - Based in Santiago, this Chilean multinational produces around 0.71 million tonnes annually, with significant operations at Los Pelambres and Centinela mines.
- ▶ Teck Resources - A Canadian company with an average annual tonnage of 0.32 million tonnes, Teck owns a stake in the Quebrada Blanca mine, which is currently expanding its capacity.
- ▶ Other companies with presence in Chile include Rio Tinto, Freeport-McMoRan, Canadian Lundin Mining and Sumitomo Metal Mining & JECO Corporation, both from Japan.
- ▶ Additionally, Sociedad Química y Minera de Chile (SQM) is the world's second largest producer of iodine, lithium carbonate, and potassium nitrate, and is responsible for approximately half of Chile's lithium production.
- ▶ Compañía Minera del Pacífico (CMP) and other mining operations of the holding Compañía de Aceros del Pacífico (CAP) control virtually all of Chile's ferrous metals production.

There are also many medium and small-scale producers in Chile that rely on the support of the National Mining Company (Empresa Nacional de Minería, ENAMI, by its Spanish acronym) to smelt and sell their concentrate production.

### 3.1.6 Future of mining sector

Chile's mining sector is expected to continue to play an important role in the country's economy, as demand from emerging economies for base metals, such as copper, is expected to remain strong for the foreseeable future. In addition, the strong trend to reduce GHG emission and the electrification of vehicles, which will require a boost in copper and lithium production in the next decades, will further its demand. Copper by-products, such as gold, silver and molybdenum, will also contribute to support growth, but with lower relevance.

However, operating in Chile has its own challenges. These include lower grades and high production costs. Some of these challenges will be discussed later in this paper exploring the risks and opportunities for the Chilean mining sector.

1. Mining Council - Updated mining figures 2024

## 3.2

### Mining potential

#### 3.2.1 Reserves and production.

Type of mineral	Production in Chile, metric tons (1)	Share of global mining production	Ranking in global production	Share of global reserves
Copper	5.251 million TM	24%	1	19%
Gold	37 TM	1%	>15	7%
Silver	1.378 TM	5%	7	4%
Molybdenum	44.118 TM	17%	2	9%
Iron	11 million TM	1%	>15	n.d.
Lithium	270.947 TM	27%	2	34%

(1) Production up to 2023 for all elements in the table. All elements based on metal content.

Source: Mining Council based on information from the US Geological Survey, Sernageomin, and Cochilco, 2024.

Chile's main deposits are in the north, where most of its copper, gold, silver and iron ore mines are located. Lithium reserves are concentrated in the Antofagasta and Atacama regions and are found in brine deposits and caliche minerals contained in salt flats and arid zones, respectively.

The country is by far the world's largest copper producer, with 24% (5.330kMt) of global production, followed by its neighbor, Peru, with 10% of global production. Chile is home to the two largest mines in the world: Escondida (4.8% of global production) and Collahuasi (0.3%). Five other mines are among the top 15 producers, accounting approximately for 2% of world production each: El Teniente (10th), Chuquibambilla, Los Bronces and Los Pelambres (tied in 11th) and, finally, Radomiro Tomic (15th)<sup>1</sup>.

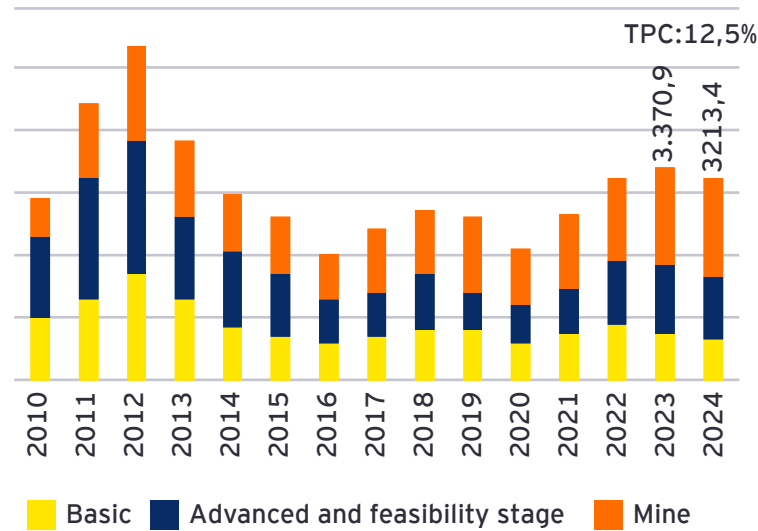
Between 1995 and 2010, Chile was the top lithium producer and currently ranks in second position, with 30.2% (39kt) of global lithium production, right behind Australia (47.2%) and followed by China (14.7%). Albemarle Corporation is the world's largest lithium producer and operates in the north of Chile in partnership with the second biggest producer, SQM (Sociedad Química y Minera de Chile), a private owned company. Salar de Atacama is home to almost a quarter of the world's current lithium supply and has been operating since the 1980s<sup>2</sup>.

#### 3.2.2 Exploration projects

In 2024, Chile remains the main destination for exploration budgets in Latin America, with a share of 24.7%, the same as in 2023. Mexico follows with 17.9% and Argentina reaches 15.3%, surpassing Peru, which has 14.9%. The average growth rate of the budget in the region for the period 2020-2024 is 12.5%. However, Latin America experiences a 4.6% decrease in its exploration budget compared to 2023, going from USD3,371 million to USD3,213 million in 2024<sup>3</sup>.

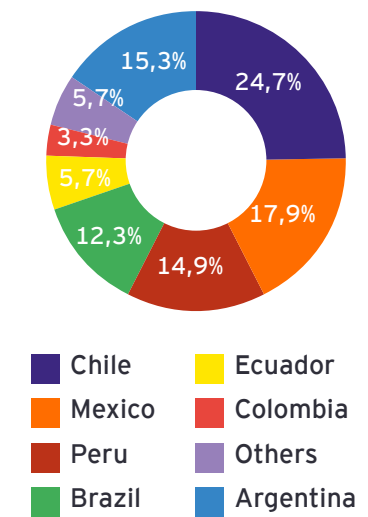
Exploration budget in Latin America

Exploration budget in Latin America by progress status (USD millions)

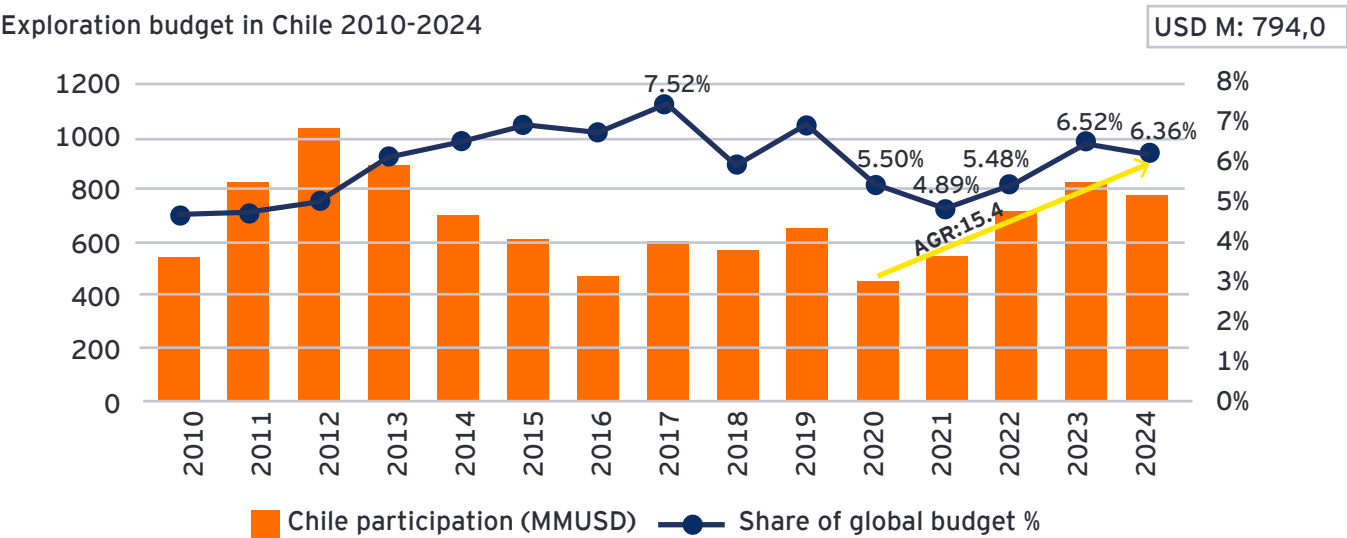


Source: Developed by Cochilco based on S&P Global 2023 data

Participation by country of the budget in exploration 2024 in LATAM (USD millions)



Exploration budget in Chile 2010-2024

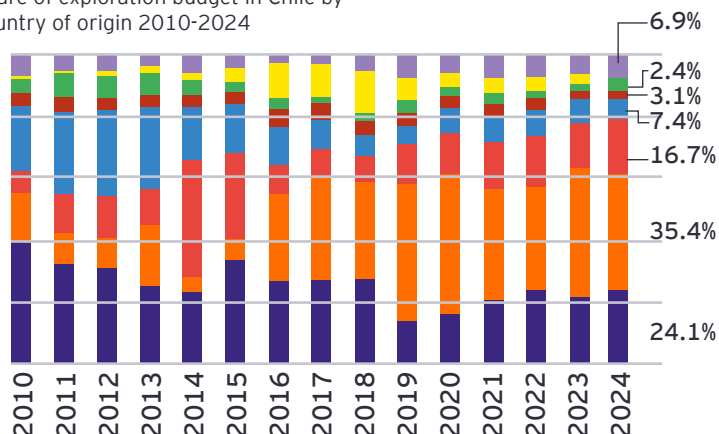


Source: Developed by Cochilco based on S&P Global 2024 data

In 2024, the United Kingdom leads the exploration budget in Chile with USD280.8 million, representing 35.4% of the national total. Canada is in second place with 24.1% and a budget of USD191.5 million, while Chile is in third place with USD132.7 million.

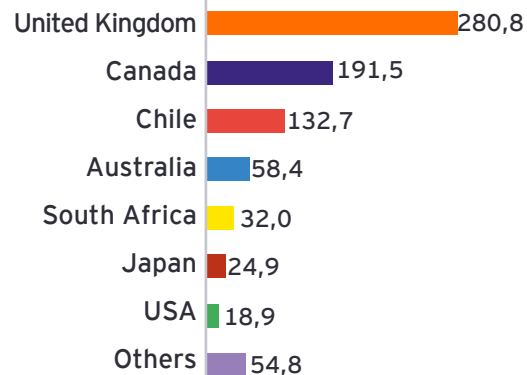
## Annual exploration budget in Chile by country of origin

Share of exploration budget in Chile by country of origin 2010-2024



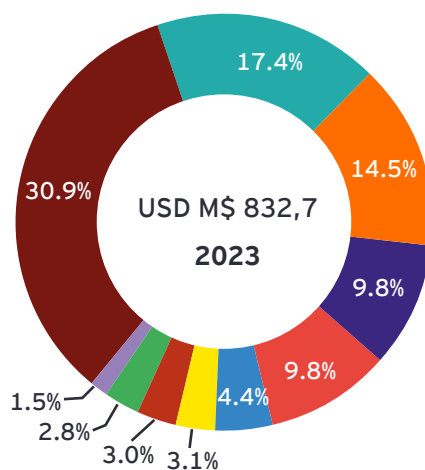
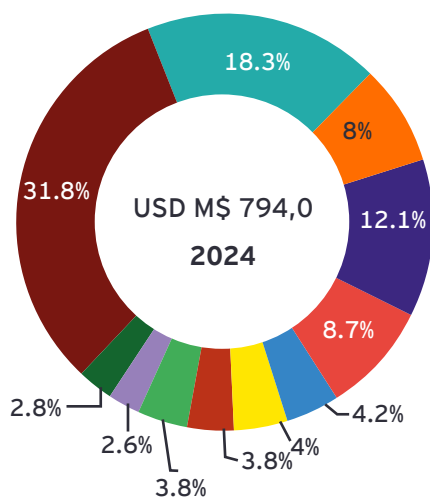
Source: Developed by Cochilco based on S&P Global 2024 data

Exploration budget in Chile by country of origin in 2024 (USD M)



In 2024, Anglo American leads the exploration budget with 18.3%. CODELCO occupies the second position with 12.1%, displacing Rio Tinto Group, which is in fourth place. Antofagasta Plc is in third position with 8.7% of the budget<sup>3</sup>.

## Share by mining company in the exploration budget in Chile



Source: Developed by Cochilco based on S&P Global 2024 data

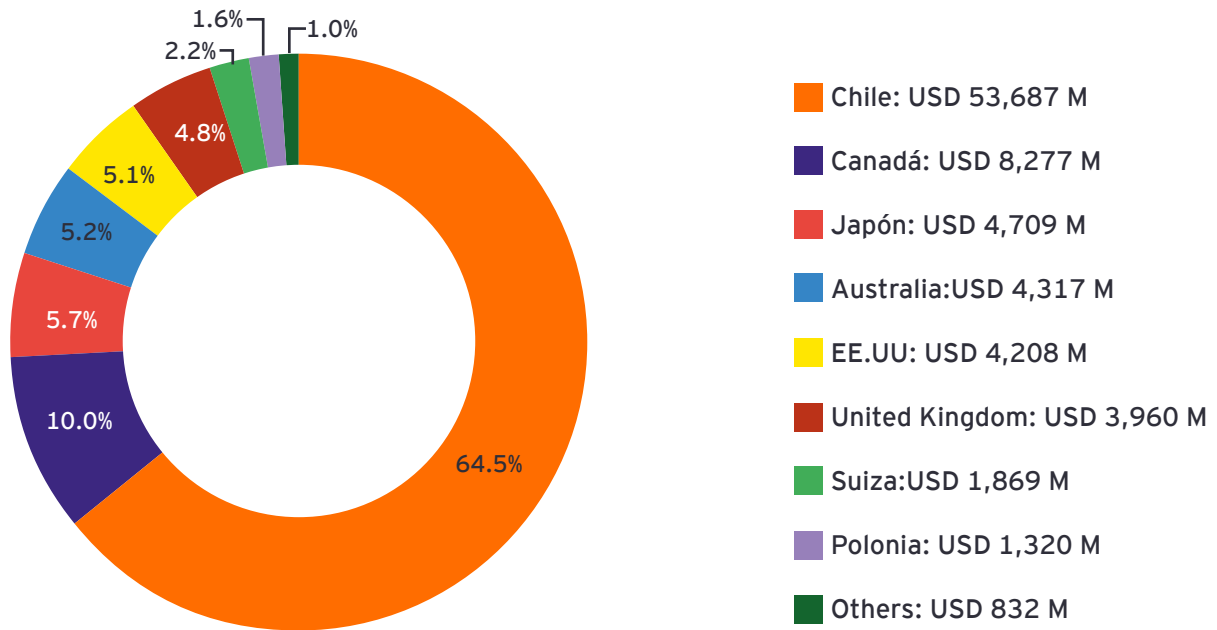


3.2.3 Projects portfolio

The Chilean mining projects portfolio considering initiatives to be materialized by 2033 is composed by 51 initiatives valued at USD83.1bn, of which 18% corresponds to greenfield and 80% to brownfield projects, while a 2% is being set to build or improve on smelter facilities. Most of the investments come from Chile (USD53.7bn, 64.3%) while foreign private companies are investing 35.7% (USD19.5bn) <sup>4</sup>.

Almost half of the funds come from Chile-based companies, with Codelco and Antofagasta Minerals (AMSA) being accountable for most of the national investments. Canadian companies Teck, Capstone Copper, Los Andes Copper and Kinross are accountable for 10.0% of the investments. Japan has become Chile's third largest investor with 7.7% of the funds coming mainly from Sumitomo Metals and Mitsubishi Corp (from 4th in 2022).

Total investment portfolio by country of origin



Source: Cochilco's information based on publicly available information

1. Cochilco - Registry of explorer companies 2024  
2. Cochilco - Lithium Market 2024 - 2025 projections  
3. Cochilco - Investment in Chilean Mining 2024 - 2033 projects portfolio



# Mining Legislation

PHOTO: TECK



Chile's legal mining framework is based on three pillars:

- ▶ The Constitution (1980),
- ▶ The Organic Constitutional Law on Mining Concessions (1982), and
- ▶ The Mining Code (1983).

The Chilean Constitution grants the State absolute and exclusive ownership of all mines, including guano deposits, mineral sands, salt mines, coal and hydrocarbon deposits, and other fossil substances, except for surface clays.

Mining concessions and activities are regulated by the Organic Constitutional Law No. 18,097 on Mining Concessions (1982), and the Mining Code (1983). Any private party or legal entity can apply and obtain the right to explore and exploit most mineral substances.

However, liquid or gaseous hydrocarbons, lithium or deposits of any kind in maritime waters under national jurisdiction or deposits of any kind entirely or partly located in areas legally classified as important to national security are excluded from mining concessions.

Mining concessions are granted to applicants by a Judicial Ruling in a Civil Court and are registered

in the Public Mines' Registry. There are exploration concessions and exploitation concessions. It is not necessary to hold an exploration concession prior to an exploitation one. Mining concessions are legally considered property and are independent from property rights over surface tenements.

The holder of exploration or exploitation concessions has exclusive rights to explore and exploit minerals within the limits of the concession. Mining concessions are granted on a "first come, first served" basis.

The owner of a mining concession is entitled by the Mining Code to use water found within the limits of the concession, as long as the water is required for exploration and/or exploitation processes.

Mining concessions in Chile expire for the following reasons:

- i. Non-payment of the mining fee, resulting in the land being declared open by judicial resolution.
- ii. Failure of the concessionaire to request the registration of their concession within the period specified by the Mining Code.
- iii. Voluntary relinquishment by the concession holder.



## 4.1

### Security of tenure

The legal property rights of a titleholder of a mining concession are protected by the constitutional guarantee of private property rights.

On February 4, 2022, the Law No.21,420 was published, establishing several changes impacting the mining sector. Also, on January 26, 2023, Law No. 21,536 postponed such effects until January 1, 2024. Most of these modifications were related to the incorporation of new requirements for the filing of new site reports; new information obligations for mining concessionaires; an increase in the term of exploration concessions; increase in the amounts of the patents for exploration and exploitation concessions, among other changes. Later, Law No. 21,649, dated December 30, 2023, amended Law No. 21,420 by introducing some changes in mining and payment of annual fee regulation.

As of January 1, 2024, the exploration concession will last 4 years and could only be renewed on time for the same period. As for the exploitation concession, it will remain indefinite.

Details of the mining patents fees for both exploration and exploitation are included in the Mining Taxes section of this Guide.



## 4.2

### Mineral and surface land ownership

Although the State has ownership of all mineral resources, the titleholders of mining concessions have ownership of the extracted mineral resources.

Chilean Law differentiates between surface tenements and the natural resources below the surface. It is often the case that the titleholders of mining concessions (who have the right to explore and mine underground resources) are not the owners of the surface land.

There are clear administrative procedures to gain access to privately owned land to avoid potential conflicts. Mining concession holders have preferred rights to request mining easements to gain access over surface land. The easements can either be negotiated and agreed-upon with the surface landowner or granted by Court if no agreement is reached. The Courts grant the easement and set the compensation amount.



## 4.3

### Right to transfer mining rights

Mining rights can be freely transferred by their private titleholders. The transaction must be performed through a public deed and registered with the public mining register.



## 4.4

### Size of concession rights

Exploration rights are granted for a minimum of 100 hectares and a maximum of 5,000 hectares per concession. Exploitation rights are for a minimum of 1 hectare and a maximum of 10 per concession, with the possibility of filing numerous concession applications at the same time.



## 4.5

### Government policies on the sale of mineral products

The sale of mineral products is unrestricted, both domestically and abroad. Mine exploiters are not under any obligation to satisfy the internal market before exporting minerals, nor are they obligated to sell them at official prices or terms.

All producers and trading companies exporting copper from Chile, without distinguishing between publicly held or private companies, are required by law to provide information in respect to the contracts and prices of copper and its derivatives in Chile. This information must be provided to the Chilean Copper Commission (Comisión Chilena del Cobre in Spanish, acronym COCHILCO) and duly updated if the terms of said agreements change in the due course of the year.



## 4.6

### Environmental matters

In recent years, Chile has enacted a new regime of environmental laws, which establishes the main environmental guidelines and principles in the Country. These laws and related regulations significantly increased the level of environmental regulation and established several environmental management standards, in addition to other sectorial regulations and guidelines related to environmental aspects such as emission of particulate matter in the air, water quality, exploration, discharge of tailings and water, sanitarian issues, native forest regulations, odor contamination, etc.

PHOTO: CODELCO

## 4.7

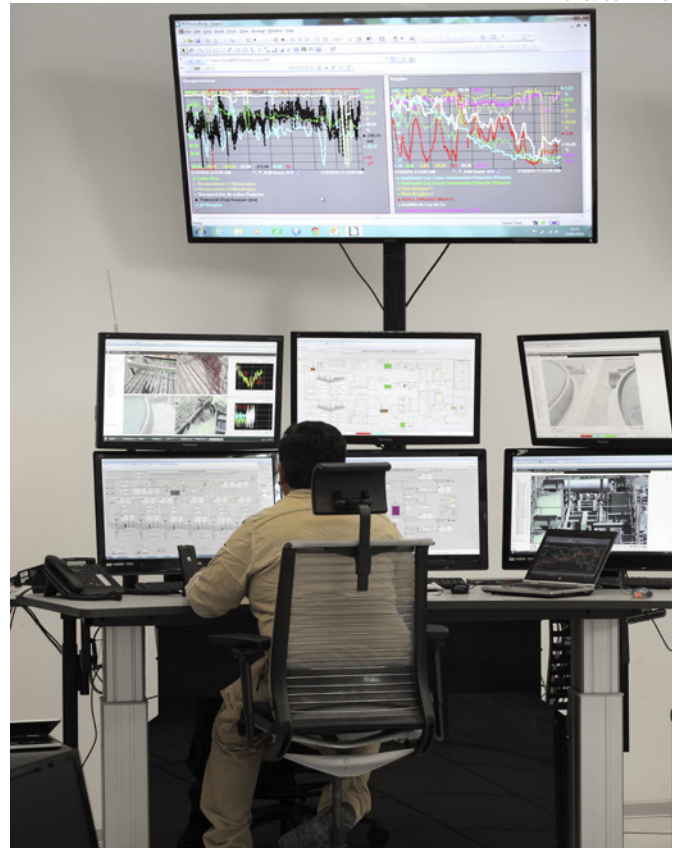
### Water rights

Water is considered a national good for public use and its usage rights are granted to private individuals by the General Directorate of Water (Dirección General de Aguas in Spanish, acronym DGA), for titleholders to use, enjoy and have access to consumptive and non-consumptive water rights, according to the current legal framework.

These regulations are mainly governed by the Chilean Water Code, which grants permanent and transferable water rights to individuals to achieve an efficient distribution of water throughout the country. Water rights can be used for any activity the right holder determines.

The DGA is the public agency with the overall responsibility for use planning, protection and development of water resources and basins. Among other things, DGA is responsible for granting new water rights (consumptive and non-consumptive) for the supervision of water users and the approval of all major hydraulic works.

After 11 years of discussion in Congress, a wider reform was approved through Law No. 21,435 to the Chilean Water Code, enacted in Chile on April 6, 2022. Within the different modifications incorporated by this new regulation, it is possible to highlight the following: (a) reaffirms that water rights are real rights; (b) time limitation for water rights granted post Reform (30 years, with automatic renewal); (c) concept of “public interest” as a requirement for the granting of new water rights; (d) all water rights are now subject to termination by effective lack of use or harm to the sustainability of the source.; (e) priority or preference for water use for human consumption or public health; (f) creation of non-extractive water rights for environmental conservation or sustainable purposes (which would not be subject to the non-use taxes frameworks); among others.



From a mining perspective, the Mining Code states that the mining concession holder has, by the sole operation of the Law, the right to use the waters found in the work of the concession, to the extent that such waters are necessary for the exploration, exploitation, and benefit of the respective concession. These rights are inseparable from the mining concession and will expire with it.

In addition, the Mining Code establishes that the use of other waters necessary for the exploration and exploitation of mineral substances, will be subject to the provisions of the Water Code and other applicable laws, being the general regulations applicable to mining companies without a special tenure.



## 4.8

### Non-environmental Permits

Based on information published by the Ministry of Economy, the development of a large-scale investment project in Chile would require up to 380 different sectorial permitting processes or notifications that must be obtained or completed in order to be up and running.

The Chilean government, led by President Gabriel Boric, has introduced two legislative initiatives in January 2024 aimed at streamlining the process for obtaining sectorial authorizations and improving environmental evaluations. These efforts are part of a broader strategy to boost public and private investment, enhance regulatory quality, support economic growth and remove bureaucratic obstacles that investment projects must deal with.

The “Smart Permitting System” bill focuses on non-environmental permits required for various projects and activities in regulated areas. This initiative aims to simplify and accelerate the approval process while maintaining technical standards and ensuring the safety of people, health, and the environment. Specifically, the bill streamlines authorizations managed by 37 different public services, encompassing 16 ministries. This reform addresses long-standing challenges that have hindered investment development.

This bill covers a wide range of projects, from large-scale ventures like mining and energy projects to smaller, everyday initiatives like setting up a store.

Key measures of the initiative include:

1. **Minimum Procedural Standards for Sectorial Permits:** This involves establishing an admissibility examination for all processes, setting maximum deadlines for procedures that currently lack them, and potentially using administrative silence as an exceptional final instance.

2. **Procedural and Regulatory Improvement:** Procedures will be introduced to periodically rationalize regulation, potentially replacing some authorizations with sworn declarations by project owners or other techniques, depending on the associated risk of the project. This will lead to simplified regulated routes.
3. **Digital Single Window:** A new platform called “SUPER” will serve as the digital single window of the State for sectorial permit processes and for presenting sworn declarations and notices by project owners. This will allow constant access to the status of authorization requests on a consolidated basis and within a unique route.
4. **New Governance Framework:** A new government agency will be created to ensure compliance with this new framework and will coordinate and guide services in both their processes and continual improvement of this newly created permit framework.

The reform is expected to provide greater legal certainty through clear and precise norms and optimize the traceability of associated permits. Additionally, it ensures that processes are appropriate and safeguard the protection objects of each sector, such as health, personal safety, and the environment.

As of February 2025, the project is in the Second Constitutional Procedure in the Senate, which means that it is under review of the proposals made by the Chamber of Deputies (Chamber of Origin for this Bill). Once this review is completed, if the Senate makes any modifications to the project—whether through additions, changes, or amendments—these will be sent back to the Chamber of Origin for consideration. The Chamber of Deputies will then evaluate these modifications, and if approved, the project will be forwarded to the President of the Republic for promulgation, ratification and publication in the Official Gazette.

Additionally, the project is under immediate discussion urgency, which signifies that it must be reviewed and dispatched by the respective Chamber within a non-compulsory period of six days. This urgency aims to expedite the legislative process and ensure timely consideration of the proposed reforms.



## 4.9

# Lithium regulations in Chile

## 4.9.1 Legal Framework

Chile has one of the largest lithium reserves in the world (57%). Currently, there are two distinct legal regimes applicable to lithium mining in Chile. Initially, under Decree Law No. 488, published on August 27, 1932, which approved the Mining Code of 1932 (now repealed by the current Mining Code of 1983), Article 3 of this code allowed any interested party to apply for and obtain the right to explore and exploit various minerals, including lithium.

However, in 1979, lithium was constitutionally declared of national interest and categorized as a non-concessional mineral reserved primarily for the State of Chile. Consequently, this non-metallic mineral is subject to an exceptional regulation, different from the one applicable to most minerals in Chile.

This significant change was reinforced under Article 19 No. 24 of the Political Constitution of the Republic of Chile of 1980, which asserts the State's absolute, exclusive, inalienable, and imprescriptible ownership of all mines. This provision also mandates that the law shall regulate methods for exploring, exploiting, and deriving benefits from these mines.

Then, the current Mining Code of 1983 (Law 18.248 of 1983) ("Código Minero" or "CM"), specifically in Articles 7 and 8, establishes that lithium is a mineral not subject to mining concessions and may be explored and exploited directly by the State or its companies, or through administrative concessions or special operating contracts.

Therefore, by virtue of the aforementioned regulations, the current lithium statute in Chile (after 1979) establishes three types of lithium exploitation in Chile:

- i. By the State or by its companies,
- ii. By means of an administrative concession<sup>1</sup>; and
- iii. By a special operating agreement ("CEOL" for its acronym in Spanish).<sup>2</sup>

CEOLs are administrative contracts through which the State of Chile, represented by the Ministry of Mining, authorizes a third party to explore, exploit, and benefit from lithium deposits. This authorization is granted in accordance with the conditions and requirements established by the president of the Republic on a case-by-case basis, through a Supreme Decree.

This process is outlined in article 5, letter i) of Decree with Force of Law No. 302 of 1960, which assigns the responsibility to the Ministry of Mining to sign on behalf of the State. This signing occurs following a favorable report from the Council of the Chilean Copper Commission and is subject to the requirements and conditions established by the president of Chile through a Supreme Decree.

In 2018, the Ministry of Mining signed a CEOL with a subsidiary of Codelco (Salar de Maricunga SpA) for the exploitation of the Maricunga salt flat. The project is currently in the exploration stage. It is important to mention that, to this date, this is the only CEOL subscribed in Chile.

Generally speaking, a CEOL should include the following essential clauses, to regulate the rights and obligations of each party.

- 1. Exclusive Rights and Extraction Limits** in the CEOL Area, subject to environmental compliance and available reserves. Adjustments to extraction limits can be made by the Chilean Commission of Nuclear Energy (Comisión Chilena de Energía Nuclear, CCHEN) with new environmental approvals.
- 2. Categorization of Areas** into CEOL Area: CEOL Exploitation Area, Project Exploitation Area, and Salar Area. The Project Exploitation Area includes regions where the private company has necessary legal titles or contracts for lithium exploitation.
- 3. Phases and Obligations:** The agreement is divided into three phases: Exploration and Prospecting, Construction and Exploitation, and Mine Closure, each with specific obligations and timelines.
- 4. Commercial Terms:** Payment framework includes Quarterly and Annual Specific Payments based on VAT-excluded sales and production rates.
- 5. Reporting and Audits:** The CEOL mandates detailed reporting on geological, operational, commercial, and financial activities, with audit rights reserved for the State of Chile.

- 6. Force Majeure and Termination:** Provisions for force majeure, early termination clauses, and confidentiality protocols manage disruptions and sensitive disclosures.
- 7. Obligations and Restrictions:** Restrictions include prohibitions on commercializing certain lithium products, unauthorized transfers, and using lithium for nuclear fusion or other banned purposes.
- 8. Mine Closure:** Adherence to Chilean Law number 20.551 and associated regulations is required.
- 9. Confidentiality and Audits:** Annual audits will verify Specific Payments calculations, and confidentiality is stressed, requiring both parties to maintain secrecy unless authorized to disclose information.
- 10. Force Majeure Events:** Obligations are suspended during natural disasters, terrorism, public health emergencies, or significant disruptions.

Nevertheless owners of lithium mining properties declared prior to 1979, can freely exploit the lithium from these properties, subject to compliance with current environmental regulations and the Chilean Nuclear Energy Commission authorization for the sale and storage of lithium.

According to information published by the Ministry of Mining in 2019, the following represents the mining properties declared prior to 1979:

Owner	Salt flat	% Ownership of the area
Corporación de Fomento Fabril (CORFO)	Atacama	54,6%
CODELCO	Pedernales and Maricunga	100% and 18%
Chile’s National Mining Company (ENAMI)	Aguilar	4%
Privates <sup>3</sup>	Maricunga	25%

Currently, there are two main players developing and exploiting lithium projects in Chile, namely Albemarle Chile Limitada (“Albemarle”) and Sociedad Química y Minera de Chile (“SQM”). Both companies are authorized to exploit lithium under contracts signed with CORFO over its lithium concessions at the Atacama Salt Flats. The contracts that CORFO has with both entities are different in nature (establishing the payment of a rental fees plus a commission that is determined based on a percentage of sales of lithium, in the case of SQM, and also a payment of a commission only in the case of Albemarle). The current contract between CORFO and Albemarle has been in force since 2017 (until 2043); however, during 2024, an addendum to the contract was agreed upon. On April 26, 2024, CORFO and Albemarle reached an agreement to resolve an arbitration dispute that had been ongoing since 2021. This agreement includes a payment of USD 15,158,993 by Albemarle and modifications to the exploitation contract, known as “Anexo 2024”, which aims to enhance sustainability in lithium production. Key changes include the incorporation of environmental auditors, a commitment to use clean energy, and the option for Albemarle to increase its production quota by 240,000 tons of lithium carbonate equivalent (LCE) if Albemarle successfully implements new sustainable technologies.

On the other hand, the contract between CORFO and SQM, which entered into force in 2018 (until 2030), is still in effect. However, to ensure continuity in the exploitation of lithium in the Salar de Atacama after the expiration of this contract, CORFO has entrusted Codelco with the responsibility of lithium extraction in its concessions located in the salt flat. As part of this arrangement, Codelco and SQM have formed a partnership, which will commence operations in 2025, allowing them to jointly exploit the Salar de Atacama. CORFO will grant Codelco the right to exploit these concessions from 2031 until 2060.

This public-private partnership will operate, as described in a public MoU that has been released and published by the parties, in two phases: SQM will manage operations until 2030, after which Codelco will take over management from 2031 to 2060. The partnership aims to produce an additional 300,000 tons of LCE from 2025 to 2030, maintaining a production level of 280,000 to 300,000 tons of LCE from 2031 to 2060, all while optimizing processes without increasing brine extraction or continental water use.

The agreement between Codelco and SQM was signed on May 31, 2024, and will take effect once all legal, technical, and environmental requirements are met, including indigenous consultations and necessary approvals from regulatory authorities. The partnership is scheduled to commence operations in 2025.

In conclusion, considering all of the above, in Chile, there exist two parallel regimes for lithium exploitation: the concessions granted before 1979, and the concessions and contracts granted after that date. Of the latter, only one CEOL has been signed with CODELCO.

Furthermore, it is important to note that since 1976, lithium was declared as of “nuclear interest”. Consequently, the sale of the mineral is subject to the control and authorization of the Chilean Commission of Nuclear Energy (Comisión Chilena de Energía Nuclear, CCHEN).

#### 4.9.2 National Lithium Strategy

In April 2023, the President Gabriel Boric presented the National Lithium Strategy, in which he pointed out several objectives and measures that this policy would entail.

The main objectives are:

- i. Increase wealth for Chile
- ii. To develop a sustainable industry for the country and the world
- iii. To develop technology and productive linkages
- iv. Chile's world leadership in the lithium industry
- v. Strengthen social and environmental sustainability
- vi. Fiscal sustainability
- vii. Contribute to the diversification productive diversification and regional growth potential

This plan includes several stages:

- i. Initiate a process of dialogue and participation with the various stakeholders: The Dialogues for the National Lithium Strategy were the first milestone in the participation process, consisting of 18 meetings held from October to December 2023. These meetings engaged 645 participants, including representatives from the civil society and indigenous communities, across 11 communes in five regions: Arica and Parinacota, Tarapacá, Antofagasta, Atacama, and the Metropolitan Region.

Following this, follow-up feedback dialogues took place from January to March 2024, aimed at sharing preliminary results from the earlier dialogues. These sessions also provided updates on proposals from the Public Technological and Research Institute of Lithium and Salars, the Network of Protected Salars, and ongoing exploration and exploitation efforts. A total of 372 participants took part in these activities across nine communes in four regions.

- ii. Create the National Lithium Company: President Boric, in the first half of 2023, announced the creation of the National Lithium Company, which will act as a public-private partnership in which the State will have a majority representation, in order to exploit the natural resources of Lithium and to attract new players and expand the industry through collaborative initiatives.

It is worth considering that as of today, and due to the developments of the public-private partnership policies developed through CORFO, Codelco and ENAMI, the creation of a National Lithium Company has not been developed but rather disregarded.

- iii. Create a Network of Protected Salt Flats and in those salt flats under exploitation.
- iv. Definition and determination of the characteristics of a new tender process, for private companies, to sign CEOLs with the State of Chile for the exploration and exploitation of Lithium in selected Salt Flats in Chile.
- v. Modernize the institutional framework.
- vi. Create a Public Technological and Research Institute for Lithium and Salt Flats.
- vii. Incorporate the State in the productive activity of the Salar de Atacama: Currently there is a negotiation in progress between SQM and CORFO to exploit jointly Atacama Salt Flat.
- viii. Prospecting of other salt flats.

#### 4.9.3 National Lithium Strategy: Classification of Salt Flats

The National Lithium Strategy outlines the classification of salt flats and salt lakes as part of the government's commitment to sustainable lithium development. The following categories have been established by the Lithium and Salars Committee:

**1. Strategic Salt Flats:** The Atacama and Maricunga Salt Flats are designated as strategic sites, where the State, through CODELCO, will have a majority stake in the development of lithium projects. CODELCO is tasked with leading negotiations in these areas to ensure responsible exploitation. Within this categorization CODELCO has led the negotiations of the MoU with SQM in the Atacama Salt flat.

**2. Protected Salt Flats:** The Council of Ministers for Sustainability and Climate Change has initiated studies to create a Protected Salt Flats Network. This network will include 27 sites, comprising 14 salt flats and 13 salty lakes, where no business activities will be permitted. The aim is to enhance environmental conservation and protect these valuable ecosystems, in consideration to the international commitments that Chile has ratified in biodiversity and protection of the ecosystem.

**3. Exploration and Exploitation Areas:** For salt flats located in the regions of Arica and Parinacota, Tarapacá, Antofagasta, and Atacama that are not included in the Protected Salt Flats Network or designated as strategic, a public and transparent procedure will be conducted. This will involve inviting national and foreign investors to express their interest in exploring and exploiting these lithium deposits. The State will facilitate the granting of Special Lithium Operation Contracts (CEOL) for these projects, which can be fully led by private entities.

- ▶ As of today, the Ministry of Mining has released two opening processes to assign CEOLs in Chile, including a global list of 12 prioritized areas for new lithium projects in Chile.
- ▶ The first batch of prioritized areas was published in September 2024: the Coipasa salt flat in the Tarapacá Region; Ascotán and Ollagüe in the Antofagasta Region; and Laguna Verde, Agua Amarga and Piedra Parada in the Atacama Region.
- ▶ The second group of deposits was defined in December 2024: the Hilaricos and Quillagua Norte sectors in the Tarapacá Region and part of the Antofagasta Region; and the Quillagua Este, Quillagua Sur, María Elena Este and Cerro Pabellón sectors in the Antofagasta Region.
- ▶ Only one CEOL will be awarded for each of these priority areas.

- ▶ For both groups, once the respective indigenous consultation processes are concluded, and the supreme decree establishing the requirements and conditions of the CEOL is issued, public tenders will be opened, the rules and conditions of which will be contained in the respective bases are to be announced during 2025.

**4. Public-Private Partnerships:** In the case of the Pedernales salt flat, CODELCO will lead the development, while ENAMI will oversee projects in the “Salares Altoandino” (La Isla, Aguilar, Infieles, Las Parinas, Grandes) salt flats. Both entities are encouraged to implement public-private partnerships, allowing flexibility in the structure of participation to ensure project viability and alignment with the objectives of the National Lithium Strategy.

In the particular case of ENAMI, in December 2022, a subsidiary company called “ENAMI Litio SpA” was incorporated to develop lithium mining projects. Currently, ENAMI Litio SpA is developing a project in a set of salt flats called “Salares Altoandino” (La Isla, Aguilar, Infieles, Las Parinas, Grandes), which has a profile engineering date during 2025. ENAMI is currently undertaking a tender process to engage with a private company for public-private partnership for the exploration, exploitation, and benefit of lithium deposits related to the Salares Altoandinos salt flats. According to the schedule, in May 2025 the partner and/or financier of a partnership in which ENAMI will contribute the CEOL, the knowledge of the salt flats and its exploration experience, fundamentally, will be announced.

- 1 According to the information provided by the Ministry of Mining, to this date no administrative concessions have been granted.
- 2 To this date, only one CEOL has been signed, which was subscribed in 2018 between the State of Chile and the company Salar de Maricunga SpA.
- 3 Minera Salar Blanco, currently controlled by Codelco through its affiliate Salares de Chile SpA, and the alliance between Cominor, of the group led by Francisco Javier Errázuriz Ovalle, and the Singaporean Simbalik, called Simco.



# General Tax System

PHOTO: TECK

In Chile, taxes are set forth by law and are regularly imposed at national level. There are no provincial, regional or municipal taxes, despite certain exceptions. The most important taxes set forth in the Chilean tax system are the Income Tax and the Value Added Tax (VAT).

This national taxation structure applies universally, including the mining sector. Just like other industries, mining activities are governed by this general tax regime. However, the mining sector is additionally subject to certain unique stipulations, which include the imposition of a Mining Royalty on mining operations and the enforcement of other special rules connected to the characteristics of the mining industry<sup>4</sup>.

Due to the nature of investments and the specific production processes involved, the taxation of mining activities depends more on the particularities of the industry rather than on a separate regulatory framework. It is worth highlighting that no privileged tax regime applies for the mining industry; furthermore, since 2006, there has been a more burdensome tax regime in place considering the incorporation of a Mining Tax.

In contrast, the lithium industry is substantially different. This is because lithium is not considered a concessional mineral under Chilean laws; therefore, the Mining Royalty does not apply<sup>2</sup>. Notwithstanding this, in all matters unrelated to the Mining Royalty, the taxation of the lithium and copper industries are identical (i.e., Corporate Income Tax (CIT), withholding tax on payments abroad, stamp taxes, property taxes, municipal taxes, green taxes, among others).

Regarding Chile's tax incentives, there are no special benefits for specific industries, including mining. However, mining companies, as exporters and fixed-asset investors, can apply for special VAT exemptions, early recovery systems and benefit from the accelerated depreciation method, which could result relevant in annual taxable income determination. Also, R&D tax incentive regime are applicable to the mining industries (Details of the regime and the way it works will be further explain in this guide).

- 1 A general overview of these unique considerations and regulations is provided throughout this document.
- 2 However, there is a discussion at Court level in respect to the potential applicability of the Special Tax for the Mining industry to lithium concessions granted prior to 1979 as the mineral at that time was still a concessional mineral. This discussion is still ongoing and is pending a formal ruling from the Supreme Court. Regarding future lithium projects to be developed under leased concessions (not under mining concessions owned by the mining developer), a royalty -different to the Mining Royalty- shall be paid for the contractual lease relationship.



## 5.1

### Income Tax

#### 5.1.1 Corporate Income Tax (CIT) Regime

In general, a CIT rate of 27% is applied to annual net income earned. Under the Partially Integrated Regime, shareholders, owners, or partners of entities subject to CIT will be taxed only on effective distribution of dividends or profits. Such shareholders, owners or partners will be subject to the final taxes, i.e., the Additional Tax (WHT) at 35% rate, in case of foreign residents; or the Global Income Tax (GIT) at rates between 0% and 40%, in case of Chilean resident individuals.

The distribution of dividends or profits among CIT taxpayers is not subject to incremental CIT. The CIT regime allows shareholders, owners and partners subject to WHT or GIT to use the CIT paid by the entity distributing such dividends or profits as credit in the WHT or GIT determination. In general, 65% of the CIT paid by the entity distributing dividends or profits may be used as a credit to offset the amount of AT or GIT payable. As a result, the higher overall income tax burden would be 44.45%.

In the case of foreign shareholders, owners or partners resident in a country that has a Double Taxation Treaty (DTT) in force with Chile<sup>1</sup>, 100% of the CIT paid over the distributed dividends or profits would be available as CIT credit if: (i) qualifies as a tax resident in a DTT Country<sup>2</sup> and is able to obtain a tax residence certificate from the tax authorities; (ii) is not considered a fiscally transparent entity; and (iii) is the beneficial owner of the dividends.

1. Same rule applies in case shareholder, owner or partner is domiciled in a Country wich has signed a DTT by January 1, 2020, even though such DTT is not in force yet. This provision is applicable until December 31, 2026.
2. DTTs in force: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Colombia, Korea, Croatia, Denmark, Ecuador, Spain, France, India, Ireland, Italy, Japan, Malaysia, Mexico, Norway, New Zealand, Netherlands, Paraguay, Peru, Poland, Portugal, United Kingdom, Czech Republic, Russia, South Africa, Sweden, Switzerland, Thailand, Uruguay, United Arab Emirates and United States of America.

However, for micro, small, and medium-sized enterprises (SMEs), as a general rule, the CIT rate is 25%, provided they meet strict requirements. Nevertheless, during the pandemic, the tax rate for small businesses was temporarily reduced from 25% to 10%, which was extended until 2023. It then increased to 12.5% in 2024, and by law, it should revert to the original 25% starting 2025. However, the Minister of Finance has recently announced that a bill of law will be submitted before the Chilean Congress aiming to maintain the corporate tax rate for SMEs at 12.5%, thus avoiding the increase to 25%. This issue has been part of the negotiations held by SME associations with the Treasury regarding the proposed modifications to the income tax law, which the government aims to introduce for discussion in the first semester of 2025. The SME associations have expressed their desire for the rate to remain at 12.5% for a period of four years to help and counteract the effects and costs associated to a recently approved pension wider reform that changes the general pension regime in Chile.

### 5.1.2 Capital Gains Regime

For corporate income taxpayers, capital gains are considered an ordinary income, therefore, subject to the corresponding CIT rate (27% or 25% depending on the taxpayer as noted in the section above) on annual accrued basis.

In the case of Chilean resident individuals, as a rule, GIT rates (i.e., progressive rates between 0% and 40%) are applied on an accrual basis. However, there are exemption rules applicable to capital gains generated by the disposal of certain assets (shares, social rights, real estates, among others) under certain and specific conditions.

Additionally, there are also exemption provisions applicable to certain assets under capital market rules. Considering this, the sale of publicly traded shares is subject to a sole 10% tax rate, fulfilling strict conditions.

Finally, foreign residents who obtain a capital gain from disposal of Chilean assets, whether direct or indirectly, are regularly subject to the 35% WHT rate. However, this rate may be reduced under certain tax treaties.

### 5.1.3 Expenses

#### 5.1.3.1 General Considerations

CIT must be declared and paid annually by means of an Annual Income Tax Return (AITR) to be filed in April every year.

The Annual Taxable Income or Net Taxable Income (NTI) is determined by the taxpayer, based on income obtained in the calendar year prior to the AITR.

NTI subject to CIT is determined based on earnings, costs and expenses recorded in the financial statements of the taxpayer prepared by December 31 each year, plus several adjustments that must be made to such income and expenses/deductions, to determine the base over which the CIT will be applied. These adjustments are established in the Chilean Income Tax Law (ITL).

The main adjustments to the financial results obtained by a given taxpayer are those applied to certain recognition of income from subsidiaries, depreciation, amortization, provisions, recognition of certain payments to foreign related parties (which can be deducted on a cash basis and to the extent that the corresponding WHT has been declared and paid), amongst others. Those positive/negative adjustments could result in temporary or permanent differences between financial and income tax results.

Concerning expense deductions, the ITL stipulates that they are allowable only if they satisfy the following conditions: (i) have the ability or are capable to generate income, in the same or future years; (ii) are connected to the interest, development or maintenance of the business; (iii) have not been previously deducted as part of the direct cost of goods or services required to obtain the income; (iv) were effectively paid or indebted/owed within the commercial year, and (v) are duly proved to the tax authorities.

Some expenses are also subject to a set of specific requirements that must be fulfilled, as shown in the following section.

#### 5.1.3.2 Special requirements for certain expenses deduction

The ITL establishes a list of special expenses that can be deducted as such. The most relevant are explained below:

**(a) Depreciation:** A yearly depreciation quota for the use of tangible fixed assets is allowed as a deductible expense. The depreciation percentage is determined by applying a straight-line method on the useful life of the assets without considering a residual value and determined by the Chilean Tax Authority (“Servicio de Impuestos Internos” in Spanish, acronym SII) for each category of assets. Once fully depreciated, assets are recorded at a nominal value of CLP 1.

According to the ITL, taxpayers are entitled to opt for an accelerated depreciation regime, understood as the establishment of a useful life for new or imported fixed assets, equivalent to one third (1/3) of the useful life established by the SII.

Accelerated depreciation can only be used to compute the taxable income for CIT purposes. The excess depreciation, corresponding to the difference between the accelerated depreciation allowance and a notional normal depreciation allowance, is recaptured for purposes of GIT or WHT applied to dividends or profits paid to shareholders, owners, or partners.

Fixed assets that become unusable before the end of their expected useful life may be depreciated twice as fast as originally contemplated under their applicable regime.

**(b) Tax losses:** Losses derived from the commercial activities of the Chilean entity in the relevant commercial year, may be deducted as expense for tax purposes.

Accumulated tax losses, duly adjusted by inflation, may be carried forward indefinitely. If there is a qualified change of ownership, the accumulated tax losses may not be deducted from income generated after the ownership change. No qualified change of ownership occurs between entities belonging to the same economic group. The SII and Supreme Court rulings have also established that tax loss audit faculties to be exercised by the Chilean Tax Authority are not subject to any statute of limitation.

**(c) Interests:** Interests are deductible, to the extent that the conditions set forth in the ITL are met. Related party interest is only deductible on cash basis and to the extent the corresponding WHT has been declared and paid to the Chilean Treasury.

**(d) Corporate Social Responsibility:** Disbursements incurred due to environmental requirements for a project, as specified in resolutions by the competent authority and in compliance with environmental law, are deductible. Likewise, the CITL establishes two additional cases that include situations of disbursements associated to the social license to operate (going beyond environmental mandatory requirements):

- ▶ Those incurred by the holder by virtue of environmental commitments included in the study or in the environmental impact assessment, regarding to a project or activity that has or must have, in agreement with the current environmental legislation, a resolution issued by the competent authority approving such project or activity.
- ▶ Those made for the benefit of the community, and which involve a benefit of a permanent nature, such as expenses associated with the construction of works or infrastructure for community use, their equipment or improvement, the financing of specific educational or cultural projects and other contributions of a similar nature.

In both cases, expenses would be deducted to the extent that: (i) are paid to nonrelated parties; (ii) have been agreed in a contract signed with a state administration agency or authority; and (iii) to the extent the limits incorporated in the ITL are not exceeded. Any disbursements that go beyond these limits cannot be deducted for tax purposes.

Other expenditures like royalties, scientific and technological research, uncollectible accounts, remunerations, and benefits granted to employees, among others, also have a special treatment for tax purposes that must be considered.

#### 5.1.3.3 Mining specific expenditures

Mining companies, subject to the same general and specific tax deduction requirements as other businesses, face unique scenarios intrinsic to the mining industry. These scenarios, which vary across the various stages of the mining lifecycle, play a crucial role in determining how expenses are deducted. The most significant of these situations, for the mining industry will be briefly explained below.

## - Prospecting and Exploration

One of the objectives of these stages is to identify large tracts of land with mining potential. The aim is also to define and characterize the deposit's potential by conducting studies of mineral resources and their quality. Machinery is acquired and workers and suppliers are hired.

As a rule, during this stage only mining license fees and sometimes land taxes are paid. These disbursements are deducted from a CIT perspective.

Disbursements incurred during this phase must always be considered as organization and start up expense, which may be amortized in up to 6 years, starting from the date on which the expenses were incurred or when the mining company earns income from its main activity, if later.

## - Infrastructure and construction

The construction of the mine, the processing plant, and the associated infrastructure such as water systems, concentrate pipelines and ports are the main expenditures of this stage. The latter will include mechanisms for the protection of the area's biodiversity and the mitigation of the impact of the project on the environment.

Mine infrastructure disbursements should be treated as an investment in fixed assets subject to depreciation according to the rules contained in the ITL, even if expended before the operation.

Other infrastructure disbursements incurred in third-party properties and according to the tax authority instructions, shall be considered in certain cases as organization and start-up expenses, which may be amortized in up to 6 years starting from the date on which the expenses were incurred or when the mining company earns income from its main activity, if later.

Special consideration should be given to the tax treatment applicable to Engineering, Procurement, and Construction (EPC) and Engineering, Procurement, Construction and Management (EPCM) contracts, as well as to the deduction of interests associated to the financing of the investment.

## - Operation: Exploitation and Expansion

During this stage, the project starts operating and generating income associated to the extraction, processing and commercialization of the mining products.

From this stage onwards, mining operations begin generating taxable income. Thus, mining companies start determining and paying CIT and Mining Royalty (depending on the operating profit margin of the company).

Exploitation disbursements associated to the preparation of the units or sector that will be exploited, alongside the direct costs of exploitation, such as the direct labor spendings, raw materials and supplies directly related to the goods, shall be considered as part of the costs of the minerals under the terms regulated in the ITL. Therefore, the cost of the minerals will have an impact in the results of the company upon its sale or export.

Regarding to pre-stripping costs, they shall be treated as organization and start-up expenses, which may be amortized in up to 6 years starting from the date which on the expenses were incurred or when the mining company earns income from its main activity, if later.

Expansion projects may arise alongside the exploitation phase aiming to expand the mine's production capacity and sometimes its useful life. Expenditures that improve infrastructure, production capacity or the useful life of the assets, could be seen as investment in fixed assets subject to depreciation tax rules.

Maintenance disbursements shall be considered as expenses of the year in which such disbursements occurred and following the general requirements for its deduction, from a tax perspective. Repairs, if they extend the life of the respective asset, shall be considered as an investment in fixed assets subject to depreciation tax rules.

### 5.1.3.3.1 Closure of the mine

This stage involves mitigation measures, compliance with environmental commitments, the removal of machinery and infrastructure, as well as the rehabilitation of the site in accordance with plans approved by the Chilean mining authorities.

Accordingly, the mining project stops generating income and focuses on complying with a regulated process of mine closure, the cost of which has been previously provisioned during the mine's life under the terms of Law No. 20,551.

According to the referred law, the amount that has been guaranteed before the mining authorities for the closure plan of the mining site, could be deducted for tax purposes within the last third of life of the mining project.

This is different to the general tax deductibility rules, since Law No. 20,551 authorizes the deduction of a representative amount of disbursements that the mining company will make in the future, in connection with the closure activities. Therefore, any changes in the effective disbursements incurred or in the useful life of the mine could affect and impact the tax results finally determined. This law also allows the recovery of the VAT credit arising from acquiring goods and providing services related to the closure of the mine.

#### 5.1.3.3.2 Depletion of mining properties

In general terms, the ITL states that the cost of the extracted mineral must include part of the acquisition cost of the mining property in an amount equivalent to the proportion that the extracted mineral represents in the total amount of mineral that has been technically estimated for such mining property. In other words, a percentage of the acquisition cost of the mining property is included in the cost of the extracted mineral.

For these purposes, the acquisition cost includes the price paid for the mining property (or group of properties that constitute a single ore deposit) and the interest on the unpaid balance or loans associated with the acquisition accrued or paid until exploitation of the mine is brought into operation.

### 5.1.4 Withholding taxes on payments abroad

As a rule, cross border payments made from Chile are subject to 35% WHT rate, unless is otherwise provided by the ITL or DTT provisions.

It is relevant to consider that payments made upon interest, royalties, and services to related parties can only be deducted by the Chilean taxpayer if they were effectively paid and provided the applicable WHT is duly declared and paid.

#### 5.1.4.1 Dividends

In general, a WHT at a 35% rate applies over the distribution of dividends or profits to foreign shareholders, owners, or partners of Chilean CIT taxpayer entities.

As explained under section (4.1.1. above), in general, 65% of the CIT paid by the entity distributing dividends or profits may be used as a credit to offset the amount of payable WHT. As a result, total tax burden would be 44.45%. In turn, foreign shareholders, owners, or partners resident in a DTT Country may claim as credit 100% of the CIT paid over the distributed dividends or profits, to the extent that: (i) qualifies as a tax resident in a DTT country and is able to obtain a tax residence certificate from the Tax Authorities; (ii) is not considered a fiscally transparent entity; and (iii) is the beneficial owner of the dividends.

#### 5.1.4.2 Interests

In general, interest paid abroad are subject to a 35% WHT on the gross amount. However, the ITL establishes a reduced rate of 4% on interest payments where the creditor (among other specific cases) is a foreign bank or financial institution.

Likewise, reduced tax rates may apply in case of interests paid to DTT Country residents.

In the case of interest paid to foreign related parties, thin capitalization rules are applicable. Under such, interest and other disbursements paid abroad at reduced tax rates (4% or as established by a DTT), will be subject to a 35% penalty tax, in case the Chilean company breaches the excess indebtedness ratio (3:1). Reduced withholding tax paid may be deducted from the 35% penalty tax.

All debt and liabilities shall be considered for computing the debt figure. This includes foreign and local debt as well as related and third-party debt. Only short-term debt (i.e., <90 days) with third-party is excluded from the debt computation. The 3:1 ratio shall be measured at the end of every year in which interest is paid. ITL lists several cases where a relationship exists, starting from the most obvious cases (i.e., when both parties are part of the same business group or when one of them has an ownership interest in the other) to more sophisticated deemed relationship rules.

#### 5.1.4.3 Royalties

Royalties are generally subject to WHT at 30% rate. Such rate is reduced to 15% in case of use, benefit, or exploitation of software. However, standard software in which the rights transferred are limited to those necessary to allow the use of such software, but not its commercial exploitation or its reproduction or modification, are exempt from WHT. In case of

payments to entities located in preferential tax regime jurisdictions, the WHT turns into 30%. Under certain DTTs, the maximum rate for royalties is 10% or 15%.

#### 5.1.4.4 Technical or engineering work or professional services

Technical or engineering work or professional services are subject to a 15% WHT rate. In case of payments to entities located in preferential tax regime jurisdictions the WHT turns into 20%. Reduced rates may apply under DTT provisions.

#### 5.1.4.5 Other services

The general rule is that services rendered abroad are subject to a 35% WHT rate. Under certain DTT, services are usually covered by Article No. 7 and thus considered Business Profits, only taxed in the country of residence of the payment beneficiary (not the country of the payer).

#### 5.1.5 Stamp Tax (ST)

In general terms, all documents evidencing monetary credit operations are subject to ST at the time of its issuance. Monetary credit operations consist in the delivery or commitment to deliver an amount of cash, and the commitment by the recipient to reimburse it at a different time. Foreign monetary credit operations, even if there is no document, are subject to ST.

ST is levied on the principal amount established in the corresponding documents. The rates are: (i) 0.066% of the principal for each month or fraction thereof between the issuance of the loan and its maturity, capped at 0.8%; (ii) 0.332% on the principal in case of loans repayable on demand or without a specific maturity date. ST is paid once per loan, in general.

ST is an allowed expense for CIT purposes.

#### 5.1.6 Municipal Tax

Under Law Decree No. 3,063 the Municipal Tax corresponds to an annual tax to be paid to the Municipality of the territory in which a commercial-business activity is performed. Mining companies (and other entities developing primary activities) are liable for the Municipal Tax once the mineral starts to be sold.

The rate is applied in ranges between 0.25% and 0.5% over the company's Tax Equity (company's assets at tax value less liabilities at tax value). Such Tax Equity is also adjusted by deducting all investments in other companies that pay Municipal Tax.

The amount of Municipal Tax range is between 1 UTM (circa USD 69) and 8,000 UTM (circa USD 550k) per year. Municipal Tax is usually paid in two installments, one payable during July and the other during January.

#### 5.1.7 Property Tax

Under Law No. 17,235, a Property Tax, at a rate ranging from 1% to 1.4% on yearly basis, is applied to real estate property. The rate to be imposed depends on the real estate's qualification as agricultural or nonagricultural and is applied on the fiscal value of the real estate. It must be noted that there are benefits and exemptions available for qualified taxpayers or real estate.

The referred law also provides the following surtaxes:

- ▶ **Global surtax:** Applicable over the sum of fiscal values of all the real estates owned by the same taxpayer and correspond to progressive rates ranging between 0% (to overall fiscal value lower than circa USD 553) to 0.425% (to overall fiscal value equal or higher than circa USD 1.3M).
- ▶ **Nonagricultural real estate surtax:** Applicable to nonagricultural real estates, to the extent that they are located in urban territory and are undeveloped or abandoned or correspond to ballast wells.

Chilean Law grants certain taxpayers the opportunity to use the sums paid on account of Property Tax and surtaxes as credit against the CIT. If the conditions set forth by the law to use the Property Tax as credit are not met, such tax may be deducted for income tax purposes.

#### 5.1.8 Contribution for Regional Development

Law No. 21,210 establishes a Contribution for the Regional Development (CRD), which has a rate of 1% and is applied on the acquisition value of all the physical goods of the fixed assets in the part that exceeds the amount of USD 10 M.

It applies to CIT taxpayers who are taxed based on effective income, determined according to full accounting records, who made investments in projects:

- a. That comprise the acquisition, construction, or importation of physical goods of the fixed assets for a total value equal to or greater than USD 10 M; and
- b. That must be submitted to the environmental impact assessment system according to Article No. 10 of the Law No. 19,300.

The contribution is accrued from the first fiscal year in which the project generates operational income, provided that the definitive reception of work has been obtained by the respective Municipal Works Directorate, or if the referred reception is not applicable to the project, that the Superintendence of the Environment has been informed by the management.

The CRD must be declared and paid to the Chilean Treasury, in April of the following year of the accrual of the contribution, or, in up to 5 annual instalments from the time of its accrual.

### 5.1.9 General Anti-Avoidance Rules (GAAR)

Substance over form rules are currently under effect since 2014 in Chile. These rules empower the SII to challenge transactions performed under abuse of juridical forms or simulation and to request payment of the relevant taxes that would have applied. GAAR rules do not prevent the Tax Authority from exercising criminal actions.

The SII may choose to apply either GAAR or any other Specific Anti-Avoidance Rules (SAAR) recognized in the Chilean tax rules, but both cannot apply simultaneously to the same transaction. The SII's powers are limited by the legal recognition of taxpayers' good faith and their right to choose between reasonable, legitimate options under tax law.

The GAAR procedure involves a detailed review, a report by the SII's Anti-Avoidance Department, and a recommendation from the Executive Committee. If abuse or simulation is identified and significant tax avoidance is determined, the SII submits the case to the Tax Courts.

If the Court confirms the SII's claim, penalties apply:

- ▶ Third-party designers or planners may face fines of up to 250 annual tax units (circa USD 215k), depending on repetition or fees charged.

- ▶ Taxpayers face fines of up to 100% of the tax difference, capped at 250 annual tax units (circa USD 250k).
- ▶ Directors or legal representatives of legal entities may also be liable if breaches of managerial or supervisory duties are proven.

Taxpayers may submit a preliminary and voluntary consultation to the SII to assess whether their transactions could fall under GAAR or any other SAAR provision. This consultation is subject to a ruled procedure under an specific timeline.

As of October 2024, Law N°21.713 was published in the Official Gazette, introducing several changes to the Chilean GAAR. The law maintains the existing prior judicial procedure but introduces a variety of changes regarding substantive and procedural matters at the administrative level. Among them, the application threshold of the rule is modified (approximately USD 73k of the taxable base), obtaining refunds or access to special tax regimes are also included as triggering thresholds, and the SAAR deference principle is altered, allowing the Chilean tax authority to choose between the application of the GAAR and specific anti-avoidance rules. Other relevant changes are depicted as follows:

- ▶ Statute of Limitations: The statute of limitations for reviewing acts or transactions under the GAAR is set at six years from the expiration of the legal deadline for tax payment.
- ▶ Creation of an Executive Committee: A new Executive Committee will be established within the SII to oversee the administrative review process for tax avoidance and suggest through the issuance of a formal opinion as to whether or not the GAAR should be applicable in a specific case.
- ▶ Modification of Article 4° Quinque: The article has been completely replaced, introducing new provisions that require the tax authority to issue a new citation to taxpayers if they have been cited for other matters. It also states that during the period between the submission of a request for a declaration of abuse or simulation and the final ruling, the statute of limitations will be suspended.
- ▶ Conciliation Process: The law introduces a conciliation process between the parties, allowing the Tax Court to call for conciliation during hearings.

- **Penalties:** In cases where the agreed fees exceed 100 annual tax units (circa USD 90k), the penalty may extend to the total fees agreed upon, capped at 250 annual tax units (circa USD 215k). If a legal entity is responsible, individuals in managerial positions may also be held jointly liable for penalties.
- **Taxpayer Responsibility:** If no third party designed or planned the avoidance acts, or if the taxpayer does not identify one, the taxpayer will be sanctioned with a penalty equivalent to 100% of the determined tax differences, capped at 250 annual tax units (circa USD 215k).

These changes aim to enhance the effectiveness of the tax authority in combating tax avoidance while ensuring that taxpayers' rights are respected.

#### 5.1.10 Value Added Tax

In general, the VAT is levied upon the recurrent sale of movable property, certain fixed assets, or even real estate assets (excluding land), services regardless of their recurrence, imports and other transactions, with a 19% rate.

Starting January 1st, 2023, VAT on services has been expanded to include all types of services, unless they are expressly exempt.

The acquisition of goods, services, and imports that are subject to VAT entitles the buyer or recipient to a VAT credit, provided they are involved in selling goods or providing VAT-liable services. This VAT credit is equivalent to the VAT detailed in invoices for goods acquired, services utilized, imports, or other VAT-liable transactions.

When such a taxpayer sells VAT-liable goods or services, the VAT charged on these sales is recorded as a VAT debit. This debit can be offset against any accumulated VAT credit. According to VAT methodology, VAT credits are used to offset VAT debits. If there's a positive difference, it represents the VAT payable. Any remaining VAT credits after this offset can be carried forward indefinitely.

In general, exportation of goods performed by Chilean taxpayers are exempt from VAT. However, exporters are specially allowed to recover any VAT paid related to their export activities. Specific VAT credit recovery mechanisms are available, pre and pos exports.

In addition, VAT taxpayers that maintain VAT credit for at least 2 months, arising from the acquisition of fixed assets or services considered to be part of the cost of such fixed assets, can either be offset against any tax liability or request its cash refund.

However, as of August 1, 2025, exporters will be obliged to return the VAT previously refunded if at the time of applying for the termination of the business they fail to prove that during the 36 months previous to the last export shipment or acceptance of the export of services they have not exported an amount equivalent to the VAT recovered.

Regarding importations, it must be noted that the VAT Law establishes an exemption for imported capital goods that are destined for the development, exploration or exploitation in Chile of mining, industrial, forestry, energy, infrastructure, telecommunications, research or technological, medical or scientific development projects, among others, provided that the aforementioned project implies an investment of an amount equal to or greater than USD 5M. To apply this exemption, a resolution from the Ministry of Finance must be issued confirming the requirements are met.

The sale of tangible fixed assets - movable or immovable - is also subject to VAT where the seller was entitled to the VAT tax credit (input) at the time of the acquisition of the asset. Notwithstanding the above, smaller businesses will not be subject to VAT at the time of the sale of the fixed asset if the sale has taken place more than 36 months after the acquisition of the fixed asset.

However, as of November 1, 2024, the Chilean IRS is entitled to re-qualify any sort of reorganization that implies the transfer of shares when fixed assets - movable or immovable assets - are indirectly transferred as a direct transfer of the fixed asset when the Chilean IRS proves in an audit procedure that the only propose of the reorganization is to avoid the VAT applicable to these types of operations.

#### 5.1.11 Specific Tax on Fuels

Law No. 18,502 regulates the specific tax on fuels. The rate of this tax corresponds to a Base Component plus a Variable Component.

Thus, the Base Component of the tax is established in Monthly Tax Units, converted to USD as follows:

- Motor gasoline: circa USD 425 per m3
- Diesel oil: circa USD 106 per m3

- ▶ Compressed natural gas: circa USD 137 per 1,000 m<sup>3</sup>
- ▶ Liquefied petroleum gas: circa USD 99 per m<sup>3</sup>

In turn, the Variable Component consists of a mechanism integrated by specific variable rate taxes or tax credits that will increase or decrease the Base Component and, therefore, the applicable specific tax. Within the Variable Component is the so-called Mechanism for the Stabilization of Fuel Sales Prices (Mecanismo de Estabilización del Precio de los Combustibles in Spanish, acronym MEPCO) that seeks to stabilize the fluctuations in the value of fuel.

This tax is accrued at the time of the first sale or importation of the products indicated in the Law and shall affect the producer or importer thereof. Producers must pay this tax within the first 10 working days following the week in which the transfers were made, and importers before the withdrawal of the goods from Customs and as a prior condition for this purpose.

According to the current rules, certain VAT taxpayers and exporters (as the case of mining companies) may recover up to 100% of this tax applicable to diesel oil, to the extent that it is not used in vehicles destined to transit by road.

#### 5.1.12 Green Tax on Fixed Sources

As of January 1, 2023, the Green Tax on Fixed Sources is levied on particular matter (PM), nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>) and carbon dioxide (CO<sub>2</sub>) emissions into the air produced by establishments whose emitting sources, individually or collectively or, emit 100 or more tons of PM per year, or 25,000 or more tons of CO<sub>2</sub> per year. Excluded from the application of the tax are emissions associated with hot water boilers used in services linked exclusively to personnel and generators with a power of less than 500 kWt.

From February 25, 2023, taxpayers subject to the green tax on fixed sources, may offset all or part of their taxable emissions for purposes of determining the amount of tax payable through the implementation of projects to reduce emissions of the same pollutant (or comparably known as “offsets”), subject to such reductions being additional, measurable, ascertainable and permanent.

It should be noted that the reduction projects for offsetting proposes must be additional to the obligations imposed by prevention or decontamination plans, emission standards, environmental qualification resolutions or any other legal obligation.

To implement an emission reduction project for the above purposes, the corresponding application must be submitted to the Ministry of the Environment. In addition, to accredit the reduction of emissions, the projects must be certified by an external auditor authorized by the Superintendency of the Environment.

This tax is accrued annually and must be paid in CLP in April of each year.

In the case of PM, NO<sub>x</sub> and SO<sub>2</sub> emissions, the tax will be equivalent to 0.1 per each ton emitted based on a formula, or the corresponding proportion, of such pollutants, multiplied by the amount resulting from the application of a mathematical formula that includes the social cost of pollution per capita considering the amount of population of the corresponding Municipality.

Regarding these same pollutants, if the establishment is located within a Municipality that is also part of a zone declared as “saturated zone” or “latent zone” due to concentration of PM, NO<sub>x</sub> or SO<sub>2</sub> in the air, an additional factor consisting of the air quality coefficient will be applied to the tax rate per ton of pollutant.

In the case of CO<sub>2</sub> emissions, the tax will be equivalent to USD 5 for each ton of CO<sub>2</sub> emitted. However, the tax on CO<sub>2</sub> emissions will not apply to emitting sources that operate based on non-conventional renewable means of generation whose primary energy source is biomass energy.

It must be noted that the Finance Minister, Mario Marcel, presented the guidelines for new corrective taxes, focusing on “green taxes” to the Finance Committee on April 11, 2023. This project aims to influence behavior to reduce emissions. As of now, the green fiscal bill has not yet been presented to Congress.

On August 26, 2024, Bill 17.064-03 was submitted to the Chilean Congress by President Mr. Gabriel Boric. This bill proposes a temporary increase in the carbon dioxide emissions tax, establishing a surtax of USD 5 per ton, which raises the total tax rate to USD 10 per ton for the years 2024 to 2026. This surcharge will specifically apply to electricity generation plants connected to the National Electric System while excluding Medium Electric Systems.

As of this date, the bill has been approved by the Chamber of Deputies and is now set to be discussed in its second legislative procedure in the Senate.



## 5.2

## Transfer Pricing

### 5.2.1 General Considerations

Chilean transfer pricing (TP) regulations are in line with the Organisation for Economic Co-operation and Development (OECD) TP guidelines.

Acceptable transfer-pricing methods include the following:

- Comparable uncontrolled price
- Resale price
- Cost-plus
- Profit-split
- Transactional net margin

If none of the recognized methods can be applied, an alternative method may be used. The choice of the most suitable method should consider the specific facts and circumstances of each other related party transaction being analysed.

Taxpayers must file annual sworn statements identifying related party transactions and transfer-pricing methods and providing other information requested by the SII through its regulations. In addition, taxpayers must keep all relevant information supporting compliance with the transfer-pricing rules.

County-by-Country (CbC) regulations have been in force in Chile since 2017.

In addition, CbC, Master File and Local File Sworn Statements must be submitted to the SII if certain conditions are met. When Local File applies, it involves also filling additional support information such as agreements, functional organization charts, group structure, loan payments schedules, among others.

### 5.2.2 Mining Industry

The mining industry has been one of the most scrutinized sectors for transfer pricing audits. Transactions commonly under review includes the sale of products, that depending on the case, may have public price, discounts, premiums references in the markets (national or international); intercompany services received (transfer pricing policies as well as substance) and financial intercompany transactions (interest rates and debt capacity structures).

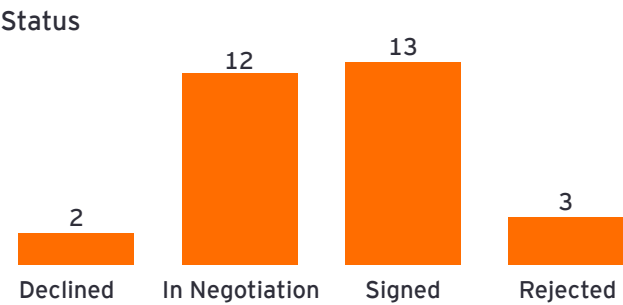
For that reason, many players of this industry are very interested in signing Advance Pricing Agreements (APAs) with the tax administration, to gain certainty for their intercompany transactions, as well as Bilateral Agreements (BAPAs).

APAs apply for the year of signing and the following four years, with possible retroactive application to up to three prior years without penalties or interest. During the APA's validity, the Tax Authority and Customs Directorate cannot adjust transfer prices or customs values for covered transactions. Taxpayers authorizing publication of APA criteria are included in a public list of socially responsible taxpayers.

There are currently some APAs signed with entities belonging to this industry, and it is expected that there will be many more cases in the near future, moreover, considering the recently signed tax treaty with the United States of America.

Currently, Chile is the leading country regarding signed APAs within the South American region. The tax administration, as well the Customs Agency have specific teams dedicated to APA processes and Mutual Agreement Procedures (MAP).

The following graph details the status of the 30 requests for APAs as of September 2024:



As can be seen, of the 30 applications submitted, 13 agreements have been signed, 12 applications are in the negotiation stage, 3 have been rejected and 2 taxpayers have withdrawn their application.

On the other hand, the following table depicts the number of applications submitted depending on their type by year:

Type of Agreement	2021	2022	2023	sept. 2024
APA	4	3	5	0
Bilateral APA (BAPA)	1	3	0	0
APA Renovation	0	0	2	3
Total	5	6	7	3

The information presented above indicates that, from the 30 requests for Advance Agreements presented to the Service, a total of 21 requests have been received in the last 4 years. The above reflects a significant change compared to previous periods, where an average of less than 1 filing per year was recorded since the implementation of No. 7 of article 41 E of the Chilean Income Tax Law.<sup>1</sup>

1 Source: SII statistics, [https://www.sii.cl/servicios\\_online/1044-conoce\\_mas-4430.html](https://www.sii.cl/servicios_online/1044-conoce_mas-4430.html)



## 5.3

### Taxes solely applied to the mining industry in Chile

Notwithstanding the general tax regulations applicable to all business activities in Chile, there are some special tax regulations for the mining industry derived from its particular characteristics.

#### 5.3.1 Mining Patents

A mandatory annual fee is required to keep the mining properties in good standing.

For exploration concessions, the amount of such patent for each full hectare will be equivalent to three fiftieths (3/50) of a monthly tax unit (circa USD 4,1) for each year the concession is granted.

For exploitation concession, the fee follows a progressive scale that increase over time, starting at fourth tenths (4/10) of a monthly tax unit (circa USD 28) for the first five (5) years and reaching twelve (12) monthly tax unit (circa USD 825) per hectare from its thirty-first (31) year onward.

Certain exceptions apply to this standard fee for exploitation concessions, introducing a reduced patent fee of one-tenth (1/10) of a monthly tax unit (circa USD 7) per hectare. This reduction aims to incentivize mining projects that meet specific public interest criteria, as define by applicable regulations. Concessionaires must annually demonstrate ongoing and permanent mining activities to qualify, in accordance with Law No. 20.551, which governs the closure of mining and facilities.

The reduced fee also applies to exploitation concessions included in mining development projects, regardless of whether mining operations have commenced. This includes projects with an Environmental License (RCA) or those undergoing evaluation under the Environmental Impact Assessment System as stipulated by Law No. 19.300. Additionally, concessions engaged in projects requiring permits under the Mining Safety Regulation but exempted from environmental evaluation are also eligible.

Properties within a designated mining production unit and its potential expansions may also benefit from this reduced fee. If one property under the same ownership and included in the same measurement act meets the eligibility criteria, it is presumed that all related properties qualify.

Concessionaries are responsible for submitting the necessary documentation annually to the Tax Authority to demonstrate compliance and maintain the reduced fee status. Holders of up to 500 hectares may also qualify for the reduced fee of one-tenth of a monthly tax unit per hectare, provided they meet the requirements. For legal entities, this limit includes the holdings of individuals who own the entity. For individuals and sole proprietors, the holdings of relatives up to the third degree of consanguinity or the second degree of affinity are also considered. Non-compliance with these requirements results in the loss of the benefit, with the standard fee becoming payable in March of the following year.

It is important to note that once mining operations commence, Mining Patents are not deductible for tax purposes. However, they may be treated as monthly provisional tax payments (i.e., as a credit), and used as credits against certain tax obligations, subject to compliance with legal requirements.

### 5.3.2 Mining Royalty

Effective January 1, 2024, as established by Law No. 21,591, mining exploiters are now under the purview of a new annual Mining Royalty. The Specific Tax on the Mining Activity, stated in articles 64 bis and 64 ter of the IRL from 2005, has been repealed as of the same date on which the new Mining Royalty came into force.

This Mining Royalty comprises two components: the Ad-Valorem Component and the Margin Component. These are calculated based on the sales volume and the type of minerals extracted.

The sum of these components forms the Mining Royalty. However, it's important to note that this amount is subject to a cap due to a maximum taxation threshold, which takes into account the Mining Royalty, corporate income taxes, and final taxes.

#### - Ad Valorem Component

Mining exploiters with annual copper sales exceeding 50,000 metric tons of fine copper (MTFC) are subject to a 1% rate on its sales. This rate specifically applies to revenues derived solely from copper sales, excluding those from other minerals (i.e., molybdenum, silver, gold, etc.).

In instances where the 'Adjusted Mining Operational Taxable Income' of the taxpayer (Renta imponible operacional minera ajustada in Spanish, acronym RIOMA) is negative in a commercial year, this deficit should be deducted first from the Ad-Valorem Component. It must be noted that in the calculation of the RIOMA, the theoretical ad valorem component is deducted in order to avoid a double taxation.

The term "sales" will consider the average of annual sales of the last six commercial years, for which purpose taxpayers will have to comprise the total sales value of mining products including that from related parties (insofar as those related party can also be considered "mining exploiters"). Related parties shall be understood as those referred to in number 17 of Article No. 8 of the Chilean Tax Code (TC).

In case the taxpayer registers sales for less than six years, the average will consider the years starting from the first year the taxpayer registers actual sales.

#### - Mining Margin Component

Mining exploiters whose income derives in 50% or more from copper sales and whose sales are equivalent to more than 50,000 MTFC, will be subject to a progressive and marginal tax rate ranging from 8% to 26%. The applicable rate within this range will be determined based on the Mining Operating Margin (MOM) of the taxpayer.

However, this component shall not be applicable in case the RIOMA is negative.

Mining exploiters whose income derives less than 50% from copper sales, will be subject to the following tax rates based on their annual sales:

- Less than equivalent of 12,000 MTFC: Exempt.
- More than the equivalent of 12,000 MTFC but less than 50,000: Tax rate fluctuates between 0.4% and 4.4%.
- More than the equivalent of 50,000 MTFC: Progressive tax rates ranging between 5% and 14% depending on the MOM.

Mining exploiters shall apply the respective tax rates over the RIOMA, which considers the CIT's taxable base of the taxpayer subject to certain adjustments included in the Law No. 21,591 (to reflect the mining operational taxable income only).

### **Maximum potential tax burden**

Mining Royalty considers a cap to the combined tax burden of the CIT, the Mining Royalty, and shareholder taxation on profits distributions.

In case the maximum potential tax burden exceeds such cap, the Mining Royalty will be reduced accordingly. Said limit will be set at a 46,5% for exploiters with annual sales equal or greater than the equivalent to 80,000 MTFC and at 45,5% for exploiters with annual sales lower than the equivalent to 80,000 MTFC.

### **Declaration, payment, and obligatory provisional monthly payments.**

The Mining Royalty must be paid annually (in April of the year after the respective commercial year) and is subject to the TC in anything not regulated in the Law No. 21,591.

Mining exploiters required to pay the Mining Royalty must make mandatory provisional monthly payments. These payments are calculated as a percentage of the gross income, either received or accrued, from their monthly sales of mining products. This obligation applies regardless of the components that constitute the Mining Royalty, whether it's the Ad Valorem Component, the Mining Margin Component, or a combination of both.

Mining exploiters shall also be bound to report their annual financial statements (both individual and consolidated) to the Chilean Financial Market Commission, including a note regarding the company's ownership upstream.

The financial statements must be audited by an external audit company registered under Law No. 18,045 (Stock Markets Law). Quarterly financials must also be reported.

Failure to report will be subject to fines and penalties.

### **Tax Deductibility of the Mining Royalty for CIT purposes**

The Mining Royalty is an additional and separate tax from the CIT established under a law distinct from the ITL. This distinction is significant because, according to Article 31, number 2, of the Income Tax Law, taxes enacted under separate laws can be deducted from the CIT taxable base, provided that they are related to the company's activities.

Therefore, both the ad valorem component and the margin paid by mining companies qualify as deductible expenses under the ITL, reducing the net taxable income for CIT purposes.

It should be noted, however, that any disbursements incurred during the mining site closure process, as regulated by Law 20,551, must be added back to the net taxable income if they were previously deducted for the purpose of calculating the Mining Royalty tax.

PHOTO: TECK





## 5.4

### Incentives

There are no special tax incentives for the mining industry. However, there are some benefits generally established for all taxpayers. For instance, VAT refunds for exporters, tax incentives for investment and development, among others.

In this regard, Law No. 20,241 that “Establishes a Tax Incentive for Private Investment in Research and Development” (R&D Law), establishes a tax incentive for private investment in R&D that can be used by CIT taxpayers that declare their effective income determined according to full accounting records.

The modalities of this tax incentive could be: (a) R&D certified contracts with a registered research center; and (b) R&D in-house activities.

This benefit has the following characteristics:

- (a) Tax credit imputable to the CIT, corresponding to 35% of the total disbursements in R&D projects duly certified by CORFO (in-house) or for payments to certified research centers. The maximum amount of the credit, per year and per each legal person or tax ID, cannot exceed 15,000 monthly tax units (circa USD 1,1M). This tax credit is non-refundable. However, it can be carry-forward indefinitely.
- (b) Deduction as a tax expense of the remaining 65% of the R&D disbursements certified by CORFO for in-house activities or associated with R&D certified contracts entered with a registered research center, even if such disbursements are not necessary to produce income for the respective business (deductible in up to 10 years).

It should be noted that R&D projects may be carried out by taxpayers with their internal capacities or with third parties being able to associate for the presentation of such projects (subcontracting third parties to conduct the R&D). However, according to the Law, the only restriction is that at least 50% of these expenses must correspond to activities carried out within the national territory.

An exceptional pre-step approval process is recognized in the Law through which taxpayers can file an affidavit before CORFO informing that they are keen to file a R&D project. According to this procedure, taxpayers would be able to prepare a project that must be filed within 18 months. As soon as certain formal and substantial requirements are met, all disbursements incurred from the date in which the affidavit was filed, would be counted for the tax incentives.

Tax incentives are claimed annually through the annual tax filings of the company. This form must be completed in April of the year following the year when the disbursement took place, to the extent the respective resolution from CORFO is issued.

Moreover, according to information provided by “Data Innovación”, a special data department of the Production Development Agency (Corporación de Fomento de la Producción, or “CORFO” in Spanish), the mining sector has emerged as one of the key beneficiaries of the R&D tax incentives established under the R&D Law. A published report has indicated that the mining industry consistently ranks among the top sectors in terms of both the number of projects certified and the total amounts certified. This trend underscores the sector’s active engagement in research and development activities, which are crucial for enhancing operational efficiency, reducing environmental impact, and fostering innovation.

The utilization of the R&D tax incentive is predominantly observed among large enterprises within the mining sector. According to the report, approximately 74% of the companies that have received certifications are classified as large. This trend aligns with the capacity of larger mining companies to invest significantly in research and development, enabling them to leverage the tax benefits effectively. In contrast, smaller companies remain underrepresented in the utilization of these incentives, with only 8.4% of certifications attributed to small enterprises.

Particularly noteworthy is the increasing focus on projects aimed at enhancing the sustainability of mining operations. As the global market increasingly prioritizes sustainability, the mining sector’s engagement in R&D initiatives positions it to capitalize on emerging opportunities. By investing in innovative practices and technologies, mining companies can not only improve their operational performance but also contribute to the transition towards a more sustainable and responsible mining industry.

This incentive is currently in effect until December 2025; however, a reform bill is expected to be presented to Congress to extend the R&D Law.



## 5.5

### Tax Sustainability

Global trends emphasize the importance of transparency, collaboration, and effective risk management in taxation, aligning with the OECD guidelines on responsible tax practices. In Chile, the 2024 tax reform, enacted through Law No. 21,713, has introduced pioneering measures to promote tax sustainability, enhancing cooperation between taxpayers and the tax authority while strengthening compliance frameworks and advancing corporate governance.

The reform introduces changes to the Tax Code, incorporating a number 18 into its article 8, which defines "tax sustainability" as the set of measures implemented to ensure mutual cooperation and transparency in fulfilling tax obligations. This concept provides a robust framework for assessing tax practices, reducing fiscal risks, and simplifying compliance processes. Chilean taxpayers can demonstrate their commitment to tax sustainability through annual certifications granted by independent certifiers or through cooperative compliance agreements established in direct collaboration with the tax authority. These measures foster trust and support effective tax compliance. The characteristics and regulations to achieve any of these two mechanisms are still under work by the Chilean tax authority, however, in any case will follow international standards such as GRI-207, Dow Jones Sustainability Index, among other standards that include or require enterprises to provide information related to taxes.

The reform also establishes a public registry to disclose certified taxpayers and participants in cooperative agreements, further enhancing transparency and accountability.

Additionally, within this new tax sustainability framework introduced by the reform, the tax authority has implemented a voluntary affidavit for Social Tax Responsibility. This affidavit requires taxpayers to disclose their tax strategy, taxation policies, transfer pricing methods, dividend distribution practices, intragroup service policies, and other

relevant measures. It offers a comprehensive view of a taxpayer's approach to compliance and fiscal governance. In parallel, the revised mandatory Form 1913, updated under the OECD's BEPS initiative, incorporates detailed reporting on tax social responsibility, reinforcing transparency and ensuring that businesses actively contribute to national development. This mandatory affidavit has to be reported for the first time by June 2025, regarding the operations of companies in 2024.

The reform also underscores the importance of a comprehensive fiscal risk management strategy in enhancing corporate governance. Such strategies not only help businesses meet their tax obligations but also mitigate financial, regulatory, and reputational risks. While the concept of tax sustainability is not unique to Chile, the country has positioned itself as a leader in the Region in adopting these principles, successfully integrating transparency and collaboration into its tax compliance framework.



## 5.6

### Foreign Investment Statutes

#### 5.6.1 DL 600

The regulatory framework for foreign investment in Chile has been subject to different changes within the last years. In this regard, up to December 31, 2015, the Decree Law No. 600 (DL600) was the main legal body for foreign investments' protection in Chile.

Law No. 20,780 repealed the Foreign Investment Statute regulated by the DL600 as of January 1, 2016. Said statute allowed foreign investors to subscribe investment contracts with the State of Chile ensuring for a certain period a set of rights related with their investment, including tax stability.

The DL600 established a foreign investment regimen that provided access to the official foreign exchange market and offered, among others, the following benefits:

- ▶ Different type of tax stabilities;
- ▶ Nondiscrimination under Articles No. 9 and No. 10 of the DL600;
- ▶ Alternative mechanism of calculating the tax basis in case of capital gains associated to foreign investments in Chile;
- ▶ Access to the formal exchange market; among others.

Notwithstanding this regime was repealed, some of the rights granted by DL600 contacts (including the tax stability for mining taxes) are still claimable. The tax stability protection of many mining companies ended in 2023 according to the public information available, leaving only a few of them under this regime.

### 5.6.2 New Foreign Investment Regime (Law No. 20,848)

The Law No. 20,848 was published in the Official Gazette on June 25, 2015, and regulates investments made by any natural or legal person incorporated overseas, not residing or domiciled in Chile, whose investment is equal to or greater than USD 5M, or the equivalent to said sum in other foreign currencies.

The application of the rights granted to foreign investors by this framework requires for the investment to be made in a Chilean company, granting the investor with the direct or indirect control over, at least, 10% of the company's voting shares or an equivalent percentage in the corporate equity, if it is not a stock-based company or in the assets of the respective entity.

To qualify as a foreign investor and access the rights available under this framework, it is necessary to request a certificate before the Agency for the Promotion of Foreign Investments.

According to the above, the Law provides a list of granted rights to the foreign investors, which can be described as follows:

- ▶ Overseas repatriation, at any time, of the invested capital and net profits once the applicable tax obligations have been fulfilled.
- ▶ Access to the Formal Exchange Market to liquidate currencies that comprise the investment and to acquire the necessary currencies to repatriate the invested capital and net profits.

- ▶ Non-discrimination right, whether directly or indirectly, according to the legal regime that is applicable to local investors.
- ▶ Right to VAT exemption in the import of capital assets, if they comply with certain special requirements and procedures.

It is relevant to consider that these regulations do not set forth the possibility that foreign investments can be granted with a tax stability regime, as was the case of the previous foreign investment regime established by the DL600.

### 5.6.3 Foreign Exchange Regulations of the Central Bank of Chile

Under the provisions of Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile (Chapter XIV), foreign investors may bring capital into Chile under the terms and considerations applicable to foreign loans, deposits, investments, and capital contributions.

For fund inflows from external credits exceeding USD 1 M, it's essential to process them through an entity of the Formal Exchange Market (Mercado Cambiario Formal in Spanish, acronym MCF). In this case, the debtor must report to the Bank, either directly or via an MCF entity. Similarly, for the entry of foreign currency from deposits, investments, and capital contributions, the involved party must provide necessary details for the creation of a sheet, which the MCF entity issues to inform the Bank about the transfer or conversion of the funds.

Additionally, when capital contributions in Chilean pesos from abroad are received, the investment recipient must report the transaction. This reporting requirement specifically applies to capital contributions in Chilean pesos resulting in the foreign investor achieving or maintaining at least a 10% stake in the rights or shares of the recipient entity.

It must be noted that most of the reporting obligations are carried-out by the bank or financial company assisting in the transfer of funds through the MCF.



## 5.7

## Legislation

### 5.7.1 Starting a business in Chile

Foreign investors can do business in Chile as individuals or through entities governed by the corporate and commercial laws. These entities include:

- ▶ Corporations (Sociedad Anónima in Spanish, acronym SA)
- ▶ Limited liability company (Sociedad de Responsabilidad Limitada, in Spanish, acronym SRL)
- ▶ General partnership (Sociedad Colectiva in Spanish)
- ▶ Branch of a foreign corporation (Agencia in Spanish)
- ▶ Association (Asociación or cuentas en participación in Spanish).
- ▶ Limited partnership (Sociedad en comandita in Spanish)
- ▶ Limited liability individual company (Empresa Individual de Responsabilidad Limitada in Spanish, acronym EIRL)
- ▶ Joint stock company (Sociedad por Acciones in Spanish, acronym SpA)
- ▶ Contractual mining partnership (Sociedad Contractual Minera in Spanish, acronym SCM)
- ▶ Legal mining partnership (Sociedad Legal Minera in Spanish, acronym SLM).

Foreign investors generally conduct business activities using the following types of entities.

### 5.7.2 Corporations

Corporations are companies with a legal personality separate from that of its owners, which may be of three types: privately held, publicly traded or special. Corporations are ruled by Law No. 18,046 on corporations (the Corporations Law) and by Decree No. 702 of the Ministry of Finance (2012) on Regulation of Corporations.

Publicly traded and special corporations are subject to more regulation than privately held corporations and are under the supervision of the Financial Markets Commission (Comisión para el Mercado Financiero in Spanish, acronym CMF).

Publicly traded corporations are those that have voluntarily or mandatorily registered their shares in the securities registry kept by the CMF.

The corporations that are obliged to register their shares are those that have one or more of the following attributes:

- ▶ They offer their shares to the public;
- ▶ If for more than 12 consecutive months, the corporation had more than 2,000 shareholders, or the superior number established by the CMF, registered in its shareholder registry;
- ▶ They have 500 or more shareholders; or
- ▶ At least 10% of their subscribed share capital is held by a minimum of 100 shareholders (excluding individual shareholders that directly or indirectly exceed that percentage).

Special corporations are those that, whether they offer their shares to the public or not and regardless of the number of shareholders, are subject to the supervision of the CMF because of the nature of their business activities. Examples of such special corporations include insurance companies and mutual funds, among others.

Privately held corporations are not subject to supervision by the CMF. The following are the main characteristics of a privately held corporation.

#### 5.7.2.1 Number of members

Shareholders are the members or owners of a corporation, which is required to have a minimum of 2 such shareholders.

### 5.7.2.2 Contributions

Contributions made by each shareholder to the corporation are represented by shares, which are freely transferable.

However, the by-laws of a privately held corporation may establish restrictions on the transfer of shares. These restrictions are typically outlined in private agreements between two or more shareholders.

Shareholders' contributions may be in cash or other types of tangible or intangible assets.

Any contributions other than cash must be valued by an expert unless the shareholders unanimously agree upon its value. Contributions may not consist of a shareholder's services or labor.

### 5.7.2.3 Share capital

The by-laws must establish the specific amount of the company's share capital (it may not be variable or imprecise). Chilean laws do not require a minimum share capital for the company to be incorporated, nor is it required to be totally or partially paid before the company begins operations.

However, the original share capital must be fully paid within three years of the incorporation of the company. Otherwise, the share capital is reduced to the amount actually paid.

### 5.7.2.4 Shareholder liability

Shareholders are only liable up to the amount of the contributions committed by each of them to the corporation.

Shareholders are not liable for the corporation's liabilities, with some exceptions, such as those established in Law No. 20,393 on liability of legal entities with respect to the crimes of money laundering, financing of terrorism, and bribery.

### 5.7.2.5 Administration

Corporations are represented, managed and administrated by a board of directors whose members must be appointed by the shareholders in the first board meeting (interim directors may be appointed in the by-laws at the time of incorporation). The Corporations Law grants the board of directors the

administrative authority necessary to manage the company's business. The only limitations are those outlined in the company's by-laws, which are drawn up by the shareholders.

The board of directors is required to act through meetings conducted in accordance with the Corporations Act. However, the board may delegate some of its authority to senior executives, managers or lawyers of the company, to one or more directors and, in the case of specific purposes, to others. The number of board members depends on the by-laws. Nonetheless, a privately held corporation must have a minimum of three board members.

The by-laws must establish the term that the directors serve, which may not be longer than three years, after which the whole board must be reelected. Board members can be reelected indefinitely.

However, board members can be removed at any time by the shareholders (the only restriction is that the whole board be removed, not just certain directors).

Board members may or may not be compensated for their duties, depending on the by-laws. The amount of the compensation must be decided annually at the ordinary shareholders' meeting.

### 5.7.2.6 Incorporation

Corporations are incorporated by means of a public deed signed by the original shareholders before a notary public.

The deed must contain the by-laws. An authorized abstract of the deed must be registered in the Registry of Commerce where the company is domiciled and published in the Official Gazette within 60 days of signing the deed.

### 5.7.2.7 Amendment of the company's by-laws

Any amendment to the company's by-laws must be approved by a special shareholders' meeting held before a notary public. The minutes of this meeting must be transcribed into a public deed and an authorized abstract must be registered in the Registry of Commerce and published in the Official Gazette within 60 days.



#### 5.7.2.8 Dissolution and liquidation

A privately held corporation is dissolved by:

- ▶ Expiration of the term of the company, if the by-laws consider any,
- ▶ The possession of all the company shares by one shareholder for more than 10 days,
- ▶ An agreement at a special shareholders meeting,
- ▶ A court judgment, if it is requested by shareholders representing at least 20% of the company share capital; the shareholders must prove the existence of a “serious cause” for dissolving the company; this could be a violation of the law that causes damage to the company or its shareholders, bankruptcy of the company or fraudulent administration,
- ▶ Other causes established in the by-laws.

A dissolved corporation subsists as a legal entity during its liquidation, but only for the purpose of conducting the liquidation, with all its by-laws remaining in force. The words “in liquidation” (“en liquidación” in Spanish) must be added to the company’s name during this period and the entity is managed by a liquidation committee or by a sole person acting as the liquidator.

#### 5.7.3 Joint stock companies

Stock corporations are legal entities distinct from their owners. SpAs are ruled by Articles No. 424 to No. 446 of the Code of Commerce and by their own by-laws. On all matters not expressly regulated by those, SpA are governed by the rules applicable to privately held corporations.

The advantage of a SpA is that it offers great flexibility in the determination of its corporate structure, since it is primarily ruled by its by-laws, which can be tailored to meet the specific needs of their owners. Additionally, SpAs are the only legal entities in Chile that may be incorporated and exist with a single shareholder.

The following are the main characteristics of a SpA.

##### 5.7.3.1 Members

Members or owners of a SpA are known as shareholders. A SpA can be formed and exist with just one shareholder or more. However, if for more than 12 consecutive months, the SpA complies with the conditions that oblige a privately held corporation to register its shares in the security registry of the CMF, it automatically becomes a public corporation.

### 5.7.3.2 Contributions and share capital

Contributions made by each shareholder to the SpA are represented by shares, which are freely transferable. However, the by-laws may establish restrictions on the transfer of shares. The SpA's by-laws may establish a maximum or minimum amount or percentage of the share capital that may be directly or indirectly controlled by one or more shareholders.

Shareholder contributions follow the same provisions as a privately held corporation unless the SpA's by-laws state otherwise.

As with corporations, the by-laws must establish the specific amount of the company's share capital (it may not be variable or imprecise), a minimum share capital is not required for the company to be incorporated, nor is it required to be totally or partially paid before the company begins its operations.

Nevertheless, it must be fully paid within 5 years, or the lesser time frame established in the by-laws, or the share capital will be reduced to the amount actually paid.

### 5.7.3.3 Shareholder liability

Shareholders' liability is limited to the extent of their individual contributions to a SpA. Beyond this, they are not responsible for the liabilities of the SpA, except in certain cases. Notable exceptions include those outlined in Law No. 20,393, which pertains to the liability of legal entities in cases of money laundering, financing of terrorism, and bribery.

### 5.7.3.4 Administration

Owners of a SpA have the liberty to select the company's administrative structure. For instance, the administration may correspond to one or more managers, with or without a board of directors, with simultaneous or subsidiary administrators or managers. The only requirement is that the administration system must be established in the company's by-laws. Otherwise, the company by default has the same administration as a privately held corporation.

### 5.7.3.5 Incorporation

SpA's may be incorporated in either of the following ways:

- ▶ Through a public deed agreed upon by the original shareholders before a notary public, which must contain the by-laws of the company; or
- ▶ Through a private document agreed upon by the original shareholders, whose signatures be authorized by a notary public.

This private document must contain the company's by-laws and be registered in the public record of the same notary public that authorized the signatures of the original shareholders.

Within 60 days following the date of the public deed or of the registration of the private deed in the notary's public record, as applicable, an authorized abstract must be recorded in the Registry of Commerce corresponding to the company's domicile and published in the Official Gazette.

### 5.7.3.6 Amendment of the company's by-laws

Any amendment to the SpA's by-laws must be approved at a shareholder's meeting. The minute of this meeting must be reduced into a public deed or registered in a notary's public record. However, if all the shareholders unanimously agree on the amendment, a formal meeting is not necessary. In such cases, the agreement can be documented either in a public deed or a private document, with all shareholders' signatures authorized by a notary public and registered in the notary's public record.

An authorized abstract of the deed or document with the amendment must be registered in the Registry of Commerce and published in the Official Gazette within 60 days following the date of the public deed or of the registration of the private deed in the notary public's record.

### 5.7.3.7 Dissolution and liquidation of a SpA

The same rules for the dissolution and liquidation of a privately held corporation apply to the SpA, unless the by-laws state something different. The only exception is that SpAs are not dissolved when all of their shares are held by one shareholder, unless otherwise is established by the by-laws.

As for the liquidation of the company, the shareholders are free to rule in the by-laws the system of liquidation they deem appropriate.

#### **5.7.4 Limited liability companies**

Limited liability companies or SRLs are companies with a legal personality separate from that of its owners, and they are regulated by Law No. 3,918 and by some provisions in the Code of Commerce and the Civil Code.

##### *5.7.4.1 Number of members*

Members of a SRL are known as partners. An SRL must have a minimum of 2 partners and can have up to a maximum of 50.

##### *5.7.4.2 Equity capital and contributions*

Partners' contributions may be in cash, assets or services. Contributions other than cash must be valued and agreed upon unanimously by the partners.

A partner's ownership is represented by equity rights, which may only be transferred through an amendment of the company's by-laws and approved by the totality of the partners.

##### *5.7.4.3 Partners' liability*

Partners are only liable up to the amount of the contributions committed by each of them to the SRL. In this respect, the general principle is that partners are not liable for the company's liabilities, with some exceptions such as the ones established in Law No. 20,393 on liability of legal entities with respect to the crimes of money laundering, financing of terrorism and bribery.

##### *5.7.4.4 Transfer of equity rights*

The partners' ownership in an SRL is represented by equity rights or interests equivalent to percentages of the company's equity capital. These rights are not freely transferable by each partner, since these may only be transferred through an amendment of the company's by-laws, which requires the unanimous consent of the company's partners.

##### *5.7.4.5 Administration*

The partners may freely choose how the administration is organized. For instance, the company's administration could be given to one or more managers (who could be partners or third parties, individuals or legal entities) or to a board of directors. The only requirement is that the system of administration be established in the company's by-laws.

Except for some specific activities, the manager or administrative body will only have the specific authority granted by the by-laws. The manager or administrative body may delegate its power to act on behalf of the company to one or more attorneys.

##### *5.7.4.6 Incorporation*

SRL's are incorporated by means of a public deed agreed upon by the original partners before a notary public, which must contain the by-laws of the company.

Within the 60 days following the date of the public deed, an authorized abstract of this public deed must be recorded in the Registry of Commerce corresponding to the company's domicile and published in the official gazette.

##### *5.7.4.7 Amendment of the company's by-laws*

Any amendment to an SRL's by-laws shall be made by means of a public deed executed by all the company's partners. An abstract must be registered in the Registry of Commerce and published in the official gazette within 60 days of the date of the public deed.

##### *5.7.4.8 Dissolution and liquidation of an SRL*

An SRL is dissolved by the following events:

- Expiration of the term of the company
- Conclusion of the business for which the company was incorporated
- Declaration of bankruptcy
- Agreement of all the company's partners
- Possession of all the company's rights in one person
- Any other event established in the company's by-laws

A dissolved SRL subsists as a legal entity during its liquidation, but only for the purpose of conducting the liquidation. During this period all the applicable provisions of the by-laws remain in force.

### 5.7.5 Branches of foreign corporations

The incorporation of a Chilean branch of a foreign corporation is regulated by the Corporations Law, whereas the incorporation of a Chilean branch of a foreign company or legal entity, different than a corporation, is regulated by the Code of Commerce. Both statutes establish very similar rules.

When considering whether to incorporate a branch, it must be noted that unlike companies (such as a corporation, an SRL or a SpA, branches of foreign companies are not considered a different entity from the foreign company that owns the relevant branch. Therefore, the foreign entity is fully responsible for all the acts performed by its Chilean branch; it may not contract with the branch, and the branch may not be merged, spun-off, etc.

#### 5.7.5.1 Establishment of a branch

According to the branch regulations, in order for a foreign company or legal entity (the "parent company") to establish a branch in Chile, its agent or representative (the "agent") must register in the public record kept by a notary of the same domicile that the branch will have in Chile, both in Spanish and in the official language of the country of the parent company, the following legalized documents:

- ▶ Articles of association of the parent company, together with a certificate of good standing
- ▶ Authorized copy of the updated bylaws of the parent company
- ▶ General power of attorney granted by the parent company to the agent, where the agent legal capacity is evidenced, and it is clearly and precisely stated that the agent works in Chile under the direct responsibility of the parent company.
- ▶ Also, through public deed granted on the same date and before the same notary that registered the above documents in their public record, the agent should declare on behalf of the parent company, the following:

- ▶ The name and business purpose of the branch
- ▶ That the parent company knows the Chilean legislation and regulation that will apply to it and to its branch, actions, agreements and obligations
- ▶ That the parent company's assets will be subject to Chilean Laws to fulfill the obligations for which it is liable in Chile
- ▶ That the parent company assumes the obligation of keeping in Chile assets that can be easily converted into cash, to fulfill the obligations for which it is liable in Chile
- ▶ The amount of capital that it will keep in Chile for the development of its business purpose, and the date and way in which this capital will be contributed to the branch
- ▶ The branch's domicile in Chile

Within the following 60 days, an authorized abstract of both the parent company's documents that were registered in the notary's public record and the referred public deed, shall be registered in the Registry of Commerce of the branch's domicile and published in the official gazette.

To amend any of the above documents or statements, the agent will have to follow the same steps previously described.

#### 5.7.5.2 Administration

The branch is managed by the agent. Such agent is obliged to publish the annual financial statements of the branch in a newspaper of the branch's domicile, within four months of its financial year-end.



## 5.8

### Special legal vehicles for mining

For the exploration or exploitation of mineral resources, the parties may establish companies and legal entities of those treated and regulated in other codes or special Laws, as the ones mentioned before, or they may also constitute mining companies as referred to in the Mining Code (Law No. 18,248 of 1983), which are divided into:

- ▶ Legal mining partnerships (Sociedad Legal Minera in Spanish, acronym SLM): created not by the agreement of the parties but when specific factual circumstances are met
- ▶ Contractual mining partnerships (Sociedad Contractual Minera in Spanish, acronym SCM): created by the agreement of those who incorporate the partnership.

#### 5.8.2 Legal mining partnership

An SLM is a legal vehicle conceived to grant legal personality to mining rights -exploration or exploitation concessions- registered by more than one person. The SLM is created by its enrollment in the Public Mine Register, following the inscription of the Public Mine Register (Conservador de Minas in Spanish).

The company's equity corresponds to the mining rights registered under its name (although it can be increased later on).

The capital is divided into 100 shares, allocated in the proportion in which the mining rights are held. These shares can be freely traded. The partners are liable for the amount of their corresponding contribution. It is administrated by a partnership board (Junta de Socios in Spanish) and an administrator.

#### 5.8.3 Contractual mining partnership

If the parties do not register their mining rights together, they can form an SCM. In such a case, they must also comply with some formalities, such as a public deed, whose abstract must be registered in the Public Mine Register. Their capital is divided into shares.

Regarding third parties, partners are liable to the amount of their corresponding contribution, but they will respond with their own assets for the contributions they agreed upon in the by-laws. Administration is freely determined by the partners, and it is usually organized as a corporation. The rules of the legal mining partnership shall apply to those matters not covered by the by-laws.



## 5.9

### Joint ventures

Chilean Law does not categorize joint ventures. They are equivalent to de facto associations of individuals or entities.



## 5.10

### 5.9 Structures most often used by foreign investors

The structures most often used by foreign investors include corporations, wholly owned joint stock companies and limited liability companies.

A branch is generally not used because a foreign company remains liable for the debts of its Chilean branch.



# 5.11

## Customs Duties

### 5.11.1 Valuation and rates

Imported goods are subject to customs duties, expressed as percentages of their cost insurance freight (CIF) value, or to ad valorem customs taxes. Specific duties expressed in US dollars per unit of weight or measures are levied on certain goods.

The general rate of customs duties is 6%. However, given the number of commercial agreements currently in force (with more than 60 nations) the effective custom rate is under 1%.

The payment of customs duties may be deferred up to seven years on imported capital goods intended to produce export goods, if the importer signs a promissory note that guarantees payment of the customs duties. In addition, some capital goods are also exempted from customs duties.

Since the entry into force of the Law N°21,713 in November 2024, the exemption from the 19% of VAT for imports of goods valued below USD 41 was eliminated. Consequently, all imports into Chile valued up to USD 500 will be subject to a 19% VAT calculated over the FOB value of the goods. Likewise, importations valued over USD 500 will be subject to a 6% customs tariff calculated over the FOB value of the imported products, and a 19% VAT calculated over the FOB value plus the relevant customs duty.

### 5.11.2 Free-trade zones

Chile has free-trade zones, which provide certain benefits as described below.

Since 1975, free-trade zones have been set up and operate in the north and south of the country (Iquique and Punta Arenas, respectively).

While imported merchandise remains in the free-trade zones, no VAT or customs duties are applicable. Free-trade zones can be used for different purposes such as storage, sampling or exhibition, packing, sales, manufacturing and assembling.

Sales and services provided in free-trade zones are exempt from VAT and profits are exempt from the CIT. There is no reduction or exemption for the case of the final taxes. Some of the free-trade zone benefits have been extended to the cities of Arica and Tocopilla, in the north of Chile.

### 5.11.3 Temporary admission and bonded warehouses

Temporary admission of certain goods, including foreign vehicles, machines, containers and cinema and television films, is allowed subject to terms and conditions determined by the customs authorities. A guarantee for the corresponding customs duties is normally required.

Foreign goods may be stored in bonded warehouses without paying customs duties until their formal import. The customs authorities control the bonded warehouses and may also designate a national factory or an industrial establishment as a bonded warehouse for raw materials and components for manufacturing.

### 5.11.4 International trade agreements

The main agreements executed by the Chilean State in order to gain access to international markets are the following:

- ▶ Andean Community (Comunidad Andina or CAN in Spanish): Chile benefits from the free-trade zone established by this agreement for its member countries (Bolivia, Peru, Colombia and Ecuador).
- ▶ Chile is a member of the Latin American Integration Association (Asociación Latinoamericana de Integración or ALADI in Spanish), which promotes the economic and social development of the region with a view toward establishing a Latin American common market. The ALADI has preferential regional tariffs, regional agreements and agreements between particular member countries. Other members of the ALADI include Argentina, Bolivia, Brazil, Colombia, Ecuador, México, Paraguay, Peru, Uruguay and Venezuela.
- ▶ The European Free Trade Association (EFTA): In 2004, Chile signed a free-trade agreement (FTA) with this association constituted by Norway, Switzerland, Lichtenstein and Iceland.
- ▶ In 1976, Chile withdrew from the Cartagena Agreement (Andean Pact), but it continues to comply with certain decisions of the pact.
- ▶ Chile is a member of the General Agreement on Tariffs and Trade (GATT) and the Asia Pacific Economy Cooperative (APEC).
- ▶ Chile is associated with the Common Market of the South (Mercado Común del Sur or Mercosur in Spanish).
- ▶ Chile has subscribed an association agreement with the European Union. Also, as of January 1st, 2021, there is an association agreement with the United Kingdom.

The purpose of this convention is to obtain benefits from the financial environment, which, in general terms, translates in placing 90% of Chilean exports to the European market at zero rates in eight years at the utmost. In addition to progressively opening the country's economic relations by means of a free-trade zone for industrial and agricultural products, an investment agreement, competition rules, industrial property, etc.

- ▶ Chile has an association agreement as part of P4 group, formed by New Zealand, Singapore and Brunei Darussalam.
- ▶ Chile signed an FTA with South Korea in 2003 by eliminating customs duties on vehicles, television sets, cellular phones, computers manufactured in South Korea. Likewise, the tariffs affecting parts and spare parts of vehicles will also be eliminated within five years.
- ▶ Chile signed an FTA with the US in January 2004, allowing for 87% of the national products to reach that country at zero rates.
- ▶ An FTA was signed with China in 2005, with 1-, 5- and 10-year terms to eliminate custom tariffs on many products that this country exports to Chile. Also, many Chilean exports to China have terms of 1, 2, 5 and 10 years to eliminate tariffs.
- ▶ An FTA was subscribed with Japan in 2007 that eliminated 90% of tariffs of bilateral commerce between both nations.

Chile also has FTAs with the following places: Hong Kong, Vietnam, Malaysia, Turkey, Australia, Panama, Japan, China, Canada, Mexico, South Korea, Central America (Costa Rica, Salvador, Guatemala, Honduras, Nicaragua), Peru, Colombia, Argentina, Uruguay and Brazil.

### 5.11.5 Price agreements between related parties

Law No. 21,713 introduced the option for related parties in international sales of products to enter into price agreements prior to importation, to justify that the transaction value is aligned with the market value for the relevant goods. These agreements must be jointly approved by the SII and the Customs National Service.



# Accounting standards

PHOTO: CODELCO

## 6.1

### IFRS standards in Chile

The adoption of IFRS in Chile is a fact for all process that began in 2009 and ended in 2015 with smaller companies. The main challenges post its implementation are given by the permanent need to reconcile the requirements of the local regulator – CMF – meant for the local reality, with the definitions of the International Accounting Standards Board (IASB).

## 6.2

### IFRS for mining entities

Although the following is not a comprehensive list of the issues in mining entities, it should contribute to the understanding of the main accounting topics impacting the financial statements of the mining entities.

#### Significant accounting judgements, estimates and assumptions

The preparation of consolidated financial statements under IFRS in the industry mining requires management to make judgements, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities. Estimates and assumptions are continually evaluated and are based on management's experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. Uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of assets or liabilities affected in future periods.



PHOTO: TECK


In this sense, a number of areas can be identified areas where significant judgements, estimates and assumptions are required, highlighting:

*Judgements:*

- ▶ Exploration and evaluation expenditure (IFRS 6, IAS 8, IAS 16, IAS 38)
- ▶ Stripping costs (IFRIC 20)
- ▶ Production start date (IAS 16, IFRIC 20, IAS 23)
- ▶ Recovery of deferred tax assets (IAS 12, IAS 37, IFRIC 23)
- ▶ Uncertain tax positions (IFRIC 23)
- ▶ Functional currency (IAS 21)
- ▶ Revenue recognition (IFRS 15)
- ▶ Leases (IFRS 16, IAS 23)

*Estimates and assumptions:*

- ▶ Ore reserve and mineral resource estimates (best practices)
- ▶ Exploration and evaluation expenditure (IFRS 6, IAS 8, IAS 16, IAS 38)
- ▶ Unit-of-production ("UOP") depreciation (IFRS 6, IAS 16)
- ▶ Mine rehabilitation (IAS 37, IFRIC 1)
- ▶ Recoverability of assets (IAS 36)
- ▶ Inventories (IAS 2)
- ▶ Fair value measurement (IFRS 13)
- ▶ Leases (IFRS 16, IAS 23)



## 6.3

### Exploration and evaluation

Under the IFRS framework, there exists a range of permissible accounting practices. Certain entities choose to capitalize costs associated with exploration and evaluation, subsequently conducting impairment tests in line with the stipulations of IFRS 6 and IAS 36 "Impairment of Assets". Conversely, some entities opt to recognize these costs as expenses at the time they are incurred. This approach is thoroughly examined in IFRS 6 "Exploration and Evaluation of Mineral Resources."

There is diversity in acceptable accounting treatments. Some entities capitalize exploration and evaluation costs (consequently testing for impairment in agreement with the requirements of IFRS 6 and IAS 36 "Impairment of assets"), while others record them as expenses when incurred. This concept is evaluated in detail in IFRS 6: "exploration and evaluation of mineral resources".

For this purposes, E&E expenditures are defined as "expenditures incurred by an entity in connection with the exploration for and evaluation of mineral resources, before the technical feasibility and commercial viability of extracting a mineral resource are demonstrable". Meanwhile, E&E assets are understood as "exploration and evaluation expenditures recognized as assets in accordance with the entity's accounting policy".

## 6.4

### Stripping costs

The interpretation of the IFRIC 20 addresses the "Accounting for Waste Removal Costs". According to this:

- ▶ Costs incurred in undertaking stripping activities are considered to create two possible benefits: the production of inventory in the current period, and/or improved access to ore to be mined in a future period.
- ▶ Production stripping costs are to be capitalized as part of an asset, if an entity can demonstrate that economic benefits will be realized in a probable future, the costs can be reliably measured, and the entity can identify the component of an ore body for which access has been improved. The asset is called the "stripping activity asset."
- ▶ After initial recognition, the stripping activity asset must be carried at its cost or revalued amount less depreciation or amortization and less impairment losses, in the same way as the existing asset of which it is a part. The stripping activity asset is to be depreciated or amortized on a systematic basis, over the expected useful life of the identified component of the ore body that becomes more accessible as a result of the stripping activity.

## 6.5

### Impairment of assets

- ▶ It is performed at the cash generating unit (CGU) level.
- ▶ IFRS contains specific rules for the calculation of the value in use related to key assumptions such as prices, discount rate, exchange rates and capital expenditures.
- ▶ IFRS requires the reversal of impairment losses recorded in prior years for assets subject to depreciation and amortization.
- ▶ IFRS requires the performance of an annual impairment test for assets not subject to depreciation and amortization (for example, goodwill), independently of the existence or not of impairment indicators.

## 6.6

### Depreciation of property, plant and equipment

- ▶ Assets must be depreciated using components approach over the estimated technical useful life of the mine.
- ▶ There are potential risks in connection with the accounting treatment of major maintenances.
- ▶ Companies need to consider the use of the units of production method to depreciate or amortize their assets, instead of using the straight-line method.
- ▶ IFRS requires the estimation of the residual value of the fixed asset in order to determine the depreciable amount

## 6.7

### Functional currency

Many companies keep their accounting records in the local currency and not in the functional currency.

IAS 21 requires an entity to consider the following factors in determining its functional currency: a) the currency that mainly influences sales prices for goods and services; b) the currency of the country whose competitive forces and regulations mainly determine the sales prices of its goods and services and c) the currency that mainly influences labor, material and other costs of providing goods or services.

If the above factors are inconclusive, then an entity should also consider the following secondary factors: i) currency in which funds from financing activities; ii) currency in which receipts from operating activities are usually retained and iii) functional currency of the reporting entity that has the foreign operation as its subsidiary, branch, associate or joint venture.

## 6.8

### Joint ventures

Normally, joint venture agreements contain clauses that grant options to increase or decrease participation, which can have a significant accounting impact.

PHOTO: AMSA



## 6.9

### Decommissioning liabilities

- ▶ IFRS requires measuring the obligation using future cash flows, discounted at a risk-free rate. There is not a single approach to select the rate.
- ▶ Future cash flows and the discount rate must be reviewed, if the changes are significant.
- ▶ If cash flows are stated in foreign currency, the obligation must be translated at the year-end exchange rate. This is accounted for as a change in estimates according to IFRIC 1
- ▶ IAS 37 contains requirements on how to measure decommissioning, restoration, and similar liabilities.
- ▶ According to IAS 16, the cost of an item of property, plant and equipment shall include the initial estimate of the costs of decommissioning and removal of the item and the restoration of the site where it is located for purposes other than the production of inventories.
- ▶ An entity should apply IAS 2 “to the costs of obligations for dismantling, removing and restoring the site on which an item is located that are incurred during a particular period as a consequence of having used the item to produce inventories during that period”.

That means that such additional decommissioning or restoration costs resulting from production activities should be included in the cost of inventories. An entity that incurs abnormal amounts of costs (e.g., costs of remediation of soil contamination from oil spills or overflowing of a tailings pond) should not treat these as part of the cost of inventories under IAS 2, but expense them immediately.

## 6.10

### Financing costs

- ▶ IFRS requires an entity to capitalize borrowing costs that are directly attributable to the acquisition, construction, or production of a qualifying asset as part of the cost of that asset. An entity shall recognize other borrowing costs as an expense in the period in which it incurs them.
- ▶ There may be difficulties in determining the borrowing costs to be capitalized, specifically the exchange difference that is regarded as an adjustment to interest costs.

## 6.11

### Inventories

The standard's basic rule is that inventories are measured at the lower of cost and net realizable value.

Net realizable value tests are performed at each reporting date and represent the estimated future sales price of the product the entity expects to realize when the product is processed and sold, less estimated costs to complete production and bring the product to sale.

Critical spare parts are to be classified as property, plant and equipment and not as inventories. These items are subject to depreciation.

## 6.12

### International Financial Reporting Standards related to Sustainability and Climate: IFRS S1 and IFRS S2.

The purpose of the International Sustainability Standards Board (ISSB) is to improve the efficiency and effectiveness of the capital markets through financial sustainability disclosure, for greater transparency in decision-making by investors and other providers of capital and, secondly, to improve the comparability of information.

This seeks to create a global basis, or in other words, a common language, for organizations to provide investors and capital market participants with complete, neutral and accurate financial sustainability information.

In this context, entities are required to disclose the risks and opportunities related to sustainability and climate change that affect their short, medium and long term projections.

#### **IFRS S1: General requirements for disclosure of sustainability-related financial information**

The S1 standard requires the disclosure of material information on risks and opportunities related to sustainability, on par with the financial statements reported by the organizations; in accordance with the definition of materiality established by IFRS accounting standards.

Its structure is based on the four pillars of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) recommendations: Governance, strategy, risk management, metrics and targets.

Includes reference to Sustainability Accounting Standards Board (SASB) standards as an important tool for disclosing information about your sector and industry.

If organizations determine that climate change is a material risk or opportunity, IFRS S2 should be implemented.

#### **IFRS S2: Climate-related disclosures**

The S2 standard requires disclosure of material information on climate-related risks and opportunities, including physical and transitional risks.

Also includes TCFD recommendations and illustrative guidelines for disclosing industry risks and opportunities based on SASB.

Reporting companies shall disclose their transition plans, climate resilience and emissions disclosure 1, 2 and 3.

The main problem in the implementation of IFRS S1-S2 for companies is to be able to recognize, incorporate and adequately manage sustainability and climate change as part of the strategy and business model. This would mean adjusting and rethinking the mission, vision, strategy and existence of the organization over time.

Notwithstanding the above, mechanisms are proposed to facilitate its application, through the use of known terminology and concepts, publication of application and illustrative guides associated with the standards, inclusion of proportionality mechanisms, among others.

Regarding the application of IFRS S1-S2 in Chile, there are two relevant questions to be answered:

1. How mandatory is the application of IFRS S1-S2 in Chile? There is no obligation to date, however, they are a reference guide for those companies that decide to incorporate these concepts in their financial reports.
2. Is there any obligation to report sustainability issues in Chile? The CMF's NCG 461 requires public companies to incorporate sustainability issues in their annual reports.

This standard incorporates the requirements of the TCFD and requires reporting the metrics that correspond to the entity, according to its industry sector, in accordance with the SASB standard; and, considering that IFRS S1-S2 integrate all previously existing requirements, NCG 461 is consistent with the standards indicated.

In October 2024, the CMF modified NCG461, now NCG519, aligning with IFRS S1 and S2. These standards will be required for regulated entities starting with the 2026 fiscal year, which will be published in 2027.



## 6.13

### New Standard for Mining

With the goal of fostering a shared vision for a more responsible society and promoting the continuous improvement of environmental, social, and governance (ESG) practices across the metals and minerals value chain—including production, sourcing, and responsible recycling—several major organizations have joined forces: the International Council on Mining & Metals (ICMM), The Copper Mark, the World Gold Council, and The Mining Association of Canada. Together, they have created the Consolidated Mining Standard Initiative (CMSI).

This initiative aims to simplify the landscape of existing standards and establish clear ESG performance expectations for all producers, regardless of their size, product, or location. In its first phase, starting in 2026, the standard is expected to be implemented by 100 mining companies, covering 600 operations in 60 countries, making it the most widely adopted standard globally.



# Mining sector regulators and stakeholders

PHOTO: AMSA

## Regulators

### Ministry of Mining

[www.minmineria.gob.cl](http://www.minmineria.gob.cl)

The Ministry of Mining leads, formulates and assesses national policies in order to increase the mining sector's contribution to national development, by diversifying and making mining activities sustainable and efficient.

### Ministry of Environment

[www.mma.gob.cl](http://www.mma.gob.cl)

The Ministry of Environment carries out the following responsibilities:

- ▶ Designs and implements policies, plans and programs related to environmental matters
- ▶ Protects and preserves biodiversity, natural resources and water
- ▶ Promotes sustainable development and the integrity of environmental policies and regulation
- ▶ Oversees environmental evaluation system and environmental watchdog

### Ministry of Energy

<https://energia.gob.cl>

The Ministry of Energy designs and coordinates plans, policies and regulations for the proper functioning and development of the sector, advising the government on all matters related to energy.

### National Geology and Mining Service - Sernageomin

<https://www.sernageomin.cl/>

Sernageomin provides geological information and technical assistance to government, public and private interests; its principal duties are to:

- ▶ Maintain the registry of mining concessions
- ▶ Monitor compliance with safety regulations
- ▶ Evaluate and approve the construction and operation of waste dumps and tailings facilities
- ▶ Approve mine closure plans
- ▶ Maintain registry of tailings deposits
- ▶ Contribute to government programs and the development of mining and geology policies

### Chilean copper commission - Cochilco

<https://www.cochilco.cl>

The duties of this specialized technical agency for the Chilean Government are to:

- ▶ Publish statistics on mineral production, projects and investment
- ▶ Conduct research and produces reports and studies on the mining industry
- ▶ Advise on the production of copper and copper byproducts, and metals and industrial minerals (except coal and fuels).

### Environmental Evaluation Service - SEA

<https://www.sea.gob.cl/>

SEA performs the following duties for the Chilean government:

- ▶ Evaluates the environmental impact of projects
- ▶ Manages civil participation in the evaluation of projects
- ▶ Responds to civil observations and complaints

### Superintendency of the Environment - SMA

<https://portal.sma.gob.cl/>

The SMA performs the following activities:

- ▶ Supervises compliance with environmental regulations (land, air and water)
- ▶ Issues fines for noncompliance

### Financial Market Commission (CMF)

<https://www.cmfchile.cl/>

The Financial Market Commission (CMF) is a public institution of a technical nature. Its main objectives include safeguarding the correct functioning, development, and stability of the financial market, facilitating the participation of market agents, and promoting the protection of public trust.

The CMF is responsible for ensuring that supervised persons or entities comply with laws, regulations, bylaws, and other provisions that govern them from their inception to their winding-up. To this end, it may exercise the broadest supervision over all their operations.

## Internal Revenue Service - SII

[www.sii.cl](http://www.sii.cl)

SII is the public entity in charge of tax collection, and in charge of supervising and auditing the correct application of the tax regulations, as well as providing the administrative interpretation of all tax-related laws.

## Stakeholders

[www.investchile.gob.cl](http://www.investchile.gob.cl)

The government agency responsible for promoting Chile in the global market as a destination for foreign direct investment, serving as a bridge between the interests of overseas investors and the business opportunities the country offers.

## National Mining Society - SONAMI

[www.sonami.cl](http://www.sonami.cl)

SONAMI represents metallic and nonmetallic small, medium-and large-scale mining activities in Chile.

## Mining Council

[www.consejominero.cl](http://www.consejominero.cl)

The Mining Council represents an association of the largest mining companies operating in Chile, including national and foreign companies, both private and state owned.

## Center for copper and mining studies - Cesco

[www.cesco.cl](http://www.cesco.cl)

Cesco is an independent nonprofit think tank that contributes to public policies to promote mining and its role in economic development, particularly in Chile.

## Mining Commission

[www.comisionminera.cl](http://www.comisionminera.cl)

The Mining Commission has been involved in the following activities:

- Creation of a standard for public reporting of mineral resources and reserves in Chile
- Implementation of the concept of the competent persons and the requirements for the qualification
- Regulation and management of the registry of competent persons

## Mining competencies council

[www.ccm.cl](http://www.ccm.cl)

This entity provides information on projected human capital requirements in the mining sector in Chile. It also draws up technical profiles, training programs and certification system.

PHOTO: TECK





# Why EY in Mining & Metals

PHOTO: CODELCO

At EY, our purpose is Building a better working world. The insights and quality services we provide help build trust and confidence in the capital markets and in economies the world over. We envelop

outstanding leaders who team to deliver on our promises to all our stakeholders. We live in an era of transformation. Rapidly advancing technology, globalization, the rise of emerging markets, and changing demographics are transforming business and society faster than ever. Traditional business models are changing, industries are converging, the workforce is in transition, and the global economy is becoming increasingly complex. Disruption is the new normal, and companies are disrupting or being disrupted.

Through one stop shop approach (Assurance, Consulting, Strategy and Transactions, Tax) and our deep knowledge of the sector, we help our clients capitalize on new opportunities and assess and

manage risk to achieve responsible growth. Our high-performing, multidisciplinary teams help them meet regulatory requirements, keep investors informed, and meet stakeholder needs.

## Why EY?

Because we are a global trusted partner to support you at every stage or challenge of your business. Our industry experience, global integration and one stop shop approach allows us to access the right people and resources, make quick decisions, execute the strategy, and deliver exceptional service to our customers.

We create long-term value for people, customers and society, helping them to protect, grow, transform and operate in a more effective way.

## Our clients have access to:

### Industry experience

Our expertise in the mining industry, local and international resources and comprehensive vision of the business, allows us to deeply understand the ecosystem, our customers and their specific needs. This in turn helps us to identify opportunities, new developments, possible threats and create value quickly.

### Innovation and technology

We help businesses constantly thrive and renew, experiment with new ideas, seize opportunities, and mitigate the risks that transformation creates. Our proprietary methodologies, platforms and approaches allow us to bring insights and respond quickly to different challenges.

### Global integration

Working together globally allows us to offer our clients access to networks and communities, world class resources, connect with expert teams around the world and bring broad knowledge, insights, experiences, trends and new approaches in real time.

### Comprehensive advisor

A unique one stop shop advisor for all assurance, legal, tax, labor, financial, technology, operations and strategic aspects of your business. We help you solve the challenges and requirements of management and those of the board.



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We are the bridge between your interests and the business opportunities our country offers, providing individually **focused assistance & free-of-charge specialized services** at every stage of your investment project, facilitating your landing and expansion.