Chile

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I. Overview

A. General Introduction to the Political, Economic, Social and Legal Environment of the Country Receiving Investment

Chile is a constitutional Republic and, as such, its Constitution envisages certain principles and rules that seek to establish the foundations for its economic system, which are collectively known as "Economic Public Order". Many of such principles and rules are based on the respect for individual liberties and private initiative as the primary driving forces of economic activities. Besides the political constitution, the regulatory framework for foreign investment in Chile is mainly found in two legal bodies: the framework law for Direct Foreign Investment in Chile ("Law No.20848 / (2016)" or "DFI Law"), and; Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile. Additionally, Chile has executed Agreements on Reciprocal Promotion and Protection of Investments ("APPIs", also known as Bilateral Investment Treaties or "BITs").

With regards to the political environment, Chile is a Republic based on a parliamentary democracy, in which the president is endowed with extensive powers. A new president was recently elected and has started its government this march 2018. It is well known that the president elected is close to both national and foreign investors and it is expected that his government will be effective in convincing investors to carry out their projects. With this, it is likely to ensure growth of more than 3.5% in our country, which is the upper limit of the projections of the Central Bank of Chile. Besides the President, Chile has a bicameral legislature. The Parliament or the National Congress consists of a Senate with its members elected by popular vote to serve eight-year terms, and the Chamber of Deputies with its members elected by popular vote to serve four-year.

Chile offers a stable economic environment, with excellent growth prospects. According to Forbes statistics[①] Chile ranks No. 33 as the best countries for business in the world, leading as the best country in Latin America for business. Forbes defines Chilean economy as a "market-oriented economy characterized by a high level of foreign trade and a reputation for strong financial institutions and sound policy that have given it the strongest sovereign bond rating in South America."

According to the "World Bank", Chile is Latin America's second wealthiest country in assets, rather than Gross domestic Product (GDP). According to the report "The Changing Wealth of Nations 2018", Chile's per capita wealth consisted of US$237,713 in 2014, this last, positioning us in second place, just after Uruguay. Chile's wealth consists mainly in human capital, followed by natural capital and at last produced capital. [②]

In the recent years, the social environment has been influenced by issues such the educational system reform regarding its gratuity and quality, and a strong economic inequality among Chileans. Despite that, Chile is known for its transparency (dislike the majority of Latin American countries), which is reflected in international rankings that highlight the low level of corruption in the country and, particularly, its finances, due to government efforts to raise standards in administration of the State. Chile has promoted an active policy of bilateral, regional and multilateral trade agreements and has driven a growing increase in foreign trade in goods and services and in the country's international competitiveness, consolidating its position as an active international partner.

Thanks to its political and economic stability, openness to trade, legal security and excellent growth prospects, Chile has maintained an attractive and dynamic business climate for investors.

B. The Status and Direction of the Cooperation with Chinese Enterprises Under the B&R

China is Chile's principal commercial partner in the world. Over 25% of Chilean exports go to China. Also, Chile is nowadays the country that has subscribed more agreements with China to facilitate exchange in Latin

① For more information, please refer to https://www.forbes.com/best-countries-for-business/list/#tab:overall.
② https://investchile.gob.cl/world-bank-chile-is-latin-americas-second-wealthiest-country-in-assets/.

America.[①] Currently, several bilateral treaties are in standing between the two countries, reinforcing the spirit of cooperation that has existed since 2004, when Chile became the first country in Latin America to establish diplomatic relations with China, or in 2005, when Chile became the single first country in the world to enter into a Free Trade Treaty with China. It is important to remember that in 2016, the commercial exchange between these two countries reached US 31.474 million, representing 26% of the Chilean foreign trade.

As of this present year, representatives from 33 countries belonging to CELAC (Community of Latin American and Caribbean States) and delegates of the Chinese government signed an agreement in Santiago, Chile, where they arranged to deepen cooperation in the region, with China offering to invest $250 billion in infrastructure in the region, and inviting the countries from CELAC to join the B&R initiative.

Furthermore, under OBOR (Belt and Road) Chile has shown a clear willingness to facilitate trade with the Asian giant and strengthen its relations. In May, 2017 former Chilean president, Michelle Bachelet, at the OBOR conference said that "Chile is ready to be a bridge between Asia and Latin America, we consider the Belt and Road Initiative, a route for the road to achieve distances and build a modern connectivity, which is a contribution to the productive process, national growth, the opening of new markets, the promotion of investment, the increase of tourist flow and the deepening of mutual understanding that leads to a more inclusive, equal, just, prosperous and peaceful society with development for all".

Precisely one of the most important steps for Chile to materialize participation at OBOR is the incorporation to the Asian Infrastructure and Investment Bank (BAII), an institution in which Chile has already been accepted as a partner. Among the agreements signed during the meeting between the leaders, trade exchanges of goods and services stand out, as well as cooperation in scientific and technological matters. Under OBOR initiative, Chile and China have celebrated the following agreements[②]:

- Cooperation Agreement on Antarctic issues;
- Renewal of the Five-Year Work Plan for agricultural cooperation;
- Convention on requirements for the transport of merchandise from Chile to the Chinese market through third countries by sea and air;
- Protocol on the entry of avocados;
- InvestChile Collaboration Agreement and the Chinese Council for the Promotion of International Trade (CCPIT).

As referred in the previous chapter, the Chilean Government has promoted 11 projects since the beginning of 2018 through InvestChile. These projects in total represent USD 1.500 million in investments, in the following fields: infrastructure, agroindustry, wines, banking and energy. According to the Chilean Central Bank, Chinese enterprises reported a direct investment stock of USD 746 million, between 2009 and 2016. Only after InvestChile was created, in May 2016, USD 400 million were materialized through 6 initiatives, 4 of them made in 2017.

II. Investment

A. Market Access

a. Department Supervising Investment

As of January 1st 2016, there are two main institutions supervising investment in Chile: the Agency for the Promotion of Foreign Investment (InvestChile) and the Central Bank.

The Constitution recognizes the Central Bank as an autonomous entity and, as such, its function is to preserve currency stability and the normal functioning of internal and external payments. In addition, this statute indicates that the Central Bank is empowered to regulate the amount of money and credit in circulation, the execution of foreign credit and exchange transactions, and to issue regulations pertaining to monetary, credit, financial and foreign exchange regulations. Furthermore, the Constitution also sets forth that the Central Bank may not act as guarantor for financial institutions, nor acquire instruments issued by the State, its bodies or the companies it owns. Likewise, it also provides that no public expenditure or loan may be financed by direct or indirect loans issued by the Central Bank.

The Agency for the Promotion of Foreign Investment ("Agency") has the task to promote and attract foreign capital and investments into Chile, regardless of the amounts, according to the powers and faculties granted by Law No.20848. Among its attributions, are the following: implement the Promotion Strategy and analyze and

① https://chile.gob.cl/china/relacion-bilateral/acuerdos-y-tratados-bilaterales visited 09/03/2018, 12:50 GMT -4:00.
② https://www.bcn.cl/observatorio/asiapacifico/noticias/hitos-gira-presidencial-asia-pacifico.

investigate the foreign investors and their capacities and then grant the corresponding certificates in order for the investors to bring their capitals intro the country.

Furthermore, the Agency has a proactive role regarding the attraction and promotion of foreign investment, which will include providing information and free assistance to the possible foreign investors about the process and paperwork required to bring their investments; and, in general, supervising that the Government does not apply unnecessary obstacles for the foreign investors.

b. Laws and Regulations of Investment Industry

The regulatory framework for foreign investment in Chile is mainly found in two legal bodies: The Framework Law for Direct Foreign Investment in Chile [Law No.20848(2016)], and Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile. Additionally, Chile has executed Bilateral Investment Treaties ("BITs") and Free Trade Agreements ("FTAs") with numerous countries, providing additional protection for foreign investors. This also includes the Agreements for the Avoidance of Double Taxation that Chile has entered into with various States, which grant a more favorable tax treatment to foreign investments that come from such states.

As of January 2016, foreign investment regimes in Chile are mainly regulated by two legal bodies, Law No.20848 that established a New Foreign Investment Statute and Chapter XIV of the Foreign Exchange Regulations of the Central Bank of Chile ("Chapter XIV"), for investments of USD 10,000 or more (with no cap).

The foreign investment regimes in Chile are applicable to any foreign person or company, that is not a resident and does not have a domicile in Chile ("Foreign Investor") and that brings to the country foreign capitals for amounts over USD $5,000,000.

a) Law No.20848

Law No.20848 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$5,000,000, or the equivalent to said sum in other foreign currencies.

(i) Methods of Investment:

- Freely exchangeable foreign currency;
- Tangible goods in all forms and conditions;
- Reinvestment of profits;
- Credit capitalization;
- Technology in its various forms suitable for being capitalized;
- Credits associated with foreign investment derived from related companies.

(ii) Materialization and Purpose of the Investment

The application of the rights conferred to the foreign investor by the DFI Law requires for the investment to be made in a Chilean company that receives the investment after January 1, 2016, and this investment must grant the investor the direct or indirect control over, at least, 10% of the company's voting shares, or an equivalent percentage or stake in the corporate equity if it is not a stock-based company, or in the assets of the respective company.

(iii) Proceedings and Foreign Investor Certificate

In order to qualify as a Foreign Investor and access the rights available under the DFI Law, it is necessary to request a certificate issued by the Agency for the Promotion of Foreign Investments demonstrating the interested party's foreign investor status. The request submitted before the Agency must provide evidence that the investment was materialized in the country, including a detailed description thereof, indicating its amount, purpose and nature, all subject to the manner and conditions determined by the abovementioned Agency.

(iv) Rights of the Foreign Investor under the DFI Law

The following are the basic rights granted by the DFI Law:

- Overseas repatriation of the invested capital and net profits;
- Access to the Formal Exchange Market;
- Right to not be arbitrarily discriminated;
- Right to value added tax (VAT) exemption in the import of capital assets.

(v) Transitory Tax Invariability

The DFI Law establishes that during a period of 4 years, expiring on December 31 of 2019, foreign investments shall be entitled to resort to tax invariability with a total income tax rate of 44.45%, during a term of 10 years, as from the start-up date for the corresponding company or as from the date when the investment entered the country.

(vi) Mining Projects

Additionally, during a 4-year period expiring on December 31, 2019, and regarding investments related to mining projects, for a sum equal or greater than US$ 50,000,000, Foreign Investors are also given the possibility

of entering into foreign exchange agreements with the State of Chile. If Foreign Investors choose this alternative, for a term of 15 years, they shall be entitled to: resort to the invariability of the legal provisions regarding the specific tax applicable to mining activities, established in articles 64 bis and 64 ter of the Income Tax Law (specific tax to the operational income of mining activities or "royalty" income), without being affected by the increased rate, expansion of the tax base or any other amendment that causes said tax to increase; benefit from the non-application of new taxes, royalties, tariffs, duties or similar levies, referred specifically to mining activities, that could be established after the date on which the respective foreign investment agreement is executed; and benefit from the non-application of prospective amendments to the sum or manner of calculating the exploitation and exploration permits.

(vii) Effectiveness of the Foreign Investment Agreements Executed under the Previous System

Foreign investment agreements executed until December 31, 2015, between the State of Chile and Foreign Investors subject to Law Decree No.600 ("DL 600"), shall remain in full force and effect and, consequently, the respective Foreign Investors shall retain all of the rights and obligations stipulated under the referenced foreign investment agreements.

b) Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile

Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank regulates all foreign loans, deposits, investments and capital contributions for an aggregate amount equal to or higher than US$10,000, (minimum amount currently in force under Central Bank's policy) transferred into Chile from abroad.

Pursuant to the current foreign exchange regulations, all transfers of funds into Chile from abroad relating to loans, deposits, investments or capital contributions must be made through the FEM and be informed to the Central Bank. However, no access to the FEM is guaranteed to the Foreign Investor or capital contributor and the Chilean borrower, as applicable, for the repatriation of the capital investment and / or profits, or the payment of the principal of and / or interest on the foreign loan, respectively (save for investments on loans made under DL 600, pursuant to foreign investment contracts signed prior to December 31st, 2015).

Chapter XIV applies only to those transfers from and to other countries under foreign loans, capital contributions, investments and deposits of an aggregate amount of US$ 10,000 or more (minimum amount currently in force under Central Bank's policy). Funds under USD 10,000 can be freely transferred into Chile and remitted abroad.

B. Foreign Exchange Regulation

a. Department Supervising Foreign Exchange

The department supervising foreign exchange is the Chilean Central Bank ("BCCH"). As an autonomous entity, its function is to preserve currency stability and the normal functioning of internal and external payments. In addition, the Central Bank is empowered to regulate the amount of money and credit in circulation, the execution of foreign credit and exchange transactions, and to issue regulations pertaining to monetary, credit, financial and foreign exchange regulations.

For further information, please refer to Chapter A "Market Access", letter a.

b. Brief Introduction of Laws and Regulations of Foreign Exchange

Chapter XIV regulates all foreign loans, deposits, investments and capital contributions for an aggregate amount equal to or higher than US$10,000, (minimum amount currently in force under Central Bank's policy) transferred into Chile from abroad.

Pursuant to the current foreign exchange regulations, all transfers of funds into Chile from abroad relating to loans, deposits, investments or capital contributions must be made through the Formal Exchange Market and be informed to the Central Bank.

For further information, please refer to Chapter A "Market Access", letter b, Section II "Chapter XIV".

c. Requirements of Foreign Exchange Management for Foreign Enterprises

a) Foreign Loans

(i) Loans may be disbursed in Chile or abroad; in both cases, these loans must be informed to the BCCH.

(ii) The terms for repayment of principal and interest may be freely agreed between the creditor and debtor, including the interest rate agreed upon by the parties.

(iii) If the debtor defaults on the payment of principal and / or interest, the law entitles the guarantor to pay and carry out the transfer of the funds. Such guarantee must be informed to the BCCH according to Chapter XIV as well.

(iv) The remittance of principal is not subject to taxation. The remittance of interest is subject to a 35% withholding tax, unless the lender is a foreign or international financial institution (e.g., a bank), in which case the

payment of interest is subject to a 4% withholding tax.

b) Capital Contributions, Investments and Deposits

Chapter XIV also establishes certain rules applicable to capital contributions, investments and deposits made in Chile from abroad, in foreign currency. These regulations do not apply to contributions in kind and are only applicable to acts involving payment obligations or the subsequent right to transfer foreign currency abroad by individuals or entities with residence or domicile in Chile. In addition, as mentioned above, payments and transfers from and to Chile, arising from the aforementioned acts, must be made through the FEM. Chapter XIV entitles the investors to freely repatriate the capital contributed or invested in Chile and remit the profits obtained from such capital contributions or investments at any time.

Funds under USD 10,000 can be freely transferred into Chile and remitted abroad.

For further information, please refer to Chapter A "Market Access", letter b, Section II "Chapter XIV".

C. Financing

a. Main Financial Institutions

Financing in Chile is, as a general rule, provided by loans from banks and other financial institutions by means of a set of contractual documents that typically include loan agreements and a security package.

Financing might also come from abroad and in these cases the legal framework will be given by Chapter XIV (which provides the possibility for investors to repatriate capital and profits at any moment) or the new Foreign Investment Statute (Law No.20848), depending on how the funds enter the country.

b. Financing Conditions for Foreign Enterprises

As a consequence of the importance that foreign investment represents for Chilean economy, Chile has developed laws and policies in order to attract investors, guaranteeing the existence of stable legal mechanisms that ensure an equal treatment for Chilean and foreign investors, a non-discretionary and non-discriminatory treatment, and the open access to most of the sections of the economy.

Furthermore, regarding foreign investment applicable regulation, the investor is able to choose between two different legal regimes: the new Foreign Investment Statute (or Law No.20848) and Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile. Chapter XIV grants taxation benefits and incentives for foreign investment, such as the invariability of taxation regimes, the invariability or freezing of the Value Added Tax and freezing of the applicable tariffs in regard to the importation of capital assets required for the investment project, among others.

As for Law No.20848, and although it sets out that the foreign investor shall have the right to remit the capital or profits abroad, those provisions establish only a right but not a guarantee to access the formal foreign exchange market as they explicitly set forth that any foreign exchange operations under Law No.20848 shall be subject to the attributions of the Chilean Central Bank (particularly, certain restrictions and even prohibitions to operate in the foreign exchange market under hypothetical scenarios of shortfalls of international reserves of currencies, etc).

Furthermore, Law No.20848 establishes the possibility, as of 1 January 2016 and for a four-year period (ie, up to 31 December 2019), that foreign investors may exceptionally execute a foreign investment agreement and opt therein for a tax stability of a 44.45 per cent rate for a term of 10 years, which could be relevant in case of possible future increases of the applicable taxation rate to percentages even higher than 44.45 per cent.

Additionally, it is important to mention that our legislation also provides taxation benefits to the investment on extreme geographic regions of our Country. For more information please refer to "Preference and Protection of Investment".

Finally, companies interested in starting innovative business or in the development of high tech assets and human resources, have also the possibility to apply for some benefits provided by the Chilean government ("CORFO Subsidies"), which are intended to support the implementation of such activities in our country. In this regard, the amount of the subsidies will depend of the type of project and its specific characteristics.

D. Land Policy

In general terms, Chilean law has no restrictions for land ownership by non-citizens. An exception to this rule is contained in Art. 7 of Law Decree No. 1939 whereby foreigners from bordering countries are restricted to acquire, possess or have any rights over real estate located in frontier zones unless authorized by the President.

There are no specific taxes associated with the acquisition or transfer of ownership in land. The costs involved in such acquisition or transfer are those related to drafting the acquisition deed, notarization and recording of the property title in the real estate property register. However, when acquiring or leasing a real estate with furniture in it, Value Added Tax must be paid.

Land use and land development is subject in urban areas to communal, inter-communal or metropolitan zoning plans.

Such zoning plans are regulated by the General Law of Urbanization and Construction contained in Decree with Legal Force No. 458/1976, and the General Ordinance of Urbanization and Construction contained in Law Decree No. 47/1992.

The Ministry of Housing and Urbanization will be in charge of establishing specific regulations for the study, revision, approval and modification of the legal instruments that govern land use and land development.

For the construction of any facility or building, a Building Permit must be issued by the Director of Works from the corresponding Municipality or Borough, which certifies that the building project adjusts to the specific regulations for the land. This authorization is given for a specific area and facilities. After the construction works, a Reception of Works must be issued by the same entity, certifying that the construction adjusts to the specifications that were previously authorized in the Building Permit.

E. The Establishment and Dissolution of Companies

a. The Forms of Enterprises

For Foreign Investors who desire to set up a business in Chile, and conduct said business in a mid to long term, there are two options: to incorporate a local subsidiary or to set up a branch or a permanent establishment of a foreign corporation in Chile.

Chile allows for three main types of legal entities to be used as business vehicles, all of which grant limited liability to their shareholders or partners: stock corporations, limited liability partnerships, and simplified corporations.

In Relation to the Local Subsidiary, there are three Corporate Structures:

(i) For businesses in which capital and equity prevail over the consideration of the persons, a Stock Corporation is more adequate ("Sociedad Anónima"). This structure is similar to its U.S. correlative and allows investors to gather capital quickly, granting the Company access to better types of credit. There are two types of Stock Companies in Chile: publicly traded and closely held. Publicly Traded Corporations are subject to the Securities Market Law and the supervision of the Securities and Insurance Superintendence.

(ii) On the other hand, when the entities or persons incorporating the company are more important that its equity, when they want to limit their liability to a certain amount or when the parties belong to the same business group, it is usually preferred to form a Limited Liability Partnership ("Sociedad de Responsabilidad Limitada"). This structure gives a lot of control to its partners, since all decision regarding its existence; modification and administration usually have to be unanimously agreed upon.

(iii) A third option is the Simplified Corporation ("Sociedad por Acciones") which can allow a single shareholder with 100% of the shares, it has to comply with less formalities compared to the Stock Corporation and the shareholders can freely establish any management mechanism.

In addition to the foregoing, the Chilean legislation also contemplates the structure of a branch or permanent establishment of a foreign corporation in Chile, however, this is a very simple structure that is usually advisable to companies which do not intent to fully conduct a business in Chile, but nonetheless wish to have a formal office or representation in our country.

Even though a branch of a foreign corporation is not considered as an autonomous juridical entity by itself in Chile, it is considered as an agency of the parent company. Thus, it is important for us to refer briefly to the corresponding regulation.

To establish a branch of a foreign legal entity in Chile, it is necessary to have the articles of incorporation or by-laws and certificate of good-standing of the foreign entity, as well as a power of Attorney granted to the agent who will manage the branch).

Said original documents must be apostilled, translated and afterwards filed with a Notary Public in Chile for registration.

b. The Procedure of Establishment

The incorporation of a Limited Liability Partnership, a Simplified Corporation or a Stock Corporation requires a public deed, registration of an excerpt of said deed on the Registry of Commerce and its publication in the Official Gazette. Incorporating a corporation in Chile should take about a week.

Afterwards, it will also be necessary to obtain a Tax Payer Number ("RUT") and submit a Business Start Up Notice before the Internal Revenue Service ("IRS" or "Servicio de Impuestos Internos"), as described below. This is a simple process which entails the submission of certain forms before the Internal Revenue Service together with the company's legal records of incorporation, reason why it can be usually performed by any person with a

simple power of attorney, but it could become difficult (and thus, require the intervention of a legal advisor) in case the IRS formulates a legal objection to the company's records. Additionally, the Internal Revenue Service requires that the company appoints an attorney who is domiciled in Chile.

a) Limited Liability Partnership

It requires a minimum of two partners and allows a maximum of 50.

b) Stock Corporation

They are generally prohibited from acquiring their own shares and must distribute minimum statutory dividends (30% of net earnings). There are statutory withdrawal rights for shareholders pursuant to which a shareholder can sell its shares back to the corporation upon certain actions being approved.

c) Simplified Corporation

It does not require unanimous consent for amendments of its by-laws, and can be formed by one or more persons (individuals or legal entities), and allows for any type of corporate agreement, save for a few mandatory rules.

c. Routes and Requirements of Dissolution

A corporation is dissolved and terminated when its term of duration expires, unless it has been incorporated to perpetuity. Additionally, corporations are dissolved if it is so agreed by 2/3 of the total issued shares, in an extraordinary shareholders' meeting called for that purpose, or if all the shares are held by one person on entity for a period exceeding 10 consecutive days, or if merged into another company. The by-laws of the company may include other additional events that result in the dissolution of the corporation.

Should the dissolution of the corporation takes place, its liquidation shall be undertaken by a liquidation committee freely elected by the shareholders, except where no liquidation is necessary (acquisition of all the shares by one person or entity, or merger).

Regarding the dissolution of a company, there are 4 main areas that have to be complied in order to achieve the dissolution:

(i) From a financial point of view, a Closing Balance Sheet of the Company has to be prepared.

(ii) From a taxation point of view, the form for "Closing down of the Business" has to be presented before the Chilean Internal Revenue Service.

(iii) Regarding the dissolution, an Extraordinary Shareholders Meeting has to approve the dissolution and liquidation of the assets of the company, and a deed of said approvals has to be prepared. That deed has to be then reduced into a public deed, which's excerpt has to be registered in the Registry of Commerce and then published in the Official Gazette. Finally the registration and publication of the public deed's excerpt has to be notarized.

(iv) Finally, in relation to the liquidation of the assets of the company, a Company's Liquidation Committee has to decide on the procedure to liquidate the assets, which will later on be approved by the Shareholders Meeting. Both the procedure agreed and its approval has to be done by means of a public deed which's excerpt has to be registered in the Registry of Commerce.

F. Merger and Acquisition

a. Introduction

Chile's well-known economic stability has attracted new foreign investment into its emerging market. Because of this investment, the Chilean economy is nowadays an importer of investment capital and has implemented several incentives to attract foreign investors. As a consequence of this, and in order to enhance the Chilean economy, there is a flexible legal framework for businesses, and a clear example of such is the existence of different types of business combinations.

There are many business combinations considered within the Chilean legal framework, such as mergers, joint ventures, distribution agreements, franchise agreements, among others. Below is a brief description of the most frequent business combinations present under Chilean law.

a) Mergers

There are two types of mergers under Chilean legislation: those mergers that are the result of two companies contributing their assets in a new company, incorporated for a specific purpose; and those mergers that are the result of a company acquiring all of the assets of another company, which is to be dissolved, while the acquiring company prevails.

b) Takeovers

Briefly, a takeover takes place when a company acquires 100 per cent of the corporate capital or interest of another company, which usually ends up being dissolved and liquidated.

Considering, the main difference between mergers and a takeover is that, in mergers, the shareholders of the original companies become shareholders of the resulting company and, thus, shares are traded. Conversely, the shareholders of a company taken over by another company receive a price for their shares but do not become shareholders of the resulting company.

c) Acquisition of Business as a Unit

Chilean legislation contemplates the alternative to acquire the target business of a company as an ongoing unit. That is understood as all those company's assets, debts, operations, labour forces, intangible rights, know-how, etc, with which the company carries out its line of business. Instead of a transfer of shares or interest in the company, the business of the company is acquired as a unit.

d) Capital Increases

The acquisition of a controlling set of shares or equity rights (as applicable) may be executed as a result of a corporate capital increase where new shares or equity rights (as applicable) are subscribed and paid by an external investor (as opposed to an existing shareholder), as a result of the existing shareholders not exercising their legal right of first refusal in the acquisition of new corporate interest.

e) Direct Acquisition

The acquisition of the control of a corporation in Chile can also be achieved by the direct acquisition of shares from a controlling shareholder or shareholders. In this case, it is necessary to distinguish between the different types of corporations.

In closed stock corporations, there are no special procedures that need to be complied with for the direct acquisition of a controlling set of shares and no prior consents or approvals are required from any governmental authority. After the transaction, the Chilean Internal Revenue Service shall be informed of the new share composition of the company.

In open stock or listed corporations, the acquisition of a controlling set of shares must be conducted through a tender offer (Mandatory Tender Offer "MTO"), following the procedure established in the law. Pursuant to article 198 of the Chilean Corporations Act (as defined below), an MTO needs to be addressed to all of the shareholders and other stockholders (whose stocks can be converted into company shares) of the target company, for equal conditions. Under Chilean law, in the following cases an MTO needs to be conducted:

(i) in corporations that trade their shares in the stock market, when the acquisition is made with the purpose of becoming a controlling shareholder;

(ii) when a controlling shareholder pretends to acquire, at least, two-thirds of the issued shares with the right to vote or of any series of shares;

(iii) in cases where the buyer wants to obtain control of the controlling company of another company that trades its shares in the stock market, whenever the controlled company represents 75 per cent of the controller's assets. This MTO is not addressed to the shareholders of the controlling company but to the shareholders of the controlled company. The purpose is to prevent the possibility of avoiding the MTO by buying the controller company; or

(iv) when an individual shareholder, or a group of them working on an agreement basis, have acquired two-thirds of the issued shares with the right to vote. In this case, such shareholders must extend an MTO for the remaining shares before the term of 30 days following the acquisition. The price of the MTO in this scenario cannot be lower than the price established for the exercise of the withdrawal right conferred by the Chilean Corporations Act.

f) Shareholders' or Equity Holders' Agreements

Finally, two or more shareholders or equity holders (as applicable) can exercise control of a corporation or limited liability company by means of a shareholders' or equity holders' agreement. For shareholders' and equity holders' agreements the only formalities required under Chilean law are execution in writing and registration in the corresponding shareholders' register.

b. Statutes and Regulations

Business combinations in Chile are mainly ruled by the following legal statutes:

(i) Law No.18046 (the Chilean Corporations Act), and its Regulation (Decree No.702);

(ii) Law No.18045 (the Securities Market Law);

(iii) the Superintendence of Securities and Insurance ("SVS") administrative jurisprudence, pursuant to Law No.18045;

(iv) Decree-Law No. 824 (the Income Tax Law);

(v) Decree-Law No. 211 (the Antitrust Law);

(vi) the Commerce Code; and

(vii) the Civil Code.

Additionally, the governing law of a business combination will be the one agreed upon by the parties in the relevant contract. If no specific law is selected, the governing law will be the one of the country where the agreement shall be executed.

c. Filings and Fees

Filings that must be made prior to taking control of a company in Chile depend on the type of company being targeted, as briefly exposed above in this chapter. When targeting for closed stock corporations or limited liability companies, there is no need to comply with prior filings or request the approval of any governmental authorities. Conversely and in general terms, when targeting for open stock and listed corporations some mandatory procedures need to be conducted before the SVS and stock markets in which such companies trade their shares, as applicable.

On the other hand, regardless of the type of company being affected, ex-post filings must be presented before the Chilean IRS to report on, for example, the removal and appointment of company's representatives, the changes in the company's participation, the obtaining of a national identity card number, the notification of the business termination and, in general, any other amendment as a result of a merger or other business combinations.

Regarding antitrust, even though there is no mandatory merger control system in Chile to this date, there are several different factors (such as, the market concentration, the market share of the companies involved, the existence of entry barriers, among others) which would make it advisable to file a previous presentation before the National Economic Prosecutors Office ("FNE") or the Chilean Antitrust Court ("TDLC") to obtain the prior approval for the transaction. If the above-mentioned presentation does not take place, there is a risk that the referred operation could be considered a breach of Antitrust Law. If the TDLC considers that the operation impedes, restricts or hinders competition, it could order the modification or termination of the agreements, the modification or dissolution of partnerships, corporations and other legal persons of private law that could have intervened in the acts or contracts, or impose fines for fiscal benefit up to an amount equivalent to 20,000 UTA[①] (currently equivalent to approximately US$18.750 million). Notwithstanding the foregoing, it is relevant to note that a bill is to be enacted in the short term introducing several amendments to the Chilean antitrust statute, such as: criminalization of cartels and increasing fines, among other things. In relation to merger control, the bill introduces mandatory merger control, under which concentration transactions that exceed certain thresholds will have to be notified to the FNE prior to their execution. The following concentration transactions between economic agents that are not members of the same business group (which exceed the thresholds mentioned below) will have to be notified to the FNE prior to their execution:

• mergers;

• if one or more of the agents acquires, directly or indirectly, rights that allow it, individually or jointly, to decisively influence the administration of the other;

• the association of two or more independent economic entities to become a single economic entity - different from associated entities - that functions permanently; or

• if one of the agents acquires the control of the other's agent assets.

The above-mentioned concentration transactions must also fulfill the following requirements:

• the sum of the sales of the economic agents involved must have exceeded, during the last calendar year, the threshold to be established by the Ministry of Economy; and

• that in Chile, separately, at least two of the economic agents involved have generated sales, during the last calendar year, for an amount equal or greater than the threshold to be established by the Ministry of Economy.

The bill will also change the current methodology to calculate fines, moving from a system of fixed maximum fines (currently amounting to approximately US$16 million for general violations and approximately US$24 million for cartels) to a system with a maximum threshold of fines equivalent to double the economic benefit obtained as a result of the violation, or 30 percent of the sales of the offender for the specific line of products or services involved in the violation during the period of the infringement.

d. Information to be Disclosed

In general terms, pursuant to the provisions set forth in the Chilean Corporations Act, approval of business combinations require the affecting shareholders and equity holders to have previous access to various documents and information, such as, the business combination project with all the circumstances surrounding the transaction, last audited balance sheet of all the companies that are parties to the operation, expert appraisal reports and, in

① UTA (Unidad Tributaria Anual) is an Annual Tax Unit of Measure that indicates a value considered by Chilean national internal revenue service to calculate taxes, fines, and other fees.

some cases, a balance sheet of the merger itself.

Besides information that needs to be disclosed to the affected shareholders or equity holders, as applicable, in all types of companies general disclosure obligations to the SVS, stock markets and general public apply in relation to open stock or listed corporations.

In general terms, open stock or listed corporations shall truthfully, sufficiently and promptly disclose all material information in relation to themselves and their business at such time as it occurs or as soon as it becomes aware of the same. In particular, open stock or listed corporations shall permanently disclose, among others, the following information to the SVS, the stock markets and to the general public, as the case may be:

- the 'FECU Form', which includes individual and consolidated quarterly and annual financial statements, external auditors' interim or annual report of financial statements; management's discussion and analysis and disclosure of all material facts reported during the period affecting the corporation and its publicly issued securities;
- annual individual and consolidated financial statements of the corporation shall be sent to the SVS within 60 days of the closing date of the annual period and in any case at least 20 days prior to the date of the shareholders' meeting that will render an opinion on the same. These financial statements must also be published in a nationwide newspaper;
- quarterly individual and consolidated financial statements of the corporation shall be sent to the SVS;
- the corporation shall inform the SVS any changes in its equity, including among others, payment of dividends, exchange of shares and reductions of capital (at least 20 days in advance) and capitalizations;
- prepare an annual report and deliver copy of the same to the SVS and corporation shareholders; and
- the corporation shall immediately inform the SVS of any material facts or information regarding the stock corporation, its business and its publicly issued securities, if any. Such information shall be disclosed in a truthful, sufficient and timely manner on the date that the fact occurs or once the stock corporation becomes aware of the same.

On another subject and as previously indicated, there is no mandatory merger control system in Chile to this date. Nevertheless, if an operation - before or after its completion-is analyzed by the competition authorities, there are a number of documents that must be presented, whether to the FNE or to the TDLC. The Guidelines for Horizontal Merger Analysis of the FNE and the Internal Regulation No. 12 of the TDLC provides a guide on the information and documents that would be necessary to be disclosed. Notwithstanding the foregoing, it is possible to request the confidentiality of this information. The aforementioned is notwithstanding the antitrust bill that is to be enacted in the short term.

e. Disclosure of Substantial Shareholdings

Owners of large shareholdings (more than 10 per cent) have disclosure requirements only in relation to open stock or listed corporations (or other corporations with special corporate purposes such as financial institutions) and refer mainly to their obligation to inform the SVS, stock markets and general public of their intention to amend their shareholdings.

It is important to point out that in corporations with special corporate purposes, substantial shareholders may be limited on the maximum percentage of shares they can hold.

f. Hostile Transactions

Regarding open stock and listed companies, takeovers are regulated in the Securities Market Law, which provides that this kind of transactions should be conducted through the procedure of Mandatory Tender Offers. However, it is relevant to note that an MTO is not a hostile takeover.

An MTO is a compulsory public offer of acquisition that the person who is interested on becoming a controlling shareholder must extend to all shareholders. It is the way of ensuring transparency and protecting minority shareholders by allowing them to sell their shares if the new company's control implies a modification of the circumstances that they used to have. As a mandatory procedure, if it is not conducted as established by the law, the nullity of the act will be declared and a crime will be constituted.

Hostile takeovers are not contemplated in Chile because the shareholding control in the Chilean market is concentrated in a small group of shareholders, which shortens the spectrum of negotiation between the party that wishes to obtain control and the party or parties that currently control a company.

g. Government Influence

In industries regulated by the government, business combinations are of interest to the corresponding supervisor entity. For example, banks or other financial institutions operations will be under the supervision of the Superintendence of Banks and Financial Institutions whilst insurance companies' combinations shall be under the supervision of the SVS. The referred institutions might impose conditions or even forbid a business combination from going ahead.

There are also limitations to companies that provide public or basic services, the media, educational and health corporations, among others; all of them dependent of administrative organisms. For more information, please refer to Chapter J "Preference and Protection of Investment", letter e).

Finally, for national security purposes, foreigners have restrictions on acquiring estates located at the legal borders of the country, a situation supervised by the National Directorate of Borders of the State. This might have effects on mergers or other operations involving this estates and foreign parties. For more information, please refer to Chapter I "Land Policy".

Other than the above, government agencies cannot and should not influence or restrict the completion of business combinations.

h. Cross-border Transactions

Cross-border transactions are not specially ruled under Chilean legislation, but the most-favored-nation principle applies as a general rule and, pursuant to it, countries must refrain from discriminating between their business partners. Indirectly the legal framework that establishes some rights and obligations arising from cross-border transactions corresponds to Chapter XIV of the Compendium of Foreign Exchange Rules' of the Central Bank and Law No.20848.

i. Updates and Trends

The Chilean economy has been growing steadily in recent years and foreign investment plays a key role in it. Business combinations are essential in this context and said situation is reflected in the high level of M&A's taking place in the country.

The main industries receiving these investments are energy, agroindustry, utilities and, of course, mining. Chile is internationally known for its deposits and mines, and they are one of the principal economical activities of the country. Energy and utilities are attractive because they are government regulated industries, providing security for investments. Other markets to be considered are infrastructure and retail.

Major amendments to the Chilean legal framework affecting business combinations have already taken place in terms of taxation, bankruptcy and labour regulation.

Nonetheless, these proposals should not affect the level of M&A activity in the country as the legislation will keep providing a stable framework for this kind of operations. Even when the world has been affected by major economic crises, M&A transactions in Chile have not declined. On the contrary, they have encouraged investors from European and Asian countries to sell their capital at home and invest them in Chile. Moreover, Chilean companies are also becoming foreign investors in markets such as Peru, Colombia and other Latin American countries.

G. Competition Regulation

a. Department Supervising Competition Regulation

(i) National Economic Prosecutor ("FNE"): which is a government body in charge of investigating alleged violations to competition, filing claims on behalf of the national interests and pursuing the claims before the Competiton Court. Moreover, according to the new amendments to the competition law, the FNE is now responsible of the mandatory merger control system.

(ii) Competition Court ("TDLC"): which is independent from the Government and whose function is to prevent, correct and punish attempts against competition law.

(iii) Supreme Court: which is responsible of hearing the complaint appeal against the decision of the competition Court related with punishments imposed and decisions which repeals the FNE's decision, approving the transaction in a concentration operation subject to the fulfillment of mitigation measures different from the ones offered by the parties to the FNE.

b. Brief Introduction of Competition Law

The Antitrust Chilean legislation is mainly based on the following laws:

Decree Law No.211/1973 ("DL 211"), which sets forth the statute for the defense of competition: This Law regulates different matters regarding Competition, in order to promote and defend Competition of the markets. It penalizes any act or agreement that prevents, restricts or hinders competition, or that tends to produce any of the aforementioned effects. DL 211 has just recently been modified by Law No.20945/2016, which introduced important changes to the Chilean competition system, representing a major overhaul and the most relevant reform since the creation of the specialized court; including: the inclusion of a mandatory merger control system, the criminalization of hard core cartels, a significant increase of the amount of applicable fines and the inclusion of "interlocking" as a per se anticompetitive conduct among competitors.

Law No.20169 which regulates Unfair Competition: This Law defines the conducts that constitute Unfair

Competition and which may constitute an infringement of the competition law. It also established the actions that can be brought against such conducts and defines the competent courts that should decide upon such matters.

FNE's Guidelines: Even though the FNE's Guidelines are no strictly mandatory, they represent the criteria of the FNE and are useful in assessing the different matters which are under its authority.

c. Measures Regulating Competition

a) Antitrust Infringements

The DL 211 broadly defines the conducts contravening competition as "any fact, act or convention that impedes, restricts or impede competition or tends to produce such effects". This broad definition is then somehow refined by four -also rather- broad examples, which are classified as restrictive practices, namely:

(i) Agreements or concerted practices involving competitors with each other and which consist of fixing sales or purchase prices, limiting production, allocate zones or market shares or affect the outcome of tendering processes, as well as agreements or concerted practices which, by conferring market power on them competitors, are to determine the conditions for placing on the market, or exclude current or potential competitors;

(ii)The abusive exploitation by a company or by a conglomerate of companies with a common controller, of a dominant position in the market, by way of fixing purchases or sales prices, imposing tied sales of products, assigning areas or quotas of market or imposing other abusive practices;

(iii) Predatory practices or unfair competition, carried out with the purpose of reaching, maintaining or increasing a dominant position; and

(iv) The simultaneous participation of a person in a relevant executive position or as a director in two or more competing companies, provided that each of the competitor's company group has annual revenues from sales, services and other operational activities in excess of the amounts determined by the law (currently amounting to 100,000 Unidades de Fomento[①] (app. USD 4,400,000).

The new legislation also introduced changes to the system of fines and penalties. The Competition Court can punish the aforementioned conducts with penalties consistent in prohibitions of entering into agreements with Governmental entities, disqualification to hold certain positions, criminal penalties and fines. The fines are for fiscal benefit, and may amount to up to 30% of the sales of the offender corresponding to the product or service line related to the infraction during the period in which the offense was perpetrated, or up to double the economic benefit gained from the infraction. In case it is not possible to determine the amount of the sales or the economic benefit, the TDLC may apply fines up to the amount of 60,000 annual tax units (app. US$ 55,000,000). The fines may be imposed on the corresponding legal entity, on its directors, managers and on any person involved in the conduction of the relevant act. In the case of fines applied to legal entities, their directors, managers and those persons having benefited from the respective act may be jointly liable to the payment thereof, provided they took part in its execution.

Criminal penalties were reintroduced for hardcore cartels, which had been repealed from the Chilean competition statutes in 2004. The penalty for hardcore cartels may range from 3 years and 1 day of imprisonment, up to 10 years of imprisonment.

Finally, regarding cartels, DL 211 contemplates a leniency program benefitting the business agent that provides the FNE with complete information regarding a collusion case, which is also extensible to criminal liability for the first individual to provide information to the FNE. It should be noted that the Prosecutor entity is entitled to make dawn raids and intervene communications during investigation procedures regarding collusion cases.

b) Merger Control System

The most significant amendment recently enacted is the introduction of a mandatory merger control system. The new system consists of two phases, and is initiated by means of a notification of the parties to the FNE.

With the entry into force of this new system, the parties must notify to the FNE, prior to its execution, the concentration operation that have an impact in Chile and surpass the sales thresholds that the FNE set for that purpose in a resolution. The notification thresholds currently in force are:

(i) that the sum of the sales in Chile of the agents that contemplate its concentration have reached, during the previous year to which the notification is verified amounts equal to or greater than 1,800,000 Unidades de Fomento (app. USD 79,500,000); and

(ii) that in Chile, at least two of the agents that contemplate its concentration, separately have generated sales, during the year prior to the year in which the notification is verified, for amounts equal to or greater than 290,000 Unidades de Fomento (app. USD 12,800,000). The FNE is entitled to adjust these thresholds if necessary.

The procedure is initiated by a filing made by the parties which format and minimum information to be submitted was set forth in Regulation No.33 of the Ministry of Economy.

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① The Unidad de Fomento (UF) is a Unit of account that is used in Chile and constantly adjusted for inflation.

The analysis performed by the FNE involves two phases, the first of which begins once the operation is notified. Since that date, the FNE has 10 days to determine whether the filing is complete, in which case it shall initiate an investigation. Within 30 days following the initiation of the investigation, the FNE shall either:

(i) approve the transaction simply and unconditionally, if it comes to the conviction that the transaction will not substantially lessen competition;

(ii) approve the transaction, conditioning said approval to the fulfillment of mitigation measures offered by the notifying parties, if it comes to the conviction that, subject to said measures, the transaction will not substantially lessen competition; or

(iii) extend the investigation for a maximum of 90 additional days, if it considers that should the transaction be simply and unconditionally executed, or conditioned to the measures offered by the notifying parties, as the case may be, could substantially lessen competition. In such event, the proceeding moves to Phase II.

In Phase II, the FNE shall inform its decision to extend the investigation to all agencies and authorities that may be directly concerned and to the economic agents that may have an interest in the transaction. Those who receive said communication, as well as any third party interested in the transaction, including suppliers, competitors, clients or consumers, may submit information to the investigation within 20 days following the publication of the extension decision in the FNE's website. Upon the expiration of the 90 days during which the investigation has been extended, the FNE shall also either:

(i) approve the transaction simply and unconditionally;

(ii) approve the transaction, conditioning said approval to the fulfillment of mitigation measures offered by the notifying parties;

(iii) prohibit the execution of the transaction, should it conclude that it has the aptitude to substantially lessen competition.

Regarding the recourses system, the law only contemplates special revision recourse in case the FNE forbids the execution of the transaction. The recourse must be filed before the TDLC within 10 days following the notice of the FNE's decision. The TDLC shall schedule a public hearing to be held within 60 days following its reception of the investigation's docket. The public hearing may be attended by the challenging parties, the FNE and all those who submitted information during the investigation. Within 60 days following the hearing, the TDLC shall issue its decision confirming or repealing the FNE's decision.

In case the TDLC's decision repeals the FNE's decision, approving the transaction subject to the fulfillment of mitigation measures different from the ones offered by the parties to the FNE, both the parties and the FNE may file a complaint recourse before the Supreme Court.

All of the terms contemplated in this new procedure must be computed in business days only.

c) Interlocking and Acquisition of Minority Stakes

Interlocking: Among the hypotheses of anticompetitive behavior direct interlocking between competitors is considered as an infringement, punishing the simultaneous participation of a person in a relevant executive positions or as a director in two or more competing companies, provided that each of the competitor's economic group has annual revenues for sales, services and other operational activities in excess of 100,000 Unidades de Fomento (app. USD 4,400,000); and the simultaneous participation in the abovementioned positions is held during 90 continuous days since the end of the calendar year in which the relevant companies exceeded the referred threshold.

Obligation to inform the acquisition of minority stakes: a new provision was introduced setting forth the obligation to inform to the FNE, within 60 days from its execution, "the acquisition, by one company or an entity belonging to its company group, of an interest, whether direct or indirect, representing more than 10% of the equity of a competing company, considering both stakes held in its own name and those held by third parties in their benefit", so as to allow the FNE to evaluate the opening of an investigation. The obligation to inform shall only be triggered in case the acquiring company, or its economic group as the case may be, as well as the company which interest is being acquired, separately have annual revenues for sales, services and other operational revenues exceeding 100,000 Unidades de Fomento (app. USD 4,400,000) in the last calendar year. The DL 211 sets forth that any actions to prosecute infractions to this new provision shall expire within 3 years from the date in which the acquiring company informs the FNE.

H. TAX

a. Tax Regime and Rules

Under the Constitution of the Republic of Chile, taxes, customs duties and all kinds of public charges must be implemented through the enactment of a law passed by the Congress.

The initiative to legislate in tax matters rests only with the President of the Republic. Consequently, taxes may

not be changed unless the Executive Branch takes action and Congress approves said initiative. Matters related to fiscal policy are under the authority of the Minister of Finance.

In tax matters, government action is carried out by three different public agencies:

(i) The Internal Revenue Service, which is in charge of the administration of tax laws and has the power to issue regulations and conduct tax audits;

(ii) The Treasury, which is in charge of tax collection; and,

(iii) The Customs Agency, which deals with all matters related with custom duties applicable to imports.

If, as a consequence of a tax audit, a claim is submitted by a taxpayer, the competent court will be the Taxes and Customs Courts. Its decision may be appealed before the corresponding Court of Appeals and, through certain procedures, the case may go up to the Supreme Court.

b. General Income Tax System

In general terms, any earning, profit or capital increase, accrued or received, of any origin, nature or denomination, will be subject to income taxes in Chile.

The tax imposed by the Chilean Income Tax Law ("ITL") is based in two main factors: taxpayer residence; and, source of the income.

a) Taxpayer Residence

Any person or legal entity domiciled or resident in Chile shall be subject to tax over all their income, regardless the origin or source. This means that Chilean residents will be taxed over their worldwide income.

However, foreigners who are domiciled or resident in Chile will be subject to taxes only for their Chilean income during the first 3 years. After that period of time they will be subject to taxes in accordance to their worldwide income.

b) Source of the Income

Article 3 of the Chilean ITL provides that non-Chilean residents would only be subject to tax on their Chilean-source income. For this purpose, Chilean-source income is income derived from activities performed in Chile and assets located therein.

In this regard, the shares of a Chilean resident entity are deemed to be located in Chile and, thus, the profits resulting from the ownership of such shares will be Chilean-source income as per the ITL. Therefore and moreover, any income derived from the sale of shares in a Chilean resident entity would be deemed as Chilean-source income. Exceptionally, article 10 of the Chilean ITL provides that income obtained by a non-Chilean resident that derives from the alienation of rights shares or ownership interests, among others, from a non-resident entity, in cases in which there is as underling Chilean asset, and provided all the requirement are met, it will be deemed to be a Chilean income.

c. Two-tier Taxation and Dividend Distribution Regimen

As a general rule, received or accrued income generated by Chilean corporations, limited liability companies, stock companies and branches of foreign companies, are taxed in two tiers.

In this regard, entities will be subject to 25% or 27% rate of Corporate Income Tax ("CIT"), depending on its tax system, determined annually according to its taxable income. Its partners or shareholders will be subject to Withholding Tax in case they are non-residents ("WHT") or to Personal Progressive Tax in case they are residents. Partners or shareholders may use a 100% or 65% of the amount paid for CIT as tax credit against the final taxes, as explained below.

The Chilean tax system is considered an "integrated system" in that corporate tax can be used as a credit against final taxes. Final taxes are the Personal Income Tax, applied to income received by natural persons that are domiciled or reside in Chile, which has a progressive rate ranging from 0% to 40%, and the Withholding Tax, applied to income received from taxpayers that are not domiciled nor reside in Chile, which has a general rate of 35%. Therefore, under this integrated system, ordinary income obtained by local entities is subject to the corporate tax and to final taxes, as a partner or shareholder, depending on its actual distribution.

During 2014 an important tax reform was approved and as from January 1st, 2017 is fully in force. According to such tax reform there are two different tax regimes or tax systems: Attributed Income System and Partially Integrated System.

In this regards, any entity that is not a Chilean stock corporations or a silent partnership by shares, whose shareholders are individuals or non-Chilean resident entities, may opt for applying the following systems in order to determine the timing and final taxation of such individual or non-Chilean resident entity upon the dividends generated by the respective entity.

a) Attributed Income System

Shareholders are taxed with final taxes (WHT for non-residents) for the income attributed to them in the same

year said income is generated. For these purposes, the attributed income equals the taxable income base, plus non-taxable income, plus other amounts subject to WHT.

The WHT would be triggered once the income is attributed, regardless of whether an actual distribution exists. If that income is not allocated by the partners or shareholders in the company bylaws, it will be allocated in proportion to the capital participation of each partner or shareholder.

Under this alternative, the respective entity will be taxed with Corporate Income Tax at a 25% rate, which will be credited against WHT (35%).

b) Partially Integrated System

Shareholders are taxed with final taxes (WHT for non-residents) only on profits that are effectively drawn or distributed from the company (cash basis).

Under this alternative, profits will be taxed at the entity level with a 27% CIT.

Only 65% of the CIT effectively paid would be creditable against the WHT due upon a dividend distribution. Notwithstanding, shareholders residing in a treaty country may use the whole CIT credit against the final withholding tax (e.g. China, UK, Brazil, Argentina, Australia, Canada, France, Malaysia, South Africa, Thailand, etc.). In case of treaties that have been signed but are not in force yet (e.g., USA), the same rule applies until 2021. Thus, the overall tax burden for a shareholder residing on a non-treaty country would rise up to 44.45%.

Please note that for purposes of attributing income (under the Attributed Income System) and for purposes of performing a dividend distribution under both regimes, certain allocation rules apply. The referred allocation rules allow the correct assignment of the CIT credit to the respective income.

Further, under both regimes annual records must be kept. The referred records differ from one regime to another and its purpose is to maintain track of the profits that have paid the CIT and WHT (in case of the Attributed Income System) and the CIT credit associated to them. The purpose of the records is to prevent double tax payment or the avoidance of such payment, as well as determining whether the 35% WHT payment is due or not.

Please note that if a taxpayer opts for a regime, it must remain in that regime for at least 5 continuous commercial years.

d. Additional Tax or WHT

The WHT is assessed, as a general rule, on income from Chilean sources earned by individuals or entities neither domiciled nor residing in Chile.

This tax is also assessed on certain payments made by Chilean taxpayers abroad.

As a general rule payments made to an individual or entity not domiciled in Chile, are subject to WHT to be withheld by the payer, generally 35%.

However, the tax may be reduced among others in the following cases:

(i) Payments made to insurance companies not established in Chile for insuring equipment or other goods located in Chile and for life or medical insurance of individuals who are residents of or domiciled in Chile are taxed 22%. In these cases, reinsurance is taxed at a 2% rate.

(ii) Payments for engineering services or technical assistance, 15%.

(iii) Remunerations paid to individuals or entities not domiciled in Chile for maritime transportation to and from Chilean ports and commissions thereon, as well as remunerations originating from services to vessels and freight in Chilean or foreign ports, 5%. This tax is not applied, on the basis of reciprocity, when, in the country where the vessel is registered or in the country of the operator, a similar charge does not exist or is not applied to Chilean vessels.

(iv) Payments for the rental, lease, charter or any other contract which provides for the use of foreign vessels for coastal trade, 20%. The same is applied when the relevant contract allows or does not forbid coastal trade.

(v) In general, the payment of royalties, patents and fees to entities not domiciled in Chile is subject to a 30% WHT to be withheld by the payer. However, the rate of this tax is reduced to 15% for royalties related to invention patents, utility models, industrial designs, designs of integrated circuits or mask work, new vegetable varieties and software, provided that the licensor is neither related to the licensee nor a resident of or incorporated in a tax haven. Although, if what you are paying is a "standard software" it will be tax exempt. In the case of technical assistance or engineering services, the rate is 15%.

However, the tax rate goes up to 20% if these services are rendered by a related party or by a person or entity residing or incorporated in a tax heaven. All these payments are normally deductible as expenses for tax purposes.

e. Personal Progressive Tax

The Personal Income Tax is applied to income of any origin earned by natural persons that are domiciled or have residence in Chile, at a progressive rate of 0% to 40%, including foreign source income earned during the corresponding annual period. As previously mentioned, the Tax Reform reduced the applicable maximum rate to

35%, which goes into effect in 2017.

f. Second Category Tax

This tax is a progressive tax applied on the aggregate amount received by an employee on account of wages, salaries, profit-sharing or others.

The taxation rates range from 0% to 35% of the relevant income per fiscal year. Second category taxpayers are not subject to any other income taxation, unless they have income from sources other than wages or salaries.

g. Mining Royalty

Also known as Mining Royalties, these types of taxes were structured as an income tax on "oper- ating taxable income from mining activities" (namely, net income determined for pur- poses of the First Category Tax, with certain adjustments) earned by a "mining exploiter" (i.e. a natural person or legal entity that extracts mineral resources and sells them during any stage of production).

The rate for this tax is progressive according to the value of annual sales of mining products expressed in metric tons of fine copper (MTFC), determined in accordance with the average cop- per price traded on the London Metal Exchange. Consequently, mining exploiters whose annual sales exceed 50,000 MTFC are subject to progressive taxes that vary between 5% and 14%, depending on their operating margins. Exploiters whose annual sales are valued at between 12,000 and 50,000 MTFC are subject to progressive taxes that vary between 0.5% and 4.5%. Lastly, mining exploiters with annual sales less than 12,000 MTFC are exempt from this tax.

h. Transfer of Shares and Equity Rights

Transfers of shares and are usually subject to First Category Tax and WHT or Personal Progressive Tax, as the case may be. However, under certain conditions, transfers of shares in a stock exchange could be exempt from all taxation.

i. Depreciation

Depreciation on fixed assets, except for land, is tax-deductible using the straight-line method based on their useful lives, in accordance with the guidelines of the Chilean Internal Revenue Service, calculated on the value of the assets, restated by cost of living variation. However, the taxpayer may opt for accelerated depreciation for new assets if acquired locally, or for new or used assets if imported, with useful lives of over three years. For this purpose, the assets will be assigned useful lives equivalent to one-third of the normal span, eliminating fractions of months. Taxpayers may discontinue the use of the accelerated method at any time but may not opt again for the accelerated method.

The IRS has issued general guidelines on the useful lives of fixed assets for different activities, such as industry, mining or fisheries. However, the competent Regional Tax Director may, at the request of the taxpayer, modify the applicable depreciation if deemed advisable.

In general, no allowance is made for amortization of intangible assets, such as goodwill, patents, trademarks, etc.

j. Branch of Foreign Corporation

Branches of foreign entities are taxed with world source income. The Income Tax Law gives the IRS the authority to assess the taxable income of a branch should the accounting records not prove adequate for assessing it. In such a case, the IRS may assess taxable income on the basis of gross receipts, assets, capital invested, sales, or percentage of exports and imports.

k. Interest Payments and Thin Capitalization Rules

Interest on loans obtained abroad is normally subject to a 35% WHT; nevertheless, interest paid to non-Chilean banks or financial institutions are taxed at a reduced 4% rate under certain conditions.

However, Chilean Income Tax Law contains thin capitalization rules that limit the possibility of funding the foreign investment in Chile with debt subject to a reduced withholding tax on interest. Therefore, if the debt of the Chilean borrower exceeds 3 times its equity (3:1 debt to equity ratio), the applicable withholding tax rate on interest related to loans granted by lenders domiciled or resident in a treaty country or by foreign banks or financial institutions will be 35% on the proportion corresponding to the excess indebtedness of the borrower. Chilean borrower must bear the difference between the reduced rate (e.g., 4% or 15%) and the 35% rate.

l. Transfer Pricing Rules

Chile has adopted the OECD guidelines of Transfer Pricing, and thus in case of international transactions between related parties, the IRS may object to the prices, values or returns charged or paid by the local entity if those prices, values or returns differ from prices charged or paid in arm's length transactions.

m. Value Added Tax

The tax rate is 19% assessed on the price of the transaction. When the price is manifestly below the normal level, the IRS is empowered to assess it.

a) In General Terms, the Following Transactions are Subject to VAT:

(i) Sales and other contracts whereby the title to movable goods is transferred provided that they are executed on a recurrent basis;

(ii) Customary sales of real estate;

(iii) Services corresponding to commercial, industrial, financial, mining, construction, insurance, advertising, data processing and other business activities;

(iv) Rental of movable goods, as well as the rental of real estate furnished or equipped to carry out industrial or commercial activities;

(v) Leasing of said goods;

(vi) Insurance premiums, with some exceptions; and

(vii) In certain cases, construction activities.

As a general rule, the seller of goods or services is responsible for the payment of the tax. The amount of VAT, however, is added to the price of the goods or services. Consequently, it is actually the buyer who bears the economic impact of the tax.

Exceptionally, when the seller is not domiciled in Chile or for other reasons is difficult to control by the IRS, the buyer has to withhold and pay VAT.

The tax is payable monthly, except for special situations such as imports.

b) Credit and Debit System

VAT charged by a company on sales of goods or services is called "VAT debit". VAT borne by a company on purchases of goods or services is called "VAT credit". The tax borne on the acquisition of related physical assets, including buildings and constructions, may also be credited.

VAT credits are deducted from VAT debits and the difference has to be paid to the Chilean Treasury.

If in any given month credits exceed debits, the difference may be carried forward and added to the credits of the following month.

VAT credits incurred in the purchase of fixed assets that remain outstanding for more than six months may be refunded in cash by the Treasury.

c) VAT Exemptions

There are few exemptions in the Chilean VAT law. The main ones are the following:

(i) Exports;

(ii) Interest on loans and other financial operations. In the case of deferred payment of a sales price, interest charged is subject to VAT;

(iii) International freight, both by air and sea;

(iv) Professional services;

(v) Services subjected to WHT, unless the services are provided in Chile and also that those enjoy a specific tax exemption given by the Chilean law or by treaties to avoid double taxation in Chile;

(vi)Revenues which are not considered as income.

d) Real Estate

Customary sale of real estate is levied with VAT. This is not applicable to land without constructions.

Provisions have been established in the law allowing for the deduction of the cost of the land from the taxable basis.

e) Exports

As indicated previously, exports are exempt from VAT. However, exporters may recover VAT charged on purchases or services necessary for their exporting activities as a credit against the debit originated in their local sales. Additionally, they may recover this credit in cash as a refund.

n. Tax Declaration and Preferences

As a general rule, individuals and entities subject to taxes in Chile must submit an annual tax return through Form N°22. It must be submitted on April of the year following of the one the income has been generated.

Furthermore, taxpayers subject to corporate tax and taxpayers subject to VAT must submit a monthly tax return through Form N°29 during the first 12 of the month following the relevant period.

In addition, taxpayers subject to monthly payment of Withholding tax, tax on gambling, fuel tax, etc. must submit a Form N°50.

Please note that according to Chilean IRS' rules in certain cases taxpayers must submit different type of affidavits (e.g. profit distributions, employees, etc.) to the tax authority.

I. Securities

a. Brief Introduction of Securities-related Laws and Regulations

The Chilean Securities Law ("Law No.18045" or "Securities Law") provides that "securities" shall mean any negotiable instruments, including shares, stock options, bonds, debentures, mutual fund shares, savings plans, and, in general, any credit or investment instrument.

Natural persons and corporations are freely allowed to invest in securities, with no distinction between nationals or foreigners. Institutional investors are allowed to invest in securities under certain conditions.

According to Law No.18045, institutional investors are banks, finance companies, insurance companies, domestic reinsurance entities, and fund managers authorized by Law. The conditions under which these investors are allowed to invest are regulated in various laws and resolutions, such as, among others, the Banks General Law, Decree Law No.3500 on Pension Funds and the Regulation for the Investment by Pension Fund Administrators in Foreign Securities.

Such regulations establish restrictions on investments based on: type of securities; amount of the investment; rating of the securities; percentage of the investment vis-a vis the networth; etc.

b. Supervision and Regulation of Securities Market

The SVS (local Securities Exchange Commission) is the institution in charge of supervising and regulating the Chilean Securities market.

The only possible way of offering and selling securities in Chile without the issuer or selling broker-dealer having to take any action with respect to local regulators is through a private placement of them. Private placement of securities is not subject to the Chilean Securities Market Law, and therefore no restrictions nor special requirements apply to the private offering (non public offer) nor the selling by the broker / dealer in Chile through a private offering.

There is no definition in Chilean Law of a private placement or offering of securities. Notwithstanding, the Securities Law defines a "public offering of securities" as an offer made to the general public or to certain and specific groups of people.

Foreign issuers, intermediaries and any other foreign persons participating in the registration, placement, deposit, trading or any other acts or agreements with respect to foreign securities that violate the Securities Law shall be liable and subject to administrative sanctions, such as fines, suspension to carry out its activities for up to one year (i.e. in the case of registered brokers or agents) and, in serious cases, the cancellation of their authorization granted by the SVS.

Additionally, any person that makes an offer in breach of the Securities Law and as a consequence of such offering causes damages to a third party, will be liable for such damages.

c. Requirements for Engagement in Securities Trading for Foreign Enterprises

a) Corporations that have to be Registered in the Chilean Securities Market

Pursuant to Article 5 of the Law No.18045, the following corporations shall be recorded in the Securities Registry:

(i) Issuers of publicly offered securities;

(ii) Securities that are the subject of a public offering;

(iii) Shares of corporations that have 500 shareholders or more, or, in which at least 10% of the subscribed capital belongs to at least 100 shareholders, excluding those that individually or through other individuals or legal entities exceed that percentage; and

(iv) Shares issued by corporations that voluntarily or by statutory requirement request registration.

Closely-held corporations are those not falling within the definition of publicly-held corporations. Finally, special-purpose corporations are those referred to in Chapter XIII of the Corporations Act.

b) Subscriptions Of Shares Of Foreign Companies In Chilean Securities Market

The shares of foreign companies ("Foreign Shares") must be subscribed before the Chilean Securities Market and Insurance Superintendence, in order to allow its public offer and commercial transaction.

d. Inscription Process

(i) The inscription can be done by a foreign company that issues shares, or by a sponsor.

(ii) If the subscription is requested by the foreign company, it shall have to be done through a Chilean legal representative with sufficient powers to request the subscription, supply information about the company, comply with the obligations of the subscription and receive the communications regarding the subscription process.

(iii) The foreign company issuing the shares in Chile shall have to come from a country member of the International Organization of the Securities Commissions (IOSCO). According to our research, the Republic of

China is indeed a member of said organization.

(iv) With the subscription request, there must be an introductory letter declaring the intention of the foreign company to subscribe its shares in the Chilean Stock Market. Additionally, Form N°1 will have to completed and presented to the SVS with general information regarding the Company, the shares, the possible Chilean investors, economic and financial information, etc.

J. Preference and Protection of Investment

a. Support for Specific Industries and Regions

Our legislation provides taxation benefits to the investment on extreme geographic regions of our Country. Moreover, several laws, such as "Ley Arica", "Ley Tocopilla", "Ley Austral" and "Ley Navarino", state special custom and tax regimes that govern investment and economic activities held in specific boroughs of Chile (which are located in the northern and southern extreme regions of our country).

Additionally, companies interested in starting innovative business or in the development of high tech assets and human resources, have also the possibility to apply for some benefits provided by the Chilean government ("CORFO Subsidies"), which are intended to support the implementation of such activities in our country. In this regard, the amount of the subsidies will depend of the type of project and its specific characteristics.①

b. Special Economic Areas

Under Chilean law, certain companies subject to authorization of existence need their supervisor's authorization for mergers, capital increases and the request for early dissolution.

Moreover, there are laws relating to special sectors that provide mandatory pre-merger filing, including media, banks, ports, water supply, casinos, energy distribution, and maritime concessions.

c. Investment Protection

As a consequence of the importance that foreign investment represents for Chilean economy, our country has developed laws and policies in order to attract investors, guaranteeing the existence of stable legal mechanisms that ensure an equal treatment for Chilean and foreign investors, a non-discretionary and non-discriminatory treatment, and the open access to most of the sections of the economy.

III. Trade

A. Department Supervising Trade

On a general basis, any type of good can be imported, except for those that are expressly prohibited by current legislation, such as used vehicles and motorcycles, asbestos in any of its forms, pornography, toxic industrial waste, among others. The National Service of Customs is the entity in charge of verifying the compliance with the above.

In this regard the Customs Service is a public service under the Treasury, in charge of monitoring and checking the passage of goods along the coasts, borders and airports of the Republic; to intervene in international traffic for the purposes of tax collection to the import, export and others; and to generate the statistics of that traffic through the borders; among other functions.

B. Brief Introduction of Trade Laws and Regulations

The National Customs Service ("SNA" or "Customs") is a public service under the Ministry of Finance, responsible for supervising and controlling the passage of goods through the coasts, borders and airports of Chile, for intervening in international traffic for the purposes of collecting import, export and other taxes determined by law, and for generating statistics on such traffic at the borders, without prejudice to the other functions entrusted to it by law. It consists of the National Directorate, Regional Directorates and Customs Administrations.

It is governed by an organic law, Decree with Force of Law No.329/1979, and by the Ordinance of Customs, Decree with Force of Law No.30/2004.

C. Trade Management

Being Chile an open-market economy, it has very few barriers to imports or investments, allowing foreign

① More information can be found at http://www.foreigninvestment.cl/.

firms to enjoy the same protections and operate under the same conditions as local firms. In agriculture and other sectors, however, some exceptions apply. The entity in charge of supervising the foreign trade is the Customs Office, which will be thoroughly explained in section E.

D. The Inspection and Quarantine of Import and Export Commodities

Even though in general any type of goods can be imported, Law No.18164 establishes two product regimes were the certification by certain public agencies is required:

a) Certificate of Destination

Alcohols, alcoholic beverages and vinegars, vegetable products and goods which are dangerous for plants, animals, birds, products, by-products and offal of animal or vegetable origin, and fertilisers and pesticides require a certificate issued by the Agricultural and Livestock Service ("SAG") indicating the approved place where the said goods are to be stored, the route and the conditions of transport to be used for their removal from the customs premises to the indicated place of storage.

Food products of any kind, toxic or dangerous substances, pharmaceutical products, food products for medical and cosmetic use, narcotic drugs and psychotropic substances that cause dependence require a certificate issued by the Health Service, specifying the authorized place where the said goods are to be deposited, the route and the conditions of transport to be used for transporting them from the customs premises to the following places.

b) Use and Destination Authorization

Once the processing of the document indicated above has been completed and the goods have been removed from the primary premises of the customs offices, they will be deposited under the responsibility of the consignee who will not be able to use, consume, sell, transfer or dispose of them in any way, without obtaining the authorization and prior approval issued by the Health Service and / or the SAG.

The report may:

(i) grant the authorization or approval;

(ii) deny the authorization or approval; or

(iii) establish a period of security (quarantine) in order to carry out the sanitary, animal and phytosanitary controls, as appropriate. During this period, the goods may not be placed on the market.

The use of a route, a place of deposit or transport conditions other than those indicated in the certificate referred above, as well as the violation of the prohibitions o use, consume, sell, transfer or dispose without the corresponding authorization, may be sanctioned with a fine of 10 to 1,000 UTM① (1UTM = 80 USD). The fine shall be applied by the director of the corresponding inspection body.

Additionally, the SAG is responsible for the control of agricultural and livestock inputs and products subject to regulation in laws and other norms. For example, SAG is empowered to:

(i) Adopt measures to prevent the entrance of pests and diseases into the national territory that may affect animal and plant health.

(ii) Determine the measures that the interested parties must adopt to prevent, control, combat and eradicate the diseases or pests that are controlled mandatorily.

(iii) Establish a categorization of products according to their pest risk, in order to determine the import requirements that must be complied to enter Chile. Said requirements will vary, depending on the category of the products and its specific regulation issued by the SAG.

E. Customs Management

As a general rule, imports are subject to a payment of a 6% custom duty on the CIF value of the good (cost of the merchandise, plus insurance premium and freight). However, this treatment can be modified, under certain conditions and depending on the involved goods and the Free Trade Agreement between the relevant countries.

a. General Rule

Imported capital goods can be exempted from any customs duties in Chile according to Law No.20269 which establishes a 0% custom duty upon "capital goods" qualified as such by Law No.18634.

In this regard, Article 2 of Law No.18634 defines capital goods as: "Machines, vehicles, equipment and tools destined, directly or indirectly, to the production of goods or services or to the commercialization of goods or services. The good's capability of producing more goods must not disappear upon its first use, but must have such capability for at least three years, being subject to a slow wear or depreciation process for a longer period". Said article also state that

① UTM (Unidad Tributaria Mensual) is a Monthly Tax Unit of Measure that indicates a value considered by Chilean national internal revenue service to calculate taxes, fines, and other fees.

"goods destined to fulfil complementary or support activities, such as conditioning, selection, maintenance, analysis and commercialization of the produced goods, indirectly participate in the production process".

In order for the goods to be considered as "imported capital goods", they must be included in the list issued by the Ministry of Finance.

The above customs regime applies to spare parts, wear and tear parts related to the capital goods, provided they are imported along with the capital goods in the same "Customs Destination Document". The value of such spare parts, wear and tear parts may not exceed 10% of the capital good's value.

b. VAT on Imports

Imports are also subject to VAT. Pursuant to article 8, letter a) of the VAT Law, VAT levies imports on their CIF value or customs value. However, article 12, Letter b) No. 10 of the VAT Law exempts from VAT on import of capital goods exists provided all of the following requirements are met:

(i) That the goods have been imported in accordance with the provisions of DFI, including the enterprises receiving such investments. For purposes of benefitting from the exemption, the following requirements must be met: an investment project must have been agreed to in accordance with the provisions of the aforementioned legal provision; the capital goods must be part of the investment project; the capital goods must be included in a list set in a Supreme Decree dictated by the Ministry of Economy; or

(ii) Chilean investors may also benefit from the exemption when the following requirements are met: the capital goods must not be produced in Chile in enough quality and amount; the capital goods must be part of a national investment project similar to a foreign investment project subject to the provisions of DFI, destined to produce similar goods or services for the final consumer; the investment must be qualified as "of interest for the country"; the capital goods must be included in a Supreme Decree issued by the Ministry of Economy; the compliance of the above requirements must be checked by the Ministry of Economy which would issue a resolution which must be confirmed by the Ministry of Finance.

Imports are not subject to income tax in Chile, as Chilean Income Tax Law ("ITL") defines Chilean-sourced income as those arising from goods located in Chile or activities performed therein. Companies domiciled or resident abroad are subject to income tax in Chile only on their Chilean-sourced income.

F. Product Certification

In Chile, there are no industry-specific standards associations. Rather, the only organization responsible for developing standards in Chile is the National Institute of Standardization ("INN"). Its long-term plan for the development of standards is aligned with Chile's primary export sectors, which include copper, forestry, agricultural products, and wine.

In most sectors, standards are not mandatory in Chile, unless specifically order by a laws and / or regulation, but companies can voluntarily comply with them, especially in industries where such compliance constitutes a kind of "seal of approval".

However, certain imported products, such as those related to industrial safety, building and construction materials, automotive safety, and the gas and electricity industries, must comply with the specific requirements of the supervising entity. For example, there are specific regulations pertaining to the seismic resistance of new construction. The INN is also promoting ISO 14000 and ISO 9000 standards among local manufacturers. The chemical industry is an example of one industry that has incorporated ISO 9000 standards into its industrial processes.

IV. Labour

A. Brief Introduction of Labour Laws and Regulations

In general terms, our Labour related matters are mainly contained in the Chilean Labour Code, which applies to private employees, either Chilean or foreigner, that provides for different matters, such as individual employment agreements, benefits, unions and collective bargaining agreements, subcontracting and personnel supply, among others.

Additionally, the some other specific laws provides rules to other employment related matters, such as social security (pension and health), statutory insurances, labour security, among others.

a. Employment Agreements

The employment contract is consensual. However, Chilean law requires the employment contract to be executed in writing no later than fifteen days after the date when the employee began rendering the services. If the employer fails to put the employment contract into writing, it will be presumed that the terms and conditions of the

employment contract are those stated by the employee.

Our legislation recognizes three categories of agreements:

a) Individual Employment Agreements

The employment agreement is provided as a written contract between an employer and an employee whereby they are bound, the employee to render personal services under ties of dependence and subordination ("vínculo de subordinación y dependencia") to the former, whereas the employer to pay compensation for those services.

Local statute (mainly the Labour Code) provides for minimum provisions applicable to said agreements, which are mandatory to any employer.

b) Collective Agreements

Our Law provides two different types:

(i) Contrato Colectivo: According to the Labour Code, a collective contract is agreed upon one or more employers with one or more unions or with nonunionized employees who unite to negotiate collectively, or with both groups, to establish common working conditions and remunerations for a fixed period of time.

(ii) Convenio Colectivo: Additionally, the law allows the employer and the employees (either with a union or with a group of at least eight employees) to enter into this specific kind of agreements, which provides common working conditions and remunerations for a fixed period of time applicable to a union or group of employees specially organized to negotiate and execute it.

Please note that legally, the only difference between a Contrato Colectivo and Convenio Colectivo is that the latter does not require a regulated collective bargaining process. Therefore, the negotiation leading to a Convenio Colectivo is neither subject to a regulated procedure nor can lead to an eventual strike.

However, once executed, both agreements have the same effects and are binding for both parties.

c) Special Contracts

Our law also provides for special labour contracts. Each of these contracts has its own characteristics and specifications, e.g. the apprenticeship contract which is restricted to individuals under 21 years of age; farm employees' contracts; contracts for employees on ships or at sea and temporary dock employees and contracts for domestic help.

b. Labour Contract Term

The parties may agree on either an indefinite contract, limit the duration of the contract to the completion of a particular job to be performed by the employee, or else agree on a fixed period of time.

As for fixed term contract, its term exceeds one year, or two years in the case of managers, professionals and technicians. At the expiry of the original fixed period or of its extension, the contract terminates ipso facto but, if the employee continues rendering services for the same employer, by law the term of the contract becomes indefinite.

c. Employee's Nationality

The law states that at regarding Companies with 25 or more employees, must fulfill a quota of, at least, 85% Chilean citizens. To determine this ratio, the law excludes technicians who cannot be replaced by Chilean nationals. For this purposes the law deem the following persons as Chileans:

(i) foreigners whose spouse or civil partner or whose children are Chilean, including widows or widowers of a Chilean spouse; and

(ii) foreigners who have resided in the country for more than five years, not considering accidental absences.

d. Work Schedule

As for Work Schedule, labour statute considers a maximum number of hours weekly. The normal workweek is limited to a maximum of 45 hours. This maximum must be worked in no less than five and no more than six consecutive days. The normal workday shall not exceed 10 hours.

Overtime -which is the time worked by the employee exceeding the legal or agreed workday, if shorter- shall be agreed only based on temporary situations. Overtime must be determined on circumstances that, while not permanent in the company's productive activity and deriving from occasional events or from unavoidable factors, do imply a greater work demand in a certain amount of time (but not more than 2 overtime hours per day). Overtime work agreements shall fulfill some legal requirements and may be renovated if the circumstances that originated them persists. Local statute provides a mandatory 50% surcharge on the salary.

Lastly, there are some particular cases provided by law in which the employees, due to the nature of their services, who's workweek is neither limited to 45 hours nor are entitled to overtime payment.

e. Employees' Rest

a) Working day rest period

workday must be divided into two periods, leaving between them at least a half-hour break for lunch, which

must not be considered for the purposes of determining the workday.

b) Weekly Rest Period

Sundays and days legally established as holidays shall be nonworking days, except for activities authorized by law to be performed on those days. In the latter, the law provides how the rest days are compensated.

In Chile, holidays are:

(i) New year (January 1st);

(ii) Extra New year day[①];

(iii) Easter (Holy Friday, Saturday and Sunday);

(iv) Labour Day (May 1st);

(v) Naval Combat Commemoration (May 21st);

(vi) Saint Paul and Peter (June 29th)[②];

(vii) Virgen del Carmen day (July 16th);

(viii) National Holiday (September 18th and 19th)[③];

(ix) Columbus Day (October 12th)[④];

(x) Evangelic Church Day (October 31st)[⑤];

(xi) All saints Day;

(xii) Immaculate conception (December 8th); and

(xiii) Christmas (December 25th).

Please note that election days are also holidays. Also, there are some

c) Vacations

(i) basic annual vacations equal to 15 working days;

(ii) progressive vacations, to which employees are entitled to after working 10 years, continuously or not, for the same or different employers, and is equal to 1 day for every three years of service, after achieving the 10 years seniority, and

(iii) special regional vacation, equal to 20 days (instead of the 15 days of the basic annual vacations) and only applicable to employees working in the 11th and 12th Regions of the country and other specific zones.

f. Remuneration

Legally, it is deemed as remuneration any cash payments and cash-equivalent benefits in kind that the employee receives from the employer on account of the employment agreement.

The remuneration[⑥] includes base salary, overtime pay, commissions, profit sharing and bonuses. The law further indicates that certain payments or allowances do not constitute remuneration, such as lunch, family allowance for each charge of the employee, transportation allowance, etc.

The remuneration must be paid in the agreed fixed period, which cannot exceed one month. However, in the case of variable remunerations, this variable remuneration or commission is usually paid monthly, bimonthly or quarterly. Other payments which depend on the quarterly or yearly results of the company, i.e. bonuses and profit sharing, are paid at the end of the quarter or business year, respectively.

The amount of compensation can be freely agreed upon between the employer and the employee. However, the law sets a minimum level, which in the case of the monthly base salary for employees working 45-hour weeks cannot be lower than one legal monthly minimum wage (CL$264,000; US$430 approximately).

a) Profit Sharing

Legally if a company has profits, it must share part of them with its personnel. The law stipulates that companies must distribute 30% of net profit to the employees, calculated in proportion to the employee's salary. The basis used to determine profits is the corporate taxable income (subject to certain adjustments) less 10% of net equity. However and in lieu of the above obligation, the employer may pay a bonus of 25% of the yearly salary, but the bonus in this case, regardless of the level of salary of the employee, cannot exceed 4.75 monthly minimum

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① In case January 1st is on a Sunday, the following Monday is holiday.

② If this holiday is on a Tuesday, Wednesday or Thursday the holiday will be moved to the previous Monday. In case the holiday is on a Friday, the actual day of rest is transferred to the following Monday.

③ In case national holiday is on a Saturday or Sunday, September 17th will be an extra holiday.

④ If this holiday is on a Tuesday, Wednesday or Thursday the holiday will be moved to the previous Monday. In case the holiday is on a Friday, the actual day of rest is transferred to the following Monday.

⑤ In case the holiday is on a Wednesday, the actual day of rest is transferred to the previous Friday. If the holiday is on a Tuesday, the actual day of rest is transferred to the previous Monday.

⑥ There is no legal provision that obliges the employer to update its employee' s salary according to inflation. However, this is a common practice.

wages. However, employer and employees may agree on a different profit-sharing system, provided the payment to the employee is not lower than the two alternatives mentioned above.

b) Additional Benefits

Employers have no legal obligation to provide fringe benefits, other than benefits which may be voluntarily agreed upon in individual or collective contracts or agreements. Pension and sickness benefits are covered by the Social Security System described later. There is no legal obligation to provide catering facilities and meals, as a general rule.

g. Termination of the Labour Contract

Chilean Labour law applies the principle of "relative stability in employment". Therefore, labour agreements may only be terminated due to causes and according to the provisions set forth by law.

Labour law provides for:

(i) objective grounds of termination, such as mutual consent, employee's resignation or death, among others;

(ii) termination with cause; and

(iii) termination based on economic reasons or without cause.

Legal ground mentioned on number (i) and (ii) above does not entitle the employee to legal severance. However, some legal requirements must be fulfilled in order to terminate employment, especially regarding those grounds mentioned in number (ii) above.

Finally, termination without cause, the other, entitle the employee to receive legal severance payments, which includes:

(i) Severance in lieu of notice: equal to the amount of last gross salary payment received by the employee instead of giving the 30 days' notice require by law; and

(ii) Severance for years of service: when the parties agree or agreed to anything less than what is required by law, the payment for this compensation is equal to the last monthly gross salary received by the employee multiplied by the years of work or fraction superior to 6 months by the employee, with a 11 years cap.[①] Please note that employees will be entitled to this severance payment only after they have 1-year service seniority.[②]

Both legal severances must be calculated according the provisions set forth in the Labour Code.

Notwithstanding the foregoing, both parties may agree on a conventional severance payment in case of termination. This can be agreed in writing and to be applicable even if the termination ground does not entitle the employee to any legal severance. However, the agreed severance compensation cannot be lower than the statutory compensation regime. Normally, this sort of agreement is common in executive and management positions.

Also, it is possible for the employer to pay a voluntary termination severance, often applicable to grounds of termination that don't entitle the employee to legal severances. It is very important to bear in mind that this sort of severances are not tax deductible for the employer and a 40% tax penalty applies.

Furthermore, and regardless the legal ground invoked for termination, employees are entitled to their accrued vacation severance.

Lastly, termination of employment must also fulfill some legal requirements, such as written notice, only applicable to terminations with cause and those based on economic reasons or without cause, and release settlement execution.

h. Outsourcing

The law recognizes the possibility to outsource or externalize services even in matters related to the main business of the user company and also the hiring of transitory personnel through special entities named EST("Empresas de Servicios Transitorios"). Hiring of transitory personnel from an EST is limited to specific situations and to a limited period of time. ESTs are special entities with a sole line of business previously registered before the competent autority. Both regimes are regulated in detail in the law.

Local statute provides for two outsourcing types:

a) Subcontracting

Under this option, contractor should provide services on its own account and risk, with personnel under its labour dependence and control. Therefore, the client shall not interfere in the labour direction of the employees during the performance of the services.

As a general rule, the client is jointly liable for all the contractor's employees labour and social security

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① This 11-year cap is not applicable to those employees hired before August 14, 1981.

② Regarding the above compensations, it is important to state that their payment has a 90 Unidades de Fomento ("UF") cap, which is roughly USD $3,900.- However, the parties may agree upon waiving that cap. Such agreement must be written.

obligations (i.e., severances in case of termination, payments of social security obligations, salaries, etc.), hygienic and secure place of work, among others.

Notwithstanding the above, joint liability becomes subsidiary in case the client can evidence that it has effectible controlled compliance of labour laws by the contractor. For these purposes, the client shall require the contractor a special certificate granted by the Chilean Department of Labour, which evidences that the contractor has fulfilled all its labour and social security obligations, among other documents.

If the contractor does not timely certify the complete fulfillment of its labour and social security obligations, the client has the right to withhold any payment or advance that must be done according the agreement between the parties up to the extent of its subsidiary liability having the obligation to pay, with the withhold amount, the owed amounts to the employees and / or to the social security institutions.

The client can also report to the Department of Labour the breach of contractor's labour and social security obligations, declaring the withholding made.

One of the main risks of subcontracting services is the possibility that it is considered the contractor's employees, and that it has a subordination and dependence entailment with the client. To claim the existence of a direct labour relationship, the employee shall pursue legal action against the main company before the labour courts; if the court rules in favor of the employee, the main company will have the obligations of an immediate employer.

b) Personnel's Supply

Specific legal entities provided by law are allowed to provide personnel to a company on a temporary basis. Under this alternative, the company will be authorized to use the provided employees under its subordination. However, the Chilean labour law allows this alternative only for some exceptional events (i.e. to replace employees either on vacation or on medical leave; to face an exceptional and temporary period of more activities, etc.) and for limited periods of time (in general no more than 90 or 180 days).

i. Background Checks

The employer could request a medical certificate when the latter physical condition is an aspect for his / her suitability according to the nature of the provided services. That is, only in specific cases the employer can request a medical certificate in order to confirm the employee is capable to perform his job (i.e. related with unhealthy and dangerous works, as a mining or height's labours). In case the employee's condition is not an element for his suitability, such request may be considered as discriminatory and the employee's constitutional rights may deem as violated.

As for criminal checks, the same criteria apply.

Regarding credit checks, the law states as a general rule that no employer may condition a hiring process on the absence of credit debts or obligations, nor require any declaration stating the fact that they are not indebted. However, according to local statute, this requirement can be asked regarding those persons that have general administrative powers to represent the employer, such as managers or agents or proxies, as well as those responsible for the collection, administration or custody of funds.

Regarding educational background, this is permitted for it is considered an element to determine whether she / he is suitable for the position.

j. Maternity Protection

Regarding this particular matter, Chilean Labour statute provides for a set of rights and benefits to protect maternity, such as:

a) Prohibition of Performing Dangerous or Hazardous Works[①]

If during a pregnancy, an employee is performing tasks that are considered hazardous to the pregnancy, the employee must be transferred to another task, without any change in her remuneration.

b) Maternity Leave

Regarding this matter the law provides for different leaves:

(i) Prenatal Leave. Female employees are entitled to six weeks leave before the birth of a child ("prenatal leave") on full subsidy[②] pay (which is made by the Social Security System and not by the employer). The law also provides for a supplementary prenatal leave in specific cases.

(ii) Postnatal Leave. On the other hand, female employees are entitled to 12 weeks after the birth of her child (as

① For this purposes the following tasks are considered hazardous: (i) Lifting, carry and push heavy objects; (ii) Exert intense physical activity, including standing up for a long period of time; (iii) Working on night shifts; (iv)Working overtime; (v) Anything that the respective authority declares inconvenient during this stage.

② It is important to note that the subsidies that the employee is entitled are determined by law and has legal caps which change periodically.

prenatal leave, this payment is made by the Social Security system). This could be extended if some requirements are fulfilled.

(iii) Parental Permit. Additionally, an extra parental leave is provided by law which can be taken according to 2 options: Full time: this means an extra permit of 12 weeks after the end of the postnatal leave, with full subsidy payment by the Social Security system; or Half time: this can only be chosen by the employee but not imposed. In this case the parental leave and subsidy is extended to 18 weeks after the postnatal leave ends. As for its payment, the subsidy granted by the Social Security System is reduced to 50% so the employer must pay the other 50% of her salary. The law also provides that part of this permit may be transferred to the father.

Please note that the law provides for specific additional leaves.

c) Father's Permit

The father is entitled to 5 paid days' leave for the birth of a son/daughter. This permit can be used continuously or distributed within the first month of baby's life, as the employee's choosing.

d) Maternity Protection

Female employees are legally protected under maternity privilege since the beginning of her pregnancy until one year as from the end of the postnatal leave. During this period, the employer may not dismiss her without cause. For termination with cause, employers must request the court's previous authorization.

B. Foreign Employees

As a general rule, employees coming to the country to render services will be subject to both Chilean migratory and labour law, regardless if the employer is a Chilean or foreign entity.

Chilean Migratory Law, in general terms, disregards the applicant's nationality in the process of requesting a visa. Some differences may be noted due to the applicant's nationality regarding the fee applicable to the process.

Chilean Law provides for two kinds of visas for foreigners who wish to work in Chile, as follows:

(i) visa subject to a work contract (work visa); and

(ii) temporary visa. The latter is granted, inter alia, to professionals, technicians and experts who do not come to Chile under a labour contract with a company or branch office in Chile, but as independent consultants and whose services in Chile are considered useful or convenient for the country. The foreigner must request a temporary visa, under different assumptions based on each particular situation.

Either visa enables the applicant to apply to a permanent residence after its expiration. Also, the same type of visa can be granted to the members of the family of the visa holder (such as wife, children or parents) who will not be allowed to perform remunerated activities in the country.

Any visa is a residence permit that allows the holder to reside in the country and to perform any licit activity, without special limitations. Work visa is granted for 2 years term and a temporary visa can be granted for a 1-year period, renewable once for the same period.

Regarding the application procedure, there are two options:

(i) The application may be filed before the Chilean Consulate and carried out through the Ministry of Foreign Affairs. The documents to apply for this type of visa will depend on the specific Consulate in which it will be submitted.

(ii) The visa application can be submitted once the employee arrives in Chile. In this case the application must be filed before the Immigration Department (which is part of the Ministry of Internal Affairs).

This procedure takes approximately 8 months, during which the foreign employee can apply for a provisional work permit which allows him to work in Chile during the entire procedure to obtain the visa.

Furthermore, tourist visa allows its holder to work in the country if a special permit is granted. Hence the foreigner can be able to legally work within a week after his arrival.

C. Restrictions for Exit and Entry

It is important to note that any foreigner that enters de country must have a tourist visa. Depending on the person's nationality, it will be necessary to apply for a tourist visa abroad. Some other nationals don not require to have the tourism visa and have no further restrictions for entering the country. This is also applicable to exits.

As a general rule, tourist visa's term is 90 days, regardless of how it was obtained. However, please consider that the border control authority (Policía de Investigaciones) is empower to either grant the tourist visa for a shorter period of time, or prohibit the foreigner to entry the country, at its sole discretion.

The tourist visa can be renewed, once, for a maximum period of 90 days, counted since the first visa has expired.

D. Labour Disputes

Chilean law provides several procedures to solve labour disputes between employers and employees. Said

proceedings may be held administratively or before Labour Courts.

Legally, the Department of Labour is a government agency which verifies law compliance by employers and resolves certain labour disputes through mediation procedures. Conflict and dispute settlements achieved in this instance are enforceable and binding for the parties. The latter task is fulfilled through administrative proceeding set forth by law.

On the other hand, Labour Courts are those legally obliged to resolving any dispute, applicable to their jurisdiction, provided by the employer or employees. Judiciary rulings are enforceable and binding for both parties and may be subject through recourses by higher courts (such as Appeal Courts or even the Supreme Court).

Procedures by which the parties may solve labour contingencies are:

a. Labour Claims

These can be submitted by an employee or a group of them before the Department of Labour. Often, they are submitted when the employee is seeking the declaration that the employer has breach its legal obligations either while the employment is in force or upon its termination.

Normally, the Department of Labour can set up an investigation in the employer's premises or summon both parties to try and reach an agreement. If an agreement is not reached, the employee can file a lawsuit before the Labour Courts in order to seek a judiciary ruling on the dispute.

b. Labour Lawsuits

Chilean Labour Courts are competent to review:

(i) any issue raised by employers and / or employees related to the application of the law or provided from the interpretation and application of individual or collective agreements, conventions and arbitration decisions;

(ii) social security related issues, raised by employee or employers, except those that consists in reviewing medical leaves;

(iii) Claims against resolutions issued by labor or social security authorities;

(iv) any claim seeking damages compensation because of occupational accidents or diseases; and

(v) any other matter which the law specifically provides must be subject to them.

Please note that the specific procedures set by law will vary depending on the matter and its amount. Therefore, local statute provides for different kinds of proceedings which can be held before a Labor Court. However, all of them are mainly oral and includes audiences before the judge.

V. Intellectual Property

A. Brief Introduction of IP Laws and Regulations

Several laws and regulations, including the Constitution, protect in Chile the various IP rights, of which the most relevant are:

- Law No.19039 of Industrial Property regarding patents (including industrial designs, utility models), trademarks, geographical indications, layout designs (topographies) of integrated circuits and trade secrets.
- Law No.17336 of Author's Rights (Copyright).
- Law No.19342 of Plant Varieties.
- Law No.20169 of Unfair Competition.
- Law No.19912 (Title II) of Border Measures.

Chile is a member of several Multilateral Treaties concerning the protection of IP rights, such as:

- The Paris Convention for the Protection of Industrial Property;
- The Patent Cooperation Treaty ("PCT");
- The Berne Convention for the Protection of Literary and Artistic Works;
- The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;
- The Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite.

Also, some of the bilateral free trade agreements to which is Chile is a party contain IP Chapters, including the Free Trade Agreement with the US and the Association Agreement with the European Union.

The National Institute of Industrial Property ("INAPI") is the agency responsible for the registration of Industrial Property rights (patents, industrial designs, utility models, trademarks, geographical indications and layout designs of integrated circuits). Copyright and neighboring rights are registered at the Department of Intellectual Rights. The Agriculture-Livestock Service ("SAG") is responsible for the registration of Plant Varieties.

B. Patent Application

Patents may be granted for any type of product or process that is to be considered an invention, the latter of which is defined in Chile as any solution to a problem of the technique resulting in an industrial activity. Patents are valid for 20 years from their filing date and cannot be renewed.

Discoveries, scientific theories, mathematic methods, plants and animals, software, business models, therapeutic or surgical methods, parts of living beings are considered non patentable subject matter. Chile does allow for second medical use patents as well as Swiss type claims.

In regards to the prosecution of a patent application, this is done before the INAPI. Chile has a pre-grant opposition system and several examiners substantive reports are issued during the prosecution of an application. In general, the prosecution of a patent takes around 3 years before INAPI. If the application faces a third party opposition, the prosecution will take about an additional year longer. The final decision of INAPI can be the object of appeal recourse before the Industrial Property Court. Appeal recourse procedures usually take around 1 years' time. Said decision, can be the object of an annulment recourse before the Supreme Court.

Additionally, it should be noted that Chile allows for Patent Term Adjustment and Patent Term Extension procedures. Both of them are filed, prosecuted and resolved by the Industrial Property Court.

A cancelation action can be filed against a registered patent and the statute of limitations for the filing of said action is of 5 years from the registration date.

Chile is a member of the PCT Patent System.

C. Trademark Registration

Trademark may consist of words, designs or the combination of both. Sound trademarks are also permitted. 3D trademarks are not recognized by the law. The duration of the trademark is 10 years and registrations may be renewed every 10 years. Use of trademarks is not mandatory in Chile and trademark registrations cannot be cancelled based on lack of use.

Registrations are granted for products and services as classified under the Nice Classification, with the addition of two categories, "establecimiento comercial" for retailer names and "establecimiento industrial" for manufacturing facilities.

Trademark applications are filed at INAPI and are subject first to a formal examination and after to the publication in the Official Gazette. Oppositions which may be filed within 30 working days from the publication, based on absolute or relative grounds, including the right to oppose based on trademarks registered outside Chile that enjoy fame and notoriety, even if the trademark has not been used in Chile. INAPI also examines the application on absolute and relative grounds after the expiration of the opposition term. The opposition and Office Actions, if any, decided in first instance by the Director of INAPI, appeals are decided by a special Industrial Property Court and under certain circumstances, the matter may be brought up to the Supreme Court. The prosecution of a trademark application takes about 6 months if no opposition / Office Action is raised.

Trademark registration may be cancelled within 5 years from the date of granting on the same grounds as for an opposition. After 5 years, a cancellation action may be still possible but based on bad faith grounds.

The agents representing a trademark applicant must submit a Power of Attorney before INAPI that does not require further formalities.

D. Measures for IP Protection

Chilean laws contemplates several measures for the enforcement of IP rights.

Both Law No.19039 of Industrial Property and Law No.17336 of Author's rights (Copyright) provide civil and criminal actions for the enforcement of IP rights, including injunction orders, seizure orders, fines, and the right to obtain compensation for damages.

Chilean Customs is also authorized to carry out border measures consisting in the retention without a Court order for up to 10 days of goods that infringe trademarks and copyrights.

VI. Environmental Protection

In the last decade, Chilean environmental law has become increasingly important and consistent with far higher standards. From the judicial enforcement of the constitutional right to live in a pollution-free environment to the enactment of the Environmental Act, Law No.19300 ("EA"), and numerous decisions by the environmental authorities and landmark jurisprudence, the environmental regulations have formed a legal body that must be taken very much into account when considering any new investment project with environmental consequences.

In Chile, there is no single body of laws that encompasses the entire gamut of environmental regulations. Rather, it is scattered throughout numerous legal statutes of varying hierarchy, each referring to a specific matter. The following paragraphs provide a brief summary of the regulations we consider most relevant - from a practical standpoint in developing any given activity or project.

A. Department Supervising Environmental Protection

There are three Governmental bodies related with the application of environmental regulations in Chile:

(i) The Environmental Ministry, which is in charge of the design and application of environmental policies, plans and programs, and the protection of the biodiversity and renewable resources.

(ii) The Environmental Evaluation Service ("SEA"), whose main function is to administer the Environmental Impact Evaluation System.

(iii) The Environmental Superintendency ("SMA"), which is a decentralized public service that executes, organizes and coordinates the follow-up and supervision of the Environmental Qualification Resolutions ("RCA"), prevention and decontamination plans, environmental quality and emissions regulations, management plans, and other environmental instruments established by law.

In addition, there are Environmental Courts, whose main role is to resolve environmental controversies, such as lawsuits seeking reparation of environmental damage, claims against decisions by the SMA, and claims against environmental certification resolutions, amongst others.

B. Environmental Impact Evaluation System ("SEIA")

This system was created by the EA. Any project or activity included in a specific list contemplated by the EA must be submitted to this system prior to its performance or modification.

The projects and activities that must be submitted to the SEIA include, inter alia, high-voltage power transmission lines and related substations; power generation facilities with capacity above 3 MW; airports, bus and truck terminals and train stations, railroads, gas stations, highways and public thoroughfares capable of affecting protected areas; ports, waterways, shipyards and maritime terminals; urban development and tourism projects in certain areas; industrial or real estate projects in areas declared to be latent or saturated; mining projects, including coal, oil and gas, and comprising prospection and extraction work, processing facilities and disposal of waste and sterile rock, as well as the industrial extraction of aggregates, peat or clay; oil pipelines, gas pipelines, mineral or comparable ducts, etc.

If the project or activity that must be submitted to the SEIA is found to produce certain relevant environmental impacts, described in the EA, then an Environmental Impact Study ("EIA") must be filed with the SEIA. If the project or activity is not found to produce said impact, then no EIA is necessary, only an Environmental Impact Statement ("DIA").

Among the environmental consequences that require filing of an EIA instead of a DIA the law includes: risks to human health, due to the quantity and quality of effluents, emissions or residues; potential material adverse effects on the quantity and quality of renewable natural resources, including soil, water and air; the relocation of human settlements or significant alteration to the lifestyles and customs or the population; their location in or in the vicinity of human settlements, resources and protected areas, priority conservation sites, protected wetlands and glaciers likely to be affected, as well as the environmental value of the territory where its location is planned; and any significant alteration, in terms of magnitude or duration, to the landscape or tourist value of any given area; and any alteration to monuments or sites of anthropological, archeological and historical value, and in general those that are part of our cultural heritage.

There are several differences between how an EIA and a DIA are processed, chiefly the deadlines that the environmental authorities have to work with in issuing an RCA. In the case of an EIA, the authority has 120 days, whereas for a DIA the deadline is shortened to 60 days. In practice, these deadlines are longer because the procedure is usually suspended at the request of the project owner in order to collect data and information needed to answer inquiries made by the authorities.

The corollary of this process is an RCA, which could be either unfavorable, in which case the project or activity cannot be carried out, or favorable. In this last case, the RCA usually establishes certain conditions that the owner must meet during the various project implementation and operation stages.

C. Brief Introduction of Laws and Regulations of Environmental Protection

a. Emission and Environmental Quality Standards

There are several emission standards that establish maximum limits that certain specific sources may emit.

(i) In relation to atmospheric emissions, specific emission standards apply in the Santiago Metropolitan Region that are more stringent than those generally in force.

(ii) As to industrial liquid waste, emission sources must adhere to the relevant emission standard, the application of which depends on the water mass that receives the discharge (rivers, lakes, underground aquifers, sea). Usually, in order to comply with the emissions standard, one needs to implement a waste treatment plant under the operational supervision of the Water Utilities Superintendency.

(iii) Elsewhere, there are environmental quality standards that set out the maximum limits for the concentration of pollutants likely to pose a risk to human health or an environmental protection or conservation hazard. There are quality standards for the control of pollutants that affect the atmosphere and inland and maritime waters.

b. Hazardous Solid Waste

The handling of hazardous waste is regulated by Supreme Decree 148/2003, i.e. Sanitary Regulations for the Management of Hazardous Waste, which introduces conditions for the management, storage and elimination of these wastes. Significant hazardous waste generators must file a waste management plan with the Sanitary Authority for approval.

Hazardous waste transportation is regulated by Supreme Decree 298/1994, i.e. Regulations for the Transportation of Hazardous Waste, which establishes the safety conditions to be met by all vehicles that carry hazardous materials or wastes.

c. Native Forest Act

Law No.20283 on the Native Forest Recovery and Forestry Promotion generally provides that any tree-felling activity on native forests, regardless of the location, must be conducted on the basis of a management plan previously approved by the National Forest Corporation ("CONAF"). Nevertheless, it does forbid the felling, elimination, destruction or removal of planting stock of native plant species that are part of a native forest and classified as "in danger of extinction," "vulnerable," "rare," "insufficiently known" or "out of danger".

d. Indigenous Peoples Act

Law No.19253 introduced a special statute applicable to indigenous peoples. It provides that indigenous lands may not be disposed of, attached, encumbered or acquired through adverse possession, except among indigenous communities or individuals belonging to the same ethnic group. Nevertheless, they may be subject to liens upon authorization by the National Indigenous Development Corporation ("CONADI"). These liens cannot include the home of an indigenous household and the land it needs to survive. Likewise, lands owned by indigenous communities cannot be leased, conveyed under bailment or assigned to third parties for their use, enjoyment or administration. Lands belonging to indigenous individuals may be subject to the above treatment for a maximum of five years.

In any case, these lands, with the prior consent of CONADI, may be exchanged for non-indigenous lands having comparable commercial value, duly ascertained; the latter will then be deemed to be indigenous lands and the former will no longer enjoy this status.

Additionally, Chile has ratified the International Labour Organization Nº169 Convention on Indigenous and Tribal Peoples. Pursuant to that Convention the government must consult the indigenous people, through appropriate procedures, about legislative or administrative measures that may affect them.

e. Liability for Environmental Damages

In general, liability for environmental damages is subjective, i.e. for a person or entity to be required to cure environmental damages or pay indemnification equivalent to said damages, not only must it have caused those damages, but they must also have been the result of willful misconduct or negligence. Exceptionally, there are some cases of strict liability, such as the damage regulated by the Nuclear Safety Act 18302/1984, the Navigation Act contained in Decree Law No.2222/1978, and the Agricultural Protection Act contained in Decree Law No.3557/1981, that regulates the use of pesticides.

D. Compliance Monitoring of Environmental Protection

As previously mentioned, the SMA is the entity in charge coordinating the monitoring and control of the RCA, the measures of the Prevention Plans and or Environmental Decontamination Plans, the contents of the Environmental Quality Standards and Emission Standards, the Management Plans, and all other environmental instruments established by law.

The SMA may apply sanctions pursuant to Law No.20417 in case environmental regulations are infringed. Aaccording the severity of the infringement, sanctions including revoke the RAC, close the facilities, or 1,000 to 10,000 fines UTA may be imposed.

Notwithstanding the above, the revocation or suspension of an RCA is an uncommon sanction in Chile, which requires a previous consultation with the Environmental Court of Law. In any event, the sanctions mentioned above may only be applied after a sanctioning proceeding has been led by the SMA.

VII. Dispute Resolution

A. Methods and Bodies of Dispute Resolution

The Chilean judicial system is composed by courts of first instnce, Courts of Appeal and a Supreme Court. Courts of first instance are divided geographically and according to the matters they decide. However, there are no special courts for disputes concerning commercial issues, therefore they are resolved by civil courts.

Arbitration is also recognized as a legal dispute resolution within Chilean jurisdiction. The parties are free to agree upon this mechanism regarding most matters. There are three kinds of arbitration, according to the powers granted to arbitrator: arbitration at law (which strictly follows the rules of the Chilean Civil Procedure Code and rules according to law), arbitration ex-aequo et bono (where the parties and the arbitrator freely establish the rules of procedure, and the ruling must be in accordance with fairness and equity principles, that is to say, it does not necessarily follow the law) and mixed arbitration (where the parties may freely establish the procedures rules, but the final decision must be made according to law).

There are certain matters of prohibited arbitration such as alimony, the separation of assets during matrimony and criminal cases. Conversely, there are certain matters of mandatory arbitration, such as the liquidation of corporations and partnerships as well as the differences between its partners or shareholders. Other than these matters, no party shall be subject to arbitration against its will.

Choice of law clauses are generally recognized and enforced, with some exceptions. Assets located in Chilean territory are always governed by Chilean Law. There are also some exceptions concerning family law.

Choice of venue clauses are recognized and enforced regarding international contracts, which need to have an international element in them. However, Chilean courts are flexible when determining the existence of an international element.

B. Application of Laws

The rules of organization and faculties of the State Courts, along with the jurisdiction related matters, are contained in the Organic Code of Tribunals.

As to the procedural rules, they are mostly contained in the Civil Procedure Code -for civil matters- and Criminal Procedure Code -for criminal matters-, notwithstanding some special proceedings regulated in separated acts. In the case of arbitration, Chile adopts a dualistic model, regulating domestic arbitration within the Civil Procedure Code and International Commercial Arbitration in Act. No. 19971/ 2004.

VIII. Others

A. Anti-commercial Bribery

a. Brief Introduction of Anti-commercial Bribery Laws and Regulations

a) Commercial Bribery is a Felony that can be Perpetrated by People and / or Companies

When the felony is perpetrated by a person, the Criminal Code will apply. A person can be either an active participant or a passive participant of the felony. The passive participant is the person that works on a governmental institution and receives a payment in exchange of a favor. Accordingly, the active participant is the person that works in the private sector and makes a payment in exchange of a favor from the government. The Chilean Criminal Code proscribes and sanctions corruption and bribery (including commercial bribery). Criminal sanctions are established both for the public officer who receives the bribe and for the person who pays it.

According to the Chilean Law that regulates the criminal responsibility of Companies, according to Law No.20393/2009, Companies can only be liable for 3 types of crimes:

(i) Bribery;

(ii) Financing of terrorism; and

(iii) Money laundering.

The Law establishes than in order to make a company liable for said crimes, they have to be performed

by the Company's owners, controllers, board members, representatives, principal executives, or whoever has administrative and supervision duties within the company. Furthermore, in order to attribute the liability to the company and not to the person directly involved in the crime, the company must have had, directly or indirectly, a benefit from the execution of said crimes.

In business combinations such as mergers, liability can be transferred from one company to another, independently from the individual's responsibilities. Responsibility does not end with the dissolution of the liable company.

Furthermore, Chile is a member of the United Nations Convention against Corruption (since 2006) and of the Inter-American Convention against Corruption (since 1998), treaties that make the legal framework against these crimes even stricter.

b) Crime Prevention Policy Requisites

Pursuant to Law No.20393, in order for companies to prevent crimes such as bribery, the company must first appoint a "Person in charge of Crime Prevention" who must not have a subordinate position within the company. Second, it must give sufficient and adequate faculties and powers to that person so that it can perform its duties. Third, the company must create a "Prevention System" with the indication of the activities that could tend toward criminal acts; mechanisms, rules and instructions to prevent the latter; install administrative procedures and audits to prevent crimes and finally the establishment of sanctions for the people who breach system regulation. Finally, the "Prevention System" must be certified by external auditors, risk qualificator companies or other companies subscribed to the Superintendence (SVS). However, the Law does not state basic requisites in order to get said certification, and it is usually enough to just have a Prevention System but not necessarily and adequate or sufficient one.

Needless to say that this Crime Prevention Policy does not make the company exempt of criminal liability, but only reverses the proof obligation. In case of having a Policy, the courts assume that the company was in compliance of its supervision and management duties, and will therefore be more benevolent when deciding whether the company is guilty or not. However, the district attorneys can still revert the Courts' assumptions and prove that the company is guilty of the crimes. For the latter, they need to prove that the policy was not sufficient or adequate enough to prevent the crime and or prove that the company was not diligent enough in the compliance of its supervision and management duties through other means besides the existence of a Policy.

b. Department Supervising Anti-commercial Bribery

The department supervising anti-commercial bribery is the Prosecution Office. Said Office will be in charge of investigating such practices with the collaboration of other public entities such as the Police Department and the Superintendence of Securities and Insurance (SVS). After the investigation of a crime, which shall not take longer than 2 years, the Prosecution Office will be able to press charges and present an indictment if the investigation has, at its own criteria, brought enough evidence for the Courts to sanction the anti-commercial bribery practices. Once the charges are pressed, a Criminal Court composed of 3 judges will be in charge of evaluating the case and deciding whether the briber and bribed are guilty of bribery crimes.

Appeals shall then be presented before the Appeals Courts and the Supreme Court.

c. Punitive Actions

Pursuant to Law No.20393 if a Company is found guilty of any of the aforementioned crimes, the sanctions can be the following:

(i) monetary fine;

(ii) total or partial loss of fiscal benefits for a determined period;

(iii) temporal or perpetual prohibition to enter into agreements, contracts and others with the Government;

(iv) dissolution of the company or cancellation of its legal personality as the worst sanction and;

(v) other minor sanctions such as the publication in the newspapers of the Court's decision where the company is found guilty.[①]

B. Project Contracting

Article 4 of Law No.19886 of Bases on Administrative Contracts of Supply and Provision of Services that governs the procurement procedure, provides that Chileans or foreigners may contract with the Administration of the State as long as they prove their financial situation and technical suitability as provided by the regulation, fulfilling the requirements that commands and that demands the common right. However, people who, within two years at the time of the presentation of the offer, the formulation of the proposal or the subscription to the

① Article 8 of Law 20.393.

convention, as appropriate public, private or direct contracting, have been convicted of anti-union practices or infringement of the fundamental rights of the worker, or for bankruptcy crimes established in the Penal Code, will remain excluded from the possibility of contracting with the Administration of the State.

a. Permission System

Article 9 of Law No.19886 establishes that the contracting body of the State will declare inadmissible the offers when the persons do not fulfill the requirements established in the bases. It will declare a vacant offer when no offers are present, or when the actions are not convenient for its interests. In both cases, the notification must be by reasoned resolution.

Accordingly, article 10 states the contract with the State will be awarded by resolution of the competent authority, communicated to the proponent. The successful bidder will be the one who, as a whole, makes the most advantageous proposal, taking into account the conditions that have been established in the respectful bases and the evaluation criteria indicated in the regulation. The bidding procedures are carried out with obligatory subjection, of the participants and of the bidding entity, to the administrative and technical bases that they regulate. The bases are always approved in advance by the competent authority and then presented to the interested parties.

b. Prohibited Areas

According to Chilean Law, foreign investors may participate in most of the country's economic areas and productive sectors of assets and services. Notwithstanding the foregoing, there are some restrictions regarding cabotage, air transport, communication media and fishing activities (regarding fishing activities, the restrictions are conditioned to the reciprocity international principle). Additionally, foreign investors cannot own real estates located at the borders of the country.

Article 3 of Law No.19886 indicates situations were public contracting is not permitted, such as:

(i) The hiring of personnel of the State Administration regulated by special statutes and the contracts to honoraria that are celebrated with natural persons so that they render services to the public organisms, whatever is the legal source in which they are sustained.

(ii) The agreements signed by the public bodies listed in article 2, first paragraph, of Decree Law No. 1263/1975, the Organic Law of Financial Administration of the State, and its modifications.

(iii) The contracts made in accordance with the specific procedure of an international organization, associated with credits or contributions that it grants.

(iv) Contracts related to the sale and transfer of negotiable securities or other financial instruments.

(v) The contracts related to the execution and concession of public works.

Also, are excluded from the application of this law, work contracts that celebrate the Housing and Urbanization Services for the fulfillment of its purposes, as well as contracts for the execution, operation and maintenance of urban works, with participation of third parties, that they subscribe pursuant to Law No.19865 that approves the Urban Financing System.

Notwithstanding the exclusions reported in this letter, the hiring to which they refer will be subject to the regulations contained in Chapter V of this law, as well as the rest of its provisions in a supplementary manner.

(vi) Contracts that deal with war material; those celebrated by virtue of the Law No.7144, 13196 and their modifications; and, those that are celebrated for the acquisition of the following species by the Armed Forces or by the Forces of Order and Public Security: military or police vehicles, excluding vans, automobiles and buses; equipment and information systems of advanced and emerging technology, used exclusively for command, control, communications, computational and intelligence systems; elements or parts for the manufacture, integration, maintenance, repair, improvement of armaments, their spare parts, fuels and lubricants.

Likewise, contracts for goods and services necessary to prevent exceptional risks to national security or public security, qualified by supreme decree issued through the Ministry of National Defense on the proposal of the corresponding Commander in Chief or, where appropriate, of the General Director of Chilean police or of the Director of Investigations.

c. Invitation to Bid and Bidding

If the bidding is public, the call to bid will be open to all possible interested parties. When the tender is private, we must decide to invite to participate. The selection of suppliers in a private tender must be very careful, since determine the possible offers to receive and, therefore, it is vital to include recognized suppliers and that it belonged to the item of the product or service required. According to the law, for private bidding, there must be at least three guests. However, it is recommended to invite more, because it increases the transparency of the process and the offers improve when the competition increases. The call for bids-public or private must, necessarily be published at the information system, ChileCompra.cl. However, the process can be complement by contacting those suppliers that are desired to show up.